

# **CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT**

## **INVITATION FOR BID NO.: 08-14**

### **M&O Facility Site Work Finishes & Shop Buildings Installation, Las Positas College**

**Bids Due:**

**June 19, 2008 at 2:00 P.M.**



**Return Bids To:  
District Office  
Facilities Planning & Management Department  
5020 Franklin Drive  
Pleasanton, California 94588**

**Tel.: (925) 485-5287  
Fax: (925) 485-5294**

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## NOTICE TO CONTRACTORS CALLING FOR BIDS

<b>DISTRICT</b>	<b>CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT</b>
<b>PROJECT DESCRIPTION</b>	<b>BID NO.: 08-14, M&amp;O Facility Site Work Finishes &amp; Shop Buildings Installation, Las Positas College</b>
<b>LATEST TIME/DATE FOR RFI'S SUBMITTALS</b>	<b>Wednesday, June 11, 2008; 2:00 P.M.</b>
<b>LATEST TIME/DATE FOR SUBMISSION OF BID PROPOSALS</b>	<b>THURSDAY, JUNE 19, 2008; 2:00 P.M.</b>
<b>LOCATION FOR SUBMISSION OF BID PROPOSALS</b>	<b>Chabot-Las Positas Community College District 5020 Franklin Drive, Pleasanton, California 94588 Attn: Victoria L. Lamica, Contract Manager</b>
<b>LOCATION FOR OBTAINING BID AND CONTRACT DOCUMENTS</b>	<b>FORD GRAPHICS - ALL LOCATIONS 2210 Magnolia Street Oakland, California 94607 Tel: 510.451.9060 Fax: 510.595.2363 Email: <a href="mailto:fgoakland@fordgraphics.com">fgoakland@fordgraphics.com</a> <a href="http://www.fordgraphics.com">www.fordgraphics.com</a></b>

**NOTICE IS HEREBY GIVEN** that the above-named California Community College District, acting by and through its Board of Trustees, hereinafter "the District" will receive up to, but not later than the above-stated date and time, sealed Bid Proposals for the Contract for the Work of the Project generally described as: **BID No.: 08-14, M&O FACILITY SITE WORK FINISHES & SHOP BUILDINGS INSTALLATION, LAS POSITAS COLLEGE.**

**1. Submittal of Bid Proposals.** All Bid Proposals shall be submitted on forms furnished by the District. Bid Proposals must conform with, and be responsive to, the Bid and Contract Documents, copies of which may be obtained from Ford Graphics as set forth above. Only Bid Proposals submitted to the District at or prior to the date and time set forth above for the public opening and reading of Bid Proposals shall be considered.

**2. Bid and Contract Documents.** The Bid and Contract Documents are available at the location stated above for a non-refundable payment of the cost of reprographics and shipping per set. Payment shall be made to Ford Graphics.

**3. Documents Accompanying Bid Proposal.** Each Bid Proposal shall be accompanied by: (a) the required Bid Security; (b) Subcontractors List; (c) Non-Collusion Affidavit; (d) Certification of Pre-Bid Site Visit; and (e) Statement of Bidder's Qualifications. All information or responses of a Bidder in its Bid Proposal and other documents accompanying the Bid Proposal shall be complete, accurate and true; incomplete, inaccurate or untrue responses or information provided therein by a Bidder shall be grounds for the District to reject such Bidder's Bid Proposal for non-responsiveness.

**4. 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 filed at the District's Administrative Offices located at 5020 Franklin Drive, Pleasanton, California 94588, and are available to any interested party upon request. Alternatively, prevailing wage rate classifications and determinations may be viewed and obtained by accessing the Division of Labor Standards Enforcement databases at <http://www.dir.ca.gov/dir/databases.html>. 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.

**5. Contractors License Classification.** In accordance with the provisions of California Public Contract Code §3300, the District requires that Bidders possess the following classification(s) of California Contractors License B – General Building. Any Bidder not so duly and properly licensed shall be subject to all penalties imposed by law. No payment shall be made for work, labor, materials or services provided under the Contract 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 to perform the Work.

**6. Contract Time.** The date(s) for completion of portions of the Work, if applicable, and for achieving Substantial Completion of the Work shall be achieved as set forth in the Special Conditions. Failure to complete designated portions of the Work within the time(s) established in the Special Conditions and/or failure to achieve Substantial Completion of the Work within the Contract Time established in the Special Conditions shall subject the Contractor to assessment of Liquidated Damages as set forth in the Special Conditions.

**7. Labor Compliance Program (AB 1506).** The District has established a Labor Compliance Program ("LCP") pursuant to Labor Code §1771.5. The Contractor awarded the Contract for the Work shall comply with the LCP and provisions of the Contract Documents relating to implementation, compliance with, and enforcement of the LCP.

**8. Bid Security.** Each Bid Proposal shall be accompanied by Bid Security in an amount not less than **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.

**9. 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.

**10. Job-Walk.** The District will conduct a **Mandatory** Job Walk on **WEDNESDAY, JUNE 04, 2008, beginning at 11:00 AM.** Bidders are to meet at Las Positas College in the **Multi-Disciplinary Building 2400, Room 2420, 3000 Campus Hill Drive, Livermore, California 94551-7623** for conduct of the Mandatory Job Walk. Campus maps are available at [www.laspositascollege.edu](http://www.laspositascollege.edu). The Job Walk is mandatory. If a Bid Proposal is submitted by a Bidder whose representative(s) did not attend the entirety of the Mandatory Job Walk, such bid will be rejected by the District as being non-responsive.

**11. Substitute Security.** In accordance with the provisions of California Public Contract Code §22300, substitution of eligible and equivalent securities for any monies withheld by the District to ensure the Contractor's performance under the Contract will be permitted at the request and expense of the Contractor and in conformity with California Public Contract Code §22300. The foregoing notwithstanding, the Bidder to whom the Contract is awarded shall submit its written request to the District to permit the substitution of securities for retention under California Public Contract Code §22300 prior to the submission of its first Application for Progress Payment. The failure of such Bidder to make such written request to the District

prior to submission of its first Application for Progress Payment shall be deemed a waiver of the Bidder's rights under California Public Contract Code §22300.

**12. 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.

**13. Award of Contract.** The Contract for the Work, if awarded, will be by action of the District's Board of Trustees to the responsible and responsive Bidder submitting the lowest priced Bid Proposal. If Alternate Bid Items are included in the bidding, the lowest total priced Bid Proposal will be determined on the basis of the Base Bid Proposal and the combination of all Alternate Bid Items in accordance with the applicable provisions of the Instructions for Bidders.

**CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT**

Publication Dates:

**May 20, 2008**  
**May 27, 2008**

**ADVERTISEMENT**

**NOTICE TO BIDDERS**

Notice is hereby given that Chabot-Las Positas Community College District, State of California, hereby calls for sealed bids – M&O Facility Site Work Finishes & Shop Buildings Installation at Las Positas College, Bid No. 08-14 to be delivered to the Contract Manager, Facilities Planning & Management Department, 5020 Franklin Drive, Pleasanton, California 94588 until June 19, 2008 at 2:00 p.m. at which time and place said bids will be opened. Faxed or emailed bids will not be accepted.

There will be a Mandatory Pre-Bid Conference and Job Walk, Wednesday, June 04, 2008, 11:00 a.m. on Las Positas College campus in the Multi-Disciplinary Building 2400, Room 2420, 3000 Campus Hill Drive, Livermore, California 94551-7623. Campus maps are available at [www.laspositascollege.edu](http://www.laspositascollege.edu).

Bids shall be presented in accordance with the specifications for the same, which are on file with the Contract Manager, Facilities Planning & Management Department at the office address listed above. Bid specifications will be available by June 02, 2008 at Ford Graphics, Phone: (510) 451-9060 or FAX: (510) 595-2363 and on-line at [www.fordgraphics.com](http://www.fordgraphics.com).

Inquiries regarding this bid should be directed to office of the Contract Manager, Facilities Planning & Management, Victoria L. Lamica Phone:(925) 485-5287 or FAX:(925) 485-5294. Reference Bid No. 08-14 on all inquiries.

The Board of Trustees reserves the right to reject any and all bids and any and all items of such bids. This bid shall also be subject to any and all applicable laws, regulations and standards. For more information, please refer to the Facilities Measure B Program Website at <http://www.clpccd.org/bond/BiddingProjectBusinessOpportunitiesRFB.php>

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## INSTRUCTIONS FOR BIDDERS

### 1. Preparation and Submittal of Bid Proposal.

- 1.1 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.
- 1.2 Owner-Furnished, Owner-Installed Modular Office Building; Contractor Coordination with Modular Installer.** All Bidders are advised that the District has entered into a separate Contract with Modtech Holdings, Inc. to furnish and install a modular office building on the M&O facility site. This modular building has been submitted to DSA for access review as increment #2 of DSA application #01-109234. Contractor shall fully cooperate with the District to allow the installation of this modular office building, including its foundation, delivery and staging of related components and laydown areas within the project site. Contractor shall include in its baseline construction schedule (and subsequent updated schedules) making reasonable allowance for, the delivery and the installation of the modular building by Modtech Holdings, Inc. There will be no additional contract time or cost for this effort. Contractor shall be responsible for all utility connections to the modular building including, but not limited to sanitary, sewer, storm drain, and domestic water, reclaimed water for fire protection systems, electrical power, fire alarm, security and tele-data. Contractor shall also be responsible for utility distribution within the building including, but not limited to, fire protection system, fire alarm, security and tele-data as per the contract documents. Contractor shall also be responsible for final site finishes around the modular building and other miscellaneous interior work as per the contract documents.
- 1.3 Owner-Furnished, Contractor-Installed Pre-Engineered Buildings** All Bidders are advised that the District has entered into a separate Contract with Quality Erectors and Construction, Inc. for the fabrication and delivery of the Pre-Engineered Shop Building and other miscellaneous structures as noted in the contract documents and submitted to DSA as increment #1 of DSA application #01-109234. Contractor shall be responsible for coordination and acceptance of delivery of materials by Quality Erectors and Construction, Inc. Contractor is responsible for building foundations, erection of pre-engineered buildings and all utility connections, including but not limited to sanitary, sewer, storm drain, and domestic water, reclaimed water for fire protection systems, electrical power, fire alarm, and tele-data as per the contract documents. Contractor shall also be responsible for utility distribution within the building and all other related work, including but not limited to all interior construction and finishes as per the contract documents.
- 1.4 Bid Proposal Submittal.** Bid Proposals shall be submitted at the place designated in the Call for Bids 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 the Call for Bids.
- 1.5 Date and Time of Bid Proposal Submittal.** The District will place a clock (“the District Clock”) in a conspicuous location at the place designated for submittal of Bid Proposals. For purposes of determining the time that a Bid Proposal is submitted, the District Clock shall be controlling. The foregoing notwithstanding, whether or not Bid Proposals are opened exactly

at the time fixed in the Call for Bids, no Bid Proposals shall be received or considered by the District after it has commenced the public opening and reading of Bid Proposals; Bid Proposals submitted after such time are non-responsive and will be returned to the Bidder unopened.

2. **Bid Security.** Each Bid Proposal shall be accompanied by Bid Security in the form of: (a) cash, (b) a certified or cashier's check made payable to the District or (c) 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 not less than the percentage of the maximum amount of the Bid Proposal. Any 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 and the Surety is an Admitted Surety Insurer under Code of Civil Procedure §995.120.
3. **Documents Accompanying Bid Proposal; Signatures.** The Bid Proposal must be submitted with: Bid Security, Subcontractors List, Statement of Qualifications, Certification of Pre-Bid Site Visit and the Non-Collusion Affidavit. The Bid Proposal, Statement of Qualifications and the Non-Collusion Affidavit shall be executed by an individual duly authorized to execute the same on behalf of the Bidder.
4. **Modifications.** Changes to the bid forms which are not specifically called for or permitted may result in the District's rejection of the Bid Proposal as being non-responsive. No oral or telephonic modification of any submitted Bid Proposal will be considered. A written modification may be considered only if actually received by the District prior to the scheduled closing time for receipt of Bid Proposals and the public opening thereof.
5. **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, interlineation or correction the surname(s) 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.
6. **Examination of Site and Contract Documents.** Each Bidder shall, at its sole cost and expense, inspect the Site and to become fully acquainted with the Contract Documents and conditions affecting the Work. The failure of a Bidder to receive or examine any of the Contract Documents or to inspect the Site shall not relieve such Bidder from any obligation with respect to the Bid Proposal, or the Work required under the Contract Documents. The District assumes no responsibility or liability to any Bidder for, nor shall the District be bound by, any understandings, representations or agreements of the District's 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.
7. **Withdrawal of Bid Proposal.** Any Bidder may withdraw its Bid Proposal by of written request actually received by the District prior to the scheduled closing time for the receipt of Bid Proposals and the District's public opening and reading of Bid Proposals. A written notice of withdrawal of a submitted Bid Proposal received after the scheduled closing time for receipt of Bid Proposals or the District's public opening and reading of Bid Proposals shall not be considered by the District, nor effective to withdraw such Bid Proposal.

8. **Agreement and Bonds.** The Agreement which the successful Bidder, as Contractor, will be required to execute along with the forms and amounts of the Labor and Material Payment Bond, Performance Bond and other documents and instruments which will be required to be furnished are included in the Contract Documents and shall be carefully examined by the Bidder.
  
9. **Interpretation of Drawings, Specifications or Contract Documents.** 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 applicable rules, regulations, ordinances and/or laws, a written request for an interpretation or correction thereof may be submitted to the District. It is the sole and exclusive responsibility of the Bidder to submit such request not less than three (3) days prior to the scheduled closing date for the receipt of Bid Proposals. Interpretations or corrections of the Contract Documents will be by written addendum issued by the District or the Architect. A copy of any such addendum will be mailed, faxed, emailed or delivered to each Bidder receiving a set of the Contract Documents. No person is authorized to render an oral interpretation or correction of any portion of the Contract Documents to any Bidder, and no Bidder is authorized to rely on any such oral interpretation or correction. 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.
  
10. **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 obtained a copy of the Specifications, Drawings and Contract Documents pursuant to the Call for Bids. 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.
  
11. **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 thereby 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.
  
12. **Award of Contract.**
  - 12.1 **Waiver of Irregularities or Informalities.** The District reserves the right to reject any and all Bid Proposals or to waive any irregularities or informalities in any Bid Proposal or in the bidding.
  
  - 12.2 **Award to Lowest Responsive and Responsible Bidder.** The award of the Contract, if made by the District through action of its Board of Trustees, will be to the responsible Bidder submitting the lowest priced responsive Bid Proposal on the basis of the Base Bid Proposal and all Alternate Bid Items, in accordance with these Instructions for Bidders.
  
  - 12.3 **Selection of Alternate Bid Items.** The selection of Alternate Bid Items for inclusion in the scope of the Work of the Contract to be awarded at the discretion of the District.
  
  - 12.4 **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 Proposal.

**12.5 Responsive Bid Proposal.** A responsive Bid Proposal shall mean a Bid Proposal which conforms, in all material respects, to the Bid and Contract Documents.

**12.6 Responsible Bidder.** A responsible Bidder is a Bidder who has the capability in all respects, to perform fully the requirements of the Contract Documents and the moral and business integrity and reliability which will assure good faith performance. In determining responsibility, the following criteria will be considered: (i) the ability, capacity and skill of the Bidder to perform the Work of the Contract Documents; (ii) whether the Bidder can perform the Work promptly and within the time specified, without delay or interference; (iii) the character, integrity, reputation, judgement, experience and efficiency of the Bidder; (iv) the quality of performance of the Bidder on previous contracts, by way of example only, the following information will be considered: (a) the administrative, consultant or other cost overruns incurred by the District on previous contracts with the Bidder; (b) the Bidder's compliance record with contract general conditions on other projects; (c) the submittal by the Bidder of excessive and/or unsubstantiated extra cost proposals and claims on other projects; (d) the Bidder's record for completion of work within the contract time and the Bidder's compliance with the scheduling and coordination requirements on other projects; (e) the Bidder's demonstrated cooperation with the District and other contractors on previous contracts; (f) whether the work performed and materials furnished on previous contracts was in accordance with the Contract Documents; (v) the previous and existing compliance by the Bidder with laws and ordinances relating to contracts; (vi) the sufficiency of the financial resources and ability of the Bidder to perform the work of the Contract Documents; (vii) the quality, availability and adaptability of the goods or services to the particular use required; (viii) the ability of the Bidder to provide future maintenance and service for the warranty period of the Contract; (ix) whether the Bidder is in arrears on debt or contract or is a defaulter on any surety bond; (x) such other information as may be secured by the District having a bearing on the decision to award the Contract, to include without limitation the ability, experience and commitment of the Bidder to properly and reasonably plan, schedule, coordinate and execute the Work of the Contract Documents and whether the Bidder has ever been debarred from bidding or found ineligible for bidding on any other projects. The ability of a Bidder to provide the required bonds will not of itself demonstrate responsibility of the Bidder.

**13. Subcontractors.**

**13.1 Designation of Subcontractors; Subcontractors List.** Each Bidder shall submit a list of its proposed Subcontractors for the proposed Work as required by the Subletting and Subcontracting Fair Practices Act (California Public Contract Code §§4100 et seq.) on the form furnished. The failure of any Bid Proposal to include all information required by the Subcontractors List will result in rejection of the Bid Proposal for non-responsiveness.

**13.2 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 inferable from the Contract Documents is not a basis for adjustment of the Contract Price or the Contract Time. Dissemination of the Contract Documents to sub-bidders and dissemination of addenda issued during the bidding process is solely the responsibility of each Bidder.

**13.3 Subcontractor Bonds.** In accordance with 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).

14. **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 sign and deliver to the District the following certificate prior to performing any of the Work under the Contract:

“I am aware of the provisions of §3700 of the California Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that Code and I will comply with such provisions before commencing the performance of the Work of the Contract.”

The form of such Certificate is included as part of the Contract Documents.

15. **Bid Security Return.** The Bid Security of the three or more low Bidders, 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 first occurs, at which time the Bid Security of such other Bidders will be returned to them.
16. **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 lowest Bid Proposal or may call for new bids, in its sole and exclusive discretion.
17. **Contractor's License.** No Bid Proposal will be considered from a Bidder who, at the time Bid Proposals are opened, is not licensed to perform the Work, in accordance with the Contractors License Law, California Business & Professions Code §§7000 et seq. This requirement is not a mere formality and will not be waived by the District or its Board of Trustees. The required California Contractor's License classification(s) for the Work is/are set forth in the Call for Bids.
18. **Anti-Discrimination.** 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 or marital status. All Bidders agree to comply with the District's anti-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.
19. **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.

- 20. Job-Walk.** The District will conduct a mandatory Job-Walk at the time(s) and place(s) designated in the Call for Bids. 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 theretofore obtained the Contract Documents pursuant to the Call for Bids of any such additional Job-Walk. 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. 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. Where the Job-Walk is mandatory, a Bidder may have more than one authorized representative and/or representatives of its Subcontractors present at the Job-Walk; provided, however that attendance by representatives of the Bidder's Subcontractors 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. The District will reject the Bid Proposal of a Bidder who obtains the Bid and Contract Documents after the date of the Mandatory Job-Walks set forth in the Call for Bids unless a Job-Walk is requested by such Bidder and a Job-Walk is conducted by the District in accordance with the following provisions. 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.
- 21. 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 otherwise, may result render the Bid Proposal non-responsive and rejected. The District is not liable or responsible for the disclosure of such records, including those exempt from disclosure if disclosure is deemed required by law, by an order of Court, or which occurs through inadvertence, mistake or negligence on the part of the District or its officers, employees or agents. At such time as Bid Proposals are deemed a matter of public record, pursuant to the above, any Bidder or other party shall be afforded access for inspection and/or copying of such Bid Proposals, by request made to the District in conformity with the California Access to Public Records Act, California Government Code §§6250, et. seq. If the District is required to defend or otherwise respond to any action or proceeding wherein request is made for the disclosure of the contents of any portion of a Bid Proposal deemed exempt from disclosure hereunder, the Bidder submitting the materials sought by such action or proceeding agrees to defend, indemnify and hold harmless the District in any action or proceeding from and against any liability, including without limitation attorneys' fees arising therefrom. The party submitting materials sought by any other party shall be solely responsible for the cost and defense in any action or proceeding seeking to compel disclosure of such materials; the District's sole involvement in any such action shall be that of a stakeholder, retaining the requested materials until otherwise ordered by a court of competent jurisdiction.
- 22. 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.

- 23. **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.
- 24. **Notice of Intent to Award Contract.** Following the public opening and reading of Bid Proposals, the District will issue a Notice of Intent to Award the Contract, identifying the Bidder to whom the District intends to award the Contract and the date/time/place of the District's Board of Trustees meeting at which award of the Contract will be considered.
- 25. **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 each and 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 Vice-Chancellor, Facilities Planning and Management not more than five (5) calendar days following 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. Provided that a bid protest is filed in strict conformity with the foregoing, the District's Vice-Chancellor, Facilities Planning and Management or such individual(s) as may be designated by him/her, shall review and evaluate the basis of the bid protest. Either, the District's Vice-Chancellor, Facilities Planning and Management or other individual designated by him/her shall provide the bidder submitting the bid protest with a written statement concurring with or denying the bid protest. The District's Board of Trustees will render a final determination and disposition of a bid protest by taking action to adopt, modify or reject the disposition of a bid protest as reflected in the written statement of the District's Vice-Chancellor, Facilities Planning and Management or his/her designee. Action by the District's Board of Trustees relative to a bid protest shall be final and not subject to appeal or reconsideration by the District's Vice-Chancellor, Facilities Planning and Management any other employee or officer of the District or the District's Board of Trustees. The rendition of a written statement by the District's Vice-Chancellor, Facilities Planning and Management (or his/her designee) and action by the District's Board of Trustees to adopt, modify or reject the disposition of the bid protest reflected in such written statement shall be express conditions 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. In the event that 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.

**[End of Section]**

## SUBCONTRACTORS LIST

Bidder: \_\_\_\_\_

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

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

Telecopier: \_\_\_\_\_

Bidder's Authorized Representative(s): \_\_\_\_\_

**PROJECT: BID No.: 08-14, M&O FACILITY SITE WORK FINISHES & SHOP BUILDINGS  
INSTALLATION, LAS POSITAS COLLEGE**

NAME OF SUBCONTRACTOR	BUSINESS LOCATION/ ADDRESS OF SUBCONTRACTOR	TRADE OR PORTION OF THE WORK

**PHOTOCOPY THIS PAGE AS NECESSARY TO LIST ADDITIONAL SUBCONTRACTORS**

# NON-COLLUSION AFFIDAVIT

STATE OF CALIFORNIA )  
COUNTY OF \_\_\_\_\_ )

**PROJECT: BID No.: 08-14, M&O FACILITY SITE WORK FINISHES & SHOP BUILDINGS INSTALLATION, LAS POSITAS COLLEGE**

I, \_\_\_\_\_, being first duly sworn, deposes and says that I am  
(Typed or Printed Name)  
the \_\_\_\_\_ of \_\_\_\_\_, the party submitting  
(Title) (Bidder Name)  
the foregoing Bid Proposal ("the Bidder"). In connection with the foregoing Bid Proposal, the undersigned declares, states and certifies that:

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

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

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

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
(City, County and State)

(\_\_\_\_\_) \_\_\_\_\_  
(Area Code and Telephone Number)

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## STATEMENT OF BIDDER'S QUALIFICATIONS

### 1. Bidder's Organization

1.1 Form of entity of Bidder, i.e., corporation, partnership, etc. \_\_\_\_\_

1.1.1 If a corporation, state the following:

State of incorporation: \_\_\_\_\_

Date of incorporation: \_\_\_\_\_

President/Chief Executive Officer: \_\_\_\_\_

Secretary: \_\_\_\_\_

Treasurer/Chief Financial Officer: \_\_\_\_\_

1.1.2 If a partnership, state the following:

Type of partnership, i.e., general partnership, limited partnership: \_\_\_\_\_

Names of all general partners, if any of the general partners are not natural persons, provide the information for each such general partner requested by Paragraphs 1.1.1, 1.1.2 and 1.1.4 as appropriate: \_\_\_\_\_

1.1.3 If a proprietorship, state the names of all proprietors: \_\_\_\_\_

1.1.4 If a joint venture, state the following

Date of organization: \_\_\_\_\_

Names of all joint venture members. For each member of the joint venture, provide the information requested by Paragraphs 1.1.1, 1.1.2 and 1.1.3 for each joint venture member, as applicable: \_\_\_\_\_

1.2 Number of years your organization has been in business as a contractor: \_\_\_\_\_

1.3 Number of years your organization has conducted business under its present name: \_\_\_\_\_

1.4 If your organization has conducted business under a name or name style different than your organization's present name, identify all prior name(s) or name style(s): \_\_\_\_\_

1.5 Your organization's Federal Tax Identification Number: \_\_\_\_\_

**2. Licensing**

2.1 California Contractors License: Number: \_\_\_\_\_  
Expiration Date: \_\_\_\_\_  
Responsible Managing Employee/Officer: \_\_\_\_\_  
License Classification(s): \_\_\_\_\_

2.2 Has a claim or other demand ever been made against your organization's California Contractors License Bond? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If yes, on a separate attachment, state the following: (i) the name, address and telephone number of each person or entity making claim or demand; (ii) the date of each claim or demand; (iii) the circumstances giving rise to each such claim or demand; and (iv) the disposition of each such claim or demand.

2.3 Has a complaint ever been filed against your organization's California Contractors License with the California Contractors State License Board? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If yes, on a separate attachment, state the following for each complaint: (i) the name, address and telephone number of each person or entity making the complaint; (ii) the date of each complaint; (iii) the circumstances giving rise to each such complaint; and (iv) the disposition of each such complaint, including without limitation, any disciplinary or other action imposed or taken by the California Contractors State License Board as a result of any such complaint.

**3. Experience**

3.1 Categories of work (other than management/supervision) your organization typically performs with your own forces \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3.2 On a separate attachment, list all construction project completed by your organization in the past two (2) years and for each project identified, state: (i) a general description of the work performed by your organization on the project; (ii) the dollar value of the work performed or to be performed by your organization; (iii) the project owner's name, name of the project owner's representative and the address and telephone number of the owner and the project owner's representative; and (iv) the project architect's name, address, telephone number and contact person.

3.3 On a separate attachment, list all construction project your organization has in progress and for each project listed, state: (i) a general description of the work performed by your organization on the project; (ii) the dollar value of the work performed or to be performed by your organization; (iii) the project owner's name, name of the project owner's representative and the address and telephone number of the project owner and the project owner's representative; (iv) the project architect's name, address, telephone number and contact person; (v) percent presently complete; and (vi) the current scheduled completion date.

3.4 On a Separate attachment, list a minimum of three (3) pre-engineered buildings for which your organization or your listed sub-contractor has performed site preparation and erection for a complete turn-key installation in the past four (4) years.

**4. Performance History**

- 4.1 Claims and lawsuits (if you answer yes to any of the following, you must attach details).
  - 4.1.1 Have any lawsuits or other administrative, legal, arbitration or other proceedings, ever been brought or commenced against your organization or any of its principals, officers or equity owners in connection with any construction contract or construction project?  Yes  No  
If so, describe the circumstances, the amount demanded or other relief demand and the disposition of each such lawsuit or other proceeding.
  - 4.1.2 Has your organization ever filed a lawsuit or commenced other administrative, legal or other proceedings in connection with any construction contract or construction project?  Yes  No  
If so, describe the circumstances, the amount demanded or other relief demand and the disposition of each such lawsuit or other proceeding.
  - 4.1.3 Are there any judgements, orders, decrees or arbitration awards pending, outstanding against your organization or any of the officers, directors, employees or principals of your organization?  Yes  No  
If so, describe each such judgement, order, decree or arbitration award and the present status of the satisfaction or discharge thereof.
- 4.2 Has your organization ever refused to sign a construction contract awarded to it?  
 Yes  No  
If so, on a separate attachment, state the following: (i) describe each such contract; (ii) the owner's name, address, telephone number and contact person; and (iii) the circumstances of your refusal to sign such contract.
- 4.3 Has your organization ever failed to complete a construction contract?  Yes  No  
If so, on a separate attachment, state the following: (i) describe each such contract; (ii) the owner's name, address, telephone number and contact person; and (iii) the circumstances of your failure to complete such contract.
- 4.4 Has your organization ever been declared in default of a construction contract?  
 Yes  No  
If so, on a separate attachment, state the following: (i) describe each such contract; (ii) the owner's name, address, telephone number and contact person; and (iii) the circumstances of each such declaration of default.
- 4.5 Has any construction contract to which your organization is a party been terminated for the convenience of the project owner?  Yes  No  
If so, identify the project and project owner along with a description of the circumstances under which the convenience termination occurred.
- 4.6 Has a claim or other demand ever been asserted against any Bid Bond, Performance Bond, or Payment Bond posted by your organization in connection with any construction contract or your submittal of a bid proposal for a construction contract?

\_\_\_\_\_ Yes \_\_\_\_\_ No

If so, on a separate attachment, state the following: (i) the name, address, telephone number and contact person for each claimant; (ii) the date upon which each such demand or claim was made; and (iii) the disposition of each such demand or claim.

4.7 Has your organization or any predecessor to your organization been charged with a violation of the California False Claims Act or similar federal statute within the past ten (10) years?

\_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, on a separate attachment, provide the following: (i) a detailed description of the circumstances upon which charges were based; (ii) the public agency involved, including name, address, telephone and email address of contact person(s) at such public agency; and (iii) disposition of such charges.

4.8 Has any individual or entity who owns ten percent (10%) or more of the equity interest of your organization been an equity owner of ten percent (10%) or more of the equity interest of any other entity or organization, within the past ten (10) years, which has been charged with a violation of the California False Claims Act or similar federal statute within the past ten (10) years?

\_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, on a separate attachment, provide the following: (i) the name(s) of each such other entity or organization; (ii) a detailed description of the circumstances upon which charges were based; (iii) the public agency involved, including name, address, telephone and email address of contact person(s) at such public agency; and (iv) disposition of such charges.

4.9 Has any individual or entity who owns ten percent (10%) or more of the equity interest of your organization been charged with a violation of the California False Claims Act or similar federal statute within the past ten (10) years?

\_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, on a separate attachment, provide the following: (i) the name of such individual(s) or entity(ies); (ii) a detailed description of the circumstances upon which charges were based; (iii) the public agency involved, including name, address, telephone and email address of contact person(s) at such public agency; and (iv) disposition of such charges.

**5. References** (Include name, contact person, telephone/telecopier and address for each reference provided):

5.1 Trade References (three (3) minimum)

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5.2 Bank References

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5.3 Public Works Inspectors of Record (K-12 or community college project)

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5.4 Owner references (three (3) minimum, preferably California K-12 school districts and/or California community college districts)

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**6. Accuracy and Authority**

The undersigned is duly authorized to execute this Statement of Bidders Qualifications under penalty of perjury on behalf of the Bidder. The undersigned warrants and represents that he/she has personal knowledge of each of the responses to this Statement of Bidder's 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 Bidder's Qualifications.

The undersigned declares and certifies that the responses to this Statement of Bidder's 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.

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.

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

\_\_\_\_\_  
(Typed or written name)

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## 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 **CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT**, hereinafter "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 the **BID No.: 08-14, M&O FACILITY SITE WORK FINISHES & SHOP BUILDINGS INSTALLATION, LAS POSITAS COLLEGE**

**WHEREAS**, subject to the terms of this Bond, the Surety is firmly bound unto the Obligee in the penal sum of **ten percent (10%)** of the maximum amount of the Bid Proposal submitted by the Principal to the Obligee, as set forth above.

**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 therefor, or if no period be specified, within five (5) days after the prescribed forms are presented to him for signature, enter into a written contract with the Obligee, in accordance with the Bid Proposal as accepted and give such bond(s) with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such Contract and for the payment for labor and materials used for the performance of the Contract, or in the event of the withdrawal of said Bid Proposal within the period specified for the holding open of the Bid Proposal or the failure of the Principal to enter into such Contract and give such bonds within the time specified, if the Principal shall pay the Obligee the difference between the amount specified in said Bid Proposal and the amount for which the Obligee may procure the required Work and/or supplies, if the latter amount be in excess of the former, together with all costs incurred by the Obligee in again calling for Bids, then the above obligation shall be void and of no effect, otherwise to remain in full force and effect.

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

In the event suit or other proceeding is brought upon this Bond by the Obligee, the Surety shall pay to the Obligee all costs, expenses and fees incurred by the Obligee in connection therewith, including without limitation, attorneys fees.

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

(Principal's Corporate Seal)

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

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

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

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

(Surety's Corporate Seal)

\_\_\_\_\_  
(Surety Name)

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

(Signature of Surety)

(Attach Attorney-in-Fact Certificate)

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

(       ) \_\_\_\_\_

(Area Code and Telephone Number of Attorney-in-Fact for Surety)

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

\_\_\_\_\_  
(Contact Name)

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

\_\_\_\_\_  
(Telephone)

\_\_\_\_\_  
(Email address)

## CERTIFICATION OF PRE-BID SITE VISIT

The Honorable Board of Trustees  
Chabot-Las Positas Community College District  
5020 Franklin Drive  
Pleasanton, California 94588

RE: BID No.: 08-14, M&O FACILITY SITE WORK FINISHES & SHOP BUILDINGS INSTALLATION,  
LAS POSITAS COLLEGE

Ladies and Gentlemen:

In connection with submitting a Bid Proposal for the Work described as M&O FACILITY SITE WORK FINISHES & SHOP BUILDINGS INSTALLATION, I visited the Site of the Work on

\_\_\_\_\_, / \_\_\_\_\_  
Date A.M. P.M.

on behalf of \_\_\_\_\_  
Bidder Name

to inspect the Site of the proposed work, which will be turned over to the Bidder, if awarded the Contract, in its present condition, with a representative of the Chabot-Las Positas Community College, in order to acquaint the Bidder with the proposed Work so that the Bidder fully understands the facilities, difficulties, and restrictions attendant to execution and completion of the Work. I have also reviewed on behalf of the Bidder, the as-built drawings and/or previous Contract Documents, site conditions and Bid Documents with the Project Manager and/or Contract Manager at Las Positas College.

I certify all conditions provided for my review and their effect on the Work as called for in the Contract Documents are included and accounted for in the Bid Proposal amounts submitted to the District.

I understand that a Bidder who fails to submit this Certification of Pre-Bid Site Visit, fully executed, with the Bidder's Bid Proposal form, will result in rejection of the Bid Proposal for non-responsiveness..

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

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Address

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

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Date

[END OF SECTION]

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# BID PROPOSAL

TO: **CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT**, a California Community College District, acting by and through its Board of Trustees (“the District”).

FROM:

(Name of Bidder)
(Address)
(City, State, Zip Code)
(Telephone/Telecopier)
(E-Mail Address of Bidder’s Representative(s))
(Name(s) of Bidder’s Authorized Representative(s))

**1. Bid Proposal**

1.	Base Bid Amount	\$
2.	Bid (Add) Alternate 1: Standby Diesel Generator	\$
3.	Subtotal (sum of Lines 1 thru 2)	\$
4.	Owner’s Unspecified Allowance	\$ <u>250,000.00</u>
5.	Total Bid Proposal Amount (Line 4 plus Line 5)	\$

**1.1 Bid Proposal Amount.** The undersigned Bidder proposes and agrees to perform the Contract including, without limitation, providing and furnishing any and all of the labor, materials, tools, equipment and services necessary to complete in a workmanlike manner all of the Work and other obligations required by the Contract Documents for the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) (Line 5 of Table above). The Bidder confirms that it has checked all of the above figures and understands that neither the District nor any of its agents, employees or representatives shall be responsible for any errors or omissions on the part of the undersigned Bidder in preparing and submitting this Bid Proposal. The Bidder confirms that the bid proposal includes the Owner’s Non-Specified Allowance in the amount of Two Hundred Fifty Thousand Dollars and No Cents (\$250,000.00).

**1.2 Owner’s Unspecified Allowance.** Bidder shall include in Bid Proposal the stipulated sum of Two Hundred Fifty Thousand Dollars (\$250,000.00) for unspecified work to be performed ONLY at the determination and direction of the District. Work performed at the determination and direction of the District under this Allowance shall be documented by Contractor and submitted to Construction Manager per the requirements specified in Article 9 of the General Conditions. Contractor shall include a separate line item in

Contractor's Schedule of Values as "Allowance" with the value of Two Hundred Fifty Thousand Dollars (\$250,000.00). At closeout of Contract, any funds remaining in the Allowance shall be credited to Owner through a Change Order.

**1.3 Acknowledgment of Bid Addenda.** The Bidder confirms that this Bid Proposal incorporates and is inclusive of, all items or other matters contained in Bid Addenda issued by or on behalf of the District.

\_\_\_\_\_ **Addenda Nos.** \_\_\_\_\_ received, acknowledged  
(initial) and incorporated into this Bid Proposal.

**1.4 Alternate Bid Items.** The Bidder's price proposal(s) for Alternate Bid Items is/are set forth in the form of Alternate Bid Item Proposal included herewith. Price proposal(s) for Alternate Bid Item(s) will form the basis for the District's award of the Contract for the above-identified Bid Package. Specific Alternate Bid Items will be incorporated into the scope of Work of the Contract at the District's discretion.

**2. Documents Accompanying Bid.** The Bidder has submitted with this Bid Proposal the following: (a) Bid Security; (b) Subcontractors List; (c) Statement of Qualifications; (d) Certification of Pre-Bid Site Visit; and (e) Non-Collusion Affidavit. 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.

**3. Award of Contract.** If the Bidder submitting this Bid Proposal is awarded the Contract, the undersigned will execute and deliver to the District the Contract in the form attached hereto within ten (10) 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: (a) Certificates of Insurance evidencing all insurance coverages required under the Contract Documents; (b) the Performance Bond; (c) the Labor and Material Payment Bond; (d) the Certificate of Workers' Compensation Insurance; and (e) the Drug-Free Workplace Certificate. Failure of the Bidder awarded the Contract to strictly comply with the preceding may result in the District's rescission of the award of the Contract and/or forfeiture of the Bidder's Bid Security. In such event, the District may, in its sole and exclusive discretion elect to award the Contract to the responsible Bidder submitting the next lowest Bid Proposal, or to reject all Bid Proposals.

**4. Contractor's License.** The undersigned Bidder is currently and duly licensed in accordance with the California Contractors License Law, California Business & Professions Code §§7000 et seq., under the following classification(s) \_\_\_\_\_ bearing License Number(s) \_\_\_\_\_, with expiration date(s) of \_\_\_\_\_. The Bidder certifies that: (a) it is duly licensed, in the necessary class(es), for performing the Work of the Contract Documents; (b) that such license shall be in full force and effect throughout the duration of the performance of the Work under the Contract Documents; and (c) that all Subcontractors providing or performing any portion of the Work shall be so properly licensed to perform or provide such portion of 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.

(Corporate Seal)

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

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

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

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## AGREEMENT

**THIS AGREEMENT** is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, in the City of Pleasanton, County of Alameda, State of California, by and between **CHABOT-LAS POSITAS 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 No.: BID No.: 08-14, M&O FACILITY SITE WORK FINISHES & SHOP BUILDINGS INSTALLATION, LAS POSITAS COLLEGE**. Contractor shall complete all Work covered by the Contract Documents, including without limitation, the Drawings and Specifications prepared by the Architect, Bill Gould Design Art & Architecture 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 Work shall be commenced on the date stated in the District's Notice to Proceed; the Contractor shall achieve Substantial Completion of the Work within the Contract Time set forth in the Contract Documents.
  
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 (\$\_\_\_\_\_) which includes the Owner's Non-Specified Allowance of \$250,000.00. The Contract Price is based upon the Contractor's Base Bid Proposal and the following Alternate Bid Items, if any:

The District's payment of the Contract Price shall be in accordance with the Contract Documents.

4. **Liquidated Damages.** If the Contractor fails to achieve Substantial Completion of the Work within the Contract Time, including adjustments thereto authorized by the Contract Documents, the Contractor shall be subject to assessment of Liquidated Damages in accordance with the Contract Documents. Failure of the Contractor to complete Punchlist items noted upon Substantial Completion within the time established to complete the Punchlist items will result in the District's assessment of Liquidated Damages in accordance with the Contract Documents.
  
5. **The Contract Documents.** The documents forming a part of the Contract Documents consist of the following, all of which are component parts of the Contract Documents.

Notice to Contractors Calling For Bids  
 Instructions For Bidders  
 Bid Proposal  
 Subcontractors List

Non-Collusion Affidavit  
 Statement of Bidder's Qualifications  
 Bid Bond  
 Bid Addenda Nos. \_\_\_\_\_

Agreement  
Performance Bond  
Labor and Materials Payment Bond  
Drug-Free Workplace Certification  
Certificate of Workers Compensation  
Insurance Certification  
General Conditions  
Special Conditions

Change Order Form  
Asbestos and Other Hazardous  
Materials  
Debris Recycling Statement  
Certification of Pre-Bid Site Visit  
Guarantee  
Specifications  
Drawings

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

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

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

**“DISTRICT”**  
**CHABOT-LAS POSITAS COMMUNITY**  
**COLLEGE DISTRICT**

**“CONTRACTOR”**  
**[CONTRACTOR NAME]**

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

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

Mr. Lorenzo Legaspi  
Vice Chancellor, Business Services

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

(CORPORATE SEAL)

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

Mr. Jeffrey M. Kingston  
Vice Chancellor,  
Facilities Planning & Management  
Department

## PERFORMANCE BOND

**KNOW ALL MEN BY THESE PRESENTS** that we, \_\_\_\_\_, as Principal, and \_\_\_\_\_ as Surety, are held and firmly bound unto **CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT** hereinafter "the Obligee", in 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 **BID No.: 08-14, M&O FACILITY SITE WORK FINISHES & SHOP BUILDINGS INSTALLATION, LAS POSITAS COLLEGE**.

**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 Contract Documents, within twenty (20) days after written notice from the Obligee to the Surety of the Principal's breach or default of the Contract Documents and Obligee's termination of the Contract, the Surety shall notify Obligee in writing of Surety's assumption of obligations hereunder by its election to either remedy the default or breach of the Principal or to take charge of the Work of the Contract Documents and complete the Work at its own expense ("the Notice of Election"); provided, however, that the procedure by which the Surety undertakes to discharge its obligations under this Bond shall be subject to the advance written approval of the Obligee, which approval shall not be unreasonably withheld, limited or restricted. The insolvency of the Principal or the Principal's mere 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 shall fail to issue its Notice of Election to Obligee within the time provided for hereinabove, the Obligee may thereafter cause the cure or remedy of the Principal's failure of performance or default or to complete the Work. The Principal and the Surety shall be each jointly and severally liable to the Obligee for all damages and costs sustained by the Obligee as a result of the Principal's failure of performance under the Contract Documents or default in its performance of obligations thereunder, including without limitation the costs of cure or completion exceeding the then remaining balance of the Contract Price; provided that the Surety's liability hereunder for the costs of performance, damages and other costs sustained by the Obligee upon the Principal's failure of performance under 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 suit or other proceeding is brought upon this Bond by the Obligee, the Surety shall pay to the Obligee all costs, expenses and fees incurred by the Obligee therewith, including without limitation, attorneys fees.

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

(Principal's Corporate Seal)

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

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

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

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

(Surety's Corporate Seal)

\_\_\_\_\_  
(Surety Name)

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

(Signature of Attorney-in-Fact for Surety)

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

(Attach Attorney-in-Fact Certificate)

(        ) \_\_\_\_\_

(Area Code and Telephone Number of Attorney-in-Fact for Surety)

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

\_\_\_\_\_  
(Contact Name)

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

\_\_\_\_\_  
(Telephone)

\_\_\_\_\_  
(Email address)

## LABOR AND MATERIAL PAYMENT BOND

**KNOW ALL MEN BY THESE PRESENTS** that we, \_\_\_\_\_ as Principal, and \_\_\_\_\_ as Surety, are held and firmly bound unto **CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT** hereinafter "the Obligee", in 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 **BID No.: 08-14, M&O FACILITY SITE WORK FINISHES & SHOP BUILDINGS INSTALLATION, LAS POSITAS COLLEGE.**

**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 to any Claimant for all labor, materials or services used or reasonably required for use in the performance of the Work 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 §3181, 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 suit is brought on this Bond by any Claimant for amounts due such Claimant for labor, materials or services provided or furnished by such Claimant, the Surety shall pay for the same and reasonable attorneys fees pursuant to California Civil Code §3250.

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

(Principal's Corporate Seal)

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

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

\_\_\_\_\_  
(Type or Print Name)

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

(Surety's Corporate Seal)

\_\_\_\_\_  
(Surety Name)

By: \_\_\_\_\_  
(Signature of Attorney-in-Fact for Surety)

\_\_\_\_\_  
(Type or Print Name of Attorney-in-Fact)

(Attach Attorney-in-Fact Certificate)

( ) \_\_\_\_\_  
(Area Code and Telephone Number of Attorney-in-Fact for Surety)

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

\_\_\_\_\_  
(Contact Name)

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

\_\_\_\_\_  
(Telephone)

\_\_\_\_\_  
(Email address)

# CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

**PROJECT: BID No.: 08-14, M&O FACILITY SITE WORK FINISHES & SHOP BUILDINGS INSTALLATION, LAS POSITAS COLLEGE**

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

\_\_\_\_\_, declare, state and certify that:  
(Contractor Name)

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

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

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

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

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

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

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

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### DRUG-FREE WORKPLACE CERTIFICATION

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

\_\_\_\_\_. I declare, state and certify to all of the following:  
(Contractor Name).

1. I am aware of the provisions and requirements of California Government Code §§8350 et seq., the Drug Free Workplace Act of 1990.
2. I am authorized to certify, and do certify, on behalf of Contractor that a drug free workplace will be provided by Contractor by doing all of the following:
  - 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: (a) the prohibition of any controlled substance in the workplace, (b) establishing a drug-free awareness program, and (c) requiring that each employee engaged in the performance of the Work of the Contract be given a copy of the statement required by California Government Code §8355(a) and requiring that the employee agree to abide by the terms of that statement.
3. Contractor and I understand that if the District determines that Contractor has either: (a) made a false certification herein, or (b) violated this certification by failing to carry out and to implement the requirements of California Government Code §§8355, the Contract awarded herein is subject to termination, suspension of payments, or both. Contractor and I further understand that, should Contractor violate the terms of the Drug-Free Workplace Act of 1990, Contractor may be subject to debarment in accordance with the provisions of California Government Code §§8350, et seq.
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 \_\_\_\_\_, 20\_\_\_\_  
(City and State)

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

\_\_\_\_\_  
(Handwritten or Typed Name)

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- 6.5 Evidence of Insurance; Subcontractor's Insurance.
  - 6.5.1 Certificates of Insurance.
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- 7.1 Substantial Completion of the Work Within Contract Time.
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    - 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.
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  - 7.3.6 Construction Schedules; Conditions Precedent To Progress Payment Disbursements.
  - 7.3.7 Contractor Schedule Compliance Obligations.
- 7.4 Adjustment to Contract Time.
  - 7.4.1 Excusable Delays.
  - 7.4.2 Compensable Delays.
  - 7.4.3 Unexcusable Delays.
  - 7.4.4 Adjustment of Contract Time.
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- 8.1 Contract Price.
- 8.2 Cost Breakdown.
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  - 8.3.1 Applications for Progress Payments.
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  - 8.3.3 District's Review of Applications for Progress Payments.
  - 8.3.4 Review of Applications for Progress Payments.
  - 8.3.5 District's Disbursement of Progress Payments.
    - 8.3.5.1 Timely Distribution of Progress Payments.
    - 8.3.5.2 Untimely Disbursement of Progress Payments.
    - 8.3.5.3 District's Right to Disburse Progress Payments by Joint Checks.
    - 8.3.5.4 No Waiver of Defective or Non-Conforming Work.
  - 8.3.6 Progress Payments for Changed Work.
  - 8.3.7 Materials or Equipment Not Incorporated into the Work.
    - 8.3.7.1 Limitations Upon Payment.
    - 8.3.7.2 Materials or Equipment Delivered and Stored at the Site.
    - 8.3.7.3 Materials or Equipment Not Delivered or Stored at the Site.
    - 8.3.7.4 Materials or Equipment in Fabrication or Transit.
  - 8.3.8 Exclusions from Progress Payments.
  - 8.3.9 Title to Work.
  - 8.3.10 Substitute Security for Retention.
- 8.4 Final Payment.
  - 8.4.1 Application for Final Payment.
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  - 8.7.1 Job Cost Reporting.
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- 9.1 Changes in the Work.
- 9.2 Oral Order of Change in the Work.
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- 9.4 Adjustment to Contract Price and Contract Time on Account of Changes to the Work.
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    - 9.4.1.1 Mutual Agreement.
    - 9.4.1.2 Determination by the District.
    - 9.4.1.3 Basis for Adjustment of Contract Price.
      - 9.4.1.3.1 Labor.
      - 9.4.1.3.2 Materials and Equipment.
      - 9.4.1.3.3 Construction Equipment.
      - 9.4.1.3.4 Mark-up on Costs of Changes to the Work.
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- 9.5 Change Orders.
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- 9.7 Disputed changes.
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- 10.1 District's Right to Award Separate Contracts.
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- 10.3 Mutual Responsibility.
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- 11.1 Tests; Inspections; Observations.
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  - 11.1.2 Costs of Tests and Inspections.
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- 12.1 Inspection of the Work.
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  - 12.1.2 Limitations Upon Inspections.
- 12.2 Uncovering of Work.
- 12.3 Rejection of Work.
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- 13.1 Workmanship and Materials.
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- 14.1 District's Right to Suspend Work.
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- 15.1 Termination for Cause.
  - 15.1.1 District's Right to Terminate.
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  - 15.1.3 Completion by the Surety.
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- 16.1 Governing Law.
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- 16.3 Successors and Assigns.
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- 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 Resolution; Arbitration.
  - 16.11.1 Claims Under \$375,000.00.
  - 16.11.2 Government Code Claim Requirements.
  - 16.11.3 Arbitration.
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- 16.12 Capitalized Terms.
- 16.13 Attorneys Fees.
- 16.14 Waiver of Special/Consequential Damages.
- 16.15 Provisions Required by Law Deemed Inserted.
- 16.16 Days.
- 16.17 Prohibited Interests.
- 16.18 Entire Agreement.

## GENERAL CONDITIONS

### ARTICLE 1: DEFINITIONS; GENERAL

- 1.1 District.** The “District” refers to **CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT** and unless otherwise stated, includes the District's authorized representatives, including the Construction Manager, if a Construction 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” includes the Architect's authorized representative.
- 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 which 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.
- 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. Large scale Drawings shall take precedence over smaller scale Drawings as to shape and details of construction. Figured dimensions on Drawings shall govern, but Work which is not dimensioned shall be as directed or required by field conditions. Specifications shall govern as to materials, workmanship and installation procedures.

**1.10 Special Conditions; Supplemental Conditions.** If made a part of the Contract Documents, Special Conditions and Supplemental Conditions 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, Sub-Subcontractor, manufacturer, Material Supplier, or distributor to illustrate some portion of the Work. Samples are physical examples of materials, equipment or workmanship forming a part of, or to be incorporated into the Work. Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work. Shop Drawings, Samples and Product Data prepared or furnished by the Contractor or any of its Subcontractors or Material Suppliers are collectively referred to as “Submittals”.

- 1.14 Division of State Architect (“DSA”).** The 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 Construction Manager.** The Construction Manager is an independent contractor retained by the District and is authorized and empowered to act on behalf of the District as set forth in the Contract Documents. The District reserves the right to remove or replace the Construction Manager prior to completion of the Work without adjustment of the Contract Price or the Contract Time or otherwise affect, limit or restrict Contractor's obligations hereunder.
- 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: (a) not conforming to the requirements of the Contract Documents; (b) not conforming to the standards of workmanship of the applicable trade or industry; (c) not being in compliance with the requirements of any inspection, reference, standard, test, or approval required by the Contract Documents; or (d) damage occurring prior to Final Completion of all of the Work.
- 1.24 Delivery.** The term “delivery” used in conjunction with any equipment, materials or other items to be incorporated into the Work shall mean the unloading and storage in a protected condition pending incorporation into the Work.
- 1.25 Notice to Proceed.** The Notice to Proceed is the written notice issued by or on behalf of the District to the Contractor authorizing the Contractor to proceed with commencement of the Work and which establishes the date for commencement of the Contract Time.
- 1.26 Progress Reports; Verified Reports.** Progress Reports, 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.

## 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; Fees.** 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 of the Contractor under the Contract Documents. If permits and fees are designated as the responsibility of the Contractor under the Contract Documents, the Contractor shall be solely responsible for obtaining the same; the cost of such permits or fees and any costs incurred by the Contractor in obtaining such permits shall be included within the Contract Price.
- 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 of the Project.
- 2.1.4 Furnishing of Information.** Information or services to be provided by the District under

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

**2.2 District's Right to Stop the Work.** In addition to the District's right to suspend the Work or terminate the Contract pursuant to the Contract Documents, the District, may, by written order, direct the Contractor to stop the Work, or any portion thereof, until the cause for such stop work order has been eliminated if the Contractor. If the Contractor fails within seven (7) days 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 District reserves the right to remedy such action. The right of the District to stop the Work hereunder shall not be deemed a duty on the part of the District to exercise such right for the benefit of the Contractor or any other person or entity, nor shall the District's exercise of such right waive or limit the exercise of any other right or remedy of the District under the Contract Documents or at law.

**2.3 Partial Occupancy or Use.**

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

**2.3.2 No Acceptance of Defective or Nonconforming Work.** Unless otherwise expressly agreed upon by the District and the Contractor, the District's partial occupancy or use of the Work or any portion thereof, shall not constitute the District's acceptance of the Work not complying with the requirements of the Contract Documents or which is otherwise defective.

**2.4 The Project Inspector.** In addition to the authority and rights of the Project Inspector as provided for elsewhere in the Contract Documents, all of the Work shall be performed under the observation of the Project Inspector. The performance of the duties of the Project Inspector under the Contract Documents shall not relieve or limit the Contractor's performance of its obligations under the Contract Documents.

**2.4.1 Access to Work.** 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. The Project Inspector shall have the authority to stop Work if the Work is not in conformity with 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. No Work inconsistent with the Contract Documents shall be performed solely on the basis of the direction of the Project Inspector, and the Contractor shall be liable to the District for the consequences of all Work performed on such basis.

### ARTICLE 3: ARCHITECT; CONSTRUCTION MANAGER

#### 3.1 Administration of the Contract.

**3.1.1 Role of the Architect and Construction Manager.** The Architect and the Construction Manager 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 Construction Manager will advise and consult with the District and the Project Inspector with respect to the administration of the Contract and the Work. The Architect is 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 law, including Title 24 of the California Code of Regulations. The Architect and Construction Manager are authorized to stop the Work whenever deemed necessary in the sole discretion of the Architect or the Construction Manager to insure that the Work is completed in accordance with the Contract Documents.

**3.1.2 Architect's Periodic Site Visits.** 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 will not be required to make exhaustive or continuous Site inspections to check quality or quantity of the Work. On the basis of Site observations as an architect, the Architect will keep the District informed of the progress of the Work, and will endeavor to guard the District against defects and deficiencies in the Work.

**3.1.3 Contractor Responsibility for Construction Means, Methods and Sequences.** Neither the Architect or the Construction Manager will have control over or charge of and 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. Neither the Architect nor Construction Manager will have control over or charge of and 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.** In accordance with Article 8 hereof, the Architect and Construction Manager will review the Contractor's Applications for Progress Payments and for Final Payment, evaluate the extent of Work performed and the amount properly due the Contractor on such Application for Payment.

**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 will have authority 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 give rise to a duty or responsibility to the Contractor, Subcontractors, Material Suppliers, their agents or employees, or other persons performing portions of the Work.

**3.1.6 Submittals.**

**3.1.6.1 Processing of Submittals Through Construction Manager.** 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. Submittals shall be transmitted by the Contractor to the Construction Manager for distribution by the Construction Manager to the Architect and the District. Upon completion of the Architect's review of a Submittal, the Construction Manager shall transmit the reviewed Submittal to the Contractor for the Contractor's distribution to its Subcontractor(s) and other affected parties.

**3.1.6.2 Architect's Review.** The Architect will review and 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.

**3.1.7 Changes to the Work; Change Orders.** The Architect and Construction Manager will prepare Change Orders, and with the written approval of the District, may authorize minor Changes in the Work which do not result in adjustment of the Contract Time or the Contract Price.

**3.1.8 Completion.** The Architect will conduct observations to determine the date(s) of Substantial Completion and the date(s) of Final Completion, will receive and forward to the District, for the District's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor, and will verify that the Contractor has complied with all requirements of the Contract Documents and is entitled to receipt of Final Payment.

**3.1.9 Interpretation of Contract Documents; Architect as Initial Arbiter of Disputes.** The Architect will interpret and decide matters concerning the requirements of the Contract Documents on written request of either the District or the Contractor. The Architect's response to such requests will be made with reasonable promptness and within the time limits agreed upon, if any. If no agreement is reached establishing the time for the Architect's review and response to requests under this Article 3.1.9, 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 be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both the District and the Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions so rendered in good faith. The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents. If there is any disagreement, dispute or other matter in controversy between the District and the Contractor, in addition to other requirements established by the Contract Documents or by law, the submission of the same to the Architect for its decision shall be a condition precedent to initiation of dispute resolution procedures.

**3.1.10 Request for Information.** If the Contractor encounters any condition which the Contractor believes, in good faith and with reasonable basis, is the result of an ambiguity, conflict, error or omission in the Contract Documents (collectively "the Conditions"), it shall be affirmative obligation of the Contractor to timely notify the Architect, 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 with the standards and time frame set forth in Article 3.1.9 of these General Conditions. The foregoing provisions notwithstanding, in the event that the Architect reasonably determines that any of Contractor's request(s) for information: (i) does not reflect adequate or competent supervision or coordination by the Contractor or any Subcontractor; or (ii) does not reflect the Contractor's adequate or competent knowledge of the requirements of the Work or the Contract Documents; or (iii) is not justified for any other reason, Contractor shall be liable to the District for all costs incurred by the District associated with the processing, reviewing, evaluating and responding to any such request for information, including without limitation, fees of the Architect and any other design consultant to the Architect or the District. 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 amount of 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 amount from any portion of the Contract Price then or thereafter due the Contractor.

### **3.1.11 Detail Drawings and Instructions.**

**3.1.11.1 Architect's Additional Details.** In case of ambiguity, conflict, or lack of information, Architect shall furnish additional instructions by means of drawings or otherwise, necessary for proper execution of the Work. All such drawings and instructions shall be consistent with Contract Documents, true developments thereof, and reasonably inferable therefrom. Such additional instructions shall be furnished with reasonable promptness, but not more than fourteen (14) days, provided that Contractor informs Architect and District in writing of the relationship of the requested critical path of the Construction Schedule. Architect will furnish necessary additional details to more fully explain the Work, which details shall be deemed part of the Contract Documents.

**3.1.11.2 Contractor Notice of Impacts.** If the Contractor believes that detail drawings issued by the Architect reflects a change to the scope of work or additional work beyond that reflected in the Contract Documents or reasonably referable therefrom, the Contractor shall give written notice thereof to Architect and District within five (5) days of the receipt of same. If the Contractor does not give the Architect and District such written notice within five (5) days, the details shall be deemed to be reasonable development of the Work depicted in the Contract Documents without adjustment of the Contract Time or the Contract Price. If notice is given by the Contractor, the Contractor shall set forth in detail the extent of Contract Price or Contract Time adjustments resulting from such details along with the basis upon which the requested Contract Time/Contract Price adjustment is computed. The Architect will review any such notice and request for adjustment of the Contract Time/Contract Price and render the Architect's decision in accordance with the Contract Documents.

**3.2 Communications; Role of Construction Manager and Architect.** 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 Construction Manager. Communications between separate contractors, if any, shall be through the Construction 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 Construction Manager and the Architect for review, inspection and reproduction as may be requested from time to time. Failure or refusal of the Contractor to permit the District, the Construction 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 or Construction Manager.** 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 the Construction Manager, as applicable.

## 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 attributable costs for correction of the same.

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

**4.1.3 Dimensions; Layouts and Field Engineering.** Unless otherwise expressly provided, dimensions indicated in the Drawings are intended for reference only. The Drawings are intended to be diagrammatic and schematic in nature; the Contractor shall be solely responsible for coordinating the Work of the Contract Documents. All field engineering required for laying out the Work and establishing grades for earthwork operations shall be by the Contractor at its expense. Any field engineering or other engineering to be provided or performed by the Contractor under the Contract Documents and required or necessary for the proper execution or installation of the Work shall be provided and performed by the an engineer duly registered under the laws of the State of California in the engineering discipline for such portion of the Work. Upon commencement of any item of the Work, the Contractor is responsible for dimensions of such item of Work and related Work; without adjustment of the Contract Time or Contract Price, the Contractor is responsible for making component parts of the Work fit together properly.

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

### 4.2 Site Investigation; Subsurface Conditions.

**4.2.1 Contractor Investigation.** The Contractor shall be responsible for, and by executing the

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

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

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

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

**4.3.3 Layouts.** 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 be responsible for maintenance and preservation of benchmarks, reference points and stakes for the Work. The cost of maintenance and preservation of benchmarks, reference points and stakes shall be included within the Contract Price. The Contractor shall be solely responsible for all loss or costs resulting from the loss, destruction, disturbance or damage of benchmarks, reference points or stakes.

**4.3.4 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 to completely perform all of the Contractors' obligations shall be obtained by the Contractor without adjustment of the Contract Price. 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 and removal of temporary distributions thereof, shall be borne by the Contractor and included in the Contract Price.

**4.3.5 Existing Utilities; Removal, Relocation and Protection.** In accordance with California Government Code §4215, the District shall assume the responsibility for the timely removal, relocation, or protection of existing main or trunkline utility facilities located on the Site which are not identified in the Drawings, Specifications or other 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 Drawings, Specifications and other 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 the Contractor encounters utility facilities not identified by the District in the Drawings,

Specifications, or other Contract Documents, the Contractor shall immediately notify, in writing, the District, the Project Inspector, the Architect, the Construction Manager and the utility owner. In the event that 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.

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

**4.3.6.1 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: (a) administrative matters, including an overview of the respective responsibilities of the District, Architect, Construction Manager, Contractor, Subcontractor, Project Inspector and others performing any part of the Work or services relating to the Work; (b) Submittals; (c) Changes and Change Order processing; (d) employment practices, including Certified Payroll preparation and submission and prevailing wage rate responsibilities of the Contractor and Subcontractors; (e) Progress Schedule development and maintenance; (f) development of Schedule of Values and payment procedures; (g) communication procedures, including the handling of Requests for Information; (h) emergency and safety procedures; (i) Site visitor policies; (j) conduct of Contractor/Subcontractor personnel at the Site; and (k) punchlist/close-out procedures.

**4.3.6.2 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 Construction 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: a formal and regular forum for discussion of the status and progress of the Work by all Project participants, a review of progress or resolution of previously raised issues and action items assigned to the Project participants, and reviews of the Progress Schedule and Submittals.

**4.3.6.3 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.

**4.3.6.4 Minutes of Meetings.** Following conclusion of the Pre-Construction Conference, Progress Meetings and Special Meetings, the Architect will prepare and distribute minutes reflecting the items addressed and actions taken at a meeting or conference. Unless the Contractor notifies the Architect and the Construction 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 Construction Manager; such objections or corrections shall be submitted to the Architect and the Construction Manager through the Contractor. If the Contractor timely interposes objections or notes corrections, the resolution of such matters shall be addressed at the next scheduled Progress Meeting.

**4.3.7 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 the Site.

**4.3.8 Noise and Dust Control.**

**4.3.8.1 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.

**4.3.8.2 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 regulations set forth by the EPA and OSHA, and other applicable law, rule or regulation. 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 damages 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.

**4.3.8.3 Contractor Failure to Comply.** If the Contractor fails to comply with the requirements for dust control, noise control, or any other maintenance or clean up requirement of the Contract Documents, upon notice from the District, Architect, Project Inspector or Construction Manager to the Contractor, 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.

**4.3.9 Debris Recycling; Contractor Submittal of Debris Recycling Statement.** The Contractor and all Subcontractors shall maintain current, complete and accurate records of debris and other waste (collectively "Waste Materials") resulting from performance of the Work. The Contractor shall compile the records of the Contractor and all Subcontractors on a monthly basis. Based on such compilation, the Contractor shall, each month during performance of the Work, complete the form of Debris Recycling Statement (Attachment C to the Special Conditions) for itself and all Subcontractors performing Work at the Site. The Debris Recycling Statement must be executed by the Contractor's Superintendent, Construction Manager or other authorized employee; the completed/executed form of Debris Recycling Statement shall be submitted by the Contractor to the District each month during the Work concurrently with the Contractor's submission of its Applications for Progress Payment. During the Contract term, monthly records for each calendar year shall be compiled by the Contractor's Superintendent and submitted to the College's Project Manager, no later than January 15<sup>th</sup> of the following year.

#### **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 Contractor's Superintendent.** Contractor shall employ a competent Superintendent who is fluent in spoken and written English along with necessary assistants who shall be in attendance at the Site at all times during the performance of Work at the Site. Before

commencing the Work, Contractor shall designate in writing the name, qualifications, experience and references from owners and architects on previous projects for Contractor's proposed Superintendent who, on approval of District, shall have full authority to represent and act for Contractor. All directions given to the Superintendent shall be as binding as if given to Contractor. A facsimile of the signatures of the authorized representatives of Contractor shall be submitted to Architect and District. The Contractor's communications relating to the Work or the Contract Documents shall be through the Contractor's Superintendent. The Superintendent shall represent the Contractor and communications given to the Superintendent shall be binding as if given to the Contractor. The Contractor shall dismiss the Superintendent or any of his/her assistants 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 superintendent or assistant. Unless expressly excused by the District, the Contractor's Superintendent shall attend all Project meetings as the Contractor's representative.

#### **4.4.4 Prohibition on Harassment.**

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

**4.4.4.2 Contractor's Adoption of Anti-Harassment Policy.** Contractor shall adopt and implement all appropriate and necessary policies prohibiting any form of discrimination in the workplace, including without limitation harassment on the basis of any classification protected under local, state or federal law, regulation or policy. Contractor shall take all reasonable steps to prevent harassment from occurring, including without limitation affirmatively raising the subject of harassment among its employees, expressing strong disapproval of any form of harassment, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment and informing complainants of the outcome of an investigation into a harassment claim. Contractor shall require that any Subcontractor or Sub-subcontractor performing any portion of the Work to adopt and implement policies in conformity with this Article 4.4.4.

**4.4.4.3 Prohibition on Harassment at the Site.** Contractor shall not permit any person, whether employed by Contractor, a Subcontractor, Sub-subcontractor, or any other person or entity, performing any Work at or about the Site to engage in any prohibited form of harassment. Any such person engaging in a prohibited form of harassment directed to any individual performing or providing any portion of the Work at or about the Site shall be subject to appropriate sanctions in accordance with the anti-harassment policy adopted and implemented pursuant to Article 4.4.4.2 above. Any person, performing or providing Work on or about the Site engaging in a prohibited form of harassment directed to any student, faculty member or staff of the District or directed to any other person on or about the Site shall be subject to immediate removal and

shall be prohibited thereafter from providing or performing any portion of the Work. Upon the District's receipt of any notice or complaint that any person employed directly or indirectly by Contractor in performing or providing the Work has engaged in a prohibited form of harassment, the District will promptly undertake an investigation of such notice or complaint. In the event that the District, after such investigation, reasonably determines that a prohibited form of harassment has occurred, the District shall promptly notify the Contractor of the same and direct that the person engaging in such conduct be immediately removed from the Site. Unless the District's determination that a prohibited form of harassment has occurred is grossly negligent or without reasonable cause, District shall have no liability for directing the removal of any person determined to have engaged in a prohibited form of harassment nor shall the Contract Price or the Contract Time be adjusted on account thereof. Contractor and the Surety shall defend, indemnify and hold harmless the District and its employees, officers, 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 4.4.4.3; 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 District shall secure and pay for the building permits, other permits, governmental fees, licenses and inspections necessary or required for the proper execution and completion of the Work, except as otherwise provided in the Special Conditions. If permits/approvals are designated in the Special Conditions as the Contractor's responsibility, the Contractor shall obtain such permits/approvals at its sole cost and expense without adjustment of the Contract Price. Fees, costs or other expenses associated with or arising in connection with Deferred Approval Items shall be the responsibility of the Contractor without adjustment of the Contract Price.

**4.6.2 Compliance With Laws.** The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations 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 applicable laws, statutes, ordinances, building codes, regulations or rules, the Contractor shall promptly notify the Architect, Construction 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 laws, statutes, ordinances, building codes, rules or regulations applicable to the Work without such notice to the Architect 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.** Shop Drawings, Product Data, Samples and similar submittals (collectively "Submittals") are not Contract Documents. The purpose for submission of Submittals is to demonstrate, for those portions of the Work for which Submittals are required, the manner in which the Contractor proposes to provide or incorporate such 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, the number of copies of Submittals required by the Contract Documents. All Submittals required by the Contract Documents shall be prepared, assembled and submitted by the Contractor to the Architect within the time frames set forth in the Submittal Schedule incorporated and made a part of the Approved Construction Schedule prepared and submitted by the Contractor pursuant to Article 7 of these General Conditions. Contractor's submission of Submittals in conformity with the Submittal Schedule is a material obligation of the Contractor. In the event of Contractor's failure or refusal to deliver Submittals to the Architect in accordance with the Submittal Schedule, the Contractor shall be subject to per diem assessments in the amount set forth in the Special Conditions for each day of delayed submission for any Submittal beyond the date set forth in the Submittal Schedule for Contractor's submission of such Submittal. Contractor and District acknowledge and agree that if Contractor shall fail to deliver Submittals in accordance with the Submittal Schedule, the District will incur costs and expenses not contemplated by the Contract Documents, the exact amount of which are difficult to ascertain and fix. Contractor and the District acknowledge and agree that the per diem assessment for delayed submission of Submittals set forth in the Special Conditions represents a reasonable estimate of costs and expenses the District will incur as a result of delayed submission of Submittals and that the same is not a penalty. Notwithstanding Contractor's submission of all required Submittals in accordance with the Submittal Schedule, in the event that the District or the Architect reasonably determines that all or any portion of such Submittals fail to comply with the requirements of Articles 4.7.2.2, 4.7.2.3 and 4.7.2.4 of these General Conditions and/or such Submittals are not otherwise complete and accurate so as to require re-submission, Contractor shall bear all costs associated with the review and approval of the second resubmitted Submittals, including without limitation Architect's fees incurred in connection therewith; provided that such costs are in addition to, and not in lieu of, any per diem assessments imposed under this Article 4.7.2.1 for Contractor's delayed submission of Submittals. In the event of the District's imposition of the per diem assessments due to the Contractor's delayed submission of Submittals or in the event of the District's assessment of costs and expenses incurred to review incomplete or inaccurate Submittals, the District may deduct the same from any portion the Contract Price then or thereafter due the Contractor. Submittals not required by the Contract Documents or which do not otherwise conform with the requirements of the Contract Documents may be returned without action. No adjustment to the Contract Time or the

Contract Price shall be granted to the Contractor on account of its failure to make timely submission of any Submittal.

**4.7.2.2 Approval of Subcontractor Submittals.** All Submittals prepared by Subcontractors, of any tier, Material Suppliers, manufacturers or distributors shall bear the written approval of the Contractor thereto prior to submission to the Architect 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. Each Submittal shall include the following certification duly executed by the Contractor's Superintendent or Construction Manager for the Work:

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

**4.7.2.4 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. A material obligation of the Contractor is its specific/detailed identification and notation on the transmittal cover-sheet of each submission of Submittals any deviation between the Work as indicated in the Contract Documents and as indicated in the Submittal. The Contractor shall not be relieved of responsibility for errors or omissions in Submittals by the Architect's review thereof.

**4.7.2.5 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.

**4.7.4 Deferred Approval Items.** In the event that any portion of the Work is designated in the Contract Documents as a "Deferred Approval" item, Contractor shall be solely and exclusively responsible for the preparation of Submittals for such item(s) and must be received by Architect no later than 30 calendar days from the date of the Notice to Proceed. If deferred approval item submittal(s) are not received within 30 calendar days, then Liquidated Damages cost, as described under Special Conditions, 4.2.2 will be applied daily to the progress payment until the deferred approval items are received.

#### **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.

**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 such proposed substitution or alternative complies with the requirements of the Specifications relating to substitutions of specified items and the Contractor certifies to the Architect that the quality, performance capability and functionality (including visual and/or aesthetic effect) of the proposed alternative or substitute will meet or exceed the quality, performance capability and functionality of the item or process specified, and must demonstrate to the Architect that the use of the substitution or alternative is appropriate and will not delay completion of the Work or result in an increase to the Contract Price. The Contractor shall submit engineering, 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, of the Architect's consultant(s) and/or governmental agencies to review and/or approve any proposed substitution or alternative. The Contractor shall be solely responsible for any increase in the cost of any accepted substitution or alternative or any Work affected by such alternative or substitution. The foregoing notwithstanding, all requests for the Architect's review and approval of any proposed substitution or alternative and all engineering, 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 "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 not be subject to substitution.

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

**4.8.5 District's Right to Place Orders for Materials and/or Equipment.** Notwithstanding any other provision of the Contract Documents, in the event that the Contractor shall, upon request of the District or the Architect, fail or refuse, for any reason, to provide reasonably satisfactory written evidence of the placement of orders for materials and/or equipment necessary for completion of the Work, or should the District determine, in its sole and reasonable discretion, that any orders for materials and/or equipment have not been placed in a manner so that such materials and/or equipment will be delivered to the Site so the Work can be completed without delay or interruption, the District shall have the right, but not the obligation, to place such orders on behalf of the Contractor. If the District exercises the right to place orders for materials and/or equipment pursuant to the foregoing, the District's conduct shall not be deemed to be an exercise, by the District, of any control over the means, methods, techniques, sequences or procedures for completion of the Work, all of

which remain the responsibility and obligation of the Contractor. Notwithstanding the right of the District to place orders for materials and/or equipment pursuant to the foregoing, the election of the District to exercise, or not to exercise, such right shall not relieve the Contractor from any of Contractor's obligations under the Contract Documents, including without limitation, completion of the Work within the Contract Time and for the Contract Price. If the District exercises the right hereunder to place orders for materials and/or equipment on behalf of Contractor pursuant to the foregoing, Contractor shall reimburse the District for all costs and fees incurred by the District in placing such orders; such costs and fees may be deducted by the District from the Contract Price then or thereafter due the Contractor.

#### **4.9 Safety.**

**4.9.1 Safety Programs.** The Contractor shall be solely responsible for initiating, maintaining and supervising all safety programs required by applicable law, ordinance, regulation or governmental orders in connection with the performance of the Contract, or otherwise required by the type or nature of the Work. The Contractor's safety program shall include all actions and programs necessary for compliance with California or federally statutorily mandated workplace safety programs, including without limitation, compliance with the California Drug Free Workplace Act of 1990 (California Government Code §§8350 et seq.). Without limiting or relieving the Contractor of its obligations hereunder, the Contractor shall require that its Subcontractors similarly initiate and maintain all appropriate or required safety programs. Prior to commencement of Work at the Site, the Contractor shall provide the Architect, Project Inspector, the Construction Manager and District with the Contractor's proposed safety program for the Work for the Construction Manager's review. The Architect, the Construction Manager and the Project Inspector are authorized to enforce the Contractor's obligation to implement the safety program accepted by the Construction Manager.

**4.9.2 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 the Contractor's Subcontractors or Sub-subcontractors; and (iii) other property or items at the site of the Work, or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction. The Contractor shall take adequate precautions and measures to protect existing roads, sidewalks, curbs, pavement, utilities, adjoining property and improvements thereon (including without limitation, protection from settlement or loss of lateral support) and to avoid damage thereto. Without adjustment of the Contract Price or the Contract Time, the Contractor shall repair, replace or restore any damage or destruction of the foregoing items as a result of performance or installation of the Work.

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

**4.9.4 Safety Notices.** The Contractor shall give or post all notices required by applicable law

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

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

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

**4.9.7 Hazardous Materials.**

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

**4.9.7.2 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. In the event that the Contractor shall fail or refuse, for any reason, to commence the removal and replacement of any material or product containing ACBMs forming a part of, or incorporated into the Work, within ten (10) days of the date of the District's written notice to the Contractor of the existence of ACBM materials or products in the Work, the District may thereafter proceed to cause the removal and replacement of such materials or products in any manner which the District determines to be reasonably

necessary and appropriate; all costs, expenses and fees, including without limitation fees and costs of consultants and attorneys, incurred by the District in connection with such removal and replacement shall be the responsibility of the Contractor and the Contractor's Performance Bond Surety.

**4.9.7.3 Disposal of Hazardous Materials.** Contractor shall be solely and exclusively responsible for the disposal of any Hazardous Materials on or about Site resulting from the Contractor's performance of Work and other activities. The Contractor's obligations hereunder shall include without limitation, the transportation and disposal of any Hazardous Materials in strict conformity with any and all applicable laws, regulations, orders, procedures or ordinances.

#### **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 Construction 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 here under 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 Construction Manager for transmittal of the District.

- 4.11 Use of Site.** The Contractor shall confine operations at the Site to areas permitted by law, ordinances or permits, 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 shall be 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.
- 4.12 Clean-Up.** The Contractor shall at all times keep the Site and all adjoining areas free from the accumulation of any waste material or rubbish caused or generated by performance of the Work. Without limiting the generality of the foregoing, Contractor shall maintain the Site in a "broom-clean" standard on a daily basis. In the event that the Work of the Contract Documents includes painting and/or the installation of floor covering, prior to commencement of 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 material, excess excavated material, tools, Construction Equipment, machinery, surplus material and any other items which are not the property of the District under the Contract Documents. At completion of the Work, the Contractor shall clean the building interior and exterior, including fixtures, equipment, walls, floors, ceilings, roofs, window sills and ledges, horizontal surfaces, areas where debris, dust and similar items have collected, clean and polish all glass, plumbing fixtures, finish hardware, metal/wood/stone finishes. As directed by the Construction Manager, District or Architect, the Contractor shall remove temporary fencing, barricades, planking, temporary sanitary facilities, temporary utility distributions and other temporary facilities. Upon completion of the Work, the Site and all adjoining areas shall be left in a neat and broom clean condition satisfactory to District. The Project Inspector or Construction 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 the DSA, the District, the Construction Manager, the Project Inspector, the Architect and the Architect's consultant(s) with access to the Work, whether in place, preparation and progress and wherever located.
- 4.14 Information and Facilities/Services for the 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. The Contractor shall provide, without adjustment of the Contract Price, for use by the Project Inspector, the District and Construction Manager the facilities, equipment, furnishings and services set forth in the Special Conditions. If the Contractor does not provide the facilities, furnishings, equipment and

services set forth in the Special Conditions, or fails to pay timely any charges or fees arising out of the use of the same, the District may, as applicable, procure facilities, furnishings, equipment and services required by the Contract Documents or pay outstanding charges. Contractor shall reimburse the District for all costs, including the District's administrative costs, incurred by the District pursuant to the preceding sentence; in lieu of the Contractor's reimbursement and at the sole and exclusive discretion of the District, such costs may be deducted by the District from any portion of the Contract Price or thereafter due the Contractor.

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

**4.16 Cutting and Patching.** The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make the component parts thereof fit together properly. The Contractor shall not damage or endanger any portion of the Work, or the fully or partially completed construction of the District or separate contractors by cutting, patching, excavation or other alteration. When modifying new Work or when installing Work adjacent to an existing structure/facility, the Contractor shall match, as closely as conditions of the Site and materials will allow, the finishes, textures and colors of the existing structure/facility and refinish elements of the existing structure/facility. The Contractor shall not cut, patch or otherwise alter the 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.** In the event the Contractor encounters Hazardous Materials at the Site which have not been rendered harmless or for which there is no provision in the Contract Documents for containment, removal, abatement or handling of such Hazardous Materials, the Contractor shall immediately stop the Work in the affected area, but shall diligently proceed with the Work in all other unaffected areas. Upon encountering such Hazardous Materials, the Contractor shall immediately notify the Project Inspector 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. In the event such Hazardous Materials are encountered, the Contractor shall be entitled to an adjustment of the Contract Time to the extent that the Work is stopped and Substantial Completion of the Work is affected thereby. In no event shall there be an adjustment to the Contract Price solely on account of the Contractor encountering such Hazardous Materials.

#### **4.18 Wage Rates; Employment of Labor.**

**4.18.1 Determination of Prevailing Rates.** 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.

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

**4.18.3 Prevailing Rate Penalty.** The Contractor shall, as a penalty, forfeit not more than Fifty Dollars (\$50.00) 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 ten dollars (\$10) 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 twenty dollars (\$20) 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 thirty dollars (\$30) 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.

**4.18.4 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. 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 and the Division of Apprenticeship Standards of the Department of Industrial Relations; (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, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. 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 Division of Apprenticeship Standards or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor or any Subcontractor, of any tier, performing a part of the Work shall not be marked or obliterated. The Contractor shall inform the District of the location of payroll records, including the street address, city and county and shall, within five (5) working days, provide a notice of a change or location and address. In the event of noncompliance with the requirements of this Article 4.18.4, 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 10-day period, the Contractor shall, as a penalty to the District, forfeit Twenty-Five Dollars (\$25.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, 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.

#### **4.18.5 Hours of Work.**

**4.18.5.1 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.

**4.18.5.2 Contractor Responsibility.** Any Work performed by workers necessary to be performed after regular working hours or on 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.

#### **4.18.6 Apprentices.**

**4.18.6.1 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.

**4.18.6.2 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. The Contractor and Subcontractors shall submit contract award information to the applicable Joint Apprenticeship Committee which shall include an estimate of journeyman hours to be performed under the Contract, the number of apprentices to be employed, and the approximate dates the apprentices will be employed. There shall be an affirmative duty upon the Joint Apprenticeship Committee or Committees, administering the apprenticeship standards of the crafts or 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.

**4.18.6.3 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.

**4.18.6.4 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.

**4.18.6.5 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 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.

**4.18.6.6 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. In the event 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.

**4.18.7 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. In the event that Contractor shall employ 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 4.18.7 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 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.

**4.21 Labor Compliance Program ("LCP").** Pursuant to Labor Code §1771.7, the District has established a Labor Compliance Program. Unless otherwise expressly provided in the Contract Documents, the LCP is applicable to the entirety of the Work. A material obligation of the Contractor awarded the Contract is its strict compliance with all applicable provisions and requirements of the LCP and its strict enforcement of such provisions and requirements on its Subcontractors and others under the direction or control of the Contractor relating to the Work or the Project. A copy of the LCP is available for review and reproduction in the District's administrative office.

**4.21.1 Pre-Construction Conference.** In addition to the matters included in the scope of the Pre-Conference, as set forth in Article 4.3.6.1 of the General Conditions, the Pre-Construction conference will include a discussion of the subject matters indicated in the Pre-Construction Conference portion of the LCP, including general requirements of the LCP, measures for compliance with, and enforcement of, LCP requirements, and penalties for failure to comply. The Contractor awarded the Contract and each Subcontractor identified by such Contractor in its Subcontractors List submitted with its Bid Proposal. The foregoing notwithstanding, if the District reasonably determines that individuals or entities in addition to the Contractor and its listed Subcontractor are necessary attendees at the Pre-Construction conference, the Contractor is responsible for measures necessary to secure the attendance of such other persons or entities at the Pre-Construction conference.

**4.21.2 Maintenance and Weekly Submission of Certified Payroll Records.** The Contractor and each of its Subcontractors shall maintain accurate, complete and current payroll records as required by the LCP. During the progress of the Work, until Final Payment is due, the Contractor and its Subcontractors shall maintain and submit Certified Payroll Records on a weekly basis. No later than the 5:00 P.M. on each Monday during the Work, the Contractor shall submit to the Construction Manager Certified Payroll Records for the Contractor and its Subcontractors for all persons providing or performing any Work in the immediately preceding week. The Certified Payroll Records maintained and submitted hereunder shall be in strict conformity with requirements established in the LCP. A material obligation of the Contractor under the Contract Documents is the Contractor's and its Subcontractor's strict compliance with requirements of the LCP relating to maintenance and submission of Certified Payroll Records. The Contractor's submittal of weekly Certified Payroll Records in strict conformity with requirements of the LCP is an express condition precedent to the District's obligation to disburse any Progress Payment to the Contractor and the Contractor's entitlement to receipt of any Progress Payment.

**4.21.3 District Audit of Certified Payroll Records.** Pursuant to the LCP, the District shall, as appropriate or necessary conduct audits of Certified Payroll Records. If upon conducting such audits, the District determines that the Contractor or its Subcontractors have committed violations of the LCP, the Contractor and/or its Subcontractors shall be subject to all penalties, assessments and other remedies set forth in the LCP or by operation of law for such violations.

**4.21.4 Contractor's Rights Upon Determination of Violation.** If upon audit of Certified Payroll Records, the District determines that the Contractor has violated, or failed to comply with, applicable provisions of the LCP, the Contractor shall be subject to the penalties, assessments and other remedies set forth in the LCP for the Contractor's violation of, or failure to comply with, the LCP. To the extent applicable, the Contractor shall be entitled to contest or appeal such determination, as set forth in the LCP, provided that the Contractor strictly complies with all applicable provisions of applicable law and the LCP relating to the initiation and completion of proceeding to contest or appeal a determination that the Contractor has committed a violation of, or failed to comply with, the LCP.

**4.21.5 LCP Not Exclusive.** The LCP is not the exclusive source of Contractor's obligations relating to the payment of prevailing wages and compliance with apprenticeship standards. A material obligation of the Contractor under the Contract Documents is the Contractor's compliance with all applicable laws, codes, regulations, rules and orders relating to the employment of labor, working conditions, and payments to laborers for Work performed or provided by laborers.

**4.22 State Audit.** Pursuant to and in accordance with the provisions of Government Code §8546.7, or any amendments thereto, all books, records and files of the District, the Contractor, or any Subcontractor relating to the Work or the performance of work involving the expenditure of public funds in excess of Ten Thousand Dollars (\$10,000), including, but not limited to, the administration thereof, shall be subject to the examination and audit by the State Auditor of the State of California, at the request of District or as part of any audit of District, for a period of three (3) years after Final Payment is made under this Contract. Contractor shall preserve and cause to be preserved such books, records and files for the audit period. Upon request of the District, the Contractor shall make all such books, records or files available for review, inspection and/or reproduction.

## **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 the termination provisions of Article 15, and obligates the Subcontractor to assume toward the Contractor all the obligations and responsibilities of the Contractor which by the Contract Documents the Contractor assumes toward the District, the Project Inspector, DSA, the Construction Manager and the Architect. The foregoing notwithstanding, no contractual relationship shall exist, or be deemed to exist, between any Subcontractor and the District, unless the Contract is terminated and District, in writing, elects to assume the Subcontract. Each Subcontract for a portion of the Work shall provide that such Subcontract may be assigned to the District if the Contract is terminated by the District pursuant to Article 15.1 hereof, subject to the prior rights of the Surety obligated under a bond relating to the Contract. The Contractor shall provide to the District copies of all executed Subcontracts and Purchase Orders to which Contractor is a party within thirty (30) days after Contractor's execution of the Agreement. During performance of the Work, the Contractor shall, from time to time, as and when requested by the District, the Architect or the Construction 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 Substitution of Listed Subcontractor.**

**5.2.1 Substitution Process.** Any request of the Contractor to substitute a listed Subcontractor will be considered only if such request is in strict conformity with this Article 5.2 and California Public Contract Code §4107. All costs incurred by the District, including without limitation, costs of the Project Inspector, the Architect, the Construction Manager or attorneys fees in the review and evaluation of a request to substitute a listed Subcontractor shall be borne by the Contractor; such costs may be deducted by the District from the Contract Price then or thereafter due the Contractor.

**5.2.2 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. In the event of the District's consent to the substitution of a listed Subcontractor, the Architect shall determine the extent to which, if any, revised or additional Submittals will be required of the newly substituted Subcontractor. In the event that the Architect determines that revised or additional Submittals are required of the newly substituted Subcontractor, the Architect shall promptly notify the Contractor, in writing, of such requirement. In such event, revised or additional Submittals shall be submitted to Architect not later than thirty (30) days following the date of the Architect's written notice to the Contractor pursuant to the foregoing sentence; provided that if in the reasonable and good faith judgment of the Architect, the progress of the Work or completion of the Work requires submission of additional or revised Submittals by the newly substituted Subcontractor in less than thirty (30) days, the Architect shall so state in its written notice to the Contractor. In the event that the revised or additional Submittals are not submitted by Contractor within thirty (30) days, or such earlier time as determined by the Architect pursuant to the preceding sentence, following the Architect's written notice of the requirement for revised or additional Submittals, Contractor shall be subject to the per diem assessments for late Submittals as set forth in Article 4.7.2.1 of these General Conditions. Any revised or additional Submittals required pursuant to this Article 5.2.2 shall conform with 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 Construction Manager, Architect and/or any design consultant to the Architect or the District and DSA fees, incurred or associated with the processing, review and evaluation of any revised or additional Submittals required pursuant to this Article 5.2.2; 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 5.2.2, such requirement shall not result in an increase to the Contract Time or the Contract Price.

**5.3 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: (a) coordinate its Work with the dependent Work; (b) provide necessary dependent data and requirements; (c) supply and/or install items to built into the dependent Work of others; (d) make appropriate provisions for dependent Work of others; (e) carefully examine and understand the portions of the Contract Documents (including Drawings, Specifications and Field Clarifications) and Submittals relating to the dependent Work; and (f) 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.

- 5.4 Subcontractors' Compliance With LCP.** As applicable, each Subcontractor performing Work shall comply with the LCP. A material obligation of the Contractor is its enforcement of Subcontractor obligations relating to the LCP; failure of the Contractor to strictly enforce such Subcontractor obligations is a material obligation of the Contractor under the Contract Documents.

## **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; and (vi) Completed Operations.
- 6.3 Builder's Risk "All-Risk" Insurance.** The Contractor shall obtain Builders Risk insurance covering the full insurable value of the Work from risks of loss, damage or destruction of Work in progress or in place at the Site prior to Final Acceptance including without limitation coverage for losses resulting from the perils of fire, malicious mischief, vandalism, and collapse. The Builder's Risk Insurance Policy shall include coverage for seismic risks if so indicated in the Special Conditions.
- 6.4 Insurance Policy Requirements.** Each policy of insurance required by the Contract Documents shall confirm the following requirements.

**6.4.1 Minimum 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.

**6.4.2 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, Property/Casualty or Builder Risk 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).

## **6.5 Evidence of Insurance; Subcontractor's Insurance.**

**6.5.1 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, the Architect and the Construction Manager as additional insureds as their interests may appear. 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.

- 6.5.2 Subcontractors' Insurance.** Contractor shall require that every Subcontractor, of any tier, performing or providing any portion of the Work 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 with 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.
- 6.6 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.
- 6.7 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.
- 6.8 Indemnity.** Unless arising solely out of the active negligence, 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 Project Inspector); (ii) the Architect and its consultants for the Work and their respective agents and employees; and (iii) the Construction 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 or liabilities whether for damages, losses or other relief, including, without limitation attorneys fees and costs which arise, in whole or in part, from

the Work, the Contract Documents or the 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. The obligations of the Contractor, as set forth in (v) above shall include, without limitation losses, costs, expenses, damages and other claims asserted by any other Contractor to the District in connection with the Work or in connection with a work of improvement related to or affected by the Work. 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 subject to, or 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.

**6.9 Payment Bond; Performance Bond.** Prior to commencement of the Work, the Contractor shall furnish a Performance Bond as security for Contractor's faithful performance of the Contract and a Labor and Material Payment Bond as security for payment of persons or entities performing work, labor or furnishing materials in connection with Contractor's performance of the Work under the Contract Documents. Unless otherwise stated in the Special Conditions, the amounts of the Performance Bond and the Payment Bond required hereunder shall be one hundred percent (100%) of the Contract Price. Said Labor and Material Payment Bond and Performance Bond shall be in the form and content set forth in the Contract Documents. The 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: (i) an Admitted Surety Insurer as that term is defined in California Code of Civil Procedure §995.120; (ii) A.M. Best rated A- or better; and (iii) A.M. Best Financial Size Category VII or better. The Contractor's delivery of Bonds issued by a Surety who does not meet or exceed each of the criteria set forth above will be rejected.

## 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.

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

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

**7.2.3.1 Punchlist.** Upon achieving Substantial Completion of the Work, the District, The Project Inspector, the Construction Manager, the Architect and the Contractor shall jointly inspect the Work and prepare a comprehensive list of items of the Work to be corrected or completed by the Contractor ("the 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 setting forth items for correction or completion pursuant to Article 7.2.3.1, the Construction Manager, if any, Contractor and Architect shall, after the joint inspection, establish a reasonable time for Contractors' completion of all Punchlist items. If mutual agreement is not reached 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. In the event that the Contractor shall fail or refuse, 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 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, the performance of all correction or completion items noted upon Substantial Completion, and the Contract has been otherwise fully performed by the Contractor. Final Completion shall be determined by the Architect and the Project Inspector upon request of the Contractor. The good faith and reasonable determination of Final Completion by the Project Inspector and the Architect shall be controlling and final.

**7.2.5 Contractor Responsibility for Multiple Inspections.** In the event the Contractor shall request determination of Substantial Completion or Final Completion by the Project Inspector and the Architect and it is determined by the Project Inspector and 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 reinspection, including without limitation, the fees of the Architect and the salary of 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 shall be deemed to be 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 General Construction Schedule Requirements.** Unless otherwise provided in the Special Conditions, the Construction Schedules required under this Article 7 shall; (i) be prepared utilizing the then most recent edition of Primavera Suretrak Project Manager or Primavera Project Planner; (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) 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; (iv) no Site activity shall reflect a duration of less than one (1) or more than fifteen (15) working days; (v) no more than twenty five percent (25%) of the total number of activities shown on any Construction Schedule shall be critical path activities or near critical path activities; "near critical path" is defined as float less than ten (10) working days; (vi) indicate major milestones, including without limitation, development of Punchlists and completion of Punchlists, equipment start-up and testing, close-out activities; and (vii) shall incorporate an activity code structure sufficient to allow future sorting/grouping by responsibility, Site area/location, CSI divisions and Milestones. Failure by the Contractor to include any element of the Work required by the Contract Documents or completion of the Work shall not excuse the Contractor from completing all work required within the Contract Time, notwithstanding District's, Construction Manager's and Architect's acceptance of any Construction Schedule prepared by the Contractor.

#### **7.3.2 Updates to Accepted Construction Schedule.**

**7.3.2.1 Updated Construction Schedule Requirements.** The Contractor shall monitor and update the Accepted 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 Construction Manager and the Architect with Updated Accepted Construction Schedules indicating progress achieved and activities commenced or completed within the prior Updated Accepted Construction Schedule. Updates to the Accepted Construction Schedule shall not include any revisions to the activities, commencement and completion dates of activities or the sequencing of activities depicted on the Accepted Construction Schedule. Any such revisions to the Accepted Construction Schedule shall result in the District's rejection of such update and Contractor shall, within five (5) working days of the District's rejection of such update, submit to the Architect and the Construction Manager an Updated Accepted Construction Schedule which does not incorporate any such revisions. The Contractor shall also submit, with its updates to the Accepted 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 Accepted 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 Accepted 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.

**7.3.2.2 Monthly Submission of Updated Construction Schedules.** Concurrently with its submission of its Applications for Progress Payments, the Contractor shall submit the Updated Construction Schedule for the immediately preceding month. Each submission of a monthly Updated Construction Schedule shall consist of: (i) one (1) reproducible copy; (ii) three (3) color copies; and (iii) electronic P3 file stored on CD or DVD. If a narrative report accompanies any monthly Updated Construction Schedule, the Contractor shall submit four (4) copies of such narratives.

**7.3.3 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 of the Contractor under Contract Documents. Any and all costs or expenses required or incurred to prepare, submit, revise, maintain or 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, and maintenance or updating of the Construction Schedules.

**7.3.4 Three (3) Week Look-Ahead Schedule; One (1) Week As Built Schedule.** A combined three (3) week Look-Ahead Schedule for the three (3) week period immediately following each weekly Progress Meeting with a one (1) week As-Built Schedule for the previous week shall be prepared by the Contractor and submitted by the Contractor to the Construction Manager for review and approval at each weekly Progress Meeting. The Contractor's preparation and submittal of the Three (3) Week Look-Ahead Schedule; One (1) Week As Built Schedule described above are material obligations of the Contractor; failure

or refusal of the Contractor to strictly comply with the foregoing shall be a basis for the District's exercise of the default termination procedures set forth in the Contract Documents.

**7.3.5 Unanticipated Unusually Severe Weather Conditions.** The Preliminary Construction Schedule and all subsequent Construction Schedule Updates shall incorporate a critical path activity titled "Remaining Inclement Weather Days" which shall be the last activity in each Construction Schedule prior to the activity titled "Substantial Completion". The Remaining Inclement Weather Days activity shall have an initial duration equal to the total number of allowed "rain days" set forth in the Special Conditions. The Contractor shall apply in writing to the District to use an Inclement Weather Day only when a critical path activity on the then current Updated Construction Schedule has been delayed because of unanticipated unusually severe weather conditions. If, at Substantial Completion, there are inclement weather days still remaining, the Substantial Completion day shall not be adjusted. If, additional inclement weather days are required, the District shall adjust the Substantial Completion date accordingly.

**7.3.6 Construction Schedules; Conditions Precedent To Progress Payment Disbursements.** In addition to, and not in lieu of conditions precedent set forth elsewhere in the Contract Documents relating to the District's disbursement of Progress Payments, the Contractor's preparation and submission of the Preliminary Construction Schedule, Construction Schedule Updates and the Three (3) Week Look-Ahead Schedule; One (1) Week As Built Schedule in accordance with the Contract Documents requirements are conditions precedent to the District's obligation to disburse any Progress Payment to the Contractor.

**7.3.7 Contractor Schedule Compliance Obligations.** If in the sole reasonable judgment of the District: (i) the Contractor's progress of Work is materially behind that indicated in the then current Construction Schedule or (ii) the Contractor's progress of Work will not result in the Contractor's achievement of Substantial Completion within the Contract Time or the Contractor's completion of Milestones/Phases of the Work as required by the Contract Documents, the Contractor shall take the action(s) described herein, as directed or authorized by the District. Unless the actions of the District, Construction Manager, Architect or Project Inspector are the sole causative factors resulting in delayed progress of the Work or the inability to achieve Substantial Completion within the Contract Time, the Contractor's actions hereunder shall not result in adjustment of the Contract Time or the Contract Price. Actions to be directed or authorized by the District include, without limitation, the Contractor's (i) increase of labor resources (whether on-Site or off-Site); (ii) increase the number of working hours per shift, increase the number of shifts per working day, increase the number of working days and/or increase Construction Equipment at the Site; and/or (iii) re-sequence Work activities to achieve maximum concurrent performance and completion of multiple Work activities.

**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 critical path 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 shall exceed those noted in the Special Conditions and such additional Rain Days shall have directly and adversely impacted the critical path of the Work as depicted in the Approved 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, the Inspector of Record, 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. 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 Adjustment of Contract Time.

**7.4.4.1 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.

**7.4.4.1.1 Contractor Notice of Adjustment of Contract Time.** The Contract Time shall be subject to adjustment only if the Contractor provides notice of an adjustment of the Contract Time and all supporting substantiation and documentation of the basis and extent of the requested Contract Time adjustment in strict conformity to Article 9.6 of these General Conditions.

**7.4.4.1.2 Time Impact Evaluation.** The supporting substantiation and documentation of the basis and extent of Contract Time adjustments required by the provisions of Article 9.6 shall include, without limitation, a complete Time Impact Evaluation ("TIE") of the factors justifying an adjustment of the Contract Time and the extent of such adjustment of the Contract Time.

**7.4.4.2 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 the Preliminary Construction Schedule within the time set forth in the Contract Documents; (ii) submit Submittals in accordance with Submittal Schedule incorporated into the Accepted Construction Schedule; (iii) achieve Substantial Completion of the Work within the Contract Time, (subject to adjustments authorized under the Contract Documents); or (iv) 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. 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 the Contractor's delayed submission of the Preliminary Construction Schedule, delayed submission of Submittals, delayed Substantial Completion or delayed 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 by the District 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.** Unless caused by the District, Architect, Construction 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 twenty-four (24) hours advance written notice from the Construction Manager to the Contractor of its failure or refusal, the District may thereafter furnish or cause to be furnish 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.

## **ARTICLE 8: CONTRACT PRICE**

- 8.1 Contract Price.** The Contract Price is the amount stated in the Agreement as such, and subject to any authorized adjustments thereto in accordance with the Contract Documents, is the total amount payable by the District to the Contractor for performance of the Work under the Contract Documents. The District's payment of the Contract Price to the Contractor shall be in accordance with the Contract Documents.
- 8.2 Cost Breakdown.** Within ten (10) working days of the execution of the Agreement by Contractor, Contractor shall furnish, on forms provided by the District, a detailed estimate and complete Cost Breakdown of the Contract Price. The Cost Breakdown shall be subject to review and approval by the Construction Manager, Architect and District of the form and content thereof. In the event that the District shall reasonably object to any portion of the Cost Breakdown, within ten (10) days of the District's receipt of the Cost Breakdown, the District shall notify the Contractor, in writing of the District's objection(s) to the Cost Breakdown. Within five (5) days of the date of the District's written objection(s), Contractor shall submit a revised Cost Breakdown to the District, Architect and the Construction Manager for review and acceptance. The foregoing procedure for the preparation, review and approval of the Cost Breakdown shall continue until the District, Architect and the Construction Manager have approved of the entirety of the Cost Breakdown. Once the Cost Breakdown is accepted by the District, Architect and the Construction Manager, the Cost Breakdown shall not be thereafter modified or amended by the Contractor without the prior consent and approval of the District, Architect and the Construction Manager, which may be granted or withheld in their sole

reasonable discretion.

### **8.3 Progress Payments.**

**8.3.1 Applications for Progress Payments.** During the Contractor's performance of the Work, the Contractor shall submit monthly, on the first working day of each month, to the Project Inspector, Construction Manager and the Architect, Applications for Progress Payments, 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 Applications for Progress Payments shall be based upon the District accepted Cost Breakdown pursuant to Article 8.2 above and such values shall be only for determining the basis of Progress Payments to Contractor, and shall not be considered as fixing a basis for adjustments, whether additive or deductive, to the Contract Price, or for determining the extent of Work actually completed.

**8.3.2 Initial Progress Payment Meeting.** Prior to submitting any Application for Progress Payment and for the purpose of expediting review of Application for Progress Payments and disbursement of Progress Payments, Contractor agrees to meet with the Project Inspector, Construction Manager and Architect to review and discuss each of the Contractor's Proposed Applications for Progress Payment. If any item submitted for payment is disputed during this review, Contractor agrees to use its best efforts to resolve the disputed items with Project Inspector, Construction Manager and Architect before formally submitting the Application for Progress Payment. The Architect, the Construction Manager and District specifically reserve the right to dispute any item included in Contractor's Application for Progress Payment, regardless of whether such item was identified as disputed in the initial review process provided for herein.

**8.3.3 District's Review of Applications for Progress Payments.** In accordance with Public Contract Code §20104.50, upon receipt of an Application for Progress Payment, the District shall cause the same to be reviewed by the Project Inspector, the 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) a Certification, executed under penalty of perjury by the Contractor's Superintendent and/or Construction Manager, that all weekly Certified Payroll Records for the Contractor and all Subcontractors required to submit weekly Certified Payroll Records under the LCP for the period of time covered by the Application for Progress Payment have been completed and submitted in strict conformity with the LCP; (ii) Certified Payrolls of the any Subcontractors, of any tier, (who are not required under the LCP to submit Certified Payroll Records on weekly basis) for laborers performing any portion of the Work for which a 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 §3262 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 §3262 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) an updated Construction Schedule in accordance with Article 7.3.5 of the General Conditions and applicable provisions of the Specifications relating to the Contractor's updates to the Construction Schedule; (vi) for the first (1<sup>st</sup>) Application for Progress Payment, a certification that the Preliminary Construction Schedule conforming to requirements of the Contract Documents has been prepared and submitted by the Contractor; for subsequent Applications for Progress Payment 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, Project Inspector or the Construction Manager prior to disbursement of the Progress Payment; and (vii) completed/executed form of Debris Recycling Statement. 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.

**8.3.4 Review of Applications for Progress Payments.** Upon receipt of an Application for Progress Payment, the Architect, Construction Manager and the Project Inspector shall inspect and verify the Work to determine whether it has been performed in accordance with the terms of the Contract Documents and to determine the portion of the Application for Progress Payment which is properly due to the Contractor under the terms of the Contract Documents.

### **8.3.5 District's Disbursement of Progress Payments**

**8.3.5.1 Timely Disbursement of Progress Payments.** In accordance with Public Contract Code §20104.50, within thirty (30) days after the District's receipt of a proper Application for Progress Payment, there shall be paid, by District, to Contractor a sum equal to ninety percent (90%) of the value of the Work indicated in the Application for Progress Payment which is actually in place as of the date of the Application for Progress Payment and as verified and approved by the Project Inspector 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 8.3.3 above, each and all of which are conditions precedent to the District's obligation to disburse Progress Payments. If an Application for Progress Payment is determined not to be proper due to the failure or refusal of the Contractor to submit documents with the Application for Progress Payment, as required by Article 8.3.2, or incompleteness or inaccuracies in any such documents submitted or if it is reasonably determined that the Record Drawings have not been continuously maintained to reflect the actual as built conditions of the Work completed in the period for which the Progress Payment is requested, the thirty (30) day period hereunder for the District's timely disbursement of a Progress Payment shall be deemed to commence on the date that the District is actually in receipt of documents not submitted with the Application for Progress Payment, or corrections to documents with the Application for Progress Payment so as to render them complete and accurate, or the date upon which the Contractor accurately and fully completes preparation of the Record Drawings relating to the Work for which the Progress Payment is requested.

**8.3.5.2 Untimely Disbursement of Progress Payments.** In accordance with Public Contract Code §20104.50, in the event that the District shall fail to make any Progress Payment within thirty (30) days after receipt of an undisputed and properly submitted Application for Progress Payment, the District shall pay the Contractor interest on the undisputed amount of such Application for Progress Payment equal to the legal rate of interest set forth in California Code of Civil Procedure §685.010(a). The foregoing notwithstanding, in the event that the District shall determine that any Application for Progress Payment is not proper, pursuant to Article 8.3.3 above, and the District does not return such Application for Progress Payment within the seven (7) day period provided for in Article 8.3.3, the period of time for the District's disbursement of the Progress Payment on such Application for Progress Payment without incurring the interest liability shall be reduced by the number of days exceeding the seven (7) day return period.

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

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

**8.3.6 Progress Payments for Changed Work.** The Contractor's Applications for Progress Payment may include requests for payment on account of Changes in the Work which have been properly authorized and approved by the Project Inspector, 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 an Application for Progress Payment, 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 an Application for Progress Payment incorporating therein a request for payment of such materials or equipment if all of the following are complied with: (i) the materials or equipment have been delivered to the Site; (ii) adequate arrangements, reasonably satisfactory to the District, have been made by the Contractor to store and protect such materials or equipment at the Site including without limitation, insurance reasonably satisfactory to the District, covering and protecting against the risk of loss, destruction, theft or other damage to such materials or equipment while in storage if such coverage is not afforded under the policy of Builder's Risk insurance obtained by the District

pursuant to the Contract Documents; and (iii) the establishment of procedures reasonably satisfactory to the District by which title to such materials or equipment will be vested in the District upon the District's payment therefor. The Contractor acknowledges that the discretion to make, or not to make, payment for materials or equipment delivered or stored at the site of the Work pursuant to the preceding sentence shall be exercised exclusively by the District; the District's exercise of discretion not to make payment for materials or equipment delivered or stored at the Site, but not yet incorporated into the Work shall not be deemed the District's default hereunder. In the event that the District shall elect 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. The foregoing notwithstanding, the District may, in its sole and exclusive discretion, elect to make payment for materials or equipment not incorporated into the Work and which are not delivered or stored at the Site at or prior to the time of the Contractor's submittal of an Application for Progress Payment incorporating therein a request for payment of such materials or equipment provided that each and all of the following have been complied with: (i) adequate arrangements, reasonably satisfactory to the District, have been made by the Contractor to store and protect such materials or equipment which include without limitation, insurance reasonably satisfactory to the District, covering and protecting against the risk of loss, destruction, theft or other damage to such materials or equipment while in storage if coverage for the same is not afforded under the policy of Builder's Risk insurance obtained by the District pursuant to the Contract Documents; and (ii) the establishment of procedures reasonably satisfactory to the District by which title to such materials or equipment will be vested in the District upon the District's payment therefor. The Contractor acknowledges that the discretion to make, or not to make, payment for such materials or equipment pursuant to the preceding sentence shall be exercised exclusively by the District; the District's exercise of discretion not to make payment for such materials or equipment shall not be deemed the District's default hereunder. In the event that the District shall elect to make payment for materials or equipment not at the Site, the costs and expenses incurred to comply with the requirements of (i) and (ii) of this Article 8.3.7.3 shall be borne solely and exclusively by the Contractor and no payment shall be made by the District on account of such costs and expenses.

**8.3.7.4 Materials or Equipment in Fabrication or Transit.** The provisions of this Article 8.3.7 notwithstanding, the District shall not make any payment on account of any materials or equipment which are in the process of being fabricated or which are in transit to the Site of or other storage location.

**8.3.8 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 Application for Progress Payment shall include, nor shall the District be obligated to disburse any portion of the Contract Price for amounts which the Contractor does not intend to pay any Subcontractor, of any tier, or Material Supplier because of a dispute or any other reason.

**8.3.9 Title to Work.** The Contractor warrants that title to all Work covered by an Application for Progress Payment will pass to the District no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Progress Payment, all Work for which a Progress Payment has been previously issued and the Contractor has received payment from the District 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.** In accordance with the provisions of California Public Contract Code §22300, eligible and equivalent securities may be substituted for any monies withheld by the District to ensure the Contractor's performance under the Contract Documents at the request and expense of the Contractor and in conformity with the provisions of California Public Contract Code §22300. The foregoing and the provisions of California Public Contract Code §22300 notwithstanding, failure of the Contractor to request the substitution of eligible and equivalent securities for monies to be withheld by the District prior to the Contractor's submission of its first Application for Progress Payment 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 and the Project Inspector will promptly make a final inspection of the Work and when the Architect 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 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 of any tier and Material Suppliers in accordance with California Civil Code §3262, 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.

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

**8.5 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 or Material Suppliers for materials or labor; (iii) claims filed or reasonable evidence of the probable filing of claims by Subcontractors, laborers, Material Suppliers, or others performing any portion of the Work under the Contract Documents for which the District may be liable or responsible including, without limitation, Stop Notice Claims filed with the District pursuant to California Civil Code §3179 et seq.; (iv) a reasonable doubt that the Contract can be completed for the then unpaid balance of the Contract Price; (v) tax demands filed in accordance with California Government Code §12419.4; (vi) other claims, penalties and/or forfeitures for which the District is required or authorized to retain funds otherwise due the Contractor; (vii) any amounts due from the Contractor to the District under

the terms of the Contract Documents; (viii) violations of the LCP or other obligations of the Contractor or any Subcontractor relating to the employment of labor in connection with the Work (including without limitation, delinquent submission of weekly Certified Payroll Records or the submission of inadequate weekly Certified Payroll Records; or (ix) the Contractor's failure to perform any of its obligations under the Contract Documents or its default under the Contract Documents or its failure to maintain adequate progress of the Work. In addition to the foregoing, the District shall not be obligated to process any Application for Progress Payment or Final Payment, nor shall Contractor be entitled to any Progress Payment or Final Payment so long as any lawful or proper direction concerning the Work or the performance thereof or any portion thereof, given by the District, the Project Inspector, the Architect or any public authority having jurisdiction over the Work, or any portion thereof, shall not be fully and completely complied with by the Contractor. When the District is reasonably satisfied that the Contractor has remedied any such deficiency, payment shall be made of the amount withheld. In lieu of making payment of withheld amounts to the Contractor, the District may, in its sole exclusive discretion, apply withheld amounts to the payment and satisfactions of debts and obligations of the Contractor relating to the Work. In doing, the District shall be an agent of the Contractor for the sole and limited purpose of making payment(s) to others for the Work on behalf of the Contractor; payments made by the District pursuant to the foregoing shall be deemed payments to the Contractor and the Contract Price shall be adjusted to reflect such payment(s). The District shall not be liable to the Contractor or others for its good faith decision to make or not make payment(s) of amounts withheld from the Contractor pursuant to the foregoing. If the District elects to make payments to other of amounts withheld from the Contractor, the District may do so without prior judicial determination; the District will render the Contractor a complete and accurate accounting of amounts withheld and paid to others on behalf of the Contractor.

**8.6 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. In the event of the Contractor's failure to make payment to Subcontractors in conformity with California Public Contract Code §10262, the provisions of California Public Contract Code §10253 shall apply; by this reference, the provisions of California Public Contract Code §10253 are incorporated herein in its entirety, except that the references in said Section 10253 to "the director" shall be deemed to refer to the District. The Contractor shall timely make payment of retention due Subcontractors in accordance with Public Contract Code §7107.

### **8.7 Computerized Job Cost Reporting System.**

**8.7.1 Job Cost Reporting.** The Contractor and each Subcontractor with a Subcontract valued at Five Hundred Thousand Dollars (\$500,000) 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 less 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: (a) providing overall cost status on a monthly and cumulative basis; (b) 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; (c) 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 or the Construction Manager, the Contractor and applicable Subcontractors shall make available written job cost reports and provide the District and the Construction Manager 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 authorized issued pursuant to the preceding sentence; the Contractor shall not be relieved or excused from its prompt commencement and diligent completion of 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 shall not be deemed 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 state or federal statutes and regulations enacted after award of the Contract.

**9.2 Oral Order of Change in the Work.** Any oral order, direction, instruction, interpretation, or determination from the District, the Project Inspector or the Architect which in the opinion of the Contractor causes any change to the scope of the Work, or otherwise requires an adjustment to the Contract Price or the Contract Time, shall be treated as a Change only if the Contractor gives the Architect 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 so that the District can promptly investigate and consider alternative measures to address the order, direction, instruction, interpretation or determination giving rise to Contractor's notice. Accordingly, Contractor acknowledges that its failure, for any reason, to

give written notice within ten (10) days of such order, direction, instruction, interpretation or determination shall be deemed Contractor's waiver of any right to assert or claim any entitlement to an adjustment of the Contract Time or the Contract Price on account of such 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 hereby waives any claim for any adjustment to the Contract Price or the Contract Time on account thereof.

**9.3 Contractor Submittal of Data.** Within ten (10) 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, the Project Inspector, the Construction Manager and the District a detailed written statement setting forth the general nature of the Change, the amount of any adjustment to the Contract Price 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.

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

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

**9.4.1.1 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 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.

**9.4.1.2 Determination by the District.** By the District, whether or not negotiations are initiated pursuant to Article 9.4.1.1 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 9.4.1.2 is utilized to determine the extent of adjustment to the Contract Price on account of Changes to the Work, promptly upon determining the extent of adjustment to the Contract Price, the District shall notify the Contractor in writing of the same; the Contractor shall be deemed to have accepted the District's determination of the amount of adjustment to the Contract Price on account of a Change to the Work unless Contractor shall notify

the District, the Architect and the Project Inspector, in writing, not more than fifteen (15) days from the date of the District's written notice, of any objection to the District's determination. Failure of the Contractor to timely notify the District, the Architect and the Project Inspector of Contractor's objections to the District's determination of the extent of adjustment to the Contract Price shall be deemed Contractor's acceptance of the District's determination and a waiver of any right or basis of the Contractor to thereafter protest or otherwise object to the District's determination. Notwithstanding any objection of the Contractor to the District's determination of the extent of any adjustment to the Contract Price pursuant to this Article 9.4.1.2, Contractor shall, pursuant to Article 9.7 below, diligently proceed to perform and complete any such Change.

**9.4.1.3 Basis for Adjustment of Contract Price.** If Changes in the Work require an adjustment of the Contract Price pursuant to Articles 9.4.1.1 or 9.4.1.2 above, the basis for adjustment of the Contract Price shall be as follows:

**9.4.1.3.1 Labor.** Contractor shall be compensated for the costs of labor actually and directly utilized in the performance of the Change. Such labor costs shall be limited to field labor for which there is a prevailing wage rate classification. Wage rates for labor shall not exceed the prevailing wage rates in the locality of the Site and shall be in the labor classification(s) necessary for the performance of the Change. Use of a labor classification which would increase labor costs associated with any Change shall not be permitted. Labor costs shall exclude costs incurred by the Contractor in preparing estimate(s) of the costs of the Change, in the maintenance of records relating to the costs of the Change, coordination and assembly of materials and information relating to the Change or performance thereof, or the supervision and other overhead and general conditions costs associated with the Change or performance thereof.

**9.4.1.3.2 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.

**9.4.1.3.3 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, 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, 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.

**9.4.1.3.4 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.

**9.4.1.3.5 Contractor Maintenance of Records.** In the event that Contractor shall be directed to perform any Changes to the Work pursuant to Article 9.1 or 9.2, or should the Contractor encounter conditions which the Contractor, pursuant to Article 9.6, believes would 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. In the event that more than one Change to the Work is performed by the Contractor in a calendar day, Contractor shall maintain separate records of labor, Construction Equipment, materials and equipment for each such Change. In the event that any Subcontractor, of any tier, shall provide or perform any portion of any Change to the Work, Contractor shall require that each such Subcontractor maintain records in accordance with this Article. Each daily record maintained hereunder shall be signed by Contractor's Superintendent or Contractor's authorized representative; such signature shall be deemed Contractor's representation and warranty that all information contained therein is true, accurate, and complete and relates only to the Change referenced therein. All records maintained by a Subcontractor, of any tier, relating to the costs of a Change to the Work shall be signed by such Subcontractor's authorized representative or Superintendent. All records maintained hereunder shall be subject to inspection, review and/or reproduction by the District, the Architect or the Project Inspector upon request. In the event that Contractor shall fail or refuse, for any reason, to maintain or make available for inspection, review and/or reproduction such records and the adjustment to the Contract Price on account of any Change to the Work is determined pursuant to this Article, the District's reasonable good faith determination of the extent of adjustment to the Contract Price on account of such Change shall be final, conclusive, dispositive and binding upon Contractor. Contractor's obligation to maintain records hereunder is in addition to, and not in lieu of, any other Contractor obligation under the Contract Documents with respect to Changes to the Work.

**9.4.2 Adjustment to Contract Time.** In the event of any Change(s) to the Work pursuant to this Article 9, 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. In the event that any Change shall require an extension of the Contract Time, the Contractor shall not be subject to Liquidated Damages for such period of time. If completion of the Work is delayed by causes for which the District is responsible and the delay is unreasonable under the circumstances involved, and not within the contemplation of the Contractor and the District at the time of execution of the Agreement, the Contractor shall not be precluded from the recovery of damages arising therefrom.

**9.4.3 Addition or Deletion of Alternate Bid Item(s).** If the Bid for the Work includes proposal(s) for Alternate Bid Item(s), during Contractor's performance of the Work, the District may elect, pursuant to this Article to add any such Alternate Bid Item(s) if the same did not form a basis for award of the Contract or delete any such Alternate Bid Item(s) if the same formed a basis for award of the Contract. If the District elects to add or delete any such Alternate Bid Item(s) pursuant to the foregoing, the cost or credit for such Alternate Bid Item(s) shall be as set forth in the Contractor's Bid. If any Alternate Bid Item is added or deleted from the Work pursuant to the foregoing, the Contract Time shall be adjusted by the number of days allocated for the added or deleted Alternate Bid Item in the Contract Documents; if days are not allocated for any Alternate Bid Item added or deleted pursuant to the foregoing, the Contract Time shall be equitably adjusted.

**9.5 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, including without limitation, costs of delays or impacts related to, or arising out of, items covered and affected by the Change Order, as well as any adjustments to the Contract Time. 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 9.5, 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. Change Orders shall be issued on the form of Change Order and the content thereof, as attached to the Special Conditions.

**9.6 Contractor Notice of Changes.** If the Contractor should claim that any instruction, request, 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 District, Construction Manager, 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 District, Construction Manager, 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 9.6, any such adjustment shall be determined in accordance with the provisions of Articles 9.4.1 and 9.4.2.

**9.7 Disputed Changes.** In the event of any dispute or disagreement between the Contractor and the District or the Architect regarding the characterization of any item as a Change to the Work

or as to the appropriate adjustment of the Contract Price or the Contract Time on account thereof, the Contractor shall promptly proceed with the performance 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 may be deemed to be Contractor's default of a material obligation of the Contractor under the Contract Documents.

- 9.8 Emergencies.** In an emergency affecting the safety of life, or of the Work, or of property, the Contractor, without special instruction or prior authorization from the District 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.
- 9.9 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 Construction Manager or the Project Inspector may direct the Contractor to perform Changes provided that each such Change does not result in an increase of more than \$500.00 to the Contract Price and no adjustment of the Contract Time. The Contractor shall carry out such orders promptly.
- 9.10 Unauthorized Changes.** Any Work beyond the extent of Work shown on the Contract Documents, or any extra Work performed or provided by the Contractor without notice to the Architect, the Construction Manager and the Project Inspector in the manner and within the time set forth in Articles 9.2 or 9.6 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' 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 and the Project Inspector any apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor to so report shall constitute an acknowledgment that the 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.

## ARTICLE 11: TESTS AND INSPECTIONS

### 11.1 Tests; Inspections; Observations.

**11.1.1 Contractor's Notice.** If the Contract Documents, laws, ordinances 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 Construction Manager and the Project Inspector written notice of the readiness of such Work for observation, testing or inspection at least two (2) working days prior to the time for the conducting of such test, inspection or observation. If inspection, testing or observation is by authority other than the District, the Contractor shall inform the Project Inspector and the Construction Manager not less than two (2) working days prior to the date fixed for such inspection, test 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. In the event that any portion of the Work subject to tests, inspection or approval shall be covered up by Contractor prior to completion and satisfaction of the requirements of such tests, inspection or approval, Contractor shall be responsible for the uncovering of such portion of the Work as is necessary for performing such tests, inspection or approval without adjustment of the Contract Price or the Contract Time on account thereof.

**11.1.2 Cost of Tests and Inspections.** Except as set forth below, the District will pay for fees, costs and expenses to complete the initial tests/inspections of portions of the Work as required by law, code or regulation, provided that such tests/inspections are conducted and completed at a location within a one hundred (100) mile radius of the Site. 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. 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. If any tests/inspections are conducted outside a one hundred (100) mile radius of the Site, the Contractor shall be solely responsible for all costs, fees or expenses to conduct and complete such tests/inspections conducted at such location, including without limitation, costs to complete such tests/inspections and travel, meal and related expenses.

**11.1.3 Testing/Inspection Laboratory.** The District shall select duly qualified person(s) or testing laboratory(ies) to conduct the tests and inspections to be paid for by the District and required by the Contract Documents. Tests and inspections required of the Work shall be as set forth in the Contract Documents and as required by applicable law, rule or regulation, including without limitation, Title 24 of the California Code of Regulations. Test/inspection standards shall be as set forth in the Contract Documents or established by applicable law, rule or regulation. 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 Construction Manager or the Architect and not by the Contractor.

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

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

**11.3 Timeliness of Tests, Inspections and Approvals.** Tests or inspections required and conducted pursuant to the Contract Documents shall be made or arranged by Contractor to avoid delay in the progress of the Work. Neither the Contract Time nor Contract Price shall be adjusted on account of the failure of the Contractor to timely arrange for the conduct of required tests/inspections and the Contractor shall be liable to the District for all consequences of such failures, including without limitation, the assessment of Liquidated Damages for delayed Substantial Completion of the Work resulting from such failure of the Contractor.

## 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 Construction 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 Construction Manager, the Architect, the Project Inspector, DSA or any other public or quasi-public authority with jurisdiction over the Work or any portion thereof.

- 12.1.2 Limitations Upon Inspections.** Inspections, tests, measurements, or other acts of the Architect, the Construction Manager and the Project Inspector hereunder are for the sole purpose of assisting them in determining that the Work, materials, equipment, progress of the Work, and quantities generally comply and conform with 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 Construction Manager, 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, Construction Manager and the Project Inspector and be replaced at the Contractor's expense without adjustment of the Contract Time or the Contract Price.
- 12.3 Rejection of Work.** Prior to the District's Final Acceptance of the Work, any Work or materials or equipment forming a part of the Work or incorporated into the Work which is defective or not in conformity with the Contract Documents may be rejected by the District, the Construction 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 Work, materials or equipment.
- 12.4 Correction of Work.** The Contractor shall promptly correct any portion of the Work rejected by the District, the Construction Manager, the Architect or the Project Inspector for failing to conform to the requirements of the Contract Documents, or which is determined by them to be defective, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected 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 Work which is not in accordance with the requirements of the Contract Documents, or which is defective. If the Contractor fails or refuses to correct Work deemed defective or non-conforming pursuant to the foregoing, such failure or refusal shall be deemed the Contractor's default in performance of a material obligation of the Contractor hereunder. In such event, the Contractor's Performance Bond Surety shall be liable for the costs to correct such defective or non-conforming Work and/or securing the performance of an alternative contractor to complete such corrective Work.
- 12.5 Removal of Non-Conforming or Defective Work.** The Contractor shall, at its sole cost and expense, remove from the Site all portions of the Work which are defective or are not in accordance with the requirements of the Contract Documents 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 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, attorneys fees and other expenses made necessary thereby. If such proceeds of sale do not cover costs which the Contractor should have borne, the Contract Price shall be reduced by the deficiency. If payments of the Contract Price then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor and the Surety shall promptly pay the difference to the District.

**12.7 Acceptance of Defective or Non-Conforming Work.** The District may, in its sole and exclusive discretion, elect to accept Work which is defective or which is not in accordance with the requirements of the Contract Documents, instead of requiring its removal and correction, in which case the Contract Price shall be reduced as appropriate and equitable.

## ARTICLE 13: WARRANTIES

**13.1 Workmanship and Materials.** The Contractor warrants to the District that all materials and equipment furnished under the Contract Documents shall be new, of good quality and of the most suitable grade and quality for the purpose intended, unless otherwise specified in the Contract Documents. All Work shall be of good quality, free from faults and defects and in conformity with the requirements of the Contract Documents. If required by the Architect 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. 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.

**13.2 Warranty Work.** If, within one 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. In the event that Contractor shall fail or refuse 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. The obligations of the Contractor hereunder shall be in addition to, and not in lieu of, any other obligations imposed by any special guarantee or warranty required by the Contract Documents, guarantees or warranties provided by any manufacturer of any item or equipment forming a part of, or incorporated into the Work, or otherwise recognized, prescribed or imposed by law. Neither the District's Final Acceptance, the making of Final Payment, any provision in Contract Documents, nor the use or occupancy of the Work, in whole or in part, by District shall constitute acceptance of Work not in accordance with the Contract Documents nor relieve the Contractor or the Contractor's Performance Bond Surety from liability with respect to any warranties or responsibility for 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 included within the Contract Documents. 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.

**13.4 Survival of Warranties.** The provisions of this Article 13 shall survive the Contractor's completion of Work under the Contract Documents, the District's Final Acceptance or the termination of the Contract.

## 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 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 laws, ordinances, rules, codes, regulations, orders applicable to the Work or similar requirements of any public entity having jurisdiction over the Work; (vi) if the Contractor disregards proper directives of the Architect, the Project Inspector or District under the Contract Documents; (vii) if the Contractor performs Work which deviates from the Contract Documents and neglects or refuses to correct such Work; or (viii) if the Contractor otherwise violates in any material way any provisions or requirements of the Contract Documents. Once the District determines that sufficient cause exists to justify the action, the District may terminate the Contract without prejudice to any other right or remedy the District may 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 at law.

**15.1.2 District's Rights Upon Termination.** In the event that 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 the site of the Work, and use the same to the full extent they could be used by the Contractor without liability to the Contractor. In exercising the District's right to prosecute the completion of the Work, the District may also take possession of all materials and equipment stored at the site of the Work or for which the District has paid the Contractor but which are stored elsewhere, and finish the Work as the District deems expedient. In exercising the District's right to prosecute the completion of the Work, the District shall have the right to exercise its sole discretion as to the manner, methods, and reasonableness of the costs of completing the Work and the District shall not be required to obtain the lowest figure for completion of the Work. In the event that the District takes bids for remedial Work or completion of the Work, the Contractor shall not be eligible for the award of such contract(s).

**15.1.3 Completion by the Surety.** In the event that 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 and compensation for additional professional and consultant services, 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/or the Surety shall pay the difference to the District.
- 15.1.6 Contractor Responsibility for Damages.** The Contractor and the Surety shall be 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 over and beyond 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 law or otherwise 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.

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**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.** In the event any provision of the Contract Documents shall be deemed illegal, invalid, unenforceable and/or void, by a court or any other governmental agency of competent jurisdiction, such provision shall be deemed to be severed and deleted from the Contract Documents, but all remaining provisions hereof, shall in all other respects, continue in full force and effect.
- 16.6 No Assignment by Contractor.** The Contractor shall not sublet or assign the Contract, or any portion thereof, or any monies due thereunder, without the express prior written consent and approval of the District, which approval may be 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. Nothing contained herein shall be deemed or construed as creating a relationship of employer and employee between the District and the Contractor or any Subcontractors, employees of the Contractor or Subcontractors or their respective agents and representatives. Neither the Contractor, Subcontractors nor any employees of the Contractor or Subcontractors are entitled to any rights or privileges of District employees.
- 16.9 Notices.** 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 California Government Code section 900, et seq., as a condition precedent to the Contractor's commencement of arbitration proceedings. Any arbitration proceeding pursuant to Article 16.11.3 commenced by the Contractor without first complying with the foregoing provisions of the Government Code shall be stayed pending the Contractor's compliance with the foregoing provisions of the Government Code.

**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 arbitration conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association ("AAA") in effect as of the date that a Demand for Arbitration is filed, except as expressly modified herein. The locale for any arbitration commenced hereunder shall be the regional

office of the AAA closest to the Site. The award rendered by the Arbitrator(s) ("Arbitration Award") shall be final and binding upon the District and the Contractor only if the Arbitration Award is supported by law and substantial evidence pursuant to California Code of Civil Procedure §1296, including findings of fact and conclusions of law in conformity with California Code of Civil Procedure §1296 and Rule R-43 of the AAA Construction Industry Arbitration Rules. The District and Contractor hereby expressly agree that the Court shall, subject to California Code of Civil Procedure §§1286.4 and 1296, vacate the Arbitration Award if, after review of the Arbitration Award, the Court determines either that the Arbitration Award is: (i) not supported by substantial evidence; (ii) not accompanied by findings of fact and conclusions of law; or (iii) based on an error of law. 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. In the event more than one Demand for Arbitration is made by either the District or the Contractor, all such controversies 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 cost and expense 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 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 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.

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

**16.14 Waiver of Special/Consequential Damages.** Notwithstanding any right conferred by law or arising by operation of law, by executing the Agreement, the Contractor expressly waives and relinquishes any and all right or entitlement to assert or recover any damages, losses or liabilities from the District which are in the nature of special or consequential damages, losses or liabilities arising out of or related in any manner to the District's breach or default of its obligations under 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 Days.** Unless otherwise expressly stated, references to "days" in the Contract Documents shall be deemed to be calendar days.

**16.17 Prohibited Interests.** No employee of the District, who is authorized in such capacity on behalf of the District to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any architectural, engineering, inspection, 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.

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

**[END OF SECTION]**

**SPECIAL CONDITIONS**

**1. Application of Special Conditions** These Special Conditions are a part of the Contract Documents for the Work generally described as: **BID No.: 08-14, M&O FACILITY SITE WORK FINISHES & SHOP BUILDINGS INSTALLATION, LAS POSITAS COLLEGE**

**2. Drawings and Specifications** The number of sets of the Drawings and Specifications which the District will provide the Contractor, pursuant to Article 2.1.3 of the General Conditions will be mutually agreed upon and reasonable at the District’s discretion and will not exceed 40 sets. Additional sets of the Drawings and Specifications may be obtained by the Contractor from the District at the cost of reproduction.

**3. Insurance**

**3.1 Insurance Requirements for Contractor** Minimum coverage amounts for each policy of insurance required of the Contractor shall be as follows:

Workers Compensation Insurance	In accordance with applicable law
Employers Liability Insurance	\$1,000,000
Commercial General Liability Insurance (including coverage for bodily injury, death, property damage and motor vehicle liability)	
Per Occurrence	\$2,000,000
Aggregate	\$4,000,000
Builder’s Risk	Full value of the Work; seismic coverage is not required

**3.2 Insurance Requirements for Subcontractors** Minimum coverage amounts for each policy of insurance to be obtained and maintained by each Subcontractor to the Contractor shall be as follows:

Workers Compensation Insurance	In accordance with applicable law
Employers Liability Insurance	\$1,000,000
Commercial General Liability Insurance (including coverage for bodily injury, death, property damage and motor vehicle liability)	
Per Occurrence	\$1,000,000
Aggregate	\$2,000,000

**4. Contract Time, Liquidated Damages**

**4.1 Contract Time** The Contract Time for the Contractor’s Substantial Completion of the Work is **One Hundred Thirty-Five (135) calendar days** after the date for commencement of the Work as set forth in the Notice to Proceed issued by or on behalf of the District to the Contractor.

#### 4.1.1 Schedule Milestones

All required work for the construction of the Temporary Access Road including, but not limited to, grading, storm drainage, erosion control and paving must be complete and turned over for use by the Owner before work on the stub road may commence.

All required work for the construction of the Stub Road, including, but not limited to, grading, underground utilities, curbs and gutters, site lighting, aggregate base and one lift of asphalt paving must be complete no later than October 15, 2008. Contractor shall maintain access to the Stub Road by the Owner from the Loop Road to the Temporary Pad during construction. The final lift(s) of asphalt shall be installed at the completion of the construction.

All required work for the construction of the Temporary Pad including, but not limited to, grading, storm drainage, filter fabric and crushed rock must be complete no later than October 15, 2008. Contractor shall maintain access to the Temporary Pad by the Owner during construction.

All required work for the construction of Carport A, including, but not limited to, structural foundations and slab, erection of pre-engineered building, electrical service, and lighting must be complete no later than October 15, 2008 at which time the Owner will take occupancy of Carport A. Contractor shall maintain a 20 foot wide clear area in front of Carport A so as to allow full use of the carport by the Owner during construction.

All required work for the construction of a 30 foot wide section of asphalt paving adjacent to, and following, the western boundary fence from Carport A heading north to the Fuel Depot including, but not limited to, grading, underground utilities, fire appurtenances, site lighting, curbs and gutters, aggregate base and asphalt paving must be complete no later than October 15, 2008 at which time the Owner will take over use of the asphalt paving section. Contractor shall maintain access to the area by the Owner during construction.

All required preparation work for the Owner's modular building installer, including, but not limited to, site preparation, underground utilities, fine-graded building pad and clear access to the modular building location for staging and delivery of materials and equipment required for modular building installation must be complete and turned over to the Owner's modular building installer no later than fifty-five (55) calendar days following notice to proceed.

All required preparation work to allow delivery of the pre-engineered building components by the Owner's pre-engineered building manufacturer, including, but not limited to, clear access to the Contractor's staging area must be complete no later than fifty-five (55) calendar days following notice to proceed.

#### 4.2 Liquidated Damages

**4.2.1 Delayed Submission of Preliminary Construction Schedule** If the Contractor fails to submit the Contractor's Preliminary Construction Schedule within the time established in the General Conditions, the Contractor shall be subject to assessment of Liquidated Damages in the amount of **Two Thousand Five Hundred Dollars (\$2,500.00)** per day from the date the Preliminary Construction

Schedule is required to be submitted until submission thereof to the District.

- 4.2.2 Delayed Completion of Interim Milestones If the Contractor fails to complete required work specified as milestones within the construction documents, including adjustments thereto in accordance with the Contract Documents, the Contractor shall be subject to assessment of Liquidated Damages in the amount of **Two Thousand Five Hundred Dollars (\$2,500.00)** per day from the scheduled date of Substantial Completion of said milestone items are complete.
- 4.2.3 Delayed Substantial Completion If the Contractor fails to achieve Substantial Completion of the Work within the Contract Time, including adjustments thereto in accordance with the Contract Documents, the Contractor shall be subject to assessment of Liquidated Damages in the amount of **Two Thousand Five Hundred Dollars (\$2,500.00)** per day from the scheduled date of Substantial Completion until Substantial Completion is achieved.
- 4.2.4 Delayed Completion of Punchlist Items If the Contractor fails to complete all Punchlist Items noted upon Substantial Completion within the time established for completion of all Punchlist Items, the Contractor shall be subject to assessment of Liquidated Damages in the amount of **Five Hundred Dollars (\$500.00)** per day from the scheduled date of completion until all Punchlist Items are completed.
- 4.2.5 District Withhold of Liquidated Damages; Performance Bond Surety If the Contractor is subject to assessment of Liquidated Damages for delayed Substantial Completion and/or delay completion of Punchlist Items, the District may withhold such assessments from the Contract Price then or thereafter due the Contractor. If the assessment of Liquidated Damages exceeds the then remaining balance of the Contract Price, the Contractor and the Surety issuing the Performance Bond shall be jointly and severally liable to the District for such amounts.

- 4.3 Adverse Weather Days Pursuant to Article 7.3.9 of the General Conditions, delays due to adverse weather conditions will not be allowed for weather conditions which fall within parameters listed here within. Adverse weather delays may be allowed only if the number of days and adverse weather exceeds with parameters and the Contractor can verify that adverse weather cause the delay. "Left over rain days" (i.e. "maximum rain days per the month" less "actual rain days in the same month") in any given month shall not be carried over to any other month.

September	1	October	1	November	1
December	10	January	11	February	10
March	10	April	6	May	3
June	1	July	none	August	none

- 4.4 Notice of Delay The Contractor shall notify the Construction Manager, in writing, of all anticipated delays resulting from events described in Pursuant to Articles 7 and 9 of the General Conditions within five (5) days of the occurrence.

- 5. **Facilities/Services for Project Inspector** Pursuant to Article 4.14 of the General Conditions, during the Work, the Contractor shall provide/furnish a separate and secured office for use by the Project Inspector. The office shall contain at least: electricity, one phone with phone line, one fax machine with a separate fax line, secured internet access, access to a copy machine (can be shared with the General Contractor), one desk with at least four drawers, one office chair, one file

cabinet with at least four drawers, two guest chairs, one table at least 30"x60". This office may be housed along with the Contractor's offices; however, it must have a separate and secure exterior entrance.

6. **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 and domestic potable water. 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: (a) 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 (b) 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.
7. **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. 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 Ten Percent (10%). 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. 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%).
8. **Form and Content of Change Orders** In accordance with the provisions of Article 9.5 of the General Conditions, if the District approves of a Change Order, the Change Order issued by the District and executed by the District, Architect and Contractor shall be in the form and content as set forth in Attachment A to these Special Conditions.
9. **Asbestos and Other Hazardous Materials Certification** Upon completion of the Work and as an additional express condition precedent to the District's obligation to disburse the Final Payment to the Contractor, the Contractor's duly authorized representative shall deliver to the District the completed and executed form of Asbestos and Other Hazardous Materials Certification included as Attachment B to the Special Conditions; the signature of the Contractor's representative shall be notarized by a California Notary Public.
10. **Debris Recycling Statement** The District's form of Debris Recycling Statement is attached to these Special Conditions as Attachment C. The Contractor shall complete, execute and submit the Debris Recycling Statement in accordance with applicable provisions of the Contract Documents, under General Conditions, Supervision and Construction Procedures, Section 4.3.9.
11. **Additional Definitions** In addition to terms defined elsewhere in the Contract Documents, the following terms used in the Contract Documents are defined as set forth herein.
  - 11.1 Owner Unless otherwise expressly provided, references to the "Owner" shall be deemed references to the District, as that term is defined in the Contract Documents.
  - 11.2 Inspector; Inspector of Record; IOR; Owner's Inspector Unless otherwise expressly provided, references to Inspector, Inspector of Record, IOR or Owner's Inspector shall be

deemed references to the Project Inspector as that term is defined in the Contract Documents.

**11.3** Contract Sum Unless otherwise expressly provided, the terms “Contract Price” and “Contract Sum” are synonymous.

**11.4** Campus Unless otherwise expressly provided, the term “Campus” shall be deemed to refer to the District’s Chabot College campus.

**11.5** Adverse Weather A rain, windstorm, high water or other natural phenomenon which might recently have been anticipated from historical records of the general locality shall not be construed as abnormal. For the purpose of this contract, weather information and historical data for an area in question shall be assumed to be the same as that measured at the nearest or most applicable record station of the Environmental Data Service of the National Oceanic and Atmospheric Administration (NOAA) of the US Department of Commerce.

**12. Contract Plans and Specifications by Multiple Teams** This contract contains plans and technical specifications created by multiple teams (Architect of Record, Modular and Pre-Engineered Building Manufacturer).

**12.1** The most stringent among conflicting requirements shall prevail.

**12.2** Contractor shall construct based on conventional methods with reasonableness to ensure smooth transition and connectivity of utilities, grading, access, and other aspects of the facilities within the project boundaries.

**[END OF SECTION]**

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**CHANGE ORDER FORM  
(ATTACHMENT A TO SPECIAL CONDITIONS)**

Project: \_\_\_\_\_ Change Order #: \_\_\_\_\_  
Date: \_\_\_\_\_ Contract #: \_\_\_\_\_  
Contractor: \_\_\_\_\_

Pursuant to the General Conditions, this Change Order Form shall be used for all Change Orders associated with the Work. No additions or deletions to this form shall be allowed, except with permission of the District.

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

**DESCRIPTION OF CHANGE:**

Contractor accepts the terms and conditions stated as full and final settlement of any and all claims arising from this Change Order. Contractor agrees to perform the above described changes in accordance with the terms set forth herein and in compliance with applicable sections of the Contract Documents. This Change Order is hereby agreed to, accepted and approved, all in accordance with the General Conditions of the Contract Documents. The adjustment of the Contract Price and the Contract Time for the changes noted in this Change Order (the "Changes") represents the full and complete adjustment of the Contract Time and the Contract Price due the Contractor for providing and completing such Changes, including without limitation: (i) all costs (whether direct or indirect) for labor, equipment, materials, tools, supplies and/or services; (ii) all general and administrative overhead costs (including without limitation, home office, field office and Site general conditions costs) and profit; and (iii) all impacts, delays, disruptions, interferences, or hindrances in providing and completing the Changes. Contractor waives all rights, including without limitation those arising under Civil Code Section 1542, for any other adjustment of the Contract Price or the Contract Time on account of the Changes set forth in this Change Order or the Contractor's performance and completion of the Changes.

**NOT VALID UNTIL SIGNED BY THE OWNER, ARCHITECT, AND CONTRACTOR**

The original Contract Sum was . . . . . \$ \_\_\_\_\_

Net change by previously authorized Change Orders . . . . . \$ \_\_\_\_\_

The Contract Sum prior to this Change Order was. . . . . \$ \_\_\_\_\_

The Contract Sum will be changed by this Change Order in the amount of. . . . . \$ \_\_\_\_\_

The adjusted Contract Sum including this Change Order will be. . . . . \$ \_\_\_\_\_

The Contract Time will be (increased) (decreased) (unchanged) by. . . . . (\_\_\_\_\_) Days

The date of Substantial Completion as of the date of this Change Order therefore is: . . . \_\_\_\_/\_\_\_\_/\_\_\_\_

ARCHITECT                      CONTRACTOR                      CONSTRUCTION MANAGER                      OWNER  
CHABOT-LAS POSITAS COMMUNITY  
COLLEGE DISTRICT  
5020 Franklin Drive  
Pleasanton, CA 94588

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

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

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**ASBESTOS AND OTHER HAZARDOUS MATERIALS CERTIFICATION  
(ATTACHMENT B TO SPECIAL CONDITIONS)**

This Asbestos and Other Hazardous Materials Certification form is part of the Contract made by and between the CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT and \_\_\_\_\_ (“Contractor”) for the work of improvement commonly referred to as **BID No.: 08-14, M&O FACILITY SITE WORK FINISHES & SHOP BUILDINGS INSTALLATION, LAS POSITAS COLLEGE.** (hereinafter referred to as the “Project”).

To the best of my knowledge, information and belief, in completing the Work of the Project, no materials, equipment or other items furnished, installed or incorporated into the Project contains, or in itself be composed of, any asbestos, polychlorinated biphenyl (PCB), any material listed by the federal or state EPA or federal or state health agencies as a hazardous material, or defined as being hazardous under federal or state laws, rules or regulations.

The undersigned is duly authorized to complete, execute and submit this Asbestos and Other Hazardous Materials Certification on behalf of the Contractor. The undersigned has personal knowledge of the substantive representations set forth hereinabove or has made appropriate diligent inquiry to ascertain that the substantive representations set forth hereinabove are complete, true and accurate and do not omit material facts rendering such representations to be false or misleading.

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

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

\_\_\_\_\_  
Name of Contractor (Print or Type)

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Subscribed and sworn before me  
this \_\_\_\_ day of \_\_\_\_\_, 200

Notary Public in and for the State of California

My Commission Expires:

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Chabot – Las Positas Community College District  
**Construction & Demolition**  
**DEBRIS RECYCLING STATEMENT**  
**(Attachment C to Special Conditions)**

Project Name / Location: _____			
_____ Demolition	_____ Construction		
Contractor Name: _____			
Contact Name: _____		Phone: _____	Fax: _____
Anticipated Start Date: _____		Anticipated Completion Date: _____	
Statement Date: _____			
For the period between: _____ / _____ and _____ / _____			
Month	Year	Month	Year

Please indicate estimated quantities by matter, the proposed processing method and the vendor selected. Weight tag required as verification.

	Estimated Amount (Tons or Yards)			
Material	Recycled	Salvaged	Landfilled	Vendor or Facility Selected
Asphalt				
Concrete				
Brick/Masonry Tile				
Corrugated Cardboard				
Dirt/Clean Full				
Drywall				
Padding – Carpet Foam				
Building Materials (doors, windows, cabinets, fixtures)				
Scrap Metals				
Mixed Recyclable Debris				
Other				
Un-painted wood/Pallets				
Green Waste/Yard Waste				
Garbage – Painted Wood- Trash				

If no materials are targeted for recycling, reuse or salvage, please state why: \_\_\_\_\_

The undersigned certifies that she/he is authorized to execute this Debris Recycling Statement on behalf of the above-identified Contractor. The undersigned further certifies that she/he has personal knowledge of the foregoing, or has made reasonable inquiry to ascertain, that the foregoing is true, complete and correct.

Submitted by: \_\_\_\_\_ Date: \_\_\_\_\_

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### GUARANTEE

District : CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT  
Project : BID No.: 08-14, M&O FACILITY SITE WORK FINISHES & SHOP BUILDINGS  
INSTALLATION, LAS POSITAS COLLEGE

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

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.

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

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

\_\_\_\_\_  
(Typewritten or handwritten name)

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

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# **Chabot-Las Positas Community College District**

## **Measure B Bond Program**

### **DIVISION 1 GENERAL REQUIREMENTS**

## DIVISION 1- GENERAL REQUIREMENTS

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## **SECTION 01010 – SUMMARY OF WORK**

### **PART 1 – GENERAL**

#### **1.01 SUMMARY**

- A This section includes summary of work including:
  - 1. Work covered by Contract Documents
  - 2. Bid items, Allowances and Alternates
  - 3. Work under other contracts
  - 4. Future work
  - 5. Work sequence
  - 6. Cooperation of contractor and coordination with other work
  - 7. Maintenance
  - 8. Occupancy requirements
  - 9. Reference Standards
  - 10. Products ordered in advance
  - 11. CLPCCD furnished products

#### **1.02 WORK COVERED BY CONTRACT DOCUMENTS**

- A. The work shall include all work shown and specified except for work indicated "N.I.C." or "Not in Contract" or "Future".
- B. The contractor must maintain access to the existing buildings at all times during all phases. Contractor is to provide secure fencing and/or barricades to keep the general public from entering the work areas. Work hours shall be from 7:00 AM. to 7:00 P.M. on weekdays and 9:00 AM. to 9:00 P.M. on weekends. If the contractor chooses to work more than 8 hours per day or 5 days per week he shall be responsible for the overtime costs of the inspectors involved in that phase of the work.
- C. Unless provided otherwise in the Contract Documents, all risk of loss of Work covered by Contract Documents shall rest with Contractor until Final Completion and Acceptance of the Work.

#### **1.03 BID ITEMS**

- A. Any bid item may be deleted in total or in part prior to or after award of Contract without compensation in any form or adjustment of other bid items or prices therefore.
- B. Base Bid. Furnish and install all work shown on Drawings and described in Specifications and all other Contract Documents, including connections to existing systems for complete and operational facilities. Contractor's Base Bid Price shall include all items described above.
- C. Alternates:
  - 1. Alternate selection will be exercised at the option of CLPCCD.
  - 2. Contractor must coordinate related work and modify surrounding work as required to complete Work, including changes under each Alternate designated in Contract Document Agreement.

3. Scope of Alternates:

- (1) Alternate 1: Furnish all labor, materials, equipment, facilities, transportation, and services to complete all work relating to the installation of the standby diesel generator.

#### **1.04 WORK UNDER OTHER CONTRACTS**

A. All Bidders are advised that the District has entered into a separate Contract with Modtech Holdings, Inc. to furnish and install a modular office building on the M & O facility site. This modular building has been submitted to DSA for access review as increment #2 of DSA application #01-109234. Contractor shall fully cooperate with the District to allow the installation of this modular office building, including its foundation, delivery and staging of related components and laydown areas within the project site. Contractor shall include in its baseline construction schedule (and subsequent updated schedules) making reasonable allowance for, the delivery and the installation of the modular building by Modtech Holdings, Inc. There will be no additional contract time or cost for this effort. Contractor shall be responsible for all utility connections to the building including, but not limited to sanitary, sewer, storm drain, domestic water, reclaimed water for fire protection systems, electrical power, fire alarm, security and tele-data. Contractor shall also be responsible for utility distribution within the building including, but not limited to, fire protection system, fire alarm, security and tele-data as per the contract documents. Contractor shall also be responsible for final site finishes around the modular building and other miscellaneous interior work as per the contract documents.

B. All Bidders are advised that the District has entered into a separate Contract with Quality Erectors and Construction, Inc. for the fabrication and delivery of the Pre-Engineered Shop Building and other miscellaneous structures as noted in the contract document and submitted to DSA as increment #1 of DSA application #01-109234. Contractor shall be responsible for coordination and acceptance of delivery of materials by Quality Erectors and Construction, Inc. Contractor is responsible for building foundations, erection of pre-engineered buildings and all utility connections, including but not limited to sanitary, sewer, storm drain, and domestic water, reclaimed water for fire protection systems, electrical power, fire alarm, and tele-data as per the contract documents. Contractor shall also be responsible for utility distribution within the building and all other related work, including but not limited to all interior construction and finishes as per the contract documents.

#### **1.05 FUTURE WORK**

Not Applicable.

#### **1.06 WORK SEQUENCE**

- A. Construct Work in stages and at times to accommodate CLPCCD operation requirements during the construction period; coordinate construction schedule and operations with Construction Manager.

#### **1.07 COOPERATION OF CONTRACTOR AND COORDINATION WITH OTHER WORK.**

- A. Should construction work, or work of any other nature, be underway by other forces or by other contractors within or adjacent to the limits of the Work at the time the Work was advertised for bids, the Contractor shall cooperate with all such other contractors or forces to the end that any

delay or hindrance to their work will be avoided. The cost of such cooperation will be considered as included in the prices bid and no direct or additional payment will be made therefore. Contractor shall coordinate with such other contractors and forces as required by Document General Conditions.

- B. CLPCCD reserves the right to perform other or additional work, within or adjacent to the limits of the work specified, at any time by the use of other forces. Contractor shall coordinate with CLPCCD and any CLPCCD forces, or other forces, engaged by CLPCCD, as required by Contract Document General Conditions. In the event that the performance of such other or additional work materially increases or decreases Contractor's costs, the work and the amount to be paid therefore will be appropriately adjusted as determined by the Construction Manager.
- C. Limit use of the Site for Work and for construction operations to allow for:
  - a. CLPCCD operation
  - b. Work by other contractors and tenants
- D. Coordinate use of the Site and access to site with other contractors, utilities, and CLPCCD forces, as required by Contract Document General Conditions. Construction Manager has final authority over coordination, use of the Site, and access to site.
- E. Cooperate with CLPCCD and others who may occupy and begin work on site and inside building prior to completion of Work of this Contract.
- F. Cooperate with contractors for other area work, not included in Contract, but which may take place during construction period.

#### **1.08 MAINTENANCE**

- A. Cost of maintenance of systems and equipment prior to Final Acceptance will be considered as included in prices bid and no direct or additional payment will be made therefore.

#### **1.09 OCCUPANCY REQUIREMENTS**

- A. Whenever, in the opinion of Construction Manager, Work or any part thereof is in a condition suitable for use, and the best interest of CLPCCD requires such use, CLPCCD may take beneficial occupancy of and connect to, open for public use, or use the Work or such part thereof. In such case, CLPCCD will request Architect/Engineer to inspect the Work or part thereof, and issue a Certificate of Substantial Completion for that part of Work.
- B. Prior to date of Final Acceptance of the Work by CLPCCD, all necessary repairs or renewals in Work or part thereof so used, not due to ordinary wear and tear, but due to defective materials or workmanship or to operations of Contractor, shall be made at expense of Contractor, as required in Contract Document General Conditions.
- C. Use by CLPCCD of Work or part thereof as contemplated by this section shall in no case be construed as constituting acceptance of Work or any part thereof. Such use shall neither relieve Contractor of any responsibilities under Contract, nor act as waiver by CLPCCD of any of the conditions thereof.
- D. CLPCCD may specify in the Contract Documents that portions of the Work, including electrical and mechanical systems or separate structures, shall be substantially completed on milestone dates prior to substantial completion of all of the Work. Contractor shall notify Architect/Engineer in writing when Contractor considers any such part of the Work ready for its intended use and substantially complete and request Architect/Engineer to issue a Certificate of Substantial Completion for that part of the Work.

## **PART 2 – PRODUCTS**

### **2.01 REFERENCE STANDARDS**

- A. For products specified by association or trade standards, comply with requirements of standard, except where more rigid requirements are specified or are required by applicable codes.

### **2.02 PRODUCTS ORDERED IN ADVANCE**

Not applicable.

### **2.03 CLPCCD FURNISHED PRODUCTS**

Not applicable.

## **PART 3 – EXECUTION**

Not applicable to this section.

**END OF SECTION**

## **SECTION 01035 – MODIFICATION PROCEDURES**

### **PART 1 – GENERAL**

#### **1.01 SUMMARY**

- A. This section describes general procedural requirements for alterations, modifications and extras.
- B. Related Sections
  - 1. Section 01010: Summary of Work

#### **1.02 GENERAL**

- C. Any change in scope of work or deviation from Drawings or Specifications shall be accomplished only when authorized in writing by Construction Manager. As appropriate, change orders are subject to approval by the Division of the State Architect. Refer to section 4-338, Part 1, Title 24, California Code of Regulations.
- D. Changes in scope of Work or deviation from Drawings or Specifications may be initiated only by the Contractor or the Construction Manager.
  - 1. Contractor may initiate changes by submitting Requests for Information (RFI), Requests for Substitution (RFS), Notice of Concealed or Unknown Conditions, or Notice of Hazardous Waste Conditions.
    - a. RFI's shall be submitted to seek clarification of Contract Documents.
    - b. RFS's shall be submitted in accordance with paragraph 4.8.2 of Contract Document General Conditions to request substitution of materials or methods of execution.
    - c. Notices of Changes shall be submitted in accordance with paragraph 9.6 of Contract Document General Conditions.
    - d. Notices of Hazardous Waste Conditions shall be submitted in accordance with paragraph 4.17 of Contract Document General Conditions.
  - 2. Contractor shall be responsible for its costs to implement and administer RFI's and RFS's throughout the Contract duration. Regardless of the number of RFI's submitted, Contractor will not be entitled to additional compensation. Contractor shall be responsible for both CLPCCD's and Architect's administrative costs for answering its RFI's where the answer could reasonably be found by reviewing the Contract Documents, as determined by CLPCCD; such costs will be deducted from progress payments.
  - 3. Architect/Engineer may initiate changes by issuing a Supplemental Instruction (which shall require written approval of the Construction Manager).
  - 4. Construction Manager may initiate changes by issuing Requests for Proposal (RFP) to Contractor. Such RFP's will detail all proposed changes in the Work and request a quotation of changes in Contract Sum and Contract Times from Contractor.

#### **1.03 PROCEDURE**

- A. Contractor shall submit RFI to Construction manager. Contractor shall reference each RFI to an activity on its Progress Schedule and note the time criticality of the RFI, indicating the time in which the response is required. Architect/Engineer shall respond by issuing a Clarification.

1. If Contractor is satisfied with the Clarification and does not request change in Contract Sum or Contract Times, then the Clarification shall be executed without a change.
  2. If Contractor believes that the Clarification results in change in Contract Sum or Contract Times, Contractor shall notify Construction Manager who may then deny request for change or issue RFP.
- B. Contractor shall submit RFS to Construction Manager who may then deny request or issue RFP.
- C. Contractor shall submit Notices of Changes to resolve unanticipated conditions incurred in the execution of the Work. Procedures in Paragraph 9.6 of Contract Document General Conditions, shall be followed. If Construction Manager determines that a change in Contract Sum or contract Times is justified, Construction Manager shall issue RFP.
- D. Contractor shall submit Notices of Hazardous Waste Conditions to resolve problems regarding hazardous materials encountered in the execution of the Work. Procedures in Paragraph 4.17 of Contract Document General Conditions shall be followed. If Construction Manager determines that a change in Contract Sum or contract Times is justified, Construction Manager shall issue RFP.
- E. Architect/Engineer shall issue Supplemental Instruction to the Construction Manager who shall forward onto Contractor. Contractor shall not proceed with Supplemental Instruction until Construction Manager approves it in writing.
1. If Contractor is satisfied with Supplemental Instruction and does not request change in Contract Sum or Contract Times, then Supplemental Instruction shall be executed without a Change Order.
  2. If Contractor believes that Supplemental Instruction results in change in Contract Sum or Contract Times, Contractor shall notify Construction Manager. Construction Manager may then deny request for change, cancel Clarification or issue RFP.
- F. Responses by recipients shall be within a reasonable time.
- G. Contractor shall respond to Construction Manager's RFP within fifteen (15) working days by furnishing a complete breakdown of costs of both credits and extras; itemizing materials, labor, taxes, overhead and profit. Subcontract work shall be so indicated.
- H. Upon approval of RFP, Construction Manager will issue a Change Order directing Contractor to proceed with extra work.
- I. Payment shall be made as follows:
1. Change Orders which increase Contract Sum or Contract Times shall be included in next Contract Modification Form, signed by Construction Manager, accepted by Contractor.
  2. Payment shall be made for Change Order work along with other work in progress payment following completion of Change Order work. Partial completion of Change Order work shall be paid for that part completed during the period covered by the monthly payment request.

#### **1.04 COST DETERMINATION**

- A. Total cost of extra work shall be the sum of labor costs, material costs, equipment rental costs and specialist costs as defined herein plus overhead and profit as allowed herein. This limit applies in all cases of claims for extra work, whether calculating Change Orders, RFIs, or calculating claims of all types, and applies even in the event of fault, negligence, strict liability, or tort claims of all kinds, including misrepresentation, concealment, strict liability or negligence. No other costs arising out of or connected with the performance of extra work, of any nature, may be recovered by Contractor. No special, incidental or consequential damages may be claimed or recovered

against CLPCCD, its representatives or agents, whether arising from breach of contract, negligence or strict liability, unless specifically authorized in the Contract Documents.

B. Overhead and Profit:

1. Overhead shall be as defined in Article 1.08.

C. Taxes:

1. Alameda County Sales Tax should be included.
2. Federal and Excise Tax shall not be included.

D. Owner Operated Equipment

When owner-operated equipment is used to perform extra work, Contractor will be paid for equipment and operator as follows:

1. Payment for equipment will be made in accordance with Paragraph 1.05. C.
2. Payment for cost of labor will be made at no more than rates of such labor established by collective bargaining agreements for type of worker and location of work, whether or not owner-operator is actually covered by such an agreement.

### 1.05 COST BREAKDOWN

A. Labor - Contractor will be paid cost of labor for workers (including fore persons when authorized by Construction Manager) used in actual and direct performance of extra work. Labor rate, whether employer is Contractor, subcontractor or other forces, will be sum of following:

1. **Actual Wages** - Actual wages paid shall be limited to the applicable prevailing wage rate for the classification of labor actually and reasonably necessary to complete a Change. Prevailing wage rates shall be deemed to include all direct payment of wages to workers completing a Change and all employer burdens thereon, including without limitation all employer payments to or on behalf of workers for insurance (including without limitation, Commercial General Liability, Auto Liability and Workers Compensation) health and welfare, pension, vacation and other similar labor burdens.
2. **Labor surcharge** - Payments imposed by CLPCCD, County, State and Federal laws and ordinances, and other payments made to, or on behalf of, workers, other than actual wages as defined in subparagraph 1 above, such as taxes and insurances. Labor surcharge shall be as set forth in California Department of Transportation official labor surcharges schedule which is in effect on date upon which extra work is accomplished and which schedule is incorporated herein by reference as though fully set forth herein.

B. **Material** - Only materials furnished by Contractor and necessarily used in performance of extra work will be paid for. Cost of such materials will be cost, including sales tax, to purchaser (Contractor, subcontractor or other forces) from supplier thereof, except, as the following are applicable:

1. If cash or trade discount by actual supplier is offered or available to purchaser, it shall be credited to CLPCCD notwithstanding fact that such discount may not have been taken.
2. For materials salvaged upon completion of extra work, salvage value of materials shall be deducted from cost, less discount, of materials.
3. If cost of a material is, in opinion of Construction Manager, excessive, then cost of material shall be deemed to be lowest current wholesale price at which material is available in quantities concerned delivered to Site, less any discounts as provided in subparagraph 1 above.

### C. Equipment Rental

For Contractor or subcontractor-owned equipment, payment will be made at the lesser of actual rental rates or the rental rates listed for equipment in California Department of Transportation official equipment rental rate schedule which is in effect on date upon which extra work is accomplished and which schedule is incorporated herein by reference as though fully set forth herein. For rented equipment, payment will be made based on actual rental invoices. Equipment used on extra work shall be of proper size and type. If, however, equipment of unwarranted size or type and cost is used, cost of use of equipment shall be calculated at rental rate for equipment of proper size and type. Rental rates paid shall be deemed to cover cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, and all incidentals. Unless otherwise specified, manufacturer's ratings, and manufacturer-approved modifications, shall be used to classify equipment for determination of applicable rental rates. Individual pieces of equipment or tools not listed in said publication and having a replacement value of one hundred dollars (\$100) or less, whether or not consumed by use, shall be considered to be small tools and no payment will be made therefore as payment is included in payment for labor. Rental time will not be allowed while equipment is inoperative due to breakdowns.

1. For equipment on Site, rental time to be paid for equipment shall be the time equipment is in operation on extra work being performed or on standby as approved by Construction Manager. The following shall be used in computing rental time of equipment:
  - a. When hourly rates are listed, less than thirty (30) minutes of operation shall be considered to be one-half (1/2) hour of operation.
  - b. When daily rates are listed, less than four (4) hours of operation shall be considered to be one-half (1/2) day of operation.
2. For equipment, which must be brought to Site to be used exclusively on extra work, cost of transporting equipment to Site and its return to its original location shall be determined as follows:
  - a. CLPCCD will pay for costs of loading and unloading equipment.
  - b. Cost of transporting equipment in low bed trailers shall not exceed hourly rates charged by established haulers.
  - c. Cost of transporting equipment shall not exceed applicable minimum established rates of California Public Utilities Commission.
  - d. Payment for transporting, and loading and unloading equipment as above provided will not be made if equipment is used on Work in any other way than upon extra work.
3. Rental period shall begin at time equipment is unloaded at Site of extra work and terminate at end of day on which Construction Manager directs Contractor to discontinue use of equipment. Excluding Saturdays, Sundays, and legal holidays, unless equipment is used to perform extra work on such days, rental time to be paid per day shall be four (4) hours for zero (0) hours of operation, six (6) hours for four (4) hours of operation and eight (8) hours for eight (8) hours of operation, time being prorated between these parameters. Hours to be paid for equipment, which is operated less than eight (8) hours due to breakdowns, shall not exceed eight (8) less number of hours equipment is inoperative due to breakdowns.

### D. Work Performed by Special Forces or Other Special Services

When Construction Manager and Contractor, by agreement, determine that special service or item of extra work cannot be performed by forces of Contractor or those of any subcontractors, service

or extra work item may be performed by specialist. Invoices for service or item of extra work on basis of current market price thereof may be accepted without complete itemization of labor, material, and equipment rental costs when it is impracticable and not in accordance with established practice of special service industry to provide complete itemization. In those instances wherein Contractor is required to perform extra work necessitating a fabrication or machining process in a fabrication or machine shop facility away from Site, charges for that portion of extra work performed in such facility may, by agreement, be accepted as a specialist billing. Construction Manager must be notified in advance of all offsite work. To specialist invoice price, less credit to CLPCCD for any cash or trade discount offered or available, whether or not such discount may have been taken, will be added 15 percent (15%) in lieu of overhead and profit provided in Paragraph 1.04.B.

### **1.06 FORCE-ACCOUNT**

- A. If it is impracticable because of nature of work, or for any other reason, to fix an increase or decrease in price definitely in advance, Change Order may fix a maximum price which shall not under any circumstances be exceeded, and subject to such limitation, such alteration, modification or extra shall be paid for at actual necessary cost as determined by CLPCCD Authority, which cost shall be determined pursuant to Article 1.04, and shall be known as Force-Account work.
- B. Whenever any Force-Account work is in progress, definite price for which has not been agreed on in advance, Contractor shall report to Construction Manager each day in writing in detail amount and cost of labor and material used, and any other expense incurred in Force-Account work on preceding work day, and no claim for compensation for Force-Account work will be allowed unless report shall have been made.
- C. Above described methods of determining payment for work and materials shall not apply to performance of work or furnishings of material, which, in judgment of Construction Manager, may properly be classified under items for which prices are established in Contract.

### **1.07 CLPCCD FURNISHED MATERIALS**

CLPCCD reserves right to furnish materials, as it deems advisable, and Contractor shall have no claims for costs and overhead and profit on such materials.

### **1.08 OVERHEAD DEFINED**

The following constitutes charges that are included in overhead for all contract modifications, including Force-Account work:

- 1. Drawings: field drawings, shop drawings, etc. including submissions of drawings
- 2. Routine field inspection of work proposed
- 3. General Superintendence
- 4. General administration and preparation of change orders
- 5. Computer services
- 6. Reproduction services
- 7. Salaries of project engineer, Construction Manager, superintendent, timekeeper, storekeeper, secretaries, janitorial services, and temporary on-site facilities, including:
  - a. Offices

- b. Telephones
  - c. Plumbing
  - d. Electrical: Power, lighting
  - e. Platforms
  - f. Fencing, etc.
- 8. Home office expenses
  - 9. Insurance and Bond premiums
  - 10. Procurement and use of vehicles and fuel used coincidentally in base bid work
  - 11. Surveying
  - 12. Estimating
  - 13. Protection of work
  - 14. Final cleanup
  - 15. Other incidental work

### **1.09 RECORDS AND CERTIFICATION**

- A. Force-Account (cost reimbursement) charges shall be recorded daily upon Cost Breakdown for Contract Modification Form obtained from Inspector. Contractor or authorized representative shall complete and sign form. Inspector shall sign form for approval. Contract Modification Form shall provide names and classifications of workers and hours worked by each, itemize materials used, and also list size type and identification number of equipment, and hours operated, and shall indicate work done by specialists.
- B. No payment for Force-Account work shall be made until Contractor submits original invoices, substantiating materials and specialist charges.
- C. CLPCCD shall have the right to audit all records in possession of Contractor relating to activities covered by Contractor's claims for modification of Contract, including Force-Account work, as set forth in Contract Document General Conditions.
- D. Further, CLPCCD shall have right to audit, inspect, or copy all records maintained in connection with this Contract, including financial records, in possession of Contractor relating to any transaction or activity occurring or arising out of, or by virtue of, Contract. If Contractor is a joint venture, right of CLPCCD shall apply collaterally to same extent to records of joint venture sponsor, and of each individual joint venture member.

### **PART 2 – PRODUCTS**

Not applicable to this section.

### **PART 3 – EXECUTION**

Not applicable to this section.

**COST BREAKDOWN FORM FOLLOWS ON NEXT PAGE**

**COST BREAKDOWN FORM FOR CONTRACT MODIFICATION  
SHEET 1 OF 2**

One separate form shall be used by Contractor, each first tier subcontractor and each lower tier subcontractor. One form for each shall be used for each change order. One form for each, for each day shall be used for Force-Account work.

CHANGE ORDER NUMBER: \_\_\_\_\_ DATE: \_\_\_\_\_  
\_\_\_\_\_

CHANGE ORDER DESCRIPTION: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

<b>LABOR</b>				
<b>NAME</b>	<b>CLASSIFICATION</b>	<b>HOURS</b>	<b>RATE</b>	<b>TOTAL</b>
<b>TOTAL LABOR COSTS</b> (Enter here and on Line 1 of Sheet 2)				

<b>MATERIALS</b>	
<b>DESCRIPTION</b>	<b>COST</b>
<b>TOTAL MATERIAL COSTS</b> (Enter here and on Line 4 of Sheet 2)	

<b>LABOR</b>				
<b>SIZE AND TYPE</b>	<b>I.D. #</b>	<b>HOURS</b>	<b>RATE</b>	<b>TOTAL</b>
<b>TOTAL EQUIPMENT RENTAL COSTS</b> (Enter here and on Line 8)				

<b>SPECIALIST</b>	
<b>DESCRIPTION</b>	<b>COST</b>
<b>TOTAL SPECIALIST COSTS</b> (Enter here and on Line 11)	

**COST BREAKDOWN FORM FOR CONTRACT MODIFICATION  
SHEET 2 OF 2**

<b>TOTAL COSTS</b>			
1. TOTAL LABOR COSTS			
2. 15% of Line 1			
3. Add Lines 1 and 2			
4. TOTAL MATERIAL COSTS			
5. 15% of Line 4			
6. 8.25% of Line 4			
7. Add Lines 4, 5 and 6			
8. TOTAL EQUIPMENT RENTAL COSTS			
9. 15% of Line 8			
10. Add Lines 8 and 9			
11. TOTAL SPECIALIST COSTS			
12. 15% of Line 11			
13. Add Lines 11 and 12			
14. TOTAL COST OF EXTRA WORK (Add Lines 3, 7, 10 and 13)			

CONTRACTOR OR AUTHORIZED REPRESENTATIVE: \_\_\_\_\_

APPROVED BY INSPECTOR: \_\_\_\_\_

## RECAPITULATION OF COSTS FORM FOR CONTRACT MODIFICATION

Use this form to add total costs of extra work of Contractor, first tier subcontractors and lower tier subcontractors. One form shall be used for each change order. One form shall be used each day for Force-Account work.

1. TOTAL COST OF CONTRACTOR'S EXTRA WORK		
2. FIRST TIER SUBCONTRACTOR	COST OF EXTRA WORK	
2a.		
2b.		
2c.		
2d.		
2e.		
3. TOTAL COSTS OF FIRST TIER SUBCONTRACTORS' EXTRA WORK (Add Lines 2a through 2f)		
4. 5 percent of Line 3		
5. LOWER TIER SUBCONTRACTOR	COST OF EXTRA WORK	
5a.		
5b.		
5c.		
5d.		
5e.		
6. TOTAL COSTS OF LOWER TIER SUBCONTRACTORS' EXTRA WORK (Add Lines 5a through 5f)		
7. 10 percent of Line 6		
8. CONTRACT CHANGE ORDER AMOUNT (Add Lines 1, 3, 4, 6 and 7)		

CONTRACTOR OR AUTHORIZED REPRESENTATIVE: \_\_\_\_\_

APPROVED BY INSPECTOR: \_\_\_\_\_

**END OF SECTION**

## **SECTION 01040 – PROJECT COORDINATION**

### **PART 1 – GENERAL**

#### **1.01 SECTION INCLUDES**

- A. Project coordination.
- B. Field engineering.
- C. Coordination drawings.
- D. Workmanship.
- E. Incidental costs.
- F. Correspondence and Notices.
- G. Miscellaneous provisions.
- H. Damage and restoration.

#### **1.02 RELATED SECTIONS**

- A. Section 01010 - Summary of Work.
- B. Section 01400 - Quality Control.
- C. Section 01500 - Construction Facilities and Temporary Controls.
- D. Section 01700 - Contract Closeout: Contract Closeout Procedures.

#### **1.03 PROJECT COORDINATION**

- A. Coordination scheduling, submittals, and Work of the various Sections of specifications to assure efficient and orderly sequence of installation of interdependent construction elements, with provisions for accommodating items installed later.
- B. Verify that utility requirement characteristics of operating equipment are compatible with building utilities. Coordinate work of various Sections having interdependent responsibilities for installing, connecting to, and placing in service, such equipment.
- C. Coordinate space requirements and installation of mechanical and electrical work, which are indicated diagrammatically on drawings. Follow route shown for pipes, ducts, and conduit, as closely as practicable: place runs parallel with line of building. Utilize space efficiently to maximize accessibility for other installations, for maintenance, and for repairs.
- D. In finished areas except as otherwise indicated, conceal pipes, ducts, and wiring within the construction. Coordinate locations of fixtures and outlets with finished elements.
- E. Submit a copy of site drawing and certificate signed by the Civil Engineer that the elevations and locations of the Work of separate Sections in preparation for Substantial Completion.
- F. Coordinate completion and cleanup of Work of separate Sections in preparation for Substantial Completion.
- G. After Owner occupancy of the Site, coordinate access to site for correction of defective Work and Work not in accordance with Contract Documents, to minimize disruption of Owner's activities.
- H. General - The Contractor will coordinate the project administration and contract control through the project management software provided by the District. The primary function of the project

tracking system is to ensure timely processing and approval of all documentation and coordination with the project schedule. This system will provide uniform project information and reporting for the Architect/Engineers, Contractors and Construction Manager. The Contractor is required to utilize this system through the project website.

1. The project management tracking software shall be used by the Contractor to create and track at a minimum the following documents:
  - a. Submittals
  - b. RFI's
  - c. Transmittals
  - d. Meeting Minutes
  - e. Change Order Information (i.e., Change Order Requests)
2. Contractor, Owner, Architect and Construction Manager will directly access the Website electronically utilizing access through an Internet provider service.
3. Contractor is required to provide and maintain computer equipment, printing devices and an Internet provider service to access the project website.
4. Contractor shall utilize the project website for transmitting RFIs and Submittals at no cost to the Contractor. Access information will be provided to the Contractor at the pre-construction meeting and training will be provided by the Program Manager.
5. Submittals - The Contractor is responsible for ensuring that submittals are logged into the system through the project website (refer to Section 01300 - Submittals).

#### **1.04 FIELD ENGINEERING**

- A. Employ a Civil Engineer licensed in the State of California and acceptable to the Architect.
- B. Contractor shall locate and protect survey control and reference points.
- C. Control datum for survey is that shown on drawings.
- D. Contractor shall verify setbacks and easements; confirm drawing dimensions and elevations.
- E. Provide field engineering services. Contractor shall establish lines, and levels, utilizing recognized engineering practices

#### **1.05 COORDINATION DRAWINGS**

- A. Provide information required by Architect for preparation of coordination drawings.
- B. Review drawings prior to submission to Architect.

#### **1.06 WORKMANSHIP**

- A. Work shall be performed by craftsmen well experienced and competent in their particular trade.
- B. Workmanship shall be thorough, finished and complete in every detail fore finest quality installations as intended under these specifications.

#### **1.07 INCIDENTAL COSTS**

- A. In addition to GC 6.04 Liability of Contractor, 6.07 Protection of Contractor's Work and Property, and 6.11 Construction of All Provisions for Utilities:
  1. Utilities: Refer to Section 01500.

2. Contractors and Subcontractors shall furnish at their own cost and expense all tools, consumable supplies, appliances, equipment, etc., necessary for execution of their work; and shall be responsible for care and guarding thereof.
3. Contractors and Subcontractors shall be entirely responsible for professional, trade, business or other licenses required by state statute or local government.

### **1.08 CORRESPONDENCE AND NOTICES**

- A. Clearly identify correspondence, notices and submittals with project name, subject and detailed references to drawings and specifications.
- B. Notify Construction Manager two (2) working days in advance of required inspection.

### **1.09 MISCELLANEOUS PROVISIONS**

- A. Contractor shall immediately refer to the Construction Manager any requirement shown or specified which Contractor finds or believes:
  1. Is not equal to industry standards for achieving a first quality installation as intended;
  2. Is excessive in cost or effort to effect the intended results;
  3. Is below standard for proper enforcement of the guarantees required;
  4. Or, is at variance with governing laws, regulations, codes or standards.
- B. Work operations relative to any matter referred to Architect for consideration shall not proceed until receipt of appropriate instructions from Architect.
- C. Inspection of Work and Materials: Contractor shall immediately make a close and thorough inspection of all materials as delivered and all work in progress; shall promptly reject and return all defective materials and re-do; and shall check and verify adequate performance or satisfactory results of all tests and inspections before allowing sub-work to proceed.
- D. Warranty Period: During warranty periods, supervise investigation and correction of failures of deficiencies found or occurring in the work.
- E. Shop Fabricate and pre-assemble interrelated parts where possible.
- F. Closing up of walls, partitions or furred spaces, backfilling and other covering up operations shall not proceed until all enclosed or covered work and inspections have been completed. Verify before proceeding.
- G. Provide holes, slots, cutouts, blocking, screeds, nailers, chases and similar preparation as the work progresses, as required to receive or pass subsequent work without damage to previously completed work.
- H. Exterior Work shall be made tight against direct or indirect entry of water into the concealed or interior spaces of the building. Seal joints or penetrations below grade or behind exterior trim and other conditions where water might enter the structure, as for exposed exterior work.
- I. Structural Connections and Fasteners: Include as required for complete fabrication and installation of the work; of materials, types and sizes adequate for the purposes.
  1. Place in concealed or obscured locations where possible.
  2. Include suitable welding or brazing where required.
- J. Powder Activated Fasteners: Limited to uses particularly shown, specified or approved by Architect. Operators shall be certified in accordance with California Industry Safety orders.

- K. Ferrous Work permanently exposed to exterior or below grade shall be galvanized; related accessory members and fastening non-ferrous, galvanized or made rustproof by approved methods.
- L. Galvanizing, prime painting and related touch-up and repair shall comply with requirements for metal fabricating and painting in Section 13125 - Relocatable Buildings.
- M. Isolation: Provide between ferrous and non-ferrous or dissimilar metal components to protect the work against electrolysis, as follows:
  - 1. For architectural work, provide cork fillers, asphaltic coatings, neoprene gaskets or similar separation as necessary; and use stainless steel fastenings only where interconnecting dissimilar parts.
  - 2. For mechanical and electrical work, provide dielectric unions or similar separation. In particular, provide isolation as necessary between exterior underground systems and interior above-grade systems where they meet dissimilar metals.
- N. Prior to starting a particular type or kind of work, examine for relevant information, all contract documents and subsequent data issued to the project.

### **1.10 DAMAGE AND RESTORATION**

- A. Damage to previously existing or newly placed facilities caused by movement of equipment or other operations, whether accidental or made necessary by reason of Contract requirements, shall be restored or replaced as specified or directed by Architect.
- B. Restoration shall be equal to the structural qualities or performance capacities of the original work, and finishes shall match the appearance of, as nearly as possible, like existing adjacent work. Restorations shall be subject to approval by Architect and shall be made as necessary at no added expense to Owner unless otherwise particularly provided for.
- C. Work not properly restored or where not capable of being restored as intended under these Specifications shall be removed and replaced as directed by Architect at no added expense to Owner.

## **PART 2 – PRODUCTS**

Not applicable to this section.

## **PART 3 – EXECUTION**

### **3.01 CUTTING AND PATCHING**

- A. Employ skilled and experienced installer to perform cutting and patching.
- B. Submit written request in advance of cutting or altering elements, which affects:
  - 1. Structural integrity of element.
  - 2. Integrity of weather-exposed or moisture-resistant elements.
  - 3. Efficiency, maintenance, or safety of element.
  - 4. Visual qualities of sight-exposed elements.
- C. Execute cutting, fitting, and patching including excavation and fill, to complete Work, and to:
  - 1. Fit the several parts together, to integrate with other Work.
  - 2. Uncover Work to install or correct ill-timed work.

3. Remove and replace defective and non-conforming Work.
  4. Remove samples of installed Work for testing.
  5. Provide openings in elements of Work for penetrations of mechanical and electrical Work.
- D. Execute work by methods, which will avoid damage to other Work, and provide proper surfaces to receive patching and finishing.
  - E. Cut rigid materials using masonry saw or core drill.
  - F. Restore Work with new products in accordance with requirements of Contract Document.
  - G. Fit Work tight to pipes, sleeves, ducts, conduit, and other penetrations through surfaces.
  - H. Maintain integrity of wall, ceiling, or floor construction; completely seal voids. At penetration of fire rated walls, partitions, ceiling or floor construction, completely seal voids with fire rated devices or materials in accordance with the specification section 7200 fire stopping.
  - I. Refinish surfaces to match adjacent finishes. For continuous surfaces, refinish to nearest intersection; for an assembly, refinish entire unit.
  - J. Identify any hazardous substance or condition exposed during the Work to the Architect for decision or remedy.
  - K. Provide conduits, outlets, piping sleeves, boxes, inserts or other materials or equipment necessary to be built into Work. Promptly furnish same and set such sleeves for other materials as construction program requires.

**END OF SECTION**

## **SECTION 01050 - FIELD ENGINEERING**

### **PART 1 - GENERAL**

#### **1.01 SUMMARY**

- A. Layout work as shown on the Drawings with the use of a Licensed Surveyor and establish additional bench marks, monuments, lines, and levels necessary for the work covered by this Contract.
- B. Scope of work:  
Provide such field engineering services required for proper completion of the work which may include, but is not limited to:
  - 1. Establishing and maintaining hubs, coordinate grid base lines and levels
  - 2. Structural design of shores, forms, and similar items provided by the contractor as part of his means and methods of construction
  - 3. All excavations and elevations, footings and piers required for installation of work items
  - 4. Establishing horizontal and vertical control for site construction items
- C. Related sections can include, but may not be limited to the following:
  - 1. Section 01300 - Submittals
  - 2. Section 01720 - Record Drawings

#### **1.02 PROCEDURES**

- A. In addition to procedures directed by the District for proper performance of the work, the contractor shall:
  - 1. Locate and protect control points before starting work on the site
  - 2. Preserve permanent reference points during progress of the work
  - 3. Not change or relocate reference points or items of the work without specific review and acceptance by the Districts Representative
  - 4. Promptly advise the Districts Representative when a reference point is lost or destroyed, or requires relocation because of other changes in the work.
    - a. Upon direction of the Districts Representative, replace reference stakes or markers according to the original or appropriate survey control.

### **PART 2 - PRODUCTS - Not Applicable**

### **PART 3 - EXECUTION**

#### **3.01 LAYING OUT THE WORK**

- A. Contractor shall employ a Registered Civil Engineer or Licensed Land Surveyor (hereafter referred to as Surveyor) to lay out the entire work and set grades, lines, levels, and positions throughout the site.
- B. Prior to beginning work, locate or set all general reference points, bench marks, establish

monuments and take action as necessary to prevent their destruction, then layout all lines, elevations and measurements for entire work.

- C. Verify figures and dimensions shown on the Drawings, notify the Districts Representative immediately of any discrepancies and re-direct work to avoid delay. Contractor shall accept responsibility for all errors resulting from failure to notify District Representative of known discrepancies.
- D. Establish monuments on curbs, manholes or pavements with concrete embedded steel pipe with lead plug and/or brass nail with washer, as acceptable to the Districts Representative.
- E. Show exact locations of the monuments if any are disrupted or destroyed on the Record Drawings in conformance with Section 01720 – Project Record Drawings.

**END OF SECTION**

## SECTION 01060 – REGULATORY REQUIREMENTS

### PART 1 – GENERAL

#### 1.01 SUMMARY

This section includes regulatory requirements applicable to Contract.

#### 1.02 REFERENCES TO REGULATORY REQUIREMENTS

- A. Codes, laws, ordinances, rules and regulations referred to shall have full force and effect as though printed in full in these specifications.
- B. Conform to referenced codes, laws, ordinances, rules and regulations, which are in effect on date of receipt of bids.

#### 1.03 CODES

Codes, which apply to Contract, include, but are not limited to, the following:

- A. California Building Code (Part 2, Title 24, C.C.R.)
- B. California Electrical Code (Part 3, Title 24, C.C.R.)
- C. California Mechanical Code (Part 4, Title 24, C.C.R.)
- D. California Plumbing Code (Part 5, Title 24, C.C.R.),
- E. State Elevator Safety Regulations (Part 7, Title 24, C.C.R.)
- F. Uniform Building Code

#### 1.04 LAWS, ORDINANCES, RULES AND REGULATIONS

- A. During prosecution of Work to be done under Contract, comply with applicable laws, ordinances, rules and regulations, including, but not limited to, the following:
- B. Federal
  - 1. Americans With Disabilities Act
  - 2. 29 CFR, Section 1910.1001, Asbestos
  - 3. 40 CFR, Subpart M, National Emission Standards for Asbestos
  - 4. Executive Order 11246
- C. State of California
  - 1. California Code of Regulations, Titles 5, 8, 19, 21, 24
  - 2. California Education Code
  - 3. California Public Contract Code
  - 4. California Health and Safety Code
  - 5. California Government Code
  - 6. California Labor Code
  - 7. California Civil Code

8. California Code of Civil Procedure
  9. CPUC General Order 95, Rules for Overhead Electric Line Construction
  10. CPUC General Order 128, Rules for Construction of Underground Electric Supply and Communications Systems
- D. State of California Agencies
- Bay Area Air Quality Management District (BAAQMD / [www.baaqmd.gov](http://www.baaqmd.gov))
- State and Consumer Services Agency
- Department of General Services
- Division of the State Architect Office of the State Fire Marshall Office of Public School Construction
- E. Local Agencies:
- City of Livermore, California ([www.ci.livermore.ca.us](http://www.ci.livermore.ca.us))

#### **1.06 COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT**

- A. Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agree that any violation of this prohibition on the part of Contractor, its employees, agents or assigns shall constitute a material breach of this Agreement.

#### **1.07 Inspection and Permitting by Governing Agencies**

- A. Contractor shall obtain all required permits from governing agencies unless otherwise directed by the District through the Construction Manager. Contractor shall be responsible for closing out all permits taken out by Contractor for this project.
- B. Contractor shall schedule all required inspections by governing agencies who issued permits for this project. Contractor shall notify Construction Manager in writing of all pending inspections to be conducted by permitting agencies.
- C. Contractor shall submit verified report in accordance with CCR Title 24.
1. Submission will be required from the Contractor as well as the Architect, Structural Engineer, Mechanical Engineer, Electrical Engineer and Project Inspector of Record.
  2. Laboratory and Structural testing and inspection reports will be required from testing laboratories and agencies.

#### **1.08 Conflicts**

- A. Between Referenced Regulatory requirements: Comply with the requirements which are more stringent.
- B. Between Referenced Regulatory requirements and Contracts Documents: Comply with the requirements which are more stringent.

**PART 2 – PRODUCTS**

Not used.

**PART 3 – EXECUTION**

Not used.

**END OF SECTION**

## SECTION 01061 – REGULATORY REQUIREMENTS-HAZARDOUS WASTE

### PART 1 – GENERAL

#### 1.01 SUMMARY

- A. This section includes regulatory requirements applicable to Contract work in connection with hazardous waste abatement and disposal, including, but not limited to, asbestos and asbestos containing materials, lead based paint, polychlorinated biphenyls, petroleum contaminated soils and materials, construction and demolition debris and any other hazardous substance or hazardous waste.
- B. This section supplements Section 01060 and the work specific listings of applicable regulatory requirements elsewhere in the specifications.
- C. Related Sections.
  - 1. Section 01060: Regulatory Requirements.

#### 1.02 REFERENCES TO REGULATORY REQUIREMENTS

- A. Codes, laws, ordinances, rules and regulations applicable to the Work shall have full force and effect as though printed in full in these specifications. Codes, laws, ordinances, rules and regulations are not furnished to Contractor, since Contractor is assumed to be familiar with their requirements. The listing herein of applicable codes, laws and regulations for hazardous waste abatement work is supplied to Contractor as a courtesy and shall not limit Contractor's responsibility for complying with all applicable laws, regulations or ordinances having application to the Work. Where conflict among the requirements or with these specifications exists, the most stringent requirements shall be used.
- B. Contractor's work shall conform to all applicable codes, laws, ordinances, rules and regulations that are in effect on date of receipt of bids.

#### 1.03 LAWS, ORDINANCES, RULES AND REGULATIONS

- A. During prosecution of Work under Contract, Contractor shall comply with applicable laws, ordinances, rules and regulations, including, but not limited to, those listed below.
- B. Federal:
  - 1. Statutory Requirements:
    - a. Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.
    - b. Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 et seq.
    - c. Toxic Substances Control Act of 1976, 15 U.S.C. 2601 et seq.
    - d. Hazardous Materials Transportation Act of 1975, 49 U.S.C. 1801 et seq.
    - e. Clean Water Act, 33 U.S.C. 1251 et seq.
    - f. Safe Drinking Water Act, 42 U.S.C. 3001 et seq.
    - g. Clean Air Act, section 112, 42 U.S.C. 7412
    - h. Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et seq.

- i. Underground Storage Tank Law, 42 U.S.C. 6991 et seq.
  - j. The Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. 11001 et seq.
2. Environmental Protection Agency (EPA):
- a. 40 C.F.R. Parts. 260, 264, 265, 268, 270
  - b. 40 C.F.R. Parts 258 et seq.
  - c. 40 C.F.R. Part 761
  - d. 40 C.F.R. Parts 122-124
3. Occupational Safety and Health Administration (OSHA):
- a. OSHA Worker Protection Standards, Title 29 CFR Part 1926.58, Construction Standards and 29 CFR 1910.1001 General Industry Standard
  - b. OSHA, 29 C. F. R. Part 1926.1101, Construction Standards for Asbestos
  - c. OSHA, Lead Exposure in Construction: Interim Final Rule, 29 C.F.R. 1926.62
  - d. National Emission Standard for Hazardous Air Pollutants, Title 40 CFR Part 61
  - e. Asbestos Hazardous Emergency Response Act, Title 40 C.F.R. 763
4. Department of Transportation:
- a. Title 49 C.F.R. 173.1090
  - b. Title 49 C.F.R. 172
  - c. Title 49 C.F.R. 173
  - d. DOT, HM 181 and MH126f
- C. State of California Requirements:
1. Statutory Law:
- a. The Carpenter-Presley-Tanner Hazardous Substance Account Act, Cal. Health & Saf. Code~ 25300 et seq.
  - b. Health and Safety Code~ 25359.4
  - c. Hazardous Waste Control Law, Health & Safety Code. 25100 § seq.
  - d. Porter Cologne Water Quality Control Act, Cal. Water Code~ 13000 et seq.
  - e. Health and Safety Code~ 25915-25924
  - f. Cal. Labor Code Chapter 6, including, without limitation, . 6382, 6501.5-6501.9, 6503.5, 9021.5, 9080
  - g. Cal. Bus. and Prof. Code, including without limitation, . 7058.5, 7065.01, 7118.5. Underground Storage of Hazardous Substance Act,
  - h. Cal. Health & Saf. Code~ 25280 § seq.
  - i. Petroleum Underground Storage Tank Cleanup, Health and Safety Code~ 25299.10 et seq.
  - j. Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Saf. Code~ 25249.5 et seq. (Proposition 65)
  - k. Above Ground Petroleum Storage Act, Health and Safety Code. 25270 et seq.

- I. Hazardous Materials Release Response Plans and Inventory, California Health and Safety Code Chapter 6.95.
2. Administrative Code and Regulations:
  - a. 22 C.C.R.. 6600 et seq.
  - b. Title 22 C.C.R.. Standards for Management of Hazardous and Extremely Hazardous Waste
  - c. DTSC Treatment Standard for PCB Wastes, Title 22 C.C.R.. 66268.110
  - d. Cal OSHA Worker Protection Standards, Title 8 C.C.R.. 1529, 5208
  - e. Title 8 C. C. R.. 1532.1, Lead in Construction
  - f. 22 C.C.R.. 66999(b)
  - g. Title 23 C.C.R.. 2610 et seq.
3. Local Agency Requirements:
  - a. Bay Area Air Quality Management District, Fugitive Dust Rules
  - b. Bay Area Air Quality Management District Regulation 11-2-303
  - c. State Water Resource Control Board, General Construction Activity Storm Water Permit Requirements (Order 92-0S DWQ)
4. City Requirements:
  - a. Livermore-Pleasanton Fire Department ([www.ci.livermore.ca.us/lpfd/](http://www.ci.livermore.ca.us/lpfd/))
  - b. Ordinances

#### **1.04 PERMITS**

- A. Contractor shall comply with, implement or acknowledge effectiveness of all CLPCCD held permits, and initiate and cooperate in securing all required notifications or approvals therefore, including but not limited to permits affecting environmental work and the following:
  1. BAAQMD, Permit to Excavate or Treat Contaminated Soil;
  2. State Water Resources Control Board, General Construction Activity Storm Water Permit;
  3. Underground Storage Tank Closure Permits.
- B. Contractor shall schedule all required inspections by governing agencies who issued permits for this project. Contractor shall notify Construction Manager in writing of all pending inspections by permitting agencies.

#### **PART 2 – PRODUCTS**

Not used.

#### **PART 3 – EXECUTION**

Not used.

**END OF SECTION**

## **SECTION 01062 –EIR/Biological Opinion Compliance**

### **PART 1 - GENERAL**

#### **1.01 - SUMMARY**

- A. This section describes the scope of work to be performed by Contractor in accordance with project-specific requirements detailed in the Biological Opinion issued by the United States Department of the Interior, Fish and Wildlife Service in response to the issuance of a Nationwide Permit 7 by the United States Department of the Army Corps of Engineers.
- B. All work described in this section shall be considered part of Contract. No additional payment or time shall be given to Contractor for performing work described in this section.
- C. All work described in this section shall be performed in accordance with all other applicable requirements and constraints included in these specifications.
- D. All work described in this section shall be included as part of the overall construction schedule, and shall be reflected in Contractor's baseline construction schedule and subsequent updates. It shall be Contractor's responsibility to schedule this work in accordance with all other construction activities and the requirements and constraints included in these specifications.

### **PART 2 – PRODUCTS**

#### **2.01 - Biologist**

Contractor shall obtain the services of a biologist (herein denoted as “the Service-approved biologist”) approved by the United States Department of the Interior Fish and Wildlife Service (the Service) AND California Department of Fish and Game (CDF&G) *specifically* for Biological Opinion No. 1-1-07-F-0201.

The qualifications of the biologist(s) shall be presented to the United States Fish and Wildlife Service and the CDF&G for review and written approval at least ten (10) working days prior to the date of initial ground-breaking at the project site.

Prior to approval, the Service-approved biologist(s) shall submit a letter to the Service verifying that they possess a copy of the Biological Opinion and understand its terms and conditions. The Service-approved biologist(s) shall keep a copy of this biological opinion in their possession when onsite.

The Service-approved biologist(s) shall be given the authority through communication with Construction Manager to stop any work that may result in “take” of the California tiger salamander, California red-legged frog, San Joaquin kit fox, or other listed animal species. If the Service-approved biologist exercises this authority, the Service and the CDF&G shall be notified by telephone and electronic mail within one (1) working day.

### **PART 3 – EXECUTION**

#### **3.01- Burrowing Owls**

- A. A pre-construction survey for burrowing owls shall be conducted in potential habitat in conformance with CDF&G protocols, as interpreted by the Service-approved biologist, no more than thirty (30) days prior to the start of any field work. If burrowing owls are located on or immediately adjacent to the site during these surveys, the following mitigation measures will be implemented:

1. If burrowing owl(s) is/are present during the non-breeding season, from September 1 through January 31, Contractor shall maintain a 150-foot buffer zone between project activities and occupied burrows. During the breeding season, from February 1 through August 31, Contractor shall maintain a 250-foot buffer between project activities and occupied burrows. No new construction activity shall begin within this buffer zone during both non-breeding and breeding seasons. The duration of maintaining buffer zones shall be at the sole discretion of the Service-approved biologist.
2. If construction will directly impact occupied burrows, eviction outside the nesting season may be permitted pending evaluation of eviction plans by the Service-approved biologist and receipt of formal written approval of the relocation from the CDF&G. No burrowing owls will be evicted from burrows during the nesting season (February 1 through August 31) unless evidence indicates that nesting is not actively occurring (e.g., because the owls have not yet begun nesting early in the season, or because young have already fledged late in the season). This evidence shall be determined solely by the Service-approved biologist.

### **3.02 Federally-Listed Species (ESA Compliance with BO Conditions)**

- A. The Service-approved biologist shall be onsite during all activities that may result in the take of the San Joaquin kit fox, California tiger salamander, and/or California red-legged frog. The potential for take shall be determined by the Service-approved biologist.
- B. No more than twenty (20) working days prior to the date of ground disturbance, pre-construction surveys shall be conducted by a Service-approved biologist for the San Joaquin kit fox, California tiger salamander, and California red-legged frog. These surveys shall consist of walking surveys of the project limits and adjacent areas accessible to the public to determine presence of the two listed amphibians and the San-Joaquin kit fox. The Service-approved biologist shall examine all potential California tiger salamander and California red-legged frog cover sites, including mammal burrows.
- C. The Service-approved biologist(s) shall be onsite to monitor the initial ground disturbance activities. The Service-approved biologist(s) shall perform a clearance survey for listed species immediately prior to the initial ground disturbance. Safety permitting, the Service-approved biologist also will investigate areas of disturbed soil for signs of listed species within thirty (30) minutes following the initial disturbance of that given area.
- D. All California red-legged frogs and California tiger salamanders encountered in the action area shall be relocated to a Service-approved location. Any California tiger salamanders detected within the action area shall be translocated to the western property boundary close to the off-site pond to the west, or to the eastern property boundary close to the on-site seasonal wetland, whichever is closer to the location of the individual detected. California red-legged frogs shall be moved to Collier Creek and placed at the mouth of the culvert under the college entrance road. The written authorization of the Service and the CDF&G shall be obtained by the Chabot Las Positas Community College District prior to transporting California tiger salamanders and/or California red-legged frogs to a location other than the approved translocation site; i.e. individuals of either of these two listed animals shall not be moved to laboratories, holding facilities, or other facilities without the written authorization of the Service and the CDF&G.
- E. The Service-approved biologist(s) shall take precautions to prevent introduction of amphibian diseases to the action area by disinfecting equipment and clothing as directed in

the October 2003 California tiger salamander survey protocol titled, *Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander* and the equipment decontamination procedures within the Service's California Red-Legged Frog Survey Guidance. Both items are available at the Service's Sacramento Office website (<http://www.fws.aov/sacramento/es/protocol.html>).

- F.** An employee education program on the San Joaquin kit fox, California tiger salamander, and California red-legged frog shall be completed prior to the date of initial groundbreaking for the Las Positas College Facilities Development Project. The program shall consist of a brief presentation by the Service-approved biologist(s) to explain endangered species issues to all contractors, their employees, and agency personnel involved in the construction and earthmoving portions of the project. The program shall include a description of the San Joaquin kit fox, California tiger salamander, and California red-legged frog and their habitat needs; an explanation of the status of these species and their protection under the Endangered Species Act; associated consequences of non-compliance with this opinion; and a description of the measures being taken to reduce effects to these species during project construction and implementation. Documentation of the training, including original individual signed affidavits, shall be submitted to the Service within ten (10) working days of the completion of the class.
- G.** If a California red-legged frog, California tiger salamander, San Joaquin kit fox, or any animal that construction or other personnel believe may be on of the listed species, the following protocol shall be implemented:
1. Work or activities that may result in injury, death, harm, harassment, or capture of the individual animal will immediately cease.
  2. The Construction Manager and the Service-approved biologist shall immediately be notified.
  3. The Service-approved biologist shall immediately notify the Service and/or CDF&G by telephone.
  4. The Service-approved biologist shall move the California tiger salamander or California red-legged frog to a safe location within walking distance of the location where it was found; the San Joaquin kit fox will be allowed to disperse on its own. The individual will be monitored by the Service-approved biologist until it has been determined that it is not imperiled by predators or other dangers.
- H.** Any contractor, employee, or agency personnel who injures or kills or has reasonable cause to suspect he/she may have injured or killed a California tiger salamander, California red-legged frog, and/or San Joaquin kit fox shall immediately report the incident to the Service-approved biologist. The Service-approved biologist shall contact the Service and the CDF&G to report the incident via telephone and electronic mail within one (1) working day.
- I.** Project employees shall be provided with written guidance governing vehicle use, speed limits on unpaved roads, fire prevention, and other hazards.
- J.** The construction area shall be delineated with high visibility temporary fencing at least four (4) feet in height, flagging, or other barrier to prevent encroachment of construction personnel and equipment onto any sensitive areas during project work activities. Such

fencing shall be inspected and maintained daily by the Service-approved biologist until completion of the project. The fencing will be removed only when all construction equipment is removed from the site. No project activity shall occur outside the delineated project construction area.

- K.** To prevent inadvertent entrapment of the San Joaquin kit fox, California tiger salamander, and California red-legged frog during construction, all excavated, steep-walled holes or trenches more than two (2) feet deep shall be completely covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled, they shall be thoroughly inspected for trapped animals by the Service-approved biologist(s). If at anytime a trapped listed animal is discovered, the Service-approved biologist(s) shall immediately place escape ramps or other appropriate structures to allow the animal to escape, or the Service and/or CDF&G shall be immediately contacted by telephone for guidance. The Service and the CDF&G shall be notified of the incident by telephone and electronic mail within one (1) working day of the discovery of the trapped animal.
- L.** Project-related vehicles shall observe a 15-mile per hour speed limit within construction areas, except on Community College, City or County roads, and State and Federal highways; this is particularly important at night when the San Joaquin kit fox, California tiger salamander, and California red-legged frog are most active. To the maximum extent possible, night-time construction shall be minimized.
- M.** All grindings and asphalt concrete waste shall be stored within previously disturbed areas absent of habitat and at a minimum of one hundred and fifty (150) feet from any culvert, or drainage feature.
- N.** To eliminate an attraction to predators of the San Joaquin kit fox, California tiger salamander, and/or California red-legged frog, all food-related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of in closed containers and removed at least once every day from the construction area.
- O.** To avoid injury or death of the San Joaquin kit fox, California tiger salamander, and/or California red-legged frog, no firearms shall be allowed on the project site except for those carried by authorized security personnel, or local, State, or Federal law enforcement officials.
- P.** To prevent harassment, injury or mortality of San Joaquin kit fox, California tiger salamander, and/or California red-legged frog or destruction of their dens or burrows by dogs or cats, no canine or feline pets shall be permitted in areas where construction and/or earth moving is being implemented.
- Q.** Plastic mono-filament netting (erosion control matting) or similar material shall not be used in the action area, because California tiger salamanders or California red-legged frogs may become entangled or trapped in it. Acceptable substitutes include coconut coir matting or tackified hydro-seeding compounds.
- R.** Use of rodenticides and herbicides in the action area shall be utilized in such a manner to prevent primary or secondary poisoning of the California red-legged frog, California tiger salamander, San Joaquin kit fox, and the depletion of prey populations on which they depend. All uses of such compounds shall observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture,

and other appropriate State and Federal regulations, as well as additional project-related restrictions deemed necessary by the Service or CDF&G.

- S.** Contractor shall implement the Service's most recent version of the Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Construction.
  
- T.** The Service-approved biologist(s) shall determine the presence of San Joaquin kit fox dens (natural or in pipes and culverts) within the action area by performing the following:
  - 1. Pre-construction surveys within the action area shall be conducted no more than twenty (20) working days prior to the date of initial ground breaking in accordance with the most current protocols approved by the Service and the CDF&G.
  - 2. Surveys for dens shall be conducted by Service-approved biologists.
  - 3. All potential San Joaquin kit fox dens shall be protected to the maximum extent practicable as determined by the Service-approved biologist(s).
  - 4. The type (natal or non-natal) and status (occupied or unoccupied) of all potential San Joaquin kit fox dens will be identified based on the extant Service guidance (Service 1999):
    - a. A known den is any existing natural den or human-made structure for which conclusive evidence or circumstantial evidence can show that the den is used or has been used at any time in the past by the San Joaquin kit fox.
    - b. A potential den is any natural den or burrow within the range of the species that has entrances of appropriate dimensions (4 to 12 inches in diameter) to accommodate San Joaquin kit foxes. The Chabot Las Positas Community College District shall survey and investigate using photo-detection equipment, track plate, or other methods to determine species utilization. If no information is collected that would indicate use by other species, the den will be treated as a potential kit fox den.
    - c. A pupping den is any known San Joaquin kit fox den (as defined) used by kit foxes to whelp and/or rear their pups.
    - d. An atypical den is any known San Joaquin kit fox den that has been established in, or in association with, a human made structure.
  
- U.** The Service-approved biologist shall identify and complete the following appropriate action(s) regarding notification, buffers, excavation and fill, or seal-off in regards to the San Joaquin kit fox:

If an occupied natal den is visible or encountered within the project limits, or other accessible land, or on publicly accessible land within 1000 feet of the project construction area, construction shall be restricted during the pupping season (February 1-October 1), and the Service and the CDF&G shall be contacted before the implementation of any project-related construction or earth moving action.

A buffer or exclusion zone shall be established to protect the physical den and surrounding habitat of unoccupied natal dens and all non-natal dens that can be avoided:

Unoccupied natal dens shall be surrounded with a 200-foot buffer and the Service and the CDF&G

will be contacted. Occupied and unoccupied non-natal dens shall be surrounded with a 100-foot buffer.

Buffer zones shall be delineated with a temporary fence or other suitable barrier that does not prevent dispersal of the fox. Alternatively, the project construction area can be delineated with temporary fence, flagging, or other barrier.

Unless necessary for pedestrian or driver safety, construction areas shall not be lighted between sunset and sunrise during construction.

Pipes or culverts with a diameter greater than 4 inches shall be capped when it is ascertained that no San Joaquin kit fox are present. Any individual found within a pipe or culvert shall be allowed to escape unimpeded.

If a natural den of the San Joaquin kit fox can not be avoided and must be destroyed, the following guidelines shall be followed:

- a. Prior to the destruction of any den, the den shall be monitored for at least three (3) consecutive days to determine its current status. Activity at the den shall be monitored by placing tracking medium at the entrance and by standard spotlighting detection techniques. If no San Joaquin kit fox activity is observed during this period, the den shall be destroyed immediately to preclude subsequent use. If San Joaquin kit fox activity is observed at the den during this period, the den shall be monitored for at least five (5) consecutive days from the time of observation to allow any resident animal to move to another den during its normal activities. Destruction of the den may begin when the Service and/or the CDF&G have determined it is temporarily vacant' e.g. during the animal's normal foraging activities.
- b. All dens shall be hand-excavated by a Service-approved biologist.
- c. The den shall be fully excavated and then filled with dirt and compacted to ensure that the San Joaquin kit fox cannot reenter or use the den during the construction period. If, at any point during excavation a kit fox is discovered inside the den, the excavation activity shall cease immediately and monitoring of the den shall be resumed. Destruction of the den may be resumed, when the Service and the CDF&G have determined the animal has escaped from the partially destroyed den.
- d. Non-natal dens may be excavated at any time of the year. Natal dens shall only be excavated during the non-pupping season.

Excavated San Joaquin kit fox dens will be replaced with artificial dens on a 2:1 basis at a Service-approved location. The location and design of the artificial dens will be approved by the Service prior to installation.

The California tiger salamander, California red-legged frog, and the San Joaquin kit fox are attracted to den-like or burrow-like structures such as pipes and they may enter stored pipes or culverts and become trapped, injured, or killed. All replacement pipes, culverts, or similar structures with a diameter of two (2) inches or greater that are stored in the action area for one or more overnight periods will be thoroughly inspected by the Service-approved biologist for any of these listed species before the pipe is subsequently buried, capped, otherwise used or moved in any way. If a San Joaquin kit fox is discovered inside a pipe, that section of pipe shall not be moved until the Service has been consulted by telephone. If necessary and approved by the Service and/or the CDF&G, the pipe may be moved under the direct supervision of the Service-approved biologist to remove it from the path of -

construction activity, until the San Joaquin kit fox has escaped. If a California red-legged frog or California tiger salamander is discovered, they will be moved to the Service-approved conservation area by the Service-approved biologist. The Service-approved biologist shall contact the Service and the CDF&G to report the incident with either of the two listed amphibians via telephone and electronic mail within one (1) working day.

**END OF SECTION**

## **SECTION 01063 – Storm Water Pollution Prevention Plan (SWPPP)**

### **PART 1 - GENERAL**

#### **1.01 – SUMMARY**

- A. The goal of these requirements is to prevent the pollution of storm water runoff on construction projects by keeping pollution out of storm drains, reducing the exposure and discharge of materials and wastes to storm water, and by reducing erosion and sedimentation. Storm drains discharge runoff directly to creeks and the Bay without treatment.

#### **1.02 – RELATED SECTIONS**

- A. Section 01060 Regulatory Requirements
- B. Section 01510 Temporary Facilities

#### **1.03 – GENERAL REQUIREMENTS**

- A. The District shall provide a Storm Water Pollution Prevention Plan (SWPPP) in compliance with requirements of authorities having jurisdiction including but not limited to Alameda County and the Regional Water Quality Control Board (RWQCB). The Contractor shall file a Notice of Intent with the RWQCB prior to mobilization; costs for said filing and any required subsequent renewals shall be included in the Contract Price. The Contractor shall also file a Notice of Termination with the RWQCB upon completion of the Contract Work and said filing shall constitute a condition precedent to release of final payment.
- B. The following general requirements shall be met on all projects within the District.
  - 1. Non-hazardous Material/Waste Management
    - a. Designated Area: Contractor shall propose designated areas of the project site, for approval by Construction Manager, suitable for material delivery, storage, and waste collection that, to the maximum extent practicable, are near construction entrances and away from catch basins, gutters, drainage courses, and creeks.
    - b. Contractor shall store granular material at least ten (10) feet away from catch basin and curb returns. Contractor shall not allow granular material to enter the storm drain system or the creek. When rain is forecasted within 24 hours or during wet weather, Construction Manager may require Contractor to cover granular material with a tarpaulin and to surround the material with sand bags.
    - c. Contractor shall use reclaimed water to control dust on a daily basis or as directed by Construction Manager.
    - d. Contractor shall thoroughly clean all on-site paved areas used for storage of materials or otherwise utilized or involved during the work immediately after materials are removed from storage. Cleaning shall be accomplished by sweeping and not with use of water.
    - e. To the extent practicable, Contractor shall recycle aggregate base material, asphalt concrete, and Portland cement concrete as described in these Specifications. In addition, to the maximum extent practicable, Contractor shall reuse or recycle any useful construction materials generated during the project.

- f. Contractor shall maintain the project site in a clean and orderly manner at all times. To the extent practicable, Contractor shall collect all scraps, debris, and waste materials and dispose of such materials properly. Construction Manager may require Contractor to clean and dispose of such materials at any time should the situation, based on his judgment, constitute a danger.

## 2. Hazardous Material/Waste Management

- a. Contractor shall label and store all hazardous materials, such as pesticides, paints, thinners, solvents, and fuels; and all hazardous wastes, such as waste oil and antifreeze; in accordance with the Alameda County Hazardous Materials Storage Ordinance and all other applicable State and Federal regulations.
- b. When rain is forecasted within 24 hours or during wet weather, Construction Manager may prevent the Contractor from applying chemicals in outside areas. Contractor shall not over-apply pesticides or fertilizers and shall follow material manufacturer's instructions regarding use, protective equipment, ventilation, flammability, and mixing of chemicals. Over-application of a pesticide constitutes a "label violation", which is subject to an enforcement action by the Alameda County Agriculture Department.
- c. Contractor shall arrange for regular hazardous waste collection to comply with time limits on storage of hazardous wastes. Contractor shall dispose of hazardous waste only at authorized and permitted Treatment, Storage, and Disposal Facilities, and use only licensed hazardous waste transporters to remove the waste off site, unless quantities to be transported are below applicable threshold limits for transportation specified in State and Federal regulations. If Contractor qualifies as a "Conditionally Exempt Small Quantity Generator" as defined under State and Federal regulation and if Contractor's business offices is located in East Palo Alto, Los Altos, Los Altos Hills, Mountain View, Palo Alto, or Stanford, then Contractor may dispose of this waste through a city-sponsored program. For information on this program, call (415) 496-6980.

## 3. Spill Prevention and Control

- a. Contractor shall keep a stockpile of spill cleanup materials, such as rags, or absorbents, readily accessible on-site.
- b. Contractor shall immediately contain and prevent leaks and spills from entering storm drains, and properly clean up and dispose of the waste and cleanup materials. If the waste is hazardous, Contractor shall handle the waste as described in Section A.2.c above.
- c. Contractor shall not wash any spilled material into streets, gutters, storm drains, or creeks and shall not bury spilled hazardous materials.
- d. Contractor shall report any hazardous materials to the Alameda County Department of Environmental Health at (510) 567-6780 and to Construction Manager.

## 4. Vehicle/Equipment Cleaning

- a. Contractor shall not perform vehicle or equipment cleaning on site or in the street using soaps, solvents, degreasers, steam cleaning equipment, or equivalent methods.
- b. Contractor shall perform vehicle or equipment cleaning with water only, in a designated, lighted area which does not allow rinse water to run into the storm drain system, streets, gutters, creeks, or off site.

## 5. Vehicle/Equipment Maintenance and Fueling

- a. Contractor shall perform maintenance and fueling of vehicles or equipment in a designated, bermed area or over a drip pan that will not allow run on of storm water or run off of spills.
  - b. Contractor shall use secondary containment, such as a drip pan, to catch leaks or spills any time vehicle or equipment fluids are dispensed, changed, or poured.
  - c. Contractor shall keep a stockpile of spill cleanup materials, such as rags or absorbents, readily accessible on site.
  - d. Contractor shall clean up leaks and spills of vehicle or equipment fluids immediately and dispose of the waste and cleanup materials as hazardous waste, as described in Section A.2.c above.
  - e. Contractor shall not wash any spilled material into streets, gutters, storm drains, or creeks and shall not bury spilled hazardous materials.
  - f. Contractor shall report any hazardous materials spill to the Alameda County Department of Environmental Health at (510) 567-6780 and to Construction Manager.
  - g. Contractor shall inspect vehicles and equipment arriving on site for leaking fluids and shall promptly repair leaking vehicles and equipment. Drip pans shall be used to catch leaks until repairs are made.
  - h. Contractor shall recycle waste oil and antifreeze, to maximum extent practicable.
  - i. Contractor shall comply with Federal, State, and City requirements for above ground storage tanks.
6. Contractors Training and Awareness
- a. Contractor shall train all employees/subcontractors on the storm water pollution prevention requirements contained in these Specifications.
  - b. Contractor shall inform subcontractors of the storm water pollution prevention contract requirements and include appropriate subcontract provisions to ensure that these requirements are met.
  - c. Contractor shall post warning signs in areas treated with chemicals.
  - d. Contractor shall paint new catch basins, constricted as part of the project with a “No Dumping” stencil.

## 1.04 – ACTIVITY-SPECIFIC REQUIREMENTS

### A. The following general requirements

#### 1. Paving Operations

- a. When rain is forecasted within 24 hours or during wet weather, Construction Manager may prevent Contractor from paving. Construction Manager may direct Contractor to protect drainage courses by using control measures, such as earth dike, straw bale, and sand bags to divert runoff or trap and filter sediment. Contractor shall cover drip pans or absorbent material under paving equipment when not in use. Contractor shall cover catch basins and manholes when paving or applying seat coat, tack coat, slurry seal, or fog seal. If the paving operation includes an on-site mixing plant, Contractor shall comply with Alameda County General Industrial Activities Storm Water Permit requirements.

- b. Contractor shall not sweep or wash down excess sand (placed as part of a sand seal or to absorb excess oil) into gutters, storm drains, or creeks. Instead, Contractor shall either collect the sand or return it to the stockpile, or dispose of it in a trash container. Contractor shall not use water to wash down fresh asphalt concrete pavement.
2. Saw Cutting
- a. During saw cutting, Contractor shall cover or barricade catch basins using control measures, such as filter fabric, straw bales, sand bag, and fine gravel dams, to keep slurry out of both the sanitary and storm drain systems. When protecting a catch basin, Contractor shall ensure that the entire opening is covered.
  - b. Contractor shall shovel, absorb, or vacuum saw cut slurry and pick up the waste before moving to the next location or at the end of each working day, whichever is sooner.
  - c. If saw cut slurry enters catch basins, Contractor shall remove the slurry from the storm drain system immediately.
3. Contaminated Soil Management
- a. On all projects involving grading or excavation, Contractor shall look for contaminated soil as evidenced by site history, discoloration, odor, differences in soil properties, abandoned underground tanks or pipes, or buried debris. If the project is not within an area of known soil contamination and no evidence of soil contamination is found, then testing of the soil shall only be required when direct by the Owner. Contractor shall follow Section 8.3.b below, if contamination is found.
  - b. If the project is within an area of known soil contamination or evidence of soil contamination is found, then soil from grading or excavation operations shall be tested. The soil shall be managed as required Alameda County Department of Environmental Health.
  - c. If the project is found to be within an area of soil contamination not identified by the District in the project specifications, a change order shall be negotiated to cover additional work performed by Contractor.
4. Concrete, Grout, and Mortar Waste Management
- a. Contractor shall store and keep covered concrete, grout, and mortar away from drainage areas and ensure that these materials do not enter the storm drain system.
  - b. Contractor shall not wash out concrete trucks or equipment into streets, gutters, storm drains, or creeks. Contractor shall perform washout of concrete trucks or equipment off-site or in a designated area on-site where the water is contained in a temporary pit in a dirt area. Contractor shall let the water percolate into the soil and dispose of the hardened concrete in a trash container. If a suitable dirt area is not available for percolating, then Contractor shall collect tie wash water and remove it off-site.
  - c. Contractor shall avoid creating runoff by draining water from washing of exposed aggregate concrete to a dirt area. If a suitable dirt area is not available, then Contractor shall filter the wash water through straw bales or equivalent material before discharging into the storm drain system.
5. Painting
- a. Contractor shall conduct cleaning of painting equipment and tools in a designated area that will not allow run-on of storm water or runoff of spills. Contractor shall not allow wash water from cleaning of painting equipment and tools into streets, gutters, storm drains, or creeks.

- b. For water-based paint, Contractor shall remove as much excess paint as possible from brushes, rollers, and equipment before starting cleanup. To the maximum extent practicable, Contractor shall dispose of wash water from aqueous cleaning of equipment and tools to the sanitary sewer system. Otherwise, Contractor shall direct wash water onto dirt area and spade in.
  - c. For oil-based paint, Contractor shall remove as much excess paint as possible from brushes, rollers, and equipment before starting cleanup. To the maximum extent practicable, Contractor shall filter paint thinner and solvents for reuse. Contractor shall dispose of waste thinner and solvent, and sludge from cleaning of equipment and tools as hazardous waste, as described in Section A.2.c above.
  - d. Contractor shall store paint, solvents, chemicals, and waste materials in compliance with Alameda County hazardous Material Storage Ordinances and all applicable State and Federal regulations. Contractor shall store these materials in a designated area that will not allow run-on of storm water and runoff of spills. Contractor shall dispose of excess thinners, solvents, oil, and water-based paint as hazardous waste. Contractor shall dispose of dry, empty paint cans, buckets, old brushes, rollers, rags, and drop cloths in the trash.
6. Earthwork
- a. Contractor shall maximize tie control of erosion and sediment by using the Best Management Practices for erosion and sedimentation in the California Storm Water Best Management Practice handbook – Construction Activity.

**1.04 – PROJECT-SPECIFIC SWPPP SITE PLAN**

- A. Contractor shall refer to the project-specific SWPPP site plan furnished by the District and conform to all requirements thereof.

**PART 2 – PRODUCTS**

Not used

**PART 3 – EXECUTION**

Not Used

**END OF SECTION**

## **SECTION 01090 – REFERENCES AND DEFINITIONS**

### **PART 1 – GENERAL**

#### **1.01 SUMMARY**

- A. This section includes reference standards, abbreviations, symbols and definitions used in Contract Documents.
- B. Full titles and edition dates are given in this section for standards cited in other sections of Specifications.
- C. Material and workmanship specified by reference to number, symbol, or title of specific standard such as state standard, commercial standard, federal specifications, technical society, or trade association standard, or other similar standard shall comply with requirements of standards except when more rigid requirements are specified or required by applicable codes.
- D. Standards referred to, except as modified herein, shall have full force and effect as though printed in the Contract Documents. Standards are not furnished to Contractor, since manufacturers and trades involved are assumed to be familiar with their requirements.

#### **1.02 REFERENCE TO STANDARDS AND SPECIFICATIONS OF TECHNICAL SOCIETIES; REPORTING AND RESOLVING DISCREPANCIES:**

- A. Reference to standards, specifications, manuals or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard, specification, manual, code or laws or regulations in effect at the time of opening of Bids, except as may be otherwise specifically stated in the Contract Documents.
- B. If during the performance of the Work, Contractor discovers any conflict, error, ambiguity or discrepancy within the Contract Documents or between the Contract Documents and any provision of any such law or regulation applicable to the performance of the Work or of any such standard, specification, manual or code or of any instruction of any supplier, Contractor shall report it in writing at once to Inspector, with copies to Construction Manager and Architect, and Contractor shall not proceed with the Work affected thereby until consent to do so is given by the Construction Manager.
- C. Except as otherwise specifically stated in the Contract Documents or as may be provided by Change Order, or supplemental instruction, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity or discrepancy between the Contract Documents and:
  - 1. The provisions of any such standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or
  - 2. The provisions of any such laws or regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such law or regulation).

No provision of any such standard, specification, manual, code or instruction shall be effective to change the duties and responsibilities of CLPCCD, Contractor, Construction Manager, or Architect/Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the Contract Documents, nor shall it be effective to assign to CLPCCD, Architect/Engineer, Construction Manager, or any of their consultants, agents or employees any

duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

### **1.03 STANDARDS**

- A. ACI (American Concrete Institute)  
Standard 318, Building Code Requirements for Reinforced Concrete
- B. AISC (American Institute of Steel Construction)  
Specifications and Code of Standard Practice for Steel Buildings and Bridges
- C. ANSI (American National Standards Institute, formerly American Standards Association)  
Standard C2, NESC (National Electrical Safety Code)
- D. ASTM (American Society for Testing and Materials)
  - 1. C31, Making and Curing Concrete Test Specimens in the Field
  - 2. C42, Obtaining and Testing Drilled Cores and Sawed Beams of Concrete
  - 3. C143, Test Method for Slump of Portland Cement Concrete
- E. IAPMO (International Association of Plumbing and Mechanical Officials)

### **1.2. UMC (Uniform Mechanical Code) UPC (Uniform Plumbing Code)**

The minimum building standards applicable to public schools are set forth in Parts 4 (California Mechanical Code) and 5 (California Plumbing Code)

- F. ICBO (International Conference of Building Officials)
  - 1. UBC (Uniform Building Code)  
The minimum building standards applicable to public schools are set forth in Parts 2 (California Building Code), 3 (California Electrical Code), 4 (California Mechanical Code), 5 (California Plumbing Code) and 7 (State Elevator Safety Regulations)
  - 2. UBC Standard 26-8, Welding Reinforcing Steel, Sheet Metal inserts and Connections in Reinforced Concrete Construction
  - 3. UBC Standard 26-10, Concrete Tests
  - 4. UFC (Uniform Fire Code)
- G. NEMA (National Electric Manufacturer's Association)
- H. NFPA (National Fire Protection Association)
  - 1. Pamphlet 1, Fire Prevention Code
  - 2. Pamphlet 13, Sprinkler Systems, Installation
  - 3. Pamphlet 24, Private Fire Service Mains
  - 4. Pamphlet 70, NEC (National Electric Code)
  - 5. Pamphlet 71, Signaling Systems, Central Station

- 6. Pamphlet 80, Fire Doors and Windows
- 7. Pamphlet 101, Life Safety Code
- I. UL (Underwriters' Laboratories, Inc.)

**1.04 ABBREVIATIONS**

A. Following abbreviations may be used in Contract Documents:

AAP	Affirmative Action Program
ACI	American Concrete Institute
AISC	American Institute of Steel Construction
ANSI	American National Standards Institute (formerly American Standards Association)
ASI	Architect's Supplemental Instructions
ASTM	American Society for Testing and Materials
BIL	Basic Insulation Level
Cal/OSHA	California Occupational Safety and Health Administration
CCD	Construction Change Directive
CCR	California Code of Regulations
CFR	Code of Federal Regulations
CO	Change Order
CPUC	California Public Utilities Commission
CPM	Critical Path Method
DSA	Division of State Architect
HVAC	Heating, Ventilating and Air Conditioning
IAPMO	International Association of Plumbing and Mechanical Officials
ICBO	International Conference of Building Officials
I.D.	Identification
JATC	Joint Apprenticeship Training Committee
JV	Joint Venture
Kw	Kilowatt
LBE	Local Business Enterprise
MBE	Minority Business Enterprise
M/WBE	Minority and Woman-Owned Business Enterprise
ml	milliliter
mm	millimeter
NEC	National Electric Code
NEMA	National Electric Manufacturer's Association National Electrical Safety Code
NFPA	National Fire Protection Association
DSA	Division of State Architect (formerly known as the Office of the State Architect)
PM	Preventive Maintenance
PR	Proposal Request
RFI	Request for Information
RFS	Request for Substitution
SFM	State of California, Office of State Fire Marshal
UBC	Uniform Building Code
UFC	Uniform Fire Code
UL	Underwriters' Laboratories, Inc. UMC Uniform Mechanical Code
UPC	Uniform Plumbing Code
WOBE	Woman-Owned Business Enterprise

WMBE Woman/Minority Business Enterprise

B. Additional abbreviations, used only on drawings, are listed thereon.

### 1.05 SYMBOLS

Symbols, used only on Drawings, are shown thereon.

### 1.06 DEFINITIONS

A. Wherever any of the words or phrases defined below, or a pronoun used in place thereof, is used in any part of the Contract Documents, it shall have the meaning here set forth:

**ADDENDA:** Written or graphic instruments issued prior to the opening of Bids, which clarify, correct or change the bidding requirements or the Contract Documents. Addenda shall not include the minutes of the Pre-bid Conference and Site Visit.

**ADDITIVE BID:** The sum to be added to the Base Bid if the change in scope of work as described in Additive Bid is accepted by CLPCCD.

**AGREEMENT:** Agreement is the basic contract document that binds the parties to construction Work. Agreement defines relationships and obligations between CLPCCD and Contractor and by reference incorporates Conditions of Contract, Drawings, and Specifications and contains Addenda and all Modifications subsequent to execution of Contract.

**ALTERNATE:** Work added to or deducted from the Base Bid, if accepted by CLPCCD.

**APPROVED EQUAL:** Approved in writing by CLPCCD as being of equivalent quality, utility and appearance.

**ARCHITECT or ARCHITECT/ENGINEER:** The person holding a valid California State Architect's license, whose firm has been designated within the Contract Documents as the Architect to provide architectural services on the project. Refer to Section 341, Part 1, Title 24, C. C. R.

When the Architect is referred to within the Contract Documents and no Architect has in fact been designated, then the matter shall be referred to CLPCCD. The term Architect shall be construed to include all its consultants retained for the project, as well as employees of the Architect. When the designated Architect is an employee of CLPCCD, his authorized representations on the project within the district will be included under the term Architect.

**BID:** The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

**BIDDER:** One who submits a Bid.

**CLPCCD:** Chabot Las Positas Community College District. Unless otherwise expressly indicated or required by the context of usage, the terms "District" and "Owner" as used in the Contract Documents shall be deemed references to CLPCCD.

**CLPCCD-FURNISHED, CONTRACTOR-INSTALLED:** Items furnished by CLPCCD at its cost for installation by Contractor at its cost under this Contract.

**CLPCCD REPRESENTATIVE(S):** The person or persons assigned by CLPCCD to be CLPCCD's representatives or, if so designated, agent(s) at the site.

**BY CLPCCD:** Work that will be performed by CLPCCD or its agents at the CLPCCD's expense.

**BY OTHERS:** Work that is outside scope of Work to be performed by Contractor under this Contract, which will be performed by CLPCCD, other contractors, or other means.

**CHANGE ORDER:** A written instrument prepared by CLPCCD and signed by CLPCCD and Contractor, stating their agreement upon all of the following:

- a. a change in the Work,
- b. the amount of the adjustment in the Contract Sum, if any, and
- c. the amount of the adjustment in the Contract Time, if any.

As appropriate, change orders are subject to approval by the Division of the State Architect. Refer to section 4-338, Part 1, Title 24, California Code of Regulations.

**CONCEALED:** Work not exposed to view in the finished Work, including within or behind various construction elements.

**CONTRACT CONDITIONS:** Conditions of Contract define basic rights, responsibilities and relationships of Contractor and CLPCCD and consists of two parts: General Conditions and Supplementary Conditions.

- a. General Conditions are general clauses, which are common to the CLPCCD Contracts.
- b. Supplementary conditions modify or supplement General Conditions to meet specific requirements for this Contract.

**CONSTRUCTION MANAGER:** CLPCCD's authorized representative, who shall represent CLPCCD in all matters relative to this Contract. Construction Manager may authorize agents and representatives to act in carrying out Construction Manager's duties, including a "Project Manager", to act under the authority of the Construction Manager. As CLPCCD's agent, the Construction Manager is the beneficiary of all contract obligations of Contractor to CLPCCD, including without limitation, all releases and indemnities. Construction Manager shall not have any personal liability arising from this Contract or any activity there under and Contractor releases Construction Manager fully from all loss, cost, damage, expense or liability arising out of or connected with this Project, whether arising from contract, negligence or tort claims of all kinds.

**CONTRACT DOCUMENTS:** Contract Documents shall consist of the documents identified as the Contract Documents in Document 00510 Agreement, plus all changes, addenda and modifications thereto.

**CONTRACT MODIFICATION:** Either:

- a. a written amendment to Contract signed by Contractor and CLPCCD; or
- b. a Change Order; or
- c. a written directive for a minor change in the Work issued by CLPCCD.

**CONTRACT SUM:** The sum stated in the Agreement and, including authorized adjustments, the total amount payable by CLPCCD to Contractor for performance of the Work and the Contract Documents. (Also referred to as the CONTRACT PRICE.)

**CONTRACT TIMES:** The number or numbers of days or the dates stated in the Agreement (i) to achieve substantial completion of the Work or designated milestones and/or (ii) to complete the Work so that it is ready for final payment and is accepted.

**CONTRACTOR:** The person or entity identified as such in the Agreement and referred to throughout the Contract Documents as if singular in number and neuter in gender. The term "Contractor" means the Contractor or its authorized representative.

**CONTRACTOR'S EMPLOYEES:** Persons engaged in execution of Work under Contract as direct employees of Contractor, as subcontractors, or as employees of subcontractors.

**DATE OF SUBSTANTIAL COMPLETION:** Date of Substantial Completion of Work or designated portion thereof is date certified by Construction Manager when construction is sufficiently complete in accordance with Contract Documents for CLPCCD to occupy Work or designated portion thereof for its use for which it is intended.

**DAY:** One calendar day, unless the word "day" is specifically modified to the contrary.

**DEFECTIVE:** An adjective which, when modifying the word "Work", refers to Work that is unsatisfactory or unsuited for the use intended, faulty, or deficient, that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents (including but not limited to approval of samples and "or equal" items), or has been damaged prior to final payment (unless responsibility for the protection thereof has been assumed by CLPCCD). Construction Manager is the judge of whether Work is defective.

**DRAWINGS:** The graphic and pictorial portions of Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

**ENGINEER:** Where referenced in Document 00700 (General Conditions), the person holding a valid California State Structural Engineer's license, whose firm has been designated (if any designated) within the Contract Documents as the Engineer to provide engineering services on the project. Refer to section 4-341, Part 1, Title 24, C.C.R.

**EQUAL:** Equal in opinion of Architect. Burden of proof of equality is responsibility of Contractor.

**EXPOSED:** Work exposed to view in the finished Work, including behind louvers, grilles, registers and various other construction elements.

**FINAL ACCEPTANCE or FINAL COMPLETION:** All Work satisfactorily completed in accordance with Contract Documents. It includes, but is not limited to:

- a. All Systems having been tested and accepted as having met requirements of Contract Documents.
- b. All required instructions and training sessions having been given by Contractor.

- c. All as-built drawings and operations and maintenance manuals and Machine Inventory Sheets having been submitted by Contractor, reviewed by Architect/Engineer and accepted by CLPCCD.
- d. All punch list work, as directed by CLPCCD, having been completed by Contractor.
- e. Generally all work, except Contractor maintenance after Final Acceptance, having been completed to satisfaction of CLPCCD.

**FORCE-ACCOUNT:** Work directed to be performed without prior agreement as to lump sum or unit price cost thereof, and which is to be billed at cost for labor, materials, equipment, taxes, and other costs, plus a specified percentage for overhead and profit.

**FURNISH:** Supply only, do not install.

**INDICATED:** Shown or noted on the Drawings.

**INSPECTOR:** The person engaged by CLPCCD to inspect the workmanship, materials, or manner of construction of buildings or portions of buildings, to determine if such construction complies with the Contract Documents and applicable codes. The inspector is subject to approval by the Architect, CLPCCD and, as appropriate, Division of the State Architect, and he will report to CLPCCD. Refer to section 4-333 and section 4-342, Part 1, Title 24, California Code of Regulations. The terms "Inspector" and "Project Inspector" are used interchangeably in the Contract Documents.

**INSTALL:** Install or apply only, do not furnish.

**LATENT:** Not apparent by reasonable inspection, including but not limited to, the inspections and research required as a condition to bidding under the General Conditions.

**MATERIAL OR MATERIALS:** These words shall be construed to embrace machinery, manufactured articles, materials of construction (fabricated or otherwise), and any other classes of material to be furnished in connection with Contract, except where a more limited meaning is indicated by context.

**MILESTONE:** A principal event specified in Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all Work.

**MODIFICATION:** Same as Contract Modification.

**NOT IN CONTRACT:** Work that is outside the scope of work to be performed by Contractor under this Contract.

**NOTICE OF AWARD:** A written notice given by CLPCCD to lowest responsive, responsible bidder advising that Bidder's bid and other qualifying information is acceptable to CLPCCD, requiring Bidder to fulfill the requirements of Article 1.03 of Document 00700 General Conditions.

**NOTICE TO PROCEED:** A written notice given by CLPCCD to Contractor fixing the date on which the Contract Time will commence to run and on which contractor shall start to perform Contractor's obligations under the Contract Documents.

**OFF SITE:** Outside geographical location of the Project.

**OWNER:** Chabot Las Positas Community College District (CLPCCD).

**PROGRESS REPORT:** a periodic report submitted by Contractor to CLPCCD with progress payment invoices accompanying actual work accomplished to the Project Schedule. See Section 01310 Progress Schedules and Reports, Document 00700 General Conditions.

**PROJECT:** Total construction of which Work performed under this Contract may be whole or part.

**PROJECT MANUAL:** Project Manual consists of Bidding Requirements, Agreement, Bonds, Certificates, Contract Conditions, and Specifications. The Project Manual is deemed to include and incorporate all matters noted in any Addenda issued by or on behalf of the District during the bidding for the Work.

**PROVIDE:** Furnish and install.

**REQUEST FOR INFORMATION (RFI):** A document prepared by Contractor, CLPCCD or Architect/Engineer requesting information from one of the parties regarding the Project or Contract Documents. The RFI system is also a means for CLPCCD and Architect to submit Contract Document clarifications or supplements to Contractor.

**RFI-REPLY:** A document consisting of supplementary details, instructions or information issued by the Architect/Engineer, which clarifies or supplements Contract Documents and with which Contractor shall comply. RFI-Replies do not constitute changes in Contract Sum or Contract Times except as otherwise agreed in writing by CLPCCD. RFI-Replies will be issued through the RFI administrative system.

**SAMPLES:** Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

**SHOP DRAWINGS:** All drawings, diagrams, illustrations, schedules and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the work.

**SHOWN:** As indicated on Drawings.

**SITE:** The particular geographical location of Work performed pursuant to Contract, including staging areas, work areas, storage and lay down areas, access and parking.

**SPECIFICATIONS:** The written portion of the Contract Documents consisting of requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services; and are contained in Divisions 1 through 16.

**SPECIFIED:** As written in Specifications.

**SUBCONTRACTOR:** A person or entity who has a direct contract with Contractor to perform a portion of the Work at the site. The term "subcontractor" is referred to throughout the Contract Documents as if singular in number and neuter in gender and means a subcontractor or an authorized representative of the subcontractor. The term "subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

**SUBSTANTIAL COMPLETION:** The Work (or a specified part thereof) has progressed to the point where, in the opinion of the Construction Manager and the Architect/Engineer as evidenced by a Certificate of Substantial Completion, it is sufficiently complete, in accordance with Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it is intended; or if no such certificate is issued, when the Work is complete and ready for final payment is evidenced by written recommendation of the Construction Manager and the Architect/Engineer for final payment. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

**SUPPLEMENTAL INSTRUCTION:** A written work change directive to Contractor from Architect/Engineer, approved by Construction Manager, ordering alterations or modifications which do not result in change in Contract Sum or Contract Times, and do not substantially change Drawings or Specifications.

**UNDERGROUND FACILITIES:** All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or materials: Electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems or water.

**VERIFIED REPORT:** A periodic verified report submitted to DSA. Refer to sections 4-336, 4-337 and 4-343, Part 1, Title 24, California Code of Regulations.

**WORK:** The entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work includes and is the result of performing or furnishing labor and furnishing and incorporating materials and equipment into the construction, and performing or furnishing services and furnishing documents, all is required by the Contract Documents. Wherever the word "work" is used, rather than the word "Work", it shall be understood to have its ordinary and customary meaning.

- B. Wherever words "as directed", "as required", "as permitted", or words of like effect are used, it shall be understood that direction, requirements, or permission of CLPCCD or Construction Manager is intended. Words "sufficient", "necessary", "proper", and the like shall mean sufficient, necessary or proper in judgment of CLPCCD or Construction Manager. Words "approved", "acceptable", "satisfactory", "favorably reviewed" or words of like import, shall mean approved by, or acceptable to, or satisfactory to, or favorably reviewed by CLPCCD or Construction Manager.
- C. Wherever the word "may" is used, the action to which it refers is discretionary. Wherever the word "shall" is used, the action to which it refers is mandatory.

## **PART 2 – PRODUCTS**

Not applicable to this section.

## **PART 3 – EXECUTION**

Not applicable to this section.

**END OF SECTION**

## **SECTION 01115 – ADDITIONAL REQUIREMENTS FOR DSA REVIEWED PROJECTS**

### **PART 1 – GENERAL**

#### **1.01 SECTION INCLUDES**

- A. Additional requirements for projects under review by the Division of the State Architect (DSA).
- B. DSA Deferred Approvals.

#### **1.02 REFERENCES**

- A. The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by the basic designation only.
- B. California Code of Regulations (CCR).
  - 1. Title 8, Div. 1, Chapter 3.2 - California Occupational Safety Regulations (Cal/OSHA).
  - 2. Title 8, Division 1, Chapter 4 - Construction Safety Orders.
  - 3. Title 19, Div. 1 - Regulations of the State Fire Marshal (SFM) and Health
  - 4. Title 24 - California Building Standards Code.
- C. Division of the State Architect Interpretation of Regulations Manual (DSA IR)
  - 1. DSA IR A-6 - Change Order Approval Process.
  - 2. DSA IR A-7 - Project Inspector and Assistant Project Inspector.

#### **1.03 GENERAL REQUIREMENTS**

- A. Contractor Duties:
  - 1. Comply with Section 4-343 of Part 1, Title 24, CCR in addition to the duties described in the Contract Documents.
  - 2. Comply with Cal/OSHA.
  - 3. Comply with Construction Safety Orders.
  - 4. Comply with Regulations of SFM.
- B. Architect and Architect's Consultants Duties: Comply with Section 4-341 of Part 1, Title 24, CCR in addition to the duties described in the Contract Documents.
- C. Arbitration: DSA is not subject to arbitration proceedings.

#### **1.04 REGULATORY REQUIREMENTS**

- A. Perform all work in accordance with applicable laws, codes, ordinances, rules, and regulations including, without limitation, Parts 1 through 5 and Part 9, Title 24, CCR. Provide a copy of Part 1 to 5 and Part 9, Title 24, CCR at the project site.
- B. Codes adopted by the City, County, State, and Federal agencies govern minimum project requirements. Comply with the latest edition of applicable regulatory requirements and standards unless otherwise indicated or specified.
- C. Work as described in the Drawings and Specifications shall not be construed as to permit work not in accordance with applicable laws, codes, ordinances, rules, and regulations.

### **1.05 DSA DEFERRED APPROVALS**

- A. Automatic Fire Suppression systems.

### **1.06 INSPECTION AND SUPERVISION**

- A. Supervision by DSA shall be in accordance with Section 4-334 of Part 1, Title 24, CCR.
- B. District shall employ a full-time Project Inspector approved by DSA. The Project Inspector shall observe construction in accordance with Section 4-333(b) and 4-342 of Part 1, Title 24, CCR.
- C. Reports: Project Inspector shall submit the following in accordance with DSA IR A-7.
  - 1. Start of Project Report: Notify DSA of start of construction in accordance with Section 4-331 of Part 1, Title 24, CCR.
  - 2. Semi-Monthly Reports: Comply with Section 4-337 of Part 1, Title 24, CCR.
  - 3. Verified Reports: Comply with Section 4-336 of Part 1, Title 24, CCR.
- D. Special Inspection Requirements:
  - 1. Comply with Section 4-333(c) of Part 1, Title 24, CCR.
  - 2. Special inspection costs are to be paid by the Owner.
  - 3. Conduct special inspection as per DSA Structural Tests and Inspections Sheet (SSS 103-1).

### **1.07 TESTING LABORATORY REQUIREMENTS**

- A. Comply with Section 4-335 of Part 1, Title 24, CCR.
- B. The Owner shall select the testing Laboratory approved by DSA, Architect, and Structural Engineer.
- C. Sampling and testing shall be performed by properly qualified persons in accordance with American Society for Testing and Materials (ASTM) standards.
- D. Conduct tests as per DSA Structural Tests and Inspections Sheet (SSS 103-1).
- E. Submit one copy of test reports to DSA.

### **1.08 ADDENDA AND CHANGE ORDERS**

- A. Comply with Section 4-338 of Part 1, Title 24, CCR.
- B. Comply with DSA IR A-6.
- C. Obtain DSA approval for changes to code-regulated construction and inspection/testing functions prior to start of that work. Code-regulated construction refers to work that is regulated by code provisions applicable to public school construction, including those adopted by DSA Structural Safety (DSA/SS), DSA Access Compliance (DSA/AC) and State Fire Marshal (SFM).
- D. Changes can be approved through either the change order (CO) process or preliminary change order (PCO) process. Comply with DSA IR A-6, Sub-paragraph 2.2 - Change Order Process and DSA IR A-6, Sub-paragraph 2.1 - Preliminary Change Order Process.
- E. Do not begin any work under addendum or change order until required DSA written approval is obtained.

**PART 2 – PRODUCTS**

Not Used

**PART 3 – EXECUTION**

Not Used

**END OF SECTION**

## **SECTION 01200 – PROJECT MEETINGS**

### **PART1 – GENERAL**

#### **1.01 SUMMARY**

- A. This section describes the required meetings for this work. These meetings include:
  - 1. Pre-construction Conference
  - 2. Scheduling Meetings
  - 3. Progress Meetings
  - 4. Special Meetings
- B. Related Sections
  - 1. Section 01010: Summary of Work
  - 2. Section 01300: Submittals
  - 3. Section 01310: Progress Schedules and Reports

#### **1.02 PRECONSTRUCTION CONFERENCE**

- A. Construction Manager will call for and administer Pre-construction Conference at time and place to be announced. Conference will occur as soon after award as can be reasonably scheduled.
- B. Contractor, all subcontractors, and major suppliers shall attend Pre-construction Conference.
- C. Agenda will include, but not be limited to, the following items:
  - 1. Schedules
  - 2. Personnel
  - 3. Use of the Site
  - 4. Location of Contractor's on-site facilities
  - 5. Project access
  - 6. Employee parking
  - 7. Security
  - 8. Housekeeping
  - 9. Submittals
  - 10. Inspection and testing procedures, on-site and off-site
  - 11. Utility shutdown procedures
  - 12. Control and reference point survey procedures
  - 13. Injury and Illness Prevention Program
  - 14. Contractor's Initial CPM Schedule
- D. Construction Manager will distribute copies of minutes to attendees. Attendees shall have three (3) working days to submit comments or additions to minutes. Minutes will constitute final memorialization of results of the Pre-construction Conference.

### **1.03 SCHEDULING MEETINGS**

- A. Meet with Construction Manager on Start Date of Contract and conduct initial review of Contractor's draft Shop Drawing and Sample Submittal Schedule, and draft Schedule of Values ("Schedule Review Meeting").
- B. Authorized representative in Contractor's organization, designated in writing, who will be responsible for working and coordinating with Construction Manager's representative(s) relative to preparation and maintenance of Progress Schedule shall attend initial Schedule Review Meeting.
- C. Contractor shall, within fourteen (14) days from the Notice to Proceed date, meet with CLPCCD to review the Original CPM Schedule submittal.
  - 1. Contractor shall have its manager, superintendent, scheduler, and key subcontractor representatives, as required by CLPCCD, in attendance. The meeting will take place over a continuous one-day period.
  - 2. CLPCCD's review of Schedule Submittals will be limited to conformance to Contract requirements, including, but not limited to, coordination requirements. However, review may also include:
    - a. Clarifications of Contract Requirements
    - b. Directions to include activities and information missing from submittal
    - c. Requests to Contractor to clarify its schedule
  - 3. Within three (3) working days of the initial Schedule Review Meeting, Contractor shall respond in writing to all questions and comments expressed by CLPCCD at the meeting.
- D. Construction Manager will administer scheduling meetings and shall distribute minutes of scheduling meetings to attendees. Attendees shall have three (3) working days to submit comments or additions to minutes. Minutes will constitute final memorialization of results of the scheduling meetings.

### **1.04 PROGRESS MEETINGS**

- A. Construction Manager will schedule and administer Progress Meetings throughout duration of Work. Progress meetings will be held weekly unless otherwise directed by Construction Manager.
  - 1. Meetings shall be held at Construction Manager's on-site office unless otherwise directed by Construction Manager.
  - 2. Architect will prepare agenda and distribute to Contractor, Inspector and Construction Manager 24 hours in advance of meeting.
  - 3. Architect will preside at meeting.
  - 4. Architect will record and distribute minutes to Contractor, Inspector, Construction Manager all other participants, and those affected by decisions made at meeting, within three (3) working days after meeting. Attendees shall have three (3) working days to submit comments or additions to minutes. Minutes will constitute final memorialization of results of progress meetings.
- B. Progress Meetings shall be attended by Contractor's job superintendent, major subcontractors and suppliers, Construction Manager, Architect/Engineer, Inspector and others as appropriate to agenda topics for each meeting.
- C. Agenda will contain the following items as appropriate:

Review of work progress  
Status of Construction Schedule, adjustments  
Submittals  
Delivery schedules  
Utility shutdowns, traffic disruptions, and interferences with public scheduled during the subsequent 2 weeks  
Quality control  
Pending changes  
Substitutions  
Review of Contractor's safety program activities and results, including report on all serious injury and/or damage accidents  
Other items affecting progress of work

- D. A meeting will be held each month to review the schedule update submittal and progress payment application.
1. At this meeting, at a minimum, the following items will be reviewed:
    - a. percent complete of each activity
    - b. time impact evaluations for Change Orders and Time Extension Request
    - c. actual and anticipated activity sequence changes
    - d. actual and anticipated duration changes
    - e. actual and anticipated contractor delays
  2. These meetings are considered a critical component of overall monthly schedule update submittal and Contractor shall have appropriate personnel attend. At a minimum, these meetings shall be attended by Contractor's General Superintendent and Scheduler.
  3. Contractor shall plan on progress meetings taking no less than two (2) hours.

### **1.05 SPECIAL MEETINGS**

- A. Special meetings may be called by any party by notifying all desired participants, Construction Manager, and Inspector four (4) working days in advance, giving reason for meeting. Special Meetings may be held without advance notice in emergency situations.
- B. At any time during the progress of the Work, CLPCCD shall have authority to require Contractor to attend conference of any or all of the contractors engaged in the Work or in other work, and notice of such conference shall be duly observed and complied with by Contractor.
- C. Contractors shall schedule and conduct coordination meetings as necessary to discharge coordination responsibilities in the General Conditions. Construction Manager shall be given five (5) days written notice of coordination meetings. Contractors shall maintain minutes of coordination meetings. Attendees shall have five (5) working days to submit comments or additions to minutes. Minutes will constitute final memorialization of results of the meetings.
- D. Pre-installation meetings of manufactures' warranty scope of work, i.e., roofing, water-proofing, curtain wall, etc.

### **PART 2 – PRODUCTS**

Not used.

**PART 3 – EXECUTION**

Not used.

**END OF SECTION**

## **SECTION 01230 – ALTERNATES**

### **PART 1 – GENERAL**

#### **1.01 SECTION INCLUDES**

- A. Alternates - Requirements, Selection, and Award.
- B. Schedule of Alternates.

#### **1.02 RELATED DOCUMENTS AND SECTIONS**

- A. Documents:
  - 1. Instructions to Bidders.
  - 2. Bid Form.
  - 3. Owner-Contractor Agreement Form; incorporating monetary value of accepted Alternates.

- B. Sections:

LIST THOSE SECTIONS THAT ARE APPLICABLE TO LISTED ALTERNATES.

#### **1.03 REQUIREMENTS, SELECTION, AND AWARD OF ALTERNATES**

- A. Complete the Bid Form and any Bid Form Supplements requesting Alternates described in this Section.
- B. Alternates quoted on Bid Forms will be reviewed and accepted or rejected at Owner's option. Accepted Alternates will be identified in the Owner-Contractor Agreement.

#### **1.04 SCHEDULE OF ALTERNATES**

- A. ALTERNATE NO.1 (Additive) - STANDBY DIESEL GENERATOR.

Alternate 1: Furnish all labor, materials, equipment, facilities, transportation, and services to complete all work relating to the installation of the standby diesel generator as shown in drawings (E-1.2 and E-5.1) and further described by other applicable portions of Contract Documents.

### **PART 2 – PRODUCT**

Not Used.

### **PART 3 – EXECUTION**

Not Used.

**END OF SECTION**

## **SECTION 01300 – SUBMITTALS**

### **PART 1 – GENERAL**

#### **1.01 SUMMARY**

- A. This section describes general requirements for submittals for the Work:
  - 1. Procedures
  - 2. Schedule of Shop Drawing and Sample Submittals
  - 3. Safety Plan
  - 4. Progress Schedule
  - 5. Product Data
  - 6. Shop Drawings
  - 7. Samples
  - 8. Quality Control Submittals
    - a. Design Data
    - b. Test Reports
    - c. Certificates
  - 9. Manufacturers' Instructions
  - 10. Machine Inventory Sheets Operations and Maintenance Manuals Computer Programs
  - 11. Project Record Documents
- B. Related Sections
  - 1. Section 01010: Summary of Work
  - 2. Section 01035: Modification Procedures
  - 3. Section 01310: Progress Schedules and Reports
  - 4. Section 01700: Contract Closeout
  - 5. Section 01720: Project Record Documents

#### **1.02 PROCEDURES**

- A. Submit at own expense, a minimum of six (6) sets or copies, Schedule of Shop Drawing and Sample Submittals, Safety Plans, Progress Schedule, Product Data, Shop Drawings, Samples, Quality Control Data, Machine Inventory Sheets, Operations and Maintenance Manuals, Computer Programs, and Project Record Documents required by the Contract Documents.
- B. Transmit each item with a standard letter of transmittal in form approved by Construction Manager.
- C. Identify project, Contractor, subcontractor, major supplier, pertinent drawing sheet and detail number, and specification section number as appropriate. Provide space for Contractor, Construction Manager and NE review stamps.
- D. Where manufacturer's standard drawings or data sheets are used, they shall be marked clearly to show those portions of the data, which are applicable to this project.

- E. Submit Shop Drawings, Samples and other submittals to Construction Manager for review and approval by Architect/Engineer in accordance with accepted schedule of Shop Drawings and Samples submittals. If no such schedule is agreed upon, then all Shop Drawing, Samples and product data submittals shall be completed within ninety (90) days after receipt of Notice to Proceed from CLPCCD.
- F. The data shown on the Shop Drawings shall be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to show Architect/Engineer the materials and equipment Contractor proposes to provide and to enable Architect/Engineer to review the information for the limited purposes specified below. Samples shall be identified clearly as to material, supplier, pertinent data such as catalog numbers and the use for which it is intended and otherwise as Architect/Engineer may require to enable Architect/Engineer to review the submittal. The number of each Sample to be submitted will be as specified in the Specifications.
- G. At the time of each submission, Contractor shall give Construction Manager, Architect/Engineer, and Inspector specific written notice of all variations, if any; that the Shop Drawing or Sample submitted may have from the requirements of the Contract Documents, and the reasons therefore. This written notice shall be in a written communication separate from the submittal. In addition, Contractor shall cause a specific notation to be made on each Shop Drawing and Sample submitted to Construction Manager for review and approval of each such variation by Architect/Engineer.
- H. If CLPCCD accepts deviation, CLPCCD shall issue appropriate Contract Modification.
- I. Submittal coordination and verification is responsibility of Contractor; this responsibility shall not be delegated in whole or in part to subcontractors or suppliers. Before submitting each Shop Drawing or Sample, Contractor shall have determined and verified:
  - 1. All field measurements, quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar information with respect thereto; and
  - 2. All materials with respect to intended use, fabrication, shipping, handling, storage, assembly and installation pertaining to the performance of the Work; and
  - 3. All information relative to Contractor's sole responsibilities and of means, methods, techniques, sequences and procedures of construction and safety precautions and programs incident thereto.
- J. Contractor shall also have reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents.
- K. Contractor's submission to Construction Manager of a Shop Drawing or Sample submittal will constitute Contractor's representation that it has satisfied its obligations under the Contract Documents, and as set forth immediately above, with respect to Contractor's review and approval of that submittal.
- L. Designation of work "by others", if shown in submittals, shall mean that work will be responsibility of Contractor rather than subcontractor or supplier who has prepared submittals.
- M. After review by Architect/Engineer of each of Contractor's submittals, one of set of duplicates of material will be returned to Contractor with actions defined as follows:
  - 1. **NO EXCEPTIONS TAKEN** - Accepted subject to its compatibility with future submittals and additional partial submittals for portions of the work not covered in this submittal. Does not constitute approval or deletion of specified or required items not shown on the submittal.

2. MAKE CORRECTIONS NOTED (NO RESUBMISSIONS REQUIRED) - Same as 1. above, except that minor corrections as noted shall be made by Contractor.
  3. REVISE AND RESUBMIT - Rejected because of major inconsistencies or errors which shall be resolved or corrected by Contractor prior to subsequent review by Architect/Engineer.
  4. –EXCEPTIONS TAKEN (RESUBMIT) - Submitted material does not conform to Plans and Specifications in major respect, i.e.: wrong size, model, capacity, or material.
- N. It is considered reasonable that Contractor shall make a complete and acceptable submittal at least by second submission. CLPCCD reserves the right to deduct monies from payments due Contractor to cover additional costs of Architect's/Engineer's review beyond the second submission. Illegible submittals will be rejected and returned to Contractor for resubmission.
- O. Favorable review will not constitute acceptance by CLPCCD or Architect/Engineer of any responsibility for the accuracy, coordination and completeness of the submittals. Accuracy, coordination, and completeness of Submittals shall be sole responsibility of Contractor, including responsibility to back check comments, corrections, and modifications from CLPCCD's or Architect's/Engineer's review before fabrications. Submittals may be prepared by Contractor, subcontractors, or suppliers, but Contractor shall ascertain that submittals meet requirements of Contract Documents, while conforming to structural space and access conditions at point of installation. Architect/Engineer's review will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Favorable review of submittal, method of work, or information regarding materials and equipment Contractor proposes to furnish shall not relieve Contractor of responsibility for errors therein and shall not be regarded as assumption of risks or liability by Architect/Engineer or CLPCCD, or any officer or employee thereof, and Contractor shall have no claim under Contract on account of failure or partial failure or inefficiency or insufficiency of any plan or method of work or material and equipment so accepted. Favorable review shall be considered to mean merely that Architect/Engineer or CLPCCD has no objection to Contractor using, upon his own full responsibility, plan or method of work proposed, or furnishing materials and equipment proposed.
- P. Architect's/Engineer's review will not extend the means, methods, techniques, sequences or procedures of construction or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
- Q. Submit complete initial submittal for those items where required by individual specification Sections. Complete submittal shall contain sufficient data to demonstrate that items comply with Specifications, shall meet minimum requirements for submissions cited in technical specifications, shall include motor data and seismic anchorage certifications, where required, and shall include necessary revisions required for equipment other than first named. If Contractor submits incomplete initial submittal, when complete submittal is required, submittal may be returned to Contractor without review.
- R. It shall be Contractor's responsibility to copy, conform and distribute reviewed submittals in sufficient numbers for Contractor's files, subcontractors and vendors.
- S. After Architect/Engineer review of submittal, revise and resubmit as required. Identify changes made since previous submittal.
1. Begin no fabrication or work, which require submittals until return of submittals not requiring resubmittal.

2. Normally, submittals will be processed and returned to Contractor within ten (10) working days of receipt of complete submittals.
3. Distribute copies of reviewed submittals to concerned persons. Instruct recipients to promptly report any inability to comply with provisions.

### **1.03 SCHEDULE OF SHOP DRAWING, DSA DEFERRED APPROVAL SUBMITTALS AND SAMPLE SUBMITTALS**

- A. Submit preliminary Schedule of Shop Drawing and Sample Submittals as required by Contract Document General Conditions. Submit two (2) copies of final and accepted schedule of submittals of shop drawings and samples as required by Contract Document General Conditions, and in no event later than fourteen (14) days following Notice of Award.
- B. Schedule of Shop Drawing and Sample Submittals will be used by Architect/Engineer to schedule their activities relating to review of submittals. Schedule of submittals shall indicate a spreading out of submittals and early submittals of long lead-time items and of items, which require extensive review.
- C. Schedule of Shop Drawing and Sample Submittals shall be reviewed by Construction Manager and shall be revised and resubmitted until accepted by Construction Manager.
- D. DSA Deferred Approval Submittals shall be prepared for review by the Architect/Engineer within 30 days of receipt of Notice to Proceed. Contractor shall promptly make corrections to documents and submit same to DSA for approval. Contractor shall have the sole responsibility for obtaining DSA approval for all deferred approval submittals in a timely manner. There will be no time extensions granted for delay in obtaining such approval.

### **1.04 SAFETY PLAN**

- A. Submit three (3) copies of Safety Plan specific to this Contract to Construction Manager within fifteen (15) calendar days after Start Date of the Contract Times.
- B. One (1) copy of accepted Safety Plan will be returned to Contractor.
- C. No on-site work shall be started until Safety Plan has been reviewed and accepted by CLPCCD. Acceptance of Safety Plan shall not affect Contractor's responsibility for maintaining a safe working place and instituting safety programs in connection with project in full compliance with local, state and federal regulations.

### **1.05 PROGRESS SCHEDULE**

- A. See Section 01310, Progress Schedules and Reports, for schedule and report requirements.
- B. Submit one (1) reproducible and three (3) print copies of schedule at each of the following items:
  1. Initial CPM Schedule at the Pre-construction Conference.
  2. Original CPM Schedule within fourteen (14) days of Notice to Proceed (NTP).
  3. Adjustments to the CPM Schedule as required.
  4. CPM Schedule updates monthly, five (5) days prior to monthly progress meeting.
- C. Submit four (4) copies of the reports listed in Section 01310, Progress Schedules and Reports, with:
  1. Initial CPM Schedule
  2. Original CPM Schedule

3. Each monthly Schedule update
- D. Progress Schedules and Reports shall be submitted on CD, in addition to hard copies specified above.

#### **1.06 PRODUCT DATA.**

- A. Within fifteen (15) calendar days after Start Date of the Contract Times submit two (2) copies of complete list of major products proposed for use, with name of manufacturer, trade name, and model number of each product.
- B. For products specified only by reference standards, give manufacturer, trade name, model or catalog designation, and reference standards.
- C. Tabulate products by specification section number.
- D. Supplemental Data:
  1. Submit number of copies, which Contractor requires, plus two (2) copies, which will be retained by Construction Manager.
  2. Mark each copy to identify applicable products, models, options, and other data. Supplement manufacturer's standard data to provide information unique to Project.
- E. Provide copies for Project Record Documents described in Section 01700 Contract Closeout.

#### **1.07 SHOP DRAWINGS**

- A. Minimum Sheet Size: 8-1/2 inches by 11 inches. Maximum Sheet Size: 30 inches by 42 inches.
- B. Original sheet or reproducible transparency will be marked with Architect's/Engineer's review comments and returned to Contractor.
- C. Each sheet/copy must include project name and project number and bid number on all sheets.
- D. Mark each copy to identify applicable Products, models, options, and other data; supplement manufacturers' standard data to provide information unique to Work.
- E. Include manufacturers' installation instructions when required by specification section.

#### **1.08 SAMPLES**

- A. Submit full range of manufacturers' standard colors, textures, and patterns for Construction Manager's selection.
- B. Submit samples to illustrate functional and aesthetic characteristics of Product, with integral parts and attachment devices. Coordinate submittal of different categories for interfacing work.
- C. Include identification on each sample, giving full information.
- D. Submit two (2) samples unless otherwise specified. One (1) will be retained.
- E. Sizes: Unless otherwise specified, provide the following:
  1. Paint Chips: Manufacturers' standards
  2. Flat or Sheet Products: Minimum 6 inches square, maximum 12 inches square
  3. Linear Products: Minimum 6 inches, maximum 12 inches long
  4. Bulk Products: Minimum 1 pint, maximum 1 gallon
- F. Full size samples may be used in Work upon approval.

G. Mock-ups:

1. Erect field samples and mock-ups at Project site in accordance with requirements of Specification sections.
2. Modify or make additional field samples and mock-ups as required to provide appearance and finishes approved by Construction Manager.
3. Approved field samples and mock-ups may be used in Work upon approval.

**1.09 QUALITY CONTROL SUBMITTALS**

A. Design Data: Not applicable.

B. Test Reports: Three (3) copies. One (1) copy will be marked with Architect's/Engineer's review comments and returned to Contractor.

1. Indicate that material or product conforms to or exceeds specified requirements.
2. Reports may be from recent or previous tests on material or product, but must be acceptable to Construction Manager. Comply with requirements of each individual specification Section.

C. Certificates: Three (3) copies. One (1) copy will be marked with Architect's/Engineer's review comments and returned to Contractor.

1. Indicate that material or product conforms to or exceeds specified requirements.
2. Submit supporting reference data, affidavits, and certifications as appropriate.
3. Certificates may be recent or from previous test results on material or product, but must be acceptable to Construction Manager.

D. Manufacturers' Instructions: Three (3) copies. One (1) copy will be marked with Architect's/Engineer's review comments and returned to Contractor.

1. Include manufacturer's printed instructions for delivery, storage, assembly, installation, startup, adjusting, and finishing.
2. Identify conflicts between manufacturer's instructions and Contract Documents.

**1.10 MACHINE INVENTORY SHEETS – Not Applicable**

**1.11 OPERATIONS AND MAINTENANCE MANUALS**

A. Submit two (2) copies of manufacturers' operations and maintenance manuals. If necessary, both copies will be marked with Architect's/Engineer's review comments and returned to Contractor for correction until satisfactory information is provided. CLPCCD will retain satisfactorily corrected manuals for its own use.

B. Operations and maintenance manuals shall include the following as appropriate:

1. Operating instructions
2. Preventive maintenance instructions
3. Cleaning instructions
4. Safety precautions
5. Trouble shooting procedures
6. Theory of operation to discrete component level

7. Schematic diagrams, flow diagrams, wiring diagrams, logic diagrams, etc. to discrete component level
  8. Parts lists showing all discrete components with part number, current prices and availability
  9. List of replaceable supplies; paper, ink, ribbon, etc. with part numbers, current prices and availability
  10. Recommended levels of spare parts and supplies to keep on hand
  11. Manufacturers' service and maintenance technical manuals
  12. Names, addresses and telephone numbers of service and repair firms for the equipment
- C. Manuals shall be the same as are used by manufacturers' authorized technicians to completely service and repair the equipment.

### **1.12 COMPUTER PROGRAMS**

When any equipment requires operation by computer programs, submit copy of program on appropriate diskette plus all user manuals and guides for operating the programs and making changes in the programs for upgrading and expanding the databases. Provide required licenses to CLPCCD at no additional cost.

### **1.13 PROJECT RECORD DOCUMENTS**

Submit one copy of each of the Project Record Documents listed in Contract Closeout.

### **1.14 DELAY OF SUBMITTALS**

Delay of submittals by Contractor is considered avoidable delay. Liquidated damages incurred because of late submittals will be assessed to the Contractor.

### **1.15 TRAINING**

Contractor shall provide training to CLPCCD staff on any and all items requiring training or items requested by CLPCCD to be trained on. Training shall be scheduled two (2) weeks in advance by Contractor. All training shall be video taped by Contractor with tape or CD and provided to CLPCCD in the closing documents.

## **PART 2 – PRODUCTS**

Not applicable to this section.

## **PART 3 – EXECUTION**

Not applicable to this section.

**END OF SECTION**

## **SECTION 01310 – PROGRESS SCHEDULES AND REPORTS**

### **PART 1 – GENERAL**

#### **1.01 SUMMARY**

- A. Scheduling of Work under this Contract shall be performed by Contractor in accordance with requirements of this Section.
  - 1. Development of schedule, cost and manpower loading of the schedule and schedule updates, monthly payment requests and project status reporting requirements of the Contract shall employ computerized Critical Path Method (CPM) scheduling.
  - 2. CPM Schedule shall be cost loaded based on Schedule of Values as approved by CLPCCD.
  - 3. Submit schedules and reports as specified in Contract Document General Conditions.
- B. Upon Award of Contract, Contractor shall immediately commence development of Initial and Original CPM Schedules to ensure compliance with CPM schedule submittal requirements.
- C. Related Sections:
  - 1. Section 01010: Summary of Work
  - 2. Section 01300: Submittals

#### **1.02 QUALIFICATIONS**

- A. Contractor shall employ experienced scheduling personnel qualified to use the latest version of Primavera Project Planner or Sure Track Project Manager CPM scheduling software. Experience level required is set forth below. Contractor may employ such personnel directly or may employ a consultant for this purpose. After bid opening, the apparent successful low bidder shall provide CLPCCD a written verification that Contractor has the required personnel under its employ or that Contractor will employ the required CPM scheduling consultant.
  - 1. The written statement shall identify individual who will perform CPM scheduling.
  - 2. Capability and experience shall be verified by description of construction projects on which individual has successfully applied computerized CPM.
  - 3. Required level of experience shall include at least two projects of similar nature, scope and value not less than three-fourths the Total Bid Price of this Project. The written statement shall provide contact persons for referenced projects with current telephone and address information.
- B. CLPCCD reserves right to approve Contractor's scheduler, or consultant, and right to reject them at any time. CLPCCD also reserves right to refuse replacement of Contractor's scheduler or consultant, if it believes such replacement will negatively affect Contract.

#### **1.03 GENERAL**

- A. Progress Schedule shall be based on and incorporate milestones and completion dates specified in Contract Documents.
- B. Overall time of completion and time of completion for each milestone shown on Progress Schedule shall adhere to times as stated in Document 00510 Agreement, unless an earlier (advanced) time of completion is requested by Contractor and agreed to by CLPCCD. Any such agreement shall be formalized by a Change Order.

1. CLPCCD is not required to accept an earlier (advanced) schedule, i.e., one that shows early completion dates for the Contract Times.
  2. Contractor shall not be entitled to extra compensation in event agreement is reached on an earlier (advanced) schedule and Contractor completes its Work, for whatever reason (excepting approved changes with added time components) beyond completion date shown in earlier (advanced) schedule but within the Contract Times.
  3. A schedule showing the work completed in less than the Contract Times, which has been accepted by CLPCCD, shall be considered to have Project Float. The Project Float is the time between the scheduled completion of the work and Contract Substantial Completion. Project Float is a resource available to both CLPCCD and the Contractor.
- C. **Float Ownership:** Neither CLPCCD nor Contractor owns float. The Project owns the float. As such, liability for delay of the Substantial Completion Date rests with the party whose actions, last in time, actually cause delay to the Substantial Completion Date.
1. For example, if Party A uses some, but not all of the float and Party B later uses remainder of the float as well as additional time beyond the float, Party B shall be liable for the time that represents a delay to the Substantial Completion Date.
  2. Party A would not be responsible for the time since it did not consume the entire float and additional float remained; therefore, the Substantial Completion Date was unaffected.
- D. Progress Schedule shall be the basis for evaluating job progress, payment requests, and time extension requests associated with the changes. Responsibility for developing Contract CPM schedule and monitoring actual progress as compared to Progress Schedule rests with Contractor.
- E. Failure of Progress Schedule to include any element of the Work or any inaccuracy in Progress Schedule will not relieve Contractor from responsibility for accomplishing the Work in accordance with the Contract. CLPCCD's acceptance of schedule shall be for its use in monitoring and evaluating job progress, payment requests, and time extension requests, and shall not, in any manner, impose a duty of care upon CLPCCD, or act to relieve Contractor of its responsibility for means and methods of construction.
- F. Use Primavera Project Planner for Windows version 3.0 or later. Such software shall be compatible with Windows operating system. Contractor shall transmit contract schedule files to CLPCCD on CD-ROM or 3.5-inch high-density floppy disk at times requested by CLPCCD.
- G. Transmit each item under form approved by CLPCCD.
1. Identify Project with CLPCCD Contract number, and name of Contractor and file by date, project, and update number.
  2. Provide space for Contractor's approval stamp and CLPCCD's review stamps.
  3. Submittals received from sources other than Contractor will be returned to the Contractor without CLPCCD's review.

#### **1.04 INITIAL CRITICAL PATH METHOD (CPM) SCHEDULE**

- A. Initial CPM Schedule submitted for review at the pre-construction conference shall serve as Contractor's schedule for up to ninety (90) calendar days after the Notice to Proceed.
- B. Indicate detailed plan for the Work to be completed in first sixty (60) days of the Contract; details of planned mobilization of plant and equipment; sequence of early operations; and procurement of materials and equipment. Show Work beyond sixty (60) calendar days in summary form.

- C. Initial CPM Schedule shall be time-scaled.
- D. Initial CPM Schedule shall be cost and manpower loaded. Accepted cost and manpower-loaded schedule will be used as basis for monthly progress payments until acceptance of the Original CPM Schedule. Use of Initial CPM Schedule for progress payments shall not exceed sixty (60) calendar days.
- E. CLPCCD and Contractor shall meet to review and discuss the Initial CPM Schedule within five (5) working days after it has been submitted to CLPCCD.
  - 1. CLPCCD's review and comment on the schedule shall be limited to Contract conformance (with sequencing, coordination, and milestone requirements) and accepted CPM principals.
  - 2. Contractor shall make corrections to schedule necessary to comply with Contract requirements and shall adjust schedule to incorporate any missing information requested by CLPCCD. Contractor shall resubmit Initial CPM Schedule if requested by CLPCCD.
- F. If, during the first sixty (60) days after Notice-to-Proceed, the Contractor is of the opinion that any of the Work included on its Initial CPM Schedule has been impacted, the Contractor shall submit to CLPCCD a written Time Impact Evaluation (TIE) in accordance with Article 1.09 of this Section. The TIE shall be based on the most current update of the Initial CPM Schedule.

**1.05 ORIGINAL CRITICAL PATH METHOD (CPM) SCHEDULE**

- A. Submit a detailed proposed Original CPM Schedule presenting an orderly and realistic plan for completion of the Work, in conformance with requirements as specified herein.
- B. Progress Schedule shall include or comply with following requirements:
  - 1. Time scaled, cost and manpower loaded CPM schedule.
  - 2. No activity on schedule shall have duration longer than fifteen (15) workdays, with exception of submittal, approval, fabrication and procurement activities, unless otherwise approved by CLPCCD.
    - a. Activity durations shall be total number of actual work days required to perform that activity.
    - b. Activity coding capabilities to sort by responsibility, location, phase and CSI division.
  - 3. The start and completion dates of all items of Work, their major components, and milestone completion dates, if any.
  - 4. CLPCCD-furnished materials and equipment, if any, identified as separate activities.
  - 5. Dependencies (or relationships) between activities.
  - 6. Processing/approval of submittals and shop drawings for all Contract-required material and equipment. Activities that are dependent on submittal acceptance or material delivery shall not be scheduled to start earlier than expected acceptance or delivery dates.
    - a. Include time for submittals, resubmittals, and reviews by CLPCCD. Coordinate with accepted schedule for submission of shop drawings, samples and other submittals.
    - b. Contractor shall be responsible for all impacts resulting from resubmittal of shop drawings and submittals.
  - 7. Procurement of all contract required material and equipment, identified as separate activity.
    - a. Include time for fabrication and delivery of manufactured products for the Work.
    - b. Show dependencies between procurement and construction.

8. Complete activity description; what Work is to be accomplished and where.
  9. The total cost of performing each activity shall be total of labor, material, equipment, excluding overhead and profit of Contractor. Total overhead and profit of the General Contractor shall be shown on a separate activity in the schedule. Sum of cost for all activities shall equal total Contract value.
  10. Resources required (labor) to perform each activity.
  11. Responsibility code for each activity corresponding to Contractor or Subcontractor responsible for performing the Work.
  12. Identify the activities, which constitute the controlling operations or critical path. No more than twenty-five (25%) of the activities shall be critical or near critical. Near critical is defined as float in the range of one (1) to (10) days.
  13. At least twenty (20) workdays for developing punch list(s), completion of punch list items, and final clean-up for the Work or any designated portion thereof. No other activities shall be scheduled during this period.
  14. Interface with the work of other contractors, CLPCCD, and agencies such, as but not limited to, utility companies.
  15. Show detailed Subcontractor Work activities. In addition, furnish copies of Subcontractor schedules upon which CPM was built.
    - a. Also furnish for each Subcontractor, as determined by CLPCCD, submitted on Subcontractor letterhead a statement certifying that Subcontractor concurs with Contractor's Original CPM Schedule and that Subcontractor's related schedules have been incorporated, including activity duration, cost and resource loading.
    - b. Subcontractor schedules shall be independently derived and not a copy of Contractor's schedule.
    - c. In addition to Contractor's schedule and resource loading, obtain from electrical, mechanical and plumbing Subcontractors, and other subcontractors as required by CLPCCD, productivity calculations common to their trades, such as units per person day, feet of pipe per day per person, feet of wiring per day per person, and similar information.
    - d. Furnish schedule for Contractor/Subcontractor CPM schedule meetings which shall be held prior to submission of Original CPM schedule to CLPCCD. CLPCCD shall be permitted to attend scheduled meetings as an observer.
  16. Activity durations shall be in Workdays.
  17. Submit with the schedule a list of anticipated non-Work days, such as weekends and holidays.
- C. Original CPM Schedule Review Meeting: Contractor shall, within thirty (30) days from the Notice to Proceed date, meet with CLPCCD to review the Original CPM Schedule submittal.
1. Contractor shall have its Construction Manager, Project Superintendent, Project Scheduler, and key Subcontractor representatives, as required by CLPCCD, in attendance. The meeting will take place over a continuous one-day period.
  2. CLPCCD's review will be limited to submittal's conformance to Contract requirements, including, but not limited to, coordination requirements. However, review may also include:
    - a. Accepted critical path method principles and tenets.

- b. Clarifications of Contract Requirements.
  - c. Directions to include activities and information missing from submittal.
  - d. Requests to Contractor to clarify its schedule.
3. Within five (5) days of the Schedule Review Meeting, Contractor shall respond in writing to all questions and comments expressed by CLPCCD at the Meeting.

#### **1.06 ADJUSTMENTS TO CRITICAL PATH METHOD (CPM) SCHEDULE**

- A. Adjustments to Original CPM Schedule: Contractor shall have adjusted the Original CPM Schedule submittal to address all review comments from original CPM Schedule review meeting and resubmit network diagrams and reports for CLPCCD's review.
1. CLPCCD, within ten (10) days from date that Contractor submitted the revised schedule, will either:
    - a. accept schedule and cost and resource loaded activities as submitted, or
    - b. advise Contractor in writing to review any part or parts of schedule which either do not meet Contract requirements or are unsatisfactory for CLPCCD to monitor Project's progress, resources and status or evaluate monthly payment request by Contractor.
  2. CLPCCD may accept schedule with conditions that the first monthly CPM schedule update be revised to correct deficiencies identified.
  3. When schedule is accepted, it shall be considered as the "Original CPM Schedule" which will then be immediately updated to reflect the current status of the work.
  4. CLPCCD reserves right to require Contractor to adjust, add to, or clarify any portion of schedule which may later be discovered to be insufficient for monitoring of Work or approval of partial payment requests. No additional compensation will be provided for such adjustments, additions, or clarifications.
- B. Acceptance of Contractor's schedule by CLPCCD will be based upon schedule's compliance with Contract requirements and accepted CPM principles.
1. By way of Contractor assigning activity durations and proposing sequence of Work, Contractor agrees to utilize sufficient and necessary management and other resources to perform work in accordance with the schedule.
  2. Upon submittal of schedule update, updated schedule shall be considered "current" CPM schedule.
  3. Submission of Contractor's schedule to CLPCCD shall not relieve Contractor of total responsibility for scheduling, sequencing, and pursuing Work to comply with requirements of Contract Documents, including adverse effects such as delays resulting from ill-timed work.
- C. Submittal of Original CPM Schedule, and subsequent schedule updates, shall be understood to be Contractor's representation that the Schedule meets requirements of Contract Documents and that Work shall be executed in sequence indicated on the schedule.
- D. Contractor shall distribute Original CPM Schedule to Subcontractors for review and written acceptance, which shall be noted on Subcontractors' letterheads to Contractor and transmitted to CLPCCD for the record.

## **1.07 MONTHLY CPM SCHEDULE UPDATE SUBMITTALS**

- A. Following acceptance of Contractor's Original CPM Schedule, Contractor shall monitor progress of Work and adjust schedule each month to reflect actual progress and any pre-approved changes to planned activities or logic.
  - 1. Each schedule update submitted shall be complete, including all information requested for the Original CPM Schedule submittal.
  - 2. Each update shall continue to show all work activities including those already completed. These completed activities shall accurately reflect "as built" information by indicating when activities were actually started and completed.
- B. A meeting will be held on approximately the twenty-fifth (25th) of each month to review the schedule update submittal and progress payment application.
  - 1. At this meeting, at a minimum, the following items will be reviewed: Percent complete of each activity; Time impact evaluations for Change Orders and Time Extension Request; anticipated activity sequence changes; anticipated duration changes; actual and anticipated contractor delays.
  - 2. These meetings are considered a critical component of overall monthly schedule update submittal and Contractor shall have appropriate personnel attend. At a minimum, these meetings shall be attended by Contractor's General Superintendent and Scheduler.
  - 3. Contractor shall plan on the meeting taking no less than four (4) hours.
- C. Within five (5) working days after monthly schedule update meeting, Contractor shall submit the updated CPM Schedule update.
- D. Within five (5) work days of receipt of above noted revised submittals, CLPCCD will either accept or reject monthly schedule update submittal.
  - 1. If accepted, percent complete shown in monthly update will be basis for Application for Payment by the Contractor. The schedule update shall be submitted as part of the Contractor's Application for Payment.
  - 2. If rejected, update shall be corrected and resubmitted by Contractor before the Application for Payment is submitted.
- E. Updating, changing or revising of any report, curve, schedule or narrative submitted to CLPCCD by Contractor under this Contract, nor CLPCCD's review or acceptance of any such report, curve, schedule or narrative shall not have the effect of amending or modifying, in any way, the Contract Substantial Completion date or milestone dates or of modifying or limiting, in any way, Contractor's obligations under this Contract.

## **1.08 SCHEDULE REVISIONS**

- A. Updating the Schedule to reflect actual progress shall not be considered revisions to the Schedule. Since scheduling is a dynamic process, revisions to activity durations and sequences are expected on a monthly basis.
- B. To reflect revisions to the schedule, the Contractor shall provide CLPCCD with a written narrative with a full description and reasons for each Work activity revised. For revisions affecting the sequence of work, the Contractor shall provide a schedule diagram which compares the original sequence to the revised sequence of work. The Contractor shall provide the written narrative and schedule diagram for revisions two (2) working days in advance of the monthly schedule update meeting.

- C. Schedule revisions shall not be incorporated into any schedule update until the revisions have been reviewed by CLPCCD. CLPCCD may request further information and justification for schedule revisions and Contractor shall, within three (3) days, provide CLPCCD with a complete written narrative response to CLPCCD's request.
- D. If the Contractor's revision is still not accepted by CLPCCD, and the Contractor disagrees with CLPCCD's position, the Contractor has seven (7) calendar days from receipt of CLPCCD's letter rejecting the revision, to provide a written narrative providing full justification and explanation for the revision. The Contractor's failure to respond in writing within seven (7) calendar days of CLPCCD's written rejection of a schedule revision shall be contractually interpreted as acceptance of CLPCCD's position, and the Contractor waives its rights to subsequently dispute or file a claim regarding CLPCCD's position.
- E. At CLPCCD's discretion, the Contractor can be required to provide subcontractor certifications of performance regarding proposed schedule revisions affecting said subcontractors.

### **1.09 RECOVERY SCHEDULE**

- A. If the Schedule Update shows a substantial completion date fourteen (14) calendar days beyond the Contract Substantial Completion date, or individual milestone completion dates, the Contractor shall submit to CLPCCD the proposed revisions to recover the lost time within seven (7) calendar days. As part of this submittal, the Contractor shall provide a written narrative for each revision made to recapture the lost time. If the revisions include sequence changes, the Contractor shall provide a schedule diagram comparing the original sequence to the revised sequence of work.
- B. The revisions shall not be incorporated into any schedule update until the revisions have been reviewed by CLPCCD.
- C. If the Contractor's revisions are not accepted by CLPCCD, CLPCCD and the Contractor shall follow the procedures in paragraph 1.08.C, 1.08.D and 1.08.E above.
- D. At CLPCCD's discretion, the Contractor can be required to provide subcontractor certifications for revisions affecting said subcontractors.

### **1.10 TIME IMPACTS EVALUATION (TIE) FOR CHANGE ORDERS, AND OTHER DELAYS**

- A. When Contractor is directed to proceed with changed work which the Contractor considers time-impacting, the Contractor shall prepare and submit, within fourteen (14) calendar days from the direction to proceed, a Time Impact Evaluation (TIE) which includes both a written narrative and a schedule diagram depicting how the changed work affects other schedule activities. The schedule diagram shall show how the Contractor proposes to incorporate the changed work in the schedule, and how it impacts the current schedule update critical path. The Contractor is also responsible for requesting time extensions based on the TIEs impact on the critical path. The diagram must be tied to the main sequence of schedule activities to enable CLPCCD to evaluate the impact of changed work to the scheduled critical path.
- B. Contractor shall be required to comply with the requirements of Paragraph 1.09.A for all types of delays such as, but not limited to, Contractor/Subcontractor delays, adverse weather delays, strikes, procurement delays, fabrication delays, etc.
- C. Contractor shall be responsible for all costs associated with the preparation of Time Impact Evaluations, and the process of incorporating them into the current schedule update. The Contractor shall provide CLPCCD with 4 copies of each TIE.

- D. Once agreement has been reached on a TIE, the Contract Times will be adjusted accordingly. If agreement is not reached on a TIE, the Contract Times may be extended in an amount CLPCCD allows, and the Contractor may submit a claim for additional time claimed by contractor.

### **1.11 TIME EXTENSIONS**

- A. The Contractor is responsible for requesting time extensions for time impacts that, in the opinion of the Contractor, impact the critical path of the current schedule update. Notice of time impacts shall be given in accord with Articles 1.12 and 1.15 of Document 00700 General Conditions.
- B. Where an event for which CLPCCD is responsible impacts the projected Substantial Completion date, the Contractor shall provide a written mitigation plan, including a schedule diagram, which explains how (e.g., increase crew size, overtime, etc.) the impact can be mitigated. The Contractor shall also include a detailed cost breakdown of the labor; equipment and material the Contractor would expend to mitigate CLPCCD caused time impact. The Contractor shall submit its mitigation plan to CLPCCD within 14 calendar days from the date of discovery of said impact. The Contractor is responsible for the cost to prepare the mitigation plan.
- C. Failure to request time, provide TIE, or provide the required mitigation plan will result in Contractor waiving its right to a time extension and cost to mitigate the delay.
- D. No time will be granted under this Contract for cumulative effect of changes.
- E. CLPCCD will not be obligated to consider any time extension request unless requirements of Contract Documents are complied with.
- F. Failure of the Contractor to perform in accordance with the current schedule update shall not be excused by submittal of time extension requests.
- G. If the Contractor does not submit a TIE within the required fourteen (14) calendar days for any issue, it is mutually agreed that the Contractor does not require a time extension for said issue.

### **1.12 SCHEDULE REPORTS**

- A. Submit four (4) copies of the following reports with the Initial CPM Schedule, the Original CPM Schedule, and each monthly update.
- B. Required Reports:
  - 1. Two (2) activity-listing reports: one sorted by activity number and one by total float. These reports shall also include each activity's early/late and actual start and finish dates, original and remaining duration, float, responsibility code and the logic relationship of activities.
  - 2. Cost report sorted by activity number including each activity's associated cost, percentage of Work accomplished, earned value to-date, previous payments and amount earned for current update period.
  - 3. Schedule plots presenting time scaled network diagram showing activities and their relationships with the controlling operations or critical path clearly highlighted.
  - 4. Cash flow report calculated by early start, late start and indicating actual progress. Provide an exhibit depicting this information in graphic form.
- C. Furnish CLPCCD with report files on 3.5-inch high-density floppy disks or CD ROM containing all schedule program files.

### **1.13 PROJECT STATUS REPORTING**

- A. In addition to submittal requirements for CPM scheduling identified in this Section, Contractor shall provide a monthly project status report (i.e., written narrative report) to be submitted in conjunction with each CPM Schedule as specified herein. Status reporting shall be in form specified below.
- B. Contractor shall prepare monthly written narrative reports of status of Project for submission to CLPCCD. Written status reports shall include:
  - 1. Status of major Project components (percent complete, amount of time ahead or behind schedule) and an explanation of how Project will be brought back on schedule if delays have occurred.
  - 2. Progress made on critical activities indicated on CPM schedule.
  - 3. Explanations for any lack of work on critical path activities planned to be performed during last month.
  - 4. Explanations for any schedule changes, including changes to logic or to activity durations.
  - 5. List of critical activities scheduled to be performed next month.
  - 6. Status of major material and equipment procurement.
  - 7. Any delays encountered during reporting period.
  - 8. Contractor may include any other information pertinent to status of Project. Contractor shall include additional status information requested by CLPCCD at no additional cost.
  - 9. Status reports, and the information contained therein, shall not be construed by the Contractor as claims, notice of claims, notice of delay, or requests for changes or compensation.

### **1.14 WEEKLY SCHEDULE REPORT**

At the Weekly Progress Meeting, the Contractor shall provide and present a time scaled three (3) week schedule one (1) week behind and two (2) week look ahead schedule that is based and correlated by activity number to the current schedule (i.e., Initial, Original CPM, or Schedule Update).

### **1.15 DAILY CONSTRUCTION REPORTS**

On a daily basis, Contractor shall submit a daily activity report to CLPCCD for each workday, including weekends and holidays, when worked. Contractor shall develop the daily construction reports on a computer generated data-base capable of sorting daily Work, manpower and man-hours by Contractor, Subcontractor, area, sub area, and change order work. Upon request of CLPCCD, furnish computer disk of this database. Obtain CLPCCD's written approval of daily construction report data base format prior to implementation. Include in report:

- A. Project name and Project number.
- B. Contractor's name and address.
- C. Weather, temperature and any unusual site conditions.
- D. Brief description and location of the day's scheduled activities and any special problems and accidents, including Work of Subcontractors. Descriptions shall be referenced to CPM scheduled activities.
- E. Worker quantities for its own Work force and for Subcontractors of any tier.

F. Equipment, other than hand tools, utilized by Contractor and Subcontractors.

**1.16 PERIODIC VERIFIED REPORTS**

The Contractor shall complete and submit the Final Verified Report required by DSA In addition to other conditions precedent to Final Payment, the Contractor's completion and submission of the Final Verified Report is an express condition precedent to the District's obligation to make the Final Payment. In addition to completion and submission of the Final Verified Report, as a material obligation under the Contract Documents, the Contractor shall comply all DSA requests for reports or other data relating to the Work, the status thereof or conformity of the Work to the Contract Documents.

**PART 2 – PRODUCTS**

Not applicable to this section.

**PART 3 – EXECUTION**

Not applicable to this section.

**END OF SECTION**

## SECTION 01400 - QUALITY CONTROL

### PART 1 – GENERAL

#### 1.01 SECTION INCLUDES

- A. Quality assurance and control of installation.
- B. References.
- C. Mock-Up.
- D. Inspection and testing laboratory services.
- E. Manufacturer's field services.

#### 1.02 RELATED SECTIONS

- A. Submission of manufacturers' instructions and
- B. Sections requiring Laboratory Testing:
  - 1. Section 01300 - Submittals: certificates
  - 2. Section 02200 - Earthwork
  - 3. Section 02223 - Earthwork
  - 4. Section 02511 - Asphalt Concrete Paving
  - 5. Section 02520 - Portland Cement Concrete Paving Section 03200 - Concrete Reinforcement
  - 6. Section 03300 - Cast-in-Place Concrete
  - 7. Section 04100 - Concrete Unit Masonry
  - 8. Section 05100 - Structural Steel
  - 9. Section 05500 - Metal Fabrications
  - 10. Section 06100 - Rough Carpentry

#### 1.03 QUALITY ASSURANCE AND CONTROL OF INSTALLATION

- A. Monitor quality control over suppliers, manufacturers, products, services, site conditions, and workmanship, to produce Work of specified quality.
- B. Comply fully with manufacturers' instructions, including each step in sequence.
- C. Should manufacturers' instructions conflict with Contract Documents, request clarification from Architect/Engineer before proceeding.
- D. Comply with specified standards as a minimum quality for the Work except when more stringent tolerances, codes, or specified requirements indicate higher standards or more precise workmanship.
- E. Perform work by persons qualified to produce workmanship of specified quality.
- F. Secure products in place with positive anchorage devices designed and sized to withstand stresses, vibration, physical distortion or disfigurement.

#### **1.04 REFERENCES**

- A. Conform to reference standard by date of issue current on date specified in product sections.
- B. Should specified reference standards conflict with Contract Documents, request clarification from Architect/Engineer before proceeding.
- C. The contractual relationship of the parties to the Contract shall not be altered from the Contract Documents by mention or inference otherwise in any reference document.

#### **1.05 MOCK-UP**

- A. Mock-up and sample panels will be performed under various sections and identified as sample panels or mock-ups.
- B. Assemble and erect specified items with specified attachments, anchorage, flashing, seals and finishes.
- C. Where mock-up has been accepted by Architect/Engineer and is specified in product specification section to be removed, remove mock-up and clear area as directed.

#### **1.06 INSPECTION AND TESTING LABORATORY SERVICES**

- A. CLPCCD will appoint, employ and pay for services of an independent firm to perform inspection and testing.
- B. The independent firm will perform inspections, tests, and other services specified in individual specification sections and as required by the Architect/Engineer. Promptly notify Construction Manager, Architect/Engineer, DSA, Project Inspector, and Contractor of observed irregularities or deficiencies of work or products.
- C. Reports will be submitted by the independent firm, one copy each, to the Construction Manager, Architect, Engineer, Division of the State Architect, Contractor and Project Inspector. Indicate observations and results of tests and indicate compliance or non-compliance with Contract Documents and Title 24, C.C.R. specifically, each report will include the following:
  - 1. Date issued; date and time of sampling or inspection; date of test.
  - 2. Project title and number; testing laboratory name, address and telephone number; name and signature of laboratory inspector.
  - 3. Location of sampling or test; temperature and weather condition.
  - 4. Type of inspection or test; identification of product and specification section; results of test and compliance with Contract Documents and Title 24, C.C.R.
  - 5. Perform additional tests as required by Architect/Engineer and/or Project Inspector; interpret test results, when requested by Architect/Engineer.
  - 6. Special Inspections: as shown on attached Tests & Inspections (T&I) list for each section.
- D. Contractor shall cooperate with independent firm; furnish samples of materials, design mix, equipment, tools, storage and assistance as requested.
  - 1. Notify Architect/Engineer and independent firm 24 hours prior to expected time for operations requiring services.
  - 2. Make arrangements with independent firm and pay for additional samples and tests required for Contractor's use.

3. Employment of the laboratory shall in no way relieve Contractor's obligations to perform the work of the contract.
- E. Retesting required because of non-conformance to specified requirements shall be performed by the same independent firm on instructions by the Architect/Engineer and/or Project Inspector. Payment for retesting will be paid by the Contractor by deducting inspection or testing charges from the Contract Sum on the next scheduled payment.

#### **1.07 MANUFACTURER'S FIELD SERVICES**

- A. When specified in individual specification sections, require material or product suppliers or manufacturers to provide qualified staff personnel to observe site conditions, conditions of surfaces and installation, quality of workmanship, startup of equipment as applicable, and to initiate instructions when necessary.
- B. Submit qualifications of observer to Construction Manager thirty (30) calendar days in advance of required observations. Observer shall be subject to approval of Construction Manager and Architect/Engineer.
- C. Report observations and site decisions or instructions given to applicators or installers that are supplemental or contrary to manufacturers' written instructions.
- D. Refer to Section 01300 - Submittals: Manufacturers' Instructions.

#### **PART 2 – PRODUCTS**

Not applicable to this section.

#### **PART 3 – EXECUTION**

Not applicable to this section.

**END OF SECTION**

## **SECTION 01510 – TEMPORARY FACILITIES**

### **PART 1 GENERAL**

#### **1.01 SUMMARY**

This section describes the temporary facilities required for the Project site. The Project site shall be maintained by Contractor as set forth in this section.

#### **1.02 TEMPORARY FACILITIES**

- A. Contractor shall obtain permits for, install and maintain in safe condition, whatever scaffolds, hoisting equipment, barricades, walkways, or other temporary structures, which may be required to accomplish the work on the Project. Such structures shall be adequate for the intended use and capable of safely accepting all loads that may be imposed upon them. They shall be installed and maintained in accordance with all applicable State and local codes and regulations.
- B. Contractor shall provide and maintain temporary heat from an approved source whenever in the course of the Work it may become necessary for curing and drying of materials, or to warm spaces as may be required for the installation of materials or finishes.
- C. Contractor shall provide and maintain any and all facilities that may be required for dewatering in order that work may proceed on the Project. If it is necessary for dewatering to occur continually, Contractor shall have on hand whatever spare parts or equipment that may be required to prevent interruption of dewatering.
- D. Contractor shall provide and maintain all utility services necessary to perform the work under this Contract. These may include, but are not limited to, temporary electricity, water, gas, sewer and telephone, including charges and installation fees. Contractor shall furnish and maintain all means of distribution of utility services required within the site to properly complete the Project.
- E. Materials, tools, accessories, etc., shall be stored only where directed by CLPCCD. Storage area shall be kept neat and clean. Security of stored items shall be Contractor's responsibility.
- F. When flammable materials are stored on site, extra precautions, including clear identification, shall be the responsibility of Contractor.
- G. Contractor shall provide and maintain temporary toilets in quantities and locations as required by CAL/OSHA and other local codes and regulations. They shall be maintained and supplied in a usable and sanitary condition at all times.
- H. If water at construction site is determined to be non-potable by Inspector, Contractor shall provide and maintain adequate potable water stations at site until final completion of the Project.
- I. Contractor shall maintain an office at the Project site, which will be his headquarters for the Project. Any communications delivered to this office shall be considered as delivered to Contractor. Location and size of office shall be such that it will adequately serve the needs of Contractor's superintendent and assistants in the performance of their duties.
- J. Contractor shall also provide and maintain the following temporary facilities for the duration of the project. Contractor shall obtain approval of the plans and specifications for all the following temporary facilities from Construction Manager prior to delivery to job site. Construction Manager shall have the option to reject said facilities if they do not meet Construction Manager's needs.
- K. Contractor shall promptly remove all such temporary facilities when they are no longer needed for the work or for completion of the Project, mutually agreed upon by Contractor and CLPCCD.

- L. Contractor shall provide and maintain in the Temporary Facilities a copy of the California Code of Regulations Title 24 (latest edition) Parts I & II.

**1.03 SIGNS**

No signs may be displayed on or about CLPCCD's property (except those required by law) without CLPCCD's specific approval; the size, content, and location to be as specified by CLPCCD.

**1.04 USE OF ROADWAYS AND WALKWAYS**

The egress and ingress of all Contractor traffic shall adhere to the project-specific "Traffic and Staging Plan" included in these specifications. Under no condition shall any of Contractor's vehicles; including but not limited to personnel, crew, and delivery; travel outside the designated path found in the "Traffic and Staging Plan".

Contractor shall keep designated path of travel clean, free of debris, dirt, mud, fluids of any kind. It is Contractor's responsibility to keep clean the path of travel. Cost incurred for any work performed by campus staff on the path of travel as a result of Contractor's activities shall be reimbursable to the District.

Contractor's staff shall only park in designated areas, as detailed by the project-specific "Traffic and Staging Plan". Campus parking regulations will be strictly enforced by campus security team.

Contractor shall never block or interfere with use of any existing roadway, walkway or other facility for vehicular or pedestrian traffic, from any party entitled to use it. Wherever and whenever such interference becomes necessary for the proper and convenient performance of the Work, and no satisfactory detour route exists, Contractor shall, before beginning the interference, provide a satisfactory detour, including temporary bridge if necessary, or other proper facility for traffic to pass around or over the interference. Contractor shall maintain the detour in a safe and satisfactory condition as long as the interference continues, all without extra payment unless otherwise expressly stipulated in the Specifications. Twenty-four (24) hours prior to creating such detour, Contractor shall submit a written request to the Construction Manager for review and approval.

**PART 2 – PRODUCTS**

Not used.

**PART 3 – EXECUTION**

Not used.

**END OF SECTION**

## **SECTION 01600 – MATERIAL AND EQUIPMENT**

### **PART 1 – GENERAL**

#### **1.01 SECTION INCLUDES**

- A. Products.
- B. Transportation and handling.
- C. Storage and protection.

#### **1.02 RELATED SECTIONS**

- A. Section 01010 - Summary of Work.
- B. Section 01400 - Quality Control: Product Quality Monitoring.

#### **1.03 PRODUCTS**

- A. Products: Means new material, machinery, components, equipment, fixtures, and systems forming the Work. Does not include machinery and equipment used for preparation, fabrication, conveying and erection of the Work.
- B. Provide interchangeable components of the same manufacturer, for similar components.

#### **1.04 TRANSPORTATION AND HANDLING**

- A. Transport and handle products in accordance with manufacturer's instructions and construction schedules. Coordinate to avoid conflict with work and conditions at the site.
- B. Promptly inspect shipments to assure that products comply with requirements, quantities are correct, and products are undamaged.
- C. Provide equipment and personnel to handle products by methods to prevent soiling, disfigurement, or damage.

#### **1.05 STORAGE AND PROTECTION**

- A. Store and protect products in accordance with manufacturer's instructions, with seals and labels intact and legible. Store sensitive products in weather-tight, climate controlled enclosures.
- B. For exterior storage of fabricated products, place on sloped supports, above ground, to prevent soiling and staining.
- C. Provide off-site storage and protection when site does not permit on-site storage or protection.
- D. Cover products subject to deterioration with impervious sheet covering. Provide ventilation to avoid condensation.
- E. Store loose granular materials on solid flat surfaces in a well-drained area. Prevent mixing with foreign matter.
- F. Provide equipment and personnel to store products by methods to prevent soiling, disfigurement, or damage.
- G. Arrange storage of products to permit access for inspection. Periodically inspect to assure products are undamaged and are maintained under specified conditions.
- H. Provide substantial covering and protection after installation of products from damage due to traffic and subsequent construction operations. Remove when no longer needed.

- I. On-site storage shall remain inside lay down area(s) as designated in the project-specific "Traffic and Staging Plan".
- J. Temporary staging shall remain inside lay down area(s) as designated in the project-specific "Traffic and Staging Plan". Request to use area(s) outside the designated lay down area shall be made in writing at least seventy-two (72) hours prior to activity to the Construction Manager for review and approval.

**PART 2–PRODUCTS**

Not applicable to this section.

**PART 3–EXECUTION**

Not applicable to this section.

**END OF SECTION**

## **SECTION 01630 – PRODUCT OPTIONS AND SUBSTITUTIONS**

### **PART 1 – GENERAL**

#### **1.01 SUMMARY**

- A. Procedures are described for selecting products and requesting substitutions of unlisted materials in lieu of materials named in the specifications or approved for use in addenda.
- B. Related Sections
  - 1. Section 01035: Modification Procedures
  - 2. Section 01300: Submittals

#### **1.02 CONTRACTOR'S OPTIONS**

- A. For products specified only by reference standard: Select any product meeting that standard.
- B. For products specified by naming one or more products or manufacturers:
  - 1. Select products of any named manufacturer meeting specifications.
  - 2. For any product or manufacturer, which is not specifically named, submit Request for Substitution (RFS).

#### **1.03 SUBSTITUTIONS**

- A. Within a period of thirty-five (35) days after Award of Contract, Construction Manager and Architect/Engineer will consider RFS from Contractor. After that period, requests will be considered only when product becomes unavailable due to no fault of Contractor. Requests for review of proposed substitute items will not be accepted from anyone other than Contractor. The RFS will state the extent, if any, to which the evaluation and acceptance of the proposed substitute will prejudice Contractor's achievement of substantial completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with CLPCCD for work on the Project).
- B. Submit separate RFS for each product and support each request with:
  - Product identification
  - Manufacturer's literature
  - Samples, as applicable
  - Name and address of similar projects on which product has been used, and date of installation
  - Name, address and telephone number of manufacturer's representative or sales engineer
- C. Where required, itemize a comparison of the proposed substitution with product specified and list significant variations. If variation from product specified is not pointed out in submittal, variation will be rejected even though submittal was favorably reviewed.
- D. State whether the substitute will require a change in any of the Contract documents (or provisions of any other direct contract with CLPCCD for work on the Project) to adapt the design of the proposed substitute, and whether or not incorporation or use of the substitute in connection with Work is subject to payment of any license fee or royalty. Submit data relating to changes in construction schedule.

- E. All variations of the proposed substitute from that specified will be identified in the RFS and available maintenance, repair and replacement service will be indicated.
- F. Include accurate cost data comparing proposed substitution with product and amount of net change in Contract price, including but not limited to, an itemized estimate of all costs or credits that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other contractors effected by the resulting change, all of which will be considered by Construction Manager and Architect/Engineer in evaluating the proposed substitute. Construction Manager and Architect/Engineer may require Contractor to furnish additional data about the proposed substitute.
- G. Substitutions will not be considered for acceptance when:
  - 1. They will result in delay meeting construction milestones or completion dates.
  - 2. They are indicated or implied on submittals without formal request from Contractor.
  - 3. They are requested directly by subcontractor or supplier.
  - 4. Acceptance will require substantial revision of Contract Documents.
  - 5. They disrupt Contractor's job rhythm or ability to perform efficiently.
- H. Substitute products shall not be ordered without written acceptance of Construction Manager and Architect/Engineer.
- I. Construction Manager and Architect/Engineer will determine acceptability of proposed substitutions and reserve right to reject proposals due to insufficient information.
- J. Accepted substitutions will be evidenced by a change order or Supplemental Instruction. All Contract requirements apply to Work involving substitutions.

#### **1.04 CONTRACTOR'S REPRESENTATION AND WARRANTY**

- A. Requests constitute a representation and warranty that Contractor:
  - 1. Has investigated proposed product and determined that it meets or exceeds, in all respects, specified product
  - 2. Will provide the same warranty for substitution as for specified product
  - 3. Will coordinate installation and make other changes, which may be required for Work to be complete in all respects
  - 4. Waives claims for additional costs, which may subsequently become apparent
  - 5. Will compensate CLPCCD for additional redesign costs associated with substitution
  - 6. Will be responsible for Construction Schedule slippage due to substitution
  - 7. Will be responsible for Construction Schedule delay due to late ordering of available specified products caused by requests for substitution, which is subsequently rejected by Construction Manager
  - 8. Will compensate CLPCCD for all costs; including extra costs of Contract, extra cost to other contractors, and any claims brought against CLPCCD, caused by late requests for substitutions or late ordering of products.

**1.05 CONSTRUCTION MANAGER'S AND ARCHITECT/ENGINEER'S DUTIES**

- A. Review Contractor's RFS with reasonable promptness.
- B. Notify Contractor in writing of decision to accept or reject requested substitution.

**1.06 COST OF REVIEW**

- A. Construction Manager and Engineer will record time required in evaluating substitutes proposed or submitted by Contractor. Whether or not Construction Manager or Architect/Engineer accepts the substitute item so proposed or submitted by Contractor, Contractor shall reimburse CLPCCD for the charges of Architect/Engineer and Construction Manager for evaluating each such proposed substitute item.
- B. The CLPCCD reserves the right to waive the requirement of paragraph A above.

**PART 2–PRODUCTS**

Not used.

**PART 3–EXECUTION**

Not used.

**END OF SECTION**

## **SECTION 01700 – CONTRACT CLOSEOUT**

### **PART 1 – GENERAL**

#### **1.01 SUMMARY**

This section describes contract closeout procedures including:

1. Removal of temporary construction facilities
2. Substantial completion
3. Final completion
4. Final cleaning
5. Project record documents
6. Material, equipment and finish data
7. Project guarantee
8. Warranties
9. Turn-in
10. Release of claims
11. Guaranty and Maintenance Bonds

#### **1.02 REMOVAL OF TEMPORARY CONSTRUCTION FACILITIES**

- A. Remove temporary materials, equipment, services, and construction prior to Substantial Completion Inspection.
- B. Clean and repair damage caused by installation or use of temporary facilities.
- C. Restore permanent facilities used during construction to specified condition.

#### **1.03 SUBSTANTIAL COMPLETION**

- A. When Contractor considers Work or designated portion thereof as substantially complete, submit written notice, with list of items to be completed or corrected to Construction Manager.
- B. Within reasonable time, Construction Manager and Architect/Engineer will inspect to determine status of completion.
- C. Should Construction Manager or Architect/Engineer determine that Work is not substantially complete; Construction Manager will promptly notify Contractor in writing, listing all defects and omissions.
- D. Remedy deficiencies and send a second written notice of substantial completion. Architect/Engineer will reinspect the Work. If deficiencies previously noted are not corrected on reinspection, then Contractor shall pay the cost of the reinspection.
- E. When Architect/Engineer determines that Work is substantially complete, Construction Manager will issue a Certificate of Substantial Completion.
- F. Manufactured units, equipment and systems, which require startup, must have been started up and run for periods prescribed by Construction Manager, Architect/Engineer, or Owner before a Certificate of Substantial Completion will be issued.

#### **1.04 FINAL COMPLETION**

- A. When Contractor considers Work is complete, submit written certification that:
  - 1. Contractor has inspected Work for compliance with Contract Documents.
  - 2. Work, except for Contractor maintenance after Final Acceptance, has been completed in accordance with Contract Documents and deficiencies listed with Certificate of Substantial Completion have been corrected.
  - 3. Work is complete and ready for final inspection.
  - 4. Contractor has achieved all requirements for Final Acceptance as that term is defined in Section 01090 – Regulatory Requirements.
- B. In addition to submittals required by conditions of Contract, provide submittals required by governing authorities and submit final statement of accounting giving total adjusted Contract Sum, previous payments, and sum remaining due.
- C. When Architect/Engineer finds Work is acceptable and final submittal is complete, Construction Manager will issue final change order reflecting approved adjustments to Contract Sum not previously made by Change Order.

#### **1.05 FINAL CLEANING**

- A. Execute final cleaning prior to final inspection.
- B. Clean interior and exterior surfaces exposed to view; remove temporary labels, stains and foreign substances, polish transparent and glossy surfaces, vacuum carpeted and soft surfaces.
  - 1. Clean equipment and fixtures to a sanitary condition, clean or replace filters of mechanical equipment operated during construction, clean ducts, blowers and coils of units operated without filters during construction.
  - 2. Employ skilled workers for final cleaning.
- C. Clean Site; mechanically sweep-paved areas.
- D. Remove waste and surplus materials, rubbish, and construction facilities from Site.

#### **1.06 PROJECT RECORD DOCUMENTS**

- A. General
  - 1. Project Record Documents required include:
    - a. Marked-up copies of Contract Drawings
    - b. Marked-up copies of Shop Drawings
    - c. Newly prepared Drawings
    - d. Marked-up copies of Specifications, Addenda and Change Orders
    - e. Marked-up Project Data submittals
    - f. Record Samples
    - g. Field records for variable and concealed conditions
    - h. Record information on Work that is recorded only schematically

2. Specific Project Record Documents requirements that expand requirements of this Section are included in the individual Sections of Divisions 2 through 16.
  3. Maintenance of Documents and Samples:
    - a. Store Project Record Documents and samples in the field office apart from Contract Documents used for construction.
    - b. Do not permit Project Record Documents to be used for construction purposes.
    - c. Maintain Project Record Documents in good order, and in a clean, dry, legible condition.
    - d. Make documents and samples available at all times for inspection by Architect/Engineer.
  4. CLPCCD will provide one set of sepias and one blueline set of the construction drawings and one-project manuals for the Contractor's use and copying during construction.
- B. Project Record Drawings
1. Mark-up Procedure: During the construction period, maintain a set of blueline or blackline prints of Contract Drawings and Shop Drawings for Project Record Document purposes.
  2. Mark these Drawings to indicate the actual installation where the installation varies appreciably from the installation shown originally. Give particular attention to information on concealed elements, which would be difficult to identify or measure and record later. Items required to be marked include, but are not limited to:
    - a. Dimensional changes to the
    - b. Drawings Revisions to details shown on the
    - c. Drawings Depths of foundations below the first floor
    - d. Locations and depths of underground utilities
    - e. Revisions to routing of piping and conduits
    - f. Revisions to electrical circuitry
    - g. Actual equipment locations
    - h. Duct size and routing
    - i. Locations of concealed internal utilities
    - j. Changes made by Change Order
    - k. Details not on original Contract Drawings
  3. Mark completely and accurately Project Record Drawing prints of Contract Drawings or Shop Drawings, whichever is the most capable of showing actual physical conditions. Where Shop Drawings are marked, show cross-reference on Contract Drawings location.
  4. Mark Project Record Drawing sets with red erasable colored pencil; use other colors to distinguish between changes for different categories of the Work at the same location.
  5. Mark important additional information, which was either shown schematically or omitted from original Drawings.
  6. Note construction change directive numbers; alternate numbers; Change Order numbers and similar identification.

7. Responsibility for Mark-up: Where feasible, the individual or entity who obtained Project Record Drawing data, whether the individual or entity is the installer, subcontractor, or similar entity, is required to prepare the mark-up on Project Record Drawings.
    - a. Accurately record information in an understandable and legible drawing technique.
    - b. Record data as soon as possible after it has been obtained. In the case of concealed installations, record and check the mark-up prior to concealment.
  8. At time of Substantial Completion, submit Project Record Drawings to Construction Manager for CLPCCD's records. Organize into sets, bind and label sets for CLPCCD's continued use.
- C. Preparation of Transparencies: Immediately prior to inspection for Certification of Substantial Completion, review completed marked-up Project Record Drawings with the Architect/Engineer. When authorized, prepare a full set of correct transparencies of Contract Drawings and Shop Drawings.
1. Incorporate changes and additional information previously marked on print sets. Erase, redraw, and add details and notations where applicable. Identify and date each Drawing; include the printed designation "PROJECT RECORD DRAWINGS" in a prominent location on each Drawing.
  2. Refer instances of uncertainty to the Architect/Engineer for resolution.
  3. Review of Transparencies: Before copying and distributing, submit corrected transparencies and the original marked-up prints to the Architect/Engineer for review. When acceptable, the Architect/Engineer will initial and date each transparency, indicating acceptance of general scope of changes and additional information recorded, and of the quality of drafting.
    - a. Transparencies and the original marked-up prints will be returned to the Contractor for organizing into sets, printing, binding, and final submittal.
- D. Copies and Distribution: After completing the preparation of transparency Project Record Drawings, print three (3) blue-line or black-line prints of each Drawing, whether or not changes and additional information were recorded. Organize the copies into manageable sets. Bind each set with durable paper cover sheets, with appropriate identification, including titles, dates and other information on cover sheets.
1. Organize and bind original marked-up set of prints that were maintained during the construction period in the same manner.
  2. Organize Project Record Drawings transparencies into sets matching the print sets. Place these sets in durable tube-type drawing containers with end caps. Mark the end cap of each container with suitable identification.
  3. Submit the marked-up Project Record Drawings set, transparencies, and five copy sets to the Construction Manager for CLPCCD's records; the Architect/Engineer will retain one copy set.

#### E. PROJECT RECORD SPECIFICATIONS

During the construction period, maintain one copy of the Project Specifications, including addenda and modifications issued, for Project Record Document purposes.

1. Mark the Project Record Specifications to indicate the actual installation where the installation varies substantially from that indicated in Specifications and Modifications issued. Note related Project Record Drawing information, where applicable. Give particular attention

to substitutions, selection of product options, and information on concealed installation that would be difficult to identify or measure and record later.

- a. In each Specification Section where products, materials or units of equipment are specified or scheduled, mark the copy with the proprietary name and model number of the product furnished.
- b. Record the name of the manufacturer, supplier and installer, and other information necessary to provide a record of selections made and to document coordination with Project Record Product Data submittals and maintenance manuals.
- c. Note related Project Record Product Data, where applicable, for each principal product specified, indicate whether Project Record Product Data has been submitted in maintenance manual instead of submitted as Project Record Product Data.

2. Upon completion of mark-up, submit Project Record Specifications to the Construction Manager for CLPCCD's records.

F. PROJECT RECORD PRODUCT DATA. During the construction period, maintain one copy of each Project Record Product Data submittal for Project Record Document purposes.

1. Mark Project Record Product Data to indicate the actual product installation where the installation varies substantially from that indicated in Project Record Product Data submitted. Include significant changes in the product delivered to the site, and changes in manufacturer's instructions and recommendations for installation.
2. Give particular attention to information on concealed products and installations that cannot be readily identified and recorded later.
3. Note related Change Orders and mark-up of Project Record Drawings, where applicable.
4. Upon completion of mark-up, submit a complete set of Project Record Product Data to the Construction Manager for CLPCCD's records.
5. Where Project Record Product Data is required as part of maintenance manuals, submit marked-up Project Record Product Data as an insert in the manual, instead of submittal as Project Record Product Data.
6. Each prime Contractor is responsible for mark-up and submittal of record Project Record Product Data for its own Work.

G. MATERIAL, EQUIPMENT AND FINISH DATA.

1. Provide data for primary materials, equipment and finishes as required under each specification section.
2. Submit two (2) sets prior to final inspection, bound in 8-1/2 inches by 11 inches three-ring binders with durable plastic covers; provide typewritten table of contents for each volume.
3. Arrange by Specification division and give names, addresses, and telephone numbers of subcontractors and suppliers. List:
  - a. Trade names
  - b. Model or type numbers
  - c. Assembly diagrams
  - d. Operating instructions

- e. Cleaning instructions
- f. Maintenance instructions
- g. Recommended spare parts
- h. Product data

### **1.08 MISCELLANEOUS PROJECT RECORD SUBMITTALS**

Refer to other Specification Sections for miscellaneous record keeping requirements and submittals in connection with various construction activities. Immediately prior to Substantial Completion, complete miscellaneous records and place in good order, properly identified and bound or filed, ready for use and reference. Submit to the Construction Manager for CLPCCD's records.

Categories of requirements resulting in miscellaneous records include, but are not limited to the following:

- a. Field records on excavations and foundations
- b. Field records on underground construction and similar work
- c. Survey showing locations and elevations of underground lines
- d. Invert elevations of drainage piping
- e. Surveys establishing building lines and levels
- f. Authorized measurements utilizing unit prices or allowances
- g. Records of plant treatment
- h. Ambient and substrate condition tests
- i. Certifications received in lieu of labels on bulk products
- j. Batch mixing and bulk delivery records
- k. Testing and qualification of tradespersons
- l. Documented qualification of installation firms
- m. load and performance testing
- n. Inspections and certifications by governing authorities leakage and water-penetration tests
- o. Fire resistance and flame spread test results
- p. Final inspection and correction procedures

### **1.09 PROJECT GUARANTEE**

- A. Neither recordation of final acceptance nor final certificate for neither payment nor provision of the Contract nor partial or entire use or occupancy of the Site by CLPCCD shall constitute acceptance of Work not done in accordance with Contract Documents nor relieve Contractor of liability in respect to express warranties or responsibility for faulty materials or workmanship.
- B. Requirements for Contractor's guarantee of completed Work are included in Document 00700 General Conditions, Article 1.09. Contractor shall guarantee Work done under Contract against failures, leaks or breaks or other unsatisfactory conditions due to defective equipment, materials or workmanship, and perform repair work or replacement required, at Contractor's sole expense,

for period of 2 years from date of Final Acceptance, as required by paragraph 13.2 of Document 00700 General Conditions.

- C. CLPCCD may make repairs to defective Work as set forth in paragraph 12.6 of Document 00700 General Conditions, if, within 5 working days after mailing of written notice of defective work to Contractor or authorized agent, Contractor shall neglect to make or undertake with due diligence repairs; provided, however, that in case of leak or emergency where, in opinion of CLPCCD, delay would cause hazard to health or serious loss or damage, repairs may be made without notice being sent to Contractor, and Contractor shall pay cost thereof.
- D. If, after installation, operation or use of materials or equipment to be furnished under Contract proves to be unsatisfactory to Construction Manager, CLPCCD shall have right to operate and use materials or equipment until it can, without damage to CLPCCD, be taken out of service for correction or replacement. Period of use of defective materials or equipment pending correction or replacement shall in no way decrease guarantee period required for acceptable corrected or replaced items of materials or equipment.
- E. Nothing in this Section shall be construed to limit, relieve or release Contractor's, subcontractors' and equipment suppliers' liability to CLPCCD for damages sustained as result of latent defects in equipment caused by negligence of suppliers' agents, employees or subcontractors. Stated in another manner, warranty contained in the Contract Documents shall not amount to, nor shall it be deemed to be, waiver by CLPCCD of any rights or remedies (or time limits in which to enforce such rights or remedies) it may have for defective workmanship or defective materials under laws of this State pertaining to acts of negligence.

#### **1.10 WARRANTIES AND BONDS**

- A. Execute Contractor's submittals and assemble documents executed by subcontractors, suppliers, and manufacturers.
  - 1. Provide table of contents and assemble in 8-1/2 inches by 11 inches three-ring binder with durable plastic cover.
  - 2. Assemble in Specification Section order.
- B. Submit material prior to final application for payment.
  - 1. For equipment put into use with CLPCCD's permission during construction, submit within ten (10) working days after first operation.
  - 2. For items of Work delayed materially beyond Date of Substantial Completion, provide updated submittal within ten (10) working days after acceptance, listing date of acceptance as start of warranty period.
- C. Warranties are intended to protect CLPCCD against failure of work and against deficient, defective and faulty materials and workmanship, regardless of sources.
- D. Limitations: Warranties are not intended to cover failures, which result from the following:
  - 1. Unusual or abnormal phenomena of the elements
  - 2. Vandalism after substantial completion
  - 3. Insurrection or acts of aggression including war
- E. Related Damages and Losses: Remove and replace Work which is damaged as result of defective Work, or which must be removed and replaced to provide access for correction of warranted Work.

- F. Warranty Reinstatement: After correction of warranted Work, reinstate warranty for corrected Work to date of original warranty expiration or to a date not less than 365 days after corrected Work was done, whichever is later.
- G. Replacement Cost: Replace or restore failing warranted items without regard to anticipated useful service lives.
- H. Warranty Forms: Submit drafts to Construction Manager for approval prior to execution. Forms shall not detract from or confuse requirements or interpretations of Contract Documents.
  - 1. Warranty shall be countersigned by manufacturers.
  - 2. Where specified, warranty shall be countersigned by subcontractors and installers.
- I. Rejection of Warranties: CLPCCD reserves right to reject unsolicited and coincidental product warranties, which detract from or confuse requirements or interpretations of Contract Documents.
- J. Term of Warranties: For materials, equipment, systems and workmanship warranty period shall be two (2) years minimum from date of substantial completion of entire Work except where:
  - 1. Detailed specifications for certain materials, equipment or systems require longer warranty periods.
  - 2. Materials, equipment or systems are put into beneficial use of CLPCCD prior to Substantial Completion as agreed to in writing by Construction Manager.
- K. Warranty of Title: No material, supplies, or equipment for Work under Contract shall be purchased subject to any chattel mortgage, security agreement, or under a conditional sale or other agreement by which an interest therein or any part thereof is retained by seller or supplier. Contractor warrants good title to all material, supplies, and equipment installed or incorporated in Work and agrees upon completion of all work to deliver the Site, together with improvements and appurtenances constructed or placed thereon by Contractor, to CLPCCD free from any claim, liens, security interest, or charges, and further agrees that neither Contractor nor any person, firm, or corporation furnishing any materials or labor for any Work covered by Contract shall have right to lien upon the Site or improvement or appurtenances thereon. Nothing contained in this Paragraph, however, shall defeat or impair right of persons furnishing materials or labor under bond given by Contractor for their protection or any rights under law permitting persons to look to funds due Contractor in hands of CLPCCD.

### **1.11 TURN-IN**

Contract will not be closed out and final payment will not be made until all personnel Identification Media, vehicle permits and keys issued to Contractor during prosecution of Work are turned in to CLPCCD.

### **1.12 RELEASE OF CLAIMS**

Contract will not be closed out and final payment will not be made until Document 00530 Agreement and Release of Any and All Claims, is completed and executed by Contractor and CLPCCD.

### **1.13 FIRE INSPECTION COORDINATION**

Contractor shall coordinate fire inspection and secure sufficient notice to CLPCCD to permit convenient scheduling.

**PART 2 – PRODUCTS**

Not applicable to this section.

**PART 3 – EXECUTION**

Not applicable to this section.

**END OF SECTION**

## **SECTION 01720 – PROJECT RECORD DOCUMENTS**

### **PART 1 – GENERAL**

#### **1.01 SUMMARY**

- A. This section specifies administrative and procedural requirements for Project Record Documents.
- B. Project Record Documents required include:
  - 1. Marked-up copies of Contract Drawings
  - 2. Marked-up copies of Shop Drawings
  - 3. Newly prepared Drawings
  - 4. Marked-up copies of Specifications, Addenda and Change Orders
  - 5. Marked-up Project Data submittals
  - 6. Record Samples
  - 7. Field records for variable and concealed conditions
  - 8. Record information on Work that is recorded only schematically
- C. Specific Project Record Documents requirements that expand requirements of this Section are included in the individual Sections of Divisions 2 through 16.
- D. General Project closeout requirements are included in Section 01700, "Project Closeout."
- E. Maintenance of Documents and Samples:
  - 1. Store Project Record Documents and samples in the field office apart from Contract Documents used for construction.
  - 2. Do not permit Project Record Documents to be used for construction purposes.
  - 3. Maintain Project Record Documents in good order, and in a clean, dry, legible condition.
  - 4. Make documents and samples available at all times for inspection by Architect and Construction Manager.

#### **1.02 PROJECT RECORD DRAWINGS**

- A. Mark-up Procedure: During the construction period, continually maintain and update a set of blue-line or black-line prints of Contract Drawings and Shop Drawings for Project Record Document purposes.
  - 1. Mark these Drawings to indicate the actual installation where the installation varies appreciably from the installation shown originally. Give particular attention to information on concealed elements, which would be difficult to identify or measure and record later. Items required to be marked include but are not limited to:
    - a. Dimensional changes to the Drawings
    - b. Revisions to details shown on the Drawings
    - c. Depths of foundations below the first floor

- d. Locations and depths of underground utilities
  - e. Revisions to routing of piping and conduits
  - f. Revisions to electrical circuitry
  - g. Actual equipment locations
  - h. Duct size and routing
  - i. Locations of concealed internal utilities
  - j. Changes made by Change Order
  - k. Details not on original Contract Drawings
2. Mark completely and accurately Project Record Drawing prints of Contract Drawings or Shop Drawings, whichever is the most capable of showing actual physical conditions. Where Shop Drawings are marked, show cross-reference on Contract Drawings location.
  3. Mark Project Record Drawing sets with red erasable colored pencil; use other colors to distinguish between changes for different categories of the Work at the same location.
  4. Mark important additional information, which was either shown schematically or omitted from original Drawings.
  5. Note construction change directive numbers; alternate numbers; Change Order numbers and similar identification.
  6. Responsibility for Mark-up: Where feasible, the individual or entity who obtained Project Record Drawing data, whether the individual or entity is the installer, subcontractor, or similar entity, is required to prepare the mark-up on Project Record Drawings.
    - a. Accurately record information in an understandable and legible drawing technique.
    - b. Record data as soon as possible after it has been obtained. In the case of concealed installations, record and check the mark-up prior to concealment.
  7. At time of Substantial Completion, submit Project Record Drawings to Construction Manager for CLPCCD's records. Submit two (2) blackline or blue-line prints and two reproducible (sepia or mylar) sets of Project Record Drawings. Organize into sets, bind and label sets for CLPCCD's continued use.

### **1.03 PROJECT RECORD SPECIFICATIONS**

- A. During the construction period, continually maintain and update one copy of the Project Specifications, including addenda and modifications issued, for Project Record Document purposes.
  1. Mark the Project Record Specifications to indicate the actual installation where the installation varies substantially from that indicated in Specifications and Modifications issued. Note related Project Record Drawing information, where applicable. Give particular attention to substitutions, selection of product options, and information on concealed installation that would be difficult to identify or measure and record later.
    - a. In each Specification Section where products, materials or units of equipment are specified or scheduled, mark the copy with the proprietary name and model number of the product furnished.

- b. Record the name of the manufacturer, supplier and installer, and other information necessary to provide a record of selections made and to document coordination with Project Record Product Data submittals and maintenance manuals.
  - c. Note related Project Record Product Data, where applicable, for each principal product specified, indicate whether Project Record Product Data has been submitted in maintenance manual instead of submitted as Project Record Product Data.
2. Upon completion of mark-up, submit Project Record Specifications to the Architect for CLPCCD's records.

#### **1.04 PROJECT RECORD PRODUCT DATA.**

- A. During the construction period, maintain one copy of each Project Record Product Data submittal for Project Record Document purposes.
  1. Mark Project Record Product Data to indicate the actual product installation where the installation varies substantially from that indicated in Project Record Product Data submitted. Include significant changes in the product delivered to the site, and changes in manufacturer's instructions and recommendations for installation.
  2. Give particular attention to information on concealed products and installations that cannot be readily identified and recorded later.
  3. Note related Change Orders and mark-up of Project Record Drawings, where applicable.
  4. Upon completion of mark-up, submit a complete set of Project Record Product Data to the architect for CLPCCD's records.
  5. Where Project Record Product Data is required as part of maintenance manuals, submit marked-up Project Record Product Data as an insert in the manual, instead of submittal as Project Record Product Data.
  6. Each prime Contractor is responsible for mark-up and submittal of record Project Record Product Data for its own Work.
- B. Material, Equipment and Finish Data.
  1. Provide data for primary materials, equipment and finishes as required under each specification section.
  2. Submit two sets prior to final inspection, bound in 8-1/2 inches by 11 inches three-ring binders with durable plastic covers; provide typewritten table of contents for each volume.
  3. Arrange by Specification division and give names, addresses, and telephone numbers of subcontractors and suppliers. List:
    - a. Trade names.
    - b. Model or type numbers.
    - c. Assembly diagrams.
    - d. Operating instructions.
    - e. Cleaning instructions.
    - f. Maintenance instructions.

- g. Recommended spare parts.
- h. Product data.

### **1.05 MISCELLANEOUS PROJECT RECORD SUBMITTALS**

- A. Refer to other Specification Sections for miscellaneous record keeping requirements and submittals in connection with various construction activities. Immediately prior to Substantial Completion, complete miscellaneous records and place in good order, properly identified and bound or filed, ready for use and reference. Submit to the Architect for CLPCCD's records.
  - 1. Categories of requirements resulting in miscellaneous records include, but are not limited to the following:
    - a. Field records on excavations and foundations
    - b. Field records on underground construction and similar work
    - c. Survey showing locations and elevations of underground lines
    - d. Invert elevations of drainage piping
    - e. Surveys establishing building lines and levels
    - f. Authorized measurements utilizing unit prices or allowances
    - g. Records of plant treatment
    - h. Ambient and substrate condition tests
    - i. Certifications received in lieu of labels on bulk products
    - j. Batch mixing and bulk delivery records
    - k. Testing and qualification of tradespersons
    - l. Documented qualification of installation firms
    - m. Load and performance testing
    - n. Inspections and certifications by governing authorities
    - o. Leakage and water-penetration tests
    - p. Fire resistance and flame spread test results
    - q. Final inspection and correction procedures

### **PART 2 – PRODUCTS**

Not applicable to this section.

### **PART 3 – EXECUTION**

#### **3.01 RECORDING**

Post changes and modifications to the Documents as they occur. Do not wait until the end of the Project. Architect will periodically review Project Record Documents to assure compliance with this requirement.

**END OF SECTION**