



**DESIGN BUILD SERVICES RFQP (Request for  
Qualifications and Proposals)  
for  
Bid No. 26-01  
Pedestrian Bridge Renovation Project  
Issue Date: 10/27/2025**

**Bid Due Date: 12/08/2025 by 5:00 PM PST**

Cabrillo Community College District  
Purchasing and Contracts Office  
6500 Soquel Drive, Building 2030  
Aptos, CA 95003

**Mandatory Pre-Bid Conference & Job Walk:**

11/13/2025  
@ Purchasing Office, Building 2030  
9:00AM PST

**Bid RFI Questions Due:**

11/17/2025 by 5:00 PM PST

Bid Documents: Alex Strudley, Director, Procurement  
Cabrillo College: Jon Salisbury, Director of Facilities, Planning & Plant Operations  
Project Manager: Christina Agudelo, JLL Project & Development Services

## Contents

1. PROJECT DESCRIPTION AND SCOPE OF SERVICES .....	6
2. NOTICE CALLING FOR PROPOSALS .....	22
3. INSTRUCTIONS FOR BIDDERS .....	26
4. PROPOSAL EVALUATION AND SELECTION CRITERIA .....	35
5. GENERAL CONDITIONS FOR PUBLIC WORKS.....	37
6. SPECIAL CONDITIONS.....	123
7. DISABLED VETERAN BUSINESS ENTERPRISE (“DVBE”) PARTICIPATION GOAL PROGRAM POLICY .....	128
8. REQUIRED BID FORMS .....	132
CERTIFICATION OF RFQP .....	133
RFQP ACKNOWLEDGEMENT AND SIGNATURE FORM.....	134
PROPOSER CERTIFICATIONS.....	136
BID PROPOSAL.....	139
BID BOND .....	143
FINANCIAL DISCLOSURE CERTIFICATE .....	145
VERIFICATION OF CERTIFIED PAYROLL RECORDS SUBMITTAL TO LABOR COMMISSIONER.....	146
GUARANTEE .....	147
SUBCONTRACTORS LIST .....	148
DIR REGISTRATION VERIFICATION .....	149
NON-COLLUSION DECLARATION .....	150

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE .....	151
DRUG-FREE WORKPLACE CERTIFICATION .....	152
CERTIFICATION REGARDING DEBARMENT and SUSPENSION .....	154
CERTIFICATION REGARDING LOBBYING .....	156
CONFLICT OF INTEREST STATEMENT .....	157
STATEMENT OF QUALIFICATIONS .....	160
IRAN CONTRACTING ACT CERTIFICATION (Public Contract Code section 2202-2208) .....	168
RUSSIAN SANCTIONS NO CONTRACTING CERTIFICATE (Executive Order N-6-22 (EO) .....	169
DVBE ATTACHMENT A; Bidder's DVBE Statement.....	170
DVBE ATTACHMENT B; Subcontractible Items Of Work .....	172
DVBE ATTACHMENT C; Participation Summary.....	173
DVBE ATTACHMENT D; DVBE Certification .....	175
DVBE ATTACHMENT E; DVBE's Contacted .....	177
DVBE ATTACHMENT F; DVBE Sub-bids Not Accepted by Bidder.....	178
DVBE ATTACHMENT G; Verification of DVBE Solicitations .....	179
DVBE ATTACHMENT H; Agency Contacts .....	180
9. OTHER FORMS.....	181
PRE-BID INQUIRY FORM .....	182
SITE ACCEPTANCE FORM – Attachment A to Special Conditions .....	183
CONTRACTOR CERTIFICATION OF SUBCONTRACTOR CLAIM – Attachment B to Special Conditions .....	184
10. SAMPLE CONTRACT .....	185
PERFORMANCE BOND .....	190
LABOR AND MATERIAL PAYMENT BOND .....	193
11. APPENDIX A - BID FORM WORKSHEET .....	195
12. APPENDIX B – CRITERIA DOCUMENTS .....	195
13. APPENDIX C – HISTORICAL DOCUMENTS.....	195

14.	APPENDIX D – ACADEMIC CALENDARS .....	195
15.	APPENDIX E – CAMPUS MAP .....	195

**THIS PAGE LEFT BLANK  
INTENTIONALLY**

## 1. PROJECT DESCRIPTION AND SCOPE OF SERVICES

**PROJECT:** Pedestrian Bridge Renovation Project – Cabrillo Community College District

**PROJECT BACKGROUND:**

On January 08, 2024, a commercial vehicle struck the existing pedestrian bridge located on the Cabrillo College Aptos Campus. This bridge spans Soquel Drive from the lower campus adjacent to the 1100 Gym building to the upper campus adjacent to the SAC East building. As a result of this collision, the pedestrian bridge sustained extensive damage and has been closed to pedestrian traffic since. During initial discussions with the District State Architect (DSA), it has been determined that the District will be required to make upgrades to the pedestrian bridge to meet current accessibility codes.

The District has engaged their insurer to support the required repairs and upgrades. However, due to the unique nature of this project, the insurer requires a full established budget prior to considering their full approval for the cost of design and construction. As such, it is of utmost importance to the District that an established project design and construction budget can be provided to their insurer at the end of this RFQP process, and that all future project activities shall occur within that established budget. After award, any subsequent changes to the established design and construction budget will not be considered without merit, and if deemed necessary would be submitted for additional insurance reviewing, resulting in project delays and ultimately subject to rejection.

**ESTABLISHED PROJECT DESIGN AND CONSTRUCTION BUDGET:**

As described in the RFQP, the District is looking for a collaborative Design-Build partner and is interested in each Design-Build Team's ideas on how to assist the District and College with delivering the project design and construction budget.

The design-build entity ("DBE") will be responsible for working with the College, District, staff, and consultants to construct this project within the established project design and construction budget. The project construction budget will include DBE's Design and Engineering costs, preconstruction, indirect costs during construction, direct cost of construction (cost of work) (including Design and Engineering costs, preconstruction, indirect costs during construction, direct cost of construction (cost of work) (including hazardous materials abatement and selective demolition), 10% design/estimating contingency, 5% construction contingency, and 15% escalation and buyout. The District has obtained a preliminary cost model. Based on the current Project Criteria Documents, the preliminary cost model for the project indicates that the estimated construction cost for this project is **\$1,400,000.**

The DBE shall provide with their proposal a Bid Form with their recommended established construction budget and a final established construction budget will be set by the District at project award.

**TARGET CONSTRUCTION COMPLETION DATE:**

Target Construction Completion Date: 1/31/2027
--

**SCOPE OF SERVICES:****Design Requirements Summary:**

- Restore the bridge to full functionality, noting DSA confirmed a full structural retrofit would not be required
- Maintain consistent specs and finishes
- Avoid elevators and chair lifts, reducing mechanical/electrical scope as much as possible
- Reduce future maintenance requirements
- Tie into the existing campus and limit impact to the site
- Meet all DSA requirements, including ADA codes
- Provide an efficient design-build process which meets an established design and construction budget

**1. GENERAL SERVICES**

- A. The District is looking for an experienced design-build entity ("DBE") or team to be a proactive team-member in delivering this project within the Anticipated Project Time Frame, within the established Design and Construction budget, and with a high level of Design-Excellence. The scope of work includes, but is not limited to, providing design phase services, preconstruction services, project management services, labor, geotechnical testing, topographic and boundary surveying, hazardous material abatement, selective demolition, coordination, materials, tools, and equipment to complete construction of the above-mentioned Project in Aptos, CA.
- B. Design-Builder shall engage all appropriate specialty Subconsultants as are necessary for proper completion of the Services, at the sole expense of DBE. DBE's contracts with Subconsultants (and their contracts with their Subconsultants) shall incorporate this contract by reference to the extent not inconsistent with Subconsultants' scope of work. District shall have the right (but not the obligation) to approve specialty Subconsultants engaged by DBE, which approval shall not be unreasonably withheld. Subconsultant list shall be submitted to District and at any time that changes, additions, or deletions are contemplated.
- C. The work described herein outlines the minimum services that the District shall require of the DBE upon selection and award of a Design-Build Agreement ("Agreement"). However, services not described below that are related and considered to be part of the expected standard of care and workmanship shall also be included as responsibilities of the DBE and part of the Work. Furthermore, the DBE shall review the Design Build Agreement, in order to ensure all required services are fully understood by the Design Builder.
- D. The DBE is expected to support the District design review process, attend design review meetings, and resolve review comments to the satisfaction of the District.

- E. The DBE will be responsible to provide complete design and engineering services, geotechnical testing, topographic and boundary surveying, permitting, agency approval, construction, and agency closeout of the Project, and any other permitting, approval, or other requirements by any agency's having jurisdiction.
  - i. Including, without limitation, Division of the State Architect ("DSA") review and approval, and closeout certification, including approvals with other Authorities Having Jurisdiction (as necessary) such as CGS (California Geological Survey), and others.
  - ii. DBE and its consultants will engage the Division of the State Architect (DSA) in a formal collaborative review process by meeting with DSA during each phase of the design process and will follow up with DSA on any comments that come out of these meetings.
  - iii. The District will pay all agency fees and DBE must include the cost for their fees in the project design and construction budget.
- F. DBE shall certify that all Design Submissions, construction documents, or other related project documents are coordinated with all contributing subcontractors and consultants, whether they are contracted directly with the DBE or not and must ensure preconstruction and construction quality assurance.
- G. Necessary accommodations must be made to ensure normal educational activities are minimally impacted during the design and construction process.
- H. Project Design and Construction Cost Estimating
  - i. DBE will develop and maintain an accurate and detailed Project Design and Construction Cost Estimate that will be updated timely during each design milestone in order to demonstrate that the project can be completed within the established design and construction budget.
  - ii. DBE will provide a proposed established design and construction budget during the RFQP phase.
  - iii. District shall have the right, but not the obligation, to have independent cost estimate(s) conducted by an estimator designated by the District and at the District's expense. The DBE shall be available to answer the estimator's questions regarding the design and to attend meetings with the estimator as reasonably necessary to timely reconcile the DBE's estimate with the independent estimate(s).
  - iv. DBE shall perform work in an open book and transparent manner as necessary to prepare and submit an acceptable Guaranteed Maximum Price ("GMP") proposal during the design phase.
  - v. The timing and packaging of the GMP, and percentage for construction contingency, will be mutually agreed upon in the RFQP phase and will be incorporated into the schedule and Design-Build Agreement.



- I. DBE will develop and maintain a detailed Critical Path Method (“CPM”) Schedule.
  - i. The CPM Schedule shall be provided to the District during the RFQP phase.
  - ii. The CPM Schedule shall be updated and submitted to the District monthly.
  - iii. Each schedule shall be submitted in diagram and listed form. The computer-generated schedules shall permit the DBE to obtain several print sorts that aid in identifying various activities and requirements.
  - iv. The detailed CPM Schedule shall include all relevant design activities including design submissions, design reviews, agency approvals, preconstruction services such as bidding, and District Milestones.
  - v. At the start of each phase of the Services under this Agreement, DBE shall prepare and submit for District’s acceptance a task list identifying the principal tasks (and subtasks) defining the scope of work of each phase. The main purpose of the task list shall be to promote coordination and scheduling of the District and third parties whose actions might impact DBE’s progress.
  - vi. Report proactively on potential schedule impacts and recommend potential solutions to schedule problems.
- J. DBE shall submit a Construction Logistics Plan to the District for review and acceptance.
  - i. The Construction Logistics Plan shall be provided to the District at least 90 days prior to the start of construction. L
  - ii. The Construction Plan shall identify and describe the phases and staging of construction, staging areas, temporary fencing, office trailer placement, access, trade parking location, and any other activity that may impact the District in the execution of the Work.
- K. Meetings
  - i. Each month the DBE shall attend a payment meeting with the District’s Representative to agree on the percentage of the work completed during the current month to establish an amount to be requested in the Application for Payment.
  - ii. DBE shall schedule and lead meetings, at minimum of weekly, in each Phase of Work as required below.
  - iii. DBE shall keep and submit to the District meeting minutes for all DBE lead meetings, in a format acceptable to the District.
- L. Reports
  - i. The DBE shall prepare and submit to the District monthly reports on the Work accomplished during the prior monthly period. Such reports shall be

prepared in a manner and in a format approved by the District. Monthly progress report shall include but is not limited to:

- ii. A narrative of the work performed (including a list of any contract deliverables provided) in the current report period, and identification of areas of concern, actions and approvals needed.
- iii. A schedule assessment and proposed ways to work around any problems that arise. Clearly identify actual performance with respect to the current approved version of the schedule.
- iv. Scheduling of DBE's own Services with other projects within the overall Master Schedule, if applicable
- v. Any and all design changes affecting the performance, function, appearance, size, usage, or estimated cost of the Project.
- vi. The DBE will cooperate with the District, and as may be requested, assist in preparing periodic Project reports required by the District Board.

## **2. PROJECT CRITERIA DOCUMENTS REVIEW PHASE SERVICES**

- A. Prior to commencement of the Work, the DBE shall attend a Project Kick-off meeting, at a time and a place selected by the District Representative, to discuss procedures to be followed during the course of the work. The purpose of the meeting will be to introduce the District key personnel and to review the contract provisions and any other items pertaining to the Project.
- B. DBE should make site visits, as needed to complete the following testing as required to evaluate current and to evaluate existing conditions within the interior of the building, exterior building, and site:
  - i. Geotechnical Surveys
  - ii. Accessibility Survey
  - iii. Environmental Soils Testing
  - iv. Civil Survey including Utility Locating, Utility Assessments, and Utility Capacity Verifications
  - v. Other services and verifications as necessary to minimize unforeseen conditions.
- C. In addition, DBE should review all existing information provided in the RFQP documents and if DBE determines that the information or documents the District provides is insufficient for purposes of design, or if DBE requires other information that the District has not provided, then, at the soonest possible time after DBE has become aware that this additional information is needed, the DBE shall investigate and acquire such information as required to complete its investigations.
- D. The DBE shall participate in the Project Criteria Document Review Phase and shall lead a collaborative discussion and review process of the Project Criteria Documents with the District to clarify and document any remaining questions generated from

review of the Project Criteria Documents, which are attached hereto as **Appendix B**. The intent of the Project Criteria Document Review Phase is to clarify any questions that the Design-Build

Entity may have and ensure that the Design-Build Entity, District, and other stakeholders are in alignment with regards to the project requirements, function, quality, sustainability, performance, NTE budget, and project schedule, and other project priorities, prior to entering into the Schematic Design Phase.

- E. DBE shall schedule and lead meetings on a weekly basis, at a minimum, with the District designated representatives to complete the Project Criteria Document Review Phase. If more meetings are required, the DBE shall hold meetings as necessary to meet the project schedule.
- F. Within seven days of award, DBE shall submit a schedule outlining the first 90 days of the project, which shall include the following:
  - i. Schedule of meetings anticipated to be held.
  - ii. A brief agenda for each proposed meeting with a brief description of the goal and agenda for each proposed meeting.
  - iii. Depending on the content and goal of each meeting, the District may designate different representatives to attend each meeting.
- G. DBE shall complete the "Project Design Milestone Acceptance Form" prior to beginning the Schematic Design Phase.

### **3. DESIGN PHASE SERVICES**

- A. The Design Services includes the preparation of the Design and Construction Documents for the Project including, but not limited, to all necessary architectural design, specialty consultant services, civil engineering, structural engineering, mechanical engineering, , fire protection system engineering, landscape architecture, electrical engineering, telecommunications, data and low-voltage signaling design, topographic and boundary surveying, fixtures, and equipment design, , and . The Design Phase shall also include all plan check and permitting activities required for the construction activities. The Design Documents shall include all information required by the building trades to complete the construction of the Project, including information that would customarily be included as deferred submittals after DSA approval.
- B. DBE shall meet at least weekly with District, and Project Manager and provide such information as necessary to inform District of the Project design status and obtain District input and approval regarding design issues.
  - i. The DBE shall be responsible for scheduling and coordinating the participation required in these meetings.
  - ii. DBE's documents shall depict the materials, equipment, design, layout, and general coordination of each major building system (i.e.: structural, exterior closure, mechanical, plumbing, electrical, etc.) in sufficient detail to confirm compliance with the Project Criteria Documents.

### C. Design Documents

- i. DBE shall separately identify in writing at the time of each of its formal submissions of Design Documents, any portions thereof that by reason of information contained or omitted constitute deviations from the requirements of the RFQP Documents, Design-Build Agreement, General Conditions, District Standards, Project Criteria Documents, Design Intent or Approved Deviations previously approved by District.
- ii. All such formal submittals of Design Documents to the District, including electronic submittals, shall further include a certification by DBE as follows:

“WITH THE EXCEPTION OF DEVIATIONS EXPRESSLY IDENTIFIED IN THIS SUBMISSION IN THE MANNER REQUIRED BY THE AGREEMENT, THE SUBMITTED DESIGN DOCUMENTS DO NOT CONTAIN ANY DEVIATIONS FROM THE DESIGN-BUILD AGREEMENT, GENERAL CONDITIONS, PROJECT CRITERIA DOCUMENTS, DESIGN INTENT OR APPROVED DEVIATIONS PREVIOUSLY IDENTIFIED BY DBE IN WRITING AND APPROVED BY THE DISTRICT.”

- iii. Specifications shall not contain restrictions that will limit competitive bids. Where articles, materials, and equipment are identified by brand names, at least two brand names shall be specified, and shall be followed by the words “or equal,” except for products approved by the District’s Governing Board as sole source items Exceptions shall only be as permitted by California Public Contract Code section 3400.
- iv. DBE shall prepare all Design and Construction Documents and all other Contract Documents in a manner that includes and enables additive and deductive alternates and allowances for the Project Work as requested by the District. DBE shall develop and propose to District bid alternates and shall incorporate in the Construction Documents the District approved additive and deductive bid alternates and allowances.
- v. Design Submissions shall be required to be submitted to the District at each stage of development described below. Construction Documents must be in full compliance with all applicable laws, building codes, ordinances, and other requirements by regulatory authorities. Each design phase shall follow the AIA Quality Management Phase Checklist for its specific phase. The Quality Management Phase Checklist shall be provided with each design submittal to document completion of that phase.
- vi. Schematic Design: Prepare Schematic Design Documents from the Project Criteria Documents, including related architectural, structural, including an Evaluation and Design Criteria Report (EDCR), mechanical, electrical, security system, telecommunications, data, and low voltage, signaling, topographic and boundary surveying, plumbing, landscape, civil, conceptual building floor plans, roof plan, building sections, building elevations, details, narratives, project design criteria, code analysis, and energy report.

- a. Meet with the District and DSA for an informal collaboration meeting.
  - b. DBE shall include any and all testing required for development of the EDCR report, including the Material Testing Program, Condition Assessment Program, Geohazard Report, etc. as required to complete the EDCR report during the schematic design phase along with any and all testing, reporting, follow up with DSA, etc. as required in subsequent design phases to fully comply with DSA's requirements for the EDCR report.
  - c. Complete and obtain written sign-off of the "Project Design Milestone Acceptance Form" prior to moving into the next phase.
- vii. Design Development: Prepare Design Development Documents from the Schematic Design Documents, including related architectural, structural, mechanical, electrical, security system, telecommunications, data, and low voltage, signaling, plumbing, civil, and landscape services.
  - a. Complete and obtain written sign-off the "Project Design Milestone Acceptance Form" prior to moving into the next phase.
- viii. 50% Construction Documents: prepare 50% construction documents. The Construction Documents shall include all information required by the building trades to complete the construction of the Project, including information that would customarily be included as deferred submittals after DSA approval.
  - a. Complete and obtain written sign-off of the "Project Design Milestone Acceptance Form" prior to moving into the next phase.
  - b. Meet with the District and DSA to review 50% CD as a pre-application meeting.
- 1. 100% Construction Documents: Prepare 100% construction documents.
  - a. Meet with the District for approval to submit to DSA and complete and obtain written sign-off of the "Project Design Milestone Acceptance Form."
  - b. District may conduct a peer review of the completed Construction Documents, including submittal of a list of revisions required to complete the documents prior to submission to DSA.
- 2. Perform back-check as needed at no additional cost to the District.
- 3. Obtain DSA stamp-out and approval letter.

- D. Design Documents shall be submitted to the District, and Project Manager as follows unless otherwise agreed the Kickoff Meeting:
- i. Provide two (2) printed copies of all approved construction document drawings in addition to digital copies in both native and PDF formats.
  - ii. Provide one (1) printed copy of approved specifications, bound, and organized in addition to digital copies in PDF format.
  - iii. All digital files provided shall be indexed and clearly labeled to indicate files contained thereon and the date that the documents were produced. All electronic files shall use fonts and formats used by the District and the electronic files shall be formatted for easy printing.
- E. All submissions of Design Documents shall be subject to Design Review by the District, and/or District Representatives.
- F. Document review sessions shall be established electronically via Bluebeam studio Session or equivalent software as approved by the District.
- i. Review meetings between the DBE and the District to review the Design Submissions shall be scheduled and held so as not to delay the Work. Such review shall not relieve the DBE from its responsibilities under the Agreement. Such review shall not be deemed an approval or waiver by the District of any deviation from, or of the DBE's failure to comply with, any provision or requirement of the Contract Documents, unless such deviation or failure has been identified as such in writing in the document submitted by the DBE and approved in writing by the District.
  - ii. DBE must incorporate, clarify, or reconcile all design review comments provided by the District to the DBE.
- G. The DBE shall submit completed packages of the Construction Documents, in the quantities required by the District to all applicable authorities having jurisdiction (including but not limited to DSA, encroachment permits and any other permits as required by law), and at the times indicated on the DBE's Baseline Schedule. DBE is responsible for completing the designs and submitting them to DSA in a timely fashion in order to obtain DSA approval and complete all Work according to the Project Milestone Schedule. All Work is to be performed in accordance with the requirements of the DSA and the Design-Builder shall be solely responsible for obtaining all approvals from DSA at no additional cost to District.
- i. Perform back-check as needed at no additional cost to the District.
  - ii. Obtain DSA stamp-out and approval letter.
- H. At each design submittal, DBE shall confirm that the cost of the work is in alignment with the established design and construction budget. If the design is out of alignment with the budget, the DBE shall take the necessary steps to align the design and schedule with the budget before moving to the next stage of design and procurement.
- i. Prepare reports with recommendations to the District to maintain the established Project design and construction budget and specifications.
  - ii. Prepare and update monthly during each design phase, an updated detailed Construction CPM Schedule: Produce a detailed construction CPM

schedule to be incorporated into the Project documents including identification of the Project critical path and agency approvals.

- I. Prepare and update at each design submittal, an updated Construction Logistics Plan to the District for review and acceptance.
  - i. The Construction Logistics Plan shall identify and describe the phases and staging of construction, staging areas, temporary fencing, office trailer placement, access, parking, temporary utilities, and any other activity that may impact the District or the community in the execution of the Work.
- J. At each stage of design, submit an updated cost estimate with the appropriate level of detail as required by that particular submittal to substantiate that the Project will not exceed the established project design and construction budget.
  - i. Cost estimate shall certify that the Project can be completed within the established project design and construction budget.
    - a. This Cost estimate shall be certified by the DBE's Chief Estimator, or principal of the firm, that the Project can be completed within the established project design and construction budget.
  - ii. Cost estimates shall be provided in the following format:
    - a. Schematic Design: At a minimum, DBE shall prepare and submit a programmatic (\$ per square foot or parametric) Estimated Construction Cost with area calculation for the final design approach accepted by the District.
    - b. Design Development Phase: DBE shall prepare and submit detailed Estimated Construction Costs in CSI format with area calculations at completion of design development phase. DBE shall prepare separate Estimated Construction Costs for each subcontractor bid package.
    - c. Construction Document Phase: DBE shall prepare and submit detailed Estimated Construction Costs in CSI format with area calculations within two (2) weeks of the 50% completion.
    - d. These estimates shall be subject to District review and DBE shall incorporate all District corrections.
  - iii. Cost estimate shall identify subcontractor scopes of work and any self performed work being proposed by the prime DBE entity. Any scopes of work that the DBE intends to self-perform will be bid in similar fashion as all other subcontractor scopes of work.
  - iv. Cost estimates must be within the established design and construction budget for the Project to be released into the next phase.
  - v. Cost estimates provided by the DBE for the Project must at no point exceed the established design and construction budget for the Project. The accuracy of the Cost estimate provided by the DBE shall be the responsibility of the DBE. All costs for redesign and extension of the design phase schedule, necessary to maintain the established design and construction budget, is the DBE's responsibility.
  - vi. If the review of the given estimate produces review comments that cause a significant change in the estimated cost, submit a revised estimate and price

validation within 14 days of receipt of those comments or the review conference, whichever occurs first. The detailed cost estimates shall include line items for discrete items of work. Lump sum estimates must be limited to only minor items and shall not be used when quantity takeoffs can be developed.

- K. Any other services that are reasonable and necessary to control the budget and schedule.

### **3. GUARANTEED MAXIMUM PRICE (GMP) PROPOSAL**

- A. The timing and packaging of the GMP, and percentage for construction contingency, will be mutually agreed upon in the RFQP phase and will be incorporated into the schedule and Design-Build Agreement.
- B. Within the first thirty (30) calendar days of the start of the project, DBE and Project Manager shall meet and review the DBE's "Open Book" Subcontractor Procurement and GMP Plan, provided during the RFQP phase, which shall include the following:
  - i. The DBE's schedule for bidding the trade packages
- C. How the DBE will select subcontractors based on lump sum or best value (if approved by the District), and how the DBE will coordinate the District approval of such subcontractors; and
- D. The format the DBE will use to summarize all accepted bids for the GMP Proposal.
- E. DBE shall develop the Guaranteed Maximum Price ("GMP") Proposal for the Project as set forth in the RFQP and Design-Build Agreement, which shall include the following:
  - i. An updated CPM schedule in the format defined above
  - ii. All design documents that establish the Work to be completed during Construction, including but not limited to Basis of Design Documents, Construction Documents, and Specifications;
  - iii. A list of all assumptions and clarifications used to develop the GMP. Listing of extraneous assumptions, clarifications, or modifications to the Terms and Conditions of the Design-Build Agreement will not be allowed.
  - iv. A summary list of all subcontractors and the accepted bid price, in the format agreed to by the DBE and Project Manager. The summary list and backup will include the following, unless otherwise agreed by the DBE and Project Manager:
    - a. DBE shall demonstrate that a minimum of three( 3) bids, or "Best Value" proposals (if approved in writing by the District), was received for each trade, and show a comparison of those bids, i.e., a bid tally sheet with the actual subcontractor bids provided as supporting backup;



- b. Subcontractor trade pricing the DBE receives shall be included in the DBE's GMP for construction services, along with the backup to support such subcontractor trade package pricing, for submission to and review by the District. In the event the GMP is accepted, the Subcontractors will be contracted for their respective trade packages based on their pricing and backup without being competitively bid against other subcontractors. In the event that the Subcontractor trade pricing is not accepted, the District reserves the right to request that the Design-Builder follow the requirements of the "Open Book" subcontractor bidding process as described herein and obtain competitively bid prices for the trades scope of work.
  - c. DBE shall submit sufficient information to establish that its price is competitive and reasonable for all Work to be performed by a prequalified subcontractor listed in the Proposal;
  - d. DBE shall submit sufficient information to establish that its price is competitive and reasonable for all Work being self-performed (if approved in writing by the District and bid in accordance with public contract code);
  - e. A list of Allowance Items, Allowance Values, and a detailed description of the Work that is included in each allowance (if applicable). Allowances are not allowed to be carried within the subcontractor trade package scopes of work;
  - f. Contractor Construction Contingency as defined by the Design Build Agreement, to be used for unanticipated costs that are not the bases of a change;
  - g. A schedule of alternate prices
  - v. A statement of Additional Services, which may be performed if directed by the District, but which are not included in the GMP;
  - vi. An updated SOV that includes all Work required to complete the Project; and
  - vii. A statement that the GMP Proposal is valid for no less than 90 days following receipt of the GMP Proposal by the District.
- F. The District may request additional information if needed to understand and evaluate the GMP Proposal.
- G. Where Subcontractor Bids Exceed Budget: If the lowest responsible, responsive bid received from a subcontractor exceeds the latest approved Estimated Construction Costs, District may, at its discretion:
  - i. Award the contract to the lowest responsible, responsive bidder, and give written approval of an increase in the established design and construction budget.

- ii. Reject all bids and rebid the trade package that exceeded its respective budget.
- H. If the GMP amount is more than the DBE's latest accepted Estimated Construction Cost rendered during the Construction Documents Phase, District may require DBE to revise the scope of work to be performed or its quality, or both, so as to reduce the Project Construction Cost for the work to be performed by the DBE, while still meeting District's program objectives. DBE shall at its expense, if so directed by District, modify the Construction Documents in order to reduce the Project Construction Costs for the work to be performed by the DBE within the Project budget, or the District may abandon the project and terminate the agreement.

#### **4. CONSTRUCTION PHASE SERVICES**

- A. The construction phase will commence with the issuance of a Notice to Proceed from the District, based on an approved GMP and DSA approval of the plans and specifications for the project.
- B. Provide all labor, materials, equipment, temporary utility services, traffic control, and facilities necessary to construct the entire Project and provide all construction work necessary to complete the Project and coordinate the work with the different subcontractors in an efficient manner.
- C. Participate in Project meetings as required by the District.
- D. DBE will develop and maintain a detailed Critical Path Method ("CPM") Schedule.
  - i. The CPM Schedule shall be provided to the District during the RFQP phase.
  - ii. The CPM Schedule shall be updated and submitted to the District monthly.
  - iii. Each schedule shall be submitted in diagram and listed form. The computer-generated schedules shall permit the DBE to obtain several print sorts that aid in identifying various activities and requirements.
  - iv. The detailed CPM Schedule shall include all relevant design activities including design submissions, design reviews, agency approvals, preconstruction services such as bidding, and District Milestones.
  - v. At the start of each phase of the Services under this Agreement, DBE shall prepare and submit for District's acceptance a task list identifying the principal tasks (and subtasks) defining the scope of work of each phase. The main purpose of the task list shall be to promote coordination and scheduling of the District and third parties whose actions might impact DBE's progress.
  - vi. Report proactively on potential schedule impacts and recommend potential solutions to schedule problems.

- E. DBE will work with District, Project Manager, Project Inspectors, testing agencies, district consultants, and governmental agencies as set forth in the General Conditions and this Contract.
- F. Prior to commencement of the Work, the DBE shall attend a Project Kick-off meeting, at a time and a place selected by the District Representative, to discuss procedures to be followed during the course of the construction work.
- G. The DBE shall be required to take weekly job site photos with a high-quality camera.
  - i. Except as otherwise specifically approved by the District, DBE will prepare and submit the photographs monthly from groundbreaking through Project completion, within three (3) calendar days of the date of the DBE's application for progress payment. To the maximum extent practicable, DBE will make photographs at approximately the same time of day throughout the progress of the work. When inclement weather is anticipated, DBE will consult with the District to determine acceptable alternative arrangements.
  - ii. DBE will identify each location by word description, by marked drawing, or by such other means as acceptable to the District, to enable future photographs to be taken from the same position.
- H. Prepare an existing conditions survey, including photographs and video, of all surrounding and adjacent properties, including streets and observable and recorded utilities, prior to the start of construction. DBE will endeavor to gain access to non-District owned properties, as necessary, to document the conditions of all surrounding and adjacent properties.
- I. DBE shall verify the location and depth (elevation) of all existing utilities and services before performing any excavation work and provide a drawing that documents these verified conditions as part of their Construction Documents.
- J. The DBE shall locate and protect control points prior to starting Work on the Project site and preserve permanent reference points during construction and shall require the engineer or surveyor to replace control points which become lost or destroyed.
- K. Provide on-site support and logistics, including but not limited to temporary construction office trailers and equipment, including individual dedicated office spaces for the onsite District Project Manager and IOR.
- L. Manage the construction costs and ensure that costs allocated to construction contingency have entitlement and meet the contract requirements prior to submission to the District Representative.
- M. DBE shall coordinate all submittals and review them for accuracy, completeness, and compliance with the requirements of the Contract Documents, the DBE's Construction Documents, and shall indicate its approval thereon as evidence of such coordination and review.
  - i. Prior to placement of material orders or start of component fabrication, the DBE shall submit to the District all shop drawings approved by the Architect/Engineers of Record, samples of submittals that relate to finish materials & products, and product data for MEP equipment.
    - a. The DBE is to issue a submittal schedule to the District for comment

and the District shall designate the submittals that the DBE is to submit to the District to review for contract compliance.

- ii. All substitution requests must be submitted to the District and Project Manager and approved by the District.
- N. The District and Project Manager shall be copied on all Requests for Information ("RFI") related to compliance with the Project Criteria Documents, District guidelines or standards, or other Contract Documents.
  - i. The DBE and District shall agree on an acceptable duration for review and comment on all RFIs.
- O. DBE shall provide all reporting as required by DSA and any other Agency Having Jurisdiction.
- P. Coordinate equipment start-up, balancing, and acceptance testing, and training.
  - i. DBE shall cooperate and coordinate with District Project Manager in all phases of work under this Agreement to ensure the Project is designed and commissioned in accordance with all California Title 24 Code requirements under which the project must comply. Information required by Project Manager shall be supplied in a reasonable time such that design, construction, and closeout are not delayed. Input from Project Manager shall be acted on if reasonable, or a response supplied as to why the input is not deemed actionable or reasonable. The District goal is for DBE and Project Manager to work collaboratively together to provide a complete, usable, and fully functional building and building systems that are code compliant and that meet a Basis of Design and/or other design parameters applicable to the Project.
- Q. Prepare and complete punchlist work in conjunction with the District's Project Manager.
- R. Prepare and provide the District record construction documents.
  - i. DBE shall ensure the coordination of record drawings and specifications.
- S. Administer and coordinate, on a daily basis, the work of all trade contractors the DBE hires to work on the Project including coordinating inspections, special inspections, and inspections by any Agency Having Jurisdiction on the project.
- T. Enforce strict performance, scheduling, and notice requirements.
- U. Document the progress and costs of the Project through industry standard reporting procedures, i.e., monthly reports, weekly OAC meeting minutes, weekly change order, contingency, allowance logs, etc.

## **5. CLOSEOUT**

- A. At substantial completion, the DBE shall hold a meeting to review maintenance manuals, guarantees, warranties, close-out submittals, bonds, and service contracts for materials and equipment. DBE shall also implement repair and replacement of defective items and extend service and maintenance contracts as desired by the District.

- B. DBE shall compile operations and maintenance manuals, warranties/guarantees, and certificates.
- C. Within ninety (90) days after substantial completion, provide a final project as-builts.
- D. Coordinate, prepare and submit all final required deliverables under Title 24 and anything else required by DSA for its final Project approval.
- E. DBE shall obtain all required occupancy permits, coordinating testing, documentation, and governmental inspections and approvals, including DSA Closeout.
  - i. Submit a "Structural Testing and Inspections" list (T&I list), if applicable.
  - ii. Confirm inspectors and testing labs proposed by District are DSA approved.
  - iii. Submit plans and specifications to DSA and obtain DSA's "Approval of Plans" letter.
  - iv. Obtain DSA approval of all addenda and any revisions to the plans.
  - v. Submit contract information form (DSA-102).
  - vi. Submit for DSA approval, DBE approved deviations from the approved plans: Change Orders, Field Changes (RFIs, PCOs, etc.)
  - vii. Obtain timely resolution and/or DSA approval on deviations approved by Architect-Engineer or advise District of Contractor noncompliance.
  - viii. Resolve DSA field trip notes issues and advise District of any noncompliance issues.
  - ix. Use reasonable efforts to resolve any outstanding issues related to the 90-day letter.
- F. Preparation of accounting and closeout reports.

## 2. NOTICE CALLING FOR PROPOSALS

DISTRICT	CABRILLO COMMUNITY COLLEGE DISTRICT
PROJECT DESCRIPTION	26-01 Pedestrian Bridge Renovation Project
MANDATORY PRE-BID CONFERENCE & JOB WALK LOCATION AND TIME	11/13/2025 CABRILLO COLLEGE PURCHASING, BUILDING 2030 6500 SOQUEL DRIVE APTOS, CA 95003 PURCHASING, BLDG 2030, 9:00 AM Pacific Standard Time
REQUEST FOR INFORMATION	DUE ON OR BEFORE 11/17/2025 BY 5:00 PM, PST (PACIFIC STANDARD TIME) alstrudl@cabrillo.edu
BID DUE DATE	12/08/2025 BY 5:00 PM, PST (PACIFIC STANDARD TIME)
LOCATION FOR SUBMISSION OF BIDS	CABRILLO COLLEGE PURCHASING, BUILDING 2030 6500 SOQUEL DRIVE APTOS, CA 95003 (831) 479-5764
LOCATION FOR OBTAINING BID AND CONTRACT DOCUMENTS	DISTRICT'S WEBSITE: <a href="https://www.cabrillo.edu/purchasing/bids/2025-2026/">https://www.cabrillo.edu/purchasing/bids/2025-2026/</a>

**NOTICE IS HEREBY GIVEN** that the CABRILLO COMMUNITY COLLEGE DISTRICT (District), acting by and through its Board of Trustees, will receive up to, but not later than the above-stated date and time, sealed Bid Proposals for the Contract for the Work generally described as **26-01 Pedestrian Bridge Renovation Project**.

- a. Submittal of Proposals. All Proposals must be sealed and submitted on forms furnished by the District prior to the bid due date for submission of Proposals.
- b. Bid and Contract Documents. The Bid and Contract Documents are available on the Internet at the District's website, <https://www.cabrillo.edu/purchasing/bids/2025-2026/>. Bidders may download, at no charge, the Project Contract Documents, including Drawings, Specifications and/or other Project requirements directly from the District website.
- c. Project Planholder List. The District's Project Planholder List will be compiled exclusively from the sign-in sheet at the Mandatory Job Walk. **Any Bidder failing to sign-in at the Mandatory Job Walk will be excluded from Project Planholder List and their Bid Proposal will be rejected by the District as being non-responsive.** All Project Planholders will receive e-mails from the District advising of any and all Project Addenda issued by the District. Bidders bear sole responsibility for downloading the Project Addenda from the District's website, <https://www.cabrillo.edu/purchasing/bids/2025-2026/>. The District will not fax Project Addenda to Planholders.

- d. Documents Accompanying Bid Proposal. Each Bid Proposal shall be submitted with the following documents. All information or responses of a Bidder in its Bid Proposal and other documents and required forms accompanying the Bid Proposal shall be complete, accurate and true. Incomplete, inaccurate or untrue responses or information provided therein by a Bidder shall be grounds for the District to reject such Bidder's Bid Proposal for non-responsiveness.
- e. Please note, a Bid Bond is required with proposal submission as well as all required forms. Performance and Payment Bonds along with Certificates of Insurance are required 10 days after notice of intent to award.
- f. **In addition to the foregoing, the Bidders submitting the three (3) highest scoring proposals shall submit DVBE Worksheets within the time established in the DVBE Program Policy.**
- g. Prevailing Wage Rates. Pursuant to California Labor Code §1773, the Director of the Department of Industrial Relations of the State of California has determined the generally prevailing rates of wages in the locality in which the Work is to be performed. Copies of these determinations, entitled "PREVAILING WAGE SCALE" are available for review at <https://www.dir.ca.gov/oprl/dprevwagedetermination.htm>. The Contractor awarded the Contract for the Work shall post a copy of all applicable prevailing wage rates for the Work at conspicuous locations at the Site of the Work. The Contractor and all Subcontractors performing any portion of the Work shall pay not less than the applicable prevailing wage rate for the classification of labor provide by their respective workers in prosecution and execution of the Work. During the Work and pursuant to Labor Code §1771.4(a)(4), the Department of Industrial Relations shall monitor compliance with prevailing wage rate requirements and enforce the Contractor's prevailing wage rate obligations.
- h. Contractors' License Classification. Bidders must possess the following classification(s) of California Contractors License at the time that the Bid Proposal is submitted and at time the Contract for the Work is awarded: **B - General Building**. The Bid Proposal of a Bidder who does not possess a valid and in good standing Contractors' License in the classification(s) set forth above will be rejected for non-responsiveness. Any Bidder not duly and properly licensed is subject to all penalties imposed by law. No payment shall be made for the Work unless and until the Registrar of Contractors verifies to the District that the Bidder awarded the Contract is properly and duly licensed for the Work.
- i. Bidder and Subcontractors DIR Registered Contractor Status. Each Bidder must be a DIR Registered Contractor when submitting a Bid. The Bid of a Bidder who is not a DIR Registered Contractor when the Bid is submitted will be rejected for non-responsiveness. All Subcontractors identified in a Bidder's Subcontractors' List must be DIR Registered contractors at the time the Bid is submitted. The foregoing notwithstanding, a Bid Proposal is not subject to rejection for non-responsiveness for listing Subcontractor the Subcontractors List who is/are not DIR Registered contractors if such Subcontractor(s) complete DIR Registration pursuant to Labor Code §1771.1(c)(1) or (2). Further, a Bid Proposal is not subject to rejection if the Bidder submitting the Bid Proposal listed any Subcontractor(s) who is/are not DIR Registered contractors and such Subcontractor(s) do not become DIR Registered pursuant to Labor Code §1771.1(c)(1) or (2), but the Bidder, if awarded the Contract, must request consent of the District to substitute a DIR Registered Subcontractor for the non-DIR Registered Subcontractor pursuant to Labor Code §1771.1(c)(3), without adjustment of the Contract Price or the Contract Time.

- j. Contract Time. Substantial Completion of the Work shall be achieved within the time set forth in Contract Documents after the date for commencement of the Work established in the Notice to Proceed issued by the District. Failure to achieve Substantial Completion within the Contract Time will result in the assessment of Liquidated Damages as set forth in the Contract.
- k. Disabled Veteran Business Enterprises (“DVBE”) Participation Goal. Pursuant to Military & Veterans Code §999.2, the District has established a Good Faith Participation Goal for DVBEs of three percent (3%) of the value of the Work. The District’s DVBE Participation Goal Policy (“DVBE Policy”) is set forth in the Contract Documents. The responsible Bidders submitting the three (3) highest scoring responsive Bid Proposals shall submit to the District, within the time established in the DVBE Policy, DVBE Worksheets establishing achievement of the DVBE Participation Goal or Good Faith Efforts to achieve the DVBE Participation Goal. Failure of any such Bidders to comply with the DVBE Worksheet submission requirements will result in rejection the Bidder’s Bid Proposal for non-responsiveness. DVBE Worksheets may be submitted by email to the following;
  - l. Alex Strudley by emailing: [alstrudl@cabrillo.edu](mailto:alstrudl@cabrillo.edu)
- m. Bid Security. Each Bid Proposal shall be accompanied by Bid Security in an amount equal to TEN PERCENT (10%) of the maximum amount of the Bid Proposal, inclusive of any additive Alternate Bid Item(s). Failure of any Bid Proposal to be accompanied by Bid Security in the form and in the amount required shall render such Bid Proposal to be non-responsive and rejected by the District.
- n. Payment Bond; Performance Bond. Prior to commencement of the Work, the Bidder awarded the Contract shall deliver to the District a Payment Bond and a Performance Bond issued by a California Admitted Surety in the form and content included in the Contract Documents each of which shall be in a penal sum equal to One Hundred Percent (100%) of the Contract Price.
- o. Pre-Bid Inquiries. Bidders may submit pre-bid inquiries or clarification requests. Bidders are solely and exclusively responsible for submitting such inquiries or clarification requests **on or before 11/17/2025 BY 5:00 PM PST (Pacific Standard Time)**. The District will not respond to any bidder inquiries or clarification requests, unless such inquiries or clarification requests are submitted in writing timely to:

[alstrudl@cabrillo.edu](mailto:alstrudl@cabrillo.edu)
- p. No Withdrawal of Bid Proposals. Bid Proposals shall not be withdrawn by any Bidder for a period of **sixty (60) days** after the opening of Bid Proposals. During this time, all Bidders shall guarantee prices quoted in their respective Bid Proposals.
- q. Job-Walk. The District will conduct **Mandatory Pre-Bid Conference & Job Walk on 11/13/2025, beginning at 9:00 AM PST (Pacific Standard Time)**. Bidders are to meet at the Purchasing Department, Building 2030 for the Job Walk. If the Job Walk is mandatory, the Bid Proposal submitted by a Bidder whose representative(s) did not attend the entirety of the Mandatory Job Walk will be rejected by the District as being non-responsive. **Bidders will be required to sign an attendance sheet for the mandatory Job Walk. Please be on time, no admittance once meeting has started.**
- r. Waiver of Irregularities. The District reserves the right to reject any or all Bid Proposals or to waive any irregularities or informalities in any Bid Proposal or in the bidding.



- s. Award of Contract. The Contract for the Work, if awarded, will be by action of the District's Board of Trustees to the responsible Bidder submitting the highest scoring responsive Bid Proposal.

### 3. INSTRUCTIONS FOR BIDDERS

RFP Milestone Schedule

RFP Issue Date	10/27/2025
Job Walk	11/13/2025 9:00 AM PST
RFI's Due	11/17/2025 5:00PM PST
Addendum Issued	11/24/2025
Bid Due Date	12/08/2025 5:00PM PST
Evaluation of Proposals	12/9/2025-12/12/2025
Interviews	12/15/25-12/19/25
Anticipated Notice of Intent to Award Issued	TBD January 2026
Anticipated Construction Completion Date	1/31/2027

- a. Preparation and Submittal of Bid Proposal.
  - i. Bid Proposal Preparation. All information required by the bid forms must be completely and accurately provided. Numbers shall be stated in both words and figures where so indicated in the bid forms; conflicts between a number stated in words and in figures are governed by the words. Partially completed Bid Proposals or Bid Proposals submitted on other than the bid forms included herein are non-responsive and will be rejected. Bid Proposals not conforming to these Instructions for Bidders and the Notice to Contractors Calling for Bids ("Call for Bids") may be deemed non-responsive and rejected.
  - ii. Bid Proposal Submittal. Bid Proposals shall be submitted at the place designated in accordance with Section 2, the Notice Calling for Proposals in sealed envelopes bearing on the outside the Bidder's name and address along with an identification of the Work for which the Bid Proposal is submitted. Bidders are solely responsible for timely submission of Bid Proposals to the District at the place designated in Section 2, the Notice Calling for Proposals.
  - iii. Date and Time of Bid Proposal Submittal. A Bid Proposal is submitted only if the outer envelope containing the Bid Proposal is marked with the Project title and is received by a District Purchasing Department representative for logging-in at (or before) the latest date and time for submittal of Bid Proposals. The official U.S. time-clock website: <http://www.time.gov> is controlling and determinative as to the time of the Bidder's submittal of the Bid Proposal. No Bid Proposals shall be received or considered by the District after bid due date. Bid Proposals submitted after such time are non-responsive and will be returned to the Bidder unopened.
- b. Bid Security. Each Bid Proposal shall be accompanied by Bid Security in the form of: (i) cash, (ii) a certified or cashier's check made payable to the District or (iii) a Bid Bond, in the form and content attached hereto, in favor of the District executed by the Bidder as a principal and a Surety as surety (the "Bid Security") in an amount equal to Ten Percent (10%) of the Bid Proposal amount, inclusive of the price(s) proposed for additive Alternate Bid Items, if any. A Bid Proposal submitted without the required Bid Security is non-responsive and will be rejected. If the Bid Security is in the form of a Bid Bond, the Bidder's Bid Proposal shall be deemed responsive only if the Bid Bond is in the form and content included herein, duly completed and executed (with notary acknowledgements) on behalf of the Bidder and Surety, and the Surety is an Admitted Surety Insurer under Code of Civil Procedure §995.120.
- c. Documents Accompanying Bid Proposal; Signatures. Documents which must be submitted with each Bid Proposal are identified in the Call for Bids. Any document submitted with a Bid Proposal which is not complete, accurate and executed, as required by each document, will result in the Bid Proposal being deemed non-responsive.

- d. Bidder Modifications; Withdrawal or Modification of Submitted Bid Proposal.
- i. Bidder Modifications to Bid Forms Prohibited. Modifications by a Bidder to the bid forms which are not specifically called for or permitted may result in the Bidder's Bid Proposal being deemed non-responsive and rejected.
  - ii. Erasures; Inconsistent or Illegible Bid Proposals. Bid Proposals must not contain any erasures, interlineations or other corrections unless the same are suitably authenticated by affixing in the margin immediately opposite such erasure, interlineations or correction the initials of the person(s) signing the Bid Proposal. Any Bid Proposal not conforming to the foregoing may be deemed by the District to be non-responsive. If any Bid Proposal or portions thereof, is determined by the District to be illegible, ambiguous or inconsistent, whether by virtue of any erasures, interlineations, corrections or otherwise, the District may reject such a Bid Proposal as being non-responsive.
  - iii. Withdrawal or Modification of Submitted Bid Proposal. A Bidder may not withdraw or modify a Bid Proposal submitted to the District except in strict conformity to the following. Bid Proposals may be withdrawn or modified only if: (i) the Bidder submitting the Bid Proposal submits a request for withdrawal or modification in writing to the District; and (ii) the written withdrawal or modification request is actually received by the District prior to the latest date/time for submittal of Bid Proposals. Requests for withdrawal of a Bid Proposal after the public opening of Bid Proposals pursuant to Public Contract Code §5100, et seq. will be considered only if in strict conformity with requirements of Public Contract Code §5100, et seq.
- e. Examination of Site and Contract Documents. Each Bidder shall, at its sole cost and expense, inspect the Site and to become fully acquainted with the Contract Documents and conditions affecting the Work. Failure of a Bidder to receive or examine any of the Contract Documents or to inspect the Site shall not relieve such Bidder from any obligation with respect to the Bid Proposal, or the Work required under the Contract Documents. The District assumes no responsibility or liability to any Bidder for, nor shall the District be bound by, any understandings, representations or agreements of the District's agents, employees or officers concerning the Contract Documents or the Work made prior to execution of the Contract which are not in the form of Bid Addenda duly issued by the District. The submission of a Bid Proposal shall be deemed prima facie evidence of the Bidder's full compliance with the requirements of this section.
- f. Bidder's Qualifications. Each Bidder shall submit with its Bid Proposal the form of Statement of Bidder's Qualifications, which is included within the Contract Documents. All information required by Statement of Bidder's Qualifications shall be completely and fully provided. Any Bid Proposal not accompanied by the Statement of Bidder's Qualifications completed with all information required and bearing the signature of the Bidder's duly authorized representative under penalty of perjury will render the Bid Proposal non-responsive and rejected. If the District determines that any information provided by a Bidder in the Statement of Bidder's Qualifications is false or misleading, or is incomplete so as to be false or misleading, the District may reject the Bid Proposal submitted by such Bidder as being non-responsive. If any response to the "Essential Requirements" section of the Statement of Qualifications is a "not qualified" response, the Bidder's Bid Proposal will be rejected for failure of the Bidder to meet minimum qualifications for the Work.
- g. Job-Walk.
- i. Mandatory and Non-Mandatory Job Walk. The District will conduct a Job-Walk at the time(s) and place(s) designated in the Call for Bids. If attendance at the Job Walk is indicated in the Call for Bids as being mandatory, the failure of any Bidder to have its

authorized representative present at the entirety of the Job-Walk will render the Bid Proposal of such Bidder to be non-responsive. The attendance by representatives of the Bidder's Subcontractors at a Mandatory Job Walk without attendance by a representative of the Bidder shall not be sufficient to meet the Bidder's obligations hereunder and will render the Bid Proposal of such Bidder to be non-responsive. If a Job Walk is indicated in the Call for Bids as being Non-Mandatory, the Bid Proposal of a Bidder who does not attend the Non-Mandatory Job Walk will not be rejected for non-responsiveness. Notwithstanding the non-compulsory attendance of Bidders at a Non-Mandatory Job Walk, all Bidders are encouraged to attend Non-Mandatory Job Walks.

- ii. District Additional Job Walk. The District may, in its sole and exclusive discretion, elect to conduct one or more Job-Walk(s) in addition to that set forth in the Call for Bids, in which event the District shall notify all Bidders who have previously obtained the Contract Documents.
  - iii. If the District elects to conduct any Job-Walk in addition to that set forth in the Call for Bids, the District shall, in its notice of any such additional Job-Walk(s), indicate whether Bidders' attendance at such additional Job-Walk(s) is/are mandatory.
  - iv. Bidder Requested Additional Job Walk. Any Bidder who has obtained the Bid Documents pursuant to the Call for Bids may, by written request to the District, request an additional Job Walk if the District has designated a Job Walk in the Call for Bids or a Job Walk if the District has not designated a Job Walk in the Call for Bids. The District may, in its sole and exclusive discretion, conduct such requested Job-Walk taking into consideration factors such as the time remaining prior to the scheduled opening of Bid Proposals. Any such requested Job Walk will be conducted only upon the requesting Bidder's agreement to reimburse the District for the actual and/or reasonable costs for the District's staff and its agents and representatives in arranging for and conducting such additional Job-Walk.
- h. Agreement and Bonds. The Agreement which the successful Bidder, as Contractor, will be required to execute along with the forms Payment Bond, Performance Bond and other documents and instruments which are required to be furnished are included in the Contract Documents and shall be carefully examined by the Bidder. The required number of executed copies of the Agreement and the form and content of the Performance Bond and the Payment Bond and other documents or instruments required at the time of execution of the Agreement are specified in the Contract Documents.
- i. Pre-Bid Questions; Contract Document Interpretation and Modifications.
- i. Bidder Pre-Bid Questions. Any Bidder in doubt as to the true meaning of any part of the Contract Documents; finds discrepancies, errors or omissions therein; or finds variances in any of the Contract Documents with the Laws ("Pre-Bid Questions"), shall submit a request for an clarification, interpretation or correction thereof using the form of Pre-Bid Inquiry included with the Contract Documents. Bidders are solely and exclusively responsible for submitting Pre-Bid Questions no later than the time/date designated in the Call for Bids. Responses to Pre-Bid Questions will be by written addendum issued by, or on behalf of, the District. A copy of any such addendum will be e-mailed to each Bidder attending the mandatory Job Walk. Failure to request interpretation or clarification of any portion of the Contract Documents pursuant to the foregoing is a waiver of any discrepancy, defect or conflict therein.
  - ii. No Oral Interpretations. No person is authorized to: (i) render an oral interpretation or correction of any portion of the Contract Documents; or (ii) provide oral responses to Pre-Bid Questions. No Bidder is authorized to rely on any such oral interpretation, correction or response.

- j. District's Right to Modify Contract Documents. Before the public opening and reading of Bid Proposals, the District may modify the Work, the Contract Documents, or any portion(s) thereof by the issuance of written addenda disseminated to all Bidders who have attended the mandatory Job Walk. If the District issues any addenda during the bidding, the failure of any Bidder to acknowledge such addenda in its Bid Proposal will render the Bid Proposal non-responsive and rejected.
- k. Bidder's Assumptions. The District is not responsible for any assumptions made or used by the Bidder in calculating its Bid Proposal Amount including, without limitation, assumptions regarding costs of labor, materials, equipment or substitutions/alternatives for any material, equipment, product, item or system incorporated into or forming a part of the Work which have not been previously expressly approved and accepted by the District. The successful Bidder, upon award of the Contract by the District, if any, will be required to complete the Work for the amount bid in the Bid Proposal within the Contract Time and in accordance with the Contract Documents.
- l. Bidders Interested in More Than One Bid Proposal; Non-Collusion Affidavit. No person, firm, corporation or other entity shall submit or be interested in more than one Bid Proposal for the same Work; provided, however, that a person, firm or corporation that has submitted a sub-proposal to a Bidder or who has quoted prices for materials to a Bidder is not disqualified from submitting a sub-proposal, quoting prices to other Bidders or submitting a Bid Proposal for the proposed Work to the District. The form of Non-Collusion Affidavit included in the Contract Documents must be completed and duly executed on behalf of the Bidder; failure of a Bidder to submit a completed and executed Non-Collusion Affidavit with its Bid Proposal will render the Bid Proposal non-responsive.
- m. Workers' Compensation Insurance. Pursuant to California Labor Code §3700, the successful Bidder shall secure Workers' Compensation Insurance for its employees engaged in the Work of the Contract. The successful Bidder shall execute and deliver to the District the form of Workers Compensation Certification included in the Contract Documents concurrently with such Bidder's delivery of the executed Agreement to the District.
- n. Alternate Bid Items Proposal. If the bidding includes Alternate Bid Items, the price(s) proposed by a Bidder for each Alternate Bid Item shall be set forth in the form of Alternate Bid Items Proposal, included as Attachment A to the form of Bid Proposal. Each Bidder shall submit its completed and executed form of Alternate Bid Items Proposal concurrently with submission of the Bidder's Bid Proposal, provided that the page(s) forming the Alternate Bid Items Proposal shall be submitted by each Bidder in a separate sealed envelope, prominently marked "ALTERNATE BID ITEMS PROPOSAL." The Bid Proposal of a Bidder will be rejected for non-responsiveness if the Bidder fails to: (i) propose prices for each Alternate Bid Item on the form Alternate Bid Items Proposal; and (ii) submit the completed/executed form of Alternate Bid Items Proposal concurrently with submission of the Bid Proposal.
- o. Execution of Contract. If the Bidder submitting this Bid Proposal is awarded the Contract, the undersigned will execute and deliver to the District the Agreement in the form attached hereto within Ten (10) calendar days after notification of award of the Contract. Concurrently with delivery of the executed Agreement to the District, the Bidder awarded the Contract shall deliver to the District: (i) Certificates of Insurance evidencing all insurance coverages the Bidder and its Subcontractors are required to obtain under the Contract Documents; (ii) Performance Bond; (iii) Labor and Material Payment Bond; (iv) Certificate of Workers' Compensation Insurance; (v) Drug-Free Workplace Certificate; and (vi) if a Project involves roof work the Roof Project Financial Disclosure Certificate. Failure of the Bidder awarded the Contract to strictly comply

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

- p. Alternate Bid Items Not Included in Award of Contract. Bidders are referred to the provisions of the Contract Documents permitting the District, during performance of the Work, to add or delete from the scope of the Work any or all of the Alternate Bid Items with the cost or credit of the same being the amount(s) set forth by in the Alternate Bid Items Bid on the Proposal.
- q. Responsive Bid Proposal. A responsive Bid Proposal shall mean a Bid Proposal which conforms to and complies with requirements of the Bid and Contract Documents. A Bid Proposal that does not conform to material bidding requirements, as reasonably determined by the District, is subject to rejection for non-responsiveness.
  - i. Hearing re Rejected Bid. If a Bidder's bid is rejected by the District for responsiveness, but the Bidder contends that the basis of rejection is for responsibility, not responsiveness, the Bidder may request a responsibility hearing on that rejection: (i) if the District issues a notice of intent to award a contract to a Bidder whose bid is higher than the bid that was rejected; and (ii) the Bidder strictly complies with the following provisions relating to time limitations for requesting a responsibility hearing. To be considered by the District, such a request for a responsibility hearing must be in writing and submitted to the District's Vice President, Administrative Services, Administration Building, 6500 Soquel Drive, Aptos, CA 95003 and must be actually received by the District's Vice President, Administrative Services by the earlier of: (i) 5:00 PM one (1) business day after the District's notice to the Bidder of the District's rejection of the Bidder's Bid Proposal; or (ii) 5:00 PM one (1) business day after the date of the District's notice of intent to award a contract. If a Bidder does not request a responsibility hearing in strict conformity with the foregoing, such Bidder shall be deemed to have knowingly and voluntarily waive rights to a hearing. The District will grant or deny such request for a hearing based on the holding of the California Court of Appeal in *Great West Contractors, Inc. v. Irvine Unified School District* (2010) 187 Cal. App. 4th 1425. If a Bidder timely requests a hearing pursuant to the foregoing, the District will notify such Bidder in writing by 5:00 PM two (2) business days after the date of the Bidder's request for hearing is submitted of the District grant or denial of such a hearing. If the District grants a hearing, the District will schedule the hearing for a date not less than three (3) business days after the date of such notice to the Bidder requesting a hearing. If the District holds such a hearing, any Bidder may at its own expense: i) be represented at the hearing by legal counsel; ii) record the proceedings by court reporter; iii) present oral and/or written statements and/or other documents.
  - ii. Responsible Bidder.
    - Bidder Capacity. Factors affecting the Bidder's capacity to perform and complete the Work will be assessed, including: (i) Bidder's access to labor, materials and other resources necessary to complete the Work; (ii) Bidder's ability to complete the Work within the time established for completion of the Work, or portions thereof; and (iii) Bidder's ability to complete warranty obligations.
    - Bidder Character, Integrity. Factors reflecting the character and integrity of the Bidder, including: (i) other public agency finding/determination, within the past five (5) years, that the Bidder is not responsible; (ii) currently debarred from bidding public works projects or debarment from bidding within past five (5) years; and (iii) false claims liability within the past five (5) years under local, state or federal laws. (iv) past or pending legal actions.
    - Bidder Financial Capability. Factors considered include: (i) sufficiency of the Bidder's financial resources; (ii) whether the Bidder is current in payment of debts

and performance of other financial obligations; and (iii) bankruptcy or insolvency proceedings have been instituted within the past five (5) years.

- Bidder Prior Performance. The Bidder's prior performance on prior public works contracts, including without limitation: (i) cost overruns; (ii) compliance with general conditions and other contractual requirements, including schedule development, schedule updates and coordination of labor, material/equipment procurements and subcontractors; (iii) completion within allocated time; (iv) submittal of unsubstantiated, unsupported or excessive cost proposals, claims or contract adjustment requests; (v) completion of a project by a surety; (vi) owner's exercise of default remedies; and (vii) finding or determination by any public agency that the Bidder is not a responsible bidder.
- Safety. Factors include: (i) findings of serious or willful safety violations of safety laws, regulations or requirements by any local, state or federal agency within the past five (5) years; (ii) adequacy and implementation of safety plans, programs for on-site and off-site construction and construction related activities; and (iii) Workers Compensation Insurance EMR rating exceeding 1.25.

r. Subcontractors.

- i. Designation of Subcontractors; Subcontractors List. In accordance with Public Contract Code §4104, the Subletting and Subcontracting Fair Practices Act (California Public Contract Code §§4100 et seq.), each Bidder shall submit, on the form of Subcontractors List included with the Contract Documents, a list of its proposed Subcontractors for the proposed Work, including any Alternate Bid Items, who will perform/provide portions of the Work valued at or more than one-half (1/2) of one percent (1%) of the amount proposed by the Bidder for the Work. The Subcontractors List consists of five (5) columns, each of which requires the Bidder's disclosure of information relating to each listed Subcontractor as follows:

Column A Name of Subcontractor  
Column B Subcontractor's Address  
Column C Subcontractor's Portion of the Work  
Column D Subcontractor's California Contractors' License  
Column E Subcontractor DIR Registration

Columns A, B, C and D of the Subcontractors List must be completed by the Bidder for each Subcontractor identified by the Bidder in its Subcontractors List submitted concurrently with the Bidder's Bid Proposal. If Column E of the Subcontractors List is/are not completed on the form of Subcontractors List submitted by a Bidder concurrently with its Bid Proposal, such Bidder shall submit the information required by Column E, as applicable, of the Subcontractors List for each listed Subcontractor within twenty-four (24) hours after the latest date/time for submission of Bid Proposals. Failure of a Bidder to comply with the foregoing will render the Bidder's Bid Proposal non-responsive and rejected.

- ii. Work of Subcontractors. All Bidders are referred to the Contract Documents and the notation therein that all Contract Documents are intended to be complimentary and that the organization or arrangements of the Specifications and Drawings shall not limit the extent of the Work of the Contract Documents. Accordingly, all Bidders are encouraged to disseminate all of the Specifications, Drawings and other Contract Documents to all persons or entities submitting sub-bids to the Bidder. The omission of any portion or item of Work from the Bid Proposal or from the sub-bidders' sub-bids which is/are necessary to produce the intended results and/or which are reasonably inerrable from the Contract Documents is not a basis for adjustment of the Contract Price or the Contract Time. Dissemination of the Contract Documents to sub-bidders and

dissemination of addenda issued during the bidding process is solely the responsibility of each Bidder.

- iii. Subcontractor Bonds. Pursuant to California Public Contract Code §4108, if a Bidder requires a bond or bonds of its Subcontractor(s), whether the expense of procuring such bond or bonds are to be borne by the Bidder or the Subcontractor(s), such requirements shall be specified in the Bidder's written or published request for sub-bids. Failure of the Bidder to comply with these requirements shall preclude the Bidder from imposing bonding requirements upon its Subcontractor(s) or rejection of a Subcontractor's bid under California Public Contract Code §4108(b).
- s. Bid Security Return. The Bid Security of the Bidders submitting the three highest scoring Bid Proposals, the number being solely at the discretion of the District, will be held by the District for ten (10) days after the period for which Bid Proposals must be held open (which is set forth in the Call for Bids) or until posting by the successful Bidder(s) of the bonds, certificates of insurance required and return of executed copies of the Agreement, whichever occurs later, at which time the Bid Security of such other Bidders will be returned to them.
- t. Forfeiture of Bid Security. If the Bidder awarded the Contract fails or refuses to execute the Agreement within Ten (10) calendar days from the date of receiving notification that it is the Bidder to whom the Contract has been awarded, the District may declare the Bidder's Bid Security forfeited as damages caused by the failure of the Bidder to enter into the Contract and may thereupon award the Contract for the Work to the responsible Bidder submitting the next highest scoring Bid Proposal or may call for new bids, in its sole and exclusive discretion.
- u. Contractors' License. No Bid Proposal will be considered from a Bidder who, at the time Bid Proposals are opened, is not licensed to perform the Work of the Contract Documents, in accordance with the Contractors' License Law, California Business & Professions Code §§7000 et seq. This requirement is not a mere formality and will not be waived by the District or its Board of Trustees. The required California Contractors' License classification(s) for the Work is set forth in the Notice Calling for Proposals.
- v. Non-Discriminatory Employment Practices. It is the policy of the District that there be no discrimination against any prospective or active employee engaged in the Work because of race, color, ancestry, national origin, religious creed, sex, age, marital status or other legally protected classification. All Bidders agree to comply with the District's non-discrimination policy and all applicable Federal and California anti-discrimination laws including but not limited to the California Fair Employment & Housing Act beginning with California Government Code §§ 12940 et seq. and California Labor Code § 1735. In addition, all Bidders agree to require like compliance by any Subcontractor employed by them on the Work of the Contract.
- w. Sexual Harassment. It is the policy of the District to ensure that everyone complies with Education Code, Government Code, Title V of the Administrative Code, and all other related statutes related to the prevention of Sexual Harassment. All Bidders agree to comply with the District's Sexual Harassment Prevention Program and all applicable Federal and California laws including but not limited to the California Fair Employment & Housing Act commencing with California Government Code §12950, *et seq.* In addition, all Bidders agree to require like compliance by any Subcontractor employed by them on the Work of the Contract.
- x. Public Records. Bid Proposals and other documents responding to the Call for Bids become the exclusive property of the District upon submittal to the District. At such time as the District issues the Notice of Intent to award the Contract pursuant to these Instructions for Bidders, all Bid Proposals and other documents submitted in response to the Call for Bids become a matter of public record and shall be thereupon be considered public records, except for information



contained in such Bid Proposals deemed to be Trade Secrets (as defined in California Civil Code § 3426.1) and information provided in response to the Statement of Qualifications. A Bidder that indiscriminately marks all or most of its Bid Proposal as exempt from disclosure as a public record, whether by the notations of "Trade Secret," "Confidential," "Proprietary," or other similar notations, may result in, or render, the Bid Proposal non-responsive and rejected. The District is not liable or responsible for the disclosure of such records, including that exempt from disclosure if disclosure is deemed required by law, by an order of Court, or which occurs through inadvertence, mistake or negligence on the part of the District or its officers, employees or agents. At such time as Bid Proposals are deemed a matter of public record, pursuant to the above, any Bidder or other party shall be afforded access for inspection and/or copying of such Bid Proposals, by request made to the District in conformity with the California Access to Public Records Act, California Government Code §§6250, et. seq. If the District is required to defend or otherwise respond to any action or proceeding wherein request is made for the disclosure of the contents of any portion of a Bid Proposal deemed exempt from disclosure hereunder, the Bidder submitting the materials sought by such action or proceeding agrees to defend, indemnify and hold harmless the District in any action or proceeding from and against any liability, including without limitation attorneys' fees arising therefrom. The party submitting materials sought by any other party shall be solely responsible for the cost and defense in any action or proceeding seeking to compel disclosure of such materials; the District's sole involvement in any such action shall be that of a stakeholder, retaining the requested materials until otherwise ordered by a court of competent jurisdiction.

- y. Drug Free Workplace Certificate. In accordance with California Government Code §§ 8350 et seq., the Drug Free Workplace Act of 1990, the successful Bidder will be required to execute a Drug Free Workplace Certificate concurrently with execution of the Agreement. The successful Bidder will be required to implement and take the affirmative measures outlined in the Drug Free Workplace Certificate and in California Government Code §§8350 et seq. Failure of the successful Bidder to comply with the measures outlined in the Drug Free Workplace Certificate and in California Government Code §§ 8350 et seq. may result in penalties, including without limitation, the termination of the Agreement, the suspension of any payment of the Contract Price otherwise due under the Contract Documents and/or debarment of the successful Bidder.
- z. Roof Projects Certification Re Financial Relationships Disclosure. In accordance with Public Contract Code § 3006, upon award of contract, Contractor and/or any of its Subcontractors and Materialmen involved in bid or proposal for a roof project shall disclose and financial relationships by completing and signing the District Certification Re Financial Relationships Disclosure. Any person who knowingly provides false information or fails to disclose a financial relationship shall be subject to civil liability and penalties as set forth in Public Contract Code 3006.
- aa. Compliance with Immigration Reform and Control Act of 1986. The Bidder is solely and exclusively responsible for employment of individuals for the Work of the Contract in conformity with the Immigration Reform and Control Act of 1986, 8 USC §§1101, et seq. (the "IRCA"); the successful Bidder shall also require that any person or entity employing labor in connection with any of the Work of the Contract shall so similarly comply with the IRCA.
- bb. Notice of Intent to Award Contract. Following the evaluation of Bid Proposals, the District will issue a Notice of Intent to Award the Contract, identifying the Bidder to whom the District intends to award the Contract and the date/time/place of the District's Board of Trustees meeting at which award of the Contract will be considered.
- cc. Substitute Security. The successful Bidder may request substitution of eligible and equivalent securities for any monies withheld by the District to ensure the Contractor's performance under

the Contract pursuant to California Public Contract Code §22300. The foregoing notwithstanding, the Bidder to whom the Contract is awarded shall make its written request to the District for substitute security not later than the date of the submission of the first Application for Progress Payment; failure to request substitute security on or prior to such date shall be deemed a waiver of rights under Public Contract Code §22300.

dd. Bid Protest.

- i. Submittal of Bid Protest. Any Bidder submitting a Bid Proposal to the District may file a protest of the District's intent to award the Contract provided that all of the following are complied with: (i) the bid protest is in writing; (ii) the bid protest is filed and received by the District's Assistant Superintendent/Vice President, Administrative Services, not more than five (5) calendar days after the date of issuance of the District's Notice of Intent to Award the Contract; and (iii) the written bid protest sets forth, in detail, all grounds for the bid protest, including without limitation all facts, supporting documentation, legal authorities and argument in support of the grounds for the bid protest; any matters not set forth in the written bid protest shall be deemed waived. All factual contentions must be supported by competent, admissible and creditable evidence. Any bid protest not conforming to the foregoing shall be rejected by the District as invalid.
- ii. District Review and Disposition of Bid Protest. Provided that a bid protest is filed in strict conformity with the foregoing, the District's Assistant Superintendent/Vice President, Administrative Services, or such individual(s) as may be designated by him/her ("Designee") will review and evaluate the basis of the bid protest. The District's Vice President, Administrative Services, or Designee shall provide the Bidder submitting the bid protest with a written statement concurring with or denying the bid protest ("Bid Protest Response"). The Bid Protest Response is deemed the final action of the District and not subject to appeal or reconsideration by any other employee or officer of the District or the Board of Trustees of the District. The issuance of the Bid Protest Response by the District's Vice President, Administrative Services, or the Designee is an express condition precedent to the institution of any legal or equitable proceedings relative to the bidding process, the District's intent to award the Contract, the District's disposition of any bid protest or the District's decision to reject all Bid Proposals. If any such legal or equitable proceedings are instituted and the District is named as a party thereto, the prevailing party(ies) shall recover from the other party(ies), as costs, all attorneys' fees and costs incurred in connection with any such proceeding, including any appeal arising therefrom. Each Bidder shall acknowledge in the Bid Proposal that the foregoing is a binding attorneys' fee agreement pursuant to Civil Code §1717 and shall be enforceable against the Bidder and the District.

## 4. PROPOSAL EVALUATION AND SELECTION CRITERIA

The selection process that will be used by the District in selecting a firm to complete an audit as outlined in this Request for Qualifications and Proposals will be as follows:

- 4.1 Selection of the successful contractor will be based on information provided in response to the RFQP.
- 4.2 Proposals submitted by each offeror shall be evaluated separately based on how well each proposal meets the criteria listed herein.
- 4.3 Failure to meet the requirements for the Request for Qualifications and Proposals will be cause for rejection of the proposal. Cabrillo Community College District may reject any proposal if it is conditional, incomplete or contains irregularities, or is not in the best interest of the District.
- 4.4 Cabrillo Community College District may waive an immaterial deviation in the proposal. Waiver of an immaterial deviation shall in no way modify the Request for Qualifications and Proposal documents or excuse the offeror from full compliance with the contract documents if the offeror is awarded the contract. Cabrillo Community College District reserves the right to not award the contract, should it determine that the proposals are not in its best interest.
- 4.5 As determined by the screening of proposals, the highest scoring firms as determined by the District, may be invited by the District for a presentation/interview prior to final scoring.
- 4.6 Offeror may be required upon request of Cabrillo Community College District to substantiate that Offeror and its proposed subcontractors have the skill, experience, licenses, necessary facilities, and financial resources to perform the contract in a satisfactory manner and within the required time.
- 4.7 The award of the contract will be made to the highest scoring responsible Offeror whose proposal is most advantageous to Cabrillo Community College District
- 4.8 Proposals will be scored based on the evaluation criteria set forth in the RFQP document as follows:

**RESPONSIVENESS CHECK:** Does the proposal meet the minimum requirements to be responsive (supplied all documentation and forms required fully executed): **Pass/Fail**

**RESPONSIBILITY CHECK:** Does the proposal meet the minimum qualification requirements to be responsible (the documentation provided shows that the offeror is capable of performing the work, provides sufficient details to show the financial stability of the DBE, the GC, and the Architect, and no conflicts of interest exist and no pending litigation or negative references exist):

**Pass/Fail**

(CONTINUED ON NEXT PAGE)

If Proposer passes both the responsiveness and responsibility check, the proposal will be scored based on the following point scale:

<b>Responsibility</b>	<b>Max Points Possible</b>
Staffing and Fee Structure	20 points
Proposed Budget and Value	15 points
Design Approach	10 points
Construction and Schedule Approach	10 points
References and Experience with similar projects	25 points
DSA Experience	20 points
<b>Total Points Possible</b>	<b>100 points</b>

- **Staffing and Fee Structure:**  
Clearly outlines the proposed project team, including roles and relevant qualifications, and provides a transparent and competitive fee structure detailing billing rates and resource allocation. Proposed staffing provides sufficient support for the project scope and addresses the project's key goals.
- **Proposed Budget and Value:**  
Provides a complete and thorough Bid Form with a proposed established design and construction budget which demonstrates the DBE's understanding of the project and captures all known and unknown potential project costs. DBE's proposal aims to provide value to the District within its proposed budget, such that result of the project exceeds the project's goals and prioritizes student outcomes.
- **Design Approach:**  
Proposes a strategy for collaborating with the design team, including how they will contribute to innovative solutions to ensure alignment with the project's goals and established design and construction budget.
- **Construction and Schedule Approach:**  
Presents a detailed plan for managing construction, including an approach to maintaining quality, safety, and adherence to project timelines, supported by a comprehensive project schedule. Provides an initial logistics plan or written strategy which outlines how the DBE will limit disruption to the campus and to Soquel Drive during construction.
- **References and Experience with Similar Projects:**  
Provides references and evidence of successful completion of comparable projects, demonstrating experience, reliability, and a record of client satisfaction in similar work. References and experience should be provided for all key team personnel, the GC and the Architect, at a minimum. Additional weight may be given to experience where the proposed DBE team has worked together previously.
- **DSA Experience:**  
Showcases prior experience working with Division of the State Architect (DSA), highlighting successful navigation of DSA processes and delivery of compliant projects.



## **GENERAL CONDITIONS FOR PUBLIC WORKS TABLE OF CONTENTS**

### **ARTICLE 1: DEFINITIONS**

- 1.1 District.
- 1.2 Contractor.
- 1.3 Architect.
- 1.4 The Work.
- 1.5 The Project.
- 1.6 Surety.
- 1.7 Subcontractors; Sub-Subcontractors.
- 1.8 Material Supplier.
- 1.9 Drawings and Specifications.
- 1.10 Special Conditions; Supplemental Conditions.
- 1.11 Contract Documents.
- 1.12 Intent and Correlation of Contract Documents.
  - 1.12.1 Work of the Contract Documents.
  - 1.12.2 Technical Terms.
  - 1.12.3 Conflict in Contract Documents.
- 1.13 Shop Drawings; Samples; Product Data ("Submittals").
- 1.14 Division of State Architect ("DSA").
- 1.15 Project Inspector.
- 1.16 Contract Document Terms.
- 1.17 Contractor's Superintendent.
- 1.18 Record Drawings.
- 1.19 Project Manager.
- 1.20 Construction Equipment.
- 1.21 Site.
- 1.22 Field Clarifications.
- 1.23 Defective or Non-Conforming Work.
- 1.24 Delivery.
- 1.25 Notice to Proceed.
- 1.26 Substantial Completion
- 1.27 Final Completion
- 1.28 Progress Reports; Verified Reports.
- 1.29 Laws.
- 1.30 Construction Change Directive.
- 1.31 DBE.

### **ARTICLE 2: DISTRICT**

- 2.1 Information Required of District.
  - 2.1.1 Surveys; Site Information.
  - 2.1.2 Permits, Approvals.
  - 2.1.3 Drawings and Specifications.
  - 2.1.4 Furnishing of Information.
- 2.2 District's Right to Stop the Work.
- 2.3 Partial Occupancy or Use.
  - 2.3.1 District's Right to Partial Occupancy.
  - 2.3.2 No Acceptance of Defective or Nonconforming Work.
- 2.4 The Project Inspector.
  - 2.4.1 Authority of Project Inspector.
  - 2.4.2 Limitations on Project Inspector
  - 2.4.3 Contractor Access for Project Inspector.
  - 2.4.4 Contractor and District Responsibilities for Costs and Fees of Project Inspector.

### ARTICLE 3: ARCHITECT

- 3.1 Architect's Administration of the Contract.
  - 3.1.1 Role of Architect and Project Manager.
  - 3.1.2 Periodic Site Inspections.
  - 3.1.3 Contractor Responsibility for Construction Means, Methods and Sequences.
  - 3.1.4 Review of Applications for Payment.
  - 3.1.5 Rejection of Work.
  - 3.1.6 Submittals.
    - 3.1.6.1 Architect's Review.
    - 3.1.6.2 Time for Architect's Review.
  - 3.1.7 Issuance of Construction Change Directive.
  - 3.1.8 Changes to the Work; Change Orders.
  - 3.1.9 Completion.
  - 3.1.10 Interpretation of Contract Documents.
  - 3.1.11 Request for Information.
- 3.2 Communications; Role of Project Manager and Architect.
- 3.3 Termination of Architect; Substitute Architect.
- 3.4 Project Manager.

### ARTICLE 4: THE CONTRACTOR

- 4.1 Contractor Review of Contract Documents.
  - 4.1.1 Examination of Contract Documents.
  - 4.1.2 Field Measurements.
  - 4.1.3 Dimensions; Layouts and Field Engineering.
  - 4.1.4 Work in Accordance With Contract Documents.
- 4.2 Site Investigation; Subsurface Conditions.
  - 4.2.1 Contractor Investigation.
  - 4.2.2 Subsurface Data.
  - 4.2.3 Subsurface Conditions.
- 4.3 Supervision and Construction Procedures.
  - 4.3.1 Supervision of the Work.
  - 4.3.2 Responsibility for the Work.
  - 4.3.3 Layouts; Surveys.
  - 4.3.4 Waste Materials
  - 4.3.5 Construction Utilities.
  - 4.3.6 Existing Utilities; Removal, Relocation and Protection.
    - 4.3.6.1 Contractor Responsibility for Locating Utilities
    - 4.3.6.2 Contractor Responsibility for Damage to Underground Utility Services
    - 4.3.6.3 Unmarked; Unknown Utilities
  - 4.3.7 Conferences and Meetings.
    - 4.3.7.1 Pre-Construction Conference.
    - 4.3.7.2 Progress Meetings.
    - 4.3.7.3 Pre-Installation Conference
    - 4.3.7.4 Special Meetings.
    - 4.3.7.5 Minutes of Meetings.
- 4.4 Labor and Materials.
  - 4.4.1 Payment for Labor, Materials and Services.
  - 4.4.2 Employee Discipline.
  - 4.4.3 Compliance with Immigration Reform and Control Act of 1986.
  - 4.4.4 Contractor's Project Manager and Superintendent
    - 4.4.4.1 Qualifications of Contractor
    - 4.4.4.2 Superintendent and Contractor Project Manager

- 4.4.4.3 Contractor Superintendent
    - 4.4.4.4 Contractor Project Manager
  - 4.4.5 Prohibition on Harassment.
    - 4.4.5.1 District's Policy Prohibiting Harassment.
    - 4.4.5.2 Contractor's Adoption of Anti-Harassment Policy.
    - 4.4.5.3 Prohibition on Harassment at the Site.
- 4.5 Taxes.
- 4.6 Permits, Fees and Notices; Compliance With Laws.
  - 4.6.1 Payment of Permits, Fees.
  - 4.6.2 Compliance With Laws.
  - 4.6.3 Notice of Variation From Laws.
- 4.7 Submittals.
  - 4.7.1 Purpose of Submittals.
  - 4.7.2 Contractor's Submittals.
    - 4.7.2.1 Prompt Submittals.
    - 4.7.2.2 Approval of Subcontractor Submittals.
    - 4.7.2.3 Verification of Submittal Information.
    - 4.7.2.4 Information Included in Submittals.
    - 4.7.2.5 Contractor Responsibility for Deviations.
    - 4.7.2.6 No Performance of Work Without Architect Review.
  - 4.7.3 Architect Review of Submittals.
  - 4.7.4 Deferred Approval Items.
- 4.8 Materials and Equipment.
  - 4.8.1 Specified Materials, Equipment.
  - 4.8.2 Approval of Substitutions or Alternatives.
  - 4.8.3 District Standards; "Sole Source" Products
  - 4.8.4 Placement of Material and Equipment Orders.
  - 4.8.5 District's Right to Place Orders for Materials and/or Equipment.
  - 4.8.6 Contractor and Subcontractor Communication.
- 4.9 Safety.
  - 4.9.1 Safety Programs.
  - 4.9.2 Contractor Safety Plan.
  - 4.9.3 Safety Precautions.
  - 4.9.4 Safety Signs, Barricades.
  - 4.9.5 Safety Notices.
  - 4.9.6 Safety Coordinator.
  - 4.9.7 Site Conduct.
    - 4.9.7.1 Clothing.
    - 4.9.7.2 Prohibited Substances.
    - 4.9.7.3 Audio Devices.
    - 4.9.7.4 Break-Time Clean-Up.
    - 4.9.7.5 Guns/Knives.
    - 4.9.7.6 Non-English Speaking Personnel
  - 4.9.8 Emergencies.
  - 4.9.9 Hazardous Materials.
    - 4.9.9.1 General.
    - 4.9.9.2 Prohibition on Use of Asbestos Construction Building Materials ("ACBMs").
    - 4.9.9.3 Disposal of Hazardous Materials.
  - 4.9.10 Temporary Sanitary Facilities
  - 4.9.11 Noise and Dust Control'
    - 4.9.11.1 Noise Control
    - 4.9.11.2 Dust Control



- 4.9.11.3 Air Pollution
      - 4.9.11.4 Contractor Failure to Comply
    - 4.10 Maintenance of Documents.
      - 4.10.1 Documents at Site.
      - 4.10.2 Maintenance of Record Drawings.
      - 4.10.3 Daily Reports by Contractor
    - 4.11 Site.
      - 4.11.1 Contractor's Use of Site
      - 4.11.2 Limitations Upon Site Work
    - 4.12 Clean-Up.
    - 4.13 Access to the Work.
    - 4.14 Facilities and Information for the Project Inspector.
      - 4.14.1 Information to Project Inspector.
      - 4.14.2 Facilities for Project Inspector.
    - 4.15 Patents and Royalties.
    - 4.16 Cutting and Patching.
    - 4.17 Encountering of Hazardous Materials.
    - 4.18 Wage Rates; Employment of Labor.
      - 4.18.1 Prevailing Wage Rates.
        - 4.18.1.1 Prevailing Wage Rate Schedules.
        - 4.18.1.2 Payment of Prevailing Rates.
        - 4.18.1.3 Prevailing Rate Penalty.
        - 4.18.1.4 Prevailing Wage Rate Monitoring and Enforcement.
      - 4.18.2 Payroll Records.
        - 4.18.2.1 Certified Payroll Records.
        - 4.18.2.2 Certified Payroll Records Submittal to Labor Commissioner.
        - 4.18.2.3 Inspection and Copies of Certified Payroll Records.
      - 4.18.3 Hours of Work.
        - 4.18.3.1 Limits on Hours of Work.
        - 4.18.3.2 Penalty for Excess Hours.
        - 4.18.3.3 Contractor Responsibility.
      - 4.18.4 Apprentices.
        - 4.18.4.1 Employment of Apprentices.
        - 4.18.4.2 Apprenticeship Certificate.
        - 4.18.4.3 Ratio of Apprentices to Journeymen.
        - 4.18.4.4 Exemption from Ratios.
        - 4.18.4.5 Contributions to Trust Funds.
        - 4.18.4.6 Contractor's Compliance.
      - 4.18.5 Employment of Independent Contractors.
    - 4.19 Assignment of Antitrust Claims.
    - 4.20 DSA Construction Oversight.
      - 4.20.1 DSA Approved Documents.
      - 4.20.2 Correction of Non-Conforming Work.
      - 4.20.3 Verification of DSA 152 Forms.
      - 4.20.4 Test/Inspection Communications.
      - 4.20.5 DSA Form 156 Notifications to Project Inspector.
      - 4.20.6 Limitations on Contract Work.
      - 4.20.7 Final Verified Report.
    - 4.21 DSA Verified Reports.
      - 4.21.1 Contractor Actions.
      - 4.21.2 District Withholdings From Final Payment
- ARTICLE 5: SUBCONTRACTORS
- 5.1 Subcontracts.

- 5.2 Subcontractor DIR Contractor Registration.
  - 5.2.1 No Subcontractor Performance of Work Without DIR Registration.
  - 5.2.2 Contractor Obligation to Verify Subcontractor DIR Registration Status.
  - 5.2.3 Contractor Obligation to Request Substitution of Listed Subcontractor Who Is Not DIR Registered Contractor.
- 5.3 Substitution of Listed Subcontractor.
  - 5.3.1 Substitution Process.
  - 5.3.2 Responsibilities of Contractor Upon Substitution of Subcontractor.
- 5.4 Subcontractors' Work.

#### ARTICLE 6: INSURANCE; INDEMNITY; BONDS

- 6.1 Workers' Compensation Insurance; Employer's Liability Insurance.
- 6.2 Commercial General Liability and Property Insurance.
- 6.3 Builder's Risk "All Risk" Insurance.
- 6.4 Coverage Amounts.
- 6.5 Required Qualifications of Insurers
- 6.6 Evidence of Insurance; Subcontractor's Insurance.
  - 6.6.1 Certificates of Insurance.
  - 6.6.2 Subcontractors' Insurance.
- 6.7 Maintenance of Insurance.
- 6.8 Contractor's Insurance Primary.
- 6.9 Indemnity.
- 6.10 Payment Bond; Performance Bond.

#### ARTICLE 7: CONTRACT TIME

- 7.1 Substantial Completion of the Work Within Contract Time.
- 7.2 Progress and Completion of the Work.
  - 7.2.1 Time of Essence.
  - 7.2.2 Substantial Completion.
  - 7.2.3 Correction or Completion of the Work After Substantial Completion.
    - 7.2.3.1 Punchlist.
    - 7.2.3.2 Time for Completing Punchlist Items.
  - 7.2.4 Final Completion.
  - 7.2.5 Contractor Responsibility for Multiple Inspections.
  - 7.2.6 Final Acceptance.
- 7.3 Construction Schedule.
  - 7.3.1 Submittal of Preliminary Construction Schedule.
  - 7.3.2 Review of Preliminary Construction Schedule.
  - 7.3.3 Preparation and Submittal of Contract Construction Schedule.
  - 7.3.4 Revisions to Approved Construction Schedule.
  - 7.3.5 Updates to Approved Construction Schedule.
  - 7.3.6 Contractor Responsibility for Construction Schedule.
  - 7.3.7 Three (3) Week Look Ahead Schedule.
  - 7.3.8 Cost of Scheduling.
  - 7.3.9 Scheduling Software & Requirements.
  - 7.3.10 Float.
- 7.4 Adjustment of Contract Time.
  - 7.4.1 Excusable Delays.
  - 7.4.2 Compensable Delays.
  - 7.4.3 Unexcusable Delays.
  - 7.4.4 Procedure for Adjustment of Contract Time.
  - 7.4.5 Limitations Upon Adjustment of Contract Time on Account of Delays.
- 7.5 Liquidated Damages.

- 7.6 District Right to Take-Over Work
  - 7.6.1 Progress of Work
  - 7.6.2 District's Right to Withhold
  - 7.6.3 Non-Exclusive Remedy

#### ARTICLE 8: CONTRACT PRICE

- 8.1 Contract Price.
- 8.2 Cost Breakdown.
- 8.3 Progress Payments.
  - 8.3.1 Applications for Progress Payments.
  - 8.3.2 Payment Application Review for Determination of Proper Payment Application.
  - 8.3.3 Verification of Work Completed.
  - 8.3.4 District's Disbursement of Progress Payments.
    - 8.3.4.1 Timely Disbursement of Progress Payments.
    - 8.3.4.2 Untimely Disbursement of Progress Payments.
    - 8.3.4.3 District's Right to Disburse Payments by Joint Checks.
    - 8.3.4.4 No Waiver of Defective or Non-Conforming Work.
  - 8.3.5 Progress Payments for Changed Work.
  - 8.3.6 Materials or Equipment Not Incorporated Into the Work.
    - 8.3.6.1 Limitations Upon Payment.
    - 8.3.6.2 Materials or Equipment Delivered and Stored at the Site.
    - 8.3.6.3 Materials or Equipment Not Delivered or Stored at the Site.
    - 8.3.6.4 Materials or Equipment in Fabrication of Transit
  - 8.3.7 Exclusions From Progress Payments.
  - 8.3.8 Title to Work.
  - 8.3.9 Substitute Security for Retention.
- 8.4 Final Payment.
  - 8.4.1 Application for Final Payment.
  - 8.4.2 Conditions Precedent to Disbursement of Final Payment.
  - 8.4.3 Disbursement of Final Payment.
  - 8.4.4 Waiver of Claims.
  - 8.4.5 Claims Asserted After Final Payment.
- 8.5 Withholding of Payments.
- 8.6 Payments to Subcontractors.
- 8.7 Computerized Job Cost Reporting System.
  - 8.7.1 Job Cost Reporting.
  - 8.7.2 Job Cost Reporting System Requirements.
  - 8.7.3 Job Cost System Information.

#### ARTICLE 9: CHANGES

- 9.1 Changes in the Work.
- 9.2 Construction Change Directive.
- 9.3 Oral Order of Change in the Work.
- 9.4 Contractor Submittal of Data.
- 9.5 Adjustment to Contract Price and Contract Time on Account of Changes to the Work.
  - 9.5.1 Adjustment to Contract Price.
    - 9.5.1.1 Mutual Agreement.
    - 9.5.1.2 Determination by the District.
  - 9.5.2 Basis for Adjustment of Contract Price.
    - 9.5.2.1 Allowable Labor Costs.
      - 9.5.2.1.1 Limitation to Field Labor and Prevailing Wage Rates
      - 9.5.2.1.2 Fringe Benefits, Payroll Taxes and Labor Burden
      - 9.5.2.1.3 Excluded Labor Costs

- 9.5.2.2 Materials and Equipment.
    - 9.5.2.3 Construction Equipment.
      - 9.5.2.3.1 Mark-up on Costs of Changes to the Work.
    - 9.5.2.4 Contractor Maintenance of Records.
  - 9.5.3 Adjustment to Contract Time.
  - 9.5.4 Addition or Deletion of Alternate Bid Item(s).
- 9.6 Change Orders.
- 9.7 Unilateral Change Orders.
- 9.8 Contractor Notice of Changes.
- 9.9 Disputed Changes.
- 9.10 Emergencies.
- 9.11 Minor Changes in the Work.
- 9.12 Unauthorized Changes.

#### ARTICLE 10: SEPARATE CONTRACTORS

- 10.1 District's Right to Award Separate Contracts.
- 10.2 District's Coordination of Separate Contractors.
- 10.3 Mutual Responsibility.
- 10.4 Discrepancies or Defects.
- 10.5 District's Right to Withhold for Delay to Separate Contractors
  - 10.5.1 Progress of Work
  - 10.5.2 District's Right to Withhold
  - 10.5.3 Non-Exclusive Remedy

#### ARTICLE 11: TESTS AND INSPECTIONS

- 11.1 Tests; Inspections; Observations.
  - 11.1.1 Contractor's Notice.
  - 11.1.2 Cost of Tests and Inspections.
  - 11.1.3 Testing/Inspection Laboratory.
  - 11.1.4 Additional Tests, Inspections and Approvals.
- 11.2 Delivery of Certificates.
- 11.3 Timeliness of Tests, Inspections and Approvals.

#### ARTICLE 12: UNCOVERING AND CORRECTION OF WORK

- 12.1 Inspection of the Work.
  - 12.1.1 Access to the Work.
  - 12.1.2 Limitations Upon Inspections.
- 12.2 Uncovering of Work.
- 12.3 Rejection of Work.
- 12.4 Correction of Work.
- 12.5 Removal of Non-Conforming or Defective Work.
- 12.6 Failure of Contractor to Correct Work.
- 12.7 Acceptance of Defective or Non-Conforming Work.

#### ARTICLE 13: WARRANTIES

- 13.1 Workmanship and Materials.
- 13.2 Warranty Work.
- 13.3 Guarantee.
- 13.4 Survival of Warranties; Surety Obligations

#### ARTICLE 14: SUSPENSION OF WORK

- 14.1 District's Right to Suspend Work.
- 14.2 Adjustments to Contract Price and Contract Time.

## ARTICLE 15: TERMINATION

- 15.1 Termination for Cause.
  - 15.1.1 District's Right to Terminate.
  - 15.1.2 District's Rights Upon Termination.
  - 15.1.3 Completion by the Surety.
  - 15.1.4 Assignment and Assumption of Subcontracts.
  - 15.1.5 Costs of Completion.
  - 15.1.6 Contractor Responsibility for Damages.
  - 15.1.7 Conversion to Termination for Convenience.
  - 15.1.8 District's Rights Cumulative.
- 15.2 Termination for Convenience of the District.

## ARTICLE 16: MISCELLANEOUS

- 16.1 Governing Law.
- 16.2 Marginal Headings; Interpretation.
- 16.3 Successors and Assigns.
- 16.4 Cumulative Rights and Remedies; No Waiver.
- 16.5 Severability.
- 16.6 No Assignment by Contractor.
- 16.7 Gender and Number.
- 16.8 Independent Contractor Status.
- 16.9 Notices.
- 16.10 Disputes; Continuation of Work.
- 16.11 Dispute/Claims Resolution.
  - 16.11.1 Contractor Continuation of Work
  - 16.11.2 Public Contract Code §9204 Claims Resolution Procedures
    - 16.11.2.1 Claim Defined.
    - 16.11.2.2 Claim Documentation.
    - 16.11.2.3 District Claim Review Statement.
    - 16.11.2.4 Meet and Confer
      - 16.11.2.4.1 Meet and Confer Demand
      - 16.11.2.4.2 Meet and Confer Statement
    - 16.11.2.5 Non-Binding Mediation
      - 16.11.2.5.1 Contractor Initiation
      - 16.11.2.5.2 Mediator Selection
      - 16.11.2.5.3 Mediation Procedures
      - 16.11.2.5.4 Mediation Costs
      - 16.11.2.5.5 Post-Mediation Disputed Claims
      - 16.11.2.5.6 Waiver
    - 16.11.2.6 Subcontractor Claims
      - 16.11.2.6.1 Subcontractor Claim Submittal
      - 16.11.2.6.2 Contractor Certification of Subcontractor Claim
      - 16.11.2.6.3 District Review of Subcontractor Claim
      - 16.11.2.6.4 Disputed Subcontractor Claims
  - 16.11.3 Government Code Claim Requirements
  - 16.11.4 Section 20104.4 Dispute Resolution Procedures; Claims Less Than \$375,000
  - 16.11.5 Binding Arbitration of Claims Exceeding \$375,000
    - 16.11.5.1 JAMS Arbitration
    - 16.11.5.2 Demand for Arbitration
    - 16.11.5.3 Discovery

- 16.11.5.4 Arbitration Award
- 16.11.5.5 Arbitration Fees and
- 16.11.6 Expenses Limitation on Arbitrator
- 16.11.7 Inapplicability to Bid Bond.
- 16.12 Limitation on Special/  
Consequential Damages
- 16.13 Capitalized Terms.
- 16.14 Attorney's Fees.
- 16.15 Provisions Required by Law Deemed Inserted.
- 16.16 Prohibited Interests
- 16.17 Days.
- 16.18 Prohibited Interests
- 16.19 Limitation on Special/Consequential Damages

## GENERAL CONDITIONS

### ARTICLE 1: DEFINITIONS

1.1 District. "District" refers to **CABRILLO COMMUNITY COLLEGE DISTRICT** and unless otherwise stated, includes the District's authorized representatives, including the Project Manager, if a Project Manager is designated, the District's Board of Trustees and the District's officers, employees, agents and representatives.

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

1.3 Architect. The Architect is the person or entity identified as such in the Agreement; references to the "Architect" include, as required by context of usage, the Architect's employees and authorized representative(s) and the Architect's Consultants and their employees and authorized representative(s).

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

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

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

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

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

1.9 Drawings and Specifications. The Drawings are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing generally, the design, location and dimensions of the Work and may include without limitation, plans, elevations, sections, details, schedules or diagrams. The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards, criteria and workmanship for the Work and related services. The Drawings and Specifications are intended to delineate and describe the Work and its component parts so as to permit skilled and competent contractors to bid upon the Work and prosecute the same to completion.

1.10 Special Conditions; Supplemental Conditions. Special Conditions and/or Supplemental Conditions, if any are special or supplemental provisions, not otherwise

provided for in the Agreement or the General Conditions.

1.11 Contract Documents. The Contract Documents consist of the Agreement between the District and the Contractor, Conditions of the Contract (whether General, Special, Supplemental or otherwise), Drawings, Specifications, including addenda thereto issued prior to execution of the Agreement and any other documents listed in the Agreement. The Contract Documents shall include modifications issued after execution of the Agreement. The Contract Documents form the Contract for Construction.

1.12 Intent and Correlation of Contract Documents.

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

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

1.12.3 Conflict in Contract Documents. Conflicts, inconsistencies or ambiguities in the Contract Documents shall be resolved by the Architect in accordance with Article 3.1.9 of the General Conditions; where conflicts or inconsistencies arise between the Drawings and the Specifications, in resolving such conflicts or inconsistencies, the Architect will be governed generally by the following standards: the Drawings are intended to describe matters relating to placement, type, quantity and the like; the Specifications are intended to describe matters relating to quality, materials, compositions, manufacturers and the like. If conflicts exist between portions of the Contract Documents regarding the quality of any item, product, equipment or materials, unless otherwise directed or authorized by the District, the Contractor shall provide the item, product, equipment or material of the highest or more stringent quality.

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

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



set forth in the Contract Documents and Title 24 of the California Code of Regulations.

1.15 Project Inspector. The Project Inspector is the individual designated and employed by the District in accordance with the requirements of Title 24 of the California Code of Regulations. The Project Inspector shall be authorized to act on behalf of the District as provided for in the Contract Documents and in Title 24 of the California Code of Regulations, as the same may be amended from time to time.

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

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

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

1.19 Project Manager. The Project Manager, if any, is the individual or entity designated as such in the Special Conditions. The Project Manager is an independent contractor retained by the District and shall be authorized and empowered to act on behalf of the District. In the event that a Project Manager is not designated in the Special Conditions, the District reserves the right to designate a Project Manager at any time during Contractor's performance of the Work. The District reserves the right to remove or replace the Project Manager during Contractor's performance of the Work. The designation of a Project Manager, if one has not been designated in the Special Conditions, or the removal or replacement of the designated Project Manager shall not result in adjustment of the Contract Price or the Contract Time or otherwise affect, limit or restrict Contractor's obligations hereunder.

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

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

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

1.23 Defective or Non-Conforming Work. Defective or Non-Conforming Work is any Work which is unsatisfactory, faulty or deficient by: (i) not conforming to the requirements of the Contract Documents; (ii) not conforming to the standards of workmanship of the applicable trade or industry; (iii) non-compliance with the requirements of any inspection, reference, standard, test, or approval required by the Contract Documents; or (iv) damage occurring prior to Final Completion of all of the Work.

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

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

1.26 Project Substantial Completion. "Project Substantial Completion" means that stage in the progress of the Project when Substantial Completion has been achieved by all Prime Contractors and all work of the Project is complete and approved by DSA and other governmental agencies with jurisdiction over the Work or any portion thereof in accordance with the Contract Documents so the District can occupy or use the Project for its intended purpose.

1.27 Final Completion. The term "Final Completion" means the Work has been fully completed in accordance with the requirements of the Contract Documents.

1.28 Progress Reports; Verified Reports. Progress Reports, if required, are written reports prepared by the Contractor and periodically submitted to the District in the form and content as required by the Contract Documents. Verified Reports are periodic written reports prepared by the Contractor and submitted to the DSA; Verified Reports shall be in such form and content as required by the applicable provisions of Title 24 of the California Code of Regulations. A material obligation of the Contractor is the preparation of complete and accurate Progress Reports, if required, and Verified Reports as well as the timely submission of the same.

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

1.30 Construction Change Directive. A Construction Change Directive is a written instrument issued by or on behalf of the District to the Contractor directing a Change to the Work prior to the Contractor and District reaching full agreement on an adjustment of the Contract Time and/or Contract Price on account of such Change. A material obligation of the Contractor is timely performance of Work noted in a Construction Change Directive.

1.31 DBE. Design Build Entity, also interchangeable with Contractor.

## **ARTICLE 2: DISTRICT**

2.1 Information Required of District.

2.1.1 Surveys; Site Information. Information, if any, concerning physical characteristics of the Site, including without limitation, surveys, soils reports, and

utility locations, to be provided by the District are set forth in the Contract Documents. Information not provided by the District or necessary information in addition to that provided by the District concerning physical characteristics of the Site which is required shall be obtained by Contractor without adjustment to the Contract Price or the Contract Time.

2.1.2 Permits, Approvals. Except as otherwise provided in the Contract Documents, the District shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities which relate to the Work. If permits, licenses, approvals or similar approvals relating to the Work, or the installation/construction thereof are designated as the responsibility of the Contractor under the Contract Documents, the Contractor shall obtain the same without adjustment of the Contract Price or the Contract Time.

2.1.3 Drawings and Specifications. Except as otherwise provided for in the Contract Documents, the District shall furnish the Contractor, free of charge, the number of copies of the Drawings and the Specifications as set forth in the Special Conditions. All of the Drawings and the Specifications provided by the District to the Contractor remain the property of the District; the Contractor shall not use the Drawings or the Specifications in connection with any other work of improvement other than the Work.

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

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

2.3 Partial Occupancy or Use.

2.3.1 District's Right to Partial Occupancy. The District may occupy or use any

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

2.3.2 No Acceptance of Defective or Nonconforming Work. The District's partial occupancy or use of the Work, or any portion thereof, shall not constitute the District's acceptance of the Work which is defective or non-conforming.

## 2.4 The Project Inspector.

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

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

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

2.4.4 Contractor and District Responsibilities for Costs and Fees of Project Inspector. The District is responsible only for payment of the fees of the Project Inspector for standard eight (8) hour work day Mondays through Fridays, excepting holiday days ("Project Inspector Standard Workdays"). All services provided by the Project Inspector exceeding an eight (8) hour workday Mondays through Fridays

and/or the first eight (8) hours on Saturday shall be at 1½ times the Project Inspector's basic hourly rate. All hours of service provided by the Project Inspector in excess of eight (8) hours on Saturdays, and all hours of service provided by the Project Inspector on holiday days or on Sundays are at two (2) times the Project Inspector's basic hourly rate. Fees for services provided by the Project Inspector beyond the Project Inspector Standard Workdays set forth above are the sole responsibility of the Contractor; the District may deduct fees for the Project Inspector which exceeds the Project Inspector Standard Workdays from the Contract Price.

### **ARTICLE 3: ARCHITECT; PROJECT MANAGER**

#### **3.1 Administration of the Contract.**

3.1.1 The Role of the Architect and Project Manager. The Architect and Project Manager, if any, will provide administration of the Contract as described in the Contract Documents, and will be the District's representatives during construction until the time that Final Payment is due the Contractor under the Contract Documents. The Architect and Project Manager, if any, will advise and consult with the District and the Project Inspector with respect to the administration of the Contract and the Work. The Architect and Project Manager, if any, are authorized to act on behalf of the District to the extent provided for in the Contract Documents; and shall have the responsibilities and powers established by the Laws, including Title 24 of the California Code of Regulations. The Architect and Project Manager are authorized to stop the Work, direct/authorize takeover of the Contractor's Work or supplement the Contractor's labor, materials or equipment whenever deemed necessary in the sole discretion of the Architect or the Project Manager to ensure that the Work is completed in accordance with the Contract Documents for the Contract Price and within the Contract Time. All fees, costs or expenses arising out of or associated in any manner with the take-over of the Work or to supplement the Contractor's labor, materials or equipment shall be at the sole cost and expense of the Contractor; the District may deduct such costs, fees or expenses from any portion of the Contract Price then or thereafter due the Contractor.

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

3.1.3 Contractor Responsibility for Construction Means, Methods and Sequences. The Contractor shall be solely responsible for: (i) construction means, methods and sequences to perform and complete the Work; (ii) safety of persons and property at the Site; and (iii) the acts, omissions or other conduct of Subcontractors and the personnel of the Contractor and Subcontractors. Neither the Architect, Project Manager, if any, District nor Project Inspector will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, these being solely the Contractor's responsibility. Furthermore, neither the Architect, Project Manager, if any, District nor Project Inspector will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

3.1.4 Review of Applications for Payment. Pursuant to Article 8 hereof, the Architect will review the Contractor's Payment Applications and for Application For Final Payment, evaluate the extent of Work performed and verify to the District the amount properly due the Contractor.

3.1.5 Rejection of Work. The Architect is authorized to reject Work which is defective or does not conform to the requirements of the Contract Documents. Whenever the Architect considers it necessary or advisable, for implementation of the intent of the Contract Documents, the Architect is authorized to require additional inspections or testing of the Work, whether or not such Work is fabricated, installed or completed. Neither this authority of the Architect nor a decision made in good faith by the Architect to exercise or not to exercise such authority shall modify requirements of the Contract Documents or any obligation of the Contractor under the Contract Documents.

3.1.6 Submittals.

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

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

3.1.6.3 Time for Architect's Review. The Architect's review of Submittals will be conducted promptly so as not to delay or hinder the progress of the Work or the activities of the Contractor, the District or the District's separate contractors while allowing sufficient time, in the Architect's reasonable professional judgment, to permit adequate review of Submittals. The foregoing notwithstanding, the Architect's review and return of Submittals will conform with the time limits and other conditions, if any, set forth in the Specifications or the Submittal Schedule if the Submittal Schedule is required by other provisions of the Contract Documents, but shall, under no circumstance, be less than fifteen (15) days.

3.1.7 Issuance of Construction Change Directive. The Architect is authorized to issue Construction Change Directives.

3.1.8 Changes to the Work; Change Orders. The Architect and Project Manager, if any, will prepare Change Orders, and may authorize minor Changes in the Work which do not result in adjustment of the Contract Time or the Contract Price.

3.1.9 Completion. In conjunction with the District, Project Inspector, Project Manager, if any, and the Contractor, the Architect will conduct observations of the Work to determine the date(s) of Substantial Completion and Final Completion. If the District does not designate a Project Manager for the Work, the Architect shall: (i) be authorized to enforce the Contractor's close-out obligations; and (ii) receive from the Contractor and the records, written warranties and related close-out materials assembled by the Contractor in accordance with the Contract Documents. The Architect, Project Manager, if any, and Project Inspector will verify that the Contractor has complied with all requirements of the Contract Documents and is entitled to receipt of Final Payment.

3.1.10 Interpretation of Contract Documents. The Architect will interpret and decide matters concerning the requirements of the Contract Documents on written request of either the District or the Contractor. The Architect's response to such requests will be made with reasonable promptness and within the time limits agreed upon, if any. If no agreement is reached establishing the time for the Architect's review and response to requests under this Article 3.1.10, the Architect shall be afforded a fifteen (15) day period after receipt of such request to review and respond thereto. Interpretations and decisions of the Architect will: (i) be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions; (ii) endeavor to secure faithful performance by both the District and the Contractor; (iii) not show partiality to either the District or Contractor; and (iv) not result in liability for results of interpretations or decisions so rendered in good faith. The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

3.1.11 Request for Information. If the Contractor encounters any condition which the Contractor believes, in good faith and with reasonable basis, is the result of an ambiguity, conflict, error or omission in the Contract Documents (collectively "the Conditions"), Contractor shall timely notify the Architect, in writing, of the Conditions encountered and to request information from the Architect necessary to address and resolve any such Conditions before proceeding with any portion of the Work affected or which may be affected by such Conditions. If the Contractor fails to timely notify the Architect in writing of any Conditions encountered and the Contractor proceeds to perform any portion of the Work containing or affected by such Conditions the Contractor shall bear all costs associated with or required to correct, remove, or otherwise remedy any portion of the Work affected thereby without adjustment of the Contract Time or the Contract Price. In requesting information of the Architect to address and resolve any Conditions the Contractor shall act with promptness in submitting any such written request so as to allow the Architect a reasonable period of time to review, evaluate and respond to any such request, taking into account the then current status of the progress and completion of the Work and the actual or potential impact of any such Conditions upon the completion of the Work within the Contract Time. The Contract Time shall not be subject to adjustment in the event that the Contractor shall fail to timely request information from the Architect. The Architect's responses to any such Contractor request for information shall conform to the standards and time frame set forth in Article 3.1.10 of these General Conditions. The foregoing provisions notwithstanding, if the Architect reasonably

determines that any of Contractor's request(s) for information: (i) does not reflect adequate or competent supervision or coordination by the Contractor or any Subcontractor; (ii) does not reflect the Contractor's adequate or competent knowledge of the requirements of the Work or the Contract Documents; or (iii) is not justified for any other reason, Contractor shall be liable to the District for all costs incurred by the District associated with the processing, reviewing, evaluating and responding to any such request for information, including without limitation, fees of the Architect. In responding to any of Contractor's request(s) for information, the Architect shall, in the response, indicate if the Architect has made the determination pursuant to the preceding sentence and, if so, the costs to be borne by the Contractor for the processing, review, evaluation and response to the request for information. Thereafter, the District is authorized to deduct such costs from any portion of the Contract Price then or thereafter due the Contractor.

3.2 Communications; Role of Architect and Project Manager. All communications regarding the Work, the performance thereof or the Contract Documents shall be in writing; verbal communications shall be reduced to writing. Communications between the Contractor and the District or the Architect shall be through the Project Manager. All written communications between the Contractor and any Subcontractor, Material Supplier or others directly or indirectly engaged by the Contractor to perform or provide any portion of the Work shall be available to the District, the Project Manager and the Architect for review, inspection and reproduction as may be requested from time to time. If the District does not designate a Project Manager for the Work, communications between the Contractor and the District shall be through the Architect. Communications between separate contractors, if any, shall be through the Architect. Failure or refusal of the Contractor to permit the District, the Project Manager or Architect to review, inspect or reproduce such written communications may be deemed a default of Contractor hereunder.

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

3.4 Construction Manager. If a Construction Manager is designated for the Work, the Project Manager shall be a representative of the District until Final Completion is achieved and Final Payment is due the Contractor. The Construction Manager is authorized to act on behalf of the District and in connection with the Work as set forth in the Contract Documents, including without limitation: (i) review of the Contractor's Construction Schedule and updates thereto; (ii) review of the Contractor's Applications for Payment and verification of the amount due the Contractor under an Application for Payment; (iii) conducting the Pre-Construction Meeting, Progress Meetings and/or Special Meetings and maintaining minutes thereof; and (iv) enforcement of the Contractor's obligations under the Contract Documents, including the Contractor's close-out obligations.



## **ARTICLE 4: THE CONTRACTOR**

### **4.1 Contractor Review of Contract Documents.**

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

4.1.2 Field Measurements. Prior to commencement of the Work, or portions thereof, the Contractor shall take field measurements and verify field conditions at the Site and shall carefully compare such field measurements and conditions with information provided in the Contract Documents. Errors, inconsistencies or omissions discovered shall be immediately reported to the Architect along with request for clarification or direction.

4.1.3 Dimensions; Layouts and Field Engineering. Unless otherwise expressly provided, dimensions indicated in the Drawings are intended for reference only. The Drawings are intended to be diagrammatic and schematic in nature; the Contractor is solely responsible for dimensioning and coordinating the Work of the Contract Documents. All field engineering required for laying out the Work and establishing grades for earthwork operations shall be by the Contractor at its expense. Any field engineering or other engineering to be provided or performed by the Contractor under the Contract Documents and required or necessary for the proper execution or installation of the Work shall be provided and performed by the an engineer duly registered under the laws of the State of California in the engineering discipline for such portion of the Work.

4.1.4 Work in Accordance With Contract Documents. The Contractor shall perform all of the Work in strict conformity with the Contract Documents, the Laws and Architect accepted Submittals.

### **4.2 Site Investigation; Subsurface Conditions.**

4.2.1 Contractor Investigation. The Contractor is responsible for, and by executing the Agreement acknowledges, that it has carefully examined the Site and has taken all steps it deems reasonably necessary to ascertain all conditions which may affect the Work, or the cost thereof, including, without limitation, conditions bearing upon transportation, disposal, handling or storage of materials; availability of labor or utilities; access to the Site; and the physical conditions and the character of equipment, materials, labor and services necessary to perform the Work. Any failure of the Contractor to do so will not relieve it from the responsibility for fully and completely performing all Work without adjustment to the Contract Price or the Contract Time. The District assumes no responsibility to the Contractor for any understandings or representations concerning conditions or characteristics of the Site, or the Work, made by any of its officers, employees or agents prior to the execution of the Agreement, unless such understandings or representations are expressly set forth in the Contract Documents.

4.2.2 Subsurface Data. By executing the Agreement, the Contractor acknowledges that it has examined the boring data and other subsurface data available and satisfied itself as to the character, quality and quantity of surface and subsurface materials, including without limitation, obstacles which may be encountered in performance of the Work, insofar as this information is reasonably ascertainable from an inspection of the Site, review of available subsurface data and

analysis of information furnished by the District under the Contract Documents. Subsurface data or other soils investigation report provided by the District hereunder are not a part of the Contract Documents. Information contained in such data or report regarding subsurface conditions, elevations of existing grades or below grade elevations are approximate only and are neither guaranteed or warranted by the District to be complete and accurate. The Contractor shall examine all boring and other subsurface data to make its own independent interpretation of the subsurface conditions and acknowledges that its bid is based upon its own opinion of the conditions which may be encountered. The District assumes no responsibility for any conclusions or interpretations made by Contractor on the basis of available subsurface data or other information furnished by District under the Contract Documents.

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

#### 4.3 Supervision and Construction Procedures.

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

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

4.3.3 Layouts Surveys. The Contractor is solely responsible for laying-out the

Work so that construction of the Work conforms to the requirements of the Contract Documents and so that all component parts of the Work are coordinated. The Contractor shall prepare or cause to be prepared all detailed surveys necessary for performance of the Work, including without limitation, slope stakes, points, lines and elevations. The Contractor is responsible for the establishment, location, maintenance and preservation of benchmarks, reference points and stakes for the Work without adjustment of the Contract Price. The Contractor is solely responsible for all loss or costs resulting from the loss, destruction, disturbance or damage of benchmarks, reference points or stakes.

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

4.3.5 Construction Utilities. The District will furnish and pay the costs of utility services for the Work as set forth in the Special Conditions; all other utilities necessary to complete the Work and the Contractor's obligations hereunder shall be obtained by the Contractor without adjustment of the Contract Price or the Contract Time. The Contractor shall furnish and install necessary or appropriate temporary distributions of utilities, including utilities furnished by the District. Any such temporary distributions shall be removed by the Contractor upon completion of the Work. The costs of all such utility services, including the installation, relocations and removal of temporary distributions thereof, shall be borne by the Contractor and included in the Contract Price.

4.3.6 Existing Utilities; Removal, Relocation and Protection.

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

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

in the same functional and operational condition as prior to the damage or destruction.

4.3.6.3 Contractor Responsibility for Maintaining Utility Services. The Contractor shall maintain in service all utility services provided through the Underground Facilities unless the Contractor has notified the District and Construction Manager in writing of utility service disruptions at least two (2) working days in advance of the anticipated disruption of utility services. Notwithstanding the Contractor's notice pursuant to the foregoing, the District may, in the sole discretion of the District, direct alternative times/days for the anticipated utility service disruption as necessary for conduct of on-going activities or operations of the District at and about the Site. The Contractor shall be liable for all costs, fees or charges incurred by the District to provide utility services if there is disruption, interruption or limitation of any utility services for which the Contractor has not provided the advance written notice of utility disruption pursuant to the foregoing. The District may deduct such costs, fees or charges from the Contract Price then or thereafter due the Contractor.

4.3.6.4 Unmarked; Unknown Utilities. Additional Underground Facilities not shown in the Contract Documents or USA data may exist on or about the Site. The Contractor shall be alert to their existence; if they are encountered, Contractor shall immediately report such Underground Facilities to the Project Inspector, Construction Manager and District for disposition of the same prior to disturbing any existing condition. In accordance with California Government Code §4215, the District is responsible for the timely removal, relocation, or protection of existing main or trunkline utility facilities located on the Site which are not identified in the Contract Documents. Contractor shall be compensated for the costs of locating, repairing damage not due to the Contractor's failure to exercise reasonable care, and removing or relocating such utility facilities not indicated in the Contract Documents with reasonable accuracy, and for equipment on the Site necessarily idled during such work. Contractor shall not be assessed Liquidated Damages for delay in completion of the Work when such delay is caused by the failure of the District or the District of the utility to provide for removal or relocation of such utility facilities. Nothing in this Article 4.3.5 shall be deemed to require the District to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the Site can be inferred from the presence of other visible facilities, such as buildings, meters and junction boxes, on or adjacent to the Site. If such utility facilities are owned by a public utility, the public utility shall have the sole discretion to perform repairs or relocation work or permit the Contractor to do such repairs or relocation work at a reasonable price.

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

4.3.7.1 Pre-Construction Conference. The Contractor's representatives (and representatives of Subcontractors as requested by the District) shall

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

4.3.7.2 Progress Meetings. Progress meetings will be conducted on regular intervals (weekly unless otherwise expressly indicated elsewhere in the Contract Documents). The Contractor's representatives and representatives of Subcontractors (as requested by the District) shall attend Progress Meetings. Progress Meetings will be chaired by the Architect or the Project Manager and will generally include as agenda items: Site safety, field issues, coordination of Work, construction progress and impacts to timely completion, if any. The purposes of the Progress Meetings include without limitation: a formal and regular forum for discussion of the status and progress of the Work by all Project participants, a review of progress or resolution of previously raised issues and action items assigned to the Project participants, and reviews of the Construction Schedule and Submittals.

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

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

4.3.8 Minutes of Meetings. Following conclusion of the Pre-Construction Conference, Progress Meetings and Special Meetings, the Architect or the Project Manager will prepare and distribute minutes reflecting the items addressed and actions taken at a meeting or conference. Unless the Contractor notifies the Architect or the Project Manager in writing of objections or corrections to minutes prepared hereunder within five (5) days of the date of distribution of the minutes, the

minutes as distributed shall constitute the official record of the meeting or conference. No objections or corrections of any Subcontractor or Material Supplier shall be submitted directly to the Architect or the Project Manager; such objections or corrections shall be submitted to the Architect and the Project Manager through the Contractor. If the Contractor timely interposes objections or notes corrections, the resolution of such matters shall be addressed at the next scheduled Progress Meeting.

#### 4.4 Labor and Materials.

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

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

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

#### 4.4.4 Contractor's Project Manager and Superintendent

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

District shall have the right to approve of the replacement Contractor Superintendent or Contractor Project Manager, as applicable.

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

4.4.4.3 Contractor Project Manager. The Contractor shall employ a Contractor PM who shall be a senior management employee of the Contractor. The Contractor PM shall be at the Site periodically to observe the progress and quality of the Work in progress and in place. Competency of the Contractor's PM shall include, without limitation, a minimum of five (5) years prior experience as a project manager for a prime contractor on projects similar in size, scope and complexity as the Work and be proficient in English (speaking, reading and writing). The Contractor PM shall be responsible for directing and coordinating human and material resources of the Contractor and Subcontractors throughout the course of the Work using management techniques so that the Work is completed for the Contract Price and within the Contract Time. Prohibition on Harassment.

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

4.4.5.1 Contractor's Adoption of Anti-Harassment Policy. Contractor shall adopt and implement all appropriate and necessary policies prohibiting any form of discrimination in the workplace, including without limitation harassment on the basis of any classification protected under local, state or federal law, regulation or policy. Contractor shall take all reasonable steps to prevent harassment from occurring, including without limitation affirmatively raising the subject of harassment among its employees, expressing strong disapproval of any form of harassment, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment and informing complainants of the outcome of an investigation into a harassment claim. Contractor shall require that any Subcontractor or Sub-subcontractor performing any portion of the Work to adopt and implement policies in conformity with this Article 4.4.5.

4.4.5.2 Prohibition on Harassment at the Site. Contractor shall not permit any person, whether employed by Contractor, a Subcontractor, or any other person or entity, performing any Work at or about the Site to engage in any prohibited form of harassment. Any such person engaging in a prohibited form of harassment directed to any individual performing or providing any portion of the Work at or about the Site shall be subject to appropriate sanctions in accordance with the anti-harassment policy adopted and

implemented pursuant to Article 4.4.5.1 above. Any person, performing or providing Work on or about the Site engaging in a prohibited form of harassment directed to any student, faculty member or staff of the District or directed to any other person on or about the Site shall be subject to immediate removal and shall be prohibited thereafter from providing or performing any portion of the Work. Upon the District's receipt of any notice or complaint that any person employed directly or indirectly by Contractor in performing or providing the Work has engaged in a prohibited form of harassment, the District will promptly undertake an investigation of such notice or complaint. If the District, after such investigation, reasonably determines that a prohibited form of harassment has occurred, the District shall promptly notify the Contractor of the same and direct that the person engaging in such conduct be immediately removed from the Site. Unless the District's determination that a prohibited form of harassment has occurred is grossly negligent or without reasonable cause, District shall have no liability for directing the removal of any person determined to have engaged in a prohibited form of harassment nor shall the Contract Price or the Contract Time be adjusted on account thereof. Contractor and the Surety shall defend, indemnify and hold harmless the District and its employees, officers, board of trustees, agents, and representatives from any and all claims, liabilities, judgments, awards, actions or causes of actions, including without limitation, attorneys' fees, which arise out of, or pertain in any manner to: (i) the assertion by any person dismissed from performing or providing work at the direction of the District pursuant to this Article 4.4.5.3; or (ii) the assertion by any person that any person directly or indirectly under the employment or direction of the Contractor has engaged in a prohibited form of harassment directed to or affecting such person. The obligations of the Contractor and the Surety under the preceding sentence are in addition to, and not in lieu of, any other obligation of defense, indemnity and hold harmless whether arising under the Contract Documents, at law or otherwise; these obligations survive completion of the Work or the termination of the Contract.

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

4.6 Permits, Fees and Notices; Compliance With Laws.

4.6.1 Payment of Permits, Fees. The Contractor shall secure and pay for permits, approvals governmental fees, licenses and inspections necessary or required for the proper execution and completion of the Work which are designated in the Contract Documents as the responsibility of the Contractor.

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

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



replacement or correction of the same.

4.7 Submittals.

4.7.1 Purpose of Submittals. Submittals are not Contract Documents. Submittals are for the purpose of demonstrating, for those portions of the Work for which Submittals are required, the manner in which the Contractor proposes to provide or incorporate such item of the Work in conformity with the information given and the design concept expressed in the Contract Documents.

4.7.2 Contractor's Submittals.

4.7.2.1 Prompt Submittals. The Contractor shall review, approve and submit to the Architect or such other person or entity designated by the District or the Contract Documents, the number of copies of Submittals required by the Contract Documents. All Submittals required by the Contract Documents shall be prepared, assembled and submitted by the Contractor within the time frames set forth in the Submittal Schedule incorporated and made a part of the Approved Construction Schedule. Contractor's submission of Submittals in conformity with the Submittal Schedule is a material obligation of the Contractor. If the Contractor fails or refuses to deliver Submittals in accordance with the Submittal Schedule, the Contractor shall be subject to per diem assessments in the amount set forth in the Special Conditions for each day of delayed submission for any Submittal beyond the date set forth in the Submittal Schedule for Contractor's submission of such Submittal. Contractor and the District acknowledge and agree that the per diem assessment for delayed submission of Submittals set forth in the Special Conditions represents a reasonable estimate of costs and expenses the District will incur as a result of delayed submission of Submittals and that the same is not a penalty. Notwithstanding Contractor's submission of all required Submittals in accordance with the Submittal Schedule, in the event that the District or the Architect reasonably determines that all or any portion of such Submittals fail to comply with the requirements of Articles 4.7.2.2, 4.7.2.3 and 4.7.2.4 of these General Conditions and/or such Submittals are not otherwise complete and accurate so as to require re-submission, Contractor shall bear all costs associated with the review and approval of resubmitted Submittals, including without limitation Architect's fees incurred in connection therewith; provided that such costs are in addition to, and not in lieu of, Liquidated Damages imposed under this Article 4.7.2.1 for Contractor's delayed submission of Submittals. If Liquidated Damages are assessed for the Contractor's delayed submission of Submittals or if the Contractor is assessed Architect fees to review incomplete or inaccurate Submittals, the District may deduct the same from any portion the Contract Price then or thereafter due the Contractor. Submittals not required by the Contract Documents or which do not otherwise conform to the requirements of the Contract Documents may be returned without action. No adjustment to the Contract Time or the Contract Price shall be granted to the Contractor on account of its failure to timely submit of any Submittal.

4.7.2.2 Approval of Subcontractor Submittals. All Submittals prepared by Subcontractors, Material Suppliers, manufacturers or distributors shall bear the written approval of the Contractor thereto prior to submission to the Architect for review. Any Submittal not bearing the Contractor's written approval shall be subject to return to the Contractor for re-submittal in conformity herewith, with the same being deemed to not have been submitted. Any delay, impact or cost associated therewith shall be the sole

and exclusive responsibility of the Contractor without adjustment to the Contract Time or the Contract Price.

4.7.2.3 Verification of Submittal Information. By approving and submission of Submittals, the Contractor represents to the District and Architect that the Contractor has determined and verified materials, field measurements, field construction criteria, catalog numbers and similar data related thereto and has checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Contract Documents. The Contractor has also verified that the Submittal includes notations of any portion of the Work depicted in the Submittal which is not in strict conformity to the Contract Documents.

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

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

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

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

<b>Notation</b>	<b>Action Required</b>
No Exceptions Taken	No formal revision required
Make Corrections Noted	Make revision noted; re-submission of revised Submittal not required
Revise and Re-Submit	Revise Submittal in accordance with notations and re-submit for revision
Rejected Re-Submit	Prepare new alternative Submittal and re-submit for review

4.7.4 Deferred Approval Items. If any portion of the Work is designated in the Contract Documents as a “Deferred Approval” item, Contractor shall be solely and exclusively responsible for: (i) the design, engineering and specifying the materials/equipment forming any part of the Deferred Approval Item; (ii) integrating and/or coordinating the Deferred Approval Item with other portions of the Work; (iii) preparation of Submittals for such item(s) in a timely manner so as not to delay or hinder the completion of the Work within the Contract Time; and (iv) timely obtaining DSA approval thereof.

#### 4.8 Materials and Equipment.

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

4.8.2 Approval of Substitutions or Alternatives. The Contractor may propose to furnish alternatives or substitutes for a particular item specified in the Contract Documents, provided that: (i) such proposed substitution or alternative complies with the requirements of the Specifications relating to substitutions of specified items; (ii) the Contractor certifies to the Architect and District that the quality, performance capability and functionality (including visual and/or aesthetic effect) of the proposed alternative or substitute meet or exceed the quality, performance capability and functionality of the item or process specified; and (iii) demonstrate to the reasonable satisfaction of the Architect and District that the use of the substitution or alternative is appropriate and will not delay completion of the Work or result in an increase to the Contract Price. The Contractor shall submit calculations engineering, construction, dimension, visual, aesthetic and performance data to the Architect to permit its proper evaluation of the proposed substitution or alternative. If requested by the Architect, Contractor shall promptly furnish any additional information or data regarding a proposed substitution or alternative which the Architect deems reasonably necessary for the evaluation of the proposed substitution or alternative. The Contractor shall not provide, furnish or install any substitution or alternative without the Architect’s review and final action on the proposed substitution or alternative; any alternative or substitution installed or incorporated into the Work without first obtaining the Architect’s review and final action of the same shall be subject to removal pursuant to Article 12 hereof. The

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

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

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

**4.8.5 District's Right to Place Orders for Materials and/or Equipment.** Notwithstanding any other provision of the Contract Documents, if the Contractor shall, upon request of the District, Project Manager or the Architect, fails or refuses, for any reason, to provide reasonably satisfactory written evidence of the placement of orders for materials and/or equipment necessary for completion of the Work, or

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

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

#### **4.9 Safety.**

**4.9.1 Safety Programs.** The Contractor shall be solely responsible for initiating, maintaining and supervising all safety programs required by the Laws required by the type or nature of the Work. The foregoing include, without limitation: (i) workplace safety programs mandated by the Laws; and (ii) safety programs and safety measures required by the OSHA and the OCIP, including without limitation, compliance with the California Drug Free Workplace Act of 1990 (California Government Code §§8350 et seq.). Without limiting or relieving the Contractor of its obligations hereunder, the Contractor shall require that its Subcontractors similarly initiate and maintain all appropriate or required safety programs.

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

**4.9.3 Safety Precautions.** The Contractor shall be solely responsible for initiating and maintaining reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to: (i) employees on the Work and other persons who may be affected thereby; (ii) the Work and materials and equipment to

be incorporated therein, whether in storage on or off the Site, under care, custody or control of the Contractor or Subcontractors; and (iii) other property or items at the Site, or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement.

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

4.9.5 Safety Notices. The Contractor shall give or post all safety notices required by the Laws and comply with the Laws bearing on safety of persons or property or their protection from damage, injury or loss.

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

4.9.7 Site Conduct. The Contractor, Subcontractors, their respective personnel and others under their direction or control on or about the Site shall undertake and implement the following standards of personnel conduct at the Site. The following are in addition to, and not in lieu of, other requirements relating to conduct of personnel at or about the Site, whether set forth in the Contract Documents or arising by operation of law.

4.9.7.1 Clothing. Hard hats complying with CAL-OSHA Construction Safety Orders are required at all times. All personnel providing Work related labor must be attired in workpants, shirt and appropriate boots or closed-toe shoes. No sexual preference shall be permitted on any item of clothing or on hardhats. Personnel in violation of the preceding are subject to immediate removal from the Site.

4.9.7.2 Prohibited Substances. No alcohol, or the consumption or distribution thereof is permitted at any time at the Site or on District property. No smoking or the use, consumption or distribution of any tobacco products is permitted at any time at the Site or on District property. Personnel in violation of the preceding are subject to immediate removal from the Site.

4.9.7.3 Audio Devices. No personal radios, headsets, walkmans, CD, MD, MP3 or other personal audio/video devices of any kind, type or nature are permitted at any time at the Site. Personnel in violation of the preceding are subject to immediate removal from the Site.

4.9.7.4 Break-Time Clean-Up. The Contractor shall be responsible for clean-up of areas at the Site utilized by personnel for break-time or lunch functions. Cans, wrappers and other break/lunch related items shall be placed in appropriate trash receptacles and the break/lunch areas shall be maintained in a neat, clean and sanitary condition by the Contractor.

4.9.7.5 Guns/Knives. No guns or switchblades are permitted at the Site at any time. No knives with blades longer than two (2) inches are permitted at the Site at any time. Personnel in violation of the preceding are subject to immediate removal from the Site.

4.9.7.6 Non-English Speaking Personnel. The Contractor shall be responsible for providing non-English speaking personnel at the Site written materials translated into the native language(s) of such personnel relating to safety requirements at the Site and requirements of the OSHA. In lieu of

written translations, the Contractor may provide an interpreter to verbally notify such personnel in their respective native languages.

4.9.7.7 Mandatory 6' Fall Protection. The Contractor's and Subcontractor's employees shall be protected from fall exposures of 6 feet or greater.

4.9.8 Emergencies. In an emergency affecting safety of persons or property, the Contractor shall act, to prevent threatened damage, injury or loss.

4.9.9 Hazardous Materials.

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

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

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

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

4.9.11 Noise and Dust Control

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

4.9.11.2 Dust Control. The Contractor shall be fully and solely responsible for maintaining and upkeeping all areas of the Site and adjoining areas, outdoors and indoors, free from flying debris, grinding powder, sawdust, dirt and dust as well as any other product, product waste or work waste, that by becoming airborne may cause respiratory inconveniences to persons, particularly to students and District personnel. Additionally, the Contractor shall take specific care to avoid deposits of airborne dust or airborne elements. Such protection devices, systems or methods shall be in accordance with the Laws, including, without limitation, the EPA, OSHA and Cal-OSHA,. Additionally, the Contractor shall be the sole party responsible to regularly and routinely clean up and remove any and all deposits of dust and other elements. Damage and/or any liability derived from the Contractor's failure to comply with these requirements shall be exclusively at the cost of the Contractor, including, without limitation, any and all penalties that may be incurred for violations of applicable law, rule or regulation, and any amounts expended by the District to pay such damages shall be due and payable to the District on demand. Contractor shall replace any damaged property or part thereof and professionally clean any and all items that become covered or partially covered to any degree by dust or other airborne elements. If classes are in session at any point during the progress of Work, and, in the District's reasonable discretion, flying debris, grinding powder, sawdust, dirt or dust from any Work disrupts or disturbs the students or faculty or the normal operation of the college, at the District's request, the Contractor shall schedule the performance of all such Work around normal college hours and make other arrangements so that the Work does not cause such disruption or disturbance. In no event shall such arrangements result in adjustment of the Contract Price or the Contract Time.

4.9.11.3 Air Pollution. The Contractor shall comply with all applicable air pollution control rules, regulations, ordinances, or statutes. Neither the Contract Time nor the Contract Price shall be subject to adjustment for measures of the Contractor to comply with air pollution control requirements. The Contractor shall be solely responsible for implementing measures required by any governmental or quasi-governmental agency with



jurisdiction and/or authority to enforce air pollution control measures without adjustment of the Contract Time or the Contract Price. If in performance of the Work, the Contractor violates applicable air pollution control requirements, the Contractor shall be solely responsible for discharging and satisfying any fine, penalty or remedial measure imposed by a governmental or quasi-governmental agency with authority or jurisdiction to enforce air pollution control measures. The scope of the Contractor's indemnity obligations under the Contract Documents shall include, without limitation, the defense, indemnity and hold harmless of the Indemnified Parties from any fine, penalty or remedial measure imposed by a governmental or quasi-governmental agency with authority or jurisdiction to enforce air pollution control measures as a result of the Contractor's failure or refusal to comply with its obligations hereunder.

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

#### 4.10 Maintenance of Documents.

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

4.10.2 Maintenance of Record Drawings. During its performance of the Work, the Contractor shall maintain Record Drawings consisting of a set of the Drawings which are marked to indicate all field changes made to adapt the Work depicted in the Drawings to field conditions, changes resulting from Change Orders and all concealed or buried installations, including without limitation, piping, conduit and utility services. All buried or concealed items of Work shall be completely and accurately marked and located on the Record Drawings. The Record Drawings shall be clean and all changes, corrections and dimensions shall be marked in a neat and legible manner in a contrasting color. Record Drawings relating to the Structural, Mechanical, Electrical and Plumbing portions of the Work shall indicate without limitation, circuiting, wiring sizes, equipment/member sizing and shall depict the entirety of the as built conditions of such portions of the Work. The Record Drawings shall be continuously maintained by the Contractor during the performance of the

Work. At any time during the Contractor's performance of the Work, upon the request of the District, the Project Inspector or the Architect, the Contractor shall make the Record Drawings maintained hereunder available for the District's review and inspection. The District's review and inspection of the Record Drawings during the Contractor's performance of the Work shall be only for the purpose of generally verifying that Contractor is continuously maintaining the Record Drawings in a complete and accurate manner; any such inspection or review shall not be deemed to be the District's approval or verification of the completeness or accuracy thereof. The failure or refusal of the Contractor to continuously maintain complete and accurate Record Drawings or to make available the Record Drawings for inspection and review by the District may be deemed by the District to be Contractor's default of a material obligation hereunder. Without waiving, restricting or limiting any other right or remedy of the District for the Contractor's failure or refusal to continuously maintain the Record Drawings, the District may, upon reasonably determining that the Contractor has not, or is not, continuously maintaining the Record Drawings in a complete and accurate manner, take appropriate action to cause the continuous maintenance of complete and accurate Record Drawings, in which event all fees and costs incurred or associated with such action shall be charged to the Contractor and the District may deduct the amount of such fees and costs from any portion of the Contract Price then or thereafter due the Contractor. In accordance with Article 8.4.2 of these General Conditions, prior to receipt of the Final Payment, Contractor shall deliver the Record Drawings to the Architect.

4.10.3 Daily Reports By Contractor. At the end of each work day, the Contractor shall submit a daily report to the Construction Manager and the Project Inspector for document control listing all labor, materials, and equipment involved with the Work for that day, including but not limited to: (i) Labor, number of classifications of work by contractor/subcontractors, (ii) Materials used, by contractor/subcontractor, (iii) Equipment used, by contractor/subcontractors, (iv) Any inspections or testing performed, (v) Any other authorized services or expenditures.

4.10.4

#### 4.11 Site.

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

4.11.2 Limitations Upon Site Activities. Except in the circumstances of an emergency, no construction activities shall be permitted at or about the Site except during the District's hours and days set forth in the Special Conditions. Work performed outside of the hours and days noted in the Special Conditions will not result in adjustment of the Contract Time or the Contract Price; unless Work outside of the hours and days noted in the Special Conditions is expressly authorized by the District. Additional or premium costs incurred by the District for Work performed outside the hours and days of Work permitted at the Site shall be borne solely and exclusively by the Contractor. The District may deduct such additional or premium costs from the Contract Price then or thereafter due the Contractor.

4.12 Clean-Up. The Contractor shall at all times keep the Site and all adjoining areas free from the accumulation of any waste material or rubbish caused or generated by

performance of the Work. Without limiting the generality of the foregoing, Contractor shall maintain the Site in a "rake-clean" standard on a daily basis. If the Work includes painting and/or the installation of floor covering, before any painting operations or the installation of any flooring covering, the area and adjoining areas of the Site where paint is to be applied or floor covering is to be installed shall be in a "broom-clean" condition. Prior to completion of the Work, Contractor shall remove from the Site all rubbish, waste materials, excess excavated materials, tools, Construction Equipment, machinery, surplus materials and any other items which are not the property of the District under the Contract Documents. Upon completion of the Work, the Site and all adjoining areas shall be left by the Contractor in a neat and broom clean condition satisfactory to District. The Project Inspector or Project Manager shall be authorized to direct the Contractor's clean-up obligations hereunder. If the Contractor fails to clean up as provided for in the Contract Documents, the District may do so, and all costs incurred in connection therewith shall be charged to the Contractor; the District may deduct such costs from any portion of the Contract Price then or thereafter due the Contractor.

4.13 Access to the Work. The Contractor shall provide DSA, the District, the Project Manager, the Project Inspector and the Architect access to the Work, whether in place, preparation and progress and wherever located.

4.14 Facilities and Information for the Project Inspector.

4.14.1 Information to Project Inspector. The Contractor shall furnish the Project Inspector access to the Work for obtaining such information as may be necessary to keep the Project Inspector fully informed respecting the progress, quality and character of the Work and materials, equipment or other items incorporated therein.

4.14.2 Facilities for Project Inspector. Facilities, services or other items to be provided by the Contractor for use by the Project Inspector, if any, shall be as set forth in the Special Conditions. If any such facilities, services or other items are designated in the Special Conditions and the Contractor fails or refuses to provide the same, the District may furnish such facilities, services or other items, with the costs, fees or expenses incurred to furnish the same being deducted from the Contract Price.

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

4.16 Cutting and Patching. The Contractor is responsible for cutting, fitting or patching required to complete the Work or to make the component parts thereof fit together properly. The Contractor shall not damage or endanger any portion of the Work, or the fully or partially completed construction of the District or separate contractors by cutting, patching, excavation or other alteration. The Contractor shall not cut, patch or otherwise alter the construction by the District or separate contractor without the prior written consent of the District or separate contractor thereto, which consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold consent to the request of the District or separate contractor to cut, patch or otherwise alter the Work.

4.17 Encountering of Hazardous Materials. If the Contractor encounters Hazardous Materials at the Site which have not been rendered harmless or for which there is no provision in the Contract Documents for containment, removal, abatement or handling of such Hazardous Materials, the Contractor shall immediately stop the Work in the affected area, but shall diligently proceed with the Work in all other unaffected areas. Upon

encountering such Hazardous Materials, the Contractor shall immediately notify the Project Inspector and the Architect, in writing, of such condition. The Contractor shall proceed with the Work in such affected area only after such Hazardous Materials have been rendered harmless, contained, removed or abated. If such Hazardous Materials are encountered, the Contractor shall be entitled to an adjustment of the Contract Time to the extent that the Work is stopped and Substantial Completion of the Work is affected thereby. In no event shall there be an adjustment to the Contract Price solely on account of the Contractor encountering such Hazardous Materials.

4.18 Wage Rates; Employment of Labor.

4.18.1 Prevailing Wage Rates.

4.18.1.1 Prevailing Wage Rate Schedules. Pursuant to the provisions of Division 2, Part 7, Chapter 1, Article 2 of the California Labor Code at §§1770 et seq., the District has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the prevailing rate for holiday and overtime work in the locality in which the Work is to be performed. Holidays shall be as defined in the collective bargaining agreement applicable to each particular craft, classification or type of worker employed under the Contract. Per diem wages include employer payments for health and welfare, pensions, vacation, travel time and subsistence pay as provided in California Labor Code §1773.8, apprenticeship or other training programs authorized by California Labor Code §3093, and similar purposes when the term "per diem wages" is used herein. Holiday and overtime work, when permitted by law, shall be paid for at the rate of at least one and one-half (1½) times the above specified rate of per diem wages, unless otherwise specified. The Contractor shall post, at appropriate and conspicuous locations on the Site, a schedule showing all determined general prevailing wage rates.

4.18.1.2 Payment of Prevailing Rates. There shall be paid each worker of the Contractor and Subcontractors, of any tier, engaged in the Work, not less than the general prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between the Contractor or any Subcontractor, of any tier, and such worker. The Contractor is solely responsible for obtaining and complying with prevailing wage rate determinations and modifications thereto during performance of the Work. Any such modification shall not result in an adjustment to Contract Price.

4.18.1.3 Prevailing Rate Penalty. The Contractor shall, as a penalty, forfeit not more than Two Hundred Dollars (\$200.00) to the District for each calendar day or portion thereof, for each worker paid less than the prevailing rates for such work or craft in which such worker is employed for the Work by the Contractor or by any Subcontractor, of any tier, in connection with the Work. The amount of the penalty for failure to pay applicable prevailing wage rates shall be determined and assessed in accordance with the standards established pursuant to Labor Code §1775(a)(2). The amount of the penalty shall be determined based on consideration of both of the following: (i) whether the failure of the Contractor or Subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the Contractor or Subcontractor; and (ii) whether the Contractor or Subcontractor has a prior record of failing to meet its prevailing wage obligations. The penalty may not be less than forty dollars (\$40) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the Contractor or Subcontractor to pay the correct rate of per diem wages was

a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor. The penalty may not be less than eighty dollars (\$80) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Contractor or Subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned. The penalty may not be less than one hundred twenty dollars (\$120) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1. When the penalty amount due hereunder is collected from the Contractor or Subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that Contractor or Subcontractor shall be satisfied before applying that amount to the penalty imposed on that Contractor or Subcontractor hereunder. The difference between prevailing wage rates and the amount paid to each worker each calendar day, or portion thereof, for which each worker paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.

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

#### 4.18.2 Payroll Records.

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

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

4.18.2.3 Inspection and Copies of Certified Payroll Records. The payroll records shall be certified and available for inspection at all reasonable hours at the principal office of the Contractor on the following basis: (i) a certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his/her authorized representative on request; (ii) a certified copy of all payroll records shall be made available for inspection or furnished upon request to the District, the Division of Labor Standards Enforcement ("DLSE") and the Division of Apprenticeship Standards of the Department of Industrial Relations ("Apprenticeship Council"); (iii) a certified copy of payroll records shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the District, DLSE and the Apprenticeship Council. If the requested payroll records have not been provided, the requesting party shall, prior to being

provided the records, reimburse the cost of preparation by the Contractor, Subcontractors and the entity through which the request was made; the public shall not be given access to such records at the principal office of the Contractor; (iv) the Contractor shall file a certified copy of the payroll records with the entity that requested such records within ten (10) days after receipt of a written request; (v) any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the District, the Apprenticeship Council or DLSE shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor or any Subcontractor, of any tier, performing a part of the Work shall not be marked or obliterated. The Contractor shall inform the District of the location of payroll records, including the street address, city and county and shall, within five (5) working days, provide a notice of a change of location and address. In the event of noncompliance with the foregoing requirements, the Contractor shall have ten (10) days in which to comply, subsequent to receipt of written notice specifying in what respects the Contractor must comply herewith. Should noncompliance still be evident after such ten (10) day period, the Contractor shall, as a penalty to the District, forfeit One Hundred Dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Apprenticeship Council or DLSE, such penalties shall be withheld from any portion of the Contract Price then or thereafter due the Contractor. The Contractor is solely responsible for compliance with the foregoing provisions.

#### 4.18.3 Hours of Work.

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

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

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

deduct such costs from the Contract Price then or thereafter due the Contractor.

4.18.4 Apprentices.

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

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

4.18.4.3 Ratio of Apprentices to Journeymen. The ratio of Work performed by apprentices to journeymen, who shall be employed in the Work, may be the ratio stipulated in the apprenticeship standards under which the Joint Apprenticeship Committee operates, but in no case shall the ratio be less than one hour of apprentice work for each five hours of labor performed by a journeyman, except as otherwise provided in California Labor Code §1777.5. The minimum ratio for the land surveyor classification shall not be less than one apprentice for each five journeymen. Any ratio shall apply during any day or portion of a day when any journeyman, or the higher standard stipulated by the Joint Apprenticeship Committee, is employed at the site of the Work and shall be computed on the basis of the hours worked

during the day by journeymen so employed, except for the land surveyor classification. The Contractor shall employ apprentices for the number of hours computed as above before the completion of the Work. The Contractor shall, however, endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the site of the Work. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Division of Apprenticeship Standards, upon application of a Joint Apprenticeship Committee, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification. The Contractor or any Subcontractor covered by this Article and California Labor Code §1777.5, upon the issuance of the approval certificate, or if it has been previously approved in such craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the apprenticeship standards. Upon proper showing by the Contractor that it employs apprentices in such craft or trade in the State of California on all of its contracts on an annual average of not less than one apprentice to each five journeymen, the Division of Apprenticeship Standards may grant a certificate exempting the Contractor from the 1-to-5 ratio as set forth in this Article and California Labor Code §1777.5. This Article shall not apply to contracts of general contractors, or to contracts of specialty contractors not bidding for work through a general or prime contractor, involving less than Thirty Thousand Dollars (\$30,000.00) or twenty (20) working days. The term "Apprenticeable Craft or Trade," as used herein shall mean a craft or trade determined as an Apprenticeable occupation in accordance with rules and regulations prescribed by the Apprenticeship Council.

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

4.18.4.5 Contributions to Trust Funds. The Contractor or any Subcontractor, of any tier, who, performs any of the Work by employment of journeymen or apprentices in any Apprenticeable Craft or Trade and who is not contributing to a fund or funds to administer and conduct the apprenticeship program in any such craft or trade in the area of the site of the Work, to which fund or funds other contractors in the area of the site of



the Work are contributing, shall contribute to the fund or funds in each craft or trade in which it employs journeymen or apprentices in the same amount or upon the same basis and in the same manner as the other contractors do, but where the trust fund administrators are unable to accept such funds, contractors not signatory to the trust agreement shall, using California Apprenticeship Council Training Fund Contributions Form CAC-2, pay a like amount to the California Apprenticeship Council. The Division of Labor Standards Enforcement is authorized to enforce the payment of such contributions to such fund(s) as set forth in California Labor Code §227. Such contributions shall not result in an increase in the Contract Price.

4.18.4.6 Contractor's Compliance. The responsibility of compliance with this Article for all Apprenticeable Trades or Crafts is solely and exclusively that of the Contractor. All decisions of the Joint Apprenticeship Committee(s) under this Article are subject to the provisions of California Labor Code §3081. If the Contractor willfully fails to comply with the provisions of this Article and California Labor Code §1777.5, pursuant to California Labor Code §1777.7, the Contractor shall: (i) be denied the right to bid on any public works contract for a period of one (1) year from the date the determination of non-compliance is made by the Administrator of Apprenticeship; and (ii) forfeit, as a civil penalty, Fifty Dollars (\$50.00) for each calendar day of noncompliance. Notwithstanding the provisions of California Labor Code §1727, upon receipt of such determination, the District shall withhold such amount from the Contract Price then due or to become due. Any such determination shall be issued after a full investigation, a fair and impartial hearing, and reasonable notice thereof in accordance with reasonable rules and procedures prescribed by the California Apprenticeship Council. Any funds withheld by the District pursuant to this Article shall be deposited in the General Fund or other similar fund of the District. The interpretation and enforcement of California Labor Code §§1777.5 and 1777.7 shall be in accordance with the rules and procedures of the California Apprenticeship Council.

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

4.19 Assignment of Antitrust Claims. Pursuant to California Government Code §4551, the Contractor and its Subcontractor(s), of any tier, hereby offers and agrees to assign to the District all rights, title and interest in and to all causes of action they may have under Section 4 of the Clayton Act, (15 U.S.C. §15) or under the Cartwright Act (California Business and Professions Code §§16700 et seq.), arising from purchases of goods, services or materials hereunder or any Subcontract. This assignment shall be made and

become effective at the time the District tenders Final Payment to the Contractor, without further acknowledgment by the parties. If the District receives, either through judgment or settlement, a monetary recovery in connection with a cause of action assigned under California Government Code §§4550 et seq., the assignor thereof shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the District any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the District as part of the Contract Price, less the expenses incurred by the District in obtaining that portion of the recovery. Upon demand in writing by the assignor, the District shall, within one year from such demand, reassign the cause of action assigned pursuant to this Article if the assignor has been or may have been injured by the violation of law for which the cause of action arose: and (i) the District has not been injured thereby; or (ii) the District declines to file a court action for the cause of action.

4.20 Failure to Submit Final Verified Report. Should Contractor fail or refuse to submit the final Contractor Verified Report (form DSA 6-C) to DSA and the Project Inspector, the Final Payment due the Contractor shall be reduced by Twenty-Five Thousand Dollars (\$25,000.00) until such time as the Contractor submits the final Contractor Verified Report (form DSA 6-C) to DSA and the Project Inspector.

4.21 DSA Verified Reports

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

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

4.22 DSA Construction Oversight. All of the Work is subject to DSA Construction Oversight processes and procedures; a material obligation of the Contractor hereunder is the Contractor's compliance with the processes and procedures established by DSA for the Work. As applicable, the foregoing shall include without limitation, the processes and

procedures established under DSA PR 13-01 in effect at the time of performing the Work hereunder. The foregoing shall include:

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

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

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

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

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

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

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

## **ARTICLE 5: SUBCONTRACTORS**

5.1 Subcontracts. Any Work performed for the Contractor by a Subcontractor shall be pursuant to a written agreement between the Contractor and such Subcontractor which specifically incorporates by reference the Contract Documents and which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents, including without limitation, the policies of insurance required under Article 6 of these General Conditions and obligates the Subcontractor to assume toward the Contractor all the obligations and responsibilities of the Contractor which by the Contract Documents the Contractor assumes toward the District and the Architect. The foregoing notwithstanding, no contractual relationship shall exist, or be deemed to exist, between any Subcontractor and the District, unless the Contract is terminated and District, in writing, elects to assume the Subcontract. Each Subcontract for a portion of the Work shall provide that such Subcontract may be assigned to the District if the Contract is terminated by the District pursuant to Article 15 hereof, subject to the prior rights of the Surety if the District terminates

the Contract for the Contractor's default. The Contractor shall provide to the District copies of all executed Subcontracts and Purchase Orders to which Contractor is a party within thirty (30) days after Contractor's execution of the Agreement. During performance of the Work, the Contractor shall, from time to time, as and when requested by the District, the Architect or the Project Manager provide the District with copies of any and all Subcontracts or Purchase Orders relating to the Work and all modifications thereto. The Contractor's failure or refusal, for any reason, to provide copies of such Subcontracts or Purchase Orders in accordance with the two preceding sentences is Contractor's default of a material term of the Contract Documents.

5.2 Subcontractor DIR Contractor Registration.

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

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

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

5.3 Substitution of Listed Subcontractor.

5.3.1 Substitution Process. Request of the Contractor to substitute a listed Subcontractor will be considered only if in strict conformity with this Article 5.3 and California Public Contract Code §4107. All costs incurred by the District, including without limitation, costs of the Project Inspector, the Architect, the Project Manager or attorney's fees in the review and evaluation of a request to substitute a listed Subcontractor shall be borne by the Contractor; such costs may be deducted by the District from the Contract Price then or thereafter due the Contractor.

5.3.2 Responsibilities of Contractor Upon Substitution of Subcontractor. The District's consent to Contractor's substitution of a listed Subcontractor shall not relieve Contractor from its obligation to complete the Work within the Contract Time and for the Contract Price. The substitution of a listed Subcontractor shall not, under any circumstance, result in, or give rise to any to any increase of the Contract Price or the Contract Time on account of such substitution. If the District consents to substitution of a listed Subcontractor, the Architect shall determine the extent to which, if any, revised or additional Submittals will be required of the newly substituted Subcontractor ("Substituted Subcontractor"). If the Architect determines that revised or additional Submittals are required of a Substituted Subcontractor, the Architect shall promptly notify the Contractor, in writing, of such requirement. In such event, revised or additional Submittals shall be submitted to Architect not later

than thirty (30) days following the date of the Architect's written notice to the Contractor pursuant to the foregoing sentence; provided that if in the reasonable and good faith judgment of the Architect, the progress of the Work or completion of the Work requires submission of additional or revised Submittals by a Substituted Subcontractor in less than thirty (30) days, the Architect shall so state in its written notice to the Contractor. If the revised or additional Submittals are not submitted by Contractor within thirty (30) days, or such earlier time as determined by the Architect pursuant to the preceding sentence, following the Architect's written notice of the requirement for revised or additional Submittals, Contractor shall be subject to the per diem assessments for late Submittals as set forth in Article 4.7.2.1 of these General Conditions. Any revised or additional Submittals required pursuant to this Article 5.3.2 shall conform to the requirements of Article 4.7 of these General Conditions. Contractor shall reimburse the District for all fees and costs, including without limitation fees of the Architect, the District's administrative costs and DSA fees, incurred or associated with the processing, review and evaluation of any revised or additional Submittals required pursuant to this Article 5.3.2; the District may deduct such fees and costs from any portion of the Contract Price then or thereafter due the Contractor. In the event that additional or revised Submittals are required pursuant to this Article 5.3.2, such requirement shall not result in an increase to the Contract Time or the Contract Price.

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

## **ARTICLE 6: INSURANCE; INDEMNITY; BONDS**

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

6.2 Commercial General Liability and Property Insurance. The Contractor shall purchase and maintain Commercial General Liability and Property Insurance covering the types of claims set forth below which may arise out of or result from Contractor's operations under the Contract Documents and for which the Contractor may be legally responsible: (i)

claims for damages because of bodily injury, sickness or disease or death of any person other than the Contractor's employees; (ii) claims for damages insured by usual personal injury liability coverage which are sustained (a) by a person as a result of an offense directly or indirectly related to employment of such person by the Contractor, or (b) by another person; (iii) claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; (iv) claims for damages because of bodily injury, death of a person or property damages arising out of ownership, maintenance or use of a motor vehicle; (v) contractual liability insurance applicable to the Contractor's obligations under the Contract Documents; (vi) Completed Operations; and (vii) pollution liability.

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

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

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

6.6 Required Qualifications of Insurers. The Contractor and Subcontractors' policies of Commercial General Liability and Property/Casualty insurance and the Contractor's Builders Risk insurance will be accepted by the District only if the insurer(s) are: (a) A.M. Best rated A- or better; (b) A.M. Best Financial Size Category VII or higher; and (c) authorized under California law to transact business in the State of California and authorized to issue insurance policies in the State of California. If at any time during performance of

the Work, the insurer(s) issuing a policy of insurance covering Commercial General Liability or Property/Casualty is/are not A.M. Best rated A- or better and is/are not A.M. Best Financial Size Category VII or higher, the Contractor or Subcontractor, as applicable shall within thirty (30) days of the District's written notice of the insufficiency of an insurer to the Contractor, obtain insurance coverage(s) from alternative insurer(s) who is/are then A.M. Best rated A- or better and who is/are A.M. Best Financial Size Category VII or higher. If the Contractor fails to deliver Certificate(s) of Insurance from an alternative insurer(s) meeting or exceeding the A.M. Best rating and A.M. Best Financial Size Category set forth above, within thirty (30) days of the date of the District's issuance of a written notice pursuant to the preceding sentence, in addition to any other right or remedy of the District under the Contract Documents or arising by operation of law, the District may withhold disbursement of any Progress Payment otherwise due hereunder until the Contractor has delivered such Certificate(s) of Insurance from an alternative insurer(s).

6.7 Evidence of Insurance; Subcontractor's Insurance.

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

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

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

6.9 Contractor's Insurance Primary. All insurance and the coverages thereunder required to be obtained and maintained by Contractor hereunder, if overlapping with any policy of insurance maintained by the District, shall be deemed to be primary and non-contributing with any policy maintained by the District and any policy or coverage thereunder maintained by District shall be deemed excess insurance. To the extent that the District maintains a policy of insurance covering property damage arising out of the perils of fire or other casualty covered by the Contractor's Builder's Risk Insurance or the Comprehensive General Liability Insurance of the Contractor or any Subcontractor, the District, Contractor and all Subcontractors waive rights of subrogation against the others. The costs for obtaining and maintaining the insurance coverages required herein shall be included in the Contract Price.

6.10 Indemnity. Unless arising solely out of the active negligence, recklessness, gross negligence or willful misconduct the District or the Architect, the Contractor shall indemnify, defend and hold harmless the Indemnified Parties who are: (i) the District and its Board of Trustees, officers, employees, agents and representatives (including the District's Inspector); (ii) the Architect its respective agents and employees; and (iii) if one is designated by the District for the Work, the Project Manager and its agents and employees. The Contractor's obligations hereunder includes indemnity, defense and hold harmless of the Indemnified Parties from and against any and all damages, losses, claims, demands, liabilities, actions and/or causes of action whether for damages, losses or other relief, including, without limitation attorney's fees and costs which arise, in whole or in part, from the Work, the Contract Documents or the negligent, recklessness, grossly negligent or willful acts, omissions or other conduct of the Contractor, any Subcontractor or any person or entity engaged by them for the Work. The Contractor's obligations under the foregoing include without limitation: (i) injuries to or death of persons; (ii) damage to property; or (iii) theft or loss of property; (iv) Stop Notice claims asserted by any person or entity in connection with the Work; and (v) other losses, liabilities, damages or costs resulting from, in whole or part, any acts, omissions or other conduct of Contractor, any of Contractor's Subcontractors, of any tier, or any other person or entity employed directly or indirectly by Contractor in connection with the Work and their respective agents, officers or employees. If any action or proceeding, whether judicial, administrative, arbitration or otherwise, shall be commenced on account of any claim, demand or liability subject to Contractor's obligations hereunder, and such action or proceeding names any of the Indemnified Parties as a party thereto, the Contractor shall, at its sole cost and expense, defend the named



Indemnified Parties in such action or proceeding with counsel reasonably satisfactory to the named Indemnified Parties. In the event that there shall be any judgment, award, ruling, settlement, or other relief arising out of any such action or proceeding to which any of the Indemnified Parties are bound by, Contractor shall pay, satisfy or otherwise discharge any such judgment, award, ruling, settlement or relief; Contractor shall indemnify and hold harmless the Indemnified Parties from any and all liability or responsibility arising out of any such judgment, award, ruling, settlement or relief. The Contractor's obligations hereunder are binding upon Contractor's Performance Bond Surety and these obligations shall survive notwithstanding Contractor's completion of the Work or the termination of the Contract.

6.11 Payment Bond; Performance Bond. Prior to commencement of the Work, the Contractor shall furnish a Performance Bond as security for Contractor's faithful performance of the Contract and a Labor and Material Payment Bond as security for payment of persons or entities performing work, labor or furnishing materials in connection with Contractor's performance of the Work under the Contract Documents. The penal sum of the Performance Bond and the Payment Bond shall each be one hundred percent (100%) of the Contract Price. Said Labor and Material Payment Bond and Performance Bond shall be in the form and content set forth in the Contract Documents. The failure or refusal of the Contractor to furnish either the Performance Bond or the Labor and Material Payment Bond in strict conformity with this Article 6.9 may be deemed by the District as a default by the Contractor of a material obligation hereunder. Upon request of the Contractor, the District may consider and accept, but is not obligated to do so, multiple sureties on such bonds. The Surety on any bond required under the Contract Documents shall be an Admitted Surety Insurer as that term is defined in California Code of Civil Procedure §995.120.

## **ARTICLE 7: CONTRACT TIME**

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

7.2 Progress and Completion of the Work.

7.2.1 Time of Essence. Time limits stated in the Contract Documents are of the essence. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing and achieving Substantial Completion of the Work. The Contractor shall employ and supply a sufficient force of workers, material and equipment, and prosecute the Work with diligence so as to maintain progress, to prevent Work stoppage and to achieve Substantial Completion of the Work within the Contract Time. The Work may require Contractor to perform in different areas of the Site simultaneously in order to achieve Substantial Completion of the Work within the Contract Time. As each area becomes available, Contractor shall begin work in those respective areas with additional crews, if necessary, to avoid a reduction of effort in other areas already under construction. The Contract Price shall not be subject to adjustment on account of any action or activity of the Contractor to perform Work simultaneously in different areas of the Site.

7.2.2 Substantial Completion. Substantial Completion is that stage in the progress of the Work when the Work or any designated portion thereof (whether described as milestones, phases, segments or other similar terms) is complete in accordance

with the Contract Documents so the District can occupy or use the Work or designated portion thereof for its intended purpose. Substantial Completion shall be determined by the Architect, Project Manager, if any, and the Project Inspector upon request by the Contractor in accordance with the Contract Documents. The good faith and reasonable determination of Substantial Completion by the Project Inspector, Project Manager, if any and the Architect shall be controlling and final.

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

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

**7.2.3.2 Time for Completing Punchlist Items.** In addition to establishing the Punchlist items pursuant to Article 7.2.3.1, the Project Manager, if any, Contractor and Architect shall, after the joint inspection, establish a reasonable time for Contractor's completion of all Punchlist items. If mutual agreement is not reached to establish the time for the Contractor's completion of Punchlist items, the Architect shall determine such time, and in such event, the time determined by the Architect shall be final and binding upon the District and Contractor so long as the Architect's determination is made in good faith. The Contractor shall promptly and diligently proceed to complete all Punchlist items within the time established. If the Contractor fails or refuses, for any reason, to complete all Punchlist items within the time established, Contractor shall be subject to assessment of Liquidated Damages in accordance with Article 7.4 hereof. The foregoing notwithstanding, if the Contractor fails or refuses to complete all Punchlist items, the District may in its sole and exclusive discretion and without further notice to Contractor, elect to cause the completion of all remaining Punchlist items provided, however that such election by the District is in addition to and not in lieu of any other right or remedy of the District under the Contract Documents or at law. If the District elects to complete Punchlist items of the Work, pursuant to the foregoing, Contractor shall be responsible for all costs incurred by the District in connection herewith and the District may deduct such costs from the Contract Price then or thereafter due the Contractor, if these costs exceed the remaining Contract Price due to the Contractor, the Contractor and the Performance Bond Surety are jointly and severally liable to District for any such excess costs.

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

**7.2.5 Contractor Responsibility for Multiple Inspections.** If the Contractor requests determination of Substantial Completion or Final Completion by the Project Inspector, Project Manager, if any, and the Architect and it is determined by the Project Inspector, Project Manager, if any, or the Architect that the Work does not then justify certification of Substantial Completion or Final Completion and re-

inspection is required at a subsequent time to make such determination, the Contractor shall be responsible for all costs of such re-inspection, including without limitation, the fees of the Architect, Project Manager, if any, and the Project Inspector. The District may deduct such costs from the Contract Price then due or thereafter due to the Contractor.

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

### **7.3 Construction Schedule.**

**7.3.1 Submittal of Preliminary Construction Schedule.** Within five (5) days following execution of the Agreement, the Contractor shall prepare and submit to the District, the Project Manager, if any, and the Architect a Preliminary Construction Schedule indicating, in graphic form, the estimated rate of progress and sequence of all Work required under the Contract Documents. The purpose of the Preliminary Construction Schedule is to assure adequate planning and execution of the Work so that it is completed within the Contract Time and to permit evaluation of the progress of the Work. Unless otherwise provided in the Special Conditions, the Construction Schedules required under this Article 7 shall; (i) be prepared with a commercially available computer software program in a critical path format; (ii) indicate the date(s) for commencement and completion of various portions of the Work including without limitation, procurement, fabrication and delivery of major items, materials or equipment; (iii) indicate manpower and other resources required for completion of each Construction Schedule activity; (iv) indicate costs for completion of each Construction Schedule activity; (v) identify each Submittal required by the Contract Documents, the date for the Contractor's submission of each Submittal and the date for the return of the reviewed Submittal to the Contractor. The Contractor may submit a Preliminary Construction Schedule depicting completion of the Work in a duration shorter than the Contract Time; provided that such Preliminary Construction Schedule shall not be a basis for adjustment to the Contract Price in the event that completion of the Work shall occur after the time depicted therein, nor shall such Preliminary Construction Schedule be the basis for any extension of the Contract Time, the Contractor's entitlement to any extension of the Contract Time shall be based upon the Contract Time and not on any shorter duration which may be depicted in the Contractor's Preliminary Construction Schedule. If the Construction Schedules required under this Article 7.3 incorporate therein any "float" time, such float shall be deemed to jointly belong to and owned by the District and the Contractor. As used herein, "float time" shall be deemed to refer to the time between earliest finish date and the latest finish date of each activity shown on the Construction Schedule.

**7.3.2 Review of Preliminary Construction Schedule.** The District, the Project Manager, if any, and the Architect shall review the Preliminary Construction Schedule submitted by the Contractor pursuant to Article 7.3.1 above for conformity with the requirements of the Contract Documents. Within fifteen (15) days of the date of receipt of the Preliminary Construction Schedule, the Preliminary Construction Schedule will be returned to the Contractor with comments to the form or content thereof. Review of the Preliminary Construction Schedule and any comments thereto by the District, the Project Manager and/or the Architect shall not be deemed to be the assumption of construction means, methods or sequences by the District, the Project Manager or the Architect, all of which remain the Contractor's

obligations under the Contract Documents.

**7.3.3 Preparation and Submittal of Contract Construction Schedule.** Within ten (10) days of the District's return of the Preliminary Construction Schedule to the Contractor pursuant to Article 7.3.2 above, the Contractor shall prepare and submit to the Architect and the Project Manager, if any, the Construction Schedule which incorporates therein the comments to the Preliminary Construction Schedule. Upon the Contractor's submittal of such Construction Schedule, the District, the Project Manager and the Architect shall review the same for purposes of determining conformity with the requirements of the Contract Documents. Within fifteen (15) days of the receipt of the Construction Schedule, the District will approve such Construction Schedule or will return the same to the Contractor with comments to the form or content. In the event there are comments to the form or content thereof, the Contractor, shall within seven (7) days of receipt of such comments, revise and resubmit the Construction Schedule incorporating therein such comments. Upon the District's approval of the form and content of a Construction Schedule, the same shall be deemed the "Approved Construction Schedule." The District's approval of a Construction Schedule shall be for the sole and limited purpose of determining conformity with the requirements of the Contract Documents. By the Approved Construction Schedule, the District shall not be deemed to have exercised control over, or approval of, construction means, methods or sequences, all of which remain the responsibility and obligation of the Contractor in accordance with the terms of the Contract Documents. Further, the Approved Construction Schedule shall not operate to limit or restrict any of Contractor's obligations under the Contract Documents nor relieve the Contractor from the full, faithful and timely performance of such obligations in accordance with the terms of the Contract Documents. The activities, commencement and completion dates of activities, and the sequencing of activities depicted on the Approved Construction Schedule shall not be modified or revised by the Contractor without the prior consent, or direction, of the District and the Architect. Updates to the Approved Construction Schedule pursuant to Article 7.3.5 below shall not be deemed revisions to the Approved Construction Schedule. If the Approved Construction Schedule depicts completion of the Work in a duration shorter than the Contract Time, the same shall not be a basis for an adjustment of the Contract Time or the Contract Price in the event that actual completion of the Work shall occur after such the time depicted in such Approved Construction Schedule. In such event, the Contract Price shall not be subject to adjustment on account of any additional costs incurred by the Contractor to complete the Work prior to the Contract Time, as adjusted in accordance with the terms of the Contract Documents. Any adjustment of the Contract Time or the Contract Price shall be based upon the Contract Time set forth in the Contract Documents and not any shorter duration which may depicted in the Approved Construction Schedule.

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

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

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

**7.3.7 Three (3) Week Look Ahead Schedule.** The Contractor shall prepare and submit at each Weekly Construction Meeting, a Three (3) Week Look Ahead Schedule for its portion of the Work. The Three (3) Week Look Ahead Schedules shall provide additional definition of manpower, activities and sequencing to that identified on the then current updated Construction Schedule. The form, content and extent of detail in the Contractor's Three (3) Week Look Ahead Schedules in accordance with the directives and instructions of the Construction Manager. Failure of the Contractor to provide a Three (3) Week Look Ahead Schedule may be deemed by the District as the Contractor's default in the performance of a material obligation of the Contractor under Contract Documents.

**7.3.8 Cost of Scheduling.** Any and all costs or expenses required or incurred to prepare, submit, maintain, and update the Construction, Recovery or Three (3) Week Look Ahead Schedules shall be solely at the expense of the Contractor without adjustment to the Contract Price. The Contract Price shall not be subject to adjustment on account of costs, fees or expenses incurred or associated with the Contractor's preparation, submittal, and maintenance or updating of the Construction Schedules. If the Contractor does not comply with the District's

request for an Updated Construction Schedule, the District may have the update completed by others at the Contractor's expense. In such event, the updated Construction Schedule shall be deemed binding upon the Contractor and the District may deduct all costs, fees or expenses in preparing such updated Construction Schedule(s) from any portion of the Contract Price then or thereafter due the Contractor.

**7.3.9 Scheduling Software & Requirements.** Unless otherwise provided in the Special Conditions, the Construction Schedules required under this Article 7 shall; (i) be prepared with a commercially available computer software program in a critical path format; (ii) indicate the date(s) for commencement and completion of various portions of the Work including, without limitation, procurement, fabrication and delivery of major items, materials or equipment; (iii) indicate manpower (estimated men per day) and other resources required for completion of each schedule activity; (iv) indicate costs for completion of each schedule activity; and (v) identify each Submittal required by the Contract Documents, the date for the Contractor's submission of each Submittal and the date for the return of the reviewed Submittal to the Contractor.

**7.3.10 Float.** As used herein, "float time" shall be deemed to refer to the time between earliest finish date and the latest finish date of each activity shown on the Construction Schedule. If the Construction Schedules required under this Article 7 incorporate therein any "float" time, such float shall be deemed to jointly belong to and owned by the District and the Contractor. If the construction progress is ahead of schedule based on the Construction Schedule(s) and a delay is encountered (even if such delay is a District caused delay), no compensation of any type will be due the Contractor and the District may claim float days equal to the delay until such float days are exhausted and the delay extends the overall Project Substantial Completion date.

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

**7.4.1 Excusable Delays.** If Substantial Completion of the Work is delayed by Excusable Delays, the Contract Time shall be subject to adjustment for such reasonable period of time as determined by the Architect; Excusable Delays shall not result in any increase in the Contract Price. Excusable Delays refer to unforeseeable and unavoidable casualties or other unforeseen causes beyond the control, and without fault or neglect, of the Contractor, any Subcontractor, Material Supplier or other person directly or indirectly engaged by the Contractor in performance of any portion of the Work. Excusable Delays include unanticipated and unavoidable labor disputes, unusual and unanticipated delays in transportation of equipment, materials or Construction Equipment reasonably necessary for completion and proper execution of the Work, unanticipated unusually severe weather conditions or DSA directive to stop the Work. Neither the financial resources of the Contractor or any person or entity directly or indirectly engaged by the Contractor in performance of any portion of the Work shall be deemed conditions beyond the control of the Contractor. If an event of Excusable Delay occurs, the Contract Time shall be subject to adjustment hereunder only if the Contractor establishes: (i) full compliance with all applicable provisions of the Contract Documents relative to the method, manner and time for Contractor's notice and request for adjustment of the Contract Time; (ii) that the event(s) forming the basis for Contractor's request to adjust the Contract Time are outside the reasonable control and without any fault or neglect of the Contractor or any person or entity directly or indirectly engaged by Contractor in performance of any portion of the

Work; and (iii) that the event(s) forming the basis for Contractor's request to adjust the Contract Time directly and adversely impacted the progress of the Work as indicated in the Approved Construction Schedule or the most recent updated Approved Construction Schedule relative to the date(s) of the claimed event(s) of Excusable Delay. The foregoing provisions notwithstanding, if the Special Conditions set forth a number of "Rain Days" to be anticipated during performance of the Work, the Contract Time shall not be adjusted for rain related unusually severe weather conditions until and unless the actual number of Rain Days during performance of the Work exceeds those noted in the Special Conditions and such additional Rain Days directly and adversely impact the critical path progress of the Work as depicted in the Approved Construction Schedule or the most recent updated Approved Construction Schedule relative to the date(s) of such additional Rain Days.

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

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

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

7.4.5 Limitations Upon Adjustment of Contract Time on Account of Delays. Any adjustment of the Contract Time on account of an Excusable Delay or a Compensable Delay shall be limited as set forth herein. If an Excusable Delay and a Compensable Delay occur concurrently, the maximum extension of the Contract Time shall be the number of days from the commencement of the first delay to the cessation of the delay which ends last. If an Unexcusable Delay occurs concurrently with either an Excusable Delay or a Compensable Delay, the maximum extension of the Contract Time shall be the number of days, if any, which the Excusable Delay

or the Compensable Delay exceeds the period of time of the Unexcusable Delay. In addition to the foregoing limitations upon extension of the Contract Time, no adjustment of the Contract Time shall be made on account of any Excusable Delays or Compensable Delays unless such delay(s) actually and directly impact Work or Work activities on the critical path of the then current and updated Approved Construction Schedule as of the date on which such delay first occurs. The District shall not be deemed in breach of, or otherwise in default of any obligation hereunder, if the District shall deny any request by the Contractor for an adjustment of the Contract Time for any delay which does not actually and directly impact Work or Work activities on the critical path of the then current and updated Approved Construction Schedule.

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

7.6 District Right to Take-Over Work.

7.6.1 Progress of Work. Unless caused by the District, Architect, Project Manager or the Project Inspector, if the Contractor fails or refuses, for any reason and at any time, to furnish adequate materials, labor, equipment or services to maintain progress of the Work in accordance with the then current Construction Schedule after seventy-two (72) hour advance written notice from the Project Manager to the Contractor of its failure or refusal, the District may, without terminating the Contract or waiving, limiting or conditioning any right or remedy of the District, thereafter furnish or cause to be furnished such materials, labor, equipment or services necessary to maintain progress of the Work in accordance with the then current Construction Schedule. All costs, expenses or other charges (whether direct, indirect and administrative) incurred by the District in furnishing such materials, labor, equipment or services shall be at the sole cost of the Contractor and the District may deduct the same from the Contract Price then or thereafter due the



Contractor. The District's exercise of rights pursuant to the foregoing shall not be deemed a waiver or limitation of any other right or remedy of the District under the Contract Documents.

7.6.2 District's Right to Withhold. All costs, expenses or other charges incurred by the District in connection with completing or supplementing the Work under this Article 7.6 shall be at the sole cost of the Contractor. District shall be entitled to deduct from the Contract Price then or thereafter due Contractor, all such costs, expenses, and charges, including costs for any additional services the District's representatives and consultants made necessary thereby. If the Contract Price then or thereafter due the Contractor is insufficient to cover such amounts, Contractor shall pay the additional sum to the District promptly upon demand therefore. The assessment and/or withholding of the amount of such costs, expenses, and/or other charges shall be in addition to, and not in lieu of, any liquidated damages assessed and/or withheld from Contractor under Article 7.5 hereof.

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

## **ARTICLE 8: CONTRACT PRICE**

8.1 Contract Price. The Contract Price is the amount stated in the Agreement and subject to adjustments thereto in accordance with the Contract Documents, is the total amount payable by the District to the Contractor for completion of the Work and other obligations of the Contractor under the Contract Documents. The District's payment of the Contract Price to the Contractor shall be in accordance with the Contract Documents.

8.2 Cost Breakdown. Within fifteen (15) days of the execution of the Agreement by Contractor, Contractor shall furnish, in a form acceptable to the District, a detailed estimate and complete Cost Breakdown of the Contract Price. The Cost Breakdown is subject to the District's review and approval of the form and content thereof. If the District objects to any portion of the Cost Breakdown, within ten (10) days of the District's receipt of the Cost Breakdown, the District shall notify the Contractor, in writing of the District's objection(s) to the Cost Breakdown. Within five (5) days of the date of the District's written objection(s), Contractor shall submit a revised Cost Breakdown to the District for review and approval. The foregoing procedure for the preparation, review and approval of the Cost Breakdown shall continue until the District has approved of the entirety of the Cost Breakdown. Upon the District's approval of the Cost Breakdown, the Cost Breakdown shall not be thereafter modified or amended by the Contractor without the prior consent and approval of the District, which may be granted, conditioned or withheld in the sole discretion of the District. Notwithstanding any provision of the Contract Documents to the contrary, payment of the Contractor's overhead, supervision and general conditions costs and profit, as such items are reflected in the Cost Breakdown, shall be made by the District in equal installments with its disbursements of Progress Payments and the Final Payment with the amount of each such installment equal to the aggregate amount of such items as reflected in the Cost Breakdown divided by the number of months of the Contract Time.

8.3 Progress Payments.

8.3.1 Applications for Progress Payments. During the Contractor's performance of the Work, the Contractor shall submit monthly, on the first working day of each month, to the District, Project Inspector, Project Manager, if any, and the Architect, Applications for Progress Payments ("Payment Applications"), on forms approved by the District, setting forth an itemized estimate of Work completed in the preceding month for the purpose of the District's making of Progress Payments thereon.

Values utilized in the Payment Applications shall be based upon the District approved Cost Breakdown pursuant to Article 8.2 above provided that such values are only for determining the basis of Progress Payments to Contractor, and shall not be considered as fixing a basis for adjustments, whether additive or deductive, to the Contract Price, or for determining the extent of Work actually completed.

8.3.2 Payment Application Review for Determination of Proper Payment Application.

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

8.3.3 Verification of Work Completed. Upon receipt of a Payment Application, the Architect, Project Manager, if any and the Project Inspector shall inspect and verify the Work to determine whether it has been performed in accordance with requirements of the Contract Documents and to determine the portion of the

Payment Application which is properly due to the Contractor under the terms of the Contract Documents.

8.3.4 Notwithstanding approval or disbursement of a Progress Payment for Work deemed to be defective or non-conforming, the Contractor shall remain obligated under the Contract Documents to repair, replace or otherwise correct such defective or non-conforming Work.

8.3.5 District's Disbursement of Progress Payments.

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

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

8.3.5.3 District's Right to Disburse Payments by Joint Checks. The District, may, in its sole discretion, issue joint checks to the Contractor and Subcontractors/Material Suppliers in satisfaction of its obligation to make Progress Payments or the Final Payment due hereunder.

8.3.5.4 No Waiver of Defective or Non-Conforming Work. The approval of any Payment Application or the disbursement of any Progress Payment to the Contractor shall not be deemed nor constitute acceptance of defective

or non-conforming Work.

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

8.3.7 Materials or Equipment Not Incorporated Into the Work.

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

8.3.7.2 Materials or Equipment Delivered and Stored at the Site. The District may, in its sole and exclusive discretion, make payment for materials or equipment not yet incorporated into the Work if, at or prior to the time of the Contractor's submittal of a Payment Application requesting payment for such materials or equipment if all of the following are complied with: (i) the materials or equipment have been delivered to the Site; (ii) adequate arrangements, reasonably satisfactory to the District, have been made by the Contractor to store and protect such materials or equipment at the Site including without limitation, insurance reasonably satisfactory to the District, covering and protecting against the risk of loss, destruction, theft or other damage to such materials or equipment while in storage; and (iii) the establishment of procedures reasonably satisfactory to the District by which title to such materials or equipment will be vested in the District upon the District's payment therefor. The Contractor acknowledges that the discretion to make, or not to make, payment for materials or equipment delivered or stored at the Site pursuant to the preceding sentence shall be exercised exclusively by the District; the District's exercise of discretion not to make payment shall not be deemed the District's default hereunder. If the District elects to make payment for materials or equipment delivered and stored at the Site, the costs and expenses incurred to comply with the requirements of (ii) and (iii) of this Article 8.3.6.2 shall be borne solely and exclusively by the Contractor and no payment shall be made by the District on account of such costs and expenses.

8.3.7.3 Materials or Equipment Not Delivered or Stored at the Site. No payments shall be made by the District for materials or equipment to be incorporated into the Work where such materials or equipment have not been delivered or stored at the Site or which are in the process of fabrication or transportation to the Site.

8.3.7.4 Materials of Equipment in Fabrication or Transit.

The provisions of this Article 8.3.6.4 notwithstanding, the District shall not make any payment on account of any materials or equipment which are in the process of being fabricated or which are in transit to the Site or other storage location.

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

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

8.3.10 Substitute Security for Retention. Pursuant to California Public Contract Code §22300, eligible and equivalent securities may be substituted for any monies withheld by the District to ensure the Contractor's performance under the Contract Documents at the request and expense of the Contractor and in conformity with the provisions of California Public Contract Code §22300. The foregoing and the provisions of California Public Contract Code §22300 notwithstanding, failure of the Contractor to request the substitution of eligible and equivalent securities for monies to be withheld by the District within ten (10) days following the date of award of the Contract to Contractor shall be deemed a waiver of such right.

#### 8.4 Final Payment.

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

8.4.2 Conditions Precedent to Disbursement of Final Payment. Neither Final Payment nor any remaining Contract Price shall become due until the Contractor submits to the District each and all of the following, the submittal of which are conditions precedent to the District's obligation to disburse the Final Payment: (i) an affidavit or certification by the Contractor that payrolls, bills for materials and other indebtedness incurred in connection with the Work for which the District or the District's property may or might be responsible or encumbered have been paid or otherwise satisfied; (ii) a certificate evidencing that insurance required by the Contract Documents to remain in force after the Contractor's receipt of Final Payment is currently in effect; (iii) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover any period following Final Payment as required by the Contract Documents; (iv) consent of the Surety on the Labor and Material Payment Bond and Performance Bond, to Final Payment if required; (v) duly completed and executed forms of Conditional or Unconditional Waivers and Releases of rights upon Final Payment of the Contractor, Subcontractors/Material Suppliers in accordance with California Civil Code §§8136 and 8138, with each of the same stating that there are, or will be, no claims for additional compensation after disbursement of the Final Payment; (vi) Operations and Maintenance manuals and separate warranties provided by any manufacturer or distributor of any materials or equipment incorporated into the Work; (vii) the

Record Drawings; (viii) the form of Guarantee included in the Contract Documents duly executed by an authorized representative of the Contractor; (ix) any and all other items or documents required by the Contract Documents to be delivered to the District upon completion of the Work; (x) the completion and submittal of all reports required by the Contract Documents, including without limitation, verified reports required by applicable provisions of the California Code of Regulations; and (xi) if required by the District, such other data establishing payment or satisfaction of obligations such as receipts, releases and waivers of liens, stop notices, claims, security interest or encumbrances arising out of the Contract to the extent and in such form as may be required by the District.

8.4.3 Disbursement of Final Payment. Provided that the District is then in receipt of all documents and other items in Article 8.4.2 above as conditions precedent to the District's obligation to disburse Final Payment, not later than sixty (60) days following Final Acceptance the District shall disburse the Final Payment to the Contractor. Pursuant to California Public Contract Code §7107, if there is any dispute between the District and the Contractor at the time that disbursement of the Final Payment is due, the District may withhold from disbursement of the Final Payment an amount not to exceed one hundred fifty percent (150%) of the amount in dispute. If the Contractor fails to timely submit completed DSA Reports in accordance with Article 4.21.1 above, the Final Payment due the Contractor shall be reduced in accordance with Article 4.21.2 above.

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

8.4.5 Claims Asserted After Final Payment. Any lien, stop notice or other claim filed or asserted after the Contractor's acceptance of the Final Payment by any Subcontractor, laborer, Material Supplier or others in connection with or for Work performed under the Contract Documents shall be the sole and exclusive responsibility of the Contractor and the Surety. The Contractor and Surety shall indemnify, defend and hold harmless the District and its officers, agents, representatives and employees from and against any claims, demands or judgments arising or associated therewith, including without limitation attorney's fees incurred by the District in connection therewith.

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

Payment or Final Payment so long as any lawful or proper direction concerning the Work or the performance thereof or any portion thereof, given by the District, the Project Inspector, the Architect or any public authority having jurisdiction over the Work, or any portion thereof, shall not be fully and completely complied with by the Contractor. When the District is reasonably satisfied that the Contractor has remedied any such deficiency, payment shall be made of the amount withheld.

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

8.7 Computerized Job Cost Reporting System.

8.7.1 Job Cost Reporting. The Contractor and each Subcontractor with a Subcontract valued at One Million Five Hundred Thousand Dollars (\$1.5M) or greater shall maintain a computerized job cost reporting system conforming to the requirements set forth herein. The computer program(s) utilized by the Contractor and applicable Subcontractors shall be subject to the review and acceptance by the District. The job cost reporting systems for the Work shall be updated in regular intervals of not more than one (1) calendar month.

8.7.2 Job Cost Reporting System Requirements. The computerized job cost programs utilized by the Contractor and applicable Subcontractors shall conform and comply with generally accepted accounting principles applied in a consistent manner and with recognized and generally accepted construction industry accounting standards, guidelines and procedures. The job cost reporting system format and configuration shall follow the general format of the District approved Cost Breakdown and budgets established for each line item shall be traceable to a bid estimate of costs. The job cost reporting systems utilized by the Contractor and applicable Subcontractors shall be capable of: (i) providing overall cost status on a monthly and cumulative basis; (ii) providing comparative analysis of the original budgeted costs, actual costs, remaining budget, and projected cost of completion; the job cost reporting system shall be capable of providing comparative analysis for individual line items and the totality of the Work reflected in the job cost report and; (ii) tracking adjustments to original budget amounts for Changes to the Work (including, without limitation, issued, pending and potential Change Orders).

8.7.3 Job Cost System Information. Upon request of the District, the Contractor and applicable Subcontractors shall make available written job cost reports and/or provide the District with the electronic files of the then current or requested job cost report. The Contractor's obligations hereunder are material.

## **ARTICLE 9: CHANGES**

9.1 Changes in the Work. The District, at any time, by written order, may make Changes within the general scope of the Work under the Contract Documents or issue additional instructions, require additional Work or direct deletion of Work. The Contractor shall not proceed with any Change involving an increase or decrease in the Contract Price or the Contract Time without prior written authorization from the District. The foregoing

notwithstanding, the Contractor shall promptly commence and diligently complete any Change to the Work subject to the District's written authorization issued pursuant to the preceding sentence; the Contractor is not relieved or excused from its obligation to promptly commence and diligently complete any Change subject to the District's written authorization by virtue of the absence or inability of the Contractor and the District to agree upon the extent of any adjustment to the Contract Time or the Contract Price on account of such Change. The issuance of a Change Order pursuant to this Article 9 in connection with any Change authorized by the District under this Article 9.1 is not a condition precedent to Contractor's obligation to promptly commence and diligently complete any such Change authorized by the District hereunder. The District's right to make Changes shall not invalidate the Contract nor relieve the Contractor of any liability or other obligations under the Contract Documents. Any requirement of notice of Changes in the scope of Work to the Surety shall be the responsibility of the Contractor. Changes to the Work depicted or described in the Drawings or the Specifications shall be subject to approval by the DSA. The District may make Changes to bring the Work or the Project into compliance with environmental requirements or standards established by Laws enacted after award of the Contract.

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

9.3 Oral Order of Change in the Work. Any oral order, direction, instruction, interpretation, or determination from the District or the Architect which in the opinion of the Contractor constitutes a Change to the Work, or otherwise requires an adjustment to the Contract Price or the Contract Time, shall be treated as a Change only if the Contractor gives the Architect, Project Manager, if any and the Project Inspector written notice within ten (10) days of the order, directions, instructions, interpretation or determination and prior to acting in accordance therewith. Time is of the essence in Contractor's written notice pursuant to the preceding sentence. Accordingly, Contractor acknowledges that its failure, for any reason, to give written notice within ten (10) days of such order, direction, instruction, interpretation or determination is the Contractor's waiver of any right to assert or claim any entitlement to an adjustment of the Contract Time or the Contract Price on account of such order, direction, instruction, interpretation or determination. The written notice shall state the date, circumstances, extent of adjustment to the Contract Price or the Contract Time, if any, requested, and the source of the order, directions, instructions, interpretation or determination that the Contractor regards as a Change. Unless the Contractor acts in strict accordance with this procedure, any such order, direction, instruction, interpretation or determination shall not be treated as a Change and the Contractor waives any claim for any adjustment to the Contract Price or the Contract Time on account thereof.

9.4 Contractor Submittal of Data. Within thirty (30) days after receipt of a written order directing a Change in the Work or furnishing the written notice regarding any oral order directing a Change in the Work, the Contractor shall submit to the Architect, Project



Manager, if any, the Project Inspector and the District a detailed written statement setting forth the general nature of the Change, the adjustment to the Contract Price on account thereof, properly itemized and supported by sufficient substantiating data to permit evaluation of the same, and the extent of adjustment of the Contract Time, if any, required by such Change. No claim or adjustment to the Contract Price or the Contract Time shall be allowed if not asserted by the Contractor in strict conformity herewith or if asserted after Final Payment is made under the Contract Documents.

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

**9.5.1 Adjustment to Contract Price.** Adjustments to the Contract Price due to Changes in the Work shall be determined by application of one of the following methods, in the following order of priority. Costs computed to any of the following methods shall exclude: (i) fees, salaries or other compensation for: field/office supervisory personnel, project engineers, scheduler, estimator, drafting/detailing; (ii) vehicles not directly engaged in performance of a Change; (iii) field/home office expenses, including personnel, materials, supplies, etc.; (iv) on-Site or off-Site trailer, storage costs (whether rented, leased or owned); and (v) except as incorporated into an applicable Prevailing Wage Rate for labor required to complete a Change, insurance (including without limitation, general liability, automobile liability, employer's liability and workers compensation)

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

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

of any right or basis of the Contractor to thereafter protest or otherwise object to the District's determination. Notwithstanding any objection of the Contractor to the District's determination of the extent of any adjustment to the Contract Price pursuant to this Article 9.5.1.2, Contractor shall, pursuant to Article 9.8 below, diligently proceed to perform and complete any such Change.

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

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

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

9.5.1.3.1.2 Fringe Benefits, Payroll Taxes and Labor Burdens. The Contractor or Subcontractor may adjust the prevailing wage rate for allowable labor costs to reflect fringe benefits, payroll taxes and labor burdens actually incurred by Contractor and provided to such labor directly engaged in performing a Change. The allowable adjustment for fringe benefit payments, payroll taxes and labor burdens shall not, however, exceed fifteen percent (15%) of the applicable prevailing wage rate and shall not be subject to the additional mark-up set forth in Article 9.5.1.3.4 and the Special Conditions.

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

overhead and general conditions mark-up costs set forth in Article 9.5.1.3.4.

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

9.5.1.3.3 Construction Equipment. Contractor shall be compensated for the actual cost of the necessary and direct use of Construction Equipment in the performance of Changes to the Work. Use of such Construction Equipment in the performance of Changes to the Work shall be compensated in increments of fifteen (15) minutes. Rental time for Construction Equipment moved by its own power shall include time required to move such Construction Equipment to the site of the Work from the nearest available rental source of the same. If Construction Equipment is not moved to the Site by its own power, Contractor will be compensated for the loading and transportation costs in lieu of rental time. The foregoing notwithstanding, neither moving time or loading and transportation time shall be allowed if the Construction Equipment is used for performance of any portion of the Work other than Changes to the Work. Unless prior approval in writing is obtained by the Contractor from the Architect, Project Manager, if any, the Project Inspector and the District, no costs or compensation shall be allowed for time while Construction Equipment is inoperative, idle or on standby, for any reason. The Contractor shall not be entitled to an allowance or any other compensation for Construction Equipment or tools used in the performance of Changes to the Work where such Construction Equipment or tools have a replacement value of \$500.00 or less. Construction Equipment costs claimed by the Contractor in connection with the performance of any Change to the Work shall not exceed rental rates established by distributors or construction equipment rental agencies in the locality of the Site; any costs asserted which exceed such rental rates shall not be allowed or paid.

Unless otherwise specifically approved in writing by the Architect, Project Manager, if any, the Project Inspector and the District, the allowable rate for the use of Construction Equipment in connection with Changes to the Work shall constitute full compensation to the Contractor for the cost of rental, fuel, power, oil, lubrication, supplies, necessary attachments, repairs or maintenance of any kind, depreciation, storage, insurance, labor (exclusive of labor costs of the Construction Equipment operator), and any all other costs incurred by the Contractor incidental to the use of such Construction Equipment.

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

9.5.1.4 Contractor Maintenance of Records. If the Contractor is directed to perform any Changes to the Work pursuant to Article 9.1, 9.2 or 9.3, or should the Contractor encounter conditions which the Contractor believes to obligate the District to adjust the Contract Price and/or the Contract Time, Contractor shall maintain detailed records on a daily basis. Such records shall include without limitation hourly records for labor and Construction Equipment and itemized records of materials and equipment used that day in connection with the performance of any Change to the Work. If more than one Change to the Work is performed by the Contractor in a calendar day, Contractor shall maintain separate records of labor, Construction Equipment, materials and equipment for each such Change. If any Subcontractor provides or performs any portion of a Change to the Work, Contractor shall require that each such Subcontractor maintain records in accordance with this Article. Each daily record maintained hereunder shall be signed by Contractor's Superintendent or Contractor's authorized representative which shall constitute the Contractor's representation and warranty to the District that all information contained therein is true, accurate, complete and relate only to the Change referenced therein. All records maintained by a Subcontractor relating to the costs of a Change to the Work shall be signed by such Subcontractor's authorized representative or Superintendent. All records maintained hereunder shall be subject to inspection, review and/or reproduction by the District, the Architect, Project Manager, if any or the Project Inspector upon request. If the Contractor fails or refuses, for any reason, to maintain or make available for inspection, review and/or reproduction such records and the adjustment to the Contract Price on account of any Change to the Work, the District's reasonable good faith determination of the extent of adjustment to the Contract Price on account of such Change shall be final, conclusive, dispositive and binding

upon Contractor. Contractor's obligation to maintain records hereunder is in addition to, and not in lieu of, any other Contractor obligation under the Contract Documents with respect to Changes to the Work.

9.5.2 Adjustment to Contract Time. If any Change to the Work authorized pursuant to this Article 9, the Contract Time affects the critical path of the Work, the Contract Time shall be extended or reduced by Change Order for a period of time commensurate with the time reasonably necessary to perform such Change. The Contractor is solely responsible for submitting scheduling data, analysis and other materials necessary or required by the District to substantiate the Contract Time adjustment requested by the Contractor for a Change. The District is not obligated to consider any adjustment to the Contract Time on account of a Change until the Contractor has submitted such scheduling data, analysis and other materials.

9.5.3 Addition or Deletion of Alternate Bid Item(s). If the Bid Proposal for the Work includes proposal(s) for Alternate Bid Item(s), during Contractor's performance of the Work, the District may elect, pursuant to this Article to add any such Alternate Bid Item(s) if the same did not form a basis for award of the Contract or delete any such Alternate Bid Item(s) if the same formed a basis for award of the Contract. If the District elects to add or delete any such Alternate Bid Item(s) pursuant to the foregoing, the cost or credit for such Alternate Bid Item(s) shall be as set forth in the Contractor's Bid. If any Alternate Bid Item is added or deleted from the Work pursuant to the foregoing, the Contract Time shall be adjusted by the number of days allocated for the added or deleted Alternate Bid Item in the Contract Documents; if days are not allocated for any Alternate Bid Item added or deleted pursuant to the foregoing, the Contract Time shall be equitably adjusted to the extent that the addition or deletion of an Alternate Bid Item actually affects Work on the critical path of the Construction Schedule as of the date upon which an Alternate Bid Item is added to or deleted from the Work.

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

of this Article 9.6, unless otherwise expressly stated in its approval and ratification of such Change Order, any action of the Board of Trustees to approve and ratify such Change Order shall be deemed to be limited to the Change Order as prepared by the Architect; such approval and ratification of such Change Order shall not be deemed the District's approval and ratification of any unapproved amendment or modification by the Contractor to such Change Order.

9.7 Unilateral Change Orders. A Unilateral Change Order is a Change Order issued by the District, in the sole and exclusive discretion of the District, before the Contractor and District have agreed on the extent of adjustment of the Contract Time or the Contract Price relating to a Change. The District may, in its sole reasonable discretion, issue a Unilateral Change Order for any Change to the Work authorized by the District when the Contractor and the District have been unable to reach mutual agreement as to the extent of any adjustment to the Contract Price or Contract Time on account of such Change. If the District elects to issue a Unilateral Change Order, the District shall forward to the Contractor a copy of the proposed Unilateral Change Order (for the Contractor's information) at least ten (10) days prior to the date of the Board of Trustees' meeting to review and consider approval of the Unilateral Change Order. Any Unilateral Change Order issued hereunder shall be binding upon the District and Contractor only if the District's Board of Trustees' takes action to approve or ratify the Unilateral Change Order. Any and all claims by the Contractor arising out of such Unilateral Change Order, and/or the Change giving rise to such Unilateral Change Order, shall accrue as of the date of the Board of Trustees' action approving or ratifying a Unilateral Change Order and shall be subject to the claim provisions set forth in Article 16.11. Notwithstanding any provision of the Contract Documents to the contrary, an express condition precedent to the Contractor's exercise of rights and remedies under Article 16.11 relating to a Unilateral Change Order, is the Contractor notification to the District, Architect and Project Manager, if any, in writing of the Contractor's objections to all or any portion of a Unilateral Change Order within ten (10) days after the date of the Board of Trustees meeting ratifying or approving a Unilateral Change Order; failure of the Contractor to do so is deemed the Contractor's acceptance of the entirety of a Unilateral Change Order, as approved or ratified by the District's Board of Trustees and an express unequivocal waiver by the Contractor of any right or remedy of the Contractor, under the Contract Documents or the Laws to: (i) object to the Unilateral Change Order or any portion thereof; or (ii) further adjustment of the Contract Time or the Contract Price on account of the Change(s) incorporated into a Unilateral Change Order.

9.8 Contractor Notice of Changes. If the Contractor claims that any instruction, request, RFI, FCD, ASI, Bulletin, the Drawings, the Specifications, action, condition, omission, default, or other situation obligates the District to increase the Contract Price or to extend the Contract Time, the Contractor shall notify the Project Manager, if any, the Project Inspector and the Architect, in writing, of such claim within ten (10) days from the date of its actual or constructive notice of the factual basis supporting the same. The District shall consider any such claim of the Contractor only if sufficient supporting documentation is submitted with the Contractor's notice to the Project Inspector and the Architect. Time is of the essence in Contractor's written notice pursuant to the preceding sentence so that the District can promptly investigate and consider alternative measures to the address such instruction, request, Drawings, Specifications, action, condition, omission, default or other situation. Accordingly, Contractor acknowledges that its failure, for any reason, to give written notice (with sufficient supporting documentation to permit the District's review and evaluation) within ten (10) days of its actual or constructive knowledge of any instruction, request, Drawings, Specifications, action, condition, omission, default or other situation for which the Contractor believes there should an adjustment of the Contract Time or the Contract Price shall be deemed Contractor's waiver, release, discharge and relinquishment

of any right to assert or claim any entitlement to an adjustment of the Contract Time or the Contract Price on account of any such instruction, request, Drawings, Specifications, action, condition, omission, default or other situation. In the event that the District determines that the Contract Price or the Contract Time are subject to adjustment based upon the events, circumstances and supporting documentation submitted with the Contractor's written notice under this Article 9.8, any such adjustment shall be determined in accordance with the provisions of Articles 9.5.1 and 9.5.2.

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

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

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

9.12 Unauthorized Changes. Any Work beyond the lines and grades shown on the Contract Documents, or any extra Work performed or provided by the Contractor without notice to the Architect, Project Manager and the Project Inspector in the manner and within the time set forth in Articles 9.2 or 9.7 shall be considered unauthorized and at the sole expense of the Contractor. Work so done will not be measured or paid for, no extension to the Contract Time will be granted on account thereof and any such Work may be ordered removed at the Contractor's sole cost and expense. The failure of the District to direct or order removal of such Work shall not constitute acceptance or approval of such Work nor relieve the Contractor from any liability on account thereof.

## **ARTICLE 10: SEPARATE CONTRACTORS**

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

10.2 District's Coordination of Separate Contractors. The District shall provide for coordination of the activities of the District's own forces and of each separate contractor

with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the District in reviewing their respective Construction Schedules when directed to do so. The Contractor shall make any revisions to the Approved Construction Schedule for the Work hereunder deemed necessary after a joint review and mutual agreement. The Construction Schedules shall then constitute the Construction Schedules to be used by the Contractor, separate contractors and the District until subsequently revised.

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

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

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

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

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

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



## **ARTICLE 11: TESTS AND INSPECTIONS**

### **11.1 Tests; Inspections; Observations.**

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

11.1.2 Cost of Tests and Inspections. The District will pay for fees, costs and expenses for the initial tests/inspections of materials/equipment which are conducted at the Site or locations within a one hundred (100) mile radius of the Site. All fees, costs or expenses for subsequent tests/inspections or for tests/inspections conducted at a location more than a one hundred (100) mile radius from the Site (including without limitation, travel and travel-related expenses) shall be borne solely and exclusively by the Contractor. The foregoing notwithstanding, if the portion(s) of the Work subject to tests/inspections is/are not ready for such test/inspection at the time indicated in the Contractor's notice under Article 11.1.1 or if upon completion of such test/inspection, the portion(s) of the Work subject to such test/inspection do not meet or exceed the minimum requirements of such test/inspection, the Contractor shall be solely responsible for the payment of all fees, costs or expenses arising out of or related in any manner to subsequent tests/inspections of such portion(s) of the Work, and resulting delays, disruptions or other impacts to completion of the Project. Further, notwithstanding the District's payment of fees, costs or expenses for conducting initial tests/inspections, if any actions or failures to act of the Contractor or person or entity providing or performing Work under the direction or control of the Contractor require tests/inspections to be conducted over a period of more than eight (8) hours per day by any single person or on weekends/holidays, the Contractor shall be solely responsible for the payment of fees, costs or expenses which result from test/inspection services which exceed eight (8) hours per day by any single person or on weekends/holidays.

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

11.1.4 Additional Tests, Inspections and Approvals. If the Architect, the Project Manager, the Project Inspector or public authorities having jurisdiction over the Work determine that portions of the Work require additional testing, inspection or approval, the Architect or Project Manager, if any will, upon written authorization from the District, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the District, and the Contractor shall give timely notice to the Architect, the Project Manager and the Project

Inspector of when and where tests and inspections are to be made so the Project Inspector and the Architect may observe such procedures. The District shall bear the costs of such additional tests, inspections or approvals, except to the extent that such additional tests, inspections or approvals reveal any failure of the Work to comply with the requirements of the Contract Documents, in which case the Contractor shall bear all costs made necessary by such failures, including without limitation, the costs of corrections, repeat tests, inspections or approvals and the fees of the Architect, Project Manager, if any, and the Project Inspector in connection therewith.

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

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

## **ARTICLE 12: UNCOVERING AND CORRECTION OF WORK**

### 12.1 Inspection of the Work.

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

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

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

12.3 Rejection of Work. Prior to the District's Final Acceptance of the Work, any Work or materials or equipment forming a part of the Work or incorporated into the Work which constitutes Defective or Non-Conforming Work may be rejected by the District, the Project Manager the Architect or the Project Inspector and the Contractor shall correct such rejected Work without any adjustment to the Contract Price or the Contract Time, even if the Work, materials or equipment have been previously inspected by the Architect or the Project Inspector or even if they failed to observe the Defective or Non-Conforming nature of the Work, materials or equipment.

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

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

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

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

## **ARTICLE 13: WARRANTIES**

13.1 Workmanship and Materials. The Contractor warrants to the District that: (i) the Work and all materials and equipment incorporated therein conform to requirements of the Contract Documents; (ii) all materials and equipment incorporated into the Work are new, of good quality and of the most suitable grade and quality for the purpose intended, unless otherwise specified in the Contract Documents; and (iii) all Work and workmanship is of good quality, free from faults and defects and in conformity with the requirements of the Contract Documents. If required by the Architect, Project Inspector, Project Manager or the District, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment incorporated into the Work. Any Work or portion thereof not conforming to these requirements, including substitutions or alternatives not properly approved in accordance with the Contract Documents may be deemed Defective or Non-Conforming. Where there is an approved substitution of, or alternative to, material or equipment specified in the Contract Documents, the Contractor warrants to the District that such installation, construction, material, or equipment will equally perform the function and

have the quality of the originally specified material or equipment. The Contractor expressly warrants the merchantability, the fitness for use, and quality of all substitute or alternative items in addition to any warranty given by the manufacturer or supplier of such item. The obligations of the Contractor hereunder are in addition to, and not in lieu of, any other obligations imposed by any special guarantee or warranty required by the Contract Documents, guarantees or warranties provided by any manufacturer of any item or equipment forming a part of, or incorporated into the Work, or otherwise recognized, prescribed or imposed by the Laws.

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

13.3 Guarantee. Upon completion of the Work, Contractor shall execute and deliver to the District the form of Guarantee (Attachment D to Special Conditions). The Contractor's execution and delivery of the form of Guarantee is an express condition precedent to any obligation of the District to disburse the Final Payment to the Contractor and any right of the Contractor to Final Payment.

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

#### **ARTICLE 14: SUSPENSION OF WORK**

14.1 District's Right to Suspend Work. The District may, without cause, and without invalidating or terminating the Contract, order the Contractor, in writing, to suspend, delay or interrupt the Work in whole or in part for such period of time as the District may determine. The Contractor shall resume and complete the Work suspended by the District in accordance with the District's directive, whether issued at the time of the directive suspending the Work or subsequent thereto.

14.2 Adjustments to Contract Price and Contract Time. In the event the District shall

order suspension of the Work, an adjustment shall be made to the Contract Price for increases in the direct cost of performance of the Work of the Contract Documents, actually caused by suspension, delay or interruption ordered by the District; provided however that no adjustment of the Contract Price shall be made to the extent: (i) that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible under the Contract Documents; or (ii) that an equitable adjustment is made or denied under another provision of the Contract Documents. The foregoing notwithstanding, any such adjustment of the Contract Price shall not include any adjustment to increase the Contractor's overhead, general administrative costs or profit, all of which will remain as reflected in the Cost Breakdown submitted by the Contractor pursuant to the Contract Documents. In the event of the District's suspension of the Work, the Contract Time shall be equitably adjusted.

## **ARTICLE 15: TERMINATION**

### **15.1 Termination for Cause.**

**15.1.1 District's Right to Terminate.** The District may terminate the Contract upon the occurrence of any one or more of the following events of the Contractor's default: (i) if the Contractor refuses or fails to prosecute the Work with diligence as will insure Substantial Completion of the Work within the Contract Time, or if the Contractor fails to substantially Complete the Work within the Contract Time; (ii) if the Contractor becomes bankrupt or insolvent, or makes a general assignment for the benefit of creditors, or if the Contractor or a third party files a petition to reorganize or for protection under any bankruptcy or similar laws, or if a trustee or receiver is appointed for the Contractor or for any of the Contractor's property on account of the Contractor's insolvency, and the Contractor or its successor in interest does not provide adequate assurance of future performance in accordance with the Contract Documents within ten (10) days of receipt of a request for such assurance from the District; (iii) if the Contractor repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment; (iv) if the Contractor repeatedly fails to make prompt payments to any Subcontractor, of any tier, or Material Suppliers or others for labor, materials or equipment; (v) if the Contractor disregards the Laws or requirements of any public entity having jurisdiction over any portion of the Work; (vi) if the Contractor disregards proper directives of the Architect, the Project Manager, the Project Inspector or District; (vii) Defective/Non-Conforming Work which the Contractor neglects or refuses to correct; or (viii) if the Contractor otherwise violates any provisions or requirements of the Contract Documents. Once the District determines that sufficient cause exists to justify the action, the District may terminate the Contract without prejudice to any other right or remedy the District may have, after giving the Contractor and the Surety at least seven (7) days advance written notice of the effective date of termination. The District shall have the sole discretion to permit the Contractor to remedy the cause for the termination without waiving the District's right to terminate the Contract, or otherwise waiving, restricting or limiting any other right or remedy of the District under the Contract Documents or the Laws.

**15.1.2 District's Rights Upon Termination.** If the Contract is terminated pursuant to this Article 15.1, the District may take over the Work and prosecute it to completion, by contract or otherwise, and may exclude the Contractor from the site. The District may take possession of the Work and of all of the Contractor's tools, appliances, construction equipment, machinery, materials, and plant which may be on or about the Site, and use the same to the full extent they could be used by the Contractor without liability to the Contractor. In exercising the District's right to prosecute the completion of the Work, the District may also take possession of all materials and equipment at or about the Site or for which the District has paid the Contractor but which are stored elsewhere, and finish the Work as the District deems expedient.

In exercising the District's right to prosecute the completion of the Work, the District shall have the right to exercise its sole discretion as to the manner, methods, and reasonableness of the costs of completing the Work and the District shall not be required to obtain the lowest price for completion of the Work. If the District takes bids for remedial Work or completion of the Work, the Contractor shall not be eligible for the award of such contract(s).

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

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

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

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

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

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

15.2 Termination for Convenience of the District. The District may at any time, in its sole and exclusive discretion, by written notice to the Contractor, terminate the Contract in whole or in part when it is in the interest of, or for the convenience of, the District. In such case, the Contractor shall be entitled to payment for: (i) Work actually performed and in place as of the effective date of such termination for convenience of the District, with a reasonable

allowance for profit and overhead on such Work, and (ii) reasonable termination expenses for reasonable protection of Work in place and suitable storage and protection of materials and equipment delivered to the site of the Work but not yet incorporated into the Work, provided that such payments exclusive of termination expenses shall not exceed the total Contract Price as reduced by payments previously made to the Contractor and as further reduced by the value of the Work as not yet completed. The Contractor shall not be entitled to profit and overhead on Work which was not performed as of the effective date of the termination for convenience of the District. The District may, in its sole discretion, elect to have Subcontracts assigned pursuant to Article 15.1.4 above after exercising the right hereunder to terminate for the District's convenience.

## **ARTICLE 16: MISCELLANEOUS**

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

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

16.3 Successors and Assigns. Except as otherwise expressly provided in the Contract Documents, all terms, conditions and covenants of the Contract Documents shall be binding upon, and shall inure to the benefit of the District and the Contractor and their respective heirs, representatives, successors-in-interest and assigns.

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

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

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

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

16.8 Independent Contractor Status. In performing its obligations under the Contract Documents, the Contractor is an independent contractor to the District and not an agent or employee of the District.

16.9 Notices. Except as otherwise expressly provided for in the Contract Documents, all notices which the District or the Contractor may be required, or may desire, to serve on the other, shall be effective only if delivered by personal delivery or by postage prepaid, First Class Certified Return Receipt Requested United States Mail, addressed to the District or the Contractor at their respective address set forth in the Contract Documents, or such other address(es) as either the District or the Contractor may designate from time to time by written notice to the other in conformity with the provisions hereof. In the event of personal delivery, such notices shall be deemed effective upon delivery, provided that such personal delivery requires a signed receipt by the recipient acknowledging delivery of the same. In the event of mailed notices, such notice shall be deemed effective on the third working day after deposit in the mail.

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

16.11 Dispute Resolution; Arbitration.

16.11.1 Claims Under \$375,000.00. Claims between the District and the Contractor of \$375,000.00 or less shall be resolved in accordance with the procedures established in Part 3, Chapter 1, Article 1.5 of the California Public Contract Code, §§20104 et seq.; provided however that California Public Contract Code §20104.2(a) shall not supersede the requirements of the Contract Documents with respect to the Contractor's notification to the District of such claim or extend the time for the giving of such notice as provided in the Contract Documents. The term "claims" as used herein shall be as defined in California Public Contract Code §20104(b)(2).

16.11.2 Government Code Claim Requirements. Pursuant to Government Code §930.6, any claim, demand, dispute, disagreement or other matter in controversy asserted by the Contractor against the District for money or damages, including, without limitation, a Demand for Arbitration, except for those subject to resolution pursuant to Article 16.11.1, shall be deemed a "suit for money or damages" and shall be subject to the provisions of Government Code §§945.4, 945.6 and 946. Notwithstanding the resolution of disputes pursuant to the arbitration provisions set forth in Article 16.11.3 any claim, demand, dispute, disagreement or other matter in controversy between the Contractor and the District seeking money or damages in excess of \$375,000 shall first be presented to the District and acted upon or deemed rejected by the District in accordance with Government Code § 900, et seq., as an express condition precedent to the Contractor's commencement of arbitration proceedings.

16.11.3 Arbitration. Except as provided in Article 16.11.1, any other claims, disputes, disagreements or other matters in controversy between the District and the Contractor arising out of, or related, in any manner, to the Contract Documents, or the interpretation, clarification or enforcement thereof shall be resolved by binding arbitration conducted before a retired judge in accordance with the arbitration rules of Judicial Arbitration Mediation Services ("JAMS") in effect as of the date that a Demand for Arbitration is filed, except as expressly modified herein. The locale for



any arbitration commenced hereunder shall be the regional office of the JAMS closest to the Site. The award rendered by the Arbitrator(s) shall be final and binding upon the District and the Contractor only if the arbitration award: (i) is supported by substantial evidence; (ii) is based on applicable legal standards in effect at the time the arbitration award is issued; and (iii) includes written findings of fact and conclusions of law in conformity with California Code of Civil Procedure §1296. In connection with any arbitration proceeding commenced hereunder, the discovery rights and procedures provided for in California Code of Civil Procedure §1283.05 shall be applicable, and the same shall be deemed incorporated herein by this reference. A Demand for Arbitration shall be filed and served within a reasonable time after the occurrence of the claim, dispute or other disagreement giving rise to the Demand for Arbitration, but in no event shall a Demand for Arbitration be filed or served after the date when the institution of legal or equitable proceedings based upon such claim, dispute or other disagreement would be barred by the applicable statute of limitations. If more than one Demand for Arbitration is filed by either the District or the Contractor relating to the Work or the Contract Documents, all Demands for Arbitration shall be consolidated into a single arbitration proceeding, unless otherwise agreed to by the District and the Contractor. The Contractor's Surety, a Subcontractor or Material Supplier to the Contractor and other third parties may be permitted to join in and be bound by an arbitration commenced hereunder if required by the terms of their respective agreements with the Contractor, except to the extent that such joinder would unduly delay or complicate the expeditious resolution of the claim, dispute or other disagreement between the District and the Contractor, in which case an appropriate severance order shall be issued by the Arbitrator(s). The expenses and fees of the Arbitrator(s) shall be divided equally among the parties to the arbitration. Each party to any arbitration commenced hereunder shall be responsible for and shall bear its own attorneys' fees, witness fees and other costs or expenses incurred in connection with such arbitration. The foregoing notwithstanding, the Arbitrator(s) may award arbitration costs, including Arbitrators' fees but excluding attorneys' fees, to the prevailing party. The confirmation, enforcement, vacation or correction of an arbitration award rendered hereunder shall be the Superior Court of the State of California for the county in which the Site is situated. The substantive and procedural rules for such post-award proceedings shall be as set forth in California Code of Civil Procedure §1285 et seq.

16.11.4 Limitation on Arbitrator. Notwithstanding any other provision of this Article 16, the Superior Court for the State of California for the County in which the Project Site is situated shall have sole and exclusive jurisdiction, and an arbitrator shall have no authority, to hear and/or determine a challenge to the institution or maintenance of a proceeding in arbitration of a claim on the grounds that: i) the claim is barred by the applicable statute of limitations; ii) the claim is barred by a provision of the California Government Claims Act; iii) claimant has failed to satisfy any and all conditions precedent to arbitration; iv) the right to compel arbitration has been waived by the petitioner; v) grounds exist for the revocation of the arbitration agreement; and/or, vi) there is the prospect that a ruling in arbitration would conflict with a ruling in a pending proceeding regarding the Project on a common issue of law or fact.

16.11.5 Inapplicability to Bid Bond. The provisions of this Article 16.11 shall not be applicable to disputes, disagreements or enforcement of rights or obligations under the Bid Bond; all claims, disputes and actions to enforce rights or obligations under the Bid Bond shall be adjudicated only by judicial proceedings commenced in a court of competent jurisdiction.

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

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

16.14 Attorney's Fees. Except as expressly provided for in the Contract Documents, or authorized by the Laws, neither the District nor the Contractor shall recover from the other any attorney's fees or other costs associated with or arising out of any legal, administrative or other proceedings filed or instituted in connection with or arising out of the Contract Documents or the performance of either the District or the Contractor thereunder. Neither this provision nor any provision herein that provides for attorneys' fees in and under limited circumstances is intended to expand the parties' right to recover attorneys' fees, and the Parties hereby agree to waive, and by entering into the Agreement have waived, any and all right to claim attorneys' fees pursuant to Civil Code § 1717, where not expressly provided for in the Contract Documents.

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

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

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

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

## 6. SPECIAL CONDITIONS

1. Application of Special Conditions. These Special Conditions form a part of the Contract Documents for the Work generally described as: **26-01 Pedestrian Bridge Renovation Project.**
2. Contract Time. The Contract Time for Substantial Completion of the Work shall be stated in the offeror's proposed construction schedule. Contract Time shall commence on the date stated in the Notice to Proceed issued by or on behalf of the District to the Contractor. The District's target Construction Completion Date is 1/31/2027.
3. Liquidated Damages. The per diem rate of Liquidated Damages for delayed Substantial Completion, delayed submission of Submittals and delayed completion of Punchlist shall be as set forth herein.
  - 3.1 Delayed Substantial Completion. If Substantial Completion is not achieved on or before expiration of the Contract Time, the Contractor shall be liable to the District for Liquidated Damages from the date of expiration of the Contract Time to the date that the Contractor achieves Substantial Completion of the Work at the rate of One Thousand Dollars (\$1,000.00) per day.
  - 3.2 Delayed Submission of Submittals. If the Contractor fails to submit a Submittals in accordance with the Submittal Schedule, the Contractor shall be liable to the District for Liquidated Damages for each delayed Submittal at the rate of One Thousand Dollars (\$1,000.00) from the date that such Submittal was due to be submitted pursuant to the Submittal Schedule and the date that the Contractor actually submits the Submittal to the Architect.
  - 3.3 Delayed Punchlist. If the Contractor fails to complete Punchlist within the time established pursuant to the Contract Documents, the Contractor shall be liable to the District for Liquidated Damages from the date established for completion of Punchlist until the date that all Punchlist is actually completed at the rate of One Thousand Dollars (\$1,000.00) per day.
  - 3.4 Surety Liability. Subject only to limitations established by the penal sum of the Performance Bond, the Surety issuing the Performance Bond shall be liable to the District for Liquidated Damages due from the Contractor.
4. Copies of Agreement and Bonds. The number of required executed copies of the Agreement is One (1) and the number of required executed copies of the Performance Bond, and the Payment Bond is One (1).
5. Project Manager. The Project Manager is:

Christina Agudelo, LEED AP BD+C, WELL AP  
Vice President  
JLL Project & Development Services  
4085 Campbell Ave, Suite 150  
Menlo Park, CA 94025  
M +1 650 304 9536  
christina.agudelo@jll.com
6. District Furnished Drawings and Specifications. Pursuant to Article 2.1.3 of the General Conditions, the District will furnish to the Contractor for use solely and exclusively in connection with performance of the Work Four (4) copies of the Drawings and Specifications. Additional copies of the Drawings and Specifications may be reproduced

by the Contractor at its cost and expense or may be obtained by the Contractor from the District at the cost of the District's reproduction plus ten percent (10%).

7. Notice To Proceed; Commencement of Contract Time. The Contractor shall commence Work and the Contract Time shall commence on the date stated in the Notice to Proceed for the commencement of the Work.
8. Site Verification. Prior to the commencement of the Work, the Contractor shall complete a review at the Site under the direction of the District to verify that the Contract Documents are adequate, feasible and complete for providing, performing and constructing the Work within the Contract Time and for the Contract Price in a sound and suitable manner for the use specified and intended by the Contract Documents. If any of the conditions of the Site are in conflict with the Contract Documents, the Contractor shall notify the Project Manager and the District of same in writing prior to the commencement of the Work. The Contractor shall submit a Site Acceptance Form, attached as Attachment B to the Special Conditions, for approval prior to any work.
9. Hours and Days of Work at the Site.
  - 9.1 Work Hours/Days. Subject to limitations set forth elsewhere in the Contract Documents and below, the hours/days of Work at the Site are: 7am – 5pm Mondays through Fridays, except for holiday days.
  - 9.2 Limitations on Work Hours/Days. Work activities at the Site will be limited or prohibited on days: (i) devoted to student testing or when testing of students may be adversely affected by Work activities at the Site; or (ii) when other special events or functions are scheduled. The Contractor shall familiarize itself with District activities at the Site to avoid Work activity interferences or disturbances to such District activities. The Contractor's Construction Schedule shall take into account the District activities which limit or preclude Work activities at the Site. The **Fall 2025 – Spring 2027** Academic Calendar are attached hereto as Appendix D and incorporated herein for the Contractor's reference and use.
10. Contractor Personnel Parking. Personnel of the Contractor, Subcontractors and others performing Work at the Site will be allowed to park, with a valid District parking permit, in the parking spaces at a location designated by the District. Parking permit charges, if any, shall be borne and paid by the Contractor without adjustment of the Contract Price. The foregoing notwithstanding, the extent or location of parking for such personnel may be modified by the District as reasonably necessary to facilitate and accommodate necessary parking for the District's activities and functions in and about the Site. Neither the Contract Price nor the Contract Time shall be adjusted as a result of any such District modifications to the extent or location of parking.
11. Site Perimeter Fencing. The Contractor shall install a chain link fence with fabric privacy screen around the entire perimeter of the Site to prevent dust and debris being blown from the construction area into adjacent areas, including without limitation, adjacent streets and residential areas. Without adjustment of the Contract Time or the Contract Price the Contractor shall maintain all fencing in good condition and clear of any graffiti or damage. The Contractor shall remove or relocate such fencing as directed by the District or the Construction Manager.
12. Project Signage. In addition to safety signage required per General Conditions 4.9.3, the Contractor shall furnish and install and maintain additional project signage as set forth in the Contract Documents.

13. Facilities/Services for Project Inspector. Pursuant to Article 4.14 of the General Conditions, during the Work, the Contractor may provide/furnish facilities/services or other items for use by the Project Inspector: All costs, fees, expenses or other charges for said costs are to be included within the Contract Price.
14. District Provided Temporary Utilities. Pursuant to Article 4.3.4 of the General Conditions, during the Contractor's performance of the Work, the District will provide utility services and a point of connection for electrical power, data, telephone and domestic potable water utility services. The connection and placement, relocation and removal of temporary distributions of the electrical power and domestic potable water utility service provided by the District will be by the Contractor at its cost and expense without adjustment of the Contract Price. The Contractor may use the temporary electrical power and domestic potable water service furnished by the District provided that: (i) the District may discontinue, limit or condition use of such services by a Contractor if the District reasonably determines that the Contractor has wasted such utilities, and (ii) the District shall not be liable to the Contractor, nor shall the Contract Time or the Contract Price be increased if any District provided temporary utility service is discontinued or disrupted for any reason other than the District's non-payment of undisputed utility charges. Notwithstanding any provision of the Contract Documents to the contrary, the Contractor shall not use District provided water supply in connection with any earthwork or grading operations; water supply for earthwork or grading operations shall be obtained by the Contractor, without adjustment of the Contract Time or the Contract Price, from an off-site source or mobile water delivery service. Further, notwithstanding the District's provision of a point of connection for the Contractor's telephone/data service at the Site, the Contractor is solely responsible for the payment of utility service charges therefor.
15. Mark-Ups on Changes to the Work. In the event of Changes to the Work, pursuant to Article 9 of the General Conditions, the mark-up for all overhead (including home and field office overhead), general conditions costs and profit, shall not exceed the percentage of allowable direct actual costs for performance of the Change as set forth below.
- 15.1 Subcontractor Performed Changes. For the portion of any Change performed by Subcontractors of any tier, the percentage mark-up on allowable actual direct labor and materials costs incurred by all Subcontractors of any tier shall be Twelve Percent (12%). In addition, for the portion of any Change performed by a Subcontractor of any tier, the Contractor may add an amount equal to Five Percent (5%) of the allowable actual direct labor and materials costs of Subcontractors performing the Change; the foregoing mark-up shall not be applied to the Subcontractor mark-up.
- 15.2 Contractor Performed Changes. For the portion of any Change performed by the Contractor's own forces, the mark-up on the allowable actual direct labor and materials costs of such portion of a Change shall be Fifteen Percent (15%).
- 15.3 Bond Premium Costs. In addition to the foregoing mark-ups on the direct costs of labor and materials, a bond premium expense in an amount equal to the lesser of the Contractor's actual bond premium rate or one percent (1%) of the total actual direct costs of labor and materials (before Subcontractor and Contractor mark-ups) will be allowed.
- 15.4 Exclusions From Mark-Up of Actual Costs. Mark-ups on the actual cost of materials/equipment incorporated into a Change or for purchase/rental of Construction Equipment shall not be applied to any portion of such costs which are for sales, use or other taxes arising out of the purchase of materials/equipment and/or for purchase/rental of Construction Equipment.

16. Rain Days. The Contractor's Construction Schedules prepared pursuant to Article 7 of the General Conditions shall incorporate the Rain Days set forth below; there shall be no adjustment to the Contract Time on account of unusually severe weather conditions resulting from rainfall until the actual number of Rain Days exceeds the number of Rain Days set forth. The Contractor's Construction Schedule shall incorporate the following number of Rain Days for each Calendar Month of the Contract Time set forth below:

<b>Month</b>	<b>Rain Days</b>
January	four (4)
February	four (4)
March	three (3)
April	two (2)
May	two (2)
June	None
July	None
August	None
September	None
October	two (2)
November	three (3)
December	four (4)

17. Deferred Approval Items. The following Deferred Approval Items are incorporated into and made a part of the Work: **n/a**. The Contractor is responsible for preparing all materials necessary for DSA review and approval of Deferred Approval Items without adjustment of the Contract Time or the Contract Price.

18. Insurance Coverages

- 18.1 Contractor Insurance. Pursuant to Article 6 of the General Conditions, the Contractor shall obtain and maintain the following insurance coverages with minimum coverage amounts as set forth below:

<b>Policy of Insurance</b>	<b>Minimum Coverage Amount</b>
18.2 Commercial General Liability Insurance	Per Occurrence: Two Million Dollars (\$2,000,000)
	Aggregate: Four Million Dollars (\$4,000,000)
Workers Compensation	In accordance with CA State Law
Employers Liability	One Million Dollars (\$1,000,000)
Builders Risk	Full insurable value of the Work; Seismic coverage: Required
Contractor's Pollution Liability	Per Occurrence: One Million Dollars (\$1,000,000)
	Aggregate: Two Million Dollars (\$2,000,000)

Subcontractor Insurance. Pursuant to Article 6 of the General Conditions, each Subcontractor shall obtain and maintain the following insurance coverages with minimum coverage amounts as set forth below:

<b>Policy of Insurance</b>	<b>Minimum Coverage Amount</b>
Commercial General Liability Insurance	Per Occurrence: One Million Dollars (\$1,000,000)
	Aggregate: Two Million Dollars (\$2,000,000)
Workers Compensation	In accordance with the Laws
Employers Liability	One Million Dollars (\$1,000,000)
Contractor's Pollution Liability (As applicable, if Subcontractor's work involves SWPPP, the removal of asbestos, the removal/ replacement of underground tanks or the removal of toxic chemicals and substances)	Per Occurrence: One Million Dollars (\$1,000,000)
	Aggregate: Two Million Dollars (\$2,000,000)

**The following sentence shall be included in the additional insured endorsements for both *Contractor* and *Subcontractors*:**

*"Cabrillo Community College District, it's Governing Board, as individuals and as an entity, its officers, directors, employees, agents, and volunteers, are included as additional insured, with respect to all work performed by or on behalf of the named insured under its contract with the Certificate Holder."*

## **7. DISABLED VETERAN BUSINESS ENTERPRISE (“DVBE”) PARTICIPATION GOAL PROGRAM POLICY**

1. DVBE Participation Goal Program Policy. CABRILLO COMMUNITY COLLEGE DISTRICT (“the District”) is committed to achieving the legislatively and administratively established Participation Goal for Disabled Business Enterprises (“DVBEs”). Through the DVBE Participation Goal Program, the District encourages contractors to ensure maximum opportunities for the participation of DVBEs in the Work of the Contract. The District’s commitment to the achievement of DVBE Participation Goal for the Work of the Contract shall not, however, result in the District’s discrimination in the award of the Contract on the basis of ethnic group identification, ancestry, religion, age, sex, race, color, or physical or mental disability.
2. Definitions.
  - 2.1. Disabled Veteran. A “Disabled Veteran” means a veteran of the military, naval, or air service of the United States with at least ten percent (10%) service-connected disability who is a resident of the State of California.
  - 2.2. Disabled Veteran Business Enterprise. A “Disabled Veteran Business Enterprise” (“DVBE”) means a business enterprise certified by the Office of Small and Minority Business, State of California, Department of General Services, as a “Disabled Veteran Business Enterprise.”
  - 2.3. Good Faith Efforts. As use herein, the term “Good Faith Efforts” shall be deemed to mean demonstrable and effective efforts of the Bidder to seek out, consider and secure DVBEs as potential Subcontractors or Material Suppliers, or both, in order to meet the Participation Goal; the Good Faith Efforts must be an active and aggressive effort to meet the Participation Goal, as more particularly set forth herein.
3. Participation Goal.
  - 3.1. Participation Goal Defined. The term “Participation Goal” is a numerically expressed objective for DVBE participation in performing the Work of the Contract. The DVBE Participation Goal is not a quota, set-aside, or rigid proportion.
  - 3.2. DVBE Participation Goal. The DVBE Participation Goal is Three Percent (3%) of total amount of Bidder’s Bid Proposal, inclusive of the value of additive Alternate Bid Items, if any.
4. Good Faith Efforts to Meet Participation Goal.
  - 4.1. Good Faith Efforts. The Bid Proposal submitted by any Bidder who has not met the DVBE Participation Goal shall be considered responsive only if the Bidder represents that it made Good Faith Efforts to meet the DVBE Participation Goal.
  - 4.2. Good Faith Efforts to Meet DVBE Participation Goal. A Bidder must secure the participation of DVBEs in a timely manner to ensure that potential DVBE Subcontractors or Material Suppliers have an adequate opportunity to respond to the Bidder’s solicitation of sub-bids and be given serious consideration by the Bidder prior to the closing time for the receipt of Bid Proposals. Such Good Faith Efforts shall include, without limitation:
    - 4.2.1. DVBE Work and Active Solicitation of DVBEs. The Bidder’s identification of portions of the Work which may be provided or performed by DVBE Subcontractors and/or Material Suppliers and the Bidder’s active and sincere solicitation of DVBEs for those identified portions of the Work.
    - 4.2.2. Contact Agencies for DVBEs. Contact local, state and/or federal agencies, and local DVBE organizations to identify potential DVBEs for performing portions of the Work;
    - 4.2.3. Advertisements. Advertise (with sufficient time for submission of sub-bids and the



Bidder's good faith consideration of the same) prior to the last date for submittal of Bid Proposals in: (i) one or more daily or weekly newspapers of general circulation published in the locality of the Work, and (ii) one or more construction trade publications, and (iii) one or more construction trade publications, journals or papers focusing on DVBEs. Each of the advertisements pursuant to the preceding, must state the following: (i) identification of the general description of the Work and an identification of the District; (ii) state the closing date and time for the District's receipt of Bid Proposals; (iii) state the last date and time for submission of sub-bids from DVBEs to the Bidder; (iv) request sub-bids from DVBE Subcontractors or Material Suppliers; (v) identify the type of Work of the Contract available for sub-bids by DVBEs; and (vi) unequivocally state the requirement of bonds, if any, of a DVBE sub-Bidder and who is to bear the expense of obtaining any required bonds.

- 4.2.4. Direct Solicitation of DVBEs. Solicit by direct mail, telephone or personal contact a sufficient number of DVBEs who offer work or services appropriate for the Work identified by the Bidder under Paragraph 4.2.1 above. Solicitations shall be made in a timely manner and contain sufficient information for a sub-Bidder to make a reasonable sub-bid and the Bidder's good faith consideration of the same, including, without limitation, the following: (i) identification of the general description of the Work and an identification of the District; (ii) state the closing date and time for the District's receipt of Bid Proposals; (iii) state the last date and time for submission of bids from DVBEs to the Bidder; (iv) request sub-bids from Subcontractors or Material Suppliers; (v) identify the type of Work of the Contract available for sub-bids by DVBEs; and (vi) unequivocally state the requirement of bonds of a DVBE sub-Bidder and who is to bear the expense of obtaining any required bonds.
  - 4.2.5. Bidder Follow-Up To DVBE Interest. The Bidder shall follow-up initial expressions of interest of DVBEs in performing a portion of the Work by contacting such DVBEs to determine with certainty whether such DVBEs are interested in performing specific items of the Work of the Contract and submitting a sub-bid for a portion of the Work.
  - 4.2.6. Good Faith Negotiations With Potential DVBE Subcontractors. The Bidder shall negotiate in good faith with potential DVBEs Subcontractors or Material Suppliers and shall not unjustifiably reject, as unsatisfactory, bids prepared by any DVBE for a portion of the Work of the Project. In the event that the District shall reasonably determine that the Bidder has failed to engage in good faith negotiations with a potential DVBE participant or rejects the sub-bid of a DVBE without justification, the District may deem the Bid Proposal of such Bidder to be non-responsive.
5. Documentation of Achievement of Participation Goal or Good Faith Efforts. Each Bidder shall note, where indicated, in the form of Bid Proposal whether the DVBE Participation Goal was achieved and if not, that Good Faith Efforts were made to achieve the DVBE Participation Goal. **By Request of the District, the Bidders submitting the three highest scoring Bid Proposals, shall submit to the District documentation and supporting evidence of achievement of the DVBE Participation Goal or Good Faith efforts to achieve the DVBE Participation Goal.** Such documentation and supporting evidence shall be in the form of duly completed forms of the DVBE Participation Worksheets issued by the District; unless modified by the District, completed DVBE Worksheets must be submitted to the District Purchasing Department **no later than 4:00 p.m. of the third (3<sup>rd</sup>) working day** after the bid due date or 12/08/2025. The District may, at its discretion, request that Bidders, other than the Bidders submitting the three highest scoring Bid Proposals, submit documentation of compliance with the DVBE Participation Goal Program at any time after the District's opening of Bid Proposals and prior to the District's award of the Contract. **If a Bidder is required or requested by the District to submit DVBE Participation Goal Program documentation, the failure of any Bidder to timely submit complete and accurate documentation on DVBE Participation**

**Worksheets issued by the District at or prior to the time established herein will render the Bidder's Bid Proposal non-responsive and rejected.**

6. Counting of DVBE Participation.

- 6.1. Certification. DVBEs must be certified in the category identified prior to the closing time for the District's receipt of Bid Proposals; any DVBE who is not so certified will result in such DVBE not counting towards the DVBE Participation Goal.
- 6.2. Bidder Acceptance of Sub-Bid. Sub-bids of DVBEs shall be accepted by the Bidder prior to the closing time for the District's receipt of Bid Proposals, with such acceptance subject only to the District's award of the Contract to the Bidder.
- 6.3. Value of Participation Goal. The total dollar value of a contract between the Bidder and a certified DVBE will count towards the DVBE Participation Goal.
- 6.4. Joint Ventures. If a DVBE is a member of a joint venture, only the dollar value of the Work actually performed by the DVBE member of the joint venture will count towards the DVBE Participation Goal, unless the joint venture entity itself is certified as a DVBE.
- 6.5. Bidder as DVBE. A Bidder certified as a DVBE may count towards the Participation Goal the dollar value of the Work actually performed by the Bidder's own forces. A Bidder certified as a DVBE is not relieved from meeting the DVBE Participation Goal or making Good Faith Efforts to achieve the Participation Goal if the value of its Work is less than the DVBE Participation Goal.
- 6.6. Lower Tier Subcontractors; Material Suppliers. The Bidder may count towards the DVBE Participation Goal the total dollar value of contracts let by its Subcontractors or Material Suppliers to lower tier Subcontractors or Material Suppliers certified as DVBEs provided that such lower tier Subcontractors or Material Suppliers actually assume the contractual responsibility and obligation for the total dollar value of the Work or materials to be supplied by such lower tier Subcontractors or Material Suppliers.
- 6.7. Commercially Useful Functions. DVBEs used by the Bidder to establish achievement of the Participation Goal shall be considered as meeting the Participation Goal only if the DVBE is responsible for execution of a distinct element of the Work of the Contract, carry out its obligations by actually performing, managing, or supervising the Work for which the DVBE is responsible for executing. Such DVBEs must be responsible for the portion of the Work which is normal for its business services and functions. A DVBE Subcontractor who subcontracts a significantly greater portion of the Work assumed by the DVBE Subcontractor than would be considered normal and usual under industry standards and practices will not be presumed to be performing a commercially useful function, and such DVBE Subcontractor will not count or be considered for purposes of achieving the Participation Goal.

7. Substitution of DVBEs. In the event that Bidder awarded the Contract deems it necessary to substitute a DVBE Subcontractor or Material Supplier identified in the Subcontractor's List submitted with the Bidder's Bid Proposal, all provisions of the Contract Documents relating to the substitution of Subcontractors shall be applicable and complied with by the successful Bidder. In addition to the provisions of the Contract Documents relating to the substitution of listed Subcontractors, if a DVBE under a direct contract with the Bidder is to be substituted, the successful Bidder is strongly encouraged to substitute the listed DVBE with an equivalent and certified DVBE.

8. Monitoring of DVBE Participation.

- 8.1. DVBE Participation Worksheets. If the Bidder awarded the Contract is required by the District to complete and submit DVBE Participation Worksheets, the completed forms of DVBE Participation Worksheets submitted by the Bidder shall be deemed a part of the Contract Documents.
- 8.2. Continuing Responsibilities. Efforts of the successful Bidder to include the participation of DVBEs in the performance of the Work of the Contract shall not terminate with the award

of the Contract to such Bidder. The successful Bidder's efforts to secure the participation of DVBEs shall continue for the duration of the Work of the Contract, including when the successful Bidder is purchasing materials, equipment, supplies, and/or needs additional Subcontractors (including substitution of listed Subcontractors).

- 8.3. DVBE Participation Reports and Data. During performance of the Work of the Contract, the successful Bidder shall maintain complete and accurate records of DVBE Participation in executing the Work. From time-to-time, upon the request of the District the Bidder awarded the Contract shall submit reports, in form and content satisfactory to the District, regarding DVBE Participation in the Work of the Contract, including the participation of DVBEs in the performance of approved Changes to the Work. The failure or refusal of the successful Bidder to submit reports of DVBE Participation during performance of the Work within ten (10) days of the District's request for such reports may be deemed by the District to be the successful Bidder's default of a material obligation of the Contract and thereupon, the District may exercise any right or remedy provided for under the Contract Documents or at law, including without limitation termination of the Contract for default or the withholding of payments otherwise due under the Contract Documents until such report(s) is/are received. If requested by the District, upon completion of the Work of the Contract, the successful Bidder shall submit a final report identifying all DVBEs utilized in the performance of the Work, the type or classification of the Work performed by each such DVBE and the dollar value of the Work performed by each such DVBE. In the event that the District shall request a report of DVBE utilization upon completion of the Work of the Contract, the submission of such report in form and content satisfactory to the District shall be deemed a condition precedent to the District's obligation to make payment of the Final Payment under the Contract Documents. In such event, the submission of such final report shall be in addition to, and not in lieu of any other conditions precedent set forth in the Contract Documents for the District's obligation to make payment of the Final Payment. The Bidder awarded the Contract shall maintain books and records of DVBE Participation in the Work for at least three (3) years following completion of the Project; during such time, the District shall have access, upon reasonable advance notice, to such books and records for inspection or reproduction.
- 8.4. Contract Audit. The successful Bidder awarded the Contract agrees that the District, or its designee, shall have the right to review, obtain and/or copy any and all writings, materials, documents and other records pertaining to utilization of DVBEs in performance of the Contract. The successful Bidder awarded the Contract agrees that the District, or its designee, shall have access to any of the successful Bidder's premises upon reasonable notice, during usual business hours for the purpose of interviewing employees and inspecting and/or copying such writings, materials, documents and other documents which may be relevant to a matter under investigation for the purpose of determining compliance with the DVBE Participation Goal Program Policy.
9. Capitalized Terms. Capitalized terms used herein shall be as defined herein or elsewhere in the Contract Documents.

## 8. REQUIRED BID FORMS

Please complete all the forms on the following pages. They must be submitted with your proposal package.

**IN ADDITION TO THESE FORMS IN SECTION 8, THE OFFEROR IS REQUIRED TO SUBMIT A COMPLETED APPENDIX A BID FORM WORKSHEET IN THE PROVIDED EXCEL FORMAT TO ACCOMPANY THE BID PROPOSAL FORM.**

## CERTIFICATION OF RFQP

DBE (Design Build Entity) and all Members must sign. Copy this certification page as needed for each Member.

I certify and declare that I have read all the foregoing answers to this request for proposal; that all answers are correct and complete of my own knowledge and belief. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_, 20\_\_

Name of DBE or Member: \_\_\_\_\_

Signature by authorized individual: \_\_\_\_\_

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

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

# RFQP ACKNOWLEDGEMENT AND SIGNATURE FORM

**CABRILLO COMMUNITY COLLEGE DISTRICT**  
**DESIGN BUILD SERVICES RFQP (Request for Qualifications and Proposals)**  
**for**  
**Bid No. 26-01**  
**Pedestrian Bridge Renovation Project**

**Bid Due Date: 12/08/2025 by 5:00PM PST (Pacific Standard Time)**

The undersigned having carefully examined the location of the proposed work, the local conditions of the place where the work is to be done, the Invitation and all of the documents for this project, and accurately completed the Design-Build Request for Proposal and associated exhibits, and if selected, proposer is able to enter into a contract with Cabrillo Community College District to perform the work listed in this RFQP including all of its component parts, and to furnish any and all required labor, materials, equipment, insurance, bonding, taxes, transportation and services required for this project in strict conformity with the RFQP, including any Addenda, within the time specified.

Acknowledgement and Signature:

1. No RFQP is valid unless signed in ink by the person authorized to make the proposal.
2. I have carefully read, understand and agree to the terms and conditions on all pages of this RFQP. The undersigned agrees to furnish the services stipulated in this RFQP.

Vendor Name: \_\_\_\_\_ Title: \_\_\_\_\_

Contact Person: \_\_\_\_\_

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

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Contractor License #: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Federal Tax Identification Number: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Decline RFQP:**

We **do not** wish to submit a RFQP on this Project. Please state your reason below. Please also indicate if you would like to remain on our vendor list.

Reason: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Company: \_\_\_\_\_ Address: \_\_\_\_\_

Name: \_\_\_\_\_ Signature \_\_\_\_\_ Date: \_\_\_\_\_

## **PROPOSER CERTIFICATIONS**

TO BE EXECUTED BY ALL PROPOSERS AND SUBMITTED WITH PROPOSAL

The undersigned Proposer certifies to the CABRILLO COMMUNITY COLLEGE DISTRICT ("District"), as is set forth in paragraphs 1 through 14 below all under the penalty of perjury that:

### **1. CERTIFICATE OF NON-DISCRIMINATION.**

There will be no discrimination in employment with regard to race, color, religion, gender, sexual orientation, or national origin; that all federal, state, and local laws, regulations, directives, and executive orders regarding non-discrimination in employment will be complied with; and that the principle of equal opportunity in employment will be demonstrated positively and aggressively.

### **2. STATEMENT OF CONVICTIONS.**

No final, unappealable finding of contempt of court by a Federal Court has been issued against Proposer within the past two years because of failure to comply with an order of a Federal Court or to comply with an order of the National Labor Relations Board.

### **3. PREVIOUS DISQUALIFICATIONS.**

Neither the below indicated Proposer nor any of its officers or employees with a proprietary interest in such Proposer has ever been disqualified, removed or otherwise prevented from proposing on, or completing a Federal, State, or local government project because of a violation of law or a safety regulation except as indicated on the separate sheet attached hereto entitled "Previous Disqualifications." If such exceptions are attached, please explain the circumstances.

### **4. CERTIFICATION OF WORKER'S COMPENSATION INSURANCE.**

Proposer is aware of the provisions of Labor Code § 3700 which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Proposer will comply with such provisions before commencing the performance of the Work of this Contract.

### **5. CERTIFICATION OF PREVAILING WAGE RATES AND RECORDS.**

Proposer is aware of the provisions of Labor Code § 1773, which requires the payment of prevailing wages on public projects. Also, that the Design Builder and all of its Subcontractors shall comply with Labor Code § 1776, regarding wage records, and with Labor Code § 1777.5, regarding the employment and training of apprentices. It is the Design Builder's responsibility to ensure compliance by any and all subcontractors performing work under this Contract.

### **6. CERTIFICATION OF APPRENTICESHIP PROGRAM PARTICIPATION**

Proposer is a party to an agreement with a registered apprenticeship program approved by the California Apprenticeship Council that has graduated apprentices in each of the preceding five years (provided that this graduation requirement shall not apply to programs providing apprenticeship training for any craft that has been deemed by the Department of Labor and the Department of Industrial Relations to be an apprenticeable craft, and that attached hereto is a



copy of that agreement, which is true and correct and in full force and effect.

**7. CERTIFICATION OF ACCEPTABLE SAFETY RECORD.**

Proposer's experience modification rate for the most recent five-year period is an average of 1.25 or less, and its average Total Recordable Injury/Illness rate and average lost work rate for the most recent five-year period does not exceed the applicable statistical standards for its business category or if the Proposer is a party to an alternative dispute resolution system as provided for in Labor Code § 3201.5.

**8. CERTIFICATION REGARDING MATERIAL CHANGES.**

**[Please check and/or complete one of the following]**

\_\_\_\_\_ All information Proposer submitted to District in connection with the PreQualification process, including without limitation its Pre-Qualification Questionnaire, and any modifications, amendments or supplements thereto remains true and correct in all material respects as of the date of submitting its Proposal. All financial information Proposer submitted to District in connection with the Pre-Qualification process remains an accurate representation of the financial strength of Proposer and its core Subcontractors and subconsultants.

\_\_\_\_\_ Except as identified on a separate document submitted with Proposer's Proposal entitled "Material Changes to Proposer's Pre-Qualification submittal" all information Proposer submitted to District in connection with the Pre-Qualification process, including without limitation its Pre-Qualification Questionnaire, and any modifications, amendments or supplements thereto remains true and correct in all material respects as of the date of submitting its Proposal. Except as identified and described in the Material Changes to Proposer's Pre-Qualification submittal, all financial information Proposer submitted to District in connection with the Pre-Qualification process remains an accurate representation of the financial strength of Proposer and its core Subcontractors and subconsultants.

**9. CERTIFICATION REGARDING USE AND OWNERSHIP OF INFORMATION.**

All rights to information developed, disclosed or provided in the undersigned's Proposal and the attendant submissions are the property of District, unless Proposer makes specific reference to data that is considered proprietary. To the extent the undersigned Proposer claims any copyright, patent or other property right in any portion of its Proposal, submission of a Proposal constitutes Proposer's express (a) grant and assignment of a perpetual, transferable (in whole or in part), non-exclusive, royalty-free license to District for all such portions, and (b) agreement that District may use any such intellectual property without charge for any lawful purpose in connection with the Project or other District project, including without limitation to the creation of derivative works and issuance of sublicenses.

**10. CERTIFICATION REGARDING LABOR CODE SECTION 6300.**

Proposer does not have serious or willful violations of Part 1 (commencing with § 6300) of Division 5 of the Labor Code, during the past five-year period or Proposer is taking appropriate corrective action to prevent further violations of Part 1 of Division 5 of the Labor Code;

## 11. CERTIFICATION REGARDING HAZARDOUS MATERIALS

- 11.1 Proposer hereby certifies that no Asbestos, or Asbestos-Containing Materials, polychlorinated biphenyl (PCB), or any material listed by the federal or state Environmental Protection Agency or federal or state health agencies as a hazardous material, or any other material defined as being hazardous under federal or state laws, rules, or regulations ("New Hazardous Material"), shall be furnished, installed, or incorporated in any way into the Project or in any tools, devices, clothing, or equipment used to affect any portion of Proposer's work on the Project.
- 11.2 Proposer further certifies that it has instructed its employees with respect to the above-mentioned standards, hazards, risks, and liabilities.
- 11.3 Asbestos and/or asbestos-containing material shall be defined as all items containing but not limited to chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite. Any or all material containing greater than one-tenth of one percent (.1%) asbestos shall be defined as asbestos-containing material.
- 11.4 Any disputes involving the question of whether or not material is New Hazardous Material shall be settled by electron microscopy or other appropriate and recognized testing procedure, at the District's determination. The costs of any such tests shall be paid by Proposer if the material is found to be New Hazardous Material.
- 11.5 All Work or materials found to be New Hazardous Material or Work or material installed with equipment containing "New Hazardous Material" will be immediately rejected and this Work will be removed at Design Builder's expense at no additional cost to the District.

## 12. FALSE CLAIMS ACT CERTIFICATION

Design Builder certifies under penalty of perjury under the laws of the State of California that any and all applications for payment will represent the true and correct statement of the work performed and the materials and supplies purchased. Design Builder understands that it is a violation of the False Claims Act (Government Code § 12650, et. seq.) to knowingly present or cause to be presented a false claim for payment or approval.

Proposer: \_\_\_\_\_  
[Name of Proposer]

By: \_\_\_\_\_  
[Signature]

Name: \_\_\_\_\_  
[Printed Name]

Its: \_\_\_\_\_  
[Title]

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

## BID PROPOSAL

**Project: 26-01 Pedestrian Bridge Renovation Project**

Bidder Name			
Bidder Representative(s)	Name and Title		
	Name and Title		
Bidder Representative(s) Contact Information	Email Address(es)		Phone/Fax
			( ) Telephone
			( ) Fax
Bidder Mailing Address	Address		
	City/State/Zip Code		
California Contractors' License	Number		
	Classification(s) and Expiration Date		

**Total Price Proposal: THIS SECTION NEEDS TO MATCH APPENDIX A – BID FORM WORKSHEET, WHICH SHOULD BE SUBMITTED WITH THIS BID PROPOSAL**

The DBE's Total Price Proposal

1	Design & Permitting Base Scope	\$	+
2	Construction Base Scope	\$	+
3	Scope Alternates	\$	+
4	Recommended Allowances NOT Included in the Above	\$	+
5	Recommended Contingency NOT Included in the Above	\$	+
	<b>Total Proposed Established Design and Construction Budget</b>	<b>\$</b>	

- The undersigned has reviewed the Work outlined in the Contract Documents and fully understands the scope of Work required in this Proposal, understands the construction and project management function(s) is described in the Contract

Documents, and that each proposer who is awarded a contract shall be in fact a prime contractor, not a subcontractor, to the District, and agrees that its Proposal, if accepted by the District, will be the basis for the proposer to enter into a contract with the District in accordance with the intent of the Contract Documents.

2. The undersigned has notified the District in writing of any discrepancies or omissions or of any doubt, questions, or ambiguities about the meaning of any of the Contract Documents, and has contacted the Project Manager before bid date to verify the issuance of any clarifying Addenda.
3. The undersigned agrees to commence work under this Contract on the date established in the Contract Documents and to complete all work within the time specified in the Contract Documents.
4. The liquidated damages clause of the Contract Documents and Agreement is hereby acknowledged.
5. It is understood that the District reserves the right to reject this proposal and that the bid shall remain open to acceptance and is irrevocable for a period of ninety (90) days.
6. Documents Accompanying Bid Proposal. The Bidder has submitted with this Bid Proposal the following:

**All required bid forms and bid security found in Section 8 AND Appendix A Bid Form Worksheet.**

- CERTIFICATION OF RFQP
- RFQP ACKNOWLEDGEMENT AND SIGNATURE FORM
- PROPOSER CERTIFICATIONS
- BID PROPOSAL
- BID BOND
- FINANCIAL DISCLOSURE CERTIFICATE
- VERIFICATION OF CERTIFIED PAYROLL RECORDS SUBMITTAL TO LABORCOMMISSIONER
- GUARANTEE
- SUBCONTRACTORS LIST
- DIR REGISTRATION VERIFICATION
- NON-COLLUSION DECLARATION
- CERTIFICATE OF WORKERS' COMPENSATION INSURANCE
- DRUG-FREE WORKPLACE CERTIFICATION
- CERTIFICATION REGARDING DEBARMENT and SUSPENSION
- CERTIFICATION REGARDING LOBBYING
- CONFLICT OF INTEREST STATEMENT
- STATEMENT OF QUALIFICATIONS
- IRAN CONTRACTING ACT CERTIFICATION (Public Contract Code section 2202-2208)
- RUSSIAN SANCTIONS NO CONTRACTING CERTIFICATE (Executive Order N-6-22 (EO))
- Appendix A – Bid Form Worksheet

The Bidder acknowledges that if this Bid Proposal and the foregoing documents are not fully in compliance with applicable requirements set forth in the Call for Bids, the Instructions

for Bidders and in each of the foregoing documents, the Bid Proposal may be rejected as non-responsive.

1. DVBE Participation Goal.

1.1 DVBE Worksheets. The undersigned Bidder acknowledges that if it submitted one (1) of the three (3) highest scoring Bid Proposals for the Work, at the request of the District, the Bidder is required to submit DVBE Worksheets substantiating the Bidder's achievement of the DVBE Participation Goal or the Bidder's Good Faith Efforts to achieve the DVBE Participation Goal to the District not later than **4:00 PM the third (3<sup>rd</sup>) working day** after being contacted by Purchasing following proposal review and scoring. Failure of a Bidder submitting one (1) of the three (3) highest scoring Bid Proposals to timely submit completed and executed DVBE Worksheets will render the Bidder's Bid Proposal non-responsive and rejected. DVBE Worksheets can be submitted to the following by email; [alstrudl@cabrillo.edu](mailto:alstrudl@cabrillo.edu).

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

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

2. Award of Contract. If the Bidder submitting this Bid Proposal is awarded the Contract, the undersigned will execute and deliver to the District the Agreement in the form attached hereto within Ten (10) calendar days after notification of award of the Contract. Concurrently with delivery of the executed Agreement to the District, the Bidder awarded the Contract shall deliver to the District: (i) Certificates of Insurance evidencing all insurance coverages required under the Contract Documents; (ii) Performance Bond; (iii) Labor and Material Payment Bond; (iv) Certificate of Workers' Compensation Insurance; and (v) Drug-Free Workplace Certificate. Failure of the Bidder awarded the Contract to strictly comply with the preceding may result in the District's rescinding award of the Contract and/or forfeiture of the Bidder's Bid Security. In such event, the District may, in its sole and exclusive discretion elect to award the Contract to the responsible Bidder submitting the next highest scoring Bid Proposal or to reject all Bid Proposals.

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

4. Agreement to Bidding Requirements and Attorney's Fees. The undersigned Bidder acknowledges and confirms its receipt, review and agreement with, the contractual requirements set forth in this Bid Proposal and the Contract Documents. By executing this Bid Proposal hereinbelow, the Bidder expressly acknowledges and agrees that if the Bidder institutes any legal or equitable proceedings in connection with this Bid Proposal and the

District is named as a party thereto, the prevailing party(ies) shall recover from the other party(ies), as costs, all attorneys' fees and costs incurred in connection with any such proceeding, including any appeal arising therefrom. This provision shall constitute a binding attorneys' fee agreement in accordance with and pursuant to California Civil Code §1717 which shall be enforceable against the Bidder and the District. This attorneys' fee provision shall be solely limited to legal or equitable proceedings arising out of a bid protest or the bidding process and shall not extend to or have any force and effect on the Contract for the Work or to modify the terms of the Contract Documents for the Work.

5. Acknowledgment and Confirmation. The undersigned Bidder acknowledges its receipt, review and understanding of the Drawings, the Specifications and other Contract Documents pertaining to the proposed Work. The undersigned Bidder certifies that the Contract Documents are, in its opinion, adequate, feasible and complete for providing, performing and constructing the Work in a sound and suitable manner for the use specified and intended by the Contract Documents. The undersigned Bidder certifies that it has, or has available, all necessary equipment, personnel, materials, facilities and technical and financial ability to complete the Work for the amount bid herein within the Contract Time and in accordance with the Contract Documents.

By:

\_\_\_\_\_  
(Signature of Bidder's Authorized Officer  
or Representative)

\_\_\_\_\_  
(Typed or Printed Name)

Title:

\_\_\_\_\_

## BID BOND

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

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the Principal has submitted the accompanying Bid Proposal to the Obligee for the Work commonly described as **26-01 Pedestrian Bridge Renovation Project**.

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

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

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

In the event suit or other proceeding is brought upon this Bond by the Obligee, the Surety and Principal shall be jointly and severally liable for payment to the Obligee all costs, expenses and fees

**[CONTINUED NEXT PAGE]**

incurred by the Obligee in connection therewith, including without limitation, attorney's fees.

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

_____	
(Bidder/Principal Name)	
By:	_____
	(Signature)
	_____
	(Typed or Printed Name)
Title:	_____
(Attach Notary Public Acknowledgement of Principal's Signature)	

_____	
(Surety Name)	
By:	_____
	(Signature of Attorney-In-Fact for Surety)
	_____
	(Typed or Printed Name of Attorney-In-Fact)
(Attach: (i) Attorney-In-Fact Certification; (ii) Notary Public Acknowledgment of Authorizing Signature on Attorney-Fact Certification; and (iii) Notary Public Acknowledgement of Attorney-In-Fact's Signature.)	

<b>Contact name, address, telephone number and email address for notices to the Surety</b>	
_____	
(Contact Name)	
_____	
(Street Address)	
_____	
(City, State & Zip Code)	
(_____) _____	(_____) _____
Telephone	Fax
_____	
(Email address)	



# FINANCIAL DISCLOSURE CERTIFICATE

(Public Contract Code §3006(b))

## PROJECT: 26-01 Pedestrian Bridge Renovation Project

I, \_\_\_\_\_ certify that I am the \_\_\_\_\_ with \_\_\_\_\_,  
(Name) (Title/Position) (Name of Employer)  
the \_\_\_\_\_ and that I have not offered, given, or agreed to give,  
(architect, engineer, roofing consultant, contractor,  
materials manufacturer, distributor, or vendor)

received, accepted, or agreed to accept, any gift, contribution, or any financial incentive whatsoever to or from any person in connection with the Contract for the roofing work associated with the Project commonly described as **26-01 Pedestrian Bridge Renovation Project**. As used in this Certificate, "person" means any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals. Furthermore,

☐ I, \_\_\_\_\_, \_\_\_\_\_, certify that I do not have,  
(Name) (Name of Employer)  
and throughout the duration of the Contract for this Project, I will not have, any financial relationship in connection with the performance of this Contract with any architect, engineer, roofing consultant, materials manufacturer, distributor, or vendor that is not disclosed below.

☐ I, \_\_\_\_\_, \_\_\_\_\_ have the following financial  
(Name) (Name of Employer)  
relationships with an architect, engineer, roofing consultant, materials manufacturer, distributor, or vendor, or other person in connection with the following roof project contract(s):

Name & Address of Building	Contract Date & Number
Attach additional disclosures, if necessary, to this Certificate	

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

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

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

## VERIFICATION OF CERTIFIED PAYROLL RECORDS SUBMITTAL TO LABOR COMMISSIONER

I am the \_\_\_\_\_ for \_\_\_\_\_ in  
(Superintendent/Project Manager) (Contractor)  
connection with \_\_\_\_\_.  
(Project Name)

1.This Verification is submitted to Cabrillo Community College District concurrently with the Contractor's submittal of an Application for Progress Payment to the District, identified as Application For Progress Payment No. \_\_\_\_\_ ("the Pay Application").

2.The Pay Application requests the District's disbursement of a Progress Payment for the value of Work performed between \_\_\_\_\_, 20\_\_\_\_ and \_\_\_\_\_, 20\_\_\_\_.

3.The Contractor has submitted Certified Payroll Records ("CPR") to the Labor Commissioner for all employees of the Contractor engaged in performance of Work subject to prevailing wage rate requirements for the period of time covered by the Pay Application.

4.All Subcontractors who are entitled to any portion of payment to be disbursed pursuant to the Pay Application have submitted their CPRs to the Labor Commissioner for all of their employees performing Work subject to prevailing wage rate requirements for the period of time covered by the Pay Application.

5.I have reviewed the Contractor's CPRs submitted to the Labor Commissioner. The CPRs submitted to the Labor Commissioner by the Contractor are complete and accurate for the period of time covered by the Pay Application.

6.I have reviewed the Subcontractors' CPRs submitted to the Labor Commissioner. The CPRs submitted to the Labor Commissioner by the Subcontractors are complete and accurate for the period of time covered by the Pay Application.

I declare under penalty of perjury under California law that the foregoing is true and correct. I executed this Certification on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_.  
(City and State)

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

\_\_\_\_\_  
(Typed or Printed Name)

# GUARANTEE

## Project: 26-01 Pedestrian Bridge Renovation Project

The Contractor hereby warrants and guarantees to the District that all work, materials, equipment and workmanship provided, furnished or installed by or on behalf of Contractor in connection with the above referenced Project (the "Work") have been provided, furnished and installed in strict conformity with the Contract Documents for the Work, including without limitation, the Drawings and the Specifications. Contractor further warrants and guarantees that all work, materials, equipment and workmanship as provided, furnished and/or installed are fit for use as specified and fulfill all applicable requirements of the Contract Documents including without limitation, the Drawings and the Specifications. Contractor shall, at its sole cost and expense, repair, correct and/or replace any or all of the work, materials, equipment and/or workmanship of the Work, together with any other items which may be affected by any such repairs, corrections or replacement, that may be unfit for use as specified or defective within a period of one (1) year from the date of the District's Final Acceptance of the Work, ordinary wear and tear and unusual abuse or neglect excepted.

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

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

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

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

### Contractor

\_\_\_\_\_  
(Contractor Name)

\_\_\_\_\_  
(Signature of Contractor's Authorized Employee, Officer  
Or Representative)

\_\_\_\_\_  
(Printed Name and Title)

\_\_\_\_\_  
(Date)

# SUBCONTRACTORS LIST

Project        26-01 Pedestrian Bridge Renovation Project

Name of Bidder: \_\_\_\_\_

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

(A) Licensed Name of Subcontractor	(B) Subcontractor Office, Mill or Shop Address	(C) Subcontractor Trade or Portion of Work	(D) Subcontractor Contractors' License No.	(F) Subcontractor DIR Registration [Submit within 24 hours of Bid Opening per Paragraph 10.1 of Instructions For Bidders]

*Attach additional page(s) as required*

## DIR REGISTRATION VERIFICATION

I am the \_\_\_\_\_ of \_\_\_\_\_ ("Bidder")  
submitting the \_\_\_\_\_

(Title/Position)

(Bidder Name)

accompanying Bid Proposal for the Work described as **26-01 Pedestrian Bridge Renovation Project**.

1. The Bidder is currently registered as a contractor with the Department of Industrial Relations ("DIR").
2. The Bidder's DIR Registration Number is: \_\_\_\_\_. The expiration date of the Bidder's DIR Registration is June 30, 20\_\_\_\_.
3. If the Bidder is awarded the Contract for the Work and the expiration date of the Bidder's DIR Registration will occur: (i) prior to expiration of the Contract Time for the Work; or (ii) prior to the Bidder completing all obligations under the Contract for the Work, the Bidder will take all measures necessary to renew the Bidder's DIR Registration so that there is no lapse in the Bidder's DIR Registration while performing Work under the Contract.
4. The Bidder, if awarded the Contract for the Work will remain a DIR registered contractor for the entire duration of the Work.
5. The Bidder has independently verified that each Subcontractor identified in the Subcontractors List submitted with the Bid Proposal of the Bidder is currently a DIR registered contractor.
6. The Bidder has provided the DIR Registration Number for each subcontractor identified in the Bidder's Subcontractors' List or within twenty-four (24) hours of the opening of Bid Proposals for the Work, the Bidder will provide the District with the DIR Registration Number for each subcontractor identified in the Bidder's Subcontractors List.
7. The Bidder's solicitation of subcontractor bids included notice to prospective subcontractors that: (i) all sub-tier subcontractors must be DIR registered contractors at all times during performance of the Work; and (ii) prospective subcontractors may only solicit sub-bids from and contract with lower-tier subcontractors who are DIR registered contractors.
8. If any of the statements herein are false or omit material facts rendering a statement to be false or misleading, the Bidder's Bid Proposal is subject to rejection for non-responsiveness.

I have personal first hand-knowledge of all of the foregoing. I declare under penalty of perjury under California law that the foregoing is true and correct.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_.  
City and State)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name, typed or printed)

## NON-COLLUSION DECLARATION

### PROJECT: 26-01 Pedestrian Bridge Renovation Project

The undersigned declares:

I,

\_\_\_\_\_

(Insert "Sole Owner", "Partner", "President", "Secretary", or other proper title)

of

\_\_\_\_\_

(Insert name of bidder)

As the party submitting a Bid Proposal for the above-identified Project, the undersigned declares, states and certifies that:

1. The Bid Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization or corporation.

2. The Bid Proposal is genuine and not collusive or sham.

3. The Bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any other bidder or anyone else to put in sham bid, or to refrain from bidding.

4. The Bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price, or that of any other bidder, or to fix any overhead, profit or cost element of the bid price or that of any other bidder, or to secure any advantage against the public body awarding the contract or of anyone interested in the proposed contract.

5. All statements contained in the Bid Proposal and related documents are true.

6. The Bidder has not, directly or indirectly, submitted the bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any person, corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at

\_\_\_\_\_.

(City, County and State)

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

Executed at \_\_\_\_\_ this date

(City and State)

\_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed or Typed Name)

# CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

**Project Name: 26-01 Pedestrian Bridge Renovation Project**

I, \_\_\_\_\_ the \_\_\_\_\_ of  
(Name) (Title)  
\_\_\_\_\_, declare, state and certify  
that:  
(Contractor Name)

1. I am aware that California Labor Code § 3700(a) and (b) provides:

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

- (a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.
6. (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer, or one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees.”

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

\_\_\_\_\_  
(Contractor Name)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed or printed name)

## DRUG-FREE WORKPLACE CERTIFICATION

**Project Name: 26-01 Pedestrian Bridge Renovation Project**

I, \_\_\_\_\_, am the \_\_\_\_\_ of  
(Print Name) (Title)

\_\_\_\_\_  
(Contractor Name)

I declare, state and certify to all of the following:

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



4. Contractor and I acknowledge that Contractor and I are aware of the provisions of California Government Code §8350, et seq. and hereby certify that Contractor and I will adhere to, fulfill, satisfy and discharge all provisions of and obligations under the Drug-Free Workplace Act of 1990.

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

Executed at \_\_\_\_\_ this  
\_\_\_\_ day of \_\_\_\_\_

(City and State)

\_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed or Typed Name)

# **CERTIFICATION REGARDING DEBARMENT and SUSPENSION**

## **INELIGIBILITY AND VOLUNTARY EXCLUSION**

(Lower Tier refers to the agency or contractor receiving Federal funds, as well as any subcontractors that the agency or contractor enters into contract with using those funds)

As required by Executive Order 12549, Debarment and Suspension, as defined at 44 CFR Part 17, County may not enter into contract with any entity that is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by the Federal Government from participating in transactions involving Federal funds. Contractor is required to sign the certification below which specifies that neither Contractor nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by the Federal agency. It also certifies that Contractor will not use, directly or indirectly, any of these funds to employ, award contracts to, engage the services of, or fund any contractor that is debarred, suspended, or ineligible under 44 CFR Part 17.

### **Instruction for Certification**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definition and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this agreement that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction originated may pursue available remedies, including suspension and/or debarment.

***Certification Regarding Debarment, Suspension, Ineligibility a Voluntary Exclusion – Lower Tier Covered Transactions***

1. The prospective lower tier participant certifies, by submission of its proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

---

Contractor Signature

---

Date

## CERTIFICATION REGARDING LOBBYING

### *Certification for Contracts, Grants, Loans, and Cooperative Agreements*

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loan, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

---

Contractor Signature

---

Date

# CONFLICT OF INTEREST STATEMENT

The bidder certifies that:

The bidder has not employed, in connection with services to be performed under the contract, a current or former Cabrillo Community College District employee who was directly or indirectly involved with this procurement;

1. The bidder has not employed, in connection with the services to be performed under the contract, a current or former employee of any firm who was directly or indirectly involved in the preparation of the specifications of this bid or proposal;

2. The bidder did not receive any confidential information in connection with the services to be performed by the contract; and

3. The bidder has not employed as a lobbyist any former Cabrillo Community College District Board Member or employee who left Cabrillo Community College District within the last twelve (12) months.

The bidder further certifies that it has set forth below the names of all current and former Cabrillo Community

College District persons identified including Cabrillo Community College District Board Members, employees it has or intends to employ in connection with the services to be performed under the contract.

Current and/or former Cabrillo Community College District Board Members, alternatives, or employees:

_____	_____
_____	_____
_____	_____

**All bidders must respond YES OR NO to each of the following questions on the following pages to determine whether any actual or perceived conflict of interest may exist. If any response has a “yes” answer, provide accurate and complete information for analysis.**

**[CONTINUED NEXT PAGE]**

**1. Have you or any of your team member(s) or consultant(s) ever been employed by, or done work for, the District? Yes ☐ No ☐**

If your answer is "Yes", please provide the additional information.

- Full-time employee Yes ☐ No ☐ Name(s): \_\_\_\_\_
- Part-time employee Yes ☐ No ☐ Name(s): \_\_\_\_\_
- As-Needed employee Yes ☐ No ☐ Name(s): \_\_\_\_\_
- Consultant Yes ☐ No ☐ Name(s): \_\_\_\_\_
- Or other, please explain Yes ☐ No ☐ Name(s): \_\_\_\_\_
- Dates of Employment/consulting contract: \_\_\_\_\_
- In which department(s) did you work? \_\_\_\_\_
- Who was your supervisor(s)/who did you supervise? \_\_\_\_\_
- Describe your job duties/responsibilities or consulting work for each District position held: \_\_\_\_\_
- Last date of employment or consultant contract: \_\_\_\_\_

**2. Are any Cabrillo Board of Trustees Member(s) or any of their staff presently serving as officers, partners, or shareholders in your company? Yes ☐ No ☐**

If the answer is "Yes", please provide the additional information:

- Name(s) of Board Members: \_\_\_\_\_
- What is his/her position with your company? \_\_\_\_\_
- Percentage of ownership of company shares: \_\_\_\_\_

**3. Are any of your former employees or consultants presently employed by the District?**

**Yes ☐ No ☐**

If the answer is "Yes", please provide the additional information:

- Name(s) of each former employee: \_\_\_\_\_
- All titles of each former employee: \_\_\_\_\_
- Description of job duties: \_\_\_\_\_
- Dates of employment or date consultant worked for you: \_\_\_\_\_

**4. In the preceding twelve months, has the bidder made, arranged or delivered any gift(s) to any Cabrillo Community College District Board Member?**

**Yes ☐ No ☐**

If the answer is "Yes", please provide the additional information:

**[CONTINUED NEXT PAGE]**

- Name of Board Member receiving the gift: \_\_\_\_\_
- Value of the gift: \_\_\_\_\_
- Description of the gift: \_\_\_\_\_
- Date the gift was delivered: \_\_\_\_\_

**5. In the preceding forty-eight (48) months, has your company made, arranged or delivered any campaign contributions to any Cabrillo Board Member?**

**Yes** ☐ **No** ☐

If the answer is "Yes", please provide the additional information:

- Name of Board Member receiving contribution: \_\_\_\_\_
- Amount of the contribution: \_\_\_\_\_
- Description of form of contribution (i.e. cash, check): \_\_\_\_\_
- Date the contribution was delivered: \_\_\_\_\_
- To whom was the contribution delivered: \_\_\_\_\_

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

Executed on \_\_\_\_\_, 202\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_

(Date)

(City)

(State)

\_\_\_\_\_  
(Typewritten or Printed (Name))

\_\_\_\_\_  
(Signature of Authorized Official)

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

## STATEMENT OF QUALIFICATIONS

### 1. Bidder Information.

#### 1.1. Contact Information

Mailing Address	_____ Street Address _____ City, State, Zip Code
Physical Location (if different from mailing address)	_____ Street Address _____ City, State, Zip Code
Telephone/Fax	(_____) _____ Telephone (_____) _____ Fax

#### 1.2. Bidder Contacts.

Name	_____
Contact Information	Telephone: (_____) _____ Fax (_____) _____ Email _____

#### 1.3. California Contractors' License.

License Number(s)	_____
License Classification(s)	_____
Responsible Managing Employee; Responsible Managing Officer	_____
Expiration Date(s)	_____

#### 1.4. Bidder Form of Entity.

- ☐ Corporation
- ☐ General Partnership
- ☐ Limited Partnership
- ☐ Limited Liability Company
- ☐ Limited Liability Partnership
- ☐ Joint Venture
- ☐ Sole Proprietorship

**[CONTINUED NEXT PAGE]**



**Revenue.** Complete the following for the Bidder's construction operations; if any portion of the revenue disclosed is generated by non-construction operations or activities, the Bidder must identify the portion of revenue attributed to construction operations and generally describe business activities of the Bidder that generates non-construction operations related revenue.

<b>Calendar Year/ Fiscal Year</b>	<b>Annual Gross Revenue</b>	<b>Annual Net Revenue</b>	<b>Average Dollar Value of all Contracts</b>	<b>Dollar Value of Largest Contract</b>
2022 (2021/2022)				
2023 (2022/2023)				
2024 (2023/2024)				

2. **Industry References.**

DSA Project Inspectors			
Firm Name	Address	Telephone No.	Contact Name
Owners (K-12 school districts or community colleges preferred)			
Owner Name	Address	Telephone No.	Contact Name
Architects (K-12 or Community College Projects)			
Architect Firm Name & Architect Firm Contact Name	Address	Telephone No.	Contact Name

[CONTINUED NEXT PAGE]

3. **Insurance.**

Commercial General Liability Insurance	Insurer: _____ Policy No. _____ Broker _____
Commercial General Liability Insurance Broker	(Contact Name) _____ _____ (Street Address) _____ _____ (City, State & Zip Code) _____ _____ (_____) _____ (_____) _____ Telephone Fax _____ (Email address) _____
Bid, Performance and Labor & Materials Payment Bond Surety	Surety: _____ Surety Broker _____ _____ (Surety Broker Contact Name) _____ _____ (Street Address) _____ _____ (City, State & Zip Code) _____ _____ (_____) _____ (_____) _____ Telephone Fax _____ (Email address) _____
Workers Compensation Insurance	Insurer: _____ Policy No. _____ Broker _____
Workers Compensation Insurance Broker	(Contact Name) _____ _____ (Street Address) _____ _____ (City, State & Zip Code) _____ _____ (_____) _____ (_____) _____ Telephone Fax _____ (Email address) _____

4. **Essential Requirements**. A Bidder will not be deemed qualified if the answer to any of the following questions results in a “not qualified” response and the Bid Proposal submitted by such a Bidder will be rejected for failure of the Bidder to meet minimum qualifications for the Work.
- 4.1. Bidder possesses a valid and currently in good standing California Contractors’ license for the Classification(s) of Contractors’ License required by the Call for Bids.
- \_\_\_ Yes      \_\_\_ No (Not Qualified)
- 4.2. Bidder is currently a DIR Registered Contractor?
- \_\_\_ Yes      \_\_\_ No (Not Qualified)
- 4.3. Bidder has a current commercial general liability insurance policy with coverage limits of at least \$2,000,000 per occurrence and \$4,000,000 in the aggregate.
- \_\_\_ Yes      \_\_\_ No (Not Qualified)
- 4.4. Bidder has a current workers’ compensation insurance policy as required by the Labor Code or is legally self-insured pursuant to Labor Code §3700.
- \_\_\_ Yes      \_\_\_ No (Not Qualified)  
\_\_\_ Bidder is exempt from this requirement, because it has no employees
- 4.5. The Bidder is ineligible or debarred from submitting Bid Proposals for public works projects or public works contracts pursuant Labor Code §1777.1 or Labor Code §1777.7.
- \_\_\_ Yes (Not Qualified)      \_\_\_ No
- 4.6. A public agency, within the past five (5) years, has conducted proceedings that resulted in a finding that the Bidder, or any predecessor to the Bidder, is not a “responsible” bidder for a public works project or a public works contract.
- \_\_\_ Yes (Not Qualified)      \_\_\_ No
- 4.7. During the last five (5) years, the Bidder or any predecessor to the Bidder, or any of the equity owners of the Bidder has been convicted of a federal or state crime involving fraud, theft, or any other act of dishonesty?
- \_\_\_ Yes (Not Qualified)      \_\_\_ No
- 4.8. During the past five (5) years a Surety has completed any project or the Bidder’s obligations under a construction contract.
- \_\_\_ Yes (Not Qualified)      \_\_\_ No
- 4.9. During the past five (5) years the Bidder has been declared in default under any construction contract to which the Bidder was a party.
- \_\_\_ Yes (Not Qualified)      \_\_\_ No
5. **Questionnaire**. If the response to any of the following questions is a “yes” complete and accurate details must be attached; failure to attach such details will render the Bid Proposal of the Bidder to be non-responsive and rejected. Responses to the following will be used to

evaluate Bidder responsibility.

- 5.1. Have legal, arbitration or administrative proceedings been brought construction project owner against the Bidder or any of the principals, officers or equity owners of the Bidder within the past ten (10) years which arise out of or are related to any construction project?

☐ Yes ☐ No

If "yes," on a separate attachment, include the following details: (i) name of party initiating proceedings against the Bidder; (ii) contact name, address, phone and email address of party initiating proceedings; (iii) circumstances resulting in the initiation of proceedings; (iv) amount or other relief demanded; and (v) outcome of proceedings.

- 5.2. Has the Bidder brought any legal, arbitration or administrative proceedings against the owner of a construction project within the past ten (10) years which arise out of or are related to the construction project, excluding claims for personal injury?

☐ Yes ☐ No

If "yes," on a separate attachment, include the following details: (i) name of owner; (ii) contact name, address, phone and email address of contact person for owner; (iii) circumstances resulting in the initiation of proceedings; (iv) amount or other relief demand; and (v) outcome of proceedings.

- 5.3. Has the Bidder brought any legal, arbitration or administrative proceedings against the architect or design professional for a construction project within the past ten (10) years which arise out of or are related to the construction project?

☐ Yes ☐ No

If "yes," on a separate attachment, include the following details: (i) name of architect; (ii) contact name, address, phone and email address of contact person for architect or design professional; (iii) circumstances resulting in the initiation of proceedings; (iv) amount or other relief demand; and (v) outcome of proceedings.

- 5.4. Has the Bidder brought any legal, arbitration or administrative proceedings against the construction/project manager for a construction project within the past ten (10) years which arise out of or are related to the construction project?

☐ Yes ☐ No

If "yes," on a separate attachment, include the following details: (i) name of construction/project manager; (ii) contact name, address, phone and email address of contact person for construction/project manager; (iii) circumstances resulting in the initiation of proceedings; (iv) amount or other relief demand; and (v) outcome of proceedings.

- 5.5. At any time during the past five (5) years, has any surety company made any payments on behalf the Bidder to satisfy any claims made against a bid, performance or payment bond issued to the Bidder, in connection with a construction project, either public or private?

☐ Yes ☐ No

If "yes," on a separate attachment set forth: (i) the amount of each such claim; (ii) the name and telephone number of the claimant; (iii) the date of the claim; (iv) the grounds for the claim; (v) the present status of the claim; (vi) the date of resolution of such claim if resolved; (vii) the method by which such was resolved if resolved; (viii) the nature of the resolution;

and (ix) the amount, if any, at which the claim was resolved.

- 5.6. During the past five (5) years, has a surety declined to issue a surety bond for your organization in connection with a construction project?

☐ Yes ☐ No

If "yes" on a separate attachment provide details of the denial of bond coverage and the name of the company or companies which denied coverage.

- 5.7. At any time during the past five (5) years, has any surety company made any payments on behalf the Bidder to satisfy any claims made against a bid, performance or payment bond issued to the Bidder, in connection with a construction project, either public or private?

☐ Yes ☐ No

If "yes," on a separate attachment set forth: (i) the amount of each such claim; (ii) the name and telephone number of the claimant; (iii) the date of the claim; (iv) the grounds for the claim; (v) the present status of the claim; (vi) the date of resolution of such claim if resolved; (vii) the method by which such was resolved if resolved; (viii) the nature of the resolution; and (ix) the amount, if any, at which the claim was resolved.

- 5.8. In the last five years has any insurance carrier, for any policy of insurance, refused to renew the insurance policy for your firm?

☐ Yes ☐ No

- 5.9. Within the past five (5) years, has the Bidder been required to pay either back wages or penalties for the Bidder's failure to comply with California prevailing wage laws? This question refers only to the Bidder's violation of prevailing wage laws, not to violations of the prevailing wage laws by a subcontractor.

☐ Yes ☐ No

If "yes," on a separate attachment: (i) describe each instance of prevailing wage rate violation; (ii) identify the project on which a prevailing wage rate violation occurred; (iii) the public agency owner of the project; (iv) the number of employees affected by each prevailing wage rate violation; and (v) amount of back wages and penalties the Bidder was required to pay.

- 5.10. Within the past five (5) years, has there been more than one occasion in which the Bidder was penalized or required to pay back wages for failure to comply with the Federal Davis-Bacon prevailing wage requirements?

☐ Yes ☐ No

If "yes," on a separate attachment: (i) describe each instance of prevailing wage rate violation; (ii) identify the project on which a prevailing wage rate violation occurred; (iii) the number of employees affected by each prevailing wage rate violation; and (iv) amount of back wages and penalties the Bidder was required to pay.

- 5.11. Within the past five (5) years, has the Bidder been found to have violated any provision of California apprenticeship laws or regulations, or the laws pertaining to use of apprentices on public works projects?

☐ Yes ☐ No

If “yes,” provide the date(s) of such findings, and attach copies of the Apprenticeship Counsel’s final decision(s).

5.12. The Bidder’s Worker’s Compensation Insurance current EMR is more than 1.25.

☐ Yes ☐ No

If “yes” on a separate attachment provide details of why the EMR is more than 1.25 and what the Bidder is doing to correct any issues.

5.13. The Bidder’s Worker’s Compensation Insurance average EMR over the past five (5) years is more than 1.25.

☐ Yes ☐ No

If “yes” on a separate attachment provide details of why the EMR is more than 1.25 and what the Bidder is doing to correct any issues and how the EMR has improved over the past five (5) years.

5.14. Similar Completed Projects. Provide the following for three (3) projects the Bidder has completed within the past five (5) years similar in size, scope, function and construction value as the Work:

Project Name	
Project Owner; Contact Information	
Function/Use of Project	
Original Contract Duration	
Actual Project Completion Duration	
Original Contract Price	
Final Adjusted Contract Price	

5.15. Completed Projects. On a separate attachment, identify 5 projects the Bidder has completed within the last three (3) years, including the following information. (Do not include projects identified in 7.1.):

Project Name	
Project Owner; Contact Information	
Architect Name and Contact Information	
Original Contract Duration	

Actual Project Completion Duration	
Original Contract Price	
Final Adjusted Contract Price	

5.16. Projects In Progress. On a separate attachment, identify ***all projects*** the Bidder ***currently*** has in progress, including the following information:

Project Name	
Project Owner; Contact Information	
Architect Name and Contact Information	
Original Contract Duration	
Projected Completion Duration	
Original Contract Price	
Current Adjusted Contract Price	

Accuracy and Authority. The undersigned is duly authorized to execute this Statement of Qualifications under penalty of perjury on behalf of the above-identified Bidder. The undersigned warrants and represents that he/she has personal knowledge of each of the responses to this Statement of Qualifications and/or that he/she has conducted all necessary and appropriate inquiries to determine the truth, completeness and accuracy of responses to this Statement of Qualifications. The undersigned declares and certifies that the responses to this Statement of Qualifications are complete and accurate; there are no omissions of material fact or information that render any response to be false or misleading and there are no misstatements of fact in any of the responses. The above-identified Bidder acknowledges and agrees that if the District determines that any response herein is false or misleading or contains misstatements of fact so as to be false or misleading, the Bidder's Bid Proposal may be rejected by the District for non-responsiveness.

Executed this \_\_\_\_ day of \_\_\_\_\_ 20\_\_ at \_\_\_\_\_.  
(City and State)

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

By: \_\_\_\_\_  
(Signature of Bidder's Authorized Officer or Representative)

\_\_\_\_\_  
(Typed or Printed Name)

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

## IRAN CONTRACTING ACT CERTIFICATION (Public Contract Code section 2202-2208)

Prior to bidding on or submitting a proposal for a contract for goods or services of \$1,000,000 or more, the bidder/proposer must submit this certification pursuant to Public Contract Code section 2204.

The bidder/proposer must complete **ONLY ONE** of the following two options. To complete OPTION 1, check the corresponding box **and** complete the certification below. To complete OPTION 2, check the corresponding box, complete the certification below, and attach documentation demonstrating the exemption approval.

☐ **OPTION 1.** Bidder/Proposer 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 we are 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.

☐ **OPTION 2.** Bidder/Proposer has received a written exemption from the certification requirement pursuant to Public Contract Code sections 2203(c) and (d). *A copy of the written documentation demonstrating the exemption approval is included with our bid/proposal.*

### **CERTIFICATION:**

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY, that I am duly authorized to legally bind the bidder/proposer to the OPTION selected above. This certification is made under the laws of the State of California.

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

END OF DOCUMENT



## **RUSSIAN SANCTIONS NO CONTRACTING CERTIFICATE**

### **(Executive Order N-6-22 (EO))**

I declare under honor that there is no Russian involvement in the contract of the company I represent exceeding the limits set in Article 5k of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilizing the situation in Ukraine. In particular I declare that:

- (a) the contractor I represent (and none of the companies which are members of our consortium) is not a Russian national, or a natural or legal person, entity or body established in Russia;
- (b) the contractor I represent (and none of the companies which are members of our consortium) is not a legal person, entity or body whose proprietary rights are directly or indirectly owned for more than 50 % by an entity referred to in point (a) of this paragraph;
- (c) neither I nor the company represent is a natural or legal person, entity or body act on behalf or at the direction of an entity referred to in point (a) or (b) above,
- (d) there is no participation of over 10 % of the contract value of subcontractors, suppliers or entities whose capacities the contractor I represent relies on by entities listed in points (a) to (c).
- (e) the contractor I represent (and the companies which are members of our consortium or any of their subcontractors) is not a target of EU sanctions, such as those against the persons listed in Annex I to Council Regulation (EU) No 269/20145 , nor is owned or controlled by listed persons. The criterion to be taken into account when assessing whether a legal person or entity is owned by another person or entity is the possession of more than 50% of the proprietary rights of an entity or having majority interest in it.

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

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

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

## DVBE ATTACHMENT A; Bidder's DVBE Statement

1. General Information.
  - 1.1. Bidder Name:\_\_\_\_\_.
  - 1.2. Total Amount of Bidder's Bid Proposal (inclusive of additive Alternate Bid Items, if any):  
\_\_\_\_\_ Dollars (\$\_\_\_\_\_).
2. Bidder's Compliance With DVBE Participation Program. (Check the appropriate statement).
  - ☐ The Bidder has achieved or exceeded the DVBE Participation Goal and all DVBEs counting towards the DVBE Participation Goal are set forth and identified in Attachments C-1, C-2 and C-3.
  - ☐ The Bidder did not achieve the Participation Goal for DVBEs, but has made the required Good Faith Efforts to secure the participation of DVBEs in accordance with guidelines established in the District's DVBE Participation Goal Program.
3. DVBE Participation Achieved. The Bidder achieved a DVBE Participation Goal of \_\_\_\_% of the amount of the Bidder's Bid Proposal.
4. Submittal of Documentation. Concurrently with the submittal of this Bidder's DVBE Statement, the Bidder has also submitted duly completed, and executed if required, forms of Attachments B, C, D, E, F, G and H of these DVBE Participation Worksheets to the extent required by the District's DVBE Participation Goal Program Policy. All of the information provided by the Bidder in its responses to Attachments B, C, E, F, G and H are true, correct and accurate; there are no omissions in the responses of the Bidder to the foregoing Attachments which render any of the Bidder's statements or information provided therein to be false or misleading. Incomplete, inaccurate, false, misleading responses or omissions rendering responses to be false or misleading will render the Bid Proposal non-responsive and rejected.
5. Certification of DVBE Status. The Bidder certifies, warrants and represents to the District that the Bidder has exercised due diligence in ascertaining the status of each proposed DVBE identified in Attachment C as a DVBE in compliance with the applicable provisions of the District's DVBE Participation Program Policy and applicable law. By executing and submitting this Bidder's DVBE Statement, the Bidder represents to the District that each DVBE identified in Attachment C is duly and properly certified as a DVBE in conformity with the District's DVBE Program Goal Policy and applicable law. The Bidder acknowledges that in the event that the District shall reasonably determine that any DVBE identified in the Bidder's responses to Attachment C is not a duly and properly certified DVBE, the Bid Proposal may be rejected by the District as being non-responsive. For each DVBE identified in Attachment C, the Bidder has submitted forms of DVBE Certification (Attachment D) duly completed and executed by each such DVBE.
6. Authority to Execute. The individual executing this Bidder's DVBE Statement on behalf of the Bidder warrants and represents to the District that she/he is duly authorized to execute this Bidder's DVBE Statement on behalf of the Bidder.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_.  
(City and State)

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

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name of Individual Executing Statement)  
[Printed or Typed]

**DVBE ATTACHMENT B; Subcontractible Items Of Work**

**Bidder Name:** \_\_\_\_\_

**Project Name:** 26-01 Pedestrian Bridge Renovation Project

List each item of Work, including supplies, equipment, services, and trucking made available to DVBEs. Also list the approximate dollar value and approximate percentage of the Bidder’s total Bid Proposal amount that each item of Work identified below represents. (Photocopy if additional sheets are needed.)

Item or Description of Work	Approximate Dollar Value	Approximate Percentage of Total Amount of Bid Proposal

## **DVBE ATTACHMENT C; Participation Summary**

### **INSTRUCTIONS FOR COMPLETION OF DVBE ATTACHMENT C**

1. Submittal of Attachment C. The Bidder shall complete and submit Attachment C regardless of whether or not such Bidder has achieved some or all of the Participation Goal. Failure of the Bidder to submit completed form of Attachment C as and when required by the DVBE Participation Goal Program Policy will result in the District rejecting the Bid Proposal of such Bidder as being non-responsive.
2. Firm Name. State name of the enterprise proposed by the Bidder for meeting DVBE Participation Goal; the full name of each enterprise identified must be listed and if the enterprise conducts business under a fictitious business name, the same shall be stated. If the Bidder is a certified DVBE and wishes to be counted in the category certified for purposes of meeting the Participation Goal, the Bidder must be identified in Attachment C.
3. Item or Description of Work. Identify, with specificity, the item or portion of the Work of the Contract to be provided or performed by the proposed DVBEs identified.
4. Contracting With. Identify the name of the company or firm with whom the proposed DVBE will be contracting with in connection with the Work of the Contract.
5. Tier. Identify the tier of contracting for each proposed DVBE with the following designations:
  - 0 = Bidder.
  - 1 = First Tier Subcontractor or Material Supplier under a direct contract with the Bidder.
  - 2 = Second Tier Subcontractor or Material Supplier under a direct contract with a First Tier Subcontractor or Material Supplier, regardless of whether or not the First Tier Subcontractor or Material Supplier is a DVBE.
  - 3 = Third Tier Subcontractor or Material Supplier under a direct contract with a Second Tier Subcontractor or Material Supplier, regardless of whether or not the Second Tier Subcontractor or Material Supplier is a DVBE.
6. Claimed Value. Set forth the total dollar value of the Work to be provided or performed by the proposed DVBE. The dollar value set forth in the responses to Attachments C must conform to the applicable provisions of the District's DVBE Participation Program Goal Policy.
7. Certification. For each DVBE identified in Attachment C, the Bidder shall indicate in this column whether such DVBE is self-certified or certified by a public agency as a DVBE. The Bidder's completion of this portion of Attachment C with respect to each DVBE identified therein is in addition to and not in lieu of the Bidder's submittal of duly completed and executed forms of DVBE Certification (Attachment D) from each proposed DVBE identified in Attachment C.

**[CONTINUED NEXT PAGE]**

**DVBE PARTICIPATION SUMMARY  
ATTACHMENT C**

**Bidder Name:** \_\_\_\_\_

**Project Name:**      **26-01 Pedestrian Bridge Renovation Project**

<b>Firm Name</b>	<b>Item or Description of Work</b>	<b>Contracting with</b>	<b>Tier</b>	<b>Claimed Value</b>	<b>Certification</b>

## **DVBE ATTACHMENT D; DVBE Certification**

### **INSTRUCTIONS FOR COMPLETION OF ATTACHMENT D**

1. DVBEs Completion of Attachment D. The Bidder submitting a Bid Proposal to the District shall make available to each DVBE identified by the Bidder in its responses to Attachment C a copy of the DVBE Certification (Attachment D) for completion and execution by each such DVBE.
2. Bidder Submittal of Completed Attachment D. The Bidder required by the DVBE Participation Goal Program Policy to submit documentation of compliance with the DVBE Participation Goal Program shall submit duly completed and executed forms of the DVBE Certification of each DVBE identified in the Bidder's responses to Attachment C. The failure or refusal, for any reason, of the Bidder to submit such completed and executed DVBE Certification(s) of each DVBE identified in the Bidder's responses to Attachment C as and when required by the DVBE Participation Goal Program Policy will result in the District rejecting the Bid Proposal of such Bidder as being non-responsive.
3. Complete and Accurate Attachment D. Each DVBE identified in the Bidder's responses to Attachment C shall complete and execute, under penalty of perjury, a DVBE Certification. Each such DVBE and the Bidder acknowledge that if the District reasonably determines that any response in the DVBE Certification(s) submitted to the District which are incomplete, false or misleading or which omit facts rendering responses therein to be false or misleading, the District may reject the Bid Proposal of such Bidder as being non-responsive.

**[CONTINUED NEXT PAGE]**

**DVBE CERTIFICATION  
ATTACHMENT D**

1. DVBE Information.

DVBE Firm Name	
DVBE Address	
DVBE Firm Contact Name	
DVBE Firm Contact Phone, Fax and Email	
Services or Goods Generally Provided by DVBE	
Services or Goods to be Provided by DVBE to Bidder	

2. Certification of DVBE Status. The above-identified DVBE is certified as such by California Department of General Services Office of Small Business and Disabled Veteran Business Enterprise Services and a true and correct copy of such certification is attached hereto. The Bidder and the above-identified DVBE acknowledge that if the certification of the above-identified DVBE's status is not attached, the above-identified DVBE will not be counted or considered for purposes of the Bidder's achievement of the Participation Goal.
3. Authority to Execute. The undersigned individual executing this DVBE Certification warrants and represents to the District that she/he has made diligent inquiry to ascertain that all of the information provided herein is true, correct and complete, that there are no omissions of fact in any of the responses herein which would render such responses false or misleading and that she/he is duly authorized to execute this DVBE Certification on behalf of the above-identified DVBE.

Executed \_\_\_\_\_ this \_\_\_\_\_ day \_\_\_\_\_ of \_\_\_\_\_,  
20\_\_\_\_ at \_\_\_\_\_  
(City and State)

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

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name of Individual Executing DVBE Certification)  
[Printed or Typed]



## **DVBE ATTACHMENT E; DVBE's Contacted**

### **INSTRUCTIONS FOR COMPLETION OF ATTACHMENT E**

For each Subcontractible Item of the Work identified in the Bidder's response to Attachment B (Subcontractible Items of the Work), provide the following:

1. List all the DVBEs you solicited sub-bids from and how you obtained each firm's name.
2. Indicate method and date of solicitation (all written solicitations must conform to Public Contract Code § 4108 with respect to bonding requirements, if any).
3. List the method and date of follow-up and the person you contacted.
4. **USE ONE SHEET FOR EACH SUBCONTRACTIBLE ITEM OF WORK IDENTIFIED IN ATTACHMENT B.** (Photocopy as many sheets of this Attachment E as necessary.)

**Bidder**

**Name:**

\_\_\_\_\_

**Project Name:**        **26-01 Pedestrian Bridge Renovation Project**

<b>DVBE Solicited &amp; Source of the Firm's Name</b>	<b>Method &amp; Date of Solicitation</b>	<b>Follow-up Method, Date &amp; Person Contacted</b>

## DVBE ATTACHMENT F; DVBE Sub-bids Not Accepted by Bidder

### INSTRUCTIONS FOR COMPLETION OF ATTACHMENT F

List all DVBEs who submitted bids or quotations to the Bidder which were not accepted. Indicate if the sub-Bidder is a DVBE, identify the item of Work or materials, list the Subcontractor/Material Supplier the Bidder intends to use in lieu of the DVBE submitting a sub-bid for the identified portion of the Work, and the amount of such other sub-Bidder's bid. Give the reason the Bidder did not use the DVBE firm. **(Photocopy if additional sheets are needed.)**

**Bidder Name:**

\_\_\_\_\_

**Project Name:**        **26-01 Pedestrian Bridge Renovation Project**

DVBEs Who Submitted Bids	Item of Work or Materials	Subcontractor/ Material Supplier to be Used	Reason DVBE Bid Not Accepted

## DVBE ATTACHMENT G; Verification of DVBE Solicitations

**Bidder Name:** \_\_\_\_\_

**Project Name:**        **26-01 Pedestrian Bridge Renovation Project**

Identify ALL DVBE firms contacted by the Bidder for purposes of meeting the DVBE Participation Goal. If a DVBE was solicited in writing, the Bidder shall attach hereto a true and correct copy of such written solicitation; failure of the Bidder to do so may result in the District's rejection of the Bidder's Bid Proposal as being non-responsive.

<b>Name of DVBE Firm Solicited</b>	<b>Manner of Solicitation, i.e., written, personal, telephonic, etc.</b>	<b>Date of Solicitation</b>	<b>General Description of DVBE Response to Solicitation</b>

## DVBE ATTACHMENT H; Agency Contacts

**Bidder Name:** \_\_\_\_\_

**Project Name:**       **26-01 Pedestrian Bridge Renovation Project**

Identify all local, state or federal public agencies and DVBE organizations contacted by the Bidder for the purpose of identifying potential DVBEs to meet the Participation Goal. If the Bidder received any list or other writing identifying potential DVBEs from any agency or organization set forth in this Attachment H, the Bidder shall attach hereto a true and correct copy of each such list or other writing; failure of the Bidder to so attach such list(s) or other writing(s) may result in the District rejecting the Bid Proposal of such Bidder as being non-responsive. (Photocopy if additional sheets are necessary.)

### LOCAL, STATE OR FEDERAL AGENCIES.

<b>Agency Name &amp; Address</b>	<b>Date of Bidder's Contact with Agency</b>	<b>Name &amp; Telephone Number of Individual Contacted</b>	<b>DVBE List Received by Bidder</b> (Indicate Yes or No & if Yes, the date of Bidder's receipt of list)

### DVBE ORGANIZATIONS CONTACTED.

<b>Organization Name &amp; Address</b>	<b>Date of Bidder's Contact with Organization</b>	<b>Name &amp; Telephone Number of Individual Contacted</b>	<b>DVBE List Received by Bidder</b> (Indicate Yes or No & if Yes, the date of Bidder's receipt of list)

## 9. OTHER FORMS

## PRE-BID INQUIRY FORM

**Project:** 26-01 Pedestrian Bridge Renovation Project

Bidder inquiries shall be responded to only if: (i) submitted on this Pre-Bid Inquiry Form; (ii) this completed Pre-Bid Inquiry Form is submitted prior to the latest date/time for submittal of pre-bid inquiries as set forth in the Call for Bids; and (iii) this completed Pre-Bid Inquiry Form is submitted to the person or entity noted in the Call for Bids. (This Pre-Bid Inquiry Form is available electronically upon request.)

**Pre-Bid Inquiries due: 11/17/2025 by 5:00PM PST (Pacific Standard Time)**

**Email to: [alstrudl@cabrillo.edu](mailto:alstrudl@cabrillo.edu)**

Item No.	Item Description	Drawing Sheet No. & Detail No. Reference	Specifications Section and Paragraph No. Reference

**Submitted By:**

\_\_\_\_\_  
(Bidder Name)

\_\_\_\_\_  
(Signature of Bidder's Authorized Employee, Officer or Representative)

**Submittal Date:** \_\_\_\_\_

**Bidder Contact Information:**

\_\_\_\_\_  
(Bidder Contact Name)

\_\_\_\_\_  
(Phone and Fax)

\_\_\_\_\_  
(Email Address)

## SITE ACCEPTANCE FORM – Attachment A to Special Conditions

**PROJECT: 26-01 Pedestrian Bridge Renovation Project**

This is to certify that we have inspected the Project Site and that we hereby agree that it conforms to the conditions represented as existing in the Contract Documents at the start of the Contract time, except: \_\_\_\_\_

[illegible]

Attachments (Photos, Videotape, etc.): \_\_\_\_\_

---

---

---

---

---

---

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

Contractor Signature \_\_\_\_\_

Accepted on behalf of District by:

Date: \_\_\_\_\_, 20\_\_.

---

Project Manager Name

---

Project Manager Signature

## **CONTRACTOR CERTIFICATION OF SUBCONTRACTOR CLAIM – Attachment B to Special Conditions**

**PROJECT: 26-01 Pedestrian Bridge Renovation Project**

Pursuant to Article 16.11.2.7.2 of the General Conditions, I certify as follows:

1. The portion of the Claim made on behalf of the Subcontractor to which this certification is attached is made in good faith.
2. I have reviewed the attached Subcontractor Claim and certify that to the best of my knowledge and belief, the amounts claimed for costs, expenses and damages incurred and supporting data submitted to CM/Contractor by the Subcontractor on behalf of any and all subcontractors or suppliers to Subcontractor, of all tiers, or any person or entity under Subcontractor, are accurate and complete. Subcontractor will not submit, after the date of execution of this certification, any such supporting data, including any such new amounts that, to the best of my knowledge and belief, that are not accurate and complete.
3. The amount requested accurately reflects the amount for which the Subcontractor believes the District is liable to Contractor.
4. The Subcontractor Claim does not incorporate any request constituting a False Claim under applicable law, including the California False Claim Act (Government Code §12650 et seq).
5. I am duly authorized to certify the Subcontractor Claim on behalf of the Contractor.

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

Executed at: \_\_\_\_\_, in the State of California, on \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

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

\_\_\_\_\_  
(Name of Contractor)



**DESIGN-BUILD PROJECT**

**PEDESTRIAN BRIDGE  
RENOVATION PROJECT**

**BY AND BETWEEN**

**CABRILLO COMMUNITY COLLEGE DISTRICT**

**AND**

**XXXXXXXXXXXXXXXXXXXX**

Dated XX/XX/20XX

**THIS AGREEMENT** is entered into [Click here to enter a date.](#) in the City of Aptos, County of Santa Cruz, State of California, by and between **CABRILLO COMMUNITY COLLEGE DISTRICT**, a California Community College District hereinafter "District" and \_\_\_\_\_ ("Contractor").

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

1. The Work. Within the Contract Time and for the Contract Price, subject to adjustments thereto pursuant to the Contract Documents, the Contractor shall perform and provide all necessary labor, materials, tools, equipment, utilities, services and transportation to complete in a workmanlike manner all of the Work required in connection with the work of improvement commonly referred to as \_\_\_\_\_ **[BID NAME]**. Contractor shall complete all Work covered by the Contract Documents, including without limitation, the Drawings and Specifications and other Contract Documents enumerated in Article 5 below, along with all modifications and addenda thereto issued in accordance with the Contract Documents.

2. Contract Time. The Contractor shall achieve Substantial Completion the Work within the Contract Time which is \_\_\_\_\_ calendar days after the date established in the Notice to Proceed issued by or on behalf of the District for commencement of the Work.

3. Contract Price. The District shall pay the Contractor as full consideration for the Contractor's full, complete and faithful performance of the Contractor's obligations under the Contract Documents, subject to adjustments of the Contract Price in accordance with the Contract Documents, the Contract Price of \_\_\_\_\_. Dollars (\$\_\_\_\_\_). The District's payment of the Contract Price shall be in accordance with the Contract Documents. The Contract Price is based upon the Contractor's Base Bid Proposal, authorized allowances and the following Alternate Bid Items, if any:

4. Allowances. The Contractor and District acknowledge that the Contract Price set forth above includes an Allowance Amount in the aggregate amount of \_\_\_\_\_ n/a Dollars (\$\_\_\_\_\_), which is allocated as follows:

Amount	Description
n/a	n/a

Although included in the Contract Price, Allowances belong solely to the District and shall be expended only upon written direction by the District, to be granted or denied in its sole discretion. Contractor shall submit cost data and other descriptive data to establish basis used by Contractor for determining costs associated with designated work attributable to each Allowance. Any Allowance amount not fully consumed shall belong solely to the District and shall be refunded to the District by a deductive change order. Should the Contractor's actual costs exceed the specified Allowance, the Contractor's Contract Price will be adjusted by change order in accordance with Contract General Conditions, Article 9.5 of the Terms and Conditions.

5. Unit Price Items. If the Bid Proposal for the Work includes a proposal(s) for Unit Price Item(s), during Contractor's performance of the Work, the District may elect to add or delete any such Unit Price Item(s). If the District elects to add or delete any such Unit Price Item(s) pursuant to the foregoing, the debit or credit for such Unit Price Item(s) shall be in accordance with the

amount(s) set forth in the Contractor's Unit Price Item(s) Proposal, attached as Attachment A to the Contractor's Bid Proposal.

6. Liquidated Damages. The Contractor shall be subject to assessment of Liquidated Damages set forth in the Special Conditions if the Contractor: (i) fails to submit each Submittal required by the Contract Documents in accordance with the Submittal Schedule incorporated into the Contractor's Construction Schedule; or (ii) fails to achieve Substantial Completion of the Work within the Contract Time, subject to adjustments thereto in accordance with the Contract Documents; or (iii) fails to complete all Punchlist items within the time established pursuant to the Contract Documents.

7. Limitation on Damages. In the event of the District's breach or default of its obligations under the Contract Documents, the damages, if any, recoverable by the Contractor shall be limited to general damages which are directly caused by said breach or default of the District and shall exclude any and all special or consequential damages, if any, suffered by the Contractor. By executing this Agreement, the Contractor expressly acknowledges the foregoing limitation to the recovery only of general damages from the District if the District is in breach or default of its obligations under the Contract Documents. The Contractor expressly waives any right to and foregoes the recovery of any special or consequential damages from the District including, without limitation, damages for: i) lost or impaired bonding capacity; and/or, ii) lost profits arising out of or in connection with any past, present, or future work of improvement, except for the Project which is the subject of the Contract Documents.

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

- Section 1. PROJECT DESCRIPTION AND SCOPE OF SERVICES
- Section 2. NOTICE CALLING FOR PROPOSALS
- Section 3. INSTRUCTIONS FOR BIDDERS
- Section 4. PROPOSAL EVALUATION AND SELECTION CRITERIA
- Section 5. GENERAL CONDITIONS FOR PUBLIC WORKS
- Section 6. SPECIAL CONDITIONS
- Section 7. DISABLED VETERAN BUSINESS ENTERPRISE ("DVBE")  
PARTICIPATION GOAL PROGRAM POLICY
- Section 8. REQUIRED BID FORMS
  - CERTIFICATION OF RFQP
  - RFQP ACKNOWLEDGEMENT AND SIGNATURE FORM
  - PROPOSER CERTIFICATIONS
  - BID PROPOSAL
  - BID BOND
  - FINANCIAL DISCLOSURE CERTIFICATE
  - VERIFICATION OF CERTIFIED PAYROLL RECORDS SUBMITTAL TO LABOR COMMISSIONER
  - GUARANTEE
  - SUBCONTRACTORS LIST
  - DIR REGISTRATION VERIFICATION
  - NON-COLLUSION DECLARATION
  - CERTIFICATE OF WORKERS' COMPENSATION INSURANCE
  - DRUG-FREE WORKPLACE CERTIFICATION
  - CERTIFICATION REGARDING DEBARMENT and SUSPENSION
  - CERTIFICATION REGARDING LOBBYING
  - CONFLICT OF INTEREST STATEMENT

- STATEMENT OF QUALIFICATIONS
- IRAN CONTRACTING ACT CERTIFICATION (Public Contract Code section 2202-2208)
- RUSSIAN SANCTIONS NO CONTRACTING CERTIFICATE (Executive Order N-6-22 (EO))
- DVBE ATTACHMENT A; Bidder's DVBE Statement
- DVBE ATTACHMENT B; Subcontractible Items Of Work
- DVBE ATTACHMENT C; Participation Summary
- DVBE ATTACHMENT D; DVBE Certification
- DVBE ATTACHMENT E; DVBE's Contacted
- DVBE ATTACHMENT F; DVBE Sub-bids Not Accepted by Bidder
- DVBE ATTACHMENT G; Verification of DVBE Solicitations
- DVBE ATTACHMENT H; Agency Contacts
- Section 9. OTHER FORMS
  - PRE-BID INQUIRY FORM
  - SITE ACCEPTANCE FORM – Attachment A to Special Conditions
  - CONTRACTOR CERTIFICATION OF SUBCONTRACTOR CLAIM – Attachment B to Special Conditions
- Section 10. SAMPLE CONTRACT
  - PERFORMANCE BOND
  - LABOR AND MATERIAL PAYMENT BOND
- Section 11. APPENDIX A – BID FORM WORKSHEET
- Section 12. APPENDIX B – CRITERIA DOCUMENTS
- Section 13. APPENDIX C – HISTORICAL DOCUMENTS
- Section 14. APPENDIX D – ACADEMIC CALENDARS
- Section 15. APPENDIX E – CAMPUS MAP

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

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

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

**“DISTRICT”**  
**CABRILLO COMMUNITY COLLEGE DISTRICT**

By \_\_\_\_\_  
Alex Strudley

Title: Director, Procurement & General Services

**“CONTRACTOR”**

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

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

Cabrillo Department Administrator  
(Internal Approval):

By: \_\_\_\_\_  
\_\_\_\_\_  
Jon Salisbury  
(Typed or Printed Name)

Title: Director of Facilities, Planning & Plant Operations

## PERFORMANCE BOND

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

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the Obligee, by resolution of its Board of Trustees has awarded to the Principal a Contract for the Work described as **26-01 Pedestrian Bridge Renovation Project**.

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

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

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

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

In the event of the Obligee's termination of the Contract due to the Principal's breach or default of the Principal's obligations thereunder, within twenty (20) days after written notice from the Obligee to the Surety of the Principal's breach or default of the Contract Documents and Obligee's termination of the Contract, the Surety shall notify Obligee in writing of Surety's assumption of obligations hereunder by its election to either remedy the default or breach of the Principal or to

take charge of the Work of the Contract Documents and complete the Work at its own expense

("the Notice of Election"); provided, however, that the procedure by which the Surety undertakes to discharge its obligations under this Bond shall be subject to the advance written approval of the Oblige, which approval shall not be unreasonably withheld, limited or restricted. The insolvency of the Principal or the Principal's denial of a failure of performance or default under the Contract Documents shall not by itself, without the Surety's prompt, diligent inquiry and investigation of such denial, be justification for Surety's failure to give the Notice of Election or for its failure to promptly remedy the failure of performance or default of the Principal or to complete the Work.

In the event the Surety fails to issue its Notice of Election to Oblige within the time provided for hereinabove, the Oblige may thereafter cause the cure or remedy of the Principal's failure of performance or default or to complete the Work. The Principal and the Surety shall be jointly and severally liable to the Oblige for all damages and costs sustained by the Oblige as a result of the Principal's failure of performance under the Contract Documents or default in its performance of obligations thereunder, including without limitation the costs of cure or completion of the Work exceeding the then remaining balance of the Contract Price; provided that the Surety's liability hereunder for the costs of performance, damages and other costs sustained by the Oblige upon the Principal's failure of performance or default under the Contract Documents shall be limited to the penal sum hereof, which shall be deemed to include the costs or value of any Changes to the Work which increases the Contract Price.

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

**[CONTINUED NEXT PAGE]**

IN WITNESS WHEREOF, the Principal and Surety have executed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by their duly authorized agent or representative.

<div>(Contractor-Principal Name)</div> <div>By: _____ (Signature)</div> <div>_____ (Typed or Printed Name)</div> <div>Title: _____</div> <div>(Attach Notary Public Acknowledgement of Principal's Signature)</div>
---

<div>(Surety Name)</div> <div>By: _____ (Signature of Attorney-In-Fact for Surety)</div> <div>_____ (Typed or Printed Name of Attorney-In-Fact)</div> <div>(Attach: (i) Attorney-In-Fact Certification; (ii) Notary Public Acknowledgment of Authorizing Signature on Attorney-Fact Certification; and (iii) Notary Public Acknowledgement of Attorney-In-Fact's Signature)</div>
---

<div>Contact name, address, telephone number and email address for notices to the Surety</div> <div>_____ (Contact Name)</div> <div>_____ (Street Address)</div> <div>_____ (City, State &amp; Zip Code)</div> <div>(_____) _____ (_____) _____ Telephone Fax</div> <div>_____ (Email address)</div>
--



## LABOR AND MATERIAL PAYMENT BOND

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

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the Obligee, by resolution of its Board of Trustees has awarded to the Principal a Contract for the Work described as **26-01 Pedestrian Bridge Renovation Project**.

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

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

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

The term "Claimant" shall refer to any person, corporation, partnership, proprietorship or other entity including without limitation, all persons and entities described in California Civil Code §1900, providing or furnishing labor, materials or services used or reasonably required for use in the performance of the Work under the Contract Documents, without regard for whether such labor, materials or services were sold, leased or rented. This Bond shall inure to the benefit of all Claimants so as to give them, or their assigns and successors, a right of action upon this Bond.

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

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, deletion, addition, or any other modification to the terms of the Contract Documents, the Work to be performed thereunder, the Specifications or the Drawings, or any other portion of the

**[CONTINUED NEXT PAGE]**

Contract Documents, shall in any way limit, restrict or otherwise affect its obligations under this Bond; the Surety hereby waives notice from the Obligee of any such change, extension of time, alteration, deletion, addition or other modification to the Contract Documents, the Work to be performed under the Contract Documents, the Drawings or the Specifications of any other portion of the Contract Documents.

IN WITNESS WHEREOF, the Principal and Surety have executed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by their duly authorized agent or representative.

<hr/>	
<b>(Contractor-Principal Name)</b>	
By:	<hr/>
	(Signature)
	<hr/>
	(Typed or Printed Name)
Title:	<hr/>
<b>(Attach Notary Public Acknowledgement of Principal's Signature)</b>	

<hr/>	
<b>(Surety Name)</b>	
By:	<hr/>
	(Signature of Attorney-In-Fact for Surety)
	<hr/>
	(Typed or Printed Name of Attorney-In-Fact)
<b>(Attach: (i) Attorney-In-Fact Certification; (ii) Notary Public Acknowledgment of Authorizing Signature on Attorney-Fact Certification; and (iii) Notary Public Acknowledgement of Attorney-In-Fact's Signature)</b>	

<b>Contact name, address, telephone number and email address for notices to the Surety</b>	
<hr/>	
(Contact Name)	
<hr/>	
(Street Address)	
<hr/>	
(City, State & Zip Code)	
( )	( )
Telephone	Fax
<hr/>	
(Email address)	

THE FOLLOWING APPENDICIES WILL BE PROVIDED AS SEPARATE FILES.

**11. APPENDIX A -  
BID FORM WORKSHEET**

**DESCRIPTION:**

**APPENDIX A TO BE COMPLETED AND SUBMITTED WITH BID  
PROPOSAL FORM**

**12. APPENDIX B – CRITERIA DOCUMENTS**

**DESCRIPTION:**

- I. Accessibility Study
- II. Design Documents Narrative
- III. Schematic Ramp Plans

**13. APPENDIX C – HISTORICAL DOCUMENTS**

**DESCRIPTION:**

- I. 1961 Original Documents
- II. 2013 Seismic Retrofit
- III. 2021 Guardrail Replacements
- IV. 2024 Temporary Shoring Details

**14. APPENDIX D – ACADEMIC CALENDARS**

**DESCRIPTION:**

Academic Calendars Fall 2025-Spring 2027

**15. APPENDIX E – CAMPUS MAP**

**DESCRIPTION:**

Aptos Campus Map