

**RESOLUTION OF THE BOARD OF EDUCATION OF  
WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT  
RESOLUTION NO. 102-1718**

**RESOLUTION TO APPROVE CONTRACT FOR THE DESIGN,  
INSTALLATION, AND COMMISSIONING OF ENERGY  
CONSERVATION MEASURES (LIGHTING RETROFIT)  
(Crespi Middle School and Helms Middle School Sites)**

**WHEREAS**, Energy Conservation Options ("Design-Builder") has represented to the West Contra Costa Unified School District ("District") that Design-Builder has developed certain procedures for the design and installation of energy conservation measures as defined in Government Code section 4217.11 ("Energy Conservation Measures"); and

**WHEREAS**, Design-Builder has analyzed the energy needs of the public facilities owned and operated by the District at the Crespi Middle School, located at 1121 Allview Avenue, El Sobrante, CA 94803 and Helms Middle School, located at 2500 Road 20, San Pablo, CA 94806 (collectively "Facilities"), and have represented that Design-Builder' provision of Energy Conservation Measures to the Facilities will result in a reduction in energy consumption or demand that will result in net cost savings to the District ("Cost Savings"). A copy of an energy cost analysis for the Facilities is attached as **Attachment "A"** and incorporated herein ("Energy Analysis"); and

**WHEREAS**, based upon the Energy Analysis and presentation by District staff and its consultants, the cost to the District for Design-Builder to provide and install the Energy Conservation Measures will be less than the anticipated marginal cost to the District of thermal, electrical, or other energy that would have been consumed by the District in the absence of the Energy Conservation Measures; and

**WHEREAS**, Government Code section 4217.12(a)(1) authorizes a public agency to enter into an energy service contract with respect to the Energy Conservation Measures if the District's Governing Board finds that the anticipated cost to the District for the Energy Conservation Measures will be less than the anticipated marginal costs to the District of thermal, electrical or other energy that would have been consumed by the District at the Facilities in the absence of such purchases; and

**WHEREAS**, Government Code section 4217.12 (a) authorizes the District to enter into a contract for the Energy Conservation Measures and any necessary related facility ground lease, on terms that its governing board determines are in the best interests of the District; and

**WHEREAS**, the District has provided proper notice of the public hearing as required by Government Code section 4217.12 (a) for purposes of receiving public comment on the District's intent to enter into the Contract; and

**WHEREAS**, the District has determined that the District's payment to Design-Builder is anticipated to be offset by reduction in energy costs or other benefits provided under the terms of

the Contract with the Design-Builder pursuant to Government Code section 4217.12(a)(2); and

**WHEREAS**, the form of contract for Design-Builder for the Energy Conservation Measures is attached hereto as **Attachment "B"** and made a part hereof by this reference; and

**WHEREAS**, on this date, pursuant to Government Code section 4217.10 et seq., the Governing Board of the District held a public hearing with respect to the District entering into the Contract with Design-Builder; and

**WHEREAS**, the District desires to retain Design-Builder to provide, install, and maintain the Energy Conservation Measures pursuant to the terms and conditions of the Contract.

**NOW, THEREFORE**, it is found, determined, and resolved by the Governing Board of the District as follows:

1. That the District held a public hearing at a regularly scheduled meeting of the Governing Board. There were no protest or complaints received with respect to the Contract.
2. Based upon reports of staff, reviewed by the Governing Board in connection herewith, and pursuant to Government Code section 4217.12, the Governing Board finds that the anticipated cost to the District for the Energy Conservation Measures provided pursuant to the terms of the Contracts will be less than the anticipated marginal costs to the District of thermal, electrical or other energy that would have been consumed by the District in the absence of such purchases, as described in **Attachments "A" and "B."**
3. That the District's payment to Design-Builder is anticipated to be offset by a reduction in energy consumption, below-market energy purchases or other benefits provided under the Contracts.
4. It is in the best interests of the District to enter the Contract pursuant to the terms as indicated in the form of Contracts attached hereto as **Attachment "B"** subject to minor revisions approved by staff and legal counsel that do not alter or reduce the "best interests" approved in this Resolution.
5. That the District's superintendent or his designee is authorized to enter into the Contract pursuant to the terms as indicated in the form of Contract attached as **Attachment "B"** subject to minor revisions approved by staff and legal counsel that do not alter or reduce the "best interests" approved in this Resolution, to take all steps and perform all actions necessary to execute and implement the Contracts, and to take any actions deemed necessary to best protect the interests of the District.

**PASSED AND ADOPTED by the Governing Board of Education of the West Contra Costa Unified School District, this 13<sup>th</sup> day of June, 2018, by the following vote:**

**AYES:**

**NOES:**

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

**ABSTAINED:**

**ABSENT:**

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

**CERTIFICATION**

I hereby certify that the foregoing is a full, true and correct copy of a Resolution adopted at a Regular Meeting of the Governing Board of the West Contra Costa Unified School District held on this 13<sup>th</sup> day of June, 2018.

\_\_\_\_\_  
Board of Education

Attachments:

“A”– Energy Analysis for the Facilities

“B”– Form of Contract for Design-Builder

**ATTACHMENT "A"**

**Energy Analysis- Facilities**

## **WCCUSD LED Project Savings**

<b>LED Lighting Retrofit Projects</b>	<b>Annual Current Energy Costs</b>	<b>Annual Energy Savings</b>	<b>Annual Projected Energy Costs</b>
Crespi MS	\$ 80,950	\$ 26,542	\$ 54,408
Helms MS	\$ 81,279	\$ 27,728	\$ 53,551
<b>Total</b>	<b>\$162,229</b>	<b>\$ 54,270</b>	<b>\$ 107,959</b>

LED Projects meet Government Code section 4217.12(a)(1) requirement:

-Anticipated cost for each project is less than electrical energy consumed in their absence.

**ATTACHMENT "B"**

**Form of Contract with Design-Builder  
Energy Conservation Options for Crespi Middle School and Helms Middle School**

**AGREEMENT FOR  
THE DESIGN AND CONSTRUCTION, INSTALLATION AND COMMISSIONING OF ENERGY CONSERVATION  
MEASURES- LED LIGHTING RETROFIT AT  
CRESPI MIDDLE SCHOOL AND HELMS MIDDLE SCHOOL SITES  
LOCATED WITHIN THE BOUNDARIES OF  
THE WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT**

This Agreement for the design, construction, installation and commissioning of Energy Conservation Measures ("Agreement" or "Contract") is made as of the Fourteenth day of June in the year 2018, between the **West Contra Costa Unified School District** ("District") and **Energy Conservation Options** ("Design-Builder"). The District and Design-Builder may be individually referred to herein as a "Party" or collectively referred to herein as the "Parties."

**WHEREAS**, District is authorized by Section 4217.10, et seq., of the California Government Code to contract with and employ any firm for the furnishing of energy conservation measures at the facilities of the District on the terms that the District's governing body determines are in the best interest of the District; and

**WHEREAS**, the District needs such services at: Crespi Middle School and Helms Middle School ("School Site(s)"); and

**WHEREAS**, Design-Builder warrants that it is specially trained, licensed and experienced and competent to perform the services required by the District; and

**WHEREAS**, the Design-Builder agrees to perform the Services described in this Agreement in accordance with the standards of its profession, to District's satisfaction, and in accordance with this Agreement.

**NOW, THEREFORE**, the Parties agree as follows:

1. **Services.** Design-Builder shall furnish to the District the services as described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services" or "Work").
2. **Term/Milestones/Schedule.** Design-Builder shall commence providing the Work under this Agreement upon execution of the Agreement by the Parties and as indicated in the Notice(s) to Proceed issued for the Project, and will diligently perform the Work as required and will complete performance within the schedule Milestone dates given below:

<b>Project Activity</b>	<b>Project Milestone Dates</b>
Award of Contract / Notice to Proceed	June 18, 2018
LED Retrofit submittals to District (See SOW "A")	10 Days from NTP
Material Product Submittals	10 Calendar Days from NTP
Construction Start	Upon submittal of all required documents
Interior lighting work completed	August 17, 2018
Exterior lighting work completed	October 12, 2018
Commissioning	October 26, 2018
Completion	November 9, 2018

3. **Project Schedule (Critical Path).** Prior to performing any work on the Site(s), the Designer-Builder shall provide for the District's review and approval, a detailed, critical path method schedule to the District that complies with the Milestone Schedule above. Once approved, this shall become the "Project Schedule." Designer-Builder shall update this critical path method schedule (1) monthly at the same time it submits its Application for Payment and (2) at any time requested by the District. All Project float in the Project Schedule is a resource available to both the District and the Design-Builder.
4. **Submittal of Documents.** Design-Builder shall not commence the Work under this Contract until the Design-Builder has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

<input checked="" type="checkbox"/> Signed Agreement	<input checked="" type="checkbox"/> Workers' Compensation Certificate
<input checked="" type="checkbox"/> Insurance Certificates & Endorsements	<input checked="" type="checkbox"/> W-9 Form
<input checked="" type="checkbox"/> Bonds (as requested by District)	<input checked="" type="checkbox"/> Fingerprinting/Criminal Background
<input checked="" type="checkbox"/> Tuberculosis Clearance Certification	Investigation Certification

5. **Compensation.** District agrees to pay the Design-Builder for Services satisfactorily rendered pursuant to this Agreement, a maximum amount not-to-exceed **Seven Hundred Forty Six Thousand Two Hundred Three and 89/100 Dollars (\$746,203.91)**.
6. **Liquidated Damages.** Work shall be completed within the time specified above ("Contract Time") from the date specified in the District's Notice(s) to Proceed, as indicated in the above Milestone Schedule. Design-Builder agrees that if the Work is not completed within the Contract Time and/or pursuant to the Project schedule, construction schedule, or project milestones developed pursuant to provisions of the Contract, including the Milestone Schedule, it is understood, acknowledged, and agreed that the District will suffer damage which is not capable of being calculated. Pursuant to Government Code section 53069.85, Design-Builder shall forfeit to the District, as fixed and liquidated damages for these incalculable damages, the sum of:

- **Three Hundred Dollars (\$300.00)** per day at **Crespi Middle School**
- **Three Hundred Dollars (\$300.00)** per day at **Helms Middle School**

Liquidated Damages shall be assessed for each and every calendar day of delay beyond the Completion Date for the applicable School Site, provided the LD Milestone for the applicable School Site shall be extended day for day for any Force Majeure event or any executed Change Order resulting in an extension of the Completion Date for the applicable School Site. The maximum amount of liquidated damages the District can assess is Nine Hundred Dollars (\$900) per day.

Design-Builder hereby acknowledges and agrees that this amount is not a penalty.

In the event that the assessed Liquidated Damages is not paid to the District, the District may deduct that amount from any money due or that may become due the Design-Builder under this Agreement.

7. **Schedule of Values.** Design-Builder shall prepare a detailed **schedule of values** for each School Site, all of the Work that must include quantities and prices of items aggregating the Contract Price and must subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during the design and construction phases of the Project. This schedule of values must be approved by the District prior to it being used as a basis for payment. Below is a base schedule of values that Design-Builder must complete for a final schedule of values:

<b>Schedule of Values Activity Name</b>		<b>Percent of Total</b>
<b><u>Preconstruction Work</u></b>	100% Schematic Design completed and submitted to District (includes Approval of Material Product List Submission)	25%
<b><u>Construction</u></b>	Completion of Mobilization Activities	5%
	Lighting Retrofit and controls installation (all sites)	45%
	Commissioning (all sites)	10%
<b><u>Final Completion</u></b>	All Sites	15%
		100%

8. **General Conditions.** This Agreement incorporates by this reference the General Terms and Conditions attached hereto as **Exhibit "B"**. The Design-Builder, by executing this Contract, agrees to comply with all the General Terms and Conditions. Where there is a conflict between this agreement and the Contract General Conditions, the more restrictive term will govern.

9. **Submittal of Contract Documents.** Design-Builder shall not commence the design Work under this Agreement until the Design-Builder has submitted and the District has approved the performance bond, payment (labor and material) bond, the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below. Design-Builder shall not be entitled to any extension of milestone dates in the Schedule for time to provide the required documentation:

<u>  X  </u> Signed Agreement	<u>  X  </u> Lead Product(s) Certification
<u>  X  </u> Proposal	<u>  X  </u> Performance Bond (District's Form)
<u>  X  </u> Notice to Proceed	<u>  X  </u> Payment Bond (District's Form)
<u>  X  </u> Non collusion Affidavit	<u>  X  </u> Electrician Certification (CLC §3099.2)
<u>  X  </u> Prevailing Wage Certification	<u>  X  </u> Insurance Certificates and Endorsements
<u>  X  </u> Workers' Compensation Certification	<u>  X  </u> Exhibit A ( <b><u>Scope of Work</u></b> )
<u>  X  </u> Criminal Background Investigation Certification	<u>  X  </u> Exhibit B ( <b><u>General Terms &amp; Conditions</u></b> )
<u>  X  </u> Drug Free Workplace / Tobacco Free Environment Certification	<u>  X  </u> Exhibit C ( <b><u>Warranties</u></b> )
<u>  X  </u> Asbestos & Other Hazardous Materials Certification	<u>  X  </u> Exhibit D ( <b><u>Additional Contract Documents</u></b> )



10. **Interpretation of Contract Documents:** Questions concerning the intent, precedence, or meaning of the Contract Documents, including the Plans, Specifications and Drawings, shall be resolved by giving precedence in the following order:
  1. District approved modifications, beginning with the most recent (if any);
  2. The base Contract's provisions;
  3. The General Terms and Conditions to Contract;
  4. The Additional Contract Documents;
  5. Site Drawings;
  6. Detailed Lighting Audit.
11. **DSA/Inspector Authority.** Designer-Builders hereby acknowledge that the Division of the State Architect ("DSA") and the District's DSA Project Inspector(s) ("Inspector" or "IOR") have authority to approve and/or stop Work if the Design-Builders' Work does not comply with the requirements of the Contract, Title 24 of the California Code of Regulations, and all applicable laws. The Design-Builders shall be liable for any delay caused and extra work required by its non-compliant Work. Design-Builders shall not be liable for delay (or additional costs related to such delay) caused solely by the District. The District's DSA Project Inspector(s) ("Inspector" or "IOR") fee is the responsibility of the District.
12. **Expenses.** District shall not be liable to Design-Builders for any costs or expenses paid or incurred by Design-Builders in performing the Services, except as otherwise indicated herein.
13. **Independent Design-Builders.** Design-Builders, in the performance of this Agreement, shall be and act as an independent contractor. Design-Builders understands and agrees that he/she and all of his/her employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Design-Builders shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Design-Builders' employees. Design-Builders shall be liable for its own actions, including its negligence or gross negligence, and shall be liable for the acts, omissions, or errors of its agents or employees.
14. **Standard of Care.** Design-Builders' Services will be performed, findings obtained, reports and recommendations prepared to the standard of care applicable to architects performing design work for California school districts, to the standard of care applicable to contractors performing construction and public work for California school districts, and in accordance with generally and currently accepted principles and practices in the industry and all Applicable Law, including the applicable provisions of California Code of Regulations, Title 24 (as applicable) and the project specifications. Design-Builders represents and warrants that it is fully experienced in projects of the nature and scope of Work, and that it is properly qualified, licensed and equipped to supply and perform the Work. The Work completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.
15. **Originality of Services.** Except with respect to design pre-check documents and associated work and other third party intellectual property used by Design-Builders on an authorized basis, Design-Builders agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to

- the District and/or used in connection with this Agreement, shall be wholly original to Design-Builder and shall not be copied in whole or in part from any other source, except that submitted to Design-Builder by District as a basis for such services.
16. **Notice to Proceed.** After the design of each Site is approved by the District and if the District has not already authorized Design-Builder to begin construction in a previous Notice to Proceed, the District shall provide a Notice to Proceed for construction to Design-Builder at which time Design-Builder shall proceed with the construction Work.
17. **Copyright/Trademark/Patent.** Except with respect to design pre-check documents and associated works and other third party intellectual property used by Design-Builder on an authorized basis, Design-Builder understands and agrees that all matters produced under this Agreement shall become the sole property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. Design-Builder consents to use of Design-Builder's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.
18. **District's Right to Audit.** District retains the right to review and audit, and the reasonable right of access to Design-Builder's and any subcontractor's premises to review and audit, the Design-Builder's compliance with the provisions of this Agreement ("District's Audit Right"). The District's Audit Right includes the right to inspect, photocopy, and to retain copies, outside of the Design-Builder's premises, of any and all Work-related records, documents and other information with appropriate safeguards, if such retention is deemed necessary by the District in its sole discretion. The District's Audit Right shall also include the right to interview current or former employees and subcontractors of Design-Builder with respect to matters or issues under audit. The information obtained pursuant to this section shall be disclosable to third parties as required by applicable law.
- 18.1. Design-Builder shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Design-Builder transacted under this Agreement. Design-Builder shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter.
- 18.2. Design-Builder shall, without limitation, permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Design-Builder and shall conduct audit(s) during Design-Builder's normal business hours, unless Design-Builder otherwise consents.
- 18.3. Design-Builder shall include audit provisions in any and all of its subcontracts, and shall ensure that provision is binding upon all subcontractors.
- 18.4. Design-Builder shall comply with these provisions within fifteen (15) days of the District's written request to review and audit any or all of Design-Builder's Work-related documents, records and information. The District's Audit Right and Design-Builder's compliance with the same, shall be at no additional cost to the District.
- 18.5. In the event the District's Audit Right, or an audit by the State Auditor, evidences payments to Design-Builder not in accordance with the provisions of this Agreement, Design-Builder shall

immediately pay District the amount of said payments not in compliance in addition to all costs reasonably incurred by District in conducting an audit hereunder.

- 18.6. Design-Builder acknowledges and agrees that the District's Audit Right, pursuant to the foregoing provisions, shall apply to, and may be utilized by the District for the production of, any records or documents subject to disclosure under the California Public Records Act, Government Code § 6250 et seq. ("CPRA"), unless otherwise exempt, and which may include, but are not limited to, records or documents in the District's constructive possession but under Design-Builder's control regardless if created, sent, received, stored, or maintained in a personal account or device of Design-Builder or its employees, as prescribed by applicable law. In the event the District exercises District's Audit Right in response to or as part of a request under the CPRA, Design-Builder agrees to provide District with an affidavit, if and as needed or requested by District, within five (5) days of District's request therefor, that certifies Design-Builder's search for and production of responsive records subject to disclosure pursuant to the CPRA, if any.
19. **District's Evaluation of Design-Builder and Design-Builder's Employees and/or Subcontractors.** The District may evaluate the Design-Builder in any manner which is permissible under the law. The District's evaluation may include, without limitation:
  - 19.1. Requesting that District employee(s) evaluate the Design-Builder and the Design-Builder's employees and subcontractors and each of their performance.
  - 19.2. Announced and unannounced observance of Design-Builder, Design-Builder's employee(s), and/or subcontractor(s).
20. **Site Examination.** Within one (1) week after the Notice to Proceed, Design-Builder will conduct detailed examinations of the Sites and confirm all measurements, specifications and conditions affecting the Work to be performed at the Sites. Following these detailed site examinations, Design-Builder will provide written notification to District that it warrants that it has made Site examination(s) that it deems necessary as to the condition of the Site, its accessibility for materials, workers and utilities, and Design-Builder's ability to protect existing surface and subsurface improvements. No claim for allowance of time or money will be allowed as to any other undiscovered condition on the Site, unless permitted pursuant to Public Contract Code section 7104.
21. **Materials.** Design-Builder shall furnish, at his/her own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement. No substitutions of material from those specified in the Work Specifications shall be made without the prior written approval of the District. Design-Builder shall refer to the Document entitled "Special Conditions, Document 00 71 00" set forth in Exhibit "B" attached hereto and made a part hereof by this reference.
22. **Equipment and Labor.** Design-Builder shall furnish all tools, equipment, apparatus, facilities, transportation, labor, and material necessary to furnish the services herein described, the services to be performed at such times and places as directed by and subject to the approval of the authorized District representative indicated in the Work specifications attached hereto.
23. **Warranty/Quality.** Unless a longer warranty is called for elsewhere in this Agreement, the Design-Builder, manufacturer, or their assigned agents shall guarantee the workmanship, product or service performed against defective workmanship, defects or failures of materials for a minimum period of one (1) year from filing the Notice of Completion with the county in which the Site is located. All workmanship and merchandise must be warranted to be in compliance with applicable California energy, conservation, environmental, and educational standards. To the extent that Design-Builder repairs or replaces any component of the Systems, such repair or replacement shall carry the

warranty provided hereunder for the longer of (a) the remaining term of such warranty, and (b) twelve (12) months.

24. **Correction of Errors.** Design-Builder shall perform, at its own cost and expense and without reimbursement from the District, any work necessary to correct errors or omissions which are caused by the Design-Builder's failure to comply with the standard of care required herein.
25. **Lead Based Paint.** Pursuant to the Lead Safe Schools Protection Act (Education Code Section 32240 et seq.) and other applicable law, no lead based paint, lead plumbing and solders, or other potential sources of lead contamination shall be utilized on this Project, and only trained and state certified contractors, inspectors and workers shall undertake any action to abate existing risk factors for lead. Design-Builder must execute the Lead Products Certification, if applicable.
26. **Workers.** Design-Builder shall at all times enforce strict discipline and good order among its employees and the employees of its subcontractors and shall not employ or work any unfit person or anyone not skilled in work assigned to him or her. The District may evaluate the Design-Builder in any manner which is permissible under the law. Any person in the employ of the Design-Builder or a subcontractor whom the District may deem incompetent or unfit shall be dismissed from the Site and shall not again be employed at Site without written consent from the District.
27. **Design-Builder Supervision.** Design-Builder shall provide competent supervision of personnel employed on the job Site, use of equipment, and quality of workmanship.
28. **Fingerprinting of Employees.** If Design-Builder may have contact with any pupils, Design-Builder shall comply with the provisions of Education Code section 45125.1 regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees. Design-Builder shall not permit any employee to have any contact with District pupils until such time as the Design-Builder has verified in writing to the governing board of the District that the employee has not been convicted of a felony, as defined in Education Code section 45122.1. Design-Builder's responsibility shall extend to all employees, subcontractors, agents, and employees or agents of subcontractors regardless of whether those individuals are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Design-Builder. Verification of compliance with this section and the Criminal Background Investigation Certification that may be required with this Agreement, shall be provided in writing to the District prior to each individual's commencement of employment or performing any portion of the Services and prior to permitting contact with any student.
29. **Safety and Security.** Design-Builder is responsible for maintaining safety in the performance of this Agreement. Design-Builder shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.
30. **Clean Up.** Debris shall be removed from the Premises on no less frequently than a weekly basis, and more frequently if dictated by District requirements. The Site shall be in order at all times when work is not actually being performed and shall be maintained in a reasonably clean condition.
31. **Access to Work.** District representatives shall at all times have access to the Work wherever it is in preparation or in progress. Design-Builder shall provide safe and proper facilities for such access.
32. **Protection of Work and Property.** Design-Builder shall erect and properly maintain at all times, as required by conditions and progress of the Work, all necessary safeguards, signs, barriers, lights, and security persons for protection of workers and the public, and shall post danger signs warning against hazards created by the Work. In an emergency affecting life and safety of life or of Work or of

adjoining property, Design-Builder, without special instruction or authorization from District, is permitted to act at his discretion to prevent such threatened loss or injury.

**33. Force Majeure:**

- 33.1. The term "Force Majeure" shall mean those events caused beyond the control of the affected Party and which by the exercise of due diligence such Party could not reasonably avoid and which it has been unable to overcome, including acts of God and public enemy; fire; strike; loss or shortage of transportation facilities; lock out; commandeering of materials, product, plant, or facilities by the government; relocation or construction of transmission facilities or the shutdown of such facilities for the purpose of necessary repairs; vandalism; work by local utility directly impacting the Project; flood; earthquake; tornado; severe storm; civil disobedience; sabotage; restraint by court order or public authority (whether valid or invalid); which is beyond the control of the affected Party and which by the exercise of due diligence such Party could not reasonably have been expected to avoid and which it has been unable to overcome.
- 33.2. Neither party shall be considered to be in default in the performance of any material obligation hereunder during the time and to the extent that it is prevented from obtaining delivery or performing by a Force Majeure event. Neither Party shall be relieved of its obligation to perform if such failure is due to causes arising out of its own negligence or due to removable or remediable causes which it fails to remove or remedy with the exercise of diligent efforts within a reasonable time period. Either Party rendered unable to fulfill any of its obligations under this Contract by reason of an event of Force Majeure shall give prompt written notice of such fact to the other Party. Notwithstanding a Force Majeure event, the party claiming such an event must provide satisfactory evidence that the event caused the delay or lack of performance and was not due to the fault or neglect of the party claiming a Force Majeure event.
- 33.3. Design-Builder is aware that governmental agencies and utilities, including, without limitation, the Division of the State Architect (not applicable for this project), the Department of General Services, gas companies, electrical utility companies, water districts, and other agencies ("Review Agencies") may have to approve Design-Builder prepared drawings or approve a proposed installation. Design-Builder has included in the Project Schedule, time for possible review of its drawings and for reasonable delays and damages that may be caused by such agencies. Design-Builder is entitled to additional time in the Project Schedule for review of Design-Builder's drawings or other approvals from the Division of the State Architect, the Department of General Services, gas companies, electrical utility companies, water districts, and other agencies, if all of the following conditions have been satisfied:
- 33.3.1. The time for this review is in excess of the time expressly allocated for this review in the Project Schedule
- 33.3.2. If Design-Builder has diligently pursued approval from the Review Agencies;
- 33.3.3. Design-Builder's drawings and proposed installation are consistent with IR 1608 as of the date of this Agreement; and
- 33.3.4. Design-Builder's drawings and proposed installation are consistent with Design-Builder's pre checked) ("PC") design as of the date of this Agreement, where applicable, except as modified at the District's request.

**34. Termination.**

- 34.1. **For Convenience by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Design-Builder only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Design-Builder. Notice shall be deemed given when received by the Design-Builder or no later than three days after the day of mailing, whichever is sooner. In the event that District terminates this Agreement pursuant to this section, District shall compensate Design-Builder for work completed and materials delivered to date and all reasonably documented subcontractor and vendor termination fees, demobilization costs and expenses, limiting overhead and profit to fifteen percent (15%) of the total cost of labor, material and equipment for Work provided by Design-Builder's forces. If work was provided by subcontractors, then overhead and profit is limited to fifteen percent (15%) for all levels of subcontractors (not cumulative) and six percent (6%) for Contractor).
- 34.2. **With Cause by District.** District may terminate this Agreement upon giving of ten (10) days prior written notice of intention to terminate for cause. Cause shall include:
- 34.2.1. material breach of this Agreement by the Contractor (including any act by Contractor exposing the District to liability to others for personal injury or property damage) and Contractor has not corrected such material breach after thirty (30) days written notice; or
- 34.2.2. Contractor is adjudged a bankrupt, Contractor makes a general assignment for the benefit of creditors or a receiver is appointed on account of Contractor's insolvency.
- 34.3. Written notice by District shall contain the reasons for such intention to terminate and unless within seven (7) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the seven (7) calendar days cease and terminate. In the event of this termination, the District may secure the required services from another Contractor. If the expense, fees, and costs to the District exceed the cost of providing the remaining Work pursuant to this Agreement, Contractor shall immediately pay the expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.
- 34.4. Upon termination, Contractor shall provide the District with all documents produced maintained or collected by Contractor pursuant to this Agreement, whether or not such documents are final or draft documents.
35. **Indemnification.** To the furthest extent permitted by California law, Contractor shall, at its sole expense, defend, indemnify, and hold harmless the District, the State of California, and their agents, representatives, officers, consultants, employees, trustees, and volunteers (the "indemnified parties") from any and all demands, losses, liabilities, claims, suits, and actions (the "claims") of any kind, nature, and description, including, but not limited to, personal injury, death, property damage, and consultants and/or attorney's fees and costs, directly or indirectly arising out of, connected with, or resulting from the performance of the Agreement or from any activity, work, or thing done, permitted, or suffered by the Contractor under or in conjunction with this Agreement, unless the claims are caused wholly by the sole negligence or willful misconduct of the indemnified parties. The District shall have the right to accept or reject any legal representation that Contractor proposes to defend the indemnified parties.
- 35.1. Furthermore, to the extent permitted by law, the indemnities and limitations of liability

expressed throughout the Contract Documents apply with equal force and effect to any claims or liabilities imposed or existing by virtue of the removal, abatement, and disposal of hazardous waste. This includes, but is not limited to, liabilities connected to the selection and use of a waste disposal facility, a waste transporter, personal injury, property damage, loss of use of property, damage to the environment or natural resources, or "disposal" and "release" of materials associated with the Work (as defined in 42 U.S.C. § 9601 et seq.).

36. **Insurance.** The Contractor shall procure and maintain at all times it performs any portion of the Services the insurance set forth in the General Conditions document hereto.
37. **Payment Bond and Performance Bond.** Contractor shall not commence the Work until it has provided to the District, in a form acceptable to the District, a Payment (Labor and Material) Bond and a Performance Bond, each in an amount equivalent to one hundred percent (100%) of the Contract Price issued by a surety admitted to issue bonds in the State of California and otherwise acceptable to the District.
38. **Permits and Licenses.** Contractor and all Contractor's employees or agents shall secure and maintain in force, at Contractor's sole cost and expense, such permits and licenses as are required by law in connection with the furnishing of materials, supplies, or services pursuant to this Agreement. **Pursuant to the requirements of SB 1362 and California Labor Code section 3099.2, all employees performing electrical work for a subcontractor holding a C10 license must be certified, and proof of this documentation shall be delivered to the District before commencement of Work.**
39. **Assignment.** The rights, burdens, duties, or obligations of Contractor pursuant to this Agreement shall not be assigned by the Contractor without the prior written consent of the District.
40. **Subcontractors.** Subcontractors, if any, engaged by the Design-Builder for any Service or Work under this Agreement shall be subject to the approval of the District. Design-Builder agrees to bind every subcontractor by the terms of the Agreement as far as such terms are applicable to subcontractor's work, including, without limitation, all indemnification, insurance, bond, and warranty requirements. If Design-Builder shall subcontract any part of this Agreement, Design-Builder shall be fully responsible to the District for acts and omissions of its subcontractor and of persons either directly or indirectly employed by itself. Nothing contained in this Agreement shall create any contractual relations between any subcontractor and the District.
41. **Compliance with Laws.** Design-Builder shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Design Builder shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Work as indicated or specified. If Design-Builder observes that any of the Work required by this Agreement is at variance with any such laws, ordinance, rules or regulations, Design-Builder shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Design-Builder's receipt of a written termination notice from the District. If Design-Builder performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Design-Builder shall bear all costs arising therefrom.
  - 41.1. Design-Builder hereby acknowledges that the Project Manager(s), the Project Inspector(s), and the Division of the State Architect have authority to approve and/or stop Work if the Design-Builder's Work does not comply with the requirements of the Contract Documents, Title 24 of the California Code of Regulations (as applicable), and all applicable laws. Design-Builder shall be liable for any delay caused by its non compliant Work.

42. **Labor Code Requirements.** Design-Builder and its subcontractors shall comply with all applicable provisions of the California Labor Code sections 1720-1861, without limitation, the payment of the general prevailing per diem wage rates for public work projects (including repairs and maintenance, where applicable) of more than one thousand dollars (\$1,000). Copies of the prevailing rate of per diem wages are on file with the District/COE. In addition, the Design-Builder and each subcontractor shall comply with Sections 1735, 1777.5 and 1777.6, forbidding discrimination, and Sections 1776, 1777.5 and 1777.6 concerning the employment of apprentices by Design-Builder or subcontractors. Willful failure to comply may result in penalties, including loss of the right to bid on or receive public works contracts. **Registration:** As applicable, Design-Builder and its subcontractors shall comply with the registration and qualification requirements pursuant to sections 1725.5 and 1771.1 of the California Labor Code. **Certified Payroll Records:** Design-Builder and its subcontractor(s) shall keep accurate certified payroll records of employees, as applicable, and shall make them available to the District/COE immediately upon request.
43. **CEQA.** The District and Design-Builder recognize that the Project activities contemplated by this Contract are subject to environmental review under the California Environmental Quality Act ("CEQA"), and that the District, as a lead agency for the Project and its future use, must comply with the CEQA requirements as set forth in CEQA and in 14 California Code of Regulations sections 15000, et seq. ("CEQA Guidelines"). Pursuant to CEQA Guidelines Section 15004(b)(2)(A), the Parties acknowledge that approval and execution of this Contract by the Parties does not constitute the District authorizing, approving, or awarding a "project" as defined by CEQA.
44. **Confidentiality.** Each Party and each Party's respective affiliates, directors, representatives, agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services to the extent allowed by law. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement. To the extent that the District is required by law to disclose financial statements provided during prequalification of Design-Builder, prior to such disclosure the District shall inform Design-Builder of such requirement and allow Design-Builder to protest such disclosure pursuant to its rights under the California Public Records Act (to the extent that Design-Builder has such rights). If Design-Builder directs the District to refrain from such disclosure, the District shall not disclose such information and Design-Builder shall defend, indemnify and hold harmless the District from any liability arising from such refusal to disclose. In addition, the District shall have the right to choose its counsel.
45. **Attorney Fees and Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each Party shall bear its own litigation and collection expenses, witness fees, court costs, and attorney's fees.
46. **Cooperation.** The Parties hereto hereby agree to execute all such other documents and to take all such other action as may be reasonably necessary to effect the purposes of this Agreement.
47. **Binding Contract.** This Agreement shall be binding upon the Parties hereto and upon their successors and assigns, and shall inure to the benefit of said Parties and their successors and assigns.
48. **Authority to Bind Parties.** Neither Party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
49. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third Party except as expressly provided herein.
50. **Counterparts.** This Agreement and all amendments to it may be executed in counterparts, each of which shall be deemed an original. A facsimile or electronic signature shall be deemed to be the



equivalent of the actual original signature. All counterparts so executed shall constitute one document binding all the Parties hereto.

51. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
52. **Safety and Security.** Design-Builder is responsible for maintaining safety in the performance of this Agreement. Design-Builder shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.
53. **Employment with Public Agency.** Design-Builder, if an employee of another public agency, agrees that Design-Builder will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are performed pursuant to this Agreement.
54. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under Contracts there be no discrimination against any employee engaged in the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status and therefore the Design-Builder agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, the Design-Builder agrees to require like compliance by all its subcontractor(s).
55. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

**West Contra Costa Unified School District**

1400 Marina Way South  
Richmond, CA 94804  
Tel: (510) 307-4540; Fax: (510) 231-2406  
ATTN: Julio Arroyo

**Energy Conservation Options**

14439 Catalina Street  
San Leandro, CA 94577  
Tel: (510) 647-8450  
ATTN: Dahlia Moodie

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

56. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
57. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the California County in which the District's administration offices are located.
58. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

59. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
60. **Agreement Number.** The District will issue an agreement number for this Agreement as part of the District's fiscal accounting and payment procedures. The agreement number shall be included in all requests for payment hereunder. The District may change the agreement number during the term of the Agreement. The District's revision of an agreement number shall not be considered a material or substantive change to the Agreement.
61. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.
62. **Authority of Executing Officer or Party.** By signing below, the signer represents that it has the legal right, power, and authority to enter into and execute this Agreement and to bind the Party on whose behalf the signer executes this Agreement.

*[SIGNATURES ON FOLLOWING PAGE]*

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

**West Contra Costa Unified School District**

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

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

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

Its: Associate Superintendent, Operations

**Energy Conservation Options**

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

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

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

Its: \_\_\_\_\_

**Information regarding Design-Builder:**

Design-Builder: \_\_\_\_\_

License No.: \_\_\_\_\_

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

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

Facsimile: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Type of Business Entity:

\_\_\_\_ Individual                      \_\_\_\_ Sole Proprietorship

\_\_\_\_ Partnership                      \_\_\_\_ Limited Partnership

\_\_\_\_ Limited Liability Company

\_\_\_\_ Corporation, State: \_\_\_\_\_

\_\_\_\_ Other: \_\_\_\_\_

\_\_\_\_\_  
Employer Identification and/or Social Security Number

**NOTE: United States Code, title 26, sections 6041 and 6109 require non-corporate recipients of \$600.00 or more to furnish their taxpayer identification number to the payer. The United States Code also provides that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these rules, the District requires your federal tax identification number or Social Security number, whichever is applicable.**

**WORKERS' COMPENSATION CERTIFICATION**

Labor Code Section 3700 in relevant part provides that every employer except the State shall secure the payment of compensation in one or more of the following ways:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- By securing from the Director of Industrial Relations a certificate of consent to self-insure, 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 its employees.

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

Date: \_\_\_\_\_  
Proper Name of Contractor: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any Work under this Contract.)

**FINGERPRINTING/CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION**

One of the three boxes below **must** be checked, with the corresponding certification provided, and this form attached to the Independent Contractor Agreement for Professional Services ("Agreement"):

☐ **[TO BE COMPLETED BY AUTHORIZED DISTRICT EMPLOYEE ONLY.]** Contractor's employees will have only limited contact, if any, with District pupils and the District will take appropriate steps to protect the safety of any pupils that may come in contact with Contractor's employees so that the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 shall not apply to Contractor for the services under this Agreement. As an authorized District official, I am familiar with the facts herein certified, and am authorized to execute this certificate on behalf of the District. (Ed. Code, § 45125.1 (c).)

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

District Representative's Name and Title: \_\_\_\_\_

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

☐ The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to Contractor's services under this Agreement and Contractor certifies its compliance with these provisions as follows: *"Contractor certifies that the Contractor has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all Contractor's employees, subcontractors, agents, and subcontractors' employees or agents ("Employees") regardless of whether those Employees are paid or unpaid, concurrently employed by the District, or acting as independent Contractor of the Contractor, who may have contact with District pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of those Employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of all Employees who may come in contact with District pupils during the course and scope of the Agreement is attached hereto."*

☐ Contractor's services under this Agreement shall be limited to the construction, reconstruction, rehabilitation, or repair of a school facility and although all Employees will have contact, other than limited contact, with District pupils, pursuant to Education Code section 45125.2 District shall ensure the safety of the pupils by at least one of the following as marked:

\_\_\_\_\_ The installation of a physical barrier at the worksite to limit contact with pupils.

\_\_\_\_\_ Continual supervision and monitoring of all Contractor's on-site employees of Contractor by an employee of Contractor, \_\_\_\_\_, whom the Department of Justice has ascertained has not been convicted of a violent or serious felony.

\_\_\_\_\_ Surveillance of Employees by District personnel. **[TO BE COMPLETED BY AUTHORIZED DISTRICT EMPLOYEE ONLY.]**

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

District Representative's Name and Title: \_\_\_\_\_

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

**Megan's Law (Sex Offenders)**. I have verified and will continue to verify that the employees of Contractor that will be on the Project site and the employees of the Subcontractor(s) that will be on the Project site are **not** listed on California's "Megan's Law" Website (<http://www.meganslaw.ca.gov/>).

**[MUST BE COMPLETED BY CONTRACTOR'S AUTHORIZED REPRESENTATIVE.]** I am a representative of the Contractor entering into this Agreement with the District and I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Contractor.

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

Name of Contractor or Company: \_\_\_\_\_

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

Contract # TBD Upon BOE approval

Print Name and Title:

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**TUBERCULOSIS CLEARANCE CERTIFICATION**

The undersigned does hereby certify to the governing board of the District as follows:

I am a representative of the Contractor currently entering into this Agreement with the District and I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Contractor.

Contractor's responsibility for tuberculosis clearance extends to all of its employees, subcontractors, and employees of subcontractors coming into contact with District pupils regardless of whether they are designated as employees or acting as independent contractors of the Contractor.

Contractor certifies that at least one of the following items applies to the services that are the subject of the Agreement:

☐

The Contractor ensures that any person providing any portion of the Services has submitted to an examination within the past 60 days to determine that he or she is free of active tuberculosis, by a physician or surgeon. A complete and accurate list of Contractor's employees and of all of its subcontractors' employees who may come in contact with District pupils during the course and scope of the Agreement is attached hereto; and/or

☐

Contractor's services under the Agreement are to be provided at an unoccupied school site only and/or will not be done on any District property and no employee and/or subcontractor or supplier of any tier of Agreement shall come in contact with District pupils.

Date:

Proper Name of Contractor:

Signature:

Print Name:

Title:

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**EXHIBIT A**

**SCOPE OF WORK (SOW)**

**SCOPE OF WORK FOR LIGHTING RETROFIT .....**

**GENERAL DESCRIPTION OF SCOPE OF WORK .....**

**Specifications .....**

**Conductors and Cables .....**

**Materials and Methods .....**

**Control Devices .....**

**Interior Fixtures .....**

**Exterior Fixtures .....**

**Cut sheets .....**

**Interior Fixtures .....**

**LED Lamps .....**

**Controls .....**

**Exterior Fixtures .....**

**Site Plan .....**

**Fixture Quantities and Scope of Work .....**



## SCOPE OF WORK FOR LIGHTING RETROFIT

Design/Builder shall provide all necessary engineering, audit, management, labor, materials, tools, equipment, supplies, services, components, and disposal and comply with the contract General Conditions to successfully complete the lighting scope of work provided to the satisfaction of the District. The Project is located at the following schools:

Crespi Middle School  
Helms Middle School

### GENERAL DESCRIPTION OF SCOPE OF WORK

Lighting retrofit work consists of the following elements. These elements are described in detail for each school.

1. Fixture retrofits from existing fluorescent fixtures to LED fixtures
2. Lamp retrofits from existing fluorescent lamps to linear LED lamps
3. Exterior high intensity discharge ("HID") fixtures being retrofitted to LED fixtures
4. Controls (occupancy, photo sensors and dimming).

### Verification of Details

The scope of work includes a **Detailed Lighting Audit** (Crespi Middle School and Helms Middle School), which is provided to the Design/Builder for information purposes only. The firm assumes all the responsibility for accurate fixture counts, specifications of fixtures, lamps, ballasts, controls and other items required to successfully complete the lighting retrofit and meet the necessary building and safety codes as more fully described in the specifications and general conditions.

Design/Builder can propose different counts that are not listed in the informational audit but must provide its rationale for the proposed change.

The Design/Builder shall become familiar with details of work in the field, existing conditions and shall advise District of any discrepancy prior to performing any tasks, including but not limited to existing and proposed lighting quantities, lighting wattages, number of lamps, building and area locations of fixtures, etc. The Designer/Builder shall thoroughly investigate and satisfy itself of the conditions affecting the work prior to construction start.

### Design Submittal Requirements

This project is exempt from Division of the State Architect ("DSA") review. Design/Builder shall perform Title 24 Acceptance Testing in accordance with latest Title 24 Part 6, Lighting Control Acceptance and Testing requirements for all areas in which scope of work requires lighting fixture or ballast replacements and installation of controls equipment. Design/Builder shall provide a separate line item cost for this work as part of the total proposed price.

Design/Builder is responsible for the review of electrical specifications, lighting performance specifications, detailed lighting audits, and related design criteria prior to the purchase of materials and installation of the work. The Design/Builder shall submit the following information considered as the Schematic Design Submittal:

1. **Material Product Submittals** with fixture type, manufacturer, wattage, quantity; cut sheets, and product warranties (*submitted within 10 days from Notice to Proceed*).
2. Proposed controls method and control plan (line diagram) for each room/area for all lighting fixtures.

**NOTE:** Design/Builder shall replace exterior lighting time clocks at each site with a Wattstopper LP8 peanut panel or approved equal.

## SCOPE OF WORK

1. ASSESSMENT. Designer/Builder has prepared or shall prepare an analysis of the site and suggest the best option, in its professional opinion, for lighting retrofit and controls design and installation at the Sites.
2. DESIGN SERVICES
  - 2.1. During the Design and Construction Phases of the Project, Designer/Builder will meet with District to review equipment, scope of work, and installation plans that relate to the design and construction of the Project.
  - 2.2. During the course of the Work, and at least weekly, Designer/Builder will provide reports to the District of the general status and progress of the Work.
  - 2.3. Scope, Responsibilities, and Services of Designer/Builder
    - 2.3.1. Designer/Builder shall provide Services that shall comply with professional engineering standards, recognized industry standards for professional skill and judgment, and applicable requirements of federal, state, and local law.
    - 2.3.2. Designer/Builder acknowledges that all California school districts are now obligated to develop and implement storm water requirements.
    - 2.3.3. Designer/Builder shall contract for or employ at Designer/Builder's expense, consultant(s) to the extent deemed necessary for completion of its Services on the Project including, but not limited to, architects, mechanical, electrical, structural, civil engineers, landscape architects, low voltage, data, and telephone consultants as necessary, licensed as required by the State of California. Nothing in the foregoing procedure shall create any contractual relationship between the District and any consultant employed by the Designer/Builder under terms of the Agreement.
    - 2.3.4. The District shall provide to Designer/Builder information and documentation that the District currently has related to the School Sites including geotechnical reports, topographic surveys, and related items. If Designer/Builder determines that the information or documentation the District provides is insufficient for purposes of design or if the Designer/Builder believes it needs additional information, including a topographical survey; geotechnical report; structural, mechanical, and/or chemical tests; tests for air and/or water pollution; test borings; test pits; determinations of soil bearing values; determinations of the location of all subsurface utilities; percolation tests; ground corrosion tests; resistivity tests; tests for hazardous materials; and/or tests for anticipating subsoil conditions, the Designer/Builder shall procure those items, at its expense, that it determines are required to complete the Project.
    - 2.3.5. Designer/Builder shall coordinate with District personnel and/or its designated representatives as may be requested and desirable, including with other professionals employed by the District for the design, coordination or management of other work on the School Sites.
    - 2.3.6. Designer/Builder shall identify the regulatory agencies that have jurisdiction over essential building and design elements and coordinate with and implement the requirements of the regulatory agencies or their authorized agents, including, without limitation, California Department of Education (CDE), the Office of Public School Construction (OPSC), the Department of General Services (DGS), DSA Fire/Life Safety, DSA Access Compliance Section, DSA Structural Safety, State Fire Marshal, County and City Health Inspectors and any regulatory office or agency that has authority for review and supervision of school district construction projects.
    - 2.3.7. Designer/Builder shall provide Services required to obtain local agencies' approval for offsite work related to the Project including review by regulatory

agencies having jurisdiction over the Project, if applicable.

- 2.3.8. Designer/Builder shall coordinate with the District's DSA Project Inspector(s).
- 2.3.9. As part of the basic Services pursuant to this Agreement, Designer/Builder is NOT responsible for the following, however, it shall coordinate and integrate its work with any of the following information and/or services provided by District:
  - 2.3.9.1. Ground contamination or hazardous material analysis.
  - 2.3.9.2. Any asbestos and/or lead testing, design or abatement.
  - 2.3.9.3. Compliance with the California Environmental Quality Act ("CEQA"), except that Designer/Builder agrees to coordinate its work with that of any CEQA consultants retained by the District, to provide current elevations and schematic drawings for use in CEQA compliance documents at no additional cost to the District. If the District and/or its CEQA consultant does not provide mitigation measures to the Designer/Builder when reasonably required for incorporation into the Project design, the Designer/Builder may invoice the District for the work required to incorporate those mitigation measures as a change order. No construction work on behalf of Designer/Builder will commence prior to receiving CEQA approval from District.
  - 2.3.9.4. Rezoning: it is assumed that the proposed locations are zoned for solar electric installations and no delays will occur due to zoning issues.
  - 2.3.9.5. Easement adjustments: it is assumed that no roads, bridges, utility power lines, local CC&R's, etc., will be of such a nature as to disrupt the solar installation and no delays will occur due to easement issues.
  - 2.3.9.6. Although Designer/Builder's Work shall be fully compliant with the Americans With Disabilities Act ("ADA"), its Work is not intended to make the current School Site conditions compliant with the ADA if there are condition(s) at the School Site that are not currently compliant with the ADA.

#### 2.4. Designer/Builder Staff

- 2.4.1. The Designer/Builder has been selected to perform the Services herein because of the skills and expertise of key individuals.
- 2.4.2. The Designer/Builder shall not change any of the key personnel without prior written approval by District, unless said personnel cease to be employed by Designer/Builder. In either case, District shall be allowed to interview and approve replacement personnel. Such approval shall not be unreasonably withheld.
- 2.4.3. If any designated lead or key person fails to perform to the reasonable satisfaction of the District, then upon written notice the Designer/Builder shall have five (5) days to remove that person from the Project and replace that person with one reasonably acceptable to the District.
- 2.4.4. Designer/Builder shall comply with Education Code section 17302(a) and agrees that any plans and/or specifications included in the Services shall be prepared under the supervision of licensed personnel, and that licensed personnel shall be in "responsible charge" of persons who observe the construction.

#### 2.5. Ownership of Data

- 2.5.1. Pursuant to Education Code section 17316, this Agreement creates a nonexclusive and perpetual license for District to use, at its discretion, all plans, including, but not limited to, record drawings, specifications, and estimates that the Designer/Builder or its consultants, prepares or causes to be prepared pursuant to this Agreement, limited to this Work.
- 2.5.2. The Designer/Builder retains all rights to all copyrights, designs and other intellectual property embodied in the plans, record drawings, specifications,

estimates, and other documents that the Designer/Builder or its consultants prepares or causes to be prepared pursuant to this Agreement.

- 2.5.3. Following the termination of this Agreement, for any reason whatsoever, the Designer/Builder shall promptly deliver to the District upon written request the following items (hereinafter "Instruments of Service") in electronic format (Microsoft Word), unless otherwise indicated, assuming the District has made all payments to Designer/Builder as required by the termination provisions in this Agreement.

2.5.3.1. One set of the Contract, including the bidding requirements, specifications, and all existing cost estimates for the Project, in hard copy, reproducible format.

2.5.3.2. All finished or unfinished documents, studies, reports, calculations, drawings, maps, models, photographs, technology data and reports prepared by the Designer/Builder under this Agreement.

- 2.5.4. In the event the District changes or uses any fully or partially completed documents without the Designer/Builder's knowledge and participation, the District agrees to release Designer/Builder of responsibility for such changes, and shall indemnify, defend and hold the Designer/Builder harmless from and against any and all claims, liabilities, suits, demands, losses, costs and expenses, including, but not limited to, reasonable attorneys' fees, on account of any damages or losses to property or persons, including injuries or death, or economic losses, arising out of that change or use except to the extent the Designer/Builder is found to be liable in a forum of competent jurisdiction. In the event District uses any fully or partially completed documents without the Designer/Builder's full involvement, the District shall remove all title blocks and other information that might identify the Designer/Builder and the Designer/Builder's consultants.

2.6. Certificate of Designer/Builder

- 2.6.1. Designer/Builder certifies that the Designer/Builder is properly certified and licensed under the laws and regulations of the State of California to provide the professional Services that it has herein agreed to perform.
- 2.6.2. O&M Manuals / Warranties. Designer/Builder shall review equipment, operation and maintenance manuals, and a complete set of warranty documents for all equipment and installed systems, to ensure that they meet the requirements of the plans and specifications. The Designer/Builder shall deliver the O&M Manuals / Warranties to the District at completion of the construction and it shall be a condition precedent to the District's approval of the Designer/Builder's final payment.

3. DESCRIPTION OF WORK AND SERVICES BY SCOPE

- 3.1. General. Designer/Builder shall design, install, and construct the Work at the School Sites. The Entire System shall be installed to conform to National Electric Code. Designer/Builder's Work shall include:
- 3.1.1. Meetings and discussions as needed with District, and others as needed to achieve project approval.
- 3.2. Protection of Existing Structures and Utilities
- 3.2.1. The School Sites have above grade and below grade structures, utility lines, and other installations that are known or believed to exist in the area of the Work. Designer/Builder shall locate these existing installations before proceeding with excavation and other operations that could damage same; maintain them in service,

Systems Operations.

- 3.4.2.2. The completion of startup means the entire Project including startup and has been performed to the requirements of the Contract and is verified in writing by the District and the IOR.

3.4.3. Definition Of Terms

- 3.4.3.1. Designer/Builder's Pre Commissioning Checklists: Includes installation and start up items as specified to be completed by the appropriate contractors prior to operational verification through the functional testing process.
- 3.4.3.2. Installation Verification Process: Includes the onsite inspection and review of related lighting and control system components for conformance to the Contract. The Designer/Builder shall verify systems readiness for functional testing procedures prior to the start of functional testing. Deficiencies will be documented by the District and the IOR for future resolution.
- 3.4.3.3. Functional Performance Testing Process: Includes the documented testing of lighting and control system parameters, under actual or simulated operating conditions. Final performance commissioning of the Systems will begin only after the appropriate Designer/Builder certifies that Systems are 100% complete and ready for functional testing. The contractors will be required to schedule, coordinate and perform device tests, calibration and functional performance test procedures.
- 3.4.3.4. Deficiencies and Resolutions List: Includes a list of noted deficiencies discovered as a result of the commissioning process. This list also includes the current disposition of issues, and the date of final resolution as confirmed by the District and the IOR. Deficiencies are defined as those issues where products execution or performance does not satisfy the Contract and/or the design intent.

3.4.4. Commissioning Duties and Responsibilities

3.4.4.1. Designer/Builder Duties and Responsibilities:

- 3.4.4.1.1. Designer/Builder shall provide information to the District of pre installation and post installation foot-candle measurements in at least three (3) locations in each interior room/area only at six (6) inches above finished floor level. The readings should be taken at the same locations for pre and post installation measurements for proper comparison and be provided in a table format. Design/Builder's measuring device/light meter/detector photometer shall be calibrated prior to use in accordance with manufacturer's requirements.
- 3.4.4.1.2. Assure the participation and cooperation of subcontractors and suppliers under their jurisdictions as required to complete the commissioning process.
- 3.4.4.1.3. Complete Foot-candle Measurement Tables Reports (Interior areas only). Reports are to be completed in a neat easily readable condition.
- 3.4.4.1.4. Complete the respective start up and check out procedures and insure readiness of equipment and systems prior to the start of the functional performance testing. Written confirmation of System readiness for performance testing is required.
- 3.4.4.1.5. Provide qualified representatives for the functional performance commissioning process.

- 3.4.4.2. Assure that all subcontractors and suppliers include in their respective contracts cost necessary to participate in and complete the commissioning process.
- 3.4.4.3. Duties and responsibilities of others for Commissioning: The commissioning process requires the active participation of the District and the IOR, and any other related Consultants on the Project.

#### **Utility Rebate Program Requirements**

The District has determined that this project is eligible for utility lighting rebates and incentives. The District will receive the utility rebate for the project. In addition to specifications requirements, the Designer/Builder shall comply with the following requirements for lighting rebates:

- All new lighting fixtures, retrofit kits and components must carry the appropriate designated Underwriters Laboratory (UL) or Electrical Testing Laboratory (ETL) label and have been qualified by Design Lights Consortium (DLC) AND are listed on the *California Statewide Lighting Program Qualified LED Products List* at <http://caiolightingqpl.com/> website.
- Manufacturer's specification sheets must be submitted to the District for rebate application, documenting the characteristics of lamps, ballasts and fixtures.
- Wattage of the replacement fixture, in all cases, must be less than the wattage of the existing lamp.
- All installations must be installed in accordance with all applicable local, state and national codes and ordinances.
- The Design/Builder must submit all material, product, and equipment invoices or purchase orders to the District.
- The Design/Builder agrees to complete required utility rebates forms requiring Designer/Builder's certification and submit any additional documentation.

#### **Commissioning Requirements**

The firm shall provide information to the District of pre installation and post installation foot candle measurements in at least three (2) locations in each interior room/area at desk level (30 inches from floor). The readings should be taken at the same locations for pre and post installation measurements for proper comparison and be provided in a table format. Designer/Builder's measuring device/light meter/detector photometer shall be calibrated prior to use in accordance with manufacturer's requirements.

#### **Closeout Documents**

Designer/Builder shall meet all requirements of the General Conditions for closeout, Designer/Builder shall provide to the District the following document precedent to Closeout:

1. As built spreadsheet of all the lighting fixtures and sensors (both interior and exterior) which includes:
  - Area/Room, Location/Building, Fixture installed, Quantity, Watts, Controls installed, and Foot candle measurement.
2. Photo(s) of all exterior lighting during dusk hours to confirm that all lights are operational. This can be submitted by email or storage drive.
3. Disposal Manifest for all lighting fixtures
4. List of Manufacturers with contact information and parts reordering information for all products installed.

## **SECTION 16050 - BASIC ELECTRICAL MATERIALS AND METHODS**

### **PART 1 - GENERAL**

#### **1.1. RELATED DOCUMENTS**

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 16 Specification Sections, apply to this Section.

#### **1.2. SUMMARY**

- A. This Section includes the following:
  - 1. Building wire and connectors.
  - 2. Supporting devices for electrical components.
  - 3. Electrical identification.
  - 4. Electrical demolition.
  - 5. Cutting and patching for electrical construction.
  - 6. Touchup painting.

#### **1.3. DEFINITIONS**

- A. EMT: Electrical metallic tubing.
- B. FMC: Flexible metal conduit.
- C. IMC: Intermediate metal conduit.
- D. LFMC: Liquid tight flexible metal conduit.
- E. RNC: Rigid nonmetallic conduit.

#### **1.4. SUBMITTALS**

- A. Shop Drawings: Dimensioned plans and sections or elevation layouts
- B. Field Test Reports: Indicate and interpret test results for compliance with performance requirements.

#### **1.5. QUALITY ASSURANCE**

- A. Electrical Components, Devices, and Accessories: Listed and labeled as defined in NFPA 70, Article 100, by a testing agency acceptable to authorities having jurisdiction, and marked for intended use.
- B. Comply with NFPA 70.

#### **1.6. COORDINATION**

- A. Coordinate chases, slots, inserts, sleeves, and openings with general construction work and arrange in building structure during progress of construction to facilitate the electrical installations that follow.
  - 1. Set inserts and sleeves in poured-in-place concrete, masonry work, and other structural components as they are constructed.

- B. Sequence, coordinate, and integrate installing electrical materials and equipment for efficient flow of the Work. Coordinate installing large equipment requiring positioning before closing in the building.
- C. Coordinate electrical service connections to components furnished by utility companies.
  - 1. Coordinate installation and connection of exterior underground and overhead utilities and services, including provision for electricity-metering components.
  - 2. Comply with requirements of authorities having jurisdiction and of utility company providing electrical power and other services.
- D. Coordinate location of access panels and doors for electrical items that are concealed by finished surfaces.
- E. Where electrical identification devices are applied to field-finished surfaces, coordinate installation of identification devices with completion of finished surface.
- F. Where electrical identification markings and devices will be concealed by acoustical ceilings and similar finishes, coordinate installation of these items before ceiling installation.

## **PART 2 - PRODUCTS**

### **2.1. CONDUCTORS**

- A. Conductors, No. 10 AWG and Smaller: Solid or stranded copper.
- B. Conductors, Larger than No. 10 AWG: Stranded copper.
- C. Insulation: Thermoplastic, rated at 75 deg C minimum.
- D. Wire Connectors and Splices: Units of size, ampacity rating, material, type, and class suitable for service indicated.

### **2.2. SUPPORTING DEVICES**

- A. Material: Cold-formed steel, with corrosion-resistant coating acceptable to authorities having jurisdiction.
- B. Metal Items for Use Outdoors or in Damp Locations: Hot-dip galvanized steel.
- C. Slotted-Steel Channel Supports: Flange edges turned toward web, and 9/16-inch-diameter slotted holes at a maximum of 2 inches o.c., in webs.
- D. Nonmetallic Channel and Angle Systems: Structural-grade, factory-formed, glass-fiber-resin channels and angles with 9/16-inch-diameter holes at a maximum of 8 inches o.c., in at least one surface.
  - 1. Fittings and Accessories: Products of the same manufacturer as channels and angles.
  - 2. Fittings and Accessory Materials: Same as channels and angles, except metal items may be stainless steel.
- E. Raceway and Cable Supports: Manufactured clevis hangers, riser clamps, straps, threaded C-clamps with retainers, ceiling trapeze hangers, wall brackets, and spring-steel clamps or click-type hangers.



- F. Pipe Sleeves: ASTM A 53, Type E, Grade A, Schedule 40, galvanized steel, plainends.
- G. Cable Supports for Vertical Conduit: Factory-fabricated assembly consisting of threaded body and insulating wedging plug for nonarmored electrical cables in riser conduits. Plugs have number and size of conductor gripping holes as required to suit individual risers. Body constructed of malleable-iron casting with hot-dip galvanized finish.
- H. Expansion Anchors: Carbon-steel wedge or sleeve type.
- I. Toggle Bolts: All-steel springhead type.
- J. Powder-Driven Threaded Studs: Heat-treated steel.

### 2.3. ELECTRICAL IDENTIFICATION

- A. Identification Devices: A single type of identification product for each application category. Use colors prescribed by ANSI A13.1, NFPA 70, and these Specifications.
- B. Raceway and Cable Labels: Comply with ANSI A13.1, Table 3, for minimum size of letters for legend and minimum length of color field for each raceway and cable size.
  - 1. Type: Pretensioned, wraparound plastic sleeves. Flexible, preprinted, color-coded, acrylic band sized to suit the diameter of the item it identifies.
  - 2. Type: Preprinted, flexible, self-adhesive, vinyl. Legend is overlaminated with a clear, weather- and chemical-resistant coating.
  - 3. Color: Black letters on orange background.
  - 4. Legend: Indicates voltage.
- C. Colored Adhesive Marking Tape for Raceways, Wires, and Cables: Self-adhesive vinyl tape, not less than 1 inch wide by 3 mils thick.
- D. Underground Warning Tape: Permanent, bright-colored, continuous-printed, vinyl tape with the following features:
  - 1. Not less than 6 inches wide by 4 mils thick.
  - 2. Compounded for permanent direct-burial service.
  - 3. Embedded continuous metallic strip or core.
  - 4. Printed legend that indicates type of underground line.
- E. Tape Markers for Wire: Vinyl or vinyl-cloth, self-adhesive, wraparound type with preprinted numbers and letters.

### 2.4. TOUCHUP PAINT

- A. For Equipment: Equipment manufacturer's paint selected to match installed equipment finish.
- B. Galvanized Surfaces: Zinc-rich paint recommended by item manufacturer.

## PART 3 - EXECUTION

### 3.1. ELECTRICAL EQUIPMENT INSTALLATION

- A. Headroom Maintenance: If mounting heights or other location criteria are not indicated, arrange and install components and equipment to provide the maximum possible

headroom.

- B. Materials and Components: Install level, plumb, and parallel and perpendicular to other building systems and components, unless otherwise indicated.
- C. Equipment: Install to facilitate service, maintenance, and repair or replacement of components. Connect for ease of disconnecting, with minimum interference with other installations.
- D. Right of Way: Give to raceways and piping systems installed at a required slope.

### 3.2. WIRING METHODS FOR POWER, LIGHTING, AND CONTROL CIRCUITS

- A. Feeders: Type THHN/THWN insulated conductors in raceway.
- B. Underground Feeders and Branch Circuits: Type THWN or single-wire, Type UF insulated conductors in raceway.
- C. Branch Circuits: Type THHN/THWN insulated conductors in raceway.
- D. Remote-Control Signaling and Power-Limited Circuits: Type THHN/THWN insulated conductors in raceway for Classes 1, 2, and 3, unless otherwise indicated.

### 3.3. WIRING INSTALLATION

- A. Install splices and taps that are compatible with conductor material and that possess equivalent or better mechanical strength and insulation ratings than unspliced conductors.
- B. Install wiring at outlets with at least 12 inches of slack conductor at each outlet.
- C. Connect outlet and component connections to wiring systems and to ground. Tighten electrical connectors and terminals, according to manufacturer's published torque-tightening values. If manufacturer's torque values are not indicated, use those specified in UL 486A.

### 3.4. ELECTRICAL SUPPORTING DEVICE APPLICATION

- A. Damp Locations and Outdoors: Hot-dip galvanized materials or nonmetallic, U-channel system components.
- B. Dry Locations: Steel materials.
- C. Support Clamps for PVC Raceways: Click-type clamp system.
- D. Selection of Supports: Comply with manufacturer's written instructions.
- E. Strength of Supports: Adequate to carry present and future loads, times a safety factor of at least four; minimum of 200-lb (90-kg) design load.

### 3.5. SUPPORT INSTALLATION

- A. Install support devices to securely and permanently fasten and support electrical components.
- B. Install individual and multiple raceway hangers and riser clamps to support raceways. Provide U-bolts, clamps, attachments, and other hardware necessary for hanger

assemblies and for securing hanger rods and conduits.

- C. Support parallel runs of horizontal raceways together on trapeze- or bracket-type hangers.
- D. Size supports for multiple raceway installations so capacity can be increased by a 25 percent minimum in the future.
- E. Support individual horizontal raceways with separate, malleable-iron pipe hangers or clamps.
- F. Install 1/4-inch- diameter or larger threaded steel hanger rods, unless otherwise indicated.
- G. Spring-steel fasteners specifically designed for supporting single conduits or tubing may be used instead of malleable-iron hangers for 1-1/2-inch and smaller raceways serving lighting and receptacle branch circuits above suspended ceilings and for fastening raceways to slotted channel and angle supports.
- H. Arrange supports in vertical runs so the weight of raceways and enclosed conductors is carried entirely by raceway supports, with no weight load on raceway terminals.
- I. Simultaneously install vertical conductor supports with conductors.
- J. Separately support cast boxes that are threaded to raceways and used for fixture support. Support sheet-metal boxes directly from the building structure or by bar hangers. If bar hangers are used, attach bar to raceways on opposite sides of the box and support the raceway with an approved fastener not more than 24 inches from the box.
- K. Install metal channel racks for mounting cabinets, panelboards, disconnect switches, control enclosures, pull and junction boxes, transformers, and other devices unless components are mounted directly to structural elements of adequate strength.
- L. Install sleeves for cable and raceway penetrations of concrete slabs and walls unless core-drilled holes are used. Install sleeves for cable and raceway penetrations of masonry and fire-rated gypsum walls and of all other fire-rated floor and wall assemblies. Install sleeves during erection of concrete and masonry walls.
- M. Securely fasten electrical items and their supports to the building structure, unless otherwise indicated. Perform fastening according to the following unless other fastening methods are indicated:
  - 1. Wood: Fasten with wood screws or screw-type nails.
  - 2. Masonry: Toggle bolts on hollow masonry units and expansion bolts on solid masonry units.
  - 3. New Concrete: Concrete inserts with machine screws and bolts.
  - 4. Existing Concrete: Expansion bolts.
  - 5. Instead of expansion bolts, threaded studs driven by a powder charge and provided with lock washers may be used in existing concrete.
  - 6. Steel: Welded threaded studs or spring-tension clamps on steel.
    - a. Field Welding: Comply with AWS D1.1.
  - 7. Welding to steel structure may be used only for threaded studs, not for conduits, pipe straps, or other items.
  - 8. Light Steel: Sheet-metal screws.
  - 9. Fasteners: Select so the load applied to each fastener does not exceed 25 percent of its proof-test load.

### 3.6. IDENTIFICATION MATERIALS AND DEVICES

- A. Install at locations for most convenient viewing without interference with operation and maintenance of equipment.
- B. Coordinate names, abbreviations, colors, and other designations used for electrical identification with corresponding designations indicated in the Contract Documents or required by codes and standards. Use consistent designations throughout Project.
- C. Self-Adhesive Identification Products: Clean surfaces before applying.
- D. Identify raceways and cables with color banding as follows:
  - 1. Bands: Pretensioned, snap-around, colored plastic sleeves or colored adhesive marking tape. Make each color band 2 inches wide, completely encircling conduit, and place adjacent bands of two-color markings in contact, side by side.
  - 2. Band Locations: At changes in direction, at penetrations of walls and floors, at 50-foot maximum intervals in straight runs, and at 25-foot maximum intervals in congested areas.
  - 3. Colors: As follows:
    - a. Fire Alarm System: Red.
    - b. Security System: Blue and yellow.
    - c. Telecommunication System: Green and yellow.
- E. Tag and label circuits designated to be extended in the future. Identify source and circuit numbers in each cabinet, pull and junction box, and outlet box. Color-coding may be used for voltage and phase identification.
- F. Install continuous underground plastic markers during trench backfilling, for exterior underground power, control, signal, and communication lines located directly above power and communication lines. Locate 6 to 8 inches below finished grade. If width of multiple lines installed in a common trench or concrete envelope does not exceed 16 inches, overall, use a single line marker.
- G. Color-code 208/120-V system secondary service, feeder, and branch-circuit conductors throughout the secondary electrical system as follows:
  - 1. Phase A: Black.
  - 2. Phase B: Red.
  - 3. Phase C: Blue.
- H. Color-code 480/277-V system secondary service, feeder, and branch-circuit conductors throughout the secondary electrical system as follows:
  - 1. Phase A: Yellow.
  - 2. Phase B: Brown.
  - 3. Phase C: Orange.
- I. Install warning, caution, and instruction signs where required to comply with 29 CFR, Chapter XVII, Part 1910.145, and where needed to ensure safe operation and maintenance of electrical systems and of items to which they connect. Install engraved plastic-laminated instruction signs with approved legend where instructions are needed for system or equipment operation. Install metal-backed butyrate signs for outdoor items.

- J. Install engraved-laminated emergency-operating signs with white letters on red background with minimum 3/8-inch- high lettering for emergency instructions on power transfer, load shedding, and other emergency operations.

### 3.7. DEMOLITION

- A. Protect existing electrical equipment and installations indicated to remain. If damaged or disturbed in the course of the Work, remove damaged portions and install new products of equal capacity, quality, and functionality.
- B. Accessible Work: Remove exposed electrical equipment and installations, indicated to be demolished, in their entirety.
- C. Abandoned Work: Cut and remove buried raceway and wiring, indicated to be abandoned in place, 2 inches below the surface of adjacent construction. Cap raceways and patch surface to match existing finish.
- D. Remove demolished material from Project site.
- E. Remove, store, clean, reinstall, reconnect, and make operational components indicated for relocation.

### 3.8. CUTTING AND PATCHING

- A. Cut, channel, chase, and drill floors, walls, partitions, ceilings, and other surfaces required to permit electrical installations. Perform cutting by skilled mechanics of trades involved.
- B. Repair and refinish disturbed finish materials and other surfaces to match adjacent undisturbed surfaces. Install new fireproofing where existing firestopping has been disturbed. Repair and refinish materials and other surfaces by skilled mechanics of trades involved.

### 3.9. FIELD QUALITY CONTROL

- A. Inspect installed components for damage and faulty work, including the following:
  - 1. Raceways.
  - 2. Building wire and connectors.
  - 3. Supporting devices for electrical components.
  - 4. Electrical identification.
  - 5. Electricity-metering components.
  - 6. Concrete bases.
  - 7. Electrical demolition.
  - 8. Cutting and patching for electrical construction.
  - 9. Touchup painting.

### 3.10. REFINISHING AND TOUCHUP PAINTING

- A. Refinish and touch up paint.
  - 1. Clean damaged and disturbed areas and apply primer, intermediate, and finish coats to suit the degree of damage at each location.
  - 2. Follow paint manufacturer's written instructions for surface preparation and for timing and application of successive coats.
  - 3. Repair damage to galvanized finishes with zinc-rich paint recommended by manufacturer.

4. Repair damage to PVC or paint finishes with matching touchupcoating recommended by manufacturer.

3.11. CLEANING AND PROTECTION

- A. On completion of installation, including outlets, fittings, and devices, inspect exposed finish. Remove burrs, dirt, paint spots, and construction debris.
- B. Protect equipment and installations and maintain conditions to ensure that coatings, finishes, and cabinets are without damage or deterioration at time of Substantial Completion.

END OF SECTION 1605

## SECTION 16120 - CONDUCTORS AND CABLES

### PART 1 - GENERAL

#### 1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 1 Specification Sections, apply to this Section.

#### 1.2 SUMMARY

- A. This Section includes the following:
  - 1. Building wires and cables rated 600 V and less.
  - 2. Connectors, splices, and terminations rated 600 V and less.
  - 3. Sleeves and sleeve seals for cables.

#### 1.3 DEFINITIONS

- A. EPDM: Ethylene-propylene-diene terpolymer rubber.
- B. NBR: Acrylonitrile-butadiene rubber.

#### 1.4 SUBMITTALS

- A. Product Data: For each type of product indicated.
- B. Qualification Data: For testing agency.
- C. Field quality-control test reports.

#### 1.5 QUALITY ASSURANCE

- A. Testing Agency Qualifications: An independent agency, with the experience and capability to conduct the testing indicated, that is a member company of the International Electrical Testing Association or is a nationally recognized testing laboratory (NRTL) as defined by OSHA in 29 CFR 1910.7, and that is acceptable to authorities having jurisdiction.
  - 1. Testing Agency's Field Supervisor: Person currently certified by the International Electrical Testing Association or the National Institute for Certification in Engineering Technologies to supervise on-site testing specified in Part 3.
- B. Electrical Components, Devices, and Accessories: Listed and labeled as defined in NFPA 70, Article 100, by a testing agency acceptable to authorities having jurisdiction, and marked for intended use.
- C. Comply with NFPA 70.

#### 1.6 COORDINATION

- A. Set sleeves in cast-in-place concrete, masonry walls, and other structural components as they are constructed.

### PART 2 - PRODUCTS

## 2.1 CONDUCTORS AND CABLES

- A. Available Manufacturers: Subject to compliance with requirements, manufacturers offering products that may be incorporated into the Work include, but are not limited to, the following:
  - 1. Alcan Products Corporation; Alcan Cable Division.
  - 2. American Insulated Wire Corp.; a Leviton Company.
  - 3. Or by district approved equal.
- B. Copper Conductors: Comply with NEMA WC 70.
- C. Conductor Insulation: Comply with NEMA WC 70 for Types THW and THHN-THWN.

## 2.2 CONNECTORS AND SPLICES

- A. Available Manufacturers: Subject to compliance with requirements, manufacturers offering products that may be incorporated into the Work include, but are not limited to, the following:
  - 1. Hubbell Power Systems, Inc.
  - 2. 3M; Electrical Products Division.
  - 3. Or approved equal.
- B. Description: Factory-fabricated connectors and splices of size, ampacity rating, material, type, and class for application and service indicated.

## PART 3 - EXECUTION

### 3.1 CONDUCTOR MATERIAL APPLICATIONS

- A. Feeders: Copper. Solid for No. 10 AWG and smaller; stranded for No. 8 AWG and larger.
- B. Branch Circuits: Copper. Solid for No. 10 AWG and smaller; stranded for No. 8 AWG and larger.

### 3.2 CONDUCTOR INSULATION AND MULTICONDUCTOR CABLE APPLICATIONS AND WIRING METHODS

- A. Exposed Branch Circuits, Including in Crawlspace: Type THHN-THWN, single conductors in raceway.
- B. Branch Circuits Concealed in Ceilings, Walls, and Partitions: Type THHN-THWN, single conductors in raceway.
- C. Branch Circuits Concealed in Concrete, below Slabs-on-Grade, and underground: Type THHN-THWN, single conductors in raceway.
- D. Branch Circuits Installed below Raised Flooring: Type THHN-THWN, single conductors in raceway.
- E. Branch Circuits in Cable Tray: Type THHN-THWN, single conductors in raceway.
- F. Class 1 Control Circuits: Type THHN-THWN, in raceway.
- G. Class 2 Control Circuits: Type THHN-THWN, in raceway.



### 3.3 INSTALLATION OF CONDUCTORS AND CABLES

- A. Conceal cables in finished walls, ceilings, and floors, unless otherwise indicated.
- B. Use manufacturer-approved pulling compound or lubricant where necessary; compound used must not deteriorate conductor or insulation. Do not exceed manufacturer's recommended maximum pulling tensions and sidewall pressure values.
- C. Use pulling means, including fish tape, cable, rope, and basket-weave wire/cable grips that will not damage cables or raceway.
- D. Install exposed cables parallel and perpendicular to surfaces of exposed structural members, and follow surface contours where possible.
- E. Support cables according to Division 16 Section "Electrical Supports and Seismic Restraints."
- F. Identify and color-code conductors and cables according to Division 16 Section "Electrical Identification."

### 3.4 CONNECTIONS

- A. Tighten electrical connectors and terminals according to manufacturer's published torque-tightening values. If manufacturer's torque values are not indicated, use those specified in UL 486A and UL 486B.
- B. Make splices and taps that are compatible with conductor material and that possess equivalent or better mechanical strength and insulation ratings than unspliced conductors.
  - 1. Use oxide inhibitor in each splice and tap conductor for aluminum conductors.

### 3.5 FIELD QUALITY CONTROL

- A. Testing Agency: Engage a qualified testing agency to perform tests and inspections and prepare test reports.
- B. Perform tests and inspections and prepare test reports.
- C. Tests and Inspections:
  - 1. After installing conductors and cables and before electrical circuitry has been energized, test all light fixtures for compliance with requirements.
  - 2. Perform each visual and mechanical inspection and electrical test stated in NETA Acceptance Testing Specification. Certify compliance with test parameters.
- D. Test Reports: Prepare a written report to record the following:
  - 1. Test procedures used.
  - 2. Test results that comply with requirements.
  - 3. Test results that do not comply with requirements and corrective action taken to achieve compliance with requirements.
- E. Remove and replace malfunctioning units and retest as specified above.

END OF SECTION 16120

## **SECTION 16145 - LIGHTING CONTROL DEVICES**

### **PART 1 - GENERAL**

#### **1.1 RELATED DOCUMENTS**

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 1 Specification Sections, apply to this Section.

#### **1.2 SUMMARY**

- A. This Section includes the following lighting control devices:
  - 1. Time clocks (for exterior lighting fixtures only).
  - 2. Indoor photoelectric switches.
  - 3. Indoor occupancy sensors.
  - 4. Lighting contactors.
  - 5. Emergency shunt relays.

#### **1.3 DEFINITIONS**

- A. LED: Light-emitting diode.
- B. PIR: Passive infrared.

#### **1.4 SUBMITTALS**

- A. Product Data: For each type of product used.
- B. Shop Drawings: Show installation details for occupancy and light-level sensors.
  - 1. Interconnection diagrams showing field-installed wiring.
- C. Field quality-control test reports.
- D. Operation and Maintenance Data: For each type of product to include in emergency, operation, and maintenance manuals.

#### **1.5 QUALITY ASSURANCE**

- A. Electrical Components, Devices, and Accessories: Listed and labeled as defined in NFPA 70, Article 100, by a testing agency acceptable to authorities having jurisdiction, and marked for intended use.

#### **1.6 COORDINATION**

- A. Coordinate layout and installation of ceiling-mounted devices with other construction that penetrates ceilings or is supported by them, including light fixtures, HVAC equipment, smoke detectors, fire-suppression system, and partition assemblies.

### **PART 2 - PRODUCTS**

#### **2.1 TIME CLOCKS**

- A. Current time clock(s) on site:

1. (8) Mechanical time clocks –Design/Builder to field verify.
2. Area covering: Office area, interior common areas, exterior and parking lot lights.
- B. Available Manufacturers: Subject to compliance with requirements, manufacturers offering products that may be incorporated into the Work include, but are not limited to, the following:
- C. Manufacturers: Subject to compliance with requirements, provide products by one of the following:
- D. Basis-of-Design Product: Subject to compliance with requirements, provide a comparable product by one of the following:
  1. Watt Stopper Peanut Panel LP8 (The).
  2. Or approved equal.
- E. Electronic Time Clocks: The time switch shall be of the 24-hour electronic type, capable of permitting up to 28 setpoints or events. The time switch shall provide a minimum ON or OFF time of 1 minute. The time switch to be powered by 120/ 277 VAC (field verified by Design/Builder), 60 Hz power supply. The time switch mechanism shall be a snap-in design to provide ease of mechanism removal for mounting the enclosure. The time switch enclosure shall be a Type 3R plastic lockable enclosure, which shall be painted with an electrostatic process to eliminate the potential for corrosion. The time switch shall provide clear terminal identification on a non-curling terminal insulator. Terminal connections shall be made using teeter-type terminal screws to provide secure connections for wire sizes up to #10 AWG.
  1. Contact Configuration: SPST, DPST, DPDT.
  2. Contact Rating: 20-A ballast load, 120/240-V ac.
  3. Astronomic Time: Selected channels.
  4. Battery Backup: For schedules and time clock.
- F. BAS Interface: Provide hardware interface to enable the BAS to monitor and control lighting contactors.
  1. Monitoring: On-off Status.
  2. Control: On-off Operation.

## 2.2 OUTDOOR PHOTOELECTRIC SWITCHES

- A. Available Manufacturers: Subject to compliance with requirements, manufacturers offering products that may be incorporated into the Work include, but are not limited to, the following:
  1. Watt Stopper (The).
  2. Lutron.
  3. Or approved equal.
- B. Description: Solid state, with SPST dry contacts rated for 1800-VA tungsten or 1000-VA inductive, to operate connected relay, contactor coils, or microprocessor input; complying with UL 773A.
  1. Light-Level Monitoring Range: 1.5 to 10 fc (16.14 to 108 lx), with an

- adjustment for turn-on and turn-off levels within that range, and a directional lens in front of photocell to prevent fixed light sources from causing turn-off.
2. Time Delay: 15-second minimum, to prevent false operation.
3. Surge Protection: Metal-oxide varistor, complying with IEEE C62.41.1, IEEE C62.41.2, and IEEE 62.45 for Category A1 locations.
4. Mounting: Twist lock complying with IEEE C136.10, with base-and-stem mounting or stem-and-swivel mounting accessories as required to direct sensor to the north sky exposure.

C. Description: Solid state, with SPST and DPST dry contacts rated for 1800 VA to operate connected load, relay, or contactor coils; complying with UL 773.

1. Light-Level Monitoring Range: 1.5 to 10 fc (16.14 to 108 lx), with an adjustment for turn-on and turn-off levels within that range.
2. Time Delay: 30-second minimum, to prevent false operation.
3. Lightning Arrester: Air-gap type.
4. Mounting: Twist lock complying with IEEE C136.10, with base.

### 2.3 INDOOR PHOTOELECTRIC SWITCHES

A. Available Manufacturers: Subject to compliance with requirements, manufacturers offering products that may be incorporated into the Work include, but are not limited to, the following:

1. Lutron.
2. Or Approved Equal.

B. Ceiling-Mounted Photoelectric Switch: Solid-state, light-level sensor unit, with separate relay unit mounted on luminaire, to detect changes in lighting levels that are perceived by the eye. Cadmium sulfide photoresistors are not acceptable.

1. Sensor Output: Contacts rated to operate the associated relay, complying with UL 773A. Sensor shall be powered from the relay unit.
2. Relay Unit: Dry contacts rated for 20-A ballast load at 120- and 277-V ac, for 13-A tungsten at 120-V ac, and for 1 hp at 120-V ac. Power supply to sensor shall be 24-V dc, 150-mA, Class 2 power source as defined by NFPA 70.
3. Light-Level Monitoring Range: 10 to 200 fc (108 to 2152 lx, with an adjustment for turn-on and turn-off levels within that range.
4. Time Delay: Adjustable from 5 to 300 seconds to prevent cycling, with deadband adjustment.
5. Indicator: Two LEDs to indicate the beginning of on-off cycles.

### 2.4 INDOOR OCCUPANCY SENSORS

A. Available Manufacturers: Subject to compliance with requirements, manufacturers offering products that may be incorporated into the Work include, but are not limited to, the following:

1. Lutron.
2. Or approved equal.

B. General Description: Wall- or ceiling-mounting, solid-state units with a separate relay unit.

### 2.5 Wireless Dimmer

A. Lutron

1. Operation: Unless otherwise indicated, turn lights on when covered area is occupied and off when unoccupied; with a time delay for turning lights off, adjustable over a minimum range of 1 to 15 minutes.
  2. Sensor Output: Contacts rated to operate the connected relay, complying with UL 773A. Sensor shall be powered from the relay unit.
  3. Relay Unit: Dry contacts rated for 20-A ballast load at 120- and 277-V ac, for 13-A tungsten at 120-V ac, and for 1 hp at 120-V ac. Power supply to sensor shall be 24-V dc, 150-mA, Class 2 power source as defined by NFPA 70.
  4. Mounting:
    - a. Sensor: Suitable for mounting in any position on a standard outlet box.
    - b. Relay: Externally mounted through a 1/2-inch knockout in a standard electrical enclosure.
    - c. Time-Delay and Sensitivity Adjustments: Recessed and concealed behind hinged door.
  5. Indicator: LED, to show when motion is being detected during testing and normal operation of the sensor.
  6. Bypass Switch: Override the on function in case of sensor failure.
  7. Automatic Light-Level Sensor: Adjustable from 2 to 200 fc (21.5 to 2152 lx); keep lighting off when selected lighting level is present.
- B. PIR Type: Ceiling mounting; detect occupancy by sensing a combination of heat and movement in area of coverage.
1. Detector Sensitivity: Detect occurrences of 6-inch- minimum movement of any portion of a human body that presents a target of not less than 36 sq. in.
  2. Detection Coverage (Room): Detect occupancy anywhere in a circular area of 1000 sq. ft. when mounted on a 96-inch- high ceiling.
  3. Detection Coverage (Corridor): Detect occupancy within 90 feet when mounted on a 10- foot- high ceiling.
- C. Ultrasonic Type: Ceiling mounting; detect occupancy by sensing a change in pattern of reflected ultrasonic energy in area of coverage.
1. Detector Sensitivity: Detect a person of average size and weight moving not less than 12 inches in either a horizontal or a vertical manner at an approximate speed of 12 inches/s.
  2. Detection Coverage (Small Room): Detect occupancy anywhere within a circular area of 300 sq. ft. when mounted on a 96-inch- high ceiling.
  3. Detection Coverage (Standard Room): Detect occupancy anywhere within a circular area of 600 sq. ft. when mounted on a 96-inch- high ceiling.
  4. Detection Coverage (Large Room): Detect occupancy anywhere within a circular area of 1000 sq. ft. when mounted on a 96-inch- high ceiling.
  5. Detection Coverage (Corridor): Detect occupancy anywhere within 90 feet when mounted on a 10-foot- high ceiling in a corridor not wider than 14 feet.
- D. Dual-Technology Type: Ceiling mounting; detect occupancy by using a combination of PIR and ultrasonic detection methods in area of coverage. Particular technology or combination of technologies that controls on-off functions shall be selectable in the field by operating controls on unit.
1. Sensitivity Adjustment: Separate for each sensing technology.
  2. Detector Sensitivity: Detect occurrences of 6-inch- minimum movement of any portion of a human body that presents a target of not less than 36 sq. in., and

3. detect a person of average size and weight moving not less than 12 inches in either a horizontal or a vertical manner at an approximate speed of 12 inches/s.  
Detection Coverage (Standard Room): Detect occupancy anywhere within a circular area of 1000 sq. ft. when mounted on a 96-inch- high ceiling.

## 2.6 OUTDOOR MOTION SENSORS (PIR)

- A. Available Manufacturers: Subject to compliance with requirements, manufacturers offering products that may be incorporated into the Work include, but are not limited to, the following:
  1. Watt Stopper (The).
  2. Lutron.
  3. Or approved equal.
- B. Performance Requirements: Suitable for operation in ambient temperatures ranging from minus 40 to plus 130 deg F (minus 40 to plus 54 deg C), rated as raintight according to UL 773A.
  1. Operation: Turn lights on when sensing infrared energy changes between background and moving body in area of coverage; with a time delay for turning lights off, adjustable over a minimum range of 1 to 15 minutes.
  2. Mounting:
    - a. Sensor: Suitable for mounting in any position on a standard outdoor junction box.
    - b. Relay: Internally mounted in a standard weatherproof electrical enclosure.
    - c. Time-Delay and Sensitivity Adjustments: Recessed and concealed behind hinged door.
  3. Bypass Switch: Override the on function in case of sensor failure.
  4. Automatic Light-Level Sensor: Adjustable from 1 to 20 fc (11 to 215 lx); keep lighting off during daylight hours.
- C. Detector Sensitivity: Detect occurrences of 6-inch- minimum movement of any portion of a human body that presents a target of not less than 36 sq. in..
- D. Detection Coverage: Up to 35 feet, with a field of view of 90 degrees.
- E. Lighting Fixture Mounted Sensor: Suitable for switching 300 W of tungsten load at 120- or 277-V ac.
- F. Individually Mounted Sensor: Contacts rated to operate the connected relay, complying with UL 773A. Sensor shall be powered from the relay unit.
  1. Relay Unit: Dry contacts rated for 20-A ballast load at 120- and 277-V ac, for 13-A tungsten at 120-V ac, and for 1 hp at 120-V ac. Power supply to sensor shall be 24-V dc, 150-mA, Class 2 power source as defined by NFPA 70.
  2. Indicator: LED, to show when motion is being detected during testing and normal operation of the sensor.

## 2.7 LIGHTING CONTACTORS

- A. Available Manufacturers: Subject to compliance with requirements, manufacturers offering products that may be incorporated into the Work include, but are not limited to, the following:

1. Watt Stopper (The).
2. Lutron.
3. Or approved equal.

B. Description: Electrically operated and electrically held, combination type with fusible switch, complying with NEMA ICS 2 and UL 508.

1. Current Rating for Switching: Listing or rating consistent with type of load served, including tungsten filament, inductive, and high-inrush ballast (ballast with 15 percent or less total harmonic distortion of normal load current).
2. Fault Current Withstand Rating: Equal to or exceeding the available fault current at the point of installation.
3. Enclosure: Comply with NEMA 250.
4. Provide with control and pilot devices as indicated on Drawings, matching the NEMA type specified for the enclosure.

## 2.8 EMERGENCY SHUNT RELAY

A. Available Manufacturers: Subject to compliance with requirements, manufacturers offering products that may be incorporated into the Work include, but are not limited to, the following:

1. Watt Stopper (The).
2. Lutron.
3. Or approved equal.

B. Description: Normally closed, electrically held relay, arranged for wiring in parallel with manual or automatic switching contacts; complying with UL 924.

1. Coil Rating: 120V.

## 2.9 CONDUCTORS AND CABLES

- A. Power Wiring to Supply Side of Remote-Control Power Sources: Not smaller than No. 12 AWG. Comply with requirements in Division 16 Section "Conductors and Cables."
- B. Classes 2 and 3 Control Cable: Multiconductor cable with stranded-copper conductors not smaller than No. 18 AWG. Comply with requirements in Division 16 Section "Conductors and Cables."
- C. Class 1 Control Cable: Multiconductor cable with stranded-copper conductors not smaller than No. 18 AWG. Comply with requirements in Division 16 Section "Conductors and Cables."

## PART 3 - EXECUTION

### 3.1 SENSOR INSTALLATION

- A. Install and aim sensors in locations to achieve not less than 90 percent coverage of areas indicated. Do not exceed coverage limits specified in manufacturer's written instructions.

### 3.2 CONTACTOR INSTALLATION

- A. Mount electrically held lighting contactors with elastomeric isolator pads, to eliminate

structure- borne vibration, unless contactors are installed in an enclosure with factory-installed vibration isolators.

### 3.3 WIRING INSTALLATION

- A. Wiring Method: Comply with Division 16 Section "Conductors and Cables." Minimum conduit size shall be 1/2 inch.
- B. Wiring within Enclosures: Comply with NECA 1. Separate power-limited and nonpower-limited conductors according to conductor manufacturer's written instructions.
- C. Size conductors according to lighting control device manufacturer's written instructions, unless otherwise indicated.
- D. Splices, Taps, and Terminations: Make connections only on numbered terminal strips in junction, pull, and outlet boxes; terminal cabinets; and equipment enclosures.

### 3.4 IDENTIFICATION

- A. Identify components and power and control wiring according to Division 16 Section "Electrical Identification."
  - 1. Identify controlled circuits in lighting contactors.
  - 2. Identify circuits or luminaries controlled by photoelectric and occupancy sensors at each sensor.
- B. Label time switches and contactors with a unique designation.

### 3.5 FIELD QUALITY CONTROL

- A. Perform the following field tests and inspections and prepare test reports:
  - 1. After installing time switches and sensors, and after electrical circuitry has been energized, adjust and test for compliance with requirements.
  - 2. Operational Test: Verify operation of each lighting control device, and adjust time delays.
- B. Lighting control devices that fail tests and inspections are defective work.

### 3.6 ADJUSTING

- A. Occupancy Adjustments: When requested within 12 months of date of Substantial Completion, provide on-site assistance in adjusting sensors to suit occupied conditions. Provide up to two visits to Project during other-than-normal occupancy hours for this purpose.

### 3.7 DEMONSTRATION

- A. Engage a factory-authorized service representative to train District's maintenance personnel to adjust, operate, and maintain lighting control devices.

END OF SECTION 16145



## SECTION 16511 - INTERIOR LIGHTING

### PART 1 - GENERAL

#### 1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 16 Specification Sections, apply to this Section.

#### 1.2 SUMMARY

- A. This Section includes the following:
  - 1. LED retrofit kits.
  - 2. LED Tr
  - 3. LED lamp (replacement only)
  - 4. Emergency lighting units.
  - 5. Lighting fixture supports.

#### 1.3 DEFINITIONS

- A. CRI: Color-rendering index.
- B. CU: Coefficient of utilization.
- C. HID: High-intensity discharge.
- D. LER: Luminaire efficacy rating.
- E. Luminaire: Complete lighting fixture, including ballast housing if provided.
- F. RCR: Room cavity ratio.

#### 1.4 SUBMITTALS

- A. Product Data: For each type of lighting fixture, arranged in order of fixture designation. Include data on features, accessories, finishes, and the following:
  - 1. Physical description of lighting fixture including dimensions.
  - 2. Emergency lighting units including battery and charger.
  - 3. Ballast.
  - 4. Energy-efficiency data.
  - 5. Life, output, and energy-efficiency data for lamps.
  - 6. Photometric data, in IESNA format, based on laboratory tests of each lighting fixture type, outfitted with lamps, ballasts, and accessories identical to those indicated for the lighting fixture as applied in this Project. The following are acceptable:
    - a. For indicated fixtures, photometric data shall be certified by a qualified independent testing agency. Photometric data for remaining fixtures shall be certified by the manufacturer.
    - b. Photometric data shall be certified by a manufacturer's laboratory with a current accreditation under the National Voluntary Laboratory Accreditation Program (NVLAP) for Energy Efficient Lighting Products.

- B. Shop Drawings: Show details of nonstandard or custom lighting fixtures. Indicate dimensions, weights, methods of field assembly, components, features, and accessories.
  - 1. Wiring Diagrams: Lighting and control wiring.
- C. Coordination Drawings: Reflected ceiling plan(s) and other details, drawn to scale, on which the following items are shown and coordinated with each other, based on input from installers of the items involved:
  - 1. Lighting fixtures.
  - 2. Suspended ceiling components.
  - 3. Structural members to which suspension systems for lighting fixtures will be attached.
  - 4. Other items in finished ceiling including the following:
    - a. Air outlets and inlets.
    - b. Speakers.
    - c. Sprinklers.
    - d. Smoke and fire detectors.
    - e. Occupancy sensors.
    - f. Access panels.
  - 5. Perimeter moldings.
- D. Samples for Verification: Each sample shall include the following:
  - 1. Lamps: Specified units installed.
- E. Qualification Data: For agencies providing photometric data for lighting fixtures.
- F. Field quality-control test reports.
- G. Operation and Maintenance Data: For lighting equipment and fixtures to include in emergency, operation, and maintenance manuals.
- H. Warranties: As specified in this Section.

#### 1.5 QUALITY ASSURANCE

- A. Luminaire Photometric Data Testing Laboratory Qualifications: Provided by manufacturers' laboratories that are accredited under the National Volunteer Laboratory Accreditation Program for Energy Efficient Lighting Products.
- B. Electrical Components, Devices, and Accessories: Listed and labeled as defined in NFPA 70, Article 100, by a testing agency acceptable to authorities having jurisdiction, and marked for intended use.
- C. Comply with NFPA 70 and CEC for the current year 2015.
- D. FMG Compliance: Lighting fixtures for hazardous locations shall be listed and labeled for indicated class and division of hazard by FMG.
- E. Mockups: Provide interior lighting fixtures for room or module mockups, complete with power and control connections.
  - 1. Obtain Architect's approval of fixtures for mockups before starting installations.

2. Maintain mockups during construction in an undisturbed condition as a standard for judging the completed Work.
3. Approved fixtures in mockups may become part of the completed Work if undisturbed at time of Substantial Completion.

F. All lighting fixtures shall be UL approved.

#### 1.6 COORDINATION

- A. Coordinate layout and installation of lighting fixtures and suspension system with other construction that penetrates ceilings or is supported by them, including HVAC equipment, fire-suppression system, and partition assemblies.

#### 1.7 WARRANTY

- A. Warranty Period for LED Retrofit Kit:

1. Warranty Period: Five years from date of Substantial Completion. Full warranty shall apply to all components of the retrofit kit, including LED board, lamp, and nonelectrical components.

- B. Warranty for T8 LED Lamps (replacement only): Manufacturer's standard form, made out to District and signed by lamp manufacturer agreeing to replace lamps that fail in materials or workmanship, f.o.b. the nearest shipping point to Project site, within specified warranty period indicated below.

1. Warranty Period: Five years from date of Substantial Completion.

#### 1.8 EXTRA MATERIALS

- A. Furnish extra materials described below that match products installed and that are packaged with protective covering for storage and identified with labels describing contents.

1. Lamps: 10 for every 100 of each type and rating installed. Furnish at least one of each type.
2. Battery and Charger Data: 1 for each emergency lighting unit.
3. Globes and Guards: 1 for every 20 of each type and rating installed. Furnish at least one of each type.

### PART 2 - PRODUCTS

#### 2.1 LED Troffers

- A. Available Manufacturers: Subject to compliance with requirements, manufacturers offering products that may be incorporated into the Work include, but are not limited to, the following:

1. E Tech-Volumetric Series
2. Or approved equal.

- B. Construction: Galvanized steel and powder coated after fabrication.

- C. Color: White.

- D. Minimum depth: 3 inches.

- E. CRI: >80.

- F. Light bar: Single.
- G. Lamp: LED T8.
- H. Driver: International.
- I. Size: 2 feet x 4 feet and 2 feet x 2 feet.

## 2.2 LED LAMPS (REPLACEMENT ONLY)

### A. Lamp Type:

1. Available Manufacturers: Subject to compliance with requirements, manufacturers offering products that may be incorporated into the Work include, but are not limited to, the following:
  - a. Espen Retroflex.
  - b. GE Lighting
  - c. Philips.
  - d. Or approved equal.
2. Driver: Internal.
3. Length: 48 inches.
4. Lamp Shape: T8.
5. Grade: Commercial
6. Voltage: 120 - 277.
7. Initial Lumens: 1800.
8. CRI: > 80.
9. Color temperature (K): 4,000k.

## 2.3 EMERGENCY LIGHTING UNITS

### A. Description: Self-contained units complying with UL 924.

1. Battery: Sealed, maintenance-free, lead-acid type.
2. Charger: Fully automatic, solid-state type with sealed transfer relay.
3. Operation: Relay automatically turns lamp on when power supply circuit voltage drops to 80 percent of nominal voltage or below. Lamp automatically disconnects from battery when voltage approaches deep-discharge level. When normal voltage is restored, relay disconnects lamps from battery, and battery is automatically recharged and floated on charger.
4. Test Push Button: Push-to-test type, in unit housing, simulates loss of normal power and demonstrates unit operability.
5. LED Indicator Light: Indicates normal power on. Normal glow indicates trickle charge; bright glow indicates charging at end of discharge cycle.
6. Wire Guard: Heavy-chrome-plated wire guard protects lamp heads or fixtures.
7. Integral Time-Delay Relay: Holds unit on for fixed interval of 10 minutes when power is restored after an outage.
8. Remote Test: Switch in hand-held remote device aimed in direction of tested unit initiates coded infrared signal. Signal reception by factory-installed infrared receiver in tested unit triggers simulation of loss of its normal power supply, providing visual confirmation of either proper or failed emergency response.
9. Integral Self-Test: Factory-installed electronic device automatically initiates code-required test of unit emergency operation at required intervals. Test failure is annunciated by an integral audible alarm and flashing red LED.

## 2.4 LIGHTING FIXTURE SUPPORT COMPONENTS

- A. Single-Stem Hangers: 1/2-inch steel tubing with swivel ball fittings and ceiling canopy.

Finish same as fixture.

- B. Twin-Stem Hangers: four, 1/2-inch steel tubes with single canopy designed to mount a single fixture. Finish same as fixture.
- C. Wires: ASTM A 641/A 641M, Class 3, soft temper, zinc-coated steel, 12 gage.
- D. Wires for Humid Spaces: ASTM A 580/A 580M, Composition 302 or 304, annealed stainless steel, 12 gage.
- E. Rod Hangers: 3/16-inch minimum diameter, cadmium-plated, threaded steel rod.
- F. Hook Hangers: Integrated assembly matched to fixture and line voltage and equipped with threaded attachment, cord, and locking-type plug.

### PART 3 - EXECUTION

#### 3.1 INSTALLATION

- A. Lighting fixtures: Set level, plumb, and square with ceilings and walls. Install lamps in each fixture.
- B. Support for Lighting Fixtures in or on Grid-Type Suspended Ceilings: Use grid as a support element.
  - 1. Install a minimum of two ceiling support system rods or wires for each fixture. Locate not more than 6 inches from lighting fixture corners.
  - 2. Support Clips: Fasten to lighting fixtures and to ceiling grid members at or near each fixture corner with clips that are UL listed for the application.
  - 3. Fixtures of Sizes Less Than Ceiling Grid: Install as indicated on reflected ceiling plans or center in acoustical panel, and support fixtures independently with at least two 3/4-inch metal channels spanning and secured to ceiling tees.
  - 4. Install at least one independent support rod or wire from structure to a tab on lighting fixture. Wire or rod shall have breaking strength of the weight of fixture at a safety factor of 3.
  - 5. Install at least one seismic wire support (at 45 degrees) for each light fixture.
- C. Suspended Lighting Fixture Support:
  - 1. Pendants and Rods: Where longer than 48 inches, brace to limit swinging.
  - 2. Stem-Mounted, Single-Unit Fixtures: Suspend with twin-stem hangers.
  - 3. Continuous Rows: Use tubing or stem for wiring at one point and tubing or rod for suspension for each unit length of fixture chassis, including one at each end.
- D. Adjust aimable lighting fixtures to provide required light intensities.

#### 3.2 FIELD QUALITY CONTROL

- A. Test for Emergency Lighting: Interrupt power supply to demonstrate proper operation. Verify transfer from normal power to battery and retransfer to normal.
- B. Prepare a written report of tests, inspections, observations, and verifications indicating and interpreting results. If adjustments are made to lighting system, retest to demonstrate compliance with standards.

END OF SECTION 16511

## SECTION 16521 - EXTERIOR LIGHTING

### PART 1 - GENERAL

#### 1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 1 Specification Sections, apply to this Section.

#### 1.2 SUMMARY

- A. This Section includes the following:
  - 1. Exterior luminaires with lamps and ballasts.

#### 1.3 DEFINITIONS

- A. CRI: Color-rendering index.
- B. HID: High-intensity discharge.
- C. Luminaire: Complete lighting fixture, including ballast housing if provided.

#### 1.4 SUBMITTALS

- A. Product Data: For each luminaire and support component, arranged in order of lighting unit designation. Include data on features, accessories, finishes, and the following:
  - 1. Physical description of luminaire, including materials, dimensions, effective projected area, and verification of indicated parameters.
  - 2. Details of attaching luminaires and accessories.
  - 3. Details of installation and construction.
  - 4. Luminaire materials.
  - 5. Photometric data based on laboratory tests of each luminaire type, complete with indicated lamps, ballasts, and accessories.
    - a. For indicated luminaires, photometric data shall be certified by a qualified independent testing agency. Photometric data for remaining luminaires shall be certified by manufacturer.
    - b. Photometric data shall be certified by manufacturer's laboratory with a current accreditation under the National Voluntary Laboratory Accreditation Program for Energy Efficient Lighting Products.
  - 6. Photoelectric relays.
  - 7. Ballasts, including energy-efficiency data.
  - 8. Lamps, including life, output, and energy-efficiency data.
  - 9. Materials, dimensions, and finishes of poles.
  - 10. Means of attaching luminaires to supports, and indication that attachment is suitable for components involved.
- B. Samples for Verification: For products designated for sample submission in Exterior Lighting Device Schedule. Each sample shall include lamps and ballasts.
- C. Qualification Data: For agencies providing photometric data for lighting fixtures.
- D. Field quality-control test reports.
- E. Operation and Maintenance Data: For luminaires to include in emergency, operation, and

maintenance manuals.

F. Warranty: As specified in this Section.

## 1.5 QUALITY ASSURANCE

A. Luminaire Photometric Data Testing Laboratory Qualifications. The following are acceptable:

1. Luminaire Photometric Data Testing Laboratory Qualifications: Provided by manufacturers' laboratories that are accredited under the National Volunteer Laboratory Accreditation Program for Energy Efficient Lighting Products.
2. Luminaire Photometric Data Testing Laboratory Qualifications: Provided by an independent agency, with the experience and capability to conduct the testing indicated, that is an NRTL as defined by OSHA in 29 CFR 1910.7.

B. Electrical Components, Devices, and Accessories: Listed and labeled as defined in NFPA 70, Article 100, by a testing agency acceptable to authorities having jurisdiction, and marked for intended use.

C. Comply with IEEE C2, "National Electrical Safety Code."

D. Comply with NFPA 70.

## 1.6 WARRANTY

A. Special Warranty: Manufacturer's standard form in which manufacturer agrees to repair or replace products that fail in materials or workmanship; that corrode; or that fade, stain, perforate, erode, or chalk due to effects of weather or solar radiation within specified warranty period. Manufacturer may exclude lightning damage, hail damage, vandalism, abuse, or unauthorized repairs or alterations from special warranty coverage.

1. Warranty Period for Luminaires: Five years from date of Substantial Completion.

## 1.7 EXTRA MATERIALS

A. Furnish extra materials described below that match products installed and that are packaged with protective covering for storage and identified with labels describing contents.

1. Lamps: 3 for every 100 of each type and rating installed. Furnish at least one of each type.
2. Glass and Plastic Lenses, Covers, and Other Optical Parts: 3 for every 100 of each type and rating installed. Furnish at least one of each type.
3. Globes and Guards: 1 for every 20 of each type and rating installed. Furnish at least one of each type.

## PART 2 - PRODUCTS

### 2.1 REQUIREMENTS FOR INDIVIDUAL EXTERIOR LIGHTING DEVICES

A. Exterior Lighting Device Type Wall Mount:

1. Available Manufacturers: Subject to compliance with requirements, manufacturers offering products that may be incorporated into the Work include, but are not limited to, the following:
  - a. Philips.
  - b. RAB Lighting
  - c. Or approved equal.



2. Voltage: 120 / 277 -V ac; Design/Builder to field verify.
3. Lamps: LED.
4. Ballast Types and Features: Driver.
5. Photoelectric Control: Integrally mounted.
6. Watts: 90.
7. Color Temperature (K): 4,000.
8. Finish: To be determined by District.
9. Optics: Coordinate with District and per As-built conditions.

B. Exterior Lighting Device Type 16 inch Area Light:

1. Available Manufacturers: Subject to compliance with requirements, manufacturers offering products that may be incorporated into the Work include, but are not limited to, the following:
  - a. Philips.
  - b. RAB Lighting
  - c. Or approved equal.
2. Voltage: 120 / 277 -V ac; Design/Builder to field verify.
3. Lamps: LED.
4. Ballast Types and Features: Driver.
5. Photoelectric Control: Integrally mounted.
6. Watts: 120.
7. Color Temperature (K): 4,000.
8. Finish: To be determined by District.
9. Optics: Coordinate with District and per As-built conditions.

C. Exterior Lighting Device Type 6 inch Downlight:

1. Available Manufacturers: Subject to compliance with requirements, manufacturers offering products that may be incorporated into the Work include, but are not limited to, the following:
  - a. Philips.
  - b. Lithonia.
  - c. Or approved equal.
2. Voltage: 120 -V ac. Design/Builder to field verify.
3. Lamps: LED.
4. Ballast Types and Features: Driver.
5. Photoelectric Control: Integrally mounted.
6. Watts: 18.
7. Color Temperature (K): 4,000.

### PART 3 - EXECUTION

#### 3.1 LUMINAIRE INSTALLATION

- A. Install lamps in each luminaire.
- B. Fasten luminaire to indicate structural supports.
  1. Use fastening methods and materials selected to resist seismic forces defined for the application and approved by manufacturer.
- C. Adjust luminaires that require field adjustment or aiming. Include adjustment of photoelectric device to prevent false operation of relay by artificial light sources.

### 3.2 FIELD QUALITY CONTROL

- A. Inspect each installed fixture for damage. Replace damaged fixtures and components.
- B. Illumination Observations: Verify normal operation of lighting units after installing luminaires and energizing circuits with normal power source.
  - 1. Verify operation of photoelectric controls.
- C. Illumination Tests:
  - 1. Measure light intensities at night. Use photometers with calibration referenced to NIST standards. Comply with the following IESNA testing guide(s):
    - a. IESNA LM-5, "Photometric Measurements of Area and Sports Lighting."
    - b. IESNA LM-50, "Photometric Measurements of Roadway Lighting Installations."
    - c. IESNA LM-64, "Photometric Measurements of Parking Areas."
    - d. IESNA LM-72, "Directional Positioning of Photometric Data."
- D. Prepare a written report of tests, inspections, observations, and verifications indicating and interpreting results. If adjustments are made to lighting system, retest to demonstrate compliance with standards.

### 3.3 DEMONSTRATION

- A. Engage a factory-authorized service representative to train District's maintenance personnel to adjust, operate, and maintain luminaire lowering devices.

END OF SECTION 16521

Exhibit B  
General Terms and Conditions  
Documents 00 70 00 & 00 71 00

**DOCUMENT 00 70 00**

<b>1. <u>CONTRACT TERMS AND DEFINITIONS</u></b>	<b>1</b>
1.1. <u>Definitions</u>	1
1.2. <u>Laws Concerning the Contract</u>	4
1.3. <u>No Oral Agreements</u>	4
1.4. <u>No Assignment</u>	5
1.5. <u>Confidentiality</u>	5
1.6. <u>Notice And Service Thereof</u>	5
1.7. <u>No Waiver</u>	5
1.8. <u>Substitutions for Specified Items</u>	5
1.9. <u>Materials and Work</u>	6
<b>2. <u>DISTRICT</u></b>	<b>7</b>
<b>3. <u>ARCHITECT</u></b>	<b>7</b>
<b>4. <u>CONSTRUCTION MANAGER</u></b>	<b>8</b>
<b>5. <u>INSPECTOR, INSPECTIONS AND TESTS</u></b>	<b>8</b>
5.1. <u>Project Inspector</u>	8
5.2. <u>Tests and Inspections</u>	9
5.3. <u>Costs for After Hours and/or Off Site Inspections</u>	9
<b>6. <u>DESIGN-BUILDER</u></b>	<b>10</b>
6.1. <u>Status of Design-Builder</u>	10
6.2. <u>Design-Builder's Supervision</u>	10
6.3. <u>Duty to Provide Fit Workers</u>	11
6.4. <u>Personnel</u>	12
6.5. <u>Prohibition on Harassment</u>	12

6.6.	<u>Conferences and Meetings</u> .....	13
6.7.	<u>Purchase of Materials and Equipment</u> .....	14
6.8.	<u>Documents on Work</u> .....	15
6.9.	<u>Preservation of Records</u> .....	16
6.10.	<u>Integration of Work</u> .....	17
6.11.	<u>Obtaining of Permits and Licenses</u> .....	18
6.12.	<u>Work to Comply with Applicable Laws and Regulations</u> .....	18
6.13.	<u>Safety/Protection of Persons and Property</u> .....	19
6.14.	<u>Working Evenings and Weekends</u> .....	21
6.15.	<u>Noise and Dust Control</u> .....	21
6.16.	<u>Cleaning Up</u> .....	22
7.	<u>SUBCONTRACTORS</u> .....	22
8.	<u>OTHER CONTRACTS/DESIGN-BUILDERS</u> .....	23
9.	<u>DRAWINGS AND SPECIFICATIONS</u> .....	24
9.8.	<u>Ownership of Drawings</u> .....	25
10.	<u>DESIGN-BUILDER'S SUBMITTALS AND SCHEDULES</u> .....	25
10.1.	<u>Schedules, Safety Plan and Complete Subcontractor List</u> .....	25
10.2.	<u>Monthly Progress Schedule(s)</u> .....	28
10.3.	<u>Material Safety Data Sheets (MSDS)</u> .....	28
10.4.	<u>Logistic Plan</u> .....	28
10.5.	<u>Information Included in Submittals</u> .....	29
10.6.	<u>Verification of Submittal Information</u> .....	29
10.7.	<u>Design-Builder Responsibility for Deviations</u> .....	29
10.8.	<u>No Performance of Work Without Architect Review</u> .....	29
10.9.	<u>District and Architect Review of Submittals</u> .....	29
10.10.	<u>Deferred Approval Items</u> .....	30
10.11.	<u>Design-Builder Responsibility for Deviations</u> .....	30

<b>11. <u>SITE ACCESS, CONDITIONS AND REQUIREMENTS</u></b>	<b>30</b>
11.1. <u>Site Investigation</u>	30
11.2. <u>Soils Investigation Report</u>	30
11.3. <u>Access to Work</u>	31
11.4. <u>Layout and Field Engineering</u>	31
11.5. <u>Utilities for Construction</u>	31
11.6. <u>Sanitary Facilities</u>	31
11.7. <u>Surveys</u>	31
11.8. <u>Regional Notification Center</u>	31
11.9. <u>Existing Utility Lines</u>	32
11.10. <u>Notification</u>	32
11.11. <u>Hazardous Materials</u>	32
11.12. <u>No Signs</u>	32
<b>12. <u>TRENCHES</u></b>	<b>33</b>
12.1. <u>Trenches Greater Than Five Feet</u>	33
12.2. <u>Excavation Safety</u>	33
12.3. <u>No Tort Liability of District</u>	33
12.4. <u>No Excavation without Permits</u>	33
12.5. <u>Discovery of Hazardous Waste, Unusual Conditions and/or Unforeseen Conditions</u>	33
<b>13. <u>INSURANCE AND BONDS</u></b>	<b>34</b>
13.1. <u>Insurance</u>	34
13.2. <u>Contract Security – Bonds</u>	37
<b>14. <u>WARRANTY/GUARANTEE/INDEMNITY</u></b>	<b>37</b>
14.1. <u>Warranty/Guarantee</u>	37
14.2. <u>Indemnity</u>	38
<b>15. <u>TIME</u></b>	<b>39</b>
15.1. <u>Notice to Proceed</u>	39

15.2.	<u>Hours of Work</u> .....	39
15.3.	<u>Progress and Completion</u> .....	39
15.4.	<u>Schedule</u> .....	39
15.5.	<u>Expeditious Completion</u> .....	39
16.	<u>EXTENSIONS OF TIME – LIQUIDATED DAMAGES</u> .....	40
16.1.	<u>Design-Builder’s Notice of Delay</u> .....	40
16.2.	<u>Excusable and Compensable Delay(s)</u> .....	41
16.3.	<u>Excusable and Non-Compensable Delay(s)</u> .....	42
16.4.	<u>Unexcused Delay(s) – Liquidated Damages</u> .....	43
17.	<u>CHANGES IN THE WORK</u> .....	43
17.1.	<u>No Changes Without Authorization</u> .....	43
17.2.	<u>Architect Authority</u> .....	45
17.3.	<u>Change Orders</u> .....	45
17.4.	<u>Unilateral Change Orders</u> .....	45
17.5.	<u>Force Account Directives</u> .....	46
17.6.	<u>Price Request</u> .....	47
17.7.	<u>Proposed Change Order</u> .....	47
17.8.	<u>Format for Proposed Change</u> .....	48
17.9.	<u>Change Order Certification</u> .....	52
17.10.	<u>Determination of Change Order Cost</u> .....	53
17.11.	<u>Deductive Change Orders</u> .....	53
17.12.	<u>Discounts, Rebates and Refunds</u> .....	53
17.13.	<u>Accounting Records</u> .....	54
17.14.	<u>Notice Required</u> .....	54
17.15.	<u>Applicability to Subcontractors</u> .....	54
17.16.	<u>Alteration to Change Order Language</u> .....	54
17.17.	<u>Failure of Design-Builder to Execute Change Order</u> .....	54
18.	<u>REQUEST FOR INFORMATION</u> .....	54

19.	<u>PAYMENTS</u> .....	55
19.1.	<u>Contract Price</u> .....	55
19.2.	<u>Applications for Progress Payments</u> .....	55
19.3.	<u>Progress Payments</u> .....	58
19.4.	<u>Decisions to Withhold Payment</u> .....	60
19.5.	<u>Subcontractor Payments</u> .....	62
20.	<u>COMPLETION OF THE WORK</u> .....	62
20.1.	<u>Completion</u> .....	62
20.2.	<u>Closeout Procedures</u> .....	63
20.3.	<u>Final Inspection</u> .....	63
20.4.	<u>Costs of Multiple Inspections</u> .....	64
20.5.	<u>Partial Occupancy or Use Prior to Completion</u> .....	65
21.	<u>FINAL PAYMENT AND RETENTION</u> .....	65
21.1.	<u>Final Payment</u> .....	65
21.2.	<u>Prerequisites for Final Payment</u> .....	65
21.3.	<u>Retention</u> .....	66
21.4.	<u>Substitution of Securities</u> .....	66
21.5.	<u>Claims Asserted After Final Payment</u> .....	66
22.	<u>UNCOVERING WORK, CORRECTION OF WORK AND RIGHT TO TAKEOVER WORK</u> .....	67
22.1.	<u>Uncovering of Work</u> .....	67
22.2.	<u>Rejection of Work</u> .....	67
22.3.	<u>Nonconforming Work</u> .....	67
22.4.	<u>Correction of Work</u> .....	67
22.5.	<u>District's Right to Takeover Work</u> .....	68
23.	<u>TERMINATION AND SUSPENSION</u> .....	68
23.1.	<u>District's Right to Terminate Design-Builder for Cause</u> .....	68
23.2.	<u>Emergency Termination of Public Contracts Act of 1949</u> .....	71

23.3.	<u>Termination of Design-Builder for Convenience</u> .....	71
23.4.	<u>Suspension of Work</u> .....	72
23.5.	<u>Scope Reduction</u> .....	72
24.	<u>CLAIMS RESOLUTION</u> .....	72
24.1.	<u>Exclusive Remedy</u> .....	72
24.2.	<u>Subcontractors</u> .....	72
24.3.	<u>Performance during Claim Resolution Process</u> .....	73
24.4.	<u>Waiver</u> .....	73
24.5.	<u>Other Provisions</u> .....	73
24.6.	<u>Claim Presentation</u> .....	73
24.12.	<u>Documentation of Resolution</u> .....	76
24.13.	<u>Claim Resolution Process – Non-Applicability</u> .....	76
25.	<u>LABOR, WAGE &amp; HOUR, APPRENTICE AND RELATED PROVISIONS</u> .....	76
25.1.	<u>Design-Builder &amp; Subcontractor Registration</u> .....	76
25.2.	<u>Wage Rates, Travel and Subsistence</u> .....	77
25.3.	<u>Hours of Work</u> .....	78
25.4.	<u>Payroll Records</u> .....	79
25.5.	<u>Apprentices</u> .....	80
25.6.	<u>Non-Discrimination</u> .....	81
25.7.	<u>Labor First Aid</u> .....	82
26.	<u>MISCELLANEOUS</u> .....	82
26.1.	<u>Assignment of Antitrust Actions</u> .....	82
26.2.	<u>Excise Taxes</u> .....	83
26.3.	<u>Taxes</u> .....	83
26.4.	<u>Shipments</u> .....	83
26.5.	<u>Compliance with Government Reporting Requirements</u> .....	83



DOCUMENT 00 70 00

**GENERAL CONDITIONS**

**1. CONTRACT TERMS AND DEFINITIONS**

**1.1. Definitions**

Wherever used in the Contract Documents, the following terms shall have the meanings indicated, which shall be applicable to both the singular and plural thereof:

- 1.1.1. **Adverse Weather:** Weather that satisfies all of the following conditions: (1) unusually severe precipitation, sleet, snow, hail, heat, or cold conditions in excess of the norm for the location and time of year it occurred, (2) unanticipated, and (3) occurring at the Project Site.
- 1.1.2. **Allowance(s):** Amount(s) stated in the Agreement for specific scopes of work for which Design-Builder may bill its time, materials, and other items in the identical structure as a Change Order.
- 1.1.3. **Approval, Approved, and/or Accepted:** Refer to written authorization, unless stated otherwise.
- 1.1.4. **Architect:** The individual, partnership, corporation, joint venture, or any combination thereof, named as Architect that has the rights and authority assigned to the Architect in the Contract Documents. The term Architect means the District's Architect on this Project or the Architect's authorized representative. If there is no Architect for the Project, then all references to "Architect" shall mean "District".
- 1.1.5. **As-Built Drawings:** A reproducible full-size sets of drawings to be prepared on a monthly basis, and upon Project Completion, pursuant to the Contract Documents, that reflect changes made during the performance of the Work, recording differences between the original design of the Work and the Work as constructed since the preceding monthly submittal.
- 1.1.6. **Bidder:** A contractor who intends to provide a bid to the District to perform the Work of the Contract.
- 1.1.7. **Change Order:** A written order to the Design-Builder authorizing an addition to, deletion from, or revision in the Work, and/or authorizing an adjustment in the Contract Price or Contract Time. If a Change Order is required to be approved by DSA, the District may call it a Construction Change Document.
- 1.1.8. **Claim:** A claim is a written demand by Design-Builder (or by Design-Builder on behalf of a Subcontractor) that the Design-Builder must submit by **registered mail or certified mail return receipt requested** for:
  - 1.1.8.1. An extension to the Contract Time, including relief from damages or penalties assessed by the District for delay;
  - 1.1.8.2. Payment of money or damages arising from work done by, or on behalf of, the Design-Builder pursuant to the Contract and payment that is not otherwise expressly provided for in the Contract Documents or the Design-Builder is not otherwise entitled; or
  - 1.1.8.3. Payment that is disputed by the District.

- 1.1.9. Completion:** When the entire Work shall have been completed to the satisfaction of District, including all punch list items. Final DSA approval of the Project is not required for Completion.
- 1.1.10. Construction Change Directive:** A written order prepared and issued by the District, the Construction Manager, and/or the Architect and signed by the District and the Architect, directing a change in the Work. A **Construction Change Directive** is NOT a **Construction Change Document** (which is defined above as a Change Order that DSA must approve).
- 1.1.11. Construction Manager:** The individual, partnership, corporation, joint venture, or any combination thereof, or its authorized representative, named as such by the District. If no Construction Manager is used on the Project, then all references in the Contract Documents to Construction Manager shall be read to refer to District and/or its designated representative or as otherwise indicated by the District.
- 1.1.12. Construction Schedule:** The progress schedule of construction of the Project as provided by Design-Builder and approved by District.
- 1.1.13. Contract, Contract Documents:** The Contract consists exclusively of the documents evidencing the agreement of the District and Design-Builder, identified as the Contract Documents.
- 1.1.14. Contract Price:** The total monies payable to the Design-Builder under the terms and conditions of the Contract Documents.
- 1.1.15. Contract Time:** The time period stated in the Agreement for the Completion of the Work.
- 1.1.16. Design-Builder:** The person or persons identified in the Agreement as contracting to perform the Work, or the legal representative of such person(s).
- 1.1.17. Daily Job Report(s):** Daily Project reports prepared by the Design-Builder's employee(s) who are present on Site, which shall include the information required herein.
- 1.1.18. Day(s):** Unless otherwise designated, day(s) means calendar day(s). "**Business Days**" shall mean days except Saturday, Sunday, a day that is federally-recognized holiday, or a day that is a California-recognized holiday.
- 1.1.19. Defective or Nonconforming Work.** Defective or nonconforming 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; (c) not being in compliance with the requirements of any inspection, reference, standard, test, or approval required by the Contract Documents; or (d) damage to Work occurring prior to Completion.
- 1.1.20. District:** The public agency or the school district for which the Work is performed.
- 1.1.21. Drawings:** (or "Plans") The graphic and pictorial portions of the Contract Documents showing the design, location, scope and dimensions of the Work, generally including plans, elevations, sections, details, schedules, sequence of operation, and diagrams.
- 1.1.22. DSA:** Division of the State Architect.
- 1.1.23. Force Account Directive:** A process that may be used when the District and the Design-Builder cannot agree on a price for a specific scope of work or before Design-Builder prepares a price for the scope of work, Design-Builder performs on a time and materials

basis.

- 1.1.24. Premises:** The real property owned by the District on which the Project Site(s) is located.
- 1.1.25. Product(s):** New material, machinery, components, equipment, fixtures and systems forming the Work, including existing materials or components required and approved by the District for reuse.
- 1.1.26. Product Data:** Illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by Design-Builder to illustrate a material, product, or system for a scope of the Work.
- 1.1.27. Project:** The planned undertaking as provided for in the Contract Documents.
- 1.1.28. Project Inspector:** (or "Inspector") Individual(s) retained by the District in accordance with title 24 of the California Code of Regulations to monitor and inspect the Project, as applicable.
- 1.1.29. Project Labor Agreement (or "PLA"):** The agreement entered into between District and the applicable trade union organization(s) and local union(s) plus the forms and procedures contained therein.
- 1.1.30. Program Manager:** The individual, partnership, corporation, joint venture, or any combination thereof, or its authorized representative, named as such by the District. If no Program Manager is designated for the Project then all references to Program Manager shall refer to District and/or its designated representative or as otherwise indicated by the District.
- 1.1.31. Proposed Change Order:** A written request prepared by the Design-Builder requesting that the District and the Architect issue a Change Order based upon a proposed change to the Work.
- 1.1.32. Provide:** Shall include "provide complete in place," that is, "furnish and install," and "provide complete and functioning as intended in place" unless specifically stated otherwise.
- 1.1.33. Request for Information:** (or "RFI") A written request prepared by the Design-Builder requesting that the Architect provide additional information necessary to clarify or amplify an item in the Contract Documents that the Design-Builder believes is not clearly shown or called for in the Drawings or Specifications or other portions of the Contract Documents, or to address issues that have arisen under field conditions.
- 1.1.34. Request for Substitution:** A request by Design-Builder to substitute an equal or superior material, product, thing, or service for a specific material, product, thing, or service that has been designated in the Contract Documents by a specific brand or trade name.
- 1.1.35. Safety Orders:** Written and/or verbal orders for construction issued by the California Division of Industrial Safety ("CalOSHA") or by the United States Occupational Safety and Health Administration ("OSHA").
- 1.1.36. Safety Plan:** Design-Builder's safety plan specifically adapted for the Project. Design-Builder's Safety Plan shall comply with all provisions regarding Project safety, including all applicable provisions in these General Conditions.
- 1.1.37. Samples:** Physical examples that illustrate materials, products, equipment, finishes,

colors, or workmanship and that, when approved in accordance with the Contract Documents, establish standards by which portions of the Work will be judged.

- 1.1.38. Shop Drawings:** All drawings, prints, diagrams, illustrations, brochures, schedules, and other data that are prepared by the Design-Builder, a subcontractor, manufacturer, supplier, or distributor, that illustrate how specific portions of the Work shall be fabricated or installed.
- 1.1.39. Site:** The Project site(s) as shown on the Drawings.
- 1.1.40. Specifications:** That portion of the Contract Documents, Division 1 through Division 17, and all technical sections, and addenda to all of these, if any, consisting of written descriptions and requirements of a technical nature of materials, equipment, construction methods and systems, standards, and workmanship.
- 1.1.41. Subcontractor:** A contractor and/or supplier who is under contract with the Design-Builder or with any other subcontractor, regardless of tier, to perform a portion of the Work.
- 1.1.42. Submittal Schedule:** The schedule of submittals as provided by Design-Builder and approved by District.
- 1.1.43. Surety:** The person, firm, or corporation that executes as surety the Design-Builder's Performance Bond and Payment Bond, and must be a California admitted surety insurer as defined in the Code of Civil Procedure section 995.120.
- 1.1.44. SWPPP:** The District's Storm Water Pollution Prevention Plan.
- 1.1.45. 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 District. 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.
- 1.1.46. Unilateral Change Order:** A written order prepared and issued by the District, the Construction Manager, and/or the Architect and signed by the District and the Architect, directing a change in the Work. A **Unilateral Change Order is NOT a Construction Change Document** (which is defined above as a Change Order that DSA must approve).
- 1.1.47. Work:** All labor, materials, equipment, components, appliances, supervision, coordination, and services required by, or reasonably inferred from, the Contract Documents, that are necessary for the construction and Completion of the Project.

## **1.2. Laws Concerning the Contract**

Contract is subject to all provisions of the Constitution and laws of California and the United States, governing, controlling, or affecting District, or the property, funds, operations, or powers of District, and such provisions are by this reference made a part hereof. Any provision required by law to be included in this Contract shall be deemed to be inserted.

## **1.3. No Oral Agreements**

No oral agreement or conversation with any officer, agent, or employee of District, either before or after execution of Contract, shall affect or modify any of the terms or obligations contained in the Contract Documents.

**1.4. No Assignment**

Design-Builder shall not assign the Contract or any part thereof including, without limitation, any services or money to become due without the prior written consent of the District. Assignment without District's prior written consent shall be null and void. Any assignment of money due or to be come due under the Contract shall be subject to a prior lien for services rendered or material supplied for Work performed in favor of all persons, firms, or corporations rendering services or supplying material to the extent that claims are filed pursuant to the Civil Code, Code of Civil Procedure, Government Code, Labor Code, and/or Public Contract Code, and shall also be subject to deductions for Liquidated Damages or withholding of payments as determined by District in accordance with the Contract. Design-Builder shall not assign or transfer in any manner to a Subcontractor or supplier the right to prosecute or maintain an action against the District.

**1.5. Confidentiality**

Design-Builder shall maintain the confidentiality of all information, documents, programs, procedures and all other items that Design-Builder encounters while performing the Work. This requirement shall be ongoing and shall survive the expiration or termination of the Contract and specifically includes, without limitation, all student, parent, and employee disciplinary information and health information.

**1.6. Notice And Service Thereof**

**1.6.1.** Any notice required by the Contract shall be in writing, dated and signed by the party giving notice or by a duly authorized representative of that party. Notice shall be served and considered effective if given in one of the following manners:

**1.6.1.1.** By personal delivery; considered delivered on the day of delivery.

**1.6.1.2.** By overnight delivery service; considered delivered one (1) day after date deposited, as indicated by the delivery service.

**1.6.1.3.** By depositing same in United States mail, enclosed in a sealed envelope; considered delivered three (3) days after date deposited, as indicated by the postmarked date.

**1.6.1.4.** By registered or certified mail with postage prepaid, return receipt requested; considered delivered on the day the notice is signed for.

**1.7. No Waiver**

The failure of District in any one or more instances to insist upon strict performance of any term of the Contract or to exercise any District option shall not be construed as a waiver or relinquishment of the right to assert or rely upon any such term or option on a future occasion. No action or failure to act by the District, Architect, or Construction Manager shall constitute a waiver of any right or duty afforded the District under the Contract, nor shall any action or failure to act constitute an approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing.

**1.8. Substitutions for Specified Items**

See Special Conditions.

**1.9. Materials and Work**

- 1.9.1. Except as otherwise stated in the Contract, Design-Builder shall provide and pay for all materials, labor, tools, equipment, transportation, supervision, temporary constructions of every nature, and all other services, management, and facilities of every nature whatsoever necessary to execute and complete the Contract within the Contract Time.
- 1.9.2. Unless otherwise specified, all materials shall be new and the best of their respective kinds and grades as noted or specified, and workmanship shall be of good quality.
- 1.9.3. Materials shall be furnished in sufficient quantities and at such times as to insure uninterrupted progress of Work and shall be stored properly and protected as required.
- 1.9.4. For all materials and equipment specified or indicated in the Drawings, the Design-Builder shall provide all labor, materials, equipment, and services necessary for complete assemblies and complete working systems, functioning as intended. Incidental items not indicated on Drawings, nor mentioned in the Specifications, that can legitimately and reasonably be inferred to belong to the Work described, or be necessary in good practice to provide a complete assembly or system, shall be furnished as though itemized here in every detail. In all instances, material and equipment shall be installed in strict accordance with each manufacturer's most recent published recommendations and specifications.
- 1.9.5. Design-Builder shall, after award of Contract by District and after relevant submittals have been approved, place orders for materials and/or equipment as specified so that delivery of same may be made without delays to the Work. Design-Builder shall, upon demand from District, present documentary evidence showing that orders have been placed.
- 1.9.6. District reserves the right but has no obligation, for any neglect in complying with the above instructions, to place orders for such materials and/or equipment as it may deem advisable in order that the Work may be completed at the date specified in the Agreement, and all expenses incidental to the procuring of said materials and/or equipment shall be paid for by Design-Builder or withheld from payment(s) to Design-Builder.
- 1.9.7. Design-Builder 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 to District, together with all improvements and appurtenances constructed or placed thereon by it, and free from any claims, liens, or charges. Design-Builder further agrees that neither it nor any person, firm, or corporation furnishing any materials or labor for any Work shall have any right to lien any portion of the Premises or any improvement or appurtenance thereon, except that Design-Builder may install metering devices or other equipment of utility companies or of political subdivision, title to which is commonly retained by utility company or political subdivision. In the event of installation of any such metering device or equipment, Design-Builder shall advise District as to owner thereof.
- 1.9.8. Nothing contained in this Article, however, shall defeat or impair the rights of persons furnishing materials or labor under any bond given by Design-Builder for their protection or any rights under law permitting such protection or any rights under law permitting such persons to look to funds due Design-Builder in hands of District (e.g., stop payment notices). This provision shall be inserted in all subcontracts and material contracts and notice of its provisions shall be given to all persons furnishing material for work when no formal contract is entered into for such material.
- 1.9.9. Title to new materials and/or equipment for the Work and attendant liability for its

protection and safety shall remain with Design-Builder until incorporated in the Work of this Contract and accepted by District. No part of any materials and/or equipment shall be removed from its place of storage except for immediate installation in the Work. Design-Builder shall keep an accurate inventory of all materials and/or equipment in a manner satisfactory to District or its authorized representative and shall, at the District's request, forward it to the District.

- 1.9.10.** Design-Builder certifies that it shall comply with the recycled product requirements of Public Contract Code section 22150, et seq., including, without limitation, section 22154 which states, "All businesses shall certify in writing to the contracting officer, or his or her representative, the minimum, if not exact, percentage of postconsumer material in the products, materials, goods, or supplies being offered or sold to any local public entity."

## **2. DISTRICT**

- 2.1.1.** The governing board of the District or its designees will act for the District in all matters pertaining to the Contract.
- 2.1.2.** The District may, at any time,
- 2.1.2.1.** Direct the Design-Builder to communicate with or provide notice to the Construction Manager or the Architect on matters for which the Contract Documents indicate the Design-Builder will communicate with or provide notice to the District; and/or
- 2.1.2.2.** Direct the Construction Manager or the Architect to communicate with or direct the Design-Builder on matters for which the Contract Documents indicate the District will communicate with or direct the Design-Builder.
- 2.1.3.** **District's Rights if Design-Builder Fails to Perform.** If the District at any time believes that the Design-Builder is behind schedule, is failing to construct the Project pursuant to the Contract Documents or is otherwise failing to perform any provisions of this Contract, the District, after **FORTY-EIGHT (48)** hours written notice to the Design-Builder, may take any action necessary or beneficial to the District to complete the Project, the Work of the Contract, terminate or suspend the Contract as indicated herein, or any combination or portion of those actions. The Design-Builder and the Surety shall be liable to the District for any cost incurred by the District in those actions and the District has the right to deduct the cost thereof from any payment then or thereafter due the Design-Builder.

## **3. ARCHITECT**

- 3.1.** Architect shall have the authority to act on behalf of District to the extent expressly provided in the Contract Documents and to the extent determined by District to, among other things, observe the progress and quality of the Work on behalf of the District.
- 3.2.** Architect shall have authority to reject materials, workmanship, and/or the Work whenever rejection may be necessary, in Architect's reasonable opinion, to insure the proper execution of the Contract and if Work 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 that authority shall give rise to a duty or responsibility to the Design-Builder, Subcontractors, material suppliers, their agents or employees, or other persons performing portions of the Work.

- 3.3. Architect shall, with the District and on behalf of the District, determine the amount, quality, acceptability, and fitness of all parts of the Work, and interpret the Specifications, Drawings, and shall, with the District, interpret all other Contract Documents.
- 3.4. Architect shall have all authority and responsibility established by law, including title 24 of the California Code of Regulations.
- 3.5. Design-Builder shall provide District and the Construction Manager with a copy of all written communication between Design-Builder and Architect at the same time as that communication is made to Architect, including, without limitation, all RFIs, correspondence, submittals, claims, and proposed change orders.

4. **CONSTRUCTION MANAGER**

- 4.1. If a Construction Manager is used on this Project, the Construction Manager will provide administration of the Contract on the District's behalf. After execution of the Contract and Notice to Proceed, all correspondence and/or instructions from Design-Builder and/or District shall be forwarded through the Construction Manager. The Construction Manager will not be responsible for and will not have control or charge of construction means, methods, techniques, sequences, or procedures or for safety precautions in connection with the Work, which shall all remain the Design-Builder's responsibility.
- 4.2. Construction Manager, however, will have authority to reject materials and/or workmanship not conforming to the Contract Documents, as determined by the District, the Architect, and/or the Project Inspector. Construction Manager shall also have the authority to require special inspection or testing of any portion of the Work, whether it has been fabricated, installed, or fully completed. Any decision made by Construction Manager, in good faith, shall not give rise to any duty or responsibility of the Construction Manager to the Design-Builder, any Subcontractor, their agents, employees, or other persons performing any of the Work. Construction Manager shall have free access to all parts of Work at any time.
- 4.3. If the District does not use a Construction Manager on this Project, all references to Construction Manager or CM shall be read as District.

5. **INSPECTOR, INSPECTIONS AND TESTS**

5.1. **Project Inspector**

- 5.1.1. One or more Project Inspector(s), including special Project Inspector(s), as required, will be assigned to the Work by District, in accordance with requirements of title 24, part 1, of the California Code of Regulations, to enforce the building code and monitor compliance with Plans and Specifications for the Project previously approved by the DSA. Duties of Project Inspector(s) are specifically defined in section 4-342 of said part 1 of title 24.
- 5.1.2. No Work shall be carried on except with the knowledge and under the inspection of the Project Inspector(s). The Project Inspector(s) shall have free access to all parts of Work at any time. Design-Builder shall furnish Project Inspector(s) reasonable opportunities for obtaining such information as may be necessary to keep Project Inspector(s) fully informed respecting progress and manner of work and character of materials. Inspection of Work shall not relieve Design-Builder from the obligation to fulfill the Contract. Project Inspector(s) and the DSA are authorized to stop work whenever the Design-Builder and/or its Subcontractor(s) are not complying with the Contract Documents. Any work stoppage by the Project Inspector(s) and/or DSA shall be without liability to the District. Design-Builder shall instruct its Subcontractors and employees accordingly.
- 5.1.3. If Design-Builder and/or any Subcontractor requests that the Project Inspector(s) perform any inspection off-site, this shall only be done if it is allowable pursuant to applicable



regulations and DSA, if the Project Inspector(s) agree to do so, and at the expense of the Design-Builder.

- 5.1.4. Limitations on Project Inspector Authority.** 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 Design-Builder shall be liable to the District for the consequences of all Work performed on such basis.

**5.2. Tests and Inspections**

- 5.2.1.** Tests and Inspections shall comply with title 24, part 1, California Code of Regulations, group 1, article 5, section 4-335, and with the provisions of the Specifications.
- 5.2.2.** 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 Design-Builder 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 seventy-two (72) hours 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 Design-Builder shall inform the Project Inspector and the Construction Manager not less than seventy-two (72) hours prior to the date fixed for such inspection, test or observation. The Design-Builder 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 Design-Builder prior to completion and satisfaction of the requirements of such tests, inspection or approval, Design-Builder 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.
- 5.2.3.** The District will select an independent testing laboratory to conduct the tests. Selection of the materials required to be tested shall be by the laboratory or the District's representative and not by the Design-Builder. The Design-Builder shall notify the District's representative a sufficient time in advance of its readiness for required observation or inspection.
- 5.2.4.** The Design-Builder shall notify the District's representative a sufficient time in advance of the manufacture of material to be supplied under the Contract Documents, that must by terms of the Contract Documents be tested, in order that the District may arrange for the testing of same at the source of supply. This notice shall be, at a minimum, seventy-two (72) hours prior to the manufacture of the material that must be tested.
- 5.2.5.** Any material shipped by the Design-Builder from the source of supply prior to having satisfactorily passed required testing and inspection or prior to the receipt of notice from the representative that testing and inspection will not be required, shall not be incorporated into and/or onto the Project.
- 5.2.6.** The District will select and pay testing laboratory costs for all tests and inspections. Costs of tests of any materials found to be not in compliance with the Contract Documents shall be paid for by the District and reimbursed by the Design-Builder or deducted from the Contract Price.

**5.3. Costs for After Hours and/or Off Site Inspections**

- 5.3.1.** If the Design-Builder performs Work outside the Inspector's regular working hours, over

a period of more than eight (8) hours per day by any single person, on weekends/holidays, or requests the Inspector to perform inspections off Site, then the costs of any inspections required outside regular working hours, over a period of more than eight (8) hours per day by any single person, on weekends/holidays, or off Site, shall be borne by the Design-Builder and may be invoiced to the Design-Builder by the District or the District may deduct those expenses from the next Progress Payment.

## **6. DESIGN-BUILDER**

Design-Builder shall construct the Work for the Contract price including any adjustment(s) to the Contract Price pursuant to provisions herein regarding changes to the Contract Price. Except as otherwise noted, Design-Builder shall provide and pay for all labor, materials, equipment, permits, fees, licenses, facilities, transportation, taxes, and services necessary for the proper execution and Completion of the Work, except as indicated herein.

### **6.1. Status of Design-Builder**

**6.1.1.** Design-Builder is and shall at all times be deemed to be an independent contractor and shall be wholly responsible for the manner in which it and its Subcontractors perform the services required of it by the Contract Documents. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between the District, or any of the District's employees or agents, and Design-Builder or any of Design-Builder's Subcontractors, agents or employees. Design-Builder assumes exclusively the responsibility for the acts of its employees as they relate to the services to be provided during the course and scope of their employment. Design-Builder, its Subcontractors, agents, and its employees shall not be entitled to any rights or privileges of District employees. District shall be permitted to monitor the Design-Builder's activities to determine compliance with the terms of the Contract.

**6.1.2.** As required by law, Design-Builder and all Subcontractors shall be properly licensed and regulated by the Design-Builder's State License Board, located at 9821 Business Park Drive, , Sacramento, California 95827, with a mailing address of Post Office Box 26000, Sacramento, California, and with a website at <http://www.cslb.ca.gov>.

### **6.2. Design-Builder's Supervision**

**6.2.1.** During progress of the Work, Design-Builder shall keep on the Premises, and at all other locations where any Work related to the Contract is being performed, a competent project manager and construction superintendent who are employees of the Design-Builder, to whom the District does not object and at least one of whom shall be fluent in English, written and verbal.

**6.2.2.** The project manager and construction superintendent shall both speak fluently the predominant language of the Design-Builder's employees.

**6.2.3.** Before commencing the Work, Design-Builder shall give written notice to District of the name of its project manager and construction superintendent. Neither the Design-Builder's project manager nor construction superintendent shall be changed except with prior written notice to District, unless the Design-Builder's project manager and/or construction superintendent proves to be unsatisfactory to Design-Builder, District, any of the District's employees, agents, the Construction Manager, or the Architect, in which case, Design-Builder shall notify District in writing. District retains the right to reasonably refuse Design-Builder's replacement personnel. The Design-Builder's project manager and construction superintendent shall each represent Design-Builder, and all directions given to Design-Builder's project manager and/or construction superintendent shall be as binding as if given to Design-Builder.

- 6.2.4. Design-Builder shall give efficient supervision to Work, using its best skill and attention. Design-Builder shall carefully study and compare all Contract Documents, Drawings, Specifications, and other instructions and shall at once report to District, Construction Manager, and Architect any error, inconsistency, or omission that Design-Builder or its employees and Subcontractors may discover, in writing, with a copy to District's Project Inspector(s). The Design-Builder shall have responsibility for discovery of errors, inconsistencies, or omissions.
- 6.2.5. The Design-Builder's project manager shall devote sufficient time to the Project on site, and in the Design-Builder's home office to pre-plan activities to meet the Project schedule and fulfill all Contract obligations. This includes making timely submittals, issuing and disseminating necessary RFI's, promptly processing and distributing bulletins, change orders and payments, keeping required logs current etc. If any of these activities fall behind contract requirements or dates necessary to complete the Project on time, the Design-Builder must provide a full time project manager on the Project Site dedicated solely to the Project, until the deficiencies are corrected.
- 6.2.6. The Design-Builder shall verify all indicated dimensions before ordering materials or equipment, or before performing Work. The Design-Builder shall take field measurements, verify field conditions, and shall carefully compare such field measurements and conditions and other information known to the Design-Builder with the Project Documents before commencing work. Errors, inconsistencies or omissions discovered shall be immediately reported to the District. Upon commencement of any item of Work, the Design-Builder shall be responsible for dimensions related to the Work and shall make any corrections necessary to make Work properly fit at no additional cost to District. This responsibility for verification of dimensions is a non-delegable duty and may not be delegated to subcontractors or agents.
- 6.2.7. Omissions from the Drawings or Specifications, or the misdescription of details of Work which are manifestly necessary to carry out the intent of the Drawings and Specifications, or which are customarily performed, shall not relieve the Design-Builder from performing such omitted or misdescribed Work, but they shall be performed as if fully and correctly set forth and described in the Drawings and Specifications.
- 6.2.8. The Design-Builder shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. The Design-Builder shall be responsible to see that the finished Work complies accurately with the Contract Documents.

**6.3. Duty to Provide Fit Workers**

- 6.3.1. Design-Builder and Subcontractor(s) shall at all times enforce strict discipline and good order among their employees and shall not employ or work any unfit person or anyone not skilled in work assigned to that person. It shall be the responsibility of Design-Builder to ensure compliance with this requirement. District may require Design-Builder to permanently remove unfit persons from Project Site.
- 6.3.2. Any person in the employ of Design-Builder or Subcontractor(s) whom District may deem incompetent or unfit shall be excluded from working on the Project and shall not again be employed on the Project except with the prior written consent of District.
- 6.3.3. The Design-Builder shall furnish labor that can work in harmony with all other elements of labor employed or to be employed in the Work.
- 6.3.4. If Design-Builder intends to make any change in the name or legal nature of the Design-Builder's entity, Design-Builder must first notify the District. The District shall determine if Design-Builder's intended change is permissible while performing the Contract.

- 6.3.5. Compliance with Immigration Reform and Control Act of 1986.** As required by law, Design-Builder and all Subcontractors shall employ individuals for the Work in conformity with the Immigration Reform and Control Act of 1986, 8 USC §§1101 et seq.

**6.4. Personnel**

- 6.4.1.** All persons working for Design-Builder and Subcontractor(s) shall refrain from using profane or vulgar language, or any other language that is inappropriate on the job site.
- 6.4.2.** The Design-Builder shall employ a full-time superintendent and necessary assistants who shall have complete authority to represent and act on behalf on the Design-Builder on all matters pertaining to the Work. The superintendent shall be competent and have a minimum of five (5) years' experience in construction supervision on projects of similar scale and complexity. The superintendent shall be satisfactory to the District and, if not satisfactory, shall be replaced by the Design-Builder with one that is acceptable to the District. The superintendent shall not be changed without the written consent of the District unless the superintendent ceases to be employed by the Design Builder.
- 6.4.3.** The Design-Builder shall employ a competent estimator and necessary assistants, or contract for sufficient services of an estimating consultant and to process proposed change orders. The estimator shall have a minimum of five (5) years' experience in estimating. The estimator shall be satisfactory to the District and, if not satisfactory, shall be replaced by the Design-Builder with one that is acceptable. The estimator shall not be changed without the written consent of the District unless the estimator ceases to be employed by the Design-Builder. The Design-Builder shall submit PCO's requested by the District within fourteen (14) calendar days.
- 6.4.4.** The Design-Builder shall employ a competent scheduler and necessary assistants, or contract for sufficient services of a scheduling consultant. The scheduler shall have a minimum of five (5) years' experience in scheduling. The scheduler shall be satisfactory to the District and, if not satisfactory, shall be replaced by the Design-Builder with one that is acceptable. The scheduler shall not be changed without the written consent of the District unless the scheduler ceases to be employed by the Design-Builder.
- 6.4.5.** Design-Builder shall at all times enforce strict discipline and good order among Design-Builder's employees, and shall not employ on the Project any unfit person or anyone not skilled in the task assigned.
- 6.4.6.** If Design-Builder or any Subcontractor on the Project site fails to comply with any provision herein, the District may have the offending person(s) immediately removed from the Site, and the person(s) shall be replaced within three (3) days, at no additional expense to the District. Design-Builder, on behalf of it and its Subcontractors, hereby waives any claim that the provisions of this paragraph or the enforcement thereof interferes, or has the potential to interfere, with its right to control the means and methods of its performance and duties under this Contract.

**6.5. Prohibition on Harassment**

- 6.5.1.** In addition to the non-discrimination requirements in the Contract Documents, the Design-Builder and all Subcontractors must comply with these provisions prohibiting harassment at the Site. 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.

**6.5.2.** Design-Builder 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.

**6.5.3.** Design-Builder shall not permit any person, whether employed by Design-Builder or a Subcontractor or any other person or entity, performing any Work at or about the Site to engage in any prohibited form of harassment. Any 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 Design-Builder on any Subcontractor 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 Design-Builder 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. The indemnity provisions of the Contract Documents apply to any assertion by any person dismissed from performing or providing work at the direction of the District pursuant to this provision; or (ii) the assertion by any person that any person directly or indirectly under the employment or direction of the Design-Builder has engaged in a prohibited form of harassment directed to or affecting such person. The obligations of the Design-Builder 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.

**6.6. Conferences and Meetings.**

**6.6.1.** In addition to the conference and meeting requirements in the Specifications, Design-Builder's supervisory personnel for the Work and the Design-Builder's management personnel shall attend all required meetings as required by the Contract Documents or as requested by the District. The Design-Builder's personnel participating in conferences and meetings relating to the Work shall be authorized to act on behalf of the Design-Builder and to bind the Design-Builder. The Design-Builder is solely responsible for arranging for the attendance by Subcontractors and Material Suppliers at meetings and conferences relating to the Work as necessary, appropriate or as requested by the District.

**6.6.2. Preconstruction Conference.** The Design-Builder's representatives (and representatives of Subcontractors as requested by the District) shall attend a preconstruction conference at such time and place as designated by the District. The preconstruction conference will generally address the requirements of the Work and Contract Documents, and to establish construction procedures. Subject matters of the preconstruction conference will include as appropriate: (a) administrative matters, including an overview of the respective responsibilities of the District, Architect, Construction Manager, Design-Builder, Subcontractors, Project Inspector, and others performing any part of the Work or services

relating to the Work; (b) Submittals; (c) Changes; (d) employment practices, including Certified Payroll preparation and submission and prevailing wage rate responsibilities of the Design-Builder and Subcontractors; (e) Progress Schedule development and maintenance; (f) development of Schedule of Values and payment procedures; (g) implementation of BIM, if applicable; (h) communication procedures, including the handling of Requests for Information; (i) emergency and safety procedures; (j) Site visitor policies; (k) conduct of Design-Builder/Subcontractor personnel at the Site; and (l) Completion, Punchlist and closeout procedures.

**6.6.3. Progress Meetings.** Progress meetings will be conducted on regular intervals (weekly unless otherwise expressly indicated elsewhere in the Contract Documents). The Design-Builder's representatives and representatives of Subcontractors (as requested by the District) shall attend progress meetings. Progress Meetings will be chaired by the District or 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.

**6.6.4. Special Meetings.** As deemed necessary or appropriate by the District, special meetings will be conducted with the participation of the Design-Builder, Subcontractors and other Project participants as requested by the District.

**6.6.5. Minutes of Meetings.** following conclusion of the preconstruction conference, progress meetings and special meetings, the Architect or the Construction Manager will prepare and distribute minutes reflecting the items addressed and actions taken at a meeting or conference. Unless the Design-Builder 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 Design-Builder. If the Design-Builder timely interposes objections or notes corrections, the resolution of such matters shall be addressed at the next scheduled progress meeting.

## **6.7. Purchase of Materials and Equipment**

**6.7.1.** The Design-Builder is required to order and obtain materials and equipment sufficiently in advance of its Work at no additional cost or advance payment from District to assure that there will be no delays.

**6.7.2. Off-Site Storage of Materials and Equipment Only Upon District's Written Consent.** Design-Builder shall not store materials and/or equipment off site without first obtaining the District's express, written consent. If Design-Builder receives District's consent to store materials and/or equipment off site ("Stored Materials"), Design-Builder shall comply with all of the following:

**6.7.2.1. Property of Others Insurance.** Design-Builder shall procure and maintain, during the entire time Stored Materials are in off-site storage, insurance

coverage acceptable to the District that shall protect Design-Builder and District from all claims for Stored Materials that are lost, stolen, or damaged. The District shall be named as a loss payee for this insurance coverage. The insurance coverage shall include a "loss payable endorsement" stating that all amounts payable will be paid as a joint-check to the Design-Builder and District. If approved in advance by District, this required insurance may be obtained by an "Employee Theft Protection Insurance Policy" or an "Employee Theft Protection Bond."

**6.7.2.2. Payment for Stored Materials.** District shall only make payment to Design-Builder for Stored Materials if agreed upon in advance, in writing, by the District and provided that Design-Builder submits an itemized list of all Stored Materials with Design-Builder's Application for Payment. Design-Builder's itemized list of all Stored Materials shall be supported by all of the following:

**6.7.2.2.1.** Itemized breakdown of the Stored Materials for the purpose of requesting partial payment, identifying the serial numbers and exact storage location of each piece of equipment and material; and

**6.7.2.2.2.** Verified invoices for the Stored Materials; and

**6.7.2.2.3.** Original copy of Property of Others Insurance, Employee Theft Protection Insurance Policy, or an Employee Theft Protection Bond based on the type of insurance required by the District. These documents shall include certificates and endorsements stating the coverage and that the District is a loss payee or obligee, as appropriate.

**6.7.2.3. District's Verification of Stored Materials.** District and any representative of the District, shall have the right to visually inspect and verify any Stored Materials. Any cost to the District in inspecting Stored Materials, including but not limited to travel costs and related expenses, shall be paid by Design-Builder.

**6.8. Documents on Work**

**6.8.1.** Design-Builder shall at all times keep on the Work Site, or at another location as the District may authorize in writing, one legible copy of all Contract Documents, including Addenda and Change Orders, and titles 19 and 24 of the California Code of Regulations, the specified edition(s) of the Uniform Building Code (electronic versions are acceptable), all approved Drawings, Plans, Schedules, and Specifications, and all codes and documents referred to in the Specifications, and made part thereof. These documents shall be kept in good order and available to District, Construction Manager, Architect, Architect's representatives, the Project Inspector(s), and all authorities having jurisdiction. Design-Builder shall be acquainted with and comply with the provisions of these titles as they relate to this Project. (See particularly the duties of Design-Builder, title 24, part 1, California Code of Regulations, section 4-343.) Design-Builder shall also be acquainted with and comply with all California Code of Regulations provisions relating to conditions on this Project, particularly titles 8 and 17. Design-Builder shall coordinate with Architect and Construction Manager and shall submit its verified report(s) according to the requirements of title 24.

**6.8.2. Daily Job Reports.**

**6.8.2.1.** Design-Builder shall maintain, at a minimum, at least one (1) set of Daily Job Reports on the Project. These must be prepared by the Design-Builder's employee(s) who are present on Site, and must include, at a minimum, the following information:

- 6.8.2.1.1.** A brief description of all Work performed on that day.
- 6.8.2.1.2.** A summary of all other pertinent events and/or occurrences on that day.
- 6.8.2.1.3.** The weather conditions on that day.
- 6.8.2.1.4.** A list of all Subcontractor(s) working on that day,
- 6.8.2.1.5.** A list of each Design-Builder employee working on that day and the total hours worked for each employee.
- 6.8.2.1.6.** A complete list of all equipment on Site that day, whether in use or not.
- 6.8.2.1.7.** A complete list of all materials, supplies, and equipment delivered on that day.
- 6.8.2.1.8.** A complete list of all inspections and tests performed on that day.

**6.8.2.2.** Each day Design-Builder shall provide a copy of the previous day's Daily Job Report to the District or the District's Construction Manager.

**6.9. Preservation of Records**

**6.9.1.** District retains the right to review and audit, and the reasonable right of access to Design-Builder's and any subcontractor's premises to review and audit, the Design-Builder's compliance with the provisions of the Contract Documents ("District's Audit Right"). The District's Audit Right includes the right to inspect, photocopy, and to retain copies, outside of the Design-Builder's premises, of any and all Work-related records, documents and other information with appropriate safeguards, if such retention is deemed necessary by the District in its sole discretion. The District's Audit Right shall also include the right to interview current or former employees and subcontractors of Design-Builder with respect to matters or issues under audit. The District shall keep this information confidential, as allowed by applicable law.

**6.9.1.1.** Design-Builder shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Design-Builder transacted under the Contract Documents. Design-Builder shall retain these books, records, and systems of account for the duration of the Project and for three (3) years thereafter.

**6.9.1.2.** Design-Builder shall, without limitation, permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Work covered by the Contract Documents. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Design-Builder and shall conduct audit(s) during Design-Builder's normal business hours, unless Design-Builder otherwise consents.



- 6.9.1.3.** District's Audit Right shall include, without limitation, the right to examine and audit all Daily Job Reports or other Project records of Design-Builder's project manager(s), project superintendent(s), and/or project foreperson(s), all certified payroll records and/or related documents including, without limitation, payroll, payment, timekeeping and tracking documents; all books, estimates, records, contracts, documents, bid documents, bid cost data, subcontract job cost reports, and other data of the Design-Builder, any Subcontractor, and/or supplier, including computations and projections related to bidding, negotiating, pricing, or performing the Work or Contract modification, in order to evaluate the accuracy, completeness, and currency of the cost, manpower, coordination, supervision, or pricing data at no additional cost to the District. These documents may be duplicative and/or be in addition to any Bid Documents held in escrow by the District.
- 6.9.1.4.** Design-Builder shall include audit provisions in any and all of its subcontracts, and shall ensure that provision is binding upon all subcontractors.
- 6.9.1.5.** Design-Builder shall comply with these provisions within fifteen (15) days of the District's written request to review and audit any or all of Design-Builder's Work-related documents, records and information. The District's Audit Right and Design-Builder's compliance with the same, shall be at no additional cost to the District.
- 6.9.1.6.** In the event the District's Audit Right, or an audit by the State Auditor, evidences payments to Design-Builder not in accordance with the provisions of the Contract Documents, Design-Builder shall immediately pay District the amount of said payments not in compliance in addition to all costs reasonably incurred by District in conducting an audit hereunder.
- 6.9.1.7.** Design-Builder acknowledges and agrees that the District's Audit Right, pursuant to the foregoing provisions, shall apply to, and may be utilized by the District for the production of, any records or documents subject to disclosure under the California Public Records Act, Government Code § 6250 et seq. ("CPRA"), unless otherwise exempt, and which may include, but are not limited to, records or documents in the District's constructive possession but under Design-Builder's control regardless if created, sent, received, stored, or maintained in a personal account or device of Design-Builder or its employees, and Subcontractors as prescribed by applicable law. In the event the District exercises District's Audit Right in response to or as part of a request under the CPRA, Design-Builder agrees to provide District with an affidavit, if and as needed or requested by District, within five (5) days of District's request therefor, that certifies Design-Builder's search for and production of responsive records subject to disclosure pursuant to the CPRA, if any.

**6.10. Integration of Work**

- 6.10.1.** Design-Builder shall do all cutting, fitting, patching, and preparation of Work as required to make its several parts come together properly, to fit it to receive or be received by work of other contractors, and to coordinate tolerances to various pieces of work, showing upon, or reasonably implied by, the Drawings and Specifications for the completed structure, and shall conform them as District and/or Architect may direct.
- 6.10.2.** All cost caused by defective or ill-timed Work shall be borne by Design-Builder, inclusive of repair work.
- 6.10.3.** Design-Builder shall not endanger any work performed by it or anyone else by cutting, excavating, or otherwise altering work and shall not cut or alter work of any other

contractor except with written consent of District.

**6.11. Obtaining of Permits and Licenses**

**6.11.1.** Design-Builder shall secure and pay for all permits, licenses, and certificates as indicated in the Special Conditions.

**6.12. Work to Comply with Applicable Laws and Regulations**

**6.12.1.** Design-Builder shall give all notices and comply with all applicable laws, ordinances, rules, and regulations relating to the Work, including the specific laws, ordinances, rules, and regulations as indicated and specified in the Contract Documents and identified below, including but not limited to the appropriate statutes and administrative code sections. If Design-Builder observes that Drawings and Specifications are at variance therewith, or should Design-Builder become aware of the development of conditions not covered by Contract Documents that will result in finished Work being at variance therewith, Design-Builder shall promptly notify District in writing and any changes deemed necessary by District shall be made as provided in Contract for changes in Work.

**6.12.1.1.** National Electrical Safety Code, U. S. Department of Commerce

**6.12.1.2.** National Board of Fire Underwriters' Regulations

**6.12.1.3.** Uniform Building Code, latest addition, and the California Code of Regulations, title 24, including amendments

**6.12.1.4.** Manual of Accident Prevention in Construction, latest edition, published by A.G.C. of America

**6.12.1.5.** Industrial Accident Commission's Safety Orders, State of California

**6.12.1.6.** Regulations of the State Fire Marshall (title 19, California Code of Regulations) and Pertinent Local Fire Safety Codes

**6.12.1.7.** Americans with Disabilities Act

**6.12.1.8.** Education Code of the State of California

**6.12.1.9.** Government Code of the State of California

**6.12.1.10.** Labor Code of the State of California, division 2, part 7, Public Works and Public Agencies

**6.12.1.11.** Public Contract Code of the State of California

**6.12.1.12.** California Art Preservation Act

**6.12.1.13.** U. S. Copyright Act

**6.12.1.14.** U. S. Visual Artists Rights Act

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

**6.12.3.** If Design-Builder performs any Work that it knew, or through exercise of reasonable care should have known, to be contrary to any applicable laws, ordinance, rules, or

regulations, Design-Builder shall bear all costs arising therefrom.

- 6.12.4. Where Specifications or Drawings state that materials, processes, or procedures must be approved by the DSA, State Fire Marshall, or other body or agency, Design-Builder shall be responsible for satisfying requirements of such bodies or agencies.

6.13. **Safety/Protection of Persons and Property**

- 6.13.1. Design-Builder will be solely and completely responsible for conditions of the Work Site, including safety of all persons and property during performance of the Work. This requirement will apply continuously and not be limited to normal working hours.
- 6.13.2. The wearing of hard hats will be mandatory at all times for all personnel on Site. Design-Builder shall supply sufficient hard hats to properly equip all employees and visitors.
- 6.13.3. Any construction review of the Design-Builder's performance is not intended to include review of the adequacy of the Design-Builder's safety measures in, on, or near the Work Site.
- 6.13.4. Implementation and maintenance of safety programs shall be the sole responsibility of the Design-Builder.
- 6.13.5. Design-Builder shall furnish to the District a copy of the Design-Builder's safety plan within the time frame indicated in the Contract Documents and specifically adapted for the Project.
- 6.13.6. Design-Builder shall be responsible for all damages to persons or property that occur as a result of its fault or negligence in connection with the performance of the Contract and shall take all necessary measures and be responsible for the proper care and completion and final acceptance by District. All Work shall be solely at Design-Builder's risk with the exception of damage to the Work caused by "acts of God" as defined in Public Contract Code section 7105.
- 6.13.7. Design-Builder shall take, and require Subcontractors to take, all necessary precautions for safety of workers on the Project and shall comply with all applicable federal, state, local, and other safety laws, standards, orders, rules, regulations, and building codes to prevent accidents or injury to persons on, about, or adjacent to premises where Work is being performed and to provide a safe and healthful place of employment. Design-Builder shall furnish, erect, and properly maintain at all times, all necessary safety devices, safeguards, construction canopies, signs, nets, barriers, lights, and watchmen for protection of workers and the public and shall post danger signs warning against hazards created by such features in the course of construction.
- 6.13.8. **Hazards Control.** Design-Builder shall store volatile wastes in covered metal containers and remove them from the Site daily. Design-Builder shall prevent accumulation of wastes that create hazardous conditions. Design-Builder shall provide adequate ventilation during use of volatile or noxious substances.
- 6.13.9. Design-Builder shall designate a responsible member of its organization on the Project, whose duty shall be to post information regarding protection and obligations of workers and other notices required under occupational safety and health laws, to comply with reporting and other occupational safety requirements, and to protect the life, safety, and health of workers. Name and position of person so designated shall be reported to District by Design-Builder.

- 6.13.10. Design-Builder shall correct any violations of safety laws, rules, orders, standards, or regulations. Upon the issuance of a citation or notice of violation by the Division of

Occupational Safety and Health, Design-Builder shall correct such violation promptly.

- 6.13.11. Storm Water.** Design-Builder shall comply with the District's Storm Water Pollution Prevention Plan (SWPPP) and, if indicated in the Special Conditions, shall be the District's Qualified SWPPP Practitioner, at no additional cost to the District.
- 6.13.12.** In an emergency affecting safety of life or of work or of adjoining property, Design-Builder, without special instruction or authorization, shall act, at its discretion, to prevent such threatened loss or injury. Any compensation claimed by Design-Builder on account of emergency work shall be determined by agreement.
- 6.13.13.** All salvage materials will become the property of the Design-Builder and shall be removed from the Site unless otherwise called for in the Contract Documents. However, the District reserves the right to designate certain items of value that shall be turned over to the District unless otherwise directed by District.
- 6.13.14.** All connections to public utilities and/or existing on-site services shall be made and maintained in such a manner as to not interfere with the continuing use of same by the District during the entire progress of the Work.
- 6.13.15.** Design-Builder shall provide such heat, covering, and enclosures as are necessary to protect all Work, materials, equipment, appliances, and tools against damage by weather conditions, such as extreme heat, cold, rain, snow, dry winds, flooding, or dampness.
- 6.13.16.** Design-Builder shall protect and preserve the Work from all damage or accident, providing temporary roofs, window and door coverings, boxing, or other construction as required by the Architect. Design-Builder shall be responsible for existing structures, walks, roads, trees, landscaping, and/or improvements in working areas; and shall provide adequate protection therefor. If temporary removal is necessary of any of the above items, or damage occurs due to the Work, the Design-Builder shall replace same at its expense with same kind, quality, and size of Work or item damaged. This shall include any adjoining property of the District and others.
- 6.13.17.** Design-Builder shall take adequate precautions to protect existing roads, sidewalks, curbs, pavements, utilities, adjoining property, and structures (including, without limitation, protection from settlement or loss of lateral support), and to avoid damage thereto, and repair any damage thereto caused by construction operations.
- 6.13.18.** Design-Builder shall confine apparatus, the storage of materials, and the operations of workers to limits indicated by law, ordinances, permits, or directions of Architect, and shall not interfere with the Work or unreasonably encumber Premises or overload any structure with materials. Design-Builder shall enforce all instructions of District and Architect regarding signs, advertising, fires, and smoking, and require that all workers comply with all regulations while on Project Site.
- 6.13.19.** Design-Builder, Design-Builder's employees, Subcontractors, Subcontractors' employees, or any person associated with the Work shall conduct themselves in a manner appropriate for a school site. No verbal or physical contact with neighbors, students, and faculty, profanity, or inappropriate attire or behavior will be permitted. District may require Design-Builder to permanently remove noncomplying persons from Project Site.
- 6.13.20.** Design-Builder shall take care to prevent disturbing or covering any survey markers, monuments, or other devices marking property boundaries or corners. If such markers are disturbed, Design-Builder shall have a civil engineer, registered as a professional engineer in California, replace them at no cost to District.
- 6.13.21.** In the event that the Design-Builder enters into any agreement with owners of any

adjacent property to enter upon the adjacent property for the purpose of performing the Work, Design-Builder shall fully indemnify, defend, and hold harmless each person, entity, firm, or agency that owns or has any interest in adjacent property. The form and content of the agreement of indemnification shall be approved by the District prior to entering the adjacent property. The Design-Builder shall also indemnify the District as provided in the indemnification provision herein. These provisions shall be in addition to any other requirements of the owners of the adjacent property.

#### **6.14. Working Evenings and Weekends**

Design-Builder may be required to work evenings and/or weekends at no additional cost to the District. Design-Builder shall give the District seventy-two (72) hours' notice prior to performing any evening and/or weekend work. Design-Builder shall perform all evening and/or weekend work only upon District's written approval and in compliance with all applicable rules, regulations, laws, and local ordinances including, without limitation, all noise and light limitations. Design-Builder shall reimburse the District for any Inspector charges necessitated by the Design-Builder's evening and/or weekend work.

#### **6.15. Noise and Dust Control**

**6.15.1.** In addition to the noise control, dust control and related requirements in the Specifications, Design-Builder shall control the noise and dust at the Site as indicated here.

**6.15.2. Noise Control.** The Design-Builder shall install noise reducing devices on construction equipment. Design-Builder 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 as required 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 school at the Site, at the District's request, the Design-Builder shall schedule the performance of that Work around normal school hours or make other arrangements so that the Work does not cause disruption or disturbance. In no event shall those arrangements result in adjustment of the Contract Price or the Contract Time.

**6.15.3. Dust Control.** The Design-Builder 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 Design-Builder shall take specific care to avoid deposits of airborne dust or airborne elements. Those 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 Design-Builder shall be 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 Design-Builder's failure to comply with these requirements shall be exclusively at the cost of the Design-Builder, 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. Design-Builder 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 school, at the District's request, the Design-Builder shall schedule the performance of all that Work around normal school hours and make

other arrangements so that the Work does not cause disruption or disturbance. In no event shall those arrangements result in adjustment of the Contract Price or the Contract Time.

- 6.15.4. Design-Builder Failure to Comply.** If the Design-Builder fails to comply with the requirements for dust control, noise control, or any other maintenance or clean up requirement of the Contract Documents, the District, Architect, Project Inspector, or Construction Manager shall notify the Design-Builder in writing and the Design-Builder shall take immediate action. Should the Design-Builder fail to respond with immediate and responsive action and not later than twenty-four (24) hours from that 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 those actions shall be the sole responsibility of, and be borne by, the Design-Builder; the District may deduct those amounts from the Contract Price then or thereafter due the Design-Builder.

**6.16. Cleaning Up**

- 6.16.1.** The Design-Builder shall provide all services, labor, materials, and equipment necessary for protecting the Work, all school occupants, furnishings, equipment, and building structure from damage until its Completion and final acceptance by District. Dust barriers shall be provided to isolate dust and dirt from construction operations. At Completion of the Work and portions thereof, Design-Builder shall clean to the original state any areas beyond the Work area that become dust laden as a result of the Work. The Design-Builder must erect the necessary warning signs and barricades to ensure the safety of all school occupants. The Design-Builder at all times must maintain good housekeeping practices to reduce the risk of fire damage and must make a fire extinguisher, fire blanket, and/or fire watch, as applicable, available at each location where cutting, braising, soldering, and/or welding is being performed or where there is an increased risk of fire.
- 6.16.2.** Design-Builder at all times shall keep Premises free from debris such as waste, rubbish, and excess materials and equipment caused by the Work. Design-Builder shall not leave debris under, in, or about the Premises, but shall promptly remove same from the Premises on a daily basis. If Design-Builder fails to clean up, District may do so and the cost thereof shall be charged to Design-Builder. If Contract is for work on an existing facility, Design-Builder shall also perform specific clean-up on or about the Premises upon request by the District as it deems necessary for the continuing education process. Design-Builder shall comply with all related provisions of the Specifications.
- 6.16.3.** If the Construction Manager, Architect, or District observes the accumulation of trash and debris, the District will give the Design-Builder a 24-hour written notice to mitigate the condition.
- 6.16.4.** Should the Design-Builder fail to perform the required clean-up, or should the clean-up be deemed unsatisfactory by the District, the District will then perform the clean-up. All cost associated with the clean-up work (including all travel, payroll burden, and costs for supervision) will be deducted from the Contract Price, or District may withhold those amounts from payment(s) to Design-Builder.

**7. SUBCONTRACTORS**

- 7.1.** Design-Builder shall provide the District with information for all Subcontracts as required in the Design-Builder's Submittals and Schedules Section.
- 7.2.** No contractual relationship exists between the District and any Subcontractor, supplier, or sub-subcontractor by reason of the Contract.

- 7.3. Design-Builder agrees to bind every Subcontractor by terms of the Contract as far as those terms are applicable to Subcontractor's work. If Design-Builder shall subcontract any part of the Contract, Design-Builder shall be as fully responsible to District for acts and omissions of any Subcontractor and of persons either directly or indirectly employed by any Subcontractor, as it is for acts and omissions of persons directly employed by Design-Builder. The divisions or sections of the Specifications are not intended to control the Design-Builder in dividing the Work among Subcontractors or limit the work performed by any trade.
- 7.4. District's consent to, or approval of, or failure to object to, any Subcontractor under the Contract shall not in any way relieve Design-Builder of any obligations under the Contract and no such consent shall be deemed to waive any provisions of the Contract.
- 7.5. Design-Builder acknowledges sections 4100 through 4114 of the Public Contract Code of the State of California, as regards subletting and subcontracting, and shall comply with all applicable requirements therein. In addition, Design-Builder acknowledges sections 1720 through 1861 of the Labor Code of the State of California, as regards the payment of prevailing wages and related issues, and shall comply with all applicable requirements therein all including, without limitation, section 1775 and the Design-Builder's and Subcontractors' obligations and liability for violations of prevailing wage law and other applicable laws.
- 7.6. No Design-Builder whose Bid is accepted shall, without consent of the awarding authority and in full compliance with section 4100 et seq. of the Public Contract Code, including, without limitation, sections 4107, 4107.5, and 4109 of the Public Contract Code, either:
- 7.6.1. Substitute any person as a Subcontractor in place of the Subcontractor designated in the original Bid; or
  - 7.6.2. Permit any Subcontract to be assigned or transferred, or allow any portion of the Work to be performed by anyone other than the original Subcontractor listed in the Bid; or
  - 7.6.3. Sublet or subcontract any portion of the Work in excess of one-half of one percent (1/2 of 1%) of the Design-Builder's total bid as to which his original bid did not designate a Subcontractor.
- 7.7. The Design-Builder shall be responsible for the coordination of the trades, Subcontractors, sub-subcontractors, and material or equipment suppliers working on the Project.
- 7.8. Design-Builder is solely responsible for settling any differences between the Design-Builder and its Subcontractor(s) or between Subcontractors.
- 7.9. Design-Builder must include in all of its subcontracts the assignment provisions as indicated in the Termination section of these General Conditions.

**8. OTHER CONTRACTS/DESIGN-BUILDERS**

- 8.1. District reserves the right to let other contracts, and/or to perform work with its own forces, in connection with other portions of the Project or other construction or operations at or about the Site. Design-Builder shall afford other contractors reasonable opportunity for introduction and storage of their materials and execution of their work and shall properly coordinate and connect Design-Builder's Work with the work of other contractors.
- 8.2. In addition to Design-Builder's obligation to protect its own Work, Design-Builder shall protect the work of any other contractor that Design-Builder encounters while working on the Site.
- 8.3. If any part of Design-Builder's Work depends for proper execution or results upon work of District or any other contractor, Design-Builder shall inspect and promptly report to the District in writing before proceeding with its Work any defects in District's or any other contractor's work

that render Design-Builder's Work unsuitable for proper execution and results. Design-Builder shall be held accountable for damages to District for District's or any other contractor's work that Design-Builder failed to inspect or should have inspected. Design-Builder's failure to inspect and report shall constitute Design-Builder's acceptance of all District's or any other contractor's work as fit and proper for reception of Design-Builder's Work, except as to defects that may develop in District's or any other contractor's work after execution of Design-Builder's Work.

- 8.4. To ensure proper execution of its subsequent work, Design-Builder shall measure and inspect work already in place and shall at once report to the District in writing any discrepancy between that executed work and the Contract Documents.
- 8.5. Design-Builder shall ascertain to its own satisfaction the scope of the Project and nature of District's or any other contracts that have been or may be awarded by District in completion of the Project to the end that Design-Builder may perform this Contract in light of the other contracts, if any.
- 8.6. Nothing herein contained shall be interpreted as granting to Design-Builder exclusive occupancy of the Site, the Premises, or of the Project. The District shall have complete access to the Project Site for any reasonable purpose at all times. Design-Builder shall not cause any unnecessary hindrance or delay to the use and/or school operation(s) of the Premises and/or to District or any other contractor working on the Project. If simultaneous execution of any contract or school operation is likely to cause interference with performance of Design-Builder's Contract, Design-Builder shall coordinate with those contractor(s), person(s), and/or entity(s) and shall notify the District of the resolution.

## 9. DRAWINGS AND SPECIFICATIONS

- 9.1. A complete list of all Drawings that form a part of the Contract is to be found as an index on the Drawings themselves, and/or may be provided to the Design-Builder and/or in the Table of Contents.
- 9.2. Materials or Work described in words that so applied have a well-known technical or trade meaning shall be deemed to refer to recognized standards, unless noted otherwise.
- 9.3. Trade Name or Trade Term. It is not the intention of the Contract to go into detailed descriptions of any materials and/or methods commonly known to the trade under "trade name" or "trade term." The mere mention or notation of "trade name" or "trade term" shall be considered sufficient notice to Design-Builder that it will be required to complete the work so named, complete, finished, and operable, with all its appurtenances, according to the best practices of the trade.
- 9.4. The naming of any material and/or equipment shall mean furnishing and installing of same, including all incidental and accessory items thereto and/or labor therefor, as per best practices of the trade(s) involved, unless specifically noted otherwise.
- 9.5. Contract Documents are complementary, and what is called for by one shall be binding as if called for by all. As such, Drawings and Specifications are intended to be fully cooperative and to agree. However, if Design-Builder observes that Drawings and Specifications are in conflict, Design-Builder shall promptly notify District and Architect in writing, and any necessary changes shall be made as provided in the Contract Documents.
- 9.6. In the case of discrepancy or ambiguity in the Contract Documents, the order of precedence in the Agreement shall prevail. However, in the case of discrepancy or ambiguity solely between and among the Drawings and Specifications, the discrepancy or ambiguity shall be resolved in favor of the interpretation that will provide District with the functionally complete and operable Project described in the Drawings and Specifications. In case of ambiguity, conflict, or lack of information, District will furnish clarifications with reasonable promptness.



- 9.7. Drawings and Specifications are intended to comply with all laws, ordinances, rules, and regulations of constituted authorities having jurisdiction, and where referred to in the Contract Documents, the laws, ordinances, rules, and regulations shall be considered as a part of the Contract within the limits specified. Design-Builder shall bear all expense of correcting work done contrary to said laws, ordinances, rules, and regulations.

9.8. **Ownership of Drawings**

- 9.8.1. All copies of the Drawings, Designs, Specifications, and copies of other incidental architectural and engineering work, or copies of other Contract Documents furnished by District, are the property of District. They are not to be used by Design-Builder in other work and, with the exception of signed sets of Contract Documents, are to be returned to District on request at Completion of Work, or may be used by District as it may require without any additional costs to District. Neither the Design-Builder nor any Subcontractor, or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications, and other documents prepared by the Architect. District hereby grants the Design-Builder, Subcontractors, sub-subcontractors, and material or equipment suppliers a limited license to use applicable portions of the Drawings prepared for the Project in the execution of their Work under the Contract Documents.

10. **DESIGN-BUILDER'S SUBMITTALS AND SCHEDULES**

Design-Builder's submittals shall comply with the provisions and requirements of the Specifications including, without limitation Submittals. No submittal, unless approved in writing by the District as acceptable and complete, shall be a Contract Document.

10.1. **Schedules, Safety Plan and Complete Subcontractor List**

- 10.1.1. Within **TEN (10)** calendar days after the date of the Notice to Proceed (unless otherwise specified in the Notice to Proceed or in the Special Conditions), Design-Builder shall prepare and submit to the District for review, in a form supported by sufficient data to substantiate its accuracy as the District may require:

- 10.1.1.1. **Schedule of Work.** Design-Builder shall provide a preliminary schedule of construction indicating the starting and completion dates of the various stages of the Work, including any information and following any form as may be specified in the Specifications. Once approved by District, this shall become the Construction Schedule. This schedule shall include and identify all tasks that are on the Project's critical path with a specific determination of the start and completion of each critical path task, all contract milestones and each milestone's completion date(s) as may be required by the District, and the date of Project Completion.

- 10.1.1.1.1. **Proposed Advanced Schedule.** The District is not required to accept an early completion ("advanced") schedule; i.e., one that shows early completion dates for the Contract completion or milestones. Design-Builder shall not be entitled to extra compensation if the District allows the Design-Builder to proceed performing the Contract on an earlier ("advanced") schedule and Design-Builder completes the Project, for whatever reason, beyond the date shown in that earlier ("advanced") schedule, but within the Time for Completion indicated in the Contract. A schedule showing the work completed in less than the Time for Completion indicated in the Contract, shall be considered to have Project Float.

- 10.1.1.1.2. **Float or Slack in the Schedule.** Float or slack is the amount of time between the early start date and the late start date, or the early

finish date and the late finish date, of any of the activities in the schedule. Float or slack is not for the exclusive use of or benefit of either the District or the Design-Builder, but its use shall be determined solely by the District.

**10.1.1.2. Schedule of Submittals.** The Design-Builder shall provide a preliminary schedule of submittals, including Shop Drawings, Product Data, and Samples submittals. Once approved by District, this shall become the Submittal Schedule. All submittals shall be forwarded to the District by the date indicated on the approved Submittal Schedule, unless an earlier date is necessary to maintain the Construction Schedule, in which case those submittals shall be forwarded to the District so as not to delay the Construction Schedule.

**10.1.1.3. Schedule of Values.** The Design-Builder shall provide a preliminary schedule of values for all component parts of the Work for which progress payments may be requested. The schedule of values must include quantities and prices of items totaling the Contract Price and must subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction. The preliminary schedule of values should include, at a minimum, the following information and the following structure:

**10.1.1.3.1.** Divided into at least the following categories:

- 10.1.1.3.1.1. Overhead and profit;
- 10.1.1.3.1.2. Supervision;
- 10.1.1.3.1.3. General conditions;
- 10.1.1.3.1.4. Layout;
- 10.1.1.3.1.5. Mobilization;
- 10.1.1.3.1.6. Submittals;
- 10.1.1.3.1.7. Bonds and insurance;
- 10.1.1.3.1.8. Closeout documentation;
- 10.1.1.3.1.9. Demolition;
- 10.1.1.3.1.10. Installation;
- 10.1.1.3.1.11. Rough-in;
- 10.1.1.3.1.12. Finishes;
- 10.1.1.3.1.13. Testing;
- 10.1.1.3.1.14. Punch List and acceptance.

**10.1.1.3.2.** Divided by each of the following areas:

- 10.1.1.3.2.1. Site work;
- 10.1.1.3.2.2. By each building;

10.1.1.3.2.3. By each floor.

**10.1.1.3.3.** The preliminary schedule of values shall not provide for values any greater than the following percentages of the Contract value:

10.1.1.3.3.1. Mobilization and layout combined to equal not more than 1%;

10.1.1.3.3.2. Submittals, samples and shop drawings combined to equal not more than 3%;

10.1.1.3.3.3. Bonds and insurance combined to equal not more than 2%.

**10.1.1.3.4. Closeout Documentation.** Closeout Documentation shall have a value in the preliminary schedule of not less than 5%. The value for Closeout Documentation shall be in addition to and shall not be a part of the Contract retention.

**10.1.1.3.5.** Notwithstanding any provision of the Contract Documents to the contrary, payment of the Design-Builder's overhead, supervision, general conditions costs, and profit, as reflected in the Cost Breakdown, shall be paid by the District in equal installments, based on percentage complete, with the disbursement of Progress Payments and the Final Payment.

**10.1.1.3.6.** Design-Builder shall certify that the preliminary schedule of values as submitted to the District is accurate and reflects the costs as developed in preparing Design-Builder's bid. The preliminary schedule of values shall be subject to the District's review and approval of the form and content thereof. In the event that the District objects to any portion of the preliminary schedule of values, the District shall notify the Design-Builder, in writing, of the District's objection(s) to the preliminary schedule of values. Within five (5) calendar days of the date of the District's written objection(s), Design-Builder shall submit a revised preliminary schedule of values to the District for review and approval. The foregoing procedure for the preparation, review and approval of the preliminary schedule of values shall continue until the District has approved the entirety of the preliminary schedule of values.

**10.1.1.3.7.** Once the preliminary schedule of values is approved by the District, this shall become the Schedule of Values. The Schedule of Values shall not be thereafter modified or amended by the Design-Builder without the prior written consent and approval of the District, which may be granted or withheld in the sole discretion of the District.

**10.1.1.4. Safety Plan.** The Design-Builder shall provide a preliminary Design-Builder's Safety Plan specifically adapted for the Project. Design-Builder's Safety Plan shall comply with the following requirements:

**10.1.1.4.1.** All applicable requirements of California Division of

Industrial Safety ("CalOSHA") and/or of the United States Occupational Safety and Health Administration ("OSHA").

**10.1.1.4.2.** All provisions regarding Project safety, including all applicable provisions in these General Conditions.

**10.1.1.4.3.** Design-Builder's Safety Plan shall be prepared in both English and in the predominant language(s) of the Design-Builder's and its Subcontractors' employees.

**10.1.1.5. Complete Subcontractor List.** Design-Builder shall provide a preliminary Subcontractor List stating the name, address, telephone number, facsimile number, California State Design-Builders License number, classification, and monetary value of all Subcontracts for parties furnishing labor, material, or equipment for the Project.

**10.1.2.** Design-Builder must provide all schedules both in hard copy and electronically, in a format (e.g., Microsoft Project or Primavera) approved in advance by the District.

**10.1.3.** The District will review the schedules submitted and the Design-Builder shall make changes and corrections in the schedules as requested by the District and resubmit the schedules until approved by the District.

**10.1.4.** The District shall have the right at any time to revise the Schedule of Values if, in the District's sole opinion, the Schedule of Values does not accurately reflect the value of the Work performed.

**10.1.5.** All submittals and schedules must be approved by the District before Design-Builder can rely on them as a basis for payment.

**10.2. Monthly Progress Schedule(s)**

**10.2.1.** Design-Builder shall provide Monthly Progress Schedule(s) to the District. A Monthly Progress Schedule shall update the approved Construction Schedule or the last Monthly Progress Schedule, showing all work completed and to be completed. The Monthly Progress Schedule shall be sent to the District and shall be in a format acceptable to the District and contain a written narrative of the progress of work that month and any changes, delays, or events that may affect the work. The process for District approval of the Monthly Progress Schedule shall be the same as the process for approval of the Construction Schedule.

**10.2.2.** Design-Builder shall also submit Monthly Progress Schedule(s) with all payment applications.

**10.3. Material Safety Data Sheets (MSDS)**

Design-Builder is required to ensure Material Safety Data Sheets are available in a readily accessible place at the Work Site for any material requiring a Material Safety Data Sheet per the Federal "Hazard Communication" standard, or employees right to know law. The Design-Builder is also required to ensure proper labeling on substances brought onto the Project Site and that any person working with the material or within the general area of the material is informed of the hazards of the substance and follows proper handling and protection procedures. Two additional copies of the Material Safety Data Sheets shall also be submitted directly to the District.

**10.4. Logistic Plan**

Design-Builder shall provide a staging and logistics plan identifying laydown areas, loading and

unloading areas, crane locations, fence locations, temporary utility connections, trailer locations, and emergency evacuation meeting area. This Logistics Plan must be approved by the District prior to the Design-Builder mobilizing on the Site.

**10.5. Information Included in Submittals**

All Submittals shall be accompanied by a written transmittal and each set of plans shall carry a "wet stamp" or other writing by the Design-Builder providing an identification of the portion of the Drawings or the Specifications pertaining to the Submittal, with each Submittal numbered consecutively for ease of reference along with the following information: (i) date of submission; (ii) Project name; (iii) name of submitting Subcontractor; and (iv) if applicable, the revision number. The foregoing information is in addition to, and not in lieu of, any other information required for the District's review, evaluation and approval of the Design-Builder's Submittals. Each Submittal shall be complete with its required number of copies, no piecemeal documentation is allowed. Any Submittal not bearing the required wet stamp as stated herein, shall be rejected until the appropriate wet stamp information is provided on each submittal.

**10.6. Verification of Submittal Information**

By approving and submission of Submittals, the Design-Builder represents to the District and Architect that the Design-Builder 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 Design-Builder's Superintendent or Project Manager for the Work: "The Design-Builder has reviewed and approved the field dimensions and construction criteria of the attached Submittal. The Design-Builder has verified that the Submittal is complete and 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 Design-Builder with information included in other Submittals."

**10.7. Design-Builder Responsibility for Deviations**

The Design-Builder shall not be relieved of responsibility for correcting deviations from the requirements of the Contract Documents by the District's and Architect's review of Submittals unless the Design-Builder has specifically informed the District in writing of such deviation at the time of submission of the Submittal and the District has given written approval to the specific deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the District's and Architect's review or comments thereon.

**10.8. No Performance of Work Without Architect Review**

The Design-Builder shall perform no portion of the Work requiring the District's and Architect's review of Submittals until the District and Architect have completed their review and returned the Submittal to the Design-Builder indicating "No Exception Taken" to that Submittal. The Design-Builder 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. All Work shall be in accordance with the final action taken by the District and the Architect review in review of Submittals and other applicable portions of the Contract Documents.

**10.9. District and Architect Review of Submittals**

The purpose of the District's and Architect's review of Submittals and the time for the District's and Architect's return of Submittals to the Design-Builder shall be as set forth elsewhere in the Contract Documents. If the District and/or Architect return a Submittal as rejected or requiring correction(s) with re-submission, the Design-Builder, 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 District's and Architect's direction. When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the District shall be entitled to rely upon the accuracy and completeness of the Design-Builder's calculations and certifications accompanying Submittals. The District's and Architect's review of the Submittals is for the limited purposes described in the Contract Documents. The District and Architect will review each Submittal twice. Should additional Submittals be required as a result of failure of the Design-Builder to address comments, the Design-Builder will pay for the Architect's services on a time and material basis for each subsequent review.

#### **10.10. Deferred Approval Items**

In the event that any portion of the Work is designated in the Contract Documents as a "Deferred Approval" item from DSA, Design-Builder shall be solely and exclusively responsible for the preparation of Submittals for such item(s) in a timely manner so as not to delay or hinder the completion of the Work within the Contract Time. All work, labor, materials, equipment or services necessary to complete the design, engineering and permitting/approval of the Deferred Approval items shall be provided by the Design-Builder without adjustment of the Contract Price or the Contract Time.

#### **10.11. Design-Builder Responsibility for Deviations**

The Design-Builder shall not be relieved of responsibility for correcting deviations from the requirements of the Contract Documents by the District's or Architect's review of Submittals unless the Design-Builder has specifically informed the District and the Architect in writing of such deviation at the time of submission of the Submittal and the District and the Architect have given written approval to the specific deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the District's or the Architect's review or comments thereon.

### **11. SITE ACCESS, CONDITIONS AND REQUIREMENTS**

#### **11.1. Site Investigation**

Before bidding on the Work, Design-Builder shall make a careful investigation of the Site and thoroughly familiarize itself with the requirements of the Contract. By the act of submitting a bid for the Work included in the Contract, Design-Builder shall be deemed to have made a complete study and investigation, and to be familiar with and accepted the existing conditions of the Site.

#### **11.2. Soils Investigation Report**

11.2.1. When a soils investigation report obtained from test holes at Site is available, that report shall be available to the Design-Builder but shall not be a part of the Contract. Any information obtained from that report or any information given on Drawings as to subsurface soil condition or to elevations of existing grades or elevations of underlying rock is approximate only, is not guaranteed, does not form a part of the Contract, and Design-Builder may not rely thereon. By submitting its bid, Design-Builder acknowledges that it made visual examination of Site and made whatever tests Design-Builder deems appropriate to determine underground condition of soil.

11.2.2. Design-Builder agrees that no claim against District will be made by Design-Builder for damages and hereby waives any rights to damages if, during progress of Work, Design-Builder encounters subsurface or latent conditions at Site materially differing from those shown on Drawings or indicated in Specifications, or for unknown conditions of an unusual nature that differ materially from those ordinarily encountered in the work of the character provided for in Plans and Specifications, except as indicated in the provisions

of these General Conditions regarding trenches, trenching, and/or existing utility lines.

**11.3. Access to Work**

District and its representatives shall at all times have access to Work wherever it is in preparation or progress, including storage and fabrication. Design-Builder shall provide safe and proper facilities for access so that District's representatives may perform their functions.

**11.4. Layout and Field Engineering**

**11.4.1.** All field engineering required for layout of this Work and establishing grades for earthwork operations shall be furnished by Design-Builder at its expense. This Work shall be done by a qualified, California-registered civil engineer approved in writing by District and Architect. Any required Record and/or As-Built Drawings of Site development shall be prepared by the approved civil engineer.

**11.4.2.** Design-Builder shall be responsible for having ascertained pertinent local conditions such as location, accessibility, and general character of the Site and for having satisfied itself as to the conditions under which the Work is to be performed. District shall not be liable for any claim for allowances because of Design-Builder's error or negligence in acquainting itself with the conditions at the Site.

**11.4.3.** Design-Builder shall protect and preserve established benchmarks and monuments and shall make no changes in locations without the prior written approval of District. Design-Builder shall replace any benchmarks or monuments that are lost or destroyed subsequent to proper notification of District and with District's approval.

**11.5. Utilities for Construction**

Utilities necessary to complete the Work and to completely perform all of the Design-Builders' obligations shall be obtained by the Design-Builder without adjustment of the Contract Price. The Design-Builder 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 Design-Builder 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 Design-Builder and included in the Contract Price. Also refer to other utility requirements as indicated in the Specifications.

**11.6. Sanitary Facilities**

At all times during Work at the Site, the Design-Builder shall obtain and maintain temporary sanitary facilities in conformity with applicable law, rule or regulation. The Design-Builder 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. Also refer to other Sanitary facility requirements as indicated in the Specifications.

**11.7. Surveys**

Design-Builder shall provide surveys done by a California-licensed civil engineer surveyor to determine locations of construction, grading, and site work as required to perform the Work.

**11.8. Regional Notification Center**

Design-Builder, except in an emergency, shall contact the appropriate regional notification center at least two (2) days prior to commencing any excavation if the excavation will be conducted in an area or in a private easement that is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the District, and obtain an

inquiry identification number from that notification center. No excavation shall be commenced and/or carried out by the Design-Builder unless an inquiry identification number has been assigned to the Design-Builder or any Subcontractor and the Design-Builder has given the District the identification number. Any damages arising from Design-Builder's failure to make appropriate notification shall be at the sole risk and expense of the Design-Builder. Any delays caused by failure to make appropriate notification shall be at the sole risk of the Design-Builder and shall not be considered for an extension of the Contract time.

#### **11.9. Existing Utility Lines**

**11.9.1.** Pursuant to Government Code section 4215, District assumes the responsibility for removal, relocation, and protection of main or trunk utility lines and facilities located on the construction Site at the time of commencement of construction under the Contract with respect to any such utility facilities that are not identified in the Plans and Specifications. Design-Builder shall not be assessed for liquidated damages for delay in completion of the Project caused by failure of District or the owner of a utility to provide for removal or relocation of such utility facilities.

**11.9.2.** Locations of existing utilities provided by District shall not be considered exact, but approximate within reasonable margin and shall not relieve Design-Builder of responsibilities to exercise reasonable care nor costs of repair due to Design-Builder's failure to do so. District shall compensate Design-Builder for the costs of locating, repairing damage not due to the failure of Design-Builder to exercise reasonable care, and removing or relocating such utility facilities not indicated in the Plans and Specifications with reasonable accuracy, and for equipment necessarily idle during such work.

**11.9.3.** No provision herein shall be construed to preclude assessment against Design-Builder for any other delays in completion of the Work. Nothing in this Article shall be deemed to require District to indicate the presence of existing service laterals, appurtenances, or other utility lines, within the exception of main or trunk utility lines. Whenever the presence of these utilities on the Site can be inferred from the presence of other visible facilities, such as buildings, meter junction boxes, on or adjacent to the Site.

**11.9.4.** If Design-Builder, while performing Work, discovers utility facilities not identified by District in Contract Plans and Specifications, Design-Builder shall immediately, but in no case longer than two (2) Business Days, notify the District and the utility in writing. The cost of repair for damage to above-mentioned visible facilities without prior written notification to the District shall be borne by the Design-Builder.

#### **11.10. Notification**

Design-Builder understands, acknowledges and agrees that the purpose for prompt notification to the District pursuant to these provisions is to allow the District to investigate the condition(s) so that the District shall have the opportunity to decide how the District desires to proceed as a result of the condition(s). Accordingly, failure of Design-Builder to promptly notify the District in writing, pursuant to the applicable provisions of these General Conditions, shall constitute Design-Builder's waiver of any claim for damages or delay incurred as a result of the condition(s).

#### **11.11. Hazardous Materials**

Design-Builder shall comply with all provisions and requirements of the Contract Documents related to hazardous materials including, without limitation, Hazardous Materials Procedures and Requirements.

#### **11.12. No Signs**

Neither the Design-Builder nor any other person or entity shall display any signs not required by



law or the Contract Documents at the Site, fences trailers, offices, or elsewhere on the Site without specific prior written approval of the District.

## **12. TRENCHES**

### **12.1. Trenches Greater Than Five Feet**

Pursuant to Labor Code section 6705, if the Contract Price exceeds \$25,000 and involves the excavation of any trench or trenches five (5) feet or more in depth, the Design-Builder shall, in advance of excavation, promptly submit to the District and/or a registered civil or structural engineer employed by the District or Architect, a detailed plan showing the design of shoring for protection from the hazard of caving ground during the excavation of such trench or trenches.

### **12.2. Excavation Safety**

If such plan varies from the Shoring System Standards established by the Construction Safety Orders, the plan shall be prepared by a registered civil or structural engineer, but in no case shall such plan be less effective than that required by the Construction Safety Orders. No excavation of such trench or trenches shall be commenced until said plan has been accepted by the District or by the person to whom authority to accept has been delegated by the District.

### **12.3. No Tort Liability of District**

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

### **12.4. No Excavation without Permits**

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

### **12.5. Discovery of Hazardous Waste, Unusual Conditions and/or Unforeseen Conditions**

**12.5.1.** Pursuant to Public Contract Code section 7104, if the Work involves digging trenches or other excavations that extend deeper than four (4) feet below the surface, the Design-Builder shall immediately, but in no case longer than two (2) Business Days, and before the following conditions are disturbed, notify the District, in writing, of any:

**12.5.1.1.** Material that the Design-Builder believes may be material that is hazardous waste, as defined in section 25117 of the Health and Safety Code, and requires removal to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.

**12.5.1.2.** Subsurface or latent physical conditions at the Site differing from those indicated.

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

**12.5.2.** The District shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Design-Builder's cost of, or the time required for, performance of any part of the Work, shall issue a Change Order under the procedures described herein.

**12.5.3.** In the event that a dispute arises between District and the Design-Builder whether the

conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Design-Builder's cost of, or time required for, performance of any part of the Work, the Design-Builder shall not be excused from any scheduled Completion date provided for by the Contract, but shall proceed with all work to be performed under the Contract. The Design-Builder shall retain any and all rights provided by the Contract or by law that pertain to the resolution of disputes and protests, which include the requirement that Design-Builder complies with the notice and PCO provisions of the Contract Documents. Design-Builder's failure to submit a proposed change order pursuant to the terms of the Contract Documents shall be deemed a waiver of Design-Builder's right to an adjustment of the Contract Price or Contract Time.

### **13. INSURANCE AND BONDS**

#### **13.1. Insurance**

Unless different provisions and/or limits are indicated in the Special Conditions, all insurance required of Design-Builder and/or its Subcontractor(s) shall be in the amounts indicated herein and include the provisions set forth herein.

##### **13.1.1. Commercial General Liability and Automobile Liability Insurance**

**13.1.1.1.** Design-Builder shall procure and maintain, during the life of the Contract, Commercial General Liability Insurance and Automobile Liability Insurance that shall protect Design-Builder, District, State, Construction Manager(s), Project Inspector(s), and Architect(s) from all claims for bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising from operations under the Contract. This coverage shall be provided in a form at least as broad as the Insurance Services Office (ISO) standard form. Design-Builder shall ensure that Products Liability and Completed Operations coverage, Fire Damage Liability, and any Auto including owned, non-owned, and hired, are included within the above policies and at the required limits, or Design-Builder shall procure and maintain these coverages separately.

**13.1.1.2.** Design-Builder's deductible or self-insured retention for its Commercial General Liability Insurance policy shall not exceed \$25,000 unless approved in writing by District.

##### **13.1.2. Umbrella Liability Insurance**

**13.1.2.1.** Design-Builder may procure and maintain, during the life of the Contract, an Excess Liability and/or Umbrella Liability Insurance Policy. Any Umbrella Liability Insurance Policy shall protect Design-Builder, District, State, Construction Manager(s), Project Manager(s), and Architect(s) in the amounts indicated herein, and shall comply with all requirements for Commercial General Liability and Automobile Liability and Employers' Liability Insurance. This coverage shall be provided in a form at least as broad as the Insurance Services Office (ISO) standard form.

**13.1.2.2.** There shall be no gap between the per occurrence amount of any underlying policy and the start of the coverage under the Umbrella Liability Insurance Policy. Special Conditions

**13.1.2.3.** Whether this Excess Liability and/or Umbrella Liability Insurance Policy is written on a "follow form" or "stand alone" form, the coverages shall equal or greater than the Design-Builder's Commercial General Liability and Automobile Liability and Employers' Liability Insurance with no exclusions that reduce or eliminate coverage items.

**13.1.3. Subcontractor(s):** Design-Builder shall require its Subcontractor(s), if any, to procure and maintain Commercial General Liability Insurance, Automobile Liability Insurance, and Umbrella Liability Insurance with minimum limits equal to at least fifty percent (50%) of the amounts required of the Design-Builder.

**13.1.4. Workers' Compensation and Employers' Liability Insurance**

**13.1.4.1.** In accordance with provisions of section 3700 of the California Labor Code, the Design-Builder and every Subcontractor shall be required to secure the payment of compensation to its employees.

**13.1.4.2.** Design-Builder shall procure and maintain, during the life of this Contract, Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees engaged in Work under the Contract, on/or at the Site of the Project. This coverage shall cover, at a minimum, medical and surgical treatment, disability benefits, rehabilitation therapy, and survivors' death benefits. Design-Builder shall require its Subcontractor(s), if any, to procure and maintain Workers' Compensation Insurance and Employers' Liability Insurance for all employees of Subcontractor(s). Any class of employee or employees not covered by a Subcontractor's insurance shall be covered by Design-Builder's insurance. If any class of employee or employees engaged in Work under the Contract, on or at the Site of the Project, are not protected under the Workers' Compensation Insurance, Design-Builder shall provide, or shall cause a Subcontractor to provide, adequate insurance coverage for the protection of any employee(s) not otherwise protected before any of those employee(s) commence work.

**13.1.5. Builder's Risk Insurance: Builder's Risk "All Risk" Insurance.**

Design-Builder shall procure and maintain, during the life of this Contract, Builder's Risk (Course of Construction), or similar first party property coverage acceptable to the District, issued on a replacement cost value basis. The cost shall be consistent with the total replacement cost of all insurable Work included within the Contract Documents. Coverage is to insure against all risks of accidental physical loss and shall include without limitation the perils of vandalism and/or malicious mischief (both without any limitation regarding vacancy or occupancy), sprinkler leakage, water damage, mold, civil authority, theft, sonic disturbance, earthquake, flood, collapse, wind, fire, war, terrorism, lightning, smoke, and rioting. Coverage shall include debris removal, demolition, increased costs due to enforcement of all applicable ordinances and/or laws in the repair and replacement of damaged and undamaged portions of the property, and reasonable costs for the Architect's and engineering services and expenses required as a result of any insured loss upon the Work and Project, including completed Work and Work in progress, to the full insurable value thereof. Design-Builder must review the **Special Conditions** to confirm the scope of this requirement and if the District has modified this provision.

**13.1.6. Proof of Carriage of Insurance and Other Requirements: Endorsements and Certificates**

**13.1.6.1.** Design-Builder shall not commence Work nor shall it allow any Subcontractor to commence Work under the Contract, until Design-Builder and its Subcontractor(s) have procured all required insurance and Design-Builder has delivered in duplicate to the District complete endorsements (or entire insurance policies) and certificates indicating the required coverages have been obtained, and the District has approved these documents.

**13.1.6.2.** Endorsements, certificates, and insurance policies shall include the following:

**13.1.6.2.1.** A clause stating:

13.1.6.2.1.1. "This policy shall not be amended, canceled or modified and the coverage amounts shall not be reduced until notice has been mailed to District, Architect, and Construction Manager stating date of amendment, modification, cancellation or reduction. Date of amendment, modification, cancellation or reduction may not be less than thirty (30) days after date of mailing notice."

13.1.6.2.1.2. In lieu of receiving an endorsement with this clause, the District may, at its sole discretion, accept written notification from Design-Builder and its insurer to the District of any amendments, modifications, cancellations or reduction in coverage, not less than thirty (30) days prior to such coverage changes occur.

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

13.1.6.3. All endorsements, certificates and insurance policies shall state that District, its trustees, employees and agents, the State of California, Construction Manager(s), Project Manager(s), Inspector(s) and Architect(s) are named additional insureds under all policies except Workers' Compensation Insurance and Employers' Liability Insurance.

13.1.6.4. Design-Builder's and Subcontractors' insurance policy(s) shall be primary and non-contributory to any insurance or self-insurance maintained by District, its trustees, employees and/or agents, the State of California, Construction Manager(s), Project Manager(s), Inspector(s), and/or Architect(s).

13.1.6.5. All endorsements shall waive any right to subrogation against any of the named additional insureds.

13.1.6.6. All policies shall be written on an occurrence form.

13.1.6.7. Unless otherwise stated in the Special Conditions, all of Design-Builder's insurance shall be placed with insurers ADMITTED in California with a current A.M. Best's rating of no less than A— or A:VII.

13.1.6.8. The insurance requirements set forth herein shall in no way limit the Design-Builder's liability arising out or relating to the performance of the Work or related activities.

13.1.6.9. Failure of Design-Builder and/or its Subcontractor(s) to comply with the insurance requirements herein shall be deemed a material breach of the Agreement.

#### 13.1.7. Insurance Policy Limits

Unless different limits are indicated in the **Special Conditions**, the limits of insurance shall not be less than the following amounts:

Commercial General Liability	Combined Single Limit	\$2,000,000 per occurrence; \$4,000,000 aggregate
	Product Liability and	\$2,000,000 per occurrence;

	Completed Operations	\$4,000,000 aggregate
<b>Automobile Liability – Any Auto</b>	Combined Single Limit	\$2,000,000 per occurrence; \$4,000,000 aggregate
<b>Excess Liability (Umbrella)</b>		\$6,000,000 per occurrence; \$6,000,000 aggregate
<b>Workers Compensation</b>		Statutory limits pursuant to State law
<b>Employers' Liability</b>		\$2,000,000
<b>Builder's Risk (Course of Construction)</b>		Issued for the value and scope of Work indicated herein.
<b>Property of Others</b>	Combined Single Limit General Aggregate	Issued for the value and scope of Work stored off-site.

### 13.2. Contract Security – Bonds

13.2.1. Design-Builder shall furnish two surety bonds issued by a California admitted surety insurer as follows:

13.2.1.1. **Performance Bond:** A bond in an amount at least equal to one hundred percent (100%) of Contract Price as security for faithful performance of this Contract.

13.2.1.2. **Payment Bond:** A bond in an amount at least equal to one hundred percent (100%) of the Contract Price as security for payment of persons performing labor and/or furnishing materials in connection with the Contract.

13.2.2. Cost of bonds shall be included in the Bid and Contract Price.

13.2.3. All bonds related to the Project shall be in the forms set forth in the Contract Documents and shall comply with all requirements of the Contract Documents, including, without limitation, the bond forms.

## 14. WARRANTY/GUARANTEE/INDEMNITY

### 14.1. Warranty/Guarantee

14.1.1. Design-Builder shall obtain and preserve for the benefit of the District, manufacturer's warranties on materials, fixtures, and equipment incorporated into the Work.

14.1.2. In addition to guarantees required elsewhere, Design-Builder shall, and hereby does guarantee and warrant all Work against all defects for a period of **ONE (1)** year after the later of the following dates:

14.1.2.1. The date of completion as defined in Public Contract Code section 7107, subdivision (c),

14.1.2.2. The commissioning date for the Project, if any.

14.1.3. At the District's sole option, Design-Builder shall repair or replace any and all of that Work, together with any other Work that may be displaced in so doing, that may prove defective in workmanship and/or materials within a **ONE (1)** year period from date of Completion as defined above without expense whatsoever to District. In the event of failure of Design-Builder and/or Surety to commence and pursue with diligence said replacements or repairs within **TEN (10)** days after being notified in writing, Design-

Builder and Surety hereby acknowledge and agree that District is authorized to proceed to have defects repaired and made good at expense of Design-Builder and/or Surety who hereby agree to pay costs and charges therefore immediately on demand.

- 14.1.4. If, in the opinion of District, defective work creates a dangerous condition or requires immediate correction or attention to prevent further loss to District or to prevent interruption of operations of District, District will attempt to give the notice required above. If Design-Builder or Surety cannot be contacted or neither complies with District's request for correction within a reasonable time as determined by District, District may, notwithstanding the above provision, proceed to make all corrections and/or provide attentions the District believes are necessary. The costs of correction or attention shall be charged against Design-Builder and Surety of the guarantees provided in this Article or elsewhere in the Contract Documents.
- 14.1.5. The above provisions do not in any way limit the guarantees on any items for which a longer guarantee is specified or on any items for which a manufacturer gives a guarantee for a longer period. Design-Builder shall furnish to District all appropriate guarantee or warranty certificates as indicated in the Specifications or upon request by District.
- 14.1.6. Nothing herein shall limit any other rights or remedies available to District.

#### 14.2. Indemnity

- 14.2.1. To the furthest extent permitted by California law, Design-Builder shall indemnify, defend with legal counsel reasonably acceptable to the District, keep and hold harmless the District and its consultants, the Architect and its consultants, the Construction Manager and its consultants, separate contractors, and their respective board members, officers, representatives, contractors, agents, and employees, in both individual and official capacities ("Indemnitees"), against all suits, claims, damages, losses, and expenses, including but not limited to attorney's fees, caused by, arising out of, resulting from, or incidental to, the performance of the Work by Design-Builder, its Subcontractors, vendors, or suppliers, including, without limitation, any such suit, claim, damage, loss, or expense attributable to, without limitation, bodily injury, sickness, disease, death, alleged patent violation or copyright infringement, or to injury to or destruction of tangible property (including damage to the Work itself) including the loss of use resulting therefrom, except to the extent caused by the sole negligence, active negligence, or willful misconduct of the Indemnitees, and/or to any extent that would render these provisions void or unenforceable. This agreement and obligation of Design-Builder shall not be construed to negate, abridge, or otherwise reduce any right or obligation of indemnity that would otherwise exist as to any party or person described herein. This indemnification, defense, and hold harmless obligation includes any failure or alleged failure by Design-Builder to comply with any provision of law, any failure or alleged failure to timely and properly fulfill all of its obligations under the Contract Documents in strict accordance with their terms, and without limitation, any stop payment notice actions or liens, including liens by the California Department of Labor Standards Enforcement.
- 14.2.2. Design-Builder shall give prompt notice to the District in the event of any injury (including death), loss, or damage included herein. Without limitation of the provisions herein, if Design-Builder's agreement to indemnify, defend, and hold harmless the Indemnitees as provided herein against liability for damage arising out of bodily injury to persons or damage to property caused by or resulting from the negligence of any of the Indemnitees shall to any extent be or be determined to be void or unenforceable, it is the intention of the parties that these circumstances shall not otherwise affect the validity or enforceability of Design-Builder's agreement to indemnify, defend, and hold harmless the rest of the Indemnitees, as provided herein, and in the case of any such suits, claims, damages, losses, or expenses caused in part by the default, negligence, or act or omission

of Design-Builder, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, and in part by any of the Indemnitees, Design-Builder shall be and remain fully liable on its agreements and obligations herein to the full extent permitted by law.

14.2.3. In any and all claims against any of the Indemnitees by any employee of Design-Builder, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, Design-Builder's indemnification obligation herein shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Design-Builder or any Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

14.2.4. The defense and indemnification obligations hereunder shall survive the Completion of Work, including the warranty/guarantee period, and/or the termination of the Agreement.

**15. TIME**

**15.1. Notice to Proceed**

District may issue a Notice to Proceed as indicated in the Instructions to Bidders.

**15.2. Hours of Work**

Work shall be performed during regular working hours as permitted by the appropriate governmental agency except that in the event of an emergency, or when required to complete the Work in accordance with job progress, Work may be performed outside of regular working hours with the advance written consent of the District and approval of any required governmental agencies. Design-Builder and Subcontractors shall continuously furnish sufficient forces to ensure the performance of the Work in accordance with the Construction Schedule.

**15.3. Progress and Completion**

**15.3.1. Time of the Essence**

Time limits stated in the Contract Documents are of the essence to the Contract. By executing the Agreement, Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

**15.3.2. No Commencement Without Insurance**

15.3.2.1. Design-Builder shall not commence operations on the Project or elsewhere prior to the effective date of insurance and bonds. The date of commencement of the Work shall not be changed by the effective date of such insurance. If Design-Builder commences Work without insurance and bonds, all Work is performed at Design-Builder's peril and shall not be compensable until and unless Design-Builder secures bonds and insurance pursuant to the terms of the Contract Documents and subject to District's claim for damages.

**15.4. Schedule**

Design-Builder shall provide to District, Construction Manager, and Architect a schedule in conformance with the Contract Documents and as required in the Notice to Proceed and the Design-Builder's Submittals and Schedules section of these General Conditions.

**15.5. Expeditious Completion**

The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Completion within the Contract Time.

**16. EXTENSIONS OF TIME – LIQUIDATED DAMAGES**

**16.1. Design-Builder's Notice of Delay**

- 16.1.1.** In addition to the requirements indicated in this subsection, Design-Builder shall notify the District pursuant to the claims provisions in these General Conditions of any anticipated delay and its cause.
- 16.1.2.** Design-Builder shall, within **FIVE (5)** calendar days of any delay impacting the critical path in completing the Work, notify District in writing of the causes of the delay including documentation and facts explaining the delay.
- 16.1.3.** Any request by Design-Builder for an adjustment of the Contract Price or the Contract Time for a delay shall be submitted in accordance with the provisions in the Contract Documents governing changes in Work. When requesting time, requests must be submitted with full justification and documentation. Such justification must be based on the official Construction Schedule as updated at the time of occurrence of the delay or execution of Work related to any changes to the Scope of Work.
- 16.1.4.** Any claim for delay must include the following information as support, without limitation:
  - 16.1.4.1.Duration.** The duration of the activity relating to the changes in the Work and the resources (manpower, equipment, material, etc.) required to perform the activities within the stated duration.
  - 16.1.4.2.Logical Ties / Fragnets.** Specific logical ties to the Contract Schedule for the proposed changes and/or delay showing the activity/activities in the Construction Schedule that are affected by the change and/or delay. (A portion of any delay of seven (7) days or more must be provided.) Include a "fragnet" analysis for the portion of the schedule and the activities the Design-Builder contends are impacted by the delay.
  - 16.1.4.3.Updated Construction Schedule.** A recovery or updated Construction Schedule must be submitted.
- 16.1.5.** District shall review the facts and extent of any noticed delay and may grant Contract Time extension(s) of time for completing Work when, in the District's judgment, the findings of fact justify an extension.
- 16.1.6.** Extension(s) of time shall apply only to that portion of Work affected by delay, and shall not apply to other portions of Work not so affected.
- 16.1.7.** An extension of time may only be granted if Design-Builder has timely submitted the updated Construction Schedule as required herein.
- 16.1.8.** Following submission of a notice of delay, the District may determine whether the delay is to be considered:
  - 16.1.8.1.**Excusable and Compensable, Excusable and Non-Compensable, or Unexcused;
  - 16.1.8.2.**How long the delay continues; and
  - 16.1.8.3.**To what extent the prosecution and Completion of the Work might be delayed



thereby.

**16.1.9.** Design-Builder's failure to request adjustment(s) of the Contract Time in strict conformity with applicable provisions of the Contract Documents shall be deemed Design-Builder's waiver of its right to assert a claim for a delay.

**16.1.10. Limitations Upon Adjustment of Contract Time on Account of Delays.** Any adjustment of the Contract Time due to an Excusable Delay or a Compensable Delay shall be limited as set forth herein. No adjustment of the Contract Time shall be due to an Excusable Delays or Compensable Delays unless those 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 a delay first occurs. The District shall not be deemed in breach of, or otherwise in default of any obligation hereunder, if the District denies a request by the Design-Builder for an adjustment of the Contract Time for any delay that does not actually and directly impact Work on the then current and updated approved Construction Schedule. In submitting a request for an adjustment of Contract Time, and as a condition precedent to the District's review of that request, Design-Builder shall insert into the then current and updated approved Construction Schedule a "fragnet" analysis representing the event that Design-Builder claims to result in delay to the critical path as depicted in the updated approved Construction Schedule. 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 that ends last. If an Unexcused 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 Unexcused Delay.

**16.2. Excusable and Compensable Delay(s)**

**16.2.1.** Design-Builder is not entitled to additional compensation for any delay, even a delay caused by Adverse Weather or an Excusable Delay, unless all of the following conditions are met:

**16.2.1.1.** The District is responsible for the delay;

**16.2.1.2.** The delay is unreasonable under the circumstances involved and impacts the critical path of the Work and extends the most current Contract Completion date;

**16.2.1.3.** The delay was not within the contemplation of District and Design-Builder; and

**16.2.1.4.** Design-Builder complies with the claims procedure of the Contract Documents.

**16.2.1.5.** The delay could not have been avoided or mitigated by the Design-Builder's care, prudence, foresight, and diligence.

**16.2.1.6.** The delay extends the most current Contract Completion date, and is not concurrent with a Design-Builder caused delay or other type of Excusable Delay.

**16.2.2.** In accordance with California Public Contract Code section 7102, if the Design-Builder's progress is delayed by the events described in the preceding subsection, Design-Builder shall not be precluded from the recovery of damages directly and proximately resulting therefrom. In that event, Design-Builder's damages, if any, shall be limited to direct, actual and unavoidable additional costs of labor, materials or construction equipment directly resulting from that delay, and shall exclude special, indirect or consequential damages. In no event shall Design-Builder seek costs or damages for delays,

interruptions, hindrances or disruptions to the Work for on-Site or off-Site costs or damages based upon formulas, e.g. Eichleay or other formula. Except as expressly provided for herein, Design-Builder 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, the "Changes in the Work" section and the percentages in the "Format for Proposed Change" section of these General Conditions.

**16.3. Excusable and Non-Compensable Delay(s)**

**16.3.1.** An "Excusable Delay" shall mean an interruption of the Work beyond the reasonable control of the Design-Builder and that:

**16.3.1.1.** Could have not been avoided by the Design-Builder exercising care, prudence, foresight, and diligence, and

**16.3.1.2.** Actually extended the most current Project Completion date.

**16.3.2.** The Design-Builder may be entitled to an extension of the Project Completion date if there is an Excusable Delay, but the Design-Builder shall not be entitled to additional compensation for an Excusable Delay.

**16.3.3.** Excusable Delays are limited to interruptions that satisfy the above requirements and that are acts of God; acts of a public enemy; fires; floods; windstorms; tornadoes; earthquakes; wars; riots; insurrections; epidemics; quarantine restrictions; strikes; lockouts; fuel shortages; freight embargoes; and Adverse Weather that satisfies the requirements herein.

**16.3.4.** Design-Builder is aware that governmental agencies and utilities, including, without limitation, the Division of the State Architect, the Department of General Services, gas companies, electrical utility companies, water districts, and other agencies may have to approve Design-Builder-prepared drawings or approve a proposed installation. Design-Builder shall include in its bid, time for possible review of its drawings and for reasonable delays and damages that may be caused by such agencies. Design-Builder is not entitled to make a claim for damages or delays or an Excusable Delay arising from the review of Design-Builder's drawings or other approvals from the Division of the State Architect, the Department of General Services, gas companies, electrical utility companies, water districts, and other agencies.

**16.3.5.** Neither the financial resources of the Design-Builder or any person or entity directly or indirectly engaged by the Design-Builder in performance of any portion of the Work shall be deemed conditions beyond the control of the Design-Builder. If an event of Excusable Delay occurs, the Contract Time shall be subject to adjustment hereunder only if the Design-Builder establishes: (i) full compliance with all applicable provisions of the Contract Documents relative to the method, manner and time for Design-Builder's notice and request for adjustment of the Contract Time; (ii) that the event(s) forming the basis for Design-Builder's request to adjust the Contract Time are outside the reasonable control and without any fault or neglect of the Design-Builder or any person or entity directly or indirectly engaged by Design-Builder in performance of any portion of the Work; and (iii) that the event(s) forming the basis for Design-Builder'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.

**16.3.6. Computation of Time / Adverse Weather**

**16.3.6.1.** The Design-Builder will only be allowed a time extension for Adverse Weather conditions if requested by Design-Builder within five (5) calendar days of the Adverse Weather event, and only if all of the following conditions are met – thereby making the resulting delay an Excusable Delay.

**16.3.6.1.1.** The weather conditions constitute Adverse Weather, as defined herein and further specified in the Special Conditions;

**16.3.6.1.2.** Design-Builder can verify that the Adverse Weather caused delays in excess of five (5) hours of the indicated labor required to complete the scheduled tasks of Work on the day affected by the Adverse Weather;

**16.3.6.1.3.** The Design-Builder's crew is dismissed as a result of the Adverse Weather; and

**16.3.6.1.4.** The number of days of delay for the month exceed those indicated in the Special Conditions.

**16.3.6.2.** A day-for-day extension will only be allowed for those days in excess of those indicated in the Special Conditions.

**16.3.6.3.** The Design-Builder shall work seven (7) days per week, if necessary, irrespective of inclement weather, to maintain access and the Construction Schedule, and to protect the Work under construction from the effects of Adverse Weather, all at no further cost to the District.

**16.3.6.4.** The Contract Time has been determined with consideration given to the average climate weather conditions prevailing in the County in which the Project is located.

**16.4. Unexcused Delay(s) – Liquidated Damages**

**16.4.1.** Unexcused Delays refer to any delay to the progress of the Work caused by events or factors other than those specifically identified in the "Excusable and Compensable Delay(s)" or the "Excusable and Non-Compensable Delay(s)" sections above. Neither the Contract Price nor the Contract Time shall be adjusted on account of Unexcused Delays.

**16.4.2.** Design-Builder and District hereby agree that the exact amount of damages for failure to complete the Work within the time specified is extremely difficult or impossible to determine. If the Work is not completed within the time specified in the Contract Documents, it is understood that the District will suffer damage. It being impractical and unfeasible to determine the amount of actual damage, it is agreed the Design-Builder shall forfeit and pay to District as fixed and liquidated damages, and not as a penalty, the amount set forth in the Agreement for each calendar day of delay in Completion. Design-Builder and its Surety shall be liable for the amount thereof pursuant to Government Code section 53069.85.

**16.4.3.** Design-Builder shall not forfeit or pay liquidated damages for an Excusable Delay or an Excusable and Compensable Delay.

**17. CHANGES IN THE WORK**

**17.1. No Changes Without Authorization**

**17.1.1.** There shall be no change whatsoever in the Drawings, Specifications, or in the Work

without an executed Change Order, a written Unilateral Change Order, or a written Force Account Directive authorized by the District as herein provided. District shall not be liable for the cost of any extra work, any changes to the Contract Time, or any substitutions, changes, additions, omissions, or deviations from the Drawings and Specifications unless the District's governing board has authorized the same and the cost thereof has been approved in writing by an executed Change Order, a written Unilateral Change Order, or a written Force Account Directive.

- 17.1.2. Verbal Order of Change in the Work.** Any verbal order, direction, instruction, interpretation, or determination from the District, the Project Inspector or the Architect which in the opinion of the Design-Builder 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 Design-Builder gives the Architect written notice within three (3) working days of the order, directions, instructions, interpretation or determination and prior to acting in accordance therewith. Time is of the essence in Design-Builder'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 Design-Builder's notice. Accordingly, Design-Builder acknowledges that its failure, for any reason, to give written notice within three (3) working days of any verbal order, direction, instruction, interpretation or determination shall be deemed Design-Builder'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 that verbal 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 verbal order, directions, instructions, interpretation or determination that the Design-Builder regards as a Change. Unless the Design-Builder acts in strict accordance with this procedure, any verbal order, direction, instruction, interpretation or determination shall not be treated as a Change and the Design-Builder hereby waives any claim for any adjustment to the Contract Price or the Contract Time on account thereof.
- 17.1.3.** The Surety, in executing and providing the Performance Bond and the Payment Bond, shall be deemed to have expressly agreed to any change to the Contract and to any extension of time made by reason thereof.
- 17.1.4.** No extension of time for performance of the Work shall be allowed hereunder unless claim for such extension is made at the time changes in the Work are ordered, and such time duly adjusted in writing in the Change Order, Unilateral Change Order, or Force Account Directive. The provisions of the Contract Documents shall apply to all such changes, additions, and omissions with the same effect as if originally embodied in the Drawings and Specifications.
- 17.1.5.** Design-Builder shall perform immediately all work that has been authorized by a fully executed Change Order, Unilateral Change Order, or Force Account Directive. Design-Builder shall be fully responsible for any and all delays and/or expenses caused by Design-Builder's failure to expeditiously perform this Work and Design-Builder's failure or refusal to so proceed with that Work may be deemed to be Design-Builder's default of a material obligation of the Design-Builder under the Contract Documents.
- 17.1.6.** Should any Change Order result in an increase in the Contract Price, the cost of that Change Order shall be agreed to, in writing, in advance by Design-Builder and District and be subject to the monetary limitations set forth in Public Contract Code section 20118.4. In the event that Design-Builder proceeds with any change in Work without a Change Order executed by the District, Unilateral Change Order, or Force Account Directive, Design-Builder waives any claim of additional compensation or time for that additional work.

- 17.1.7. Design-Builder understands, acknowledges, and agrees that the reason for District authorization is so that District may have an opportunity to analyze the Work and decide whether the District shall proceed with the Change Order or alter the Project so that a change in Work becomes unnecessary.
- 17.1.8. In an emergency affecting safety of life or of work or of adjoining property, Design-Builder, without special instruction or authorization, shall act, at its discretion, to prevent all threatened loss or injury. Any compensation or time claimed by Design-Builder on account of emergency work shall be determined as indicated herein as a PCO.
- 17.1.9. No payments will be made, nor will District accept proposed change orders until the Design-Builder has complied with all the requirements of the Escrow of Bid Documentation document (if applicable).

**17.2. Architect Authority**

The Architect will have authority to order minor changes in the Work not involving any adjustment in the Contract Price, or an extension of the Contract Time, or a change that is inconsistent with the intent of the Contract Documents. These changes shall be effected by written Change Order, Unilateral Change Order, or by Architect's response(s) to RFI(s).

**17.3. Change Orders**

- 17.3.1. A Change Order is a written instrument prepared and issued by the District and/or the Architect and signed by the District (as authorized by the District's governing board), the Design-Builder, the Architect, and approved by the Project Inspector (if necessary) and DSA (if necessary), stating their agreement regarding all of the following:
  - 17.3.1.1. A description of a change in the Work;
  - 17.3.1.2. The amount of the adjustment in the Contract Price, if any; and
  - 17.3.1.3. The extent of the adjustment in the Contract Time, if any.
- 17.3.2. If a Change Order is required to be approved by DSA, the District may call it a Construction Change Document.
- 17.3.3. If the District approves of a Change, the District or the Architect shall provide a written Change Order to the Design-Builder describing the Change and setting forth the adjustment to the Contract Time and the Contract Price, if any, on account of that Change. All Change Orders shall be full payment and final settlement of all rights 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 demand or request for an adjustment to the Contract Time or the Contract Price relating to any Change incorporated into a Change Order not presented by the Design-Builder for inclusion in the Change Order shall be deemed waived. The Design-Builder shall execute the Change Order prepared pursuant to the foregoing. After the Change Order has been prepared and forwarded to the Design-Builder for execution, the Design-Builder shall not modify or amend the form or content of such Change Order, or any portion thereof.

**17.4. Unilateral Change Orders**

- 17.4.1. A Unilateral Change Order is a written order prepared and issued by the District, the Construction Manager, and/or the Architect and signed by the District and the Architect, directing a change in the Work. The District may as provided by law, by Unilateral Change Order and without invalidating the Contract, order changes in the Work

consisting of additions, deletions, or other revisions. If all or a portion of the Project is being funded by funds requiring approval by the State Allocation Board (SAB), these revisions may be subject to compensation once approval of same is received and funded by the SAB, and funds are released by the Office of Public School Construction (OPSC). Any dispute as to the sum of the Unilateral Change Order or timing of payment shall be resolved pursuant to the Payment provisions and the Claims and Disputes provisions herein. **A Unilateral Change Order is NOT a Construction Change Document (which is defined above as a Change Order that DSA must approve).**

- 17.4.2.** The District may issue a Unilateral Change Order in the absence of agreement on the terms of a Change Order.

**17.5. Force Account Directives**

- 17.5.1.** When work, for which a definite price has not been agreed upon in advance, is to be paid for on a force account basis, all direct costs necessarily incurred and paid by the Design-Builder for labor, material, and equipment used in the performance of that Work, shall be subject to the approval of the District and compensation will be determined as set forth herein.
- 17.5.2.** District will issue a Force Account Directive to proceed with the Work on a force account basis, and a not-to-exceed budget will be established by District.
- 17.5.3.** All requirements regarding direct cost for labor, labor burden, material, equipment, and markups on direct costs for overhead and profit described in this section shall apply to Force Account Directives. However, District will only pay for actual costs verified in the field by the District or its authorized representative(s) on a daily basis.
- 17.5.4.** Design-Builder shall be responsible for all cost related to the administration of Force Account Directive. The markup for overhead and profit for Design-Builder modifications shall be full compensation to the Design-Builder to administer Force Account Directive.
- 17.5.5.** Design-Builder shall notify District or its authorized representative(s) at least twenty-four (24) hours prior to proceeding with any of the force account work. Furthermore, the Design-Builder shall notify the District when it has consumed eighty percent (80%) of the budget, and shall not exceed the budget unless specifically authorized in writing by the District. Design-Builder will not be compensated for force account work in the event that Design-Builder fails to timely notify the District regarding the commencement of force account work, or exceeding the force account budget.
- 17.5.6.** Design-Builder shall diligently proceed with the work, and on a daily basis, submit a daily force account report on a form supplied by the District no later than 5:00 p.m. each day. The report shall contain a detailed itemization of the daily labor, material, and equipment used on the force account work only. The names of the individuals performing the force account work shall be included on the daily force account reports. The type and model of equipment shall be identified and listed. District will review the information contained in the reports, and sign the reports no later than the next work day, and return a copy of the report to Design-Builder for its records. District will not sign, nor will Design-Builder receive compensation for work District cannot verify. Design-Builder will provide a weekly force account summary indicating the status of each Force Account Directive in terms of percent complete of the not-to-exceed budget and the estimated percent complete of the work.
- 17.5.7.** In the event Design-Builder and District reach a written agreement on a set cost for the work while the work is proceeding based on a Force Account Directive, the Design-Builder's signed daily force account reports shall be discontinued and all previously

signed reports shall be invalid.

**17.6. Price Request**

**17.6.1. Definition of Price Request.** A Price Request ("PR") is a written request prepared by the Architect requesting the Design-Builder to submit to the District and the Architect an estimate of the effect of a proposed change in the Work on the Contract Price and the Contract Time.

**17.6.2. Scope of Price Request.** A Price Request shall contain adequate information, including any necessary Drawings and Specifications, to enable Design-Builder to provide the cost breakdowns required herein. Design-Builder shall not be entitled to any additional compensation for preparing a response to a Price Request, whether ultimately accepted or not.

**17.7. Proposed Change Order**

**17.7.1. Proposed Change Order.** The Design-Builder may issue a Proposed Change Order ("PCO"), only as a written request prepared by it to the District and the Architect, requesting that the District issue a Change Order based upon a proposed change to the Work.

**17.7.2. Changes in Contract Price.** A PCO shall include breakdowns pursuant to the provisions herein to validate any change in Contract Price.

**17.7.3. Changes in Time.** A PCO shall also include any changes in time required to complete the Project. Any additional time requested shall not be the number of days to make the proposed change, but must be based upon the impact to the Construction Schedule as defined in the Contract Documents. If Design-Builder fails to request a time extension in a PCO, then the Design-Builder is thereafter precluded from requesting time and/or claiming a delay.

**17.7.4. Unknown and/or Unforeseen Conditions.** If Design-Builder submits a PCO requesting an increase in Contract Price and/or Contract Time that is based at least partially on Design-Builder's assertion that Design-Builder has encountered unknown and/or unforeseen condition(s) on the Project, then Design-Builder shall base the PCO on provable information that, beyond a reasonable doubt and to the District's satisfaction, demonstrates that the unknown and/or unforeseen condition(s) were actually unknown and/or unforeseen and that the condition(s) were reasonably unknown and/or unforeseen. If not, the District shall deny the PCO and the Design-Builder shall complete the Project without any increase in Contract Price and/or Contract Time based on that PCO.

**17.7.5. Time to Submit PCO.** Design-Builder shall submit its PCO within five (5) days of the date Design-Builder discovers, or reasonably should discover, the circumstances giving rise to the proposed change order, unless additional time to submit a proposed change order is granted in writing by the District. Time is of the essence in Design-Builder's written notice pursuant to the preceding sentence so that the District can promptly investigate and consider alternative measures to the address the basis for the PCI. Accordingly, Design-Builder acknowledges that its failure, for any reason, to give written notice (with Supporting Documentation to permit the District's review and evaluation) within this time frame shall be deemed Design-Builder'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 the circumstances giving rise to the PCO.

**17.7.6.** At the District's discretion, Design-Builder must use the RS Means Index as the starting point for calculation of the cost estimate for the proposed change to the Work.

## CHANGE ORDER REQUEST-COST BREAKDOWN

COR 0000

DATE:

JOB:

Line	Item	Amount (\$) (+/-)
<b>SUBCONTRACTOR/LOWER-TIER WORK</b>		
1	<b>Total Labor Rate</b> (includes Base Rate, fringe and burden)*	\$0.00
2	<b>Materials:</b> Attached itemized quantity, unit cost and invoices from vendor(s).	\$0.00
3	<b>Equipment:</b> Attached invoice(s) from supplier(s).	\$0.00
4	Line 4 ▶ Subtotal of Lines: 1 + 2 + 3=	\$0.00
5	<b>Markup on Self-Perform Work,</b> Actual markup, not-to-exceed 10%	\$0.00
6	<b>Markup on Lower-Tier Subcontractor(s)-Performed Work,</b> Actual markup, no-to-exceed 5%	\$0.00
7	Line 7 ▶ Subtotal of Lines: 4 + 5 + 6=	\$0.00
<b>GENERAL DESIGN-BUILDER WORK</b>		
8	<b>Total Labor Rate</b> (includes Base Rate, fringe and burden)	\$0.00
9	<b>Materials:</b> Attached itemized quantity, unit cost and invoices from vendor(s).	\$0.00
10	<b>Equipment:</b> Attached invoice(s) from supplier(s).	\$0.00
11	Line 11 ▶ Subtotal of Lines: 8 + 9 + 10=	\$0.00
12	<b>Markup on Self-Perform Work,</b> Actual markup, not-to-exceed 10%	\$0.00
13	<b>Markup on Subcontractor(s)-Performed Work,</b> Actual markup, no-to-exceed 5%	\$0.00
14	Line 14 ▶ Subtotal of Lines: 11 + 12 + 13=	\$0.00
15	<b>Bonds &amp; Insurance</b> for Prime/General Design-Builder Only, Applied only to Line 4 and 11 (Max 2%)	\$0.00
16	TOTAL ▶ Subtotal of Lines: 7 + 14 + 15=	\$0.00
17	<b>Change in Contract Time</b> .....No. of Days=	0
18	<b>Design-Builder's Home Office Overhead</b> This shall be no more than \$200 times the number of days of Item 17 (i.e., not to exceed \$200/day)	
	<b>TOTAL (Lines 16 + 17 + 18)</b>	

\*Design-Builder shall use the "Total Labor Rate" as approved by the District, or District's PM/CM, and as may be updated by District throughout the Project. Use of a "Total Labor Rate" that has not been approved by the District, will be cause for rejection of the PCO.

17.8.2. All proposed cost requests by Design-Builder for a change shall include a complete itemized breakdown with the following detail:



**17.8.2.1. Total Labor Rate.** Design-Builder shall at the commencement of the Project, submit to the District, all labor wage rates by trade classification for the District's prior written approval for use during the Project for purposes of proposed change orders. Labor wage rates shall be no more than the Straight-Time total hourly rates ("Base Rate") as determined by the Department of Industrial Relations ("DIR") for the applicable classification. Labor shall be itemized by trade classification, wage rates, and estimated hours. Total Labor Rate shall only include fringe benefits indicated by governing trade organizations. Base Rates shall not exceed current prevailing wages in the locality for performance of the work.

**17.8.2.1.1. Labor Burden and Worker's Compensation.** The Design-Builder's or Subcontractors' labor burden and Workers' Compensation premium shall only be charged as indicated herein. In no event shall Design-Builder include any other charges than as indicated herein without the prior written approval of the District. Labor Burden and Worker's Compensation shall be no more than twenty percent (20%) of the base Labor Rate. The percentage allowed for Labor Burden may be examined and adjusted by the District, in its sole and absolute discretion, if Design-Builder provides sufficient documentation to support Design-Builder's request for an adjustment. The District's agreement to an adjustment shall be in writing. In no event shall the percentage allowed for Labor Burden exceed thirty percent (30%).

**17.8.2.2. Maximum Allowable Markup**

**17.8.2.2.1. Maximum Allowable Markup on Self-Performed Work.**

With respect to pricing the portion of PCOs and Change Orders involving self-performed work, the maximum markup percentage fee to be paid for self-performed work by Design-Builder or its Subcontractor (regardless of tier) for a change shall be a single markup percentage not-to-exceed ten percent (10%) of the net direct cost of the sum of: (i) base labor and allowable fringe benefit costs; (ii) the net cost of material and installed equipment incorporated into the change or extra work; and (iii) net rental cost of major equipment and related fuel costs necessary to complete the change in the work.

**17.8.2.2.2. Maximum Allowable Markup on Lower-Tier**

**Subcontractor(s)-Performed Work.** With respect to pricing the portion of PCOs and Change Orders involving work performed by lower-tier Subcontractors, the maximum markup percentage fee allowable to the Design-Builder or Subcontractor supervising the lower-tier Subcontractor's work for a change shall be a single markup percentage not-to-exceed five percent (5%) of the net of all approved work of a Change Order performed by all Subcontractors combined on any particular PCO or Change Order.

**17.8.2.3. Material.** Material quantities, and types of products, and transportation costs, if applicable.

**17.8.2.4. Equipment.** Equipment breakdown by make, type, size, rental rates, equipment hours and transportation costs, if applicable.

**17.8.2.4.1.** The equipment costs shall not exceed one hundred percent (100%) of the Association of Equipment Distributors (AED) rental rates or Caltrans rates, whichever is less. Hourly, daily, weekly, or monthly rates shall be used, whichever is lower. Hourly rates including

operator shall not be used.

**17.8.2.4.2.** The actual time to be paid for equipment shall be the time that the equipment is in productive operation on the Work under Contract Modification. In computing the hourly rental of equipment, any time less than thirty (30) minutes shall be considered one-half (1/2) hour. No payment will be made for time while equipment is inoperative due to breakdown, or for non-workdays. In addition, the rental time shall not include the time required to move the equipment to and from the project site. No mobilization or demobilization will be allowed for equipment already on site. If such equipment is not moved by its own power, then loading and transportation costs will be paid in lieu of rental time thereof. However, neither moving time nor loading and transportation costs will be paid if the equipment is used on the Project Site in any other way than upon the work directly related to the Contract Modification.

**17.8.2.4.3.** Individual pieces of equipment having a replacement value of one thousand dollars (\$1,000) or less shall be considered to be small tools or small equipment, and no payment will be made since the costs of these tools and equipment is included as part of the markup for overhead and profit defined herein.

**17.8.2.4.4.** Payment to the Design-Builder for the use of equipment as set forth above shall constitute full compensation to the Design-Builder for the cost of fuel, power, oil, lubricants, supplies, small equipment, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, labor (except for equipment operators), and any and all costs to the Design-Builder incidental to the use of the equipment.

**17.8.2.4.5.** Should Design-Builder, or any of its owners, officers, directors or agents, hold any ownership interest in any company, organization, association or corporation from whom rental equipment is secured. Design-Builder shall immediately notify District of such and the price set for any such rental shall be agreed upon in advance by the Design-Builder and the District.

**17.8.2.4.6. Overhead and Profit.** Markup for overhead and profit, which shall be used to compensate Design-Builder for all costs for all administration, general conditions, and supervision, including, without limitation:

**17.8.2.4.6.1.** All field, field office and home office personnel including, but not limited to, principals, project managers, superintendents, supervisory foremen, estimators, project engineers, detailers, draftsmen, schedulers, consultants, watchmen, payroll clerks, administrative assistants, labor compliance costs and secretaries.

**17.8.2.4.6.2.** All field, field office and home office expenses including, but not limited to, field trailers, parking, storage sheds, office equipment and supplies, telephone service and long distance telephone calls, fax machines, temporary utilities, sanitary facilities and services, janitorial services, small tools and equipment with a cost under \$1000 each, portable scaffolding, blocking, shores, appliances, job

vehicles, security and fencing, conformance to regulatory requirements including compliance to safety regulations, safety programs and meetings, cartage, warranties, As-Built Drawings, as well as any related maintenance costs.

17.8.2.4.6.3. Administrative functions such as, but not limited to, reviewing, coordinating, distributing, processing, posting, recording, estimating, negotiating, expediting, engineering, drawing, detailing, revising shop drawings, carting, cleaning, protecting the work, and other incidental Work related to the change.

17.8.2.4.6.4. All other costs and taxes required to be paid, but not included under direct costs as defined above including, without limitation, payroll taxes, social security, etc.

17.8.2.4.6.5. All costs for Design-Builder's bonds and insurance.

17.8.2.4.6.6. Taxes: Federal excise tax shall not be included. District will issue an exemption on request.

**17.8.2.4.7. Contract Time.** Justification for any adjustment in Contract Time including a schedule analysis identifying critical schedule activities delayed by the request. Contract Time shall be extended or reduced by Change Orders, Unilateral Change Orders, or Force Account Directives for a period of time commensurate with the time reasonably necessary to perform a Change. This time must be requested in writing by the Design-Builder with the Price Request, PCO, or expressly in writing as part of its documentation for Unilateral Change Orders, or Force Account Directives. The Design-Builder shall justify any Contract Time extension by submittal of a schedule analysis as required in this Changes section of these General Conditions accurately portraying the impact of the change on the critical path of the Construction Schedule. Changes performed within available float shall not justify an extension to the Contract Time. The District shall make the final determination of the amount of Contract Time to allocate to any Change.

## **17.9. Change Order Certification**

**17.9.1.** All Change Orders and PCOs shall include the following certification by the Design-Builder. The Parties acknowledged that if a Change Order is approved that does not include this language, that Change Order shall be deemed to include this certification language:

*The Design-Builder approves the foregoing as to the changes, if any, and the price specified for each item and the extension of time allowed, if any, for completion of the entire Work as stated herein, and agrees to furnish all labor, materials, and service, and perform all work necessary to complete all additional work specified for the consideration stated herein. Submission of sums which have no basis in fact or which Design-Builder knows are false are at the sole risk of Design-Builder and may be a violation of the False Claims Act set forth under Government Code section 12650 et seq. It is understood that the changes herein to the Contract shall only be effective when approved by the governing board of the District. It is expressly understood that the value of the extra Work or changes includes all of the Design-Builder's costs,*

*expenses, field overhead, home office overhead, profit, both direct and indirect, resulting from additional time required on the Project or resulting from delay to the Project. Any costs, expenses, damages, or time extensions not included are deemed waived.*

**17.10. Determination of Change Order Cost**

**17.10.1.** The amount of the increase or decrease in the Contract Price from a Change Order, if any, shall be determined in one or more of the following ways as applicable to a specific situation and at the District's discretion:

**17.10.1.1.** District acceptance of a PCO;

**17.10.1.2.** By agreement between District and Design-Builder.

**17.10.1.3.** By unit prices or alternates contained in Design-Builder's original bid. If the Bid for the Work included proposal(s) for Alternate Bid Item(s), during Design-Builder's performance of the Work, the District may elect to add any such Alternate Bid Item(s) if the that item did not form a basis for award of the Contract or delete any such Alternate Bid Item(s) if that item formed a basis for award of the Contract. If the District elects to add or delete an Alternate Bid Item(s) pursuant to the foregoing, the cost or credit for that Alternate Bid Item(s) shall be as set forth in the Design-Builder's Bid, at the District's discretion. 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.

**17.10.1.4.** By the District, based upon actual and necessary costs incurred by the Design-Builder as determined by the District on the basis of the Design-Builder's records. Promptly upon determining the extent of adjustment to the Contract Price, the District shall notify the Design-Builder in writing of the same; the Design-Builder 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 Design-Builder shall notify the District, 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 Design-Builder to timely notify the District of Design-Builder's objections to the District's determination of the extent of adjustment to the Contract Price shall be deemed Design-Builder's acceptance of the District's determination and a waiver of any right or basis of the Design-Builder to thereafter protest or otherwise object to the District's determination. Notwithstanding any objection of the Design-Builder to the District's determination of the extent of any adjustment to the Contract Price pursuant to this provision, Design-Builder shall diligently proceed to perform and complete any such Change.

**17.11. Deductive Change Orders**

If Design-Builder offers a proposed amount for a deductive Change Order(s), Design-Builder shall include a minimum of five percent (5%) total overhead and profit to be deducted with the amount of the work of the Change Order(s). If Subcontractor work is involved, Subcontractors shall also include a minimum of five percent (5%) overhead and profit to be deducted with the amount of its deducted work, for a total minimum of ten percent (10%) total overhead and profit to be deducted. Any deviation from this provision shall not be allowed.

**17.12. Discounts, Rebates and Refunds**

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

**17.13. Accounting Records**

With respect to portions of the Work performed by Change Orders, Unilateral Change Orders, or Force Account Directives, Design-Builder shall keep and maintain cost-accounting records satisfactory to the District, which shall be available to the District on the same terms as any other books and records Design-Builder is required to maintain pursuant to the Contract Documents.

**17.14. Notice Required**

If Design-Builder is seeking an adjustment in the Contract Price, or any extension in the Contract Time for Completion, it shall notify District pursuant to the provisions of the Contract Documents. No adjustment in the Contract Price or Contract Time shall be considered unless made in accordance with the Contract Documents. Design-Builder shall proceed to execute the Work even though the adjustment may not have been agreed upon. Any change in the Contract Price or extension of the Contract Time resulting from such contract adjustment shall only be authorized by a Change Order.

**17.15. Applicability to Subcontractors**

Any requirements under this Article shall be equally applicable to Change Orders, Unilateral Change Orders, or Force Account Directives issued to Subcontractors by the Design-Builder to the extent as required by the Contract Documents.

**17.16. Alteration to Change Order Language**

Design-Builder shall not alter Change Orders or reserve time in Change Orders. Design-Builder shall execute finalized Change Orders and proceed under the provisions herein with proper notice.

**17.17. Failure of Design-Builder to Execute Change Order**

Design-Builder shall be in default of the Contract if Design-Builder fails to execute a Change Order when the Design-Builder agrees with the addition and/or deletion of the Work in that Change Order.

**18. REQUEST FOR INFORMATION**

**18.1.** Any Request for Information ("RFI") shall reference all applicable Contract Document(s), including Specification section(s), detail(s), page number(s), drawing number(s), and sheet number(s), etc. Design-Builder shall make suggestions and interpretations of the issue raised by each RFI. An RFI cannot modify the Contract Price, Contract Time, or the Contract Documents.

**18.2.** Design-Builder shall be liable to the District for all costs incurred by the District associated with the processing, reviewing, evaluating and responding to any RFI, including without limitation, fees of the Architect and any other design consultant to the Architect or the District, that District reasonably determines:

**18.2.1.** Does not reflect adequate or competent supervision or coordination by the Design-Builder or any Subcontractor; or

- 18.2.2. Does not reflect the Design-Builder's adequate or competent knowledge of the requirements of the Work or the Contract; or
- 18.2.3. Requests an interpretation or decision of a matter where the information sought is equally available to the Design-Builder; or
- 18.2.4. Is not justified for any other reason.
- 18.3. Prior to submitting the RFI, Design-Builder shall diligently review the Contract Documents for information responsive to the RFI, including information incorporated by reference. Design-Builder should not issue an RFI regarding information contained in or inferable from the Contract Documents, including information incorporated by reference. An RFI is invalid if the RFI response is contained in or inferable from the Contract Documents.
- 18.4. Design-Builder shall be responsible for preparing and submitting each RFI so as to not cause delay to the progress of the Work nor to cause any impact to the Design-Builder's labor productivity. An RFI may be considered untimely if not submitted within **Forty-Eight (48) hours** of receipt from a Design-Builder's subcontractor. Untimely submission of any RFI will preclude Design-Builder from asserting any claims for delay or for labor impact against the District.
- 18.5. If the Design-Builder fails to timely notify the Architect in writing of any Conditions encountered and the Design-Builder proceeds to perform any portion of the Work containing or affected by such Conditions the Design-Builder 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 District to address and resolve any conditions, the Design-Builder shall act with promptness in submitting any written request so as to allow the District a reasonable period of time to review, evaluate and respond to any request, taking into account the then current status of the progress and completion of the Work and the actual or potential impact of any 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 Design-Builder shall fail to timely request information from the District.

## 19. **PAYMENTS**

### 19.1. **Contract Price**

- 19.1.1. The Contract Price is stated in the Agreement and, including authorized adjustments, is the total amount payable by the District to the Design-Builder for performance of the Work pursuant to the Contract Documents.

### 19.2. **Applications for Progress Payments**

#### 19.2.1. **Procedure for Applications for Progress Payments**

##### 19.2.1.1. **Application for Progress Payment**

- 19.2.1.1.1. Not before the fifth (5<sup>th</sup>) day of each calendar month during the progress of the Work, Design-Builder shall submit to the District and the Architect an itemized Application for Payment for Work completed in accordance with the Schedule of Values. The Application for Payment shall be notarized, if required, and supported by the following or each portion thereof unless waived by the District in writing:

- 19.2.1.1.1.1. The amount paid to the date of the Application for Payment to the Design-Builder, to all its Subcontractors, and all others furnishing labor, material, or equipment for its

Contract;

- 19.2.1.1.1.2. The amount being requested by the Application for Payment by the Design-Builder on its own behalf and separately stating the amount requested on behalf of each of the Subcontractors and all others furnishing labor, material, and equipment under the Contract;
- 19.2.1.1.1.3. The balance that will be due to each of the entities after payment is made;
- 19.2.1.1.1.4. A certification that the As-Built Drawings and annotated Specifications are current;
- 19.2.1.1.1.5. An Itemized breakdown of Work performed;
- 19.2.1.1.1.6. An updated and acceptable construction schedule in conformance with the provisions herein;
- 19.2.1.1.1.7. The additions to and subtractions from the Contract Price and Contract Time;
- 19.2.1.1.1.8. A total of the retentions held;
- 19.2.1.1.1.9. The material invoices, evidence of equipment purchases, rentals, and other support and details of cost as the District may require from time to time;
- 19.2.1.1.1.10. The percentage of completion of the Design-Builder's Work by line item;
- 19.2.1.1.1.11. The Schedule of Values updated from the preceding Application for Payment;
- 19.2.1.1.1.12. A duly completed and executed conditional waiver and release upon progress payment compliant with Civil Code section 8132 from each subcontractor of any tier and supplier to be paid from the current progress payment;
- 19.2.1.1.1.13. A duly completed and executed unconditional waiver and release upon progress payment compliant with Civil Code section 8134 from each subcontractor of any tier and supplier that was paid from the previous progress payment; and
- 19.2.1.1.1.14. A certification by the Design-Builder of the following:

*The Design-Builder warrants title to all Work performed as of the date of this payment application. The Design-Builder further warrants that all Work performed as of the date of this payment application is free and clear of liens, claims, security interests, or encumbrances in favor of the Design-Builder, Subcontractors, material and equipment suppliers, workers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work, except those of which the District has been informed.*

19.2.1.1.1.15. If requested by the District, a third party, or as required by the California Department of Industrial Relations, all requested or required certified payroll record ("CPR(s)") for each journeyman, apprentice, worker, or other employee employed by the Design-Builder and/or each Subcontractor in connection with the Work for the period of the Application for Payment.

19.2.1.1.2. 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 that, at the time of the Design-Builder's submittal of an Application for Progress Payment, has/have not been incorporated into and made a part of the Work.

19.2.1.1.3. Design-Builder shall be subject to the False Claims Act set forth under Government Code section 12650 et seq., for information provided with any Application for Progress Payment.

**19.2.2. Prerequisites for Progress Payments**

**19.2.2.1. First Payment Request:** The following items, if applicable, must be completed before District will accept and/or process Design-Builder's first payment request:

- 19.2.2.1.1. Installation of the Project sign;
- 19.2.2.1.2. Installation of field office;
- 19.2.2.1.3. Installation of temporary facilities and fencing;
- 19.2.2.1.4. Schedule of Values;
- 19.2.2.1.5. Design-Builder's Construction Schedule;
- 19.2.2.1.6. Schedule of unit prices, if applicable;
- 19.2.2.1.7. Submittal Schedule;
- 19.2.2.1.8. Receipt by Architect of all submittals due as of the date of the payment application;
- 19.2.2.1.9. Copies of necessary permits;
- 19.2.2.1.10. Copies of authorizations and licenses from governing authorities;
- 19.2.2.1.11. Initial progress report;
- 19.2.2.1.12. Surveyor qualifications;
- 19.2.2.1.13. Written acceptance of District's survey of rough grading, if applicable;
- 19.2.2.1.14. List of all Subcontractors, with names, license numbers, telephone numbers, and Scope of Work;
- 19.2.2.1.15. All bonds and insurance endorsements; and



**19.2.2.1.16.** Resumes of Design-Builder's project manager, and if applicable, job site secretary, record documents recorder, and job site superintendent.

**19.2.2.2. Second Payment Request:** District will not process the second payment request until and unless all submittals and Shop Drawings have been accepted for review by the Architect and there are no outstanding or unresolved issues relating to Design-Builder's Construction Schedule and it has been approved by the District.

**19.2.2.3. No Waiver of Criteria:** Any payment made to Design-Builder where criteria set forth herein have not been met shall not constitute a waiver of said criteria by District. The approval of any Application for Progress Payment or the disbursement of any Progress Payment to the Design-Builder shall not be deemed nor constitute acceptance of defective Work or Work not in conformity with the Contract Documents. Instead, such payment shall be construed as a good faith effort by District to resolve differences so Design-Builder may pay its Subcontractors and suppliers. Design-Builder agrees that failure to submit such items may constitute a material breach of the Contract by Design-Builder and may subject Design-Builder to termination.

**19.3. Progress Payments**

**19.3.1. District's Approval of Application for Payment**

**19.3.1.1.** Upon receipt of an Application for Payment, District shall act in accordance with the following:

**19.3.1.1.1.** Each Application for Payment shall be reviewed by the District as soon as practicable after receipt for the purpose of determining that the Application for Payment is a proper Application for Payment.

**19.3.1.1.2.** Any Application for Payment determined not to be a proper Application for Payment suitable for payment shall be returned to the Design-Builder as soon as practicable, but not later than seven (7) days, after receipt. An Application for Payment returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the Application for Payment is not proper. The number of days available to the District to make a payment without being subject to any applicable statute regarding prompt payment or interest accrual, shall be reduced by the number of days by which the District exceeds this seven-day return requirement.

**19.3.1.1.3.** An approved Application for Payment shall be considered payable if funds are available for payment after the deduction of amounts allowed by law and/or pursuant to the section herein entitled "Decisions to Withhold Payment,"

**19.3.1.2.** The District's review of the Design-Builder's Application for Payment will be based on the District's and the Architect's observations at the Site and the data comprising the Application for Payment that the Work has progressed to the point indicated and that, to the best of the District's and the Architect's knowledge, information, and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to:

**19.3.1.2.1.** Observation of the Work for general conformance with the

Contract Documents,

- 19.3.1.2.2. Results of subsequent tests and inspections,
- 19.3.1.2.3. Minor deviations from the Contract Documents correctable prior to Completion, and
- 19.3.1.2.4. Specific qualifications expressed by the Architect.

19.3.1.3. District's approval of each Application for Payment shall be based on Design-Builder complying with all requirements for a fully complete and valid Application for Payment.

**19.3.2. Payments to Design-Builder**

19.3.2.1. Within thirty (30) days after approval of the Application for Payment, Design-Builder shall be paid a sum equal to ninety-five percent (95%) of the value of the Work performed (as verified by Architect and Inspector and certified by Design-Builder) up to the last day of the previous month, less the aggregate of previous payments and amount to be withheld. The value of the Work completed shall be Design-Builder's best estimate. No inaccuracy or error in Design-Builder's estimate shall operate to release the Design-Builder, or any Surety upon any bond, from damages arising from such Work, or from the District's right to enforce each and every provision of this Contract, and the District shall have the right subsequently to correct any error made in any estimate for payment.

19.3.2.2. District shall withhold five percent (5%) retention from all Progress Payments.

19.3.2.3. District may withhold ten percent (10%) retention from all Progress Payments pursuant to Public Contract Code section 7201, if the Project is determined to be "substantially complex."

19.3.2.4. The Design-Builder shall not be entitled to have any payment requests processed, or be entitled to have any payment made for Work performed, so long as any lawful or proper direction given by the District concerning the Work, or any portion thereof, remains incomplete.

19.3.2.5. 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 Design-Builder 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).

**19.3.3. No Waiver**

No payment by District hereunder shall be interpreted so as to imply that District has inspected, approved, or accepted any part of the Work. Notwithstanding any payment, the District may enforce each and every provision of this Contract. The District may correct or require correction of any error subsequent to any payment.

**19.3.4. Warranty of Title**

19.3.4.1. If a lien or a claim based on a stop notice or stop payment notice of any nature should at any time be filed against the Work or any District property, by any entity that has supplied material or services at the request of the Design-Builder,

Design-Builder and Design-Builder's Surety shall promptly, on demand by District and at Design-Builder's and Surety's own expense, take any and all action necessary to cause any such lien or a claim based on a stop notice or stop payment notice to be released or discharged immediately therefrom.

**19.3.4.2.** If the Design-Builder fails to furnish to the District within ten (10) calendar days after demand by the District, satisfactory evidence that a lien or a claim based on a stop notice or stop payment notice has been so released, discharged, or secured, the District may discharge such indebtedness and deduct the amount required therefore, together with any and all losses, costs, damages, and attorney's fees and expense incurred or suffered by District from any sum payable to Design-Builder pursuant to the Contract.

#### **19.4. Decisions to Withhold Payment**

##### **19.4.1. Reasons to Withhold Payment**

District may withhold payment in whole, or in part, to the extent reasonably necessary to protect the District if, in the District's opinion, the representations to the District required herein cannot be made. District may withhold payment, in whole, or in part, to such extent as may be necessary to protect the District from loss because of, but not limited to:

**19.4.1.1.** Defective Work not remedied within **FORTY-EIGHT (48)** hours of written notice to Design-Builder;

**19.4.1.2.** Stop notices, stop payment notices or other liens served upon the District as a result of the Contract;

**19.4.1.3.** Liquidated damages assessed against the Design-Builder;

**19.4.1.4.** The cost to complete the Work if there exists reasonable doubt that the Work can be completed for the unpaid balance of the Contract Price or by the Completion Date;

**19.4.1.5.** Damage to the District or other contractor(s);

**19.4.1.6.** Unsatisfactory performance of the Work by Design-Builder;

**19.4.1.7.** Failure to store and properly secure materials;

**19.4.1.8.** Failure of the Design-Builder to submit, on a timely basis, proper, sufficient, and acceptable documentation required by the Contract Documents, including, without limitation, a Construction Schedule, Schedule of Submittals, Schedule of Values, Monthly Progress Schedules, Shop Drawings, Product Data and samples, Proposed product lists, executed Change Orders, and/or verified reports;

**19.4.1.9.** Failure of the Design-Builder to maintain As-Built Drawings;

**19.4.1.10.** Erroneous estimates by the Design-Builder of the value of the Work performed, or other false statements in an Application for Payment;

**19.4.1.11.** Unauthorized deviations from the Contract Documents;

**19.4.1.12.** Failure of the Design-Builder to perform the Work in a timely manner in compliance with the Construction Schedule, established progress schedules, and/or completion dates;

- 19.4.1.13. If requested by the District, or the failure to provide to the DIR, certified payroll records acceptable to the District and the DIR for each journeyman, apprentice, worker, or other employee employed by the Design-Builder and/or each Subcontractor in connection with the Work for the period of the Application for Payment;
- 19.4.1.14. Failure to properly pay prevailing wages as defined in Labor Code sections 1720 et seq. and/or failure to comply with any other Labor Code requirements;
- 19.4.1.15. Failure to properly maintain or clean up the Site;
- 19.4.1.16. Failure to timely indemnify, defend or hold harmless the District;
- 19.4.1.17. Any payments due to the District, including but not limited to payments for failed tests, utilities changes, or permits;
- 19.4.1.18. Failure to pay Subcontractor(s) or supplier(s) as required by law and by the Contract Documents;
- 19.4.1.19. Failure to pay any royalty, license or similar fees;
- 19.4.1.20. Failure of the Design-Builder to submit on a timely basis all Closeout Documentation in a manner and form that is proper, sufficient, and reasonably acceptable to the District, and to not cause a delay in the Completion or approval of the Project;
- 19.4.1.21. Failure to perform any implementation and/or monitoring required by any SWPPP for the Project and/or the imposition of any penalties or fines imposed therefore against Design-Builder or District;
- 19.4.1.22. Payment is delayed due to an audit inquiry by the State, the County Office of Education, the County, or any entity with jurisdiction related to the Project; or
- 19.4.1.23. Design-Builder is otherwise in breach, default or in substantial violation of any provision of the Contract.

**19.4.2. Reallocation of Withheld Amounts**

- 19.4.2.1. District may, in its discretion, apply any withheld amount to pay outstanding claims or obligations as defined herein. In so doing, District shall make such payments on behalf of Design-Builder. If any payment is so made by District, then that amount shall be considered a payment made pursuant to the Contract and District shall not be liable to Design-Builder for any payment made in good faith. These payments may be made without prior judicial determination of claim or obligation. District will render Design-Builder an accounting of funds disbursed on behalf of Design-Builder.
- 19.4.2.2. If Design-Builder defaults or neglects to perform the Work in accordance with the Contract Documents or fails to perform any provision thereof, District may, after **FORTY-EIGHT (48)** hours written notice to the Design-Builder and, without prejudice to any other remedy, make good such deficiencies. District shall adjust the total Contract Price by reducing the amount thereof by the cost of making good such deficiencies. If District deems it inexpedient to correct Work that is damaged, defective, or not done in accordance with Contract provisions, an equitable reduction in the Contract Price (of at least one hundred

twenty-five percent (125%) of the estimated reasonable value of the nonconforming Work) shall be made therefor.

**19.4.3. Payment After Cure**

When Design-Builder cures the grounds for declining approval, payment shall be made for amounts so withheld. No interest shall be paid on any retention or amounts withheld due to the failure of the Design-Builder to perform in accordance with the terms and conditions of the Contract Documents.

**19.5. Subcontractor Payments**

**19.5.1. Payments to Subcontractors.** No later than seven (7) days after receipt, or pursuant to Business and Professions Code section 7108.5 and Public Contract Code section 7107, the Design-Builder shall pay to each Subcontractor, out of the amount paid to the Design-Builder on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled. Design-Builder shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to its Sub-subcontractors in a similar manner.

**19.5.2. No Obligation of District for Subcontractor Payment.** District shall have no obligation to pay, or to see to the payment of, money to a Subcontractor except as may otherwise be required by law.

**19.5.3. Joint Checks.** District shall have the right in its sole discretion, if necessary for the protection of the District, to issue joint checks made payable to the Design-Builder and Subcontractors and material or equipment suppliers. The joint check payees shall be responsible for the allocation and disbursement of funds included as part of any such joint payment. In no event shall any joint check payment be construed to create any contract between the District and a Subcontractor of any tier, any obligation from the District to such Subcontractor, or rights in such Subcontractor against the District.

**20. COMPLETION OF THE WORK**

**20.1. Completion**

**20.1.1.** The Project may only be accepted by action of the governing board of the District.

**20.1.2.** District shall accept the Project and may have a Notice of Completion recorded when Project Completion has been achieved in accordance with the Contract Documents and to the satisfaction of District. For purposes of the payment of Retention, Completion is defined in Public Contract Code section 7107. For purposes of the timely filing of Stop Payment Notices, Completion is defined in California Civil Code section 9200, et seq.

**20.1.3.** Although there is no "substantial completion" for this Project, the District, at its sole option, may accept the Project and record a Notice of Completion when Project Completion has been completed to the satisfaction of District, except for minor corrective items, as distinguished from incomplete items. If Design-Builder fails to complete all minor corrective items within thirty-five (35) days after the date of the District's acceptance of the Project, District shall withhold from the final payment one hundred fifty percent (150%) of an estimate of the amount sufficient to complete the corrective items, as determined by District, until the item(s) are completed.

**20.1.4.** At the end of the thirty-five (35) day period, if there are any items remaining to be corrected, District may elect to proceed as provided herein related to adjustments to Contract Price, and/or District's right to perform the Work of the Design-Builder.

**20.2. Closeout Procedures****20.2.1. Punch List**

Design-Builder shall notify the Architect when Design-Builder considers the Work complete. Upon notification, Architect will prepare a list of minor items to be completed or corrected ("Punch List"). Design-Builder and/or its Subcontractors shall proceed promptly to complete and correct items on the Punch List. Failure to include an item on Punch List does not alter the responsibility of the Design-Builder to complete all Work in accordance with the Contract Documents.

**20.2.2. Closeout Requirements****20.2.2.1. Utility Connections**

**20.2.3.** Buildings shall be connected to water, gas, sewer, and electric services, complete and ready for use. Service connections shall be made and existing services reconnected.

**20.2.3.1. As-Built Drawings**

**20.2.3.1.1.** In addition to its requirement to provide monthly As-Built Drawings to the District, the Design-Builder shall provide a final set of As-Built Drawings, sometimes referred to as "Record Drawings," showing all of the Work as actually constructed upon Completion of the Project as indicated in the Specifications.

**20.2.3.1.2.** Design-Builder is liable and responsible for any and all inaccuracies in the As-Built Drawings, even if inaccuracies become evident at a future date.

**20.2.3.1.3.** Upon Completion of the Work and as a condition precedent to approval of final payment, Design-Builder shall obtain the Inspector's approval of the final set of As-Built Drawings.

**20.2.3.2. Operations & Maintenance Manuals:** Design-Builder shall prepare all operation and maintenance manuals and date as indicated in the Specifications.

**20.2.3.3. Closeout Documentation:** Design-Builder shall provide all Closeout Documentation, which shall include the following, without limitation:

**20.2.3.3.1.** A full set of final As-Built Drawings, as further defined herein.

**20.2.3.3.2.** All Operations & Maintenance Manuals and information, as further defined herein.

**20.2.3.3.3.** All Warranties, as further defined herein.

**20.2.3.3.4.** Verified report(s) for all scope(s) of work (DSA 6-C, Rev 03/22/13, or more recent revision if available).

**20.3. Final Inspection**

**20.3.1.** Design-Builder shall comply with Punch List procedures as provided herein, and maintain the presence of a Project Superintendent and Project Manager until the Punch List is complete to ensure proper and timely completion of the Punch List. Under no circumstances shall Design-Builder demobilize its forces prior to completion of the

Punch List. Upon receipt of Design-Builder's written notice that all of the Punch List items have been fully completed and the Work is ready for final inspection and acceptance, Architect and Project Inspector will inspect the Work and shall submit to Design-Builder and District a final inspection report noting the Work, if any, required in order to complete in accordance with the Contract Documents. Absent unusual circumstances, this report shall consist of the Punch List items not yet satisfactorily completed.

**20.3.2.** Upon Design-Builder's completion of all items on the Punch List and any other uncompleted portions of the Work, the Design-Builder shall notify the District and Architect, who shall again inspect such Work. If the Architect finds the Work complete and acceptable under the Contract Documents, the Architect will notify Design-Builder, who shall then jointly submit to the Architect and the District its final Application for Payment.

**20.3.3. Final Inspection Requirements**

**20.3.3.1.** Before calling for final inspection, Design-Builder shall determine that the following have been performed:

- 20.3.3.1.1.** The Work has been completed.
- 20.3.3.1.2.** All life safety items are completed and in working order.
- 20.3.3.1.3.** Mechanical and electrical Work are complete and tested, fixtures are in place, connected, and ready for tryout.
- 20.3.3.1.4.** Electrical circuits scheduled in panels and disconnect switches labeled.
- 20.3.3.1.5.** Painting and special finishes complete.
- 20.3.3.1.6.** Doors complete with hardware, cleaned of protective film, relieved of sticking or binding, and in working order.
- 20.3.3.1.7.** Tops and bottoms of doors sealed.
- 20.3.3.1.8.** Floors waxed and polished as specified.
- 20.3.3.1.9.** Broken glass replaced and glass cleaned.
- 20.3.3.1.10.** Grounds cleared of Design-Builder's equipment, raked clean of debris, and trash removed from Site.
- 20.3.3.1.11.** Work cleaned, free of stains, scratches, and other foreign matter, of damaged and broken material replaced.
- 20.3.3.1.12.** Finished and decorative work shall have marks, dirt, and superfluous labels removed.
- 20.3.3.1.13.** Final cleanup, as provided herein.

**20.4. Costs of Multiple Inspections**

More than two (2) requests of the District to make a final inspection shall be considered an additional service of District, Architect, Construction Manager, and/or Project Inspector, and all subsequent costs will be invoiced to Design-Builder and if funds are available, withheld from

remaining payments.

**20.5. Partial Occupancy or Use Prior to Completion**

- 20.5.1. District's Rights to Occupancy.** The District may occupy or use any completed or partially completed portion of the Work at any stage. 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 Design-Builder or the Design-Builder'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. The District and the Design-Builder shall agree in writing to the responsibilities assigned to each of them for payments, security, maintenance, heat, utilities, damage to the Work, insurance, the period for correction of the Work, and the commencement of warranties required by the Contract Documents. Any dispute as to responsibilities shall be resolved pursuant to the Claims and Disputes provisions herein, with the added provision that during the dispute process, the District shall have the right to occupy or use any portion of the Work that it needs or desires to use.
- 20.5.2. Inspection Prior to Occupancy or Use.** Immediately prior to partial occupancy or use, the District, the Design-Builder, and the Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.
- 20.5.3. No Waiver.** Unless otherwise agreed upon, partial or entire occupancy or use of a portion or portions of the Work shall not constitute beneficial occupancy or acceptance of the Work not complying with the requirements of the Contract Documents.

**21. FINAL PAYMENT AND RETENTION**

**21.1. Final Payment**

- 21.1.1.** Upon receipt and approval of a valid and final Application for Payment, the Architect will issue a final Certificate of Payment or similar document indicating Architect's agreement that the Project has reached Completion. The District shall thereupon jointly inspect the Work and either accept the Work as complete or notify the Architect and the Design-Builder in writing of reasons why the Work has not reached Completion to the satisfaction of the District.
- 21.1.2.** Upon acceptance of the Work of the Design-Builder as having reached Completion to the satisfaction of the District (that, absent unusual circumstances, will occur when the Punch List items have been satisfactorily completed), the District may record a Notice of Completion with the County Recorder, and the Design-Builder shall, upon receipt of final payment from the District, pay all the amount(s) due to its Subcontractors.

**21.2. Prerequisites for Final Payment**

The following conditions must be fulfilled prior to Final Payment:

- 21.2.1.** A full and final waiver or release of all stop notices and stop payment notices in connection with the Work shall be submitted by Design-Builder, including a release of stop notice or stop payment notice in recordable form, together with (to the extent permitted by law) a copy of the full and final release of all stop notice or stop payment notice rights.
- 21.2.2.** A duly completed and executed conditional waiver and release upon final payment



compliant with Civil Code section 8136 from each subcontractor of any tier and supplier to be paid from the current progress payment;

- 21.2.3. A duly completed and executed unconditional waiver and release upon final payment compliant with Civil Code section 8138 from each subcontractor of any tier and supplier that was paid from the previous progress payment; and
- 21.2.4. Design-Builder shall have made all corrections to the Work that are required to remedy any defects therein, to obtain compliance with the Contract Documents or any requirements of applicable codes and ordinances, or to fulfill any of the orders or directions of District required under the Contract Documents.
- 21.2.5. Each Subcontractor shall have delivered to the Design-Builder all written guarantees, warranties, applications, and bonds required by the Contract Documents for its portion of the Work.
- 21.2.6. Design-Builder must have completed all requirements set forth under "Closeout Procedures," including, without limitation, submission of an approved set of complete Record Drawings.
- 21.2.7. Architect shall have issued its written approval that final payment can be made.
- 21.2.8. Design-Builder shall have delivered to the District all manuals and materials required by the Contract Documents.
- 21.2.9. Design-Builder shall have completed final clean up as provided herein.

**21.3. Retention**

- 21.3.1. The retention, less any amounts disputed by the District or that the District has the right to withhold pursuant to provisions herein, shall be paid:
  - 21.3.1.1. After approval of the District by the Architect's Certificate of Payment;
  - 21.3.1.2. After the satisfaction of the conditions set forth herein;
  - 21.3.1.3. Within sixty (60) days after Completion;
  - 21.3.1.4. No earlier than thirty-five (35) days of the recording of the Notice of Completion by District, if a Notice of Completion is recorded by the District.
- 21.3.2. No interest shall be paid on any retention, or on any amounts withheld due to a failure of the Design-Builder to perform, in accordance with the terms and conditions of the Contract Documents, except as provided to the contrary in any Escrow Agreement between the District and the Design-Builder pursuant to Public Contract Code section 22300.

**21.4. Substitution of Securities**

The District will permit the substitution of securities in accordance with the provisions of Public Contract Code section 22300.

**21.5. Claims Asserted After Final Payment**

Any lien, stop payment notice or other claim filed or asserted after the Design-Builder'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 Design-Builder pursuant to the indemnification obligations of the Contract Documents. In the event any lien, stop payment 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, Design-Builder shall refund to District all monies that the District may pay or be compelled to pay in discharging any lien, stop payment notice or other claim, including, without limitation all costs and reasonable attorneys' fees incurred by District in connection therewith.

## **22. UNCOVERING WORK, CORRECTION OF WORK AND RIGHT TO TAKEOVER WORK**

### **22.1. Uncovering of Work**

If a portion of the Work is covered without Project Inspector or Architect approval or not in compliance with the Contract Documents, it must, if required in writing by the District, the Project Inspector, or the Architect, be uncovered for the Project Inspector's or the Architect's observation and be replaced at the Design-Builder's expense without change in the Contract Price or Contract Time.

### **22.2. Rejection of Work**

Prior to the District's Acceptance of the Work, any Work or materials or equipment forming a part of the Work or incorporated into the Work that is defective or not in conformity with the Contract Documents may be rejected by the District, the Architect or the Project Inspector and the Design-Builder shall correct all 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.

### **22.3. Nonconforming Work**

**22.3.1.** Design-Builder shall promptly remove from Premises all Work identified by District as failing to conform to the Contract Documents whether incorporated or not. Design-Builder shall promptly replace and re-execute its own Work to comply with the Contract Documents without additional expense to the District and shall bear the expense of making good all work of other contractors destroyed or damaged by any removal or replacement pursuant hereto and/or any delays to the District or other Design-Builders caused thereby.

**22.3.2.** If Design-Builder does not remove Work that District has identified as failing to conform to the Contract Documents within a reasonable time, not to exceed **FORTY-EIGHT (48)** hours, District may remove it and may store any material at Design-Builder's expense. If Design-Builder does not pay expense(s) of that removal within ten (10) days' time thereafter, District may, upon ten (10) days' written notice, sell any material at auction or at private sale and shall deduct all costs and expenses incurred by the District and/or District may withhold those amounts from payment(s) to Design-Builder.

### **22.4. Correction of Work**

**22.4.1. Correction of Rejected Work.** Pursuant to the notice provisions herein, the Design-Builder shall promptly correct the Work rejected by the District, the Architect, or the Project Inspector as failing to conform to the requirements of the Contract Documents, whether observed before or after Completion and whether or not fabricated, installed, or completed. The Design-Builder shall bear costs of correcting the rejected Work, including additional testing, inspections, and compensation for the Inspector's or the Architect's services and expenses made necessary thereby.

**22.4.2. One-Year Warranty Corrections.** If, within one (1) year after the date of Completion of

the Work or a designated portion thereof, or after the date for commencement of warranties established hereunder, or by the terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Design-Builder shall correct it promptly after receipt of written notice from the District to do so. This period of one (1) year shall be extended with respect to portions of the Work first performed after Completion by the period of time between Completion and the actual performance of the Work. This obligation hereunder shall survive acceptance of the Work under the Contract and termination of the Contract. The District shall give such notice promptly after discovery of the condition.

## **22.5. District's Right to Takeover Work**

**22.5.1.** If the Design-Builder should neglect to prosecute the Work properly or fail to perform any provisions of this Contract, the District, after **FORTY-EIGHT (48)** hours written notice to the Design-Builder, may, without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Design-Builder.

**22.5.2.** If it is found at any time, before or after Completion of the Work, that Design-Builder has varied from the Drawings and/or Specifications, including, but not limited to, variation in material, quality, form, or finish, or in the amount or value of the materials and labor used, District may require at its option:

**22.5.2.1.** That all such improper Work be removed, remade or replaced, and all work disturbed by these changes be made good by Design-Builder at no additional cost to the District;

**22.5.2.2.** That the District deduct from any amount due Design-Builder the sum of money equivalent to the difference in value between the work performed and that called for by the Drawings and Specifications; or

**22.5.2.3.** That the District exercise any other remedy it may have at law or under the Contract Documents, including but not limited to the District hiring its own forces or another contractor to replace the Design-Builder's nonconforming Work, in which case the District shall either issue a deductive Change Order, a Unilateral Change Order, or invoice the Design-Builder for the cost of that work. Design-Builder shall pay any invoices within thirty (30) days of receipt of same or District may withhold those amounts from payment(s) to Design-Builder.

**22.5.3. Acceptance of Defective or Non-Conforming Work.** The District may, in its sole and exclusive discretion, elect to accept Work that is defective or that 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.

## **23. TERMINATION AND SUSPENSION**

### **23.1. District's Right to Terminate Design-Builder for Cause**

**23.1.1. Grounds for Termination.** The District, in its sole discretion, may terminate the Contract and/or terminate the Design-Builder's right to perform the work of the Contract based upon the following:

**23.1.1.1.** Design-Builder refuses or fails to execute the Work or any separable part thereof with sufficient diligence as will ensure its completion within the time specified or any extension thereof, or

- 23.1.1.2. Design-Builder fails to complete said Work within the time specified or any extension thereof, or
- 23.1.1.3. Design-Builder persistently fails or refused to perform Work or provide material of sufficient quality as to be in compliance with Contract Documents; or
- 23.1.1.4. Design-Builder files a petition for relief as a debtor, or a petition is filed against the Design-Builder without its consent, and the petition not dismissed within sixty (60) days; or
- 23.1.1.5. Design-Builder makes a general assignment for the benefit of its creditors, or a receiver is appointed on account of its insolvency; or
- 23.1.1.6. Design-Builder persistently or repeatedly refuses fails, except in cases for which extension of time is provided, to supply enough properly skilled workers or proper materials to complete the Work in the time specified; or
- 23.1.1.7. Design-Builder fails to make prompt payment to Subcontractors, or for material, or for labor; or
- 23.1.1.8. Design-Builder persistently disregards laws, or ordinances, or instructions of District; or
- 23.1.1.9. Design-Builder fails to supply labor, including that of Subcontractors, that can work in harmony with all other elements of labor employed or to be employed on the Work; or
- 23.1.1.10. Design-Builder or its Subcontractor(s) is/are otherwise in breach, default, or in substantial violation of any provision of this Contract.

**23.1.2. Notification of Termination**

- 23.1.2.1. Upon the occurrence at District's sole determination of any of the above conditions, District may, without prejudice to any other right or remedy, serve written notice upon Design-Builder and its Surety of District's termination of this Contract and/or the Design-Builder's right to perform the work of the Contract. This notice will contain the reasons for termination. Unless, within three (3) days after the service of the notice, any and all condition(s) shall cease, and any and all violation(s) shall cease, or arrangement satisfactory to District for the correction of the condition(s) and/or violation(s) be made, this Contract and/or the Design-Builder's right to perform the Work shall cease and terminate. Upon termination, Design-Builder shall not be entitled to receive any further payment until the entire Work is finished.
- 23.1.2.2. Upon termination, District may immediately serve written notice of tender upon Surety whereby Surety shall have the right to takeover and perform this Contract only if Surety:
  - 23.1.2.2.1. Within three (3) days after service upon it of the notice of tender, gives District written notice of Surety's intention to takeover and perform this Contract; and
  - 23.1.2.2.2. Commences performance of the Contract within seven (7) days from date of serving of its notice to District.
- 23.1.2.3. If Surety fails to notify District or begin performance as indicated herein, District may takeover the Work and execute the Work to completion by any

method it may deem advisable at the expense of Design-Builder and/or its Surety. Design-Builder and/or its Surety shall be liable to District for any excess cost or other damages the District incurs thereby. Time is of the essence in the Contract. If the District takes over the Work as herein provided, District may, without liability for so doing, take possession of and utilize in completing the Work such materials, appliances, plan, and other property belonging to Design-Builder as may be on the Site of the Work, in bonded storage, or previously paid for.

**23.1.2.4. Conversion to Termination for Convenience.** In the event the Contract is terminated under this "District's Right to Terminate Design-Builder for Cause" section and it is finally determined by an arbitrator, court, jury or other tribunal having jurisdiction, for any reason, that the Design-Builder was not in default under the provisions hereof or that the District's exercise of its rights this section was defective, deficient, ineffective, invalid or improper for any reason, the termination shall be deemed a termination for convenience of the District under the "Termination of Design-Builder for Convenience" section herein and thereupon, the rights and obligations of the District and the Design-Builder shall be determined in accordance with the "Termination of Design-Builder for Convenience" section herein.

**23.1.3. Effect of Termination**

**23.1.3.1.** Design-Builder shall, only if ordered to do so by the District, immediately remove from the Site all or any materials and personal property belonging to Design-Builder that have not been incorporated in the construction of the Work, or which are not in place in the Work. District retains the right, but not the obligation, to keep and use any materials and personal property belonging to Design-Builder that have not been incorporated in the construction of the Work, or which are not in place in the Work. Design-Builder and its Surety shall be liable upon the performance bond for all damages caused the District by reason of the Design-Builder's failure to complete the Contract.

**23.1.3.2.** In the event that the District shall perform any portion of, or the whole of the Work, pursuant to the provisions of the General Conditions, the District shall not be liable nor account to the Design-Builder in any way for the time within which, or the manner in which, the Work is performed by the District or for any changes the District may make in the Work or for the money expended by the District in satisfying claims and/or suits and/or other obligations in connection with the Work.

**23.1.3.3.** In the event that the Contract is terminated for any reason, no allowances or compensation will be granted for the loss of any anticipated profit by the Design-Builder or any impact or impairment of Design-Builder's bonding capacity.

**23.1.3.4.** If the expense to the District to finish the Work exceeds the unpaid Contract Price, Design-Builder and Surety shall pay difference to District within twenty-one (21) days of District's request.

**23.1.3.5. Assignment and Assumption of Subcontracts.** District shall have the right (but shall have no obligation) to assume and/or assign to a general contractor or construction manager or other third party who is qualified and has sufficient resources to complete the Work, the rights of the Design-Builder under its subcontracts with any or all Subcontractors. In the event of an assumption or assignment by the District, no Subcontractor shall have any claim against the District or third party for Work performed by Subcontractor or other matters

arising prior to termination of the Contract. The District or any third party, as the case may be, shall be liable only for obligations to the Subcontractor arising after assumption or assignment. Should the District so elect, the Design-Builder shall execute and deliver all documents and take all steps, including the legal assignment of its contractual rights, as the District may require, for the purpose of fully vesting in the District the rights and benefits of its Subcontractor under Subcontracts or other obligations or commitments. All payments due the Design-Builder hereunder shall be subject to a right of offset by the District for expenses and damages suffered by the District as a result of any default, acts, or omissions of the Design-Builder. Design-Builder must include this assignment provision in all of its contracts with its Subcontractors.

**23.1.3.6.** The foregoing provisions are in addition to and not in limitation of any other rights or remedies available to District.

**23.2. Emergency Termination of Public Contracts Act of 1949**

**23.2.1.** The Contract is subject to termination as provided by sections 4410 and 4411 of the Government Code of the State of California, being a portion of the Emergency Termination of Public Contracts Act of 1949.

**23.2.1.1.** Section 4410 of the Government Code states:

In the event a national emergency occurs, and public work, being performed by contract, is stopped, directly or indirectly, because of the freezing or diversion of materials, equipment or labor, as the result of an order or a proclamation of the President of the United States, or of an order of any federal authority, and the circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the work, then the public agency and the contractor may, by written agreement, terminate said contract.

**23.2.1.2.** Section 4411 of the Government Code states:

Such an agreement shall include the terms and conditions of the termination of the contract and provision for the payment of compensation or money, if any, which either party shall pay to the other or any other person, under the facts and circumstances in the case.

**23.2.2.** Compensation to the Design-Builder shall be determined at the sole discretion of District on the basis of the reasonable value of the Work done, including preparatory work. As an exception to the foregoing and at the District's discretion, in the case of any fully completed separate item or portion of the Work for which there is a separate previously submitted unit price or item on the accepted Schedule of Values, that price shall control. District, in its sole discretion, may adopt the Contract Price as the reasonable value of the Work performed or any portion thereof.

**23.3. Termination of Design-Builder for Convenience**

**23.3.1.** District in its sole discretion may terminate the Contract upon three (3) days written notice to the Design-Builder. Under a termination for convenience, the District retains the right to all the options available to the District if there is a termination for cause. In case of a termination for convenience, Design-Builder shall have no claims against the District except:

**23.3.1.1.** The actual cost for labor, materials, and services performed that is unpaid and can be documented through timesheets, invoices, receipts, or otherwise, and

**23.3.1.2.** Five percent (5%) of the total cost of work performed as of the date of termination, or five percent (5%) of the value of the Work yet to be performed, whichever is less. This five percent (5%) amount shall be full compensation for all Design-Builder's and its Subcontractor(s)' mobilization and/or demobilization costs and any anticipated loss profits resulting from termination of the Design-Builder for convenience.

**23.4. Suspension of Work**

**23.4.1.** District may, without cause, order Design-Builder in writing to suspend, delay or interrupt the Project in whole or in part for such period of time as District may determine. When the District resumes the Project, the Parties will attempt to negotiate an adjustment in the Contract Price for increases or decreases in the cost of performance of the Project caused by suspense, delay or interruption. If the parties cannot agree on an adjusted Contract Price, the District may terminate the Contract as permitted herein.

**23.4.2.** In the event the District orders a 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 Design-Builder 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 adjustment of the Contract Price shall not include any adjustment to increase the Design-Builder's overhead, general administrative costs or profit, all of which will remain as reflected in the Schedule of Values submitted by the Design-Builder pursuant to the Contract Documents. In the event of the District's suspension of the Work, the Contract Time shall be equitably adjusted.

**23.5. Scope Reduction**

In cases of suspension, partial or complete termination, or at the discretion of the District, the District reserves the right to unilaterally approve a deductive Change Order to reduce scope of work or perform work with other forces or its own forces.

**24. CLAIMS RESOLUTION**

**24.1. Exclusive Remedy.**

**24.1.1.** The Claims Resolution Process required herein is intended to provide a concise mechanism for resolving Claims as they arise during the Project, while requiring accurate documentation related to contested issues as to those Claims that are not contemporaneously resolved. Compliance with this Claims Resolution Process is an express conditions precedent to Design-Builder's right to commence litigation or arbitration, file a claim under the California Government Code, or commence any other legal action related to the Project ("Claims Resolution Process").

**24.2. Subcontractors.**

**24.2.1.** Design-Builder is responsible for providing this Claims Resolution Process to its Subcontractors and for ensuring that all Subcontractors or others who may assert Claims by and through Subcontractors and/or the Design-Builder are informed of this Claims Resolution Process. Claims submitted by Design-Builder, on behalf of a Subcontractor or lower tier Subcontractor must follow the process set forth herein. Design-Builder shall indemnify, keep and hold harmless the District and its consultants, against all suits, claims, damages, losses, and expenses, including but not limited to attorney's fees,

caused by, arising out of, resulting from, or incidental to, the failure to provide this Claims Resolution Process to its Subcontractors or others who may assert Claims by and through Subcontractors and/or the Design-Builder.

**24.3. Performance during Claim Resolution Process.**

The Design-Builder shall diligently proceed with Work on the Project at the same time that Claims are addressed under the Claims Resolution Process. It is the intent of District to resolve Claims with the Design-Builder as close to the events giving rise to the Claims as possible, and to avoid stale or late Claims and the late documenting of Claims. Design-Builder's failure to diligently proceed in accordance with the District's instructions or the Contract terms will be considered a material breach of the Contract Agreement and a waiver of Design-Builder's rights under this Contract.

**24.4. Waiver.**

**24.4.1.** Design-Builder acknowledges that its failure, for any reason, to provide written notice and all required supporting documentation to permit the District's review and evaluation within the time frame required by this Claims Resolution Process, shall be deemed Design-Builder's waiver, release, discharge and relinquishment of any right to assert, request, or demand any entitlement to an adjustment of the Contract Time or the contract Price on account of any instruction, request, drawings, specifications, action, condition, omission, default or other situation.

**24.5. Other Provisions.**

If portions of the Contract, other than this Claims Resolution Process, establish a specific process regarding a specific subject, then that process shall govern and control the resolutions of any disagreements thereunder. Otherwise, the provisions in this Claims Resolution Process shall control the resolution of all Claims.

**24.6. Claim Presentation**

**24.6.1.1.** Claims must be in writing and submitted to the District by registered mail or certified mail return receipt requested. Claims must be certified by a responsible officer of the Design-Builder. This certification shall be under penalty of perjury and must include the following language immediately above or before the Design-Builder's signature: ***"I declare under penalty of perjury under the laws of the State of California that the information provided and statements made in this Claim are true and correct, substantiated and of merit."*** The Design-Builder acknowledges that this requirement is not a mere formality but is intended to ensure that the Design-Builder only submits Claims that it believes are true and correct, substantiated and have merit. Should Design-Builder fail to submit the foregoing written statement signed under penalty of perjury, Design-Builder waives and releases its Claim, including all rights and remedies in connection therewith. This certification must include a certification of any portion of the Claim from Subcontractor(s) or others who are asserting Claims by and through Subcontractors and/or the Design-Builder

**24.6.1.2.** Every Claim shall be stated with specificity and signed by Design-Builder under penalty of perjury and submitted to the District **within ten (10) calendar days** from the date Design-Builder discovers or reasonably should discover, that an act, error or omission of District, its agents or employees, or action, condition or other situation has occurred that may entitle Design-Builder to make a Claim. This shall include the Design-Builder's 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 Price or Contract Time. Design-Builder shall provide this writing even if Design-Builder has not yet been damaged, delayed, or incurred extra cost when Design-Builder discovers, or reasonably should discover, the act, error, omission, action, condition or situation giving rise to the incidents giving rise to the Claim.

**24.6.1.3. The Claim shall:**

- 24.6.1.3.1.** Identify all of the issues, events, conditions, circumstances and/or causes giving rise to the Claim;
- 24.6.1.3.2.** Identify all pertinent dates and/or durations and all actual and/or anticipated effects on the Contract Price, milestones and/or Contract Time adjustments; and
- 24.6.1.3.3.** Identify in detail line-item costs if the Claim seeks money.
- 24.6.1.3.4.** If the Claim involves extra work, a detailed cost breakdown of the amounts the Design-Builder is seeking, including actual cost records (including without limitation, payroll records, material and rental invoices and the like) demonstrating that those costs have actually been incurred. To the extent costs have not yet been incurred at the time the Claim is submitted, actual cost records must be submitted on a current basis not less than once a week during any periods costs are incurred. A cost record will be considered current if submitted within seven (7) days of the date the cost reflected in the record is incurred. At the request of District, extra costs may be subject to further verification procedures (such as having an inspector verify the performance of alleged extra work on a daily basis).
- 24.6.1.3.5.** If the Claim involves an error or omission in the Contract Documents:
  - 24.6.1.3.5.1.** An affirmative representation under penalty of perjury by Design-Builder and any affected Subcontractors and suppliers that the error or omission was not discovered prior to submitting a proposal for the Work, and
  - 24.6.1.3.5.2.** A detailed statement demonstrating that the error or omission reasonably should not have been discovered, by Design-Builder, its Subcontractors and suppliers, prior to submitting a proposal for the Work.
- 24.6.1.3.6.** Design-Builder shall not be entitled to compensation for escalation of materials costs unless Design-Builder demonstrates to the satisfaction of the District that such cost escalation is the result of unusual, unforeseeable market conditions, not the fault of the Design-Builder, and were not reasonably foreseeable at the time of the award of the Contract. Design-Builder shall provide evidence to District of the costs included in the Contract for those materials and that those costs were reasonable at the time and that Design-Builder timely ordered the materials at issue.
- 24.6.1.3.7.** The Claim shall include all documents substantiating Design-Builder's position regarding the Claim.
- 24.6.1.3.8.** A Claim that asserts an effect on any schedule milestones

and/or Contract Time shall include all pertinent scheduling data demonstrating the impact(s) on the critical path(s), milestone(s) and/or Contract Time.

**24.7. District's Written Statement/Decision on Claim.** The District shall issue a written statement/decision regarding the Claim to the Design-Builder within forty-five (45) days of receipt of the written Claim from the Design-Builder, or three (3) days after the District's first regular governing board meeting after that 45-day period if the District's governing board does not meet within that first 45-day period. If the District fails to timely provide a written statement/decision regarding the Claim, the Claim shall be deemed rejected in its entirety. The District's time period for review of the Claim may be extended upon agreement with the Design-Builder. Within sixty (60) days after receipt of a Claim, the District will process any undisputed portion of the Claim for payment pursuant to the processes set forth herein.

**24.8. Design-Builder's Request for Meet and Confer**

**24.8.1.** If Design-Builder disputes the District's written response, or if the District fails to respond within the time frame set forth above, the Design-Builder must request, in writing, an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of the Design-Builder's written request, the District will schedule a meet and confer conference within thirty (30) days.

**24.8.2. FAILURE OF A DESIGN-BUILDER TO TIMELY DEMAND A MEET AND CONFER CONFERENCE IS A WAIVER OF ITS RIGHT TO PURSUE ALL OR A PORTION OF ITS CLAIM.**

**24.9. District's Written Decision.** Within ten (10) business days of the meet and confer conference, the District will issue a written decision. If the District fails to timely provide a written statement/decision after the meet and confer conference, all Claim issues that were part of the meet and confer conference shall be deemed rejected in their entirety.

**24.9.1.** If the District's decision completely resolves the Claim, then the Parties shall complete a Change Order, if applicable, for the issues and/or amounts agreed to.

**24.9.2.** If the District rejects the Design-Builder's Claim in whole or in part or does not issue a timely written response, then the Parties shall submit the remaining portion of the Claim to non-binding mediation.

**24.9.3.** Design-Builder's costs incurred in seeking relief for Claims are not recoverable from District.

**24.10. Mediation.**

**24.10.1.** The District and Design-Builder must mutually agree to a mediator within ten (10) business days after the disputed portion of the Claim has been identified in writing by the Design-Builder. If the Parties cannot agree upon a mediator, each Party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the Claim. Each Party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator.

**24.10.2. Litigation of Claims in Excess of \$375,000.** If, after a mediation, the Parties have not resolved the Claim, either Party may commence an action in a court of competent within ninety (90) days following the conclusion of that mediation or one (1) year following the accrual of the cause of action, whichever is later. By mutual agreement, the Parties can agree to instead resolve the Claim through arbitration.

**24.10.3. Claims of \$375,000 or Less:** The provisions of Public Contract Code § 20104.4 shall apply to any Claim of \$375,000 or less.

**24.11. Design-Builder's Obligation to File a Government Code Claim.** Nothing in this Contract, including this Claims Resolution Process, waives, modifies or tolls the Design-Builder's obligation to present a timely claim under Government Code section 910, et seq. Therefore, in addition to complying with this Claims Resolution Process, the Design-Builder is required to present claims to the District pursuant to Government Code section 910, et seq. If after the requirements of this Claims Resolution Process are satisfied, and all or a portion of the Claim remains unresolved, and if the Government Code claim is rejected by the District, the Design-Builder may proceed under the post-mediation provisions of this Claims Resolution Process.

**24.11.1.** The District shall be entitled to remedy any false claims, as defined in California Government Code section 12650 *et seq.*, made to the District by the Design-Builder or any Subcontractor under the standards set forth in Government Code section 12650 *et seq.* Any Design-Builder or Subcontractor who submits a false claim shall be liable to the District for three times the amount of damages that the District sustains because of the false claim. A Design-Builder or Subcontractor who submits a false claim shall also be liable to the District for (a) the costs, including attorney fees, of a civil action brought to recover any of those penalties or damages, and (b) a civil penalty of up to \$11,000 for each false claim.

**24.12. Documentation of Resolution.**

If a Claim is resolved, the District shall determine if that resolution shall be documented in an Agreement and Release of Any and All Claims form or other document, as appropriate.

**24.13. Claim Resolution Process – Non-Applicability.**

The procedures and provisions in this Claims Resolution section shall **not** apply to:

**24.13.1.** District's determination of what Work is or will be constructed, or whether the Work complies with the Contract Documents for purposes of accepting the Work;

**24.13.2.** District's rights and obligations as a public entity, such as, but without limitation, the revocation of pre-qualified or qualified status, barring a contractor from District contracts, the imposition of penalties or forfeitures prescribed by statute or regulation; provided, however, that penalties imposed against a public entity by statutes such as Section 7107 of the Public Contract Code, shall be subject to the mandatory dispute resolution provisions of this Claims Resolution section and the Contract;

**24.13.3.** Personal injury, wrongful death or property damage claims;

**24.13.4.** Latent defect or breach of warranty or guarantee to repair;

**24.13.5.** Stop notices or stop payment notices; or

**24.13.6.** Any other District rights as set forth herein.

**25. LABOR, WAGE & HOUR, APPRENTICE AND RELATED PROVISIONS**

**25.1. Design-Builder & Subcontractor Registration**

**25.1.1.** Design-Builder shall comply with the registration and compliance monitoring provisions of Labor Code section 1771.4, including furnishing its CPRs to the Labor Commissioner of California and complying with any applicable enforcement by the Department of Industrial Relations. Labor Code section 1771.1(a) states the following:

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

**25.1.2.** Design-Builder acknowledges that, for purposes of Labor Code section 1725.5, all or some of the Work is a public work to which Labor Code section 1771 applies. Design-Builder shall comply with Labor Code section 1725.5, including without limitation the registration requirements. Additionally, all Design-Builder's Subcontractors shall comply with Labor Code section 1725.5 to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of the Contract. Design-Builder represents that all of its Subcontractors are registered pursuant to Labor Code section 1725.5.

**25.1.3.** The Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Design-Builder shall post job site notices, as prescribed by regulation. Design-Builder shall comply with all requirements of Labor Code section 1771.4, except the requirements that are exempted by the Labor Commissioner for the Project.

**25.2. Wage Rates, Travel and Subsistence**

**25.2.1.** Pursuant to the provisions of article 2 (commencing at section 1770), chapter 1, part 7, division 2, of the Labor Code of California, the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which this public work is to be performed for each craft, classification, or type of worker needed to execute this Contract are on file at the District's principal office and copies will be made available to any interested party on request. Design-Builder shall obtain and post a copy of these wage rates at the job site.

**25.2.2.** Holiday and overtime work, when permitted by law, shall be paid for at a rate of at least one and one-half times the above specified rate of per diem wages, unless otherwise specified. The holidays upon which those rates shall be paid need not be specified by the District, but shall be all holidays recognized in the applicable collective bargaining agreement. If the prevailing rate is not based on a collectively bargained rate, the holidays upon which the prevailing rate shall be paid shall be as provided in Section 6700 of the Government Code.

**25.2.3.** Design-Builder shall pay and shall cause to be paid each worker engaged in Work on the Project not less than the general prevailing rate of per diem wages determined by the Director of the Department of Industrial Relations ("DIR") ("Director"), regardless of any contractual relationship which may be alleged to exist between Design-Builder or any Subcontractor and such workers.

**25.2.4.** If during the period this bid is required to remain open, the Director determines that there has been a change in any prevailing rate of per diem wages in the locality in which the Work under the Contract is to be performed, such change shall not alter the wage rates in the Notice to Bidders or the Contract subsequently awarded.

**25.2.5.** Pursuant to Labor Code section 1775, Design-Builder shall, as a penalty to District, forfeit the statutory amount, (currently not to exceed two hundred dollars (\$200) for each calendar day, or portion thereof), for each worker paid less than the prevailing rates, as determined by the District and/or the Director, for the work or craft in which that worker

is employed for any public work done under Contract by Design-Builder or by any Subcontractor under it.

**25.2.5.1.** The amount of the penalty shall not be less than forty dollars (\$40) for each calendar day, or portion thereof, unless the failure of Design-Builder was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of Design-Builder.

**25.2.5.2.** The amount of the penalty shall not be less than eighty dollars (\$80) for each calendar day or portion thereof, if Design-Builder has been assessed penalties within the previous three (3) years for failing to meet Design-Builder's prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

**25.2.5.3.** The amount of the penalty may not be less than one hundred twenty dollars (\$120) for each calendar day, or portion thereof, if the Labor Commissioner determines the Design-Builder willfully violated Labor Code section 1775.

**25.2.5.4.** The difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by Design-Builder.

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

**25.2.7.** Pursuant to Labor Code section 1773.1, per diem wages are deemed to include employer payments for health and welfare, pension, vacation, travel time, subsistence pay, and apprenticeship or other training programs authorized by section 3093, and similar purposes.

**25.2.8.** Design-Builder shall post at appropriate conspicuous points on the Site of Project, a schedule showing all determined minimum wage rates and all authorized deductions, if any, from unpaid wages actually earned. In addition, Design-Builder shall post a sign-in log for all workers and visitors to the Site, a list of all subcontractors of any tier on the Site, and the required Equal Employment Opportunity poster(s).

### **25.3. Hours of Work**

**25.3.1.** As provided in article 3 (commencing at section 1810), chapter 1, part 7, division 2, of the Labor Code, eight (8) hours of labor shall constitute a legal days work. The time of service of any worker employed at any time by Design-Builder or by any Subcontractor on any subcontract under this Contract upon the Work or upon any part of the Work contemplated by this Contract shall be limited and restricted by Design-Builder to eight (8) hours per day, and forty (40) hours during any one week, except as hereinafter provided. Notwithstanding the provisions hereinabove set forth, Work performed by employees of Design-Builder in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon this public work upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half times the basic rate of pay.

**25.3.2.** Design-Builder shall keep and shall cause each Subcontractor to keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week

by each worker employed by Design-Builder in connection with the Work or any part of the Work contemplated by this Contract. The record shall be kept open at all reasonable hours to the inspection of District and to the Division of Labor Standards Enforcement of the DIR.

**25.3.3.** Pursuant to Labor Code section 1813, Design-Builder shall as a penalty to the District forfeit the statutory amount (believed by the District to be currently twenty five dollars (\$25)) for each worker employed in the execution of this Contract by Design-Builder or by any Subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of article 3 (commencing at section 1810), chapter 1, part 7, division 2, of the Labor Code.

**25.3.4.** Any Work necessary to be performed after regular working hours, or on Sundays or other holidays shall be performed without additional expense to the District.

**25.4. Payroll Records**

**25.4.1.** If requested by the District, Design-Builder shall provide to the District and shall cause each Subcontractor performing any portion of the Work to provide the District and an accurate and certified payroll record ("CPR(s)"), showing the name, address, social security number, work classification, straight time, and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the Design-Builder and/or each Subcontractor in connection with the Work.

**25.4.1.1.** In addition to any other requirements pursuant to Labor Code sections 1770, et seq., the CPRs enumerated hereunder shall be certified and shall be provided to the District on a weekly basis. The CPRs from the Design-Builder and each Subcontractor for each week shall be provided on or before Wednesday of the week following the week covered by the CPRs. District shall not make any payment to Design-Builder until:

**25.4.1.1.1.** Design-Builder and/or its Subcontractor(s) provide CPRs acceptable to the District, and

**25.4.1.1.2.** The District is given sufficient time to review and/or audit the CPRs to determine their acceptability. Any delay in Design-Builder and/or its Subcontractor(s) providing CPRs to the District in a timely manner will directly delay the District's review and/or audit of the CPRs and Design-Builder's payment.

**25.4.2.** All CPRs shall be available for inspection at all reasonable hours at the principal office of Design-Builder on the following basis:

**25.4.2.1.** A certified copy of an employee's CPR shall be made available for inspection or furnished to the employee or his/her authorized representative on request.

**25.4.2.2.** CPRs shall be made available for inspection or furnished upon request to a representative of District, Division of Labor Standards Enforcement, Division of Apprenticeship Standards, and/or the Department of Industrial Relations.

**25.4.2.3.** CPRs shall be made available upon request by the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the District, Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested CPRs have not been provided pursuant to the provisions herein, the requesting party shall, prior to

being provided the records reimburse the costs of preparation by Design-Builder, Subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of Design-Builder.

**25.4.3.** The form of certification for the CPRs shall be as follows:

I, \_\_\_\_\_ (Name-Print), the undersigned, am the \_\_\_\_\_  
 \_\_\_\_\_ (Position in business) with the authority to act for and on  
 behalf of \_\_\_\_\_ (Name of business and/or Design-Builder),  
 certify under penalty of perjury that the records or copies thereof submitted and  
 consisting of \_\_\_\_\_ (Description, number of pages) are the  
 originals or true, full, and correct copies of the originals which depict the payroll  
 record(s) of actual disbursements by way of cash, check, or whatever form to the  
 individual or individual named, and (b) we have complied with the requirements of  
 sections 1771, 1811, and 1815 of the Labor Code for any work performed by our  
 employees on the Project.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
 (Section 16401 of Title 8 of the California Code of Regulations)

**25.4.4.** Each Design-Builder shall file a certified copy of the CPRs with the entity that requested the records within ten (10) days after receipt of a written request.

**25.4.5.** Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by District, Division of Apprenticeship Standards, or 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 Design-Builder awarded Contract or performing Contract shall not be marked or obliterated.

**25.4.6.** Design-Builder shall inform District of the location of the records enumerated hereunder, including the street address, city, and county, and shall, within five (5) Business Days, provide a notice of change of location and address.

**25.4.7.** In the event of noncompliance with the requirements of this section, Design-Builder shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects Design-Builder must comply with this section. Should noncompliance still be evident after the ten (10) day period, Design-Builder shall, as a penalty to District, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of Division of Apprenticeship Standards or Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due.

**25.4.8.** It shall be the responsibility of Design-Builder to ensure compliance with the provisions of Labor Code section 1776.

**25.5. Apprentices**

**25.5.1.** Design-Builder acknowledges and agrees that, if this Contract involves a dollar amount greater than or a number of working days greater than that specified in Labor Code section 1777.5, then this Contract is governed by the provisions of Labor Code Section 1777.5. It shall be the responsibility of Design-Builder to ensure compliance with this Article and with Labor Code section 1777.5 for all apprenticeship occupations.

**25.5.2.** Apprentices of any crafts or trades may be employed and, when required by Labor Code section 1777.5, shall be employed provided they are properly registered in full

compliance with the provisions of the Labor Code.

- 25.5.3. Every such apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he/she is employed, and shall be employed only at the work of the craft or trade to which she/he is registered.
- 25.5.4. Only apprentices, as defined in section 3077 of the Labor Code, who are in training under apprenticeship standards and written apprentice agreements under chapter 4 (commencing at section 3070), division 3, of the Labor Code, are eligible to be employed. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which he/she is training.
- 25.5.5. Pursuant to Labor Code section 1777.5, if that section applies to this Contract as indicated above, Design-Builder and any Subcontractors employing workers in any apprenticeable craft or trade in performing any Work under this Contract shall apply to the applicable joint apprenticeship committee for a certificate approving the Design-Builder or Subcontractor under the applicable apprenticeship standards and fixing the ratio of apprentices to journeymen employed in performing the Work.
- 25.5.6. Pursuant to Labor Code section 1777.5, if that section applies to this Contract as indicated above, Design-Builder and any Subcontractor may be required to make contributions to the apprenticeship program.
- 25.5.7. If Design-Builder or Subcontractor willfully fails to comply with Labor Code section 1777.5, then, upon a determination of noncompliance by the Administrator of Apprenticeship, it shall:
  - 25.5.7.1. Be denied the right to bid on any subsequent project for one (1) year from the date of such determination;
  - 25.5.7.2. Forfeit as a penalty to District the full amount as stated in Labor Code section 1777.7. Interpretation and enforcement of these provisions shall be in accordance with the rules and procedures of the California Apprenticeship Council and under the authority of the Chief of the Division of Apprenticeship Standards.
- 25.5.8. Design-Builder and all Subcontractors shall comply with Labor Code section 1777.6, which section forbids certain discriminatory practices in the employment of apprentices.
- 25.5.9. Design-Builder shall become fully acquainted with the law regarding apprentices prior to commencement of the Work. Special attention is directed to sections 1777.5, 1777.6, and 1777.7 of the Labor Code, and title 8, California Code of Regulations, section 200 et seq. Questions may be directed to the State Division of Apprenticeship Standards, 455 Golden Gate Avenue, San Francisco, California 94102.
- 25.5.10. Design-Builder shall ensure compliance with all certification requirements for all workers on the Project including, without limitation, the requirements for electrician certification in Labor Code sections 108, et seq.

**25.6. Non-Discrimination**

- 25.6.1. Design-Builder herein agrees not to discriminate in its recruiting, hiring, promotion, demotion, or termination practices on the basis of race, religious creed, national origin, ancestry, sex, age, or physical handicap in the performance of this Contract and to comply with the provisions of the California Fair Employment and Housing Act as set forth in part 2.8 of division 3 of the California Government Code, commencing at section



12900; the Federal Civil Rights Act of 1964, as set forth in Public Law 88-352, and all amendments thereto; Executive Order 11246, and all administrative rules and regulations found to be applicable to Design-Builder and Subcontractor.

**25.6.2.** Special requirements for Federally Assisted Construction Contracts: During the performance of this Contract, Design-Builder agrees to incorporate in all subcontracts the provisions set forth in Chapter 60-1.4(b) of Title 41 published in Volume 33 No. 104 of the Federal Register dated May 28, 1968.

**25.7. Labor First Aid**

Design-Builder shall maintain emergency first aid treatment for Design-Builder's workers on the Project which complies with the Federal Occupational Safety and Health Act of 1970 (29 U.S.C. § 651 et seq.) the California Occupational Safety and Health Act of 1973, and all related regulations, including without limitation section 330 et seq. of Title 8 of the California Code of Regulations.

**26. MISCELLANEOUS**

**26.1. Assignment of Antitrust Actions**

**26.1.1.** Section 7103.5(b) of the Public Contract Code states:

In entering into a public works contract or subcontract to supply goods, services, or materials pursuant to a public works contract, the Design-Builder or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, made and become effective at the time the awarding body tenders final payment to the Design-Builder, without further acknowledgment by the parties.

**26.1.2.** Section 4552 of the Government Code states:

In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder.

**26.1.3.** Section 4553 of the Government Code states:

If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.

**26.1.4.** Section 4554 of the Government Code states:

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

**26.1.5.** Under this Article, "public purchasing body" is District and "bidder" is Design-Builder.

**26.2. Excise Taxes**

If, under Federal Excise Tax Law, any transaction hereunder constitutes a sale on which a Federal Excise Tax is imposed and the sale is exempt from such Federal Excise Tax because it is a sale to a State or Local Government for its exclusive use, District, upon request, will execute documents necessary to show (1) that District is a political subdivision of the State for the purposes of such exemption, and (2) that the sale is for the exclusive use of District. No Federal Excise Tax for such materials shall be included in any Contract Price.

**26.3. Taxes**

Contract Price is to include any and all applicable sales taxes or other taxes that may be due in accordance with section 7051 of the Revenue and Taxation Code; Regulation 1521 of the State Board of Equalization or any other tax code that may be applicable.

**26.4. Shipments**

All shipments must be F.O.B. destination to Site or sites, as indicated in the Contract Documents. There must be no charge for containers, packing, unpacking, drayage, or insurance. The total Contract Price shall be all inclusive (including sales tax) and no additional costs of any type will be considered.

**26.5. Compliance with Government Reporting Requirements**

If this Contract is subject to federal or other governmental reporting requirements because of federal or other governmental financing in whole or in part for the Project which it is part, or for any other reason, Contactor shall comply with those reporting requirements at the request of the District at no additional cost.

**END OF DOCUMENT**

**DOCUMENT 00 71 00**

**SPECIAL CONDITIONS**

**1. Modernization Projects**

- a. **Access.** Access to the school buildings and entry to buildings, classrooms, restrooms, mechanical rooms, electrical rooms, or other rooms, for construction purposes, must be coordinated with District and onsite District personnel before Work is to start. District will give access for to accommodate Designer/Builder's Work; work hours will be determined during the preconstruction meeting based on Designer/Builder's construction schedule and limited access to classrooms at specific sites during Summer School sessions.
- b. **Master Key.** Upon request, the District may, at its own discretion, provide a master key to the school site for the convenience of the Designer/Builder. The Designer/Builder agrees to pay all expenses to rekey the entire school site and all other affected District buildings if the master key is lost or stolen or if any unauthorized party obtains a copy of the key or access to the school.
- c. **Maintaining Services.** The Designer/Builder is advised that Work is to be performed in spaces regularly scheduled for instruction. Interruption and/or periods of shutdown of public access, electrical service, water service, lighting, or other utilities shall be only as arranged in advance with the District. Designer/Builder shall provide temporary services to all facilities interrupted by Designer/Builder's Work.
- d. **Maintaining Utilities.** The Designer/Builder shall maintain in operation during duration of Contract, drainage lines, storm drains, sewers, water, gas, electrical, steam, and other utility service lines within working area.
- e. **Confidentiality.** Designer/Builder shall maintain the confidentiality of all information, documents, programs, procedures and all other items that Designer/Builder encounters while performing the Work. This requirement shall be ongoing and shall survive the expiration or termination of this Contract and specifically includes, without limitation, all student, parent, and employee disciplinary information and health information.
- f. **Work During Instructional Time.** By submitting its proposal, Designer/Builder affirms that Work may be performed during ongoing instruction in existing facilities. If so, Designer/Builder agrees to cooperate to the best of its ability to minimize any disruption to the school up to, and including, rescheduling specific work activities, at no additional cost to District.
- g. **No Work During Student Testing.** Designer/Builder shall, at no additional cost to the District and at the District's request, coordinate its Work to not disturb District students including, without limitation, not performing any Work when students at the Site are taking State required tests.

**2. Badge Policy For Designer/Builder**

All Contractors doing work for the District will provide their workers with identification badges. These badges will be worn by all members of the Designer/Builder's staff who are working in a District facility.

- a. Badges must be filled out in full and contain the following information:

- i. Name of Designer/Builder
    - ii. Name of Employee
    - iii. Designer/Builder's address and phone number
  - b. Badges are to be worn when the Designer/Builder or his/her employees are on site and must be visible at all times. Designer/Builder must inform their employees that they are required to allow District employees, the Architect, the Construction Manager, the Program Manager, or the Project Inspector to review the information on the badges upon request.
  - c. Failure to display identification badges as required by this policy may result in the assessment of fines against the Designer/Builder.
3. **Substitution for Specified Items:** All requests for material or product substitutions must comply with the requirements specified in the Specifications and the following
- a. **Request for Substitution Prior to Proposal Due Date.**
    - (1) District must receive any request for material or product substitution a minimum of **THREE (3)** Calendar days prior to the proposal due date.
    - (2) The District's denial of a substitution request prior to proposal due date shall be conclusive, requiring Designer/Builder to list only approved items. The District is not responsible and/or liable in any way for a Designer/Builder's damages and/or claims related, in any way, to that Bidder's basing its bid on any requested substitution that the District has not approved. Designer/Builder's proposal shall be deemed non-responsive if it identifies a product or manufacturer of a non-approved substitution.
    - (3) Approved substitutions shall be listed in Addenda.
    - (4) District reserves the right not to act upon submittals of substitutions until after the proposal due date.
  - b. **Requests for Substitutions after Award of the Contract** shall be within **TEN (10)** days of the date of the Notice of Award.
    - (1) Whenever in the Specifications any materials, process, or article is indicated or specified by grade, patent, or proprietary name, or by name of manufacturer, that Specification shall be deemed to be followed by the words "or equal."  
Designer/Builder may, unless otherwise stated, offer any material, process, or article that shall be substantially equal or better in every respect to that so indicated or specified.
    - (2) If the material, process, or article offered by Designer/Builder is not, in the opinion of the District, substantially equal or better in every respect to that specified, then Designer/Builder shall furnish the material, process, or article specified in the Specifications without any additional compensation or change order.
    - (3) This provision shall not be applicable with respect to any material, product, thing or service for which District made findings and gave notice in accordance with Public Contract Code section 3400(b); therefore, Designer/Builder shall not be entitled to request a substitution with respect to those materials, products or services.
    - (4) A request for a substitution shall be in writing and shall include:
      - (a) All variations of the proposed substitute from the material specified including, but not limited to, principles of operation, materials, or construction finish, thickness or gauge of materials, dimensions, weight,

- and tolerances;
  - (b) Available maintenance, repair or replacement services;
  - (c) Increases or decreases in operating, maintenance, repair, replacement, and spare parts costs;
  - (d) Whether or not acceptance of the substitute will require other changes in the Work (or in work performed by the District or others under Contract with the District); and
  - (e) The time impact on any part of the Work resulting directly or indirectly from acceptance of the proposed substitute.
- (5) No substitutions shall be made until approved, in writing, by the District. The burden of proof as to equality of any material, process, or article shall rest with Designer/Builder. The Designer/Builder warrants that if substitutes are approved:
- (a) The proposed substitute is equal or superior in all respects to that specified, and that such proposed substitute is suitable and fit for the intended purpose and will perform adequately the function and achieve the results called for by the general design and the Contract Documents;
  - (b) The Designer/Builder provides the same warranties and guarantees for the substitute that would be provided for that specified;
  - (c) The Designer/Builder shall be fully responsible for the installation of the substitute and any changes in the Work required, either directly or indirectly, because of the acceptance of such substitute, with no increase in Contract Price or Contract Time. Incidental changes or extra component parts required to accommodate the substitute will be made by the Designer/Builder without a change in the Contract Price or Contract Time;
  - (d) The Designer/Builder shall be responsible for any re design costs occasioned by District's acceptance and/or approval of any substitute; and
  - (e) The Designer/Builder shall, in the event that a substitute is less costly than that specified, credit the District with one hundred percent (100%) of the net difference between the substitute and the originally specified material. In this event, the Designer/Builder agrees to execute a deductive Change Order to reflect that credit.
- (6) In the event Designer/Builder furnishes a material, process, or article more expensive than that specified, the difference in the cost of that material, process, or article so furnished shall be borne by Designer/Builder.
- (7) In no event shall the District be liable for any increase in Contract Price or Contract Time due to any claimed delay in the evaluation of any proposed substitute or in the acceptance or rejection of any proposed substitute.
- (8) If the District approves a substitution after the award of the Contract, the District shall memorialize that approval in a Change Order or other applicable Contract modification process.

4. **Insurance Policy Limits.** As indicated in the General Conditions.

**END OF SECTION**

**DOCUMENT 01 31 00****COORDINATION AND PROJECT MEETINGS****1. GENERAL****1.1. SECTION INCLUDES**

- 1.1.1. Coordination Responsibilities of the Designer/Builder
- 1.1.2. Field Engineering Responsibilities of the Designer/Builder
- 1.1.3. Preconstruction Conference.
- 1.1.4. Progress Meetings.
- 1.1.5. Post Construction Dedication.

**1.2. COORDINATION RESPONSIBILITIES OF THE DESIGNER/BUILDER**

- 1.2.1. Coordinate scheduling, submittals, and Work of the Specifications to assure efficient and orderly sequence of installation of interdependent construction elements, with provisions for accommodating items installed later.
- 1.2.2. Prior to commencement of a particular type or kind of work examine relevant information, contract documents, and subsequent data issued to the Project.
- 1.2.3. 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.
- 1.2.4. Closing up of holes, backfilling, and other covering up operations shall not proceed until all enclosed or covered work and inspections have been completed. Verify before proceeding.
- 1.2.5. Coordinate space requirements and installation of mechanical and electrical work which are indicated diagrammatically on drawings, if any. Follow routing shown for pipes, ducts, and conduit as closely as practicable; place runs parallel with line of building. Utilize spaces efficiently to maximize accessibility for other installations, for maintenance, and for repairs.
- 1.2.6. In finished areas except as otherwise indicated, conceal pipes, ducts, and wiring within the construction. Coordinate locations of fixtures and outlets with finish elements.
- 1.2.7. In locations where several elements of mechanical and electrical work must be sequenced and positioned with precision in order to fit into available space, prepare coordination drawings showing the actual conditions required for the installation. 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.
- 1.2.8. Coordinate completion and clean up of Work of separate sections in preparation for completion and for portions of work designated for District's occupancy.
- 1.2.9. After District occupancy of Project, coordinate access to Site for correction of defective Work and Work not in accordance with Contract Documents, to minimize disruption of District's activities.
- 1.2.10. Coordinate all utility company work, if any, in accordance with the Contract Documents.

**1.3. PRECONSTRUCTION CONFERENCE**

- 1.3.1. Construction Manager or Project Engineer will schedule a conference immediately after receipt of fully executed Contract Documents prior to Project mobilization.
- 1.3.2. Optional Attendance: District's consultants, subcontractors, and utility

- company representatives.
- 1.3.3. Construction Manager shall preside at conference and shall prepare and record minutes and distribute copies.
- 1.3.4. Agenda:
  - 1.3.4.1. Execution of District Designer/Builder Agreement.
  - 1.3.4.2. Issue Notice to Proceed.
  - 1.3.4.3. Submission of executed bonds and insurance certificates.
  - 1.3.4.4. Distribution of Contract Documents.
  - 1.3.4.5. Submission of list of Subcontractors, list of Products, Schedule of Values, and Progress Schedule.
  - 1.3.4.6. Designation of responsible personnel representing the parties.
  - 1.3.4.7. Procedures for processing Construction Directives and Change Orders.
  - 1.3.4.8. Procedures for Request for Information.
  - 1.3.4.9. Procedures for testing and inspecting.
  - 1.3.4.10. Procedures for processing applications for payment.
  - 1.3.4.11. Procedures for Project closeout.
  - 1.3.4.12. Use of Premises.
  - 1.3.4.13. Work restrictions.
  - 1.3.4.14. District's occupancy requirements or options.
  - 1.3.4.15. Responsibility for temporary facilities and controls.
  - 1.3.4.16. Construction waste management and recycling.
  - 1.3.4.17. Parking availability.
  - 1.3.4.18. Office, work and storage areas.
  - 1.3.4.19. Equipment deliveries and priority.
  - 1.3.4.20. Security.
  - 1.3.4.21. Progress cleaning.
- 1.4. **PROGRESS MEETINGS**
  - 1.4.1. Construction Manager shall schedule and administer meetings throughout progress of the Work at a minimum of every week.
  - 1.4.2. Construction Manager or Project Engineer will make arrangements for meetings, prepare agenda, and preside at meetings and shall record minutes (Field Reports), and distribute copies.
  - 1.4.3. Attendance Required: Job Superintendent, Construction Manager, Project Engineer, Project Inspector (Inspector of Record), District, Subcontractors, and suppliers as appropriate to agenda topics for each meeting.
  - 1.4.4. Agenda:
    - 1.4.4.1. Review minutes of previous meetings. (Field Reports)
    - 1.4.4.2. Review of Work progress.
    - 1.4.4.3. Field observations, problems, and decisions.
    - 1.4.4.4. Identification of problems which impede planned progress.
    - 1.4.4.5. Review of submittals schedule and status of submittals.
    - 1.4.4.6. Review of off-site fabrication and delivery schedules.
    - 1.4.4.7. Maintenance of construction schedule.
    - 1.4.4.8. Corrective measures to regain projected schedules.
    - 1.4.4.9. Planned progress during succeeding work period.
    - 1.4.4.10. Coordination of projected progress.
    - 1.4.4.11. Maintenance of quality and work standards.
    - 1.4.4.12. Effect of proposed changes on progress schedule and coordination.
    - 1.4.4.13. Other business relating to Work.
  - 1.4.5. District has authority to schedule meetings other than those listed, as necessary.
- 1.5. **POST CONSTRUCTION DEDICATION**
  - 1.5.1. Attendance Required: Project Superintendent, Designer/Builder, Project Manager, major subcontractors, Construction Manager, Project Engineer, Inspector of Record,

- and District.
- 1.5.2. Preparation prior to Dedication: Designer/Builder and appropriate subcontractors and suppliers shall:
- 1.5.3. Assist District in operation of devices and lighting systems.
  - 1.5.3.1.
  - 1.5.3.2. Verify operation and adjust controls for lighting and controls systems.
  - 1.5.3.3. Assist District in operation of lighting systems.

**END OF DOCUMENT**



**DOCUMENT 01 32 16****CONSTRUCTION SCHEDULE****1. GENERAL****1.1. REFERENCES**

- 1.1.1. Designer/Builder shall utilize MS Project or similar scheduling software for Project and construction planning and scheduling.

**1.2. PERFORMANCE REQUIREMENTS**

- 1.2.1. Ensure adequate scheduling during construction activities so Work may be prosecuted in an orderly and expeditious manner within stipulated Contract Time.
- 1.2.2. Ensure coordination of Designer/Builder and subcontractors at all levels.
- 1.2.3. Ensure coordination of submittals, fabrication, delivery, installation, and testing of Products, materials and equipment.
- 1.2.4. Ensure on time delivery of District furnished Products, materials and equipment.
- 1.2.5. Ensure coordination of jurisdictional reviews.
- 1.2.6. Prepare applications for payment.
- 1.2.7. Monitor progress of Work.
- 1.2.8. Prepare proper requests for changes to Contract Time.
- 1.2.9. Prepare proper requests for changes to Construction Schedule.
- 1.2.10. Detect potential schedule delays and identification of corrective actions.

**1.3. QUALITY ASSURANCE**

- 1.3.1. Comply with quality assurance pursuant to the General Conditions.

**1.4. SUBMITTALS**

- 1.4.1. Submission of submittals pursuant to the Specifications and Construction Documents.
- 1.4.2. Submit Short Interval Schedule at each Construction Progress Meeting.
- 1.4.3. Submit Time Adjustment Schedule within five (5) days of commencement of a claimed delay.
- 1.4.4. Submit Recovery Schedules as required for timely completion of Work or when demanded by the District.
- 1.4.5. Submit two (2) copies of each schedule.

**1.5. REVIEW AND EVALUATION**

- 1.5.1. Designer/Builder shall participate in joint review of Construction Schedule and Reports with District and Construction Manager.
- 1.5.2. Within seven (7) days of receipt of District and Construction Manager's comments provide satisfactory revision to Construction Schedule or adequate justification for activities in question.
- 1.5.3. In the event that an activity or element of Work is not detected by District or Construction Manager Review, such omission or error shall be corrected by next scheduled update and shall not affect Contract Time.
- 1.5.4. Acceptance by District of corrected Construction Schedule shall be a condition precedent to making any progress payments.
- 1.5.5. Schedule of Values shall be basis for determining progress payments.
- 1.5.6. Review and acceptance by District and Construction Manager of Preliminary Work Schedule or Construction Schedule does not constitute responsibility whatsoever for accuracy or feasibility of schedules nor does such acceptance expressly or impliedly warrant, acknowledge or admit reasonableness of activities, logic, duration, manpower, cost or equipment loading stated or implied on schedules.

**1.6. FORMAT**

- 1.6.1. Illustrate order and interdependence of activities and sequence of Work.
- 1.6.2. Illustrate complete sequence of construction by activity.
- 1.6.3. Schedule will have all predecessors and successors shown for review.

1.6.4. Provide legend of symbols and abbreviations used.

1.7. **CONSTRUCTION SCHEDULE**

1.7.1. Designer/Builder shall develop and submit a preliminary schedule of construction (or Preliminary Construction Schedule) as required by this Document and the Contract Documents. It shall be submitted in computer generated network format and shall be organized by activities representing the Designer/Builder's intended sequencing of the Work, and with time scaled network diagrams of activities. The Preliminary Construction Schedule shall include activities such as mobilization, preparation of submittals, specified review periods, procurement items, fabrication items, milestones, and all detailed construction activities.

1.7.2. Upon District's acceptance of the Preliminary Construction Schedule, Designer/Builder shall update the accepted Preliminary Construction Schedule until Designer/Builder's Construction Schedule is fully developed and accepted. Once approved by District, this shall become the Construction Schedule. This schedule shall include and identify all tasks that are on the Project's critical path with a specific determination of the start and completion of each critical path task, all contract milestones and each milestone's completion date(s) as may be required by the District, and the date of Project Completion. Since updates to the Construction Schedule are the basis for payment to Designer/Builder, submittal and acceptance of the Construction Schedule and updates shall be a condition precedent to making of monthly payments, as indicated in the Agreement and the Schedule of Values.

1.7.3. Failure to submit an adequate or accurate Preliminary Construction Schedule, Construction Schedule, updates thereto or failure to submit on established dates, will be considered a breach of Contract.

1.7.4. Failure to include any activity shall not be an excuse for completing all Work by required Completion Date.

1.7.5. The Construction Schedule shall comply with the following and include the following:

1.7.5.1. Shall designate critical path or paths.

1.7.5.2. Procurement activities to include mobilization, shop drawings and sample submittals.

1.7.5.3. Identification of key and long lead elements and realistic delivery dates.

1.7.5.4. Duration of each activity.

1.7.5.5. Shall contain seasonal weather considerations.

1.7.5.6. Indicate a date for Project Completion that is no later than Completion Date subject to any time extensions processed as part of a Change Order.

1.7.5.7. Conform to mandatory dates specified in the Contract Documents.

1.7.5.8. Designer/Builder shall allow for inclement weather in the Proposed Baseline Schedule by incorporating an activity titled "Rain Day Impact Allowance" as the last activity prior to the Completion Milestone. No other activities may be concurrent with it. The duration of the Rain Day Impact Allowance activity will in accordance with the Contract Documents, and will be calculated from the Notice to Proceed until the Completion.

1.7.5.9. Level of detail shall correspond to complexity of work involved.

1.7.5.10. Indicate procurement activities, delivery, and installation of District furnished material and equipment.

1.7.5.11. Designate critical path or paths.

1.7.5.12. Subcontractor work at all levels shall be included in schedule.

1.7.5.13. As developed shall show sequence and interdependence of activities required for complete performance of Work.

1.7.5.14. Shall be logical and show a coordinated plan of Work.

1.7.5.15. Show order of activities and major points of interface, including specific dates of completion.

1.7.5.16. Duration of activities shall be coordinated with

subcontractors and suppliers and shall be best estimate of time required.

- 1.7.5.17. Shall show description, duration and float for each activity.
- 1.7.6. **Activity.** An activity shall meet the following criteria:
  - 1.7.6.1. Any portion or element of Work or action that is precisely described, readily identifiable, and is a function of a logical sequential process.
  - 1.7.6.2. Descriptions shall be clear and concise. Beginning and end shall be readily verifiable. Starts and finishes shall be scheduled by logical restraints.
  - 1.7.6.3. Activities labeled start, continue or completion are not allowed.
- 1.7.7. **Equipment and Materials.** For major equipment and materials show a sequence of activities including:
  - 1.7.7.1. Fabrication and delivery.
  - 1.7.7.2. Erection or installation.
  - 1.7.7.3. Testing.
- 1.7.8. Include a minimum of ten (10) days prior to Completion Date for punch lists and clean up. No other activities shall be scheduled during this period.

1.8. **SHORT INTERVAL SCHEDULE**

- 1.8.1. The Three-week Rolling Schedule shall be based on the most recent District Accepted Construction Schedule or Update. It shall include weekly updates to all construction, submittal, fabrication/procurement, and separate Work Contract activities. Designer/Builder shall ensure that it accurately reflects the current progress of the Work.
- 1.8.2. Indicate activities completed or in progress for previous two (2) week period.
- 1.8.3. Indicate activities scheduled for succeeding two (2) week period.
- 1.8.4. Further detail may be added if necessary to monitor schedule.

1.9. **REQUESTED TIME ADJUSTMENT SCHEDULE**

- 1.9.1. Updated Construction Schedule shall not show a Completion Date later than the Contract Time, subject to any time extensions processed as part of a Change Order.
- 1.9.2. If an extension of time is requested, a separate schedule entitled "Requested Time Adjustment Schedule" shall be submitted to District and Construction Manager.
- 1.9.3. Indicate requested adjustments in Contract Time which are due to changes or delays in completion of Work.
- 1.9.4. Extension request shall include forecast of Project Completion date and actual achievement of any dates listed in Contract Documents.
- 1.9.5. Accompany schedule with formal written time extension request and detailed impact analysis justifying extension.
- 1.9.6. Time impact analysis shall demonstrate time impact based upon date of delay, and status of construction at that time and event time computation of all affected activities. Event times shall be those as shown in latest Construction Schedule.
- 1.9.7. Activity delays shall not automatically constitute an extension of Contract Time.
- 1.9.8. Failure of subcontractors shall not be justification for an extension of time.
- 1.9.9. Float suppression techniques such as preferential sequencing, special lead/lag logic restraints, extended activity durations, or imposed dates shall be apportioned according to benefit of Project.
- 1.9.10. Extensions will be granted only to extent that time adjustments to activities exceed total positive float of the critical path and extends Completion date.
- 1.9.11. District shall not have an obligation to consider any time extension request unless requirements of Contract Documents, and specifically, but not limited to these requirements are complied with.
- 1.9.12. District shall not be responsible or liable for any construction acceleration due to failure of District to grant time extensions under Contract Documents should

requested adjustments in Contract Time not substantially comply with submission and justification requirements of Contract for time extension requests.

**1.10. RECOVERY SCHEDULE**

1.10.1. Form and detail shall be sufficient to explain and display how activities will be rescheduled to regain compliance with Construction Schedule and to complete the Work by the Completion Date.

1.10.2. Maximum duration shall be one (1) month and shall coincide with payment period.

**1.11. UPDATING SCHEDULES**

1.11.1. Review and update schedule at least ten (10) days prior to submitting an Application for Payment.

1.11.2. Maintain schedule to record actual prosecution and progress.

1.11.3. Identify approved Change Orders which affect schedule as separate new activities.

1.11.4. Change Orders of less than \$5,000.00 value or less than three (3) days duration need not be shown unless critical path is affected.

1.11.5. No other revisions shall be made to schedule unless authorized by District.

1.11.6. Schedule update will form basis upon which progress payments will be made.

1.11.7. District will not be obligated to review or process Application for Payment until schedule and Progress Report have been submitted.

**1.12. DISTRIBUTION**

1.12.1. Following joint review and acceptance of updated schedules distribute copies to District, Construction Manager, and all other concerned parties.

1.12.2. Instruct recipients to promptly report in writing any problem anticipated by projections shown in schedule.

**2. PRODUCTS**

**2.1. SCHEDULING SOFTWARE**

Designer/Builder shall utilize a District approved equivalent scheduling software such as MS Project to employ the Critical Path Method (CPM) in the development and maintenance of the Construction Schedule. The scheduling software shall be capable of being resource loaded with manpower, costs and materials. It shall also be capable of generating time scaled logic diagrams, resource histograms and profiles, bar charts, layouts and reports with any and/or all activity detail.

**2.2. ELECTRONIC DATA**

Provide compact disk(s) that contain a backup of the Proposed Baseline Schedule data on it. The electronic MS Project files shall be saved in a readable type format, showing logical ties and links.

**END OF DOCUMENT**

**DOCUMENT 01 33 00**

**SUBMITTALS**

**1. GENERAL**

**1.1. SUBMITTAL PROCEDURES**

- 1.1.1. Designer/Builder shall transmit each submittal in conformance with requirements of this Section and Technical Specifications 16050, 16120, 16145, 16511, and 16521. For each submittal, Designer/Builder shall:
  - 1.1.1.1. Sequentially number the transmittal forms. Resubmitted submittals must have the original number with an alphabetic suffix;
  - 1.1.1.2. Identify Project and District's project number, Designer/Builder, Subcontractor or supplier; pertinent Drawing sheet and detail number(s), and specification Section number, as appropriate;
  - 1.1.1.3. Apply Designer/Builder's stamp, signed or initialed certifying that review, verification of Products required, field dimensions, adjacent construction work, and coordination of information is in accordance with the requirements of the Work and Contract Documents. Submittals without Designer/Builder's stamp and signature will be returned without review.
- 1.1.2. Coordinate preparation and processing of submittals with performance of Work. Transmit each submittal sufficiently in advance of performance of Work to avoid delay.
  - 1.1.2.1. Coordinate each submittal with fabrication, purchasing, testing, delivery, other submittals, and related activities that require sequential activity.
  - 1.1.2.2. Coordinate transmittal of different types of submittals for related parts of Work so processing will not be delayed because of the need to review submittals concurrently for coordination.
  - 1.1.2.3. District reserves the right to withhold action on a submittal requiring coordination with other submittals until related submittals are received.
- 1.1.3. Comply with Contract Documents for list of submittals and time requirements for scheduled performance of Work.
- 1.1.4. No extension of Contract Time will be authorized because of failure to transmit submittals to the District sufficiently in advance of the Work to permit processing.
- 1.1.5. District shall review as diligently as possible and return all submittals in a timely fashion to not cause any delay to the Project Schedule. District's approval of Designer/Builder's submittals shall not be unreasonably withheld and shall be deemed granted if not objected to within seven (7) calendar days.
- 1.1.6. Identify variations from Contract Documents and Product or system limitations which may be detrimental to successful performance of the completed Work.
- 1.1.7. Provide space for review stamps.
- 1.1.8. Revise and resubmit submittals as required, identify all changes made since previous submittal.
- 1.1.9. Distribute copies of reviewed submittals to concerned parties. Instruct parties to promptly report any inability to comply with provisions.
- 1.1.10. Submittals not requested will not be recognized or processed. Submittals not requested will be returned without review.

**1.2. SHOP DRAWINGS**

- 1.2.1. Do not reproduce Contract Documents or copy standard information as the basis of shop drawings. Standard information prepared without specific reference to the Project is not a shop drawing.
- 1.2.2. Do not use or allow others to use Shop Drawings which have been submitted and have been rejected.

**1.3. SUBMITTAL PROCESS**

**1.3.1. Sample Submittal Procedure**

- 1.3.1.1. The District and Construction Manager will review and markup each Submittal

And provide changes to Designer/Builder for Designer/Builder's incorporation into the Submittal.

- 1.3.1.2. This process will continue until the Designer/Builder has provided a Submittal that is acceptable to the District and the Construction Manager.

- 1.3.1.3. Once a Submittal is accepted, the District will provide a final accepted Submittal to the Designer/Builder and the Designer/Builder will closeout that one Submittal.

**1.4. PRODUCT DATA**

In addition to the above requirements, mark each copy to identify applicable products, models, options, and other data. Supplement manufacturers' standard data to provide information unique to this Project.

**END OF DOCUMENT**

**DOCUMENT 01 50 00**

**TEMPORARY FACILITIES AND CONTROLS**

**1. GENERAL**

**1.1. TEMPORARY UTILITIES**

**1.1.1. Electric Power and Lighting**

1.1.1.1. Designer/Builder will furnish and pay for power during the course of the work to the extent power is not in the building(s) or on the Site. Designer/Builder shall be responsible for providing temporary facilities required on the Site to point of intended use.

1.1.1.2. Designer/Builder shall furnish, wire for, install, and maintain temporary electrical lights wherever it is necessary to provide illumination for the proper performance and/or observation of the Work: a minimum of 20 foot-candles for rough work and 50 foot-candles for finish work.

1.1.1.3. Designer/Builder shall be responsible for maintaining existing lighting levels in the Project vicinity should temporary outages or service interruptions occur.

**1.1.2. Heat and Ventilation**

1.1.2.1. Designer/Builder shall provide forced ventilation and dehumidification, as required, of enclosed areas for proper installation and curing of materials, to disperse humidity, and to prevent accumulations of dust, fumes, vapors, and gases.

**1.1.3. Water**

1.1.3.1. District will furnish and pay for water during the course of the work.

1.1.3.2. Designer/Builder shall make potable water available for human consumption.

**1.1.4. Sanitary Facilities**

1.1.4.1. Designer/Builder shall provide sanitary temporary facilities in no fewer numbers than required by law and such additional facilities as may be directed by the Inspector for the use of all workers. The facilities shall be maintained in a sanitary condition at all times and shall be left at the Site until removal is directed by the Project Inspector or Designer/Builder completes all Work.

1.1.4.2. Use of toilet facilities in the Work shall not be permitted except by consent of the Project Inspector and District.

**1.1.5. Telephone Service [Not applicable]**

**1.1.6. Fire Protection:**

1.1.6.1. Designer/Builder shall provide and maintain fire extinguishers and other equipment for fire protection. Such equipment shall be designated for use for fire protection only and shall comply with all requirements of the California Fire, State Fire Marshall and/or its designee.

1.1.6.2. Where onsite welding and burning of steel is unavoidable, Designer/Builder shall provide protection for adjacent surfaces.

**1.1.7. Trash Removal:**

Designer/Builder shall provide trash removal on a timely basis from all Site Offices and the Site.

**1.2. CONSTRUCTION AIDS**

1.2.1. No District tools or equipment shall be used by Designer/Builder for the performance of the Work.

**1.3. BARRIERS AND ENCLOSURES**

1.3.1. Designer/Builder shall obtain District's written permission for locations and types of temporary barriers and enclosures, including fired rated materials proposed for use, prior to their installation.

1.3.2. Designer/Builder shall provide a six (6) foot high, chain link perimeter fence with posts and fabric screen as a temporary barrier around construction or staging area. Designer/Builder shall provide and maintain temporary enclosures to prevent public entry and to protect persons using other buildings and portions of the Site and/or Premises. Designer/Builder shall remove temporary fence, barriers and enclosure upon Completion of the Work.

1.3.3. Designer/Builder shall provide site access to existing facilities for persons using other buildings and portions of the Site, the public, and for deliveries and other services and activities.

#### **1.4. SECURITY**

Designer/Builder shall secure all construction equipment, machinery and vehicles, park and store only within fenced area, and render inoperable during non-work hours. Designer/Builder is responsible for insuring that no construction materials, tools, equipment, machinery or vehicles can be used for unauthorized entry or other damage or interference to activities and security of existing facilities adjacent to and in the vicinity of the Project Site.

#### **1.5. TEMPORARY CONTROLS**

##### **1.5.1. Noise Control**

1.5.1.1. Designer/Builder acknowledges that adjacent facilities may remain in operation during all or a portion of the Work, and it shall take all reasonable precautions to minimize noise as required by applicable laws and the Contract Documents.

##### **1.5.2. Noise and Vibration**

1.5.2.1. Designer/Builder shall cooperate with District to minimize and/or cease the use of noisy and vibratory equipment if that equipment becomes objectionable by its longevity.

##### **1.5.3. Dust and Dirt**

1.5.3.1. Designer/Builder shall conduct demolition and construction operations to minimize the generation of dust and dirt, and prevent dust and dirt from interfering with the progress of the Work and from accumulating in the Work and adjacent areas including, without limitation, occupied facilities.

1.5.3.2. Designer/Builder shall periodically water exterior demolition and construction areas to minimize the generation of dust and dirt.

1.5.3.3. Designer/Builder shall ensure that all hauling equipment and trucks carrying loads of soil and debris shall have their loads sprayed with water or covered with tarpaulins, and as otherwise required by local and state ordinance.

##### **1.5.4. Water**

Designer/Builder shall not permit surface and subsurface water, and other liquids, to accumulate in or about the vicinity of the Premises. Should accumulation develop, Designer/Builder shall control the water or other liquid, and suitably dispose of it by means of temporary pumps, piping, drainage lines, troughs, ditches, dams, or other methods.

##### **1.5.5. Pollution**

1.5.5.1. No burning of refuse, debris, or other materials shall be permitted on or in the vicinity of the Premises.

1.5.5.2. Designer/Builder shall comply with applicable regulatory requirements and antipollution ordinances during the conduct of the Work including, without limitation, demolition, construction, and disposal operations.

##### **1.5.6. Lighting**

If portable lights are used after dark, all light must be located so as not to direct light into neighboring property.



**1.6. PUBLICITY RELEASES**

Designer/Builder shall not release any information, story, photograph, plan, or drawing relating information about the Project to anyone, including press and other public communications medium, including, without limitation, on website(s).

**END OF DOCUMENT**

DOCUMENT 01 52 10

SITE STANDARDS

**1. GENERAL**

**1.1. REQUIREMENTS OF THE DISTRICT**

**1.1.1. Drug-Free Schools and Safety Requirements:**

1.1.1.1. No drugs, alcohol, smoking or the use of tobacco products are allowed at any time in any buildings, Designer/Builder Owned vehicles or vehicles owned by others while on District property. No students, staff, visitors, or contractors are to use drugs on these sites.

1.1.1.2. Designer/Builder shall post: "Nonsmoking Area" in a highly visible location on Site. Designer/Builder may designate a smoking area outside of District property within the public right-of-way, provided that this area remains quiet and unobtrusive to adjacent neighbors. This smoking area must be kept clean at all times.

1.1.1.3. Designer/Builder shall ensure that no alcohol, firearms, weapons, or controlled substances enter or are used at the Site. Designer/Builder shall immediately remove from the Site and terminate the employment of any employee(s) found in violation of this provision.

1.1.2. **Language:** Unacceptable and/or loud language will not be tolerated, "Cat calls" or other derogatory language toward students or public will not be allowed.

**1.1.3. Disturbing the Peace (Noise and Lighting):**

1.1.3.1. Designer/Builder shall observe the noise ordinance of the Site at all times including, without limitation, all applicable local, city, and/or state laws, ordinances, and/or regulations regarding noise and allowable noise levels.

1.1.3.2. District reserves the right to prohibit the use of radios at the Site, except for handheld communication radios.

1.1.3.3. If portable lights are used after dark, the lights must be located so as not to direct light into neighboring properties.

**1.1.4. Traffic:**

1.1.4.1. Driving on the Premises shall be limited to periods when students and public are not present. If driving or deliveries must be made during the school hours, two (2) or more ground guides shall lead the vehicle across the area of travel. In no case shall driving take place across playgrounds or other pedestrian paths during recess, lunch, and/or class period changes. The speed limit on the Premises shall be five (5) miles per hour (maximum) or less if conditions require.

1.1.4.2. All paths of travel for deliveries, including without limitation, material, equipment, and supply deliveries, shall be reviewed and approved by District in advance.

1.1.4.3. District shall designate a construction entry to the Site. If Designer/Builder requests, District determines it is required, and to the extent possible, District shall designate a staging area so as not to interfere with the normal functioning of school facilities. Location of gates and fencing shall be approved in advance with District and at Designer/Builder's expense.

1.1.4.4. Parking areas shall be reviewed and approved by District in advance. No parking is to occur under the drip line of trees or in areas that could otherwise be damaged.

1.1.4.5. All of the above shall be observed and complied with by the Designer/Builder and all workers on the Site. Failure to follow these

directives could result in individual(s) being suspended or removed from the work force at the discretion of the District. The same rules and regulations shall apply equally to delivery personnel, inspectors, consultants, and other visitors to the Site.

**END OF DOCUMENT**

**DOCUMENT 01 60 00****MATERIALS AND EQUIPMENT****1. GENERAL****1.1. MATERIAL AND EQUIPMENT**

- 1.1.1. Only items approved by the District and/or Construction Manager shall be used.
- 1.1.2. Designer/Builder shall submit lists of Products and other Product information in accordance with the Contract Documents, including, without limitation, the provisions regarding the submittals.

**1.2. DELIVERY, STORAGE, AND HANDLING**

- 1.2.1. Designer/Builder shall deliver manufactured materials in original packages, containers, or bundles (with seals unbroken), bearing name or identification mark of manufacturer.
- 1.2.2. Designer/Builder shall deliver fabrications in as large assemblies as practicable; where specified as shop primed or shop finished, package or crate as required to preserve such priming or finish intact and free from abrasion.
- 1.2.3. Designer/Builder shall store materials in such a manner as necessary to properly protect them from damage. Materials or equipment damaged by handling, weather, dirt, or from any other cause will not be accepted.
- 1.2.4. Materials are not be acceptable that have been warehoused for long periods of time, stored or transported in improper environment, improperly packaged, inadequately labeled, poorly protected, excessively shipped, deviated from normal distribution pattern, or reassembled.
- 1.2.5. Designer/Builder shall store material so as to cause no obstructions of sidewalks, roadways, and underground services. Designer/Builder shall protect material and equipment furnished pursuant to the Contract Documents.
- 1.2.6. Designer/Builder may store materials on Site with prior written approval by the District, all material shall remain under Designer/Builder's control and Designer/Builder shall remain liable for any damage to the materials. Should the Project Site not have storage area available, the Designer/Builder shall provide for off-site storage at no cost to District.
- 1.2.7. When any room in Project is used as a shop or storeroom, the Designer/Builder shall be responsible for any repairs, patching, or cleaning necessary due to that use. Location of storage space shall be subject to prior written approval by District.

**2. PRODUCTS****2.1. MANUFACTURERS**

- 2.1.1. Manufacturers listed in various sections of Contract Documents are names of those manufacturers that are believed to be capable of supplying one or more of items specified therein.
- 2.1.2. The listing of a manufacturer does not imply that every product of that manufacturer is acceptable as meeting the requirements of the Contract Documents.

**2.2. FACILITIES AND EQUIPMENT**

Designer/Builder shall provide, install, maintain, and operate a complete and adequate facility for handling, the execution, disposal, and distribution of material and equipment as required for proper and timely performance of Work.

**2.3. MATERIAL REFERENCE STANDARDS**

Where material is specified solely by reference to "standard specifications" and if requested by District, Designer/Builder shall submit for review data on actual material proposed to be

incorporated into Work, listing name and address of vendor, manufacturer, or producer, and trade or brand names of those materials, and data substantiating compliance with standard specifications.

**3. EXECUTION**

**3.1. WORKMANSHIP**

3.1.1. Where not more specifically described in any other Contract Documents, workmanship shall conform to methods and operations of best standards and accepted practices of trade or trades involved and shall include items of fabrication, construction, or installation regularly furnished or required for completion (including finish and for successful operation, as intended).

3.1.2. Work shall be executed by tradespersons skilled in their respective field of work. When completed, parts shall have been durably and substantially built and present a neat appearance.

**3.2. COORDINATION**

3.2.1. Designer/Builder shall coordinate installation of materials and equipment so as to not interfere with installation of other work. Adjustment or rework because of Designer/Builder's failure to coordinate will be at no additional cost to District.

3.2.2. Designer/Builder shall examine in place materials and equipment for readiness, completeness, fitness to be concealed or to receive Work, and compliance with Contract Documents. Concealing or covering work constitutes acceptance of additional cost which will result should in place materials and equipment be found unsuitable for receiving other work or otherwise deviating from the requirements of the Contract Documents.

**3.3. COMPLETENESS**

Designer/Builder shall provide all portions of the Work, unless clearly stated otherwise, installed complete and operational with all elements, accessories, anchorages, utility connections, etc., in manner to assure well-balanced performance, in accordance with manufacturer's recommendations and in accordance with Contract Documents. For example, electric water coolers require water, electricity, and drain services; roof drains require drain system; sinks fit within countertop, etc. Terms such as "installed complete," "operable condition," "for use intended," "connected to all utilities," "terminate with proper cap," "adequately anchored," "patch and refinish," "to match similar," should be assumed to apply in all cases, except where completeness of functional or operable condition is specifically stated as not required.

**3.4. APPROVED INSTALLER OR APPLICATOR**

Designer/Builder shall ensure that all installations are only performed by a manufacturer's approved installer or applicator.

**3.5. MANUFACTURER'S RECOMMENDATIONS**

All installations shall be in accordance with manufacturer's published recommendations and specific written directions of manufacturer's representative. Should Contract Documents differ from recommendations of manufacturer or directions of manufacturer's representative, Designer/Builder shall analyze differences, make recommendations to the District and the Construction Manager in writing, and shall not proceed until interpretation or clarification has been issued by the District and/or the Construction Manager.

END OF DOCUMENT

**DOCUMENT 01 66 10**

**DELIVERY, STORAGE AND HANDLING**

**1. GENERAL**

**1.1. PRODUCTS**

- 1.1.1. Products are as defined in the Agreement.
- 1.1.2. Designer/Builder shall not use and/or reuse materials and/or equipment removed from existing Premises, except as specifically permitted by the Contract Documents.
- 1.1.3. Designer/Builder shall provide interchangeable components of the same manufacturer, for similar components.

**1.2. TRANSPORTATION AND HANDLING**

- 1.2.1. Designer/Builder shall transport and handle Products in accordance with manufacturer's instructions.
- 1.2.2. Designer/Builder shall promptly inspect shipments to confirm that Products comply with Contract requirements, are of correct quantity, and are undamaged.
- 1.2.3. Designer/Builder shall provide equipment and personnel to properly handle Products to prevent soiling, disfigurement, or damage.

**1.3. STORAGE AND PROTECTION**

- 1.3.1. Designer/Builder shall store and protect Products in accordance with manufacturer's instructions, with seals and labels intact and legible. Designer/Builder shall store sensitive Products in weather tight, climate controlled enclosures.
- 1.3.2. Designer/Builder shall provide off-site storage and protection for Products when Site does not permit onsite storage or protection.
- 1.3.3. Designer/Builder shall cover Products subject to deterioration with impervious sheet covering and provide ventilation to avoid condensation.
- 1.3.4. Designer/Builder shall store loose granular materials on solid flat surfaces in a well-drained area and prevent mixing with foreign matter.
- 1.3.5. Designer/Builder shall provide equipment and personnel to store Products by methods to prevent soiling, disfigurement, or damage.
- 1.3.6. Designer/Builder shall arrange storage of Products to permit access for inspection and periodically inspect to assure Products are undamaged and are maintained under specified conditions.

**END OF DOCUMENT**

**DOCUMENT 01 77 10**

**CONTRACT CLOSEOUT AND FINAL CLEANING**

**1. GENERAL**

**1.1. CLOSEOUT**

**1.2. PROCEDURES**

Designer/Builder shall comply with all closeout provisions as indicated in the Agreement.

**1.3. FINAL CLEANING**

1.3.1. Designer/Builder shall execute final cleaning prior to final inspection.

1.3.2. Delete

1.3.3. Designer/Builder shall clean equipment and fixtures to a sanitary condition.

1.3.4. Delete

1.3.5. Designer/Builder shall remove waste and surplus materials, rubbish, and construction facilities from the Site.

**1.4. INSTRUCTION OF DISTRICT PERSONNEL**

1.4.1. Before final inspection, at agreed upon times, Designer/Builder shall instruct District's designated personnel in operation, adjustment, and maintenance of products, equipment, and systems.

1.4.2. Designer/Builder shall use operation and maintenance manuals as basis for instruction. Designer/Builder shall review contents of manual with personnel in detail to explain all aspects of operation and maintenance.

1.4.3. Designer/Builder shall prepare and insert additional data in Operation and Maintenance Manual when need for such data becomes apparent during instruction.

**1.5. SPARE PARTS AND MAINTENANCE MATERIALS**

1.5.1. Designer/Builder shall provide products, spare parts, maintenance, and extra materials in quantities specified in the Specifications and in Manufacturer's recommendations.

1.5.2. Designer/Builder shall provide District all required Operation and Maintenance Data.

**1.6. CLOSEOUT DOCUMENTS**

1.6.1. Foot-candle Measurement Table (Interior only) per Commissioning requirements

1.6.2. Disposal Manifest for all lighting fixtures

1.6.3. List of Manufacturers with contact information and parts reordering information for all products installed

1.6.4. Designer/Builder must submit all material, product, and equipment invoices or purchase orders

**END OF SECTION**

**Exhibit C**  
**Warranties**

The following warranties are the standard warranties from the manufacturers of components of the System.

Designer/Builder is assigning these warranties to the District.

These warranties shall not, in any way, reduce or limit Designer/Builder's one (1) year warranty against defective workmanship, defects or failures of materials.



**Exhibit D**  
**ADDITIONAL CONTRACT DOCUMENTS TO**  
**AGREEMENT FOR DESIGN AND CONSTRUCTION**

**West Contra Costa Unified School District and**  
**[DESIGNER/BUILDER]**

- Special Conditions (00701)
- Coordination and Project Meetings
- Construction Schedule D Network Analysis
- Submittals
- Temporary Facilities and Controls
- Site Standards
- Materials and Equipment
- Delivery, Storage and Handling
- Contract Closeout And Final Cleaning
- Warranties

**Technical Specifications (**

***(See RFQ/RFP Scope of Work Attachment "A")***

- Section 16050 D Basic Electrical Materials And Methods
- Section 16120 D Conductors And Cables
- Section 16145 D Lighting Control Devices
- Section 16511 D Interior Lighting
- Section 16521 D Exterior Lighting