



PROJECT MANUAL FOR:

ALLIED HEALTH MODULAR MODIFICATIONS

TAFT, CALIFORNIA

04/11/24

TAFT COLLEGE
WEST KERN COMMUNITY COLLEGE DISTRICT

SET NO: _____

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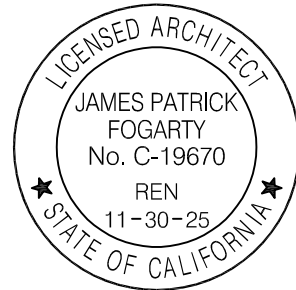
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**ALLIED HEALTH MODULAR
MODIFICATIONS
TAFT COLLEGE
WEST KERN COMMUNITY COLLEGE DISTRICT
TAFT, CALIFORNIA
KERN COUNTY**

**APPROVED:
WEST KERN COMMUNITY COLLEGE DISTRICT**

BY: BOARD RESOLUTION

**J. PATRICK FOGARTY, AIA
AP Architects
3434 Truxtun Ave., Suite 240
Bakersfield, CA 93301
C – 19670**



NOTICE TO CONTRACTORS (ADVERTISEMENT FOR BIDS)

Notice is hereby given that sealed bids will be received by the WEST KERN COMMUNITY COLLEGE DISTRICT- TAFT COLLEGE for the furnishing of all labor, material, equipment, transportation and service for the **ALLIED HEALTH MODULAR MODIFICATIONS - TAFT COLLEGE**. Project budget is \$ 200,000. Scope of work includes, but not limited to the re-carpeting of existing modular buildings along with miscellaneous finish work- see plans.

Pre-Bid Non-Mandatory Job Walk/Conference is scheduled on **Wednesday, April 24, 2024, at 11:00am**. Meet at the project site, G- Modular Courtyard in front of Gym.

Construction time - **60** calendar days.

Bid information and documents can be viewed and downloaded for free at the Taft College Vendor Portal <https://vendors.planetbids.com/portal/66036/bo/bo-search>

WEST KERN COMMUNITY COLLEGE DISTRICT will receive sealed bids for the award of the contract for the identified project up to, but not later than the specified deadline. Bids received by the deadline shall be opened and publicly released on the Taft College Vendor Portal <https://vendors.planetbids.com/portal/66036/bo/bo-search>

Bids will be received on **Tuesday, 04/30/2024**, up until **2:00pm**, via the Taft College Vendor Portal bid posting located on <https://vendors.planetbids.com/portal/66036/bo/bo-search>

Each bid must conform and be responsive to the Contract Documents.

The DISTRICT reserves the right to reject any or all bids and/or waive any irregularities or informalities in any bids or in the bidding process.

The DISTRICT has determined the general prevailing rate of per diem wages in the locality in which this work is to be performed for each craft or type of worker needed to execute this contract. These rates are available on the Internet at www.dir.ca.gov/DLSR/statistics_research.html. Hardcopies may be downloaded by Contractor. A copy of these rates shall be posted at the job site. District shall make special determinations when requested, in writing, minimum of seven (7) days before time of bid opening.

The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work shall be at least time and one half.

It shall be mandatory upon the contractor to whom the contract is awarded (CONTRACTOR), and upon any subcontractor under them, to pay not less than the specified rates to all workers employed by them in the execution of the contract. It is CONTRACTOR's responsibility to determine any rate change, which may have or will occur during the intervening period between each issuance of written rates by the Director of Industrial Relations.

This project is subject to a Labor Compliance Program approved by the California Department of Industrial Relations and is on file at the district office for review. A limited exemption from prevailing wage does not apply. The Labor Compliance Program will be enforced as required by state law and regulations and the Director of the Department of Industrial Relations. Under the Labor Compliance Program, DISTRICT is required to monitor, audit and investigate the practices of CONTRACTOR, and any subcontractor on the project, concerning payment of prevailing wage, maintenance of proper payroll records, and observation of apprenticeship requirements under the Labor Code, as further described in the Contract Documents. The CONTRACTOR and subcontractors will be required to submit documents on-line and hard copies to confirm compliance for this requirement in the format and system procedures as selected by the DISTRICT.

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No CONTRACTOR or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)]. No CONTRACTOR or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

No bidder may withdraw their bid for a period of 120 days after the date set for the opening of bids.

Bonds/Cashier's Check- Vendor must paper bond/cashier's check at (physical address) on or before the bid due date (04/30/2024) time 2:00 p.m. AND must upload a copy with their online bid submission. The copy will not be considered valid.

A payment bond and a performance bond will be required prior to execution of the contract. The payment bond shall be in the form called for in the Contract Documents.

Pursuant to the provisions of Public Contract Code Section 22300, CONTRACTOR may substitute certain securities for any funds withheld by DISTRICT to ensure their performance under the contract. At the request and expense of CONTRACTOR, securities equivalent to any amount withheld shall be deposited, at the discretion of DISTRICT, with either DISTRICT or a state or federally chartered bank, as the escrow agent, who shall then pay any funds otherwise subject to retention to CONTRACTOR. Upon satisfactory completion of the contract, the securities shall be returned to CONTRACTOR.

Securities eligible for investment shall include those listed in Government Code Section 61430, bank and savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by CONTRACTOR and DISTRICT. CONTRACTOR shall be the beneficial owner of any securities substituted for funds withheld and shall receive any interest on them. The escrow agreement and requirements for implementation shall be as indicated in the Project Manual and as approved by the DISTRICT.

The lowest bid shall be the lowest total of the bid prices on the base contract and all alternates as being used for the purpose of determining the lowest bid price.

To perform the work required by this Notice, CONTRACTOR must possess one of the following type of contractor's license: B.

By Order of the Board of Trustees of
the West Kern Community College District

Brock McMurray
Superintendent/President

Publish Dates: 04/16/24
04/23/24

END OF SECTION 001113

PART 1 - GENERAL

A. SECURING DOCUMENTS:

1. Contractors obtaining these plans and Project Manual for the purpose of submitting bids for this work shall notify the Architect of their intentions, together with mailing address and telephone number, so they may be fully advised of any addenda to the construction document being figured, or of any corrections, additions or omissions. Failure to so notify the Architect will make the contractor liable for the inclusion of all information according to the addenda in this contract whether received or not.
2. Contractors desiring to submit proposals for this work may obtain a set of plans and specifications.
3. Construction documents will not be issued to contractors who are not licensed to do business in the State of California, and the Owner will not consider or accept any bid or bids from such contractors.
4. Bidders shall have a generally recognized record for satisfactory execution of contracts of a similar size and character.

B. EXAMINATION OF PLANS, SPECIFICATIONS AND SPECIAL PROVISIONS:

1. Each bidder shall examine the bidding documents carefully and not later than three days prior to date for receipt for bids, shall make written request to the Architect for interpretation and/or correction of any ambiguity, inconsistency or error therein which he may discover. Any interpretation and/or correction will be issued as an Addendum by the Architect. Only a written interpretation and/or correction by Addenda shall be binding. No bidder shall rely upon any interpretation and/or correction given by any other method.
2. By submitting a bid, the bidder implies that he has thoroughly investigated and is satisfied as to the character quality and quantities of work to be performed and materials to be furnished, and as to all the stipulations and requirements of the Contract and construction documents.
 - a. Submission of a bid without requesting a clarification shall be incontrovertible evidence that the bidder has determined that the plans, specifications and documents are sufficient for bidding and completing the work, that the bidder is capable of reading, following and completing the work in accordance with the plans, specifications and drawings, and that the plans, specifications and drawings fall within an acceptable standard for these items and that bidder agrees that the project can and will be completed according to the owner's time lines and according to the allocated days of construction indicated herein.
3. The Bidder shall diligently investigate existing conditions to ascertain work required and include all necessary cutting and patching and refinishing in his bid. He shall provide for and exercise every precaution to protect the existing facilities against dust, dirt, water, trash, interruption of personnel activities, interruption of other construction on site, etc., due to operations under this Contract.
 - a. The existing plans of the campus are on file at the Architect's office. All contractors shall review plans prior to bidding during Architect's normal working hours. Copies for Contractor's use may be obtained at printing plus shipping/handling cost, (paid by contractor). Not reviewing plans will not be a reason for claim for additional cost and/or additional time. It shall be the responsibility of the bidders to confirm existing conditions above grade visible and review existing plans for existing conditions not visible from surface, prior to bidding, to confirm impact on scope of work to complete project.

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4. Neither the Owner or the Architect will be responsible for any omissions, errors, etc., which may result from the Contractor's procurement of incomplete documents. It shall be the Contractor's responsibility to review and ascertain all of the required work, materials, etc., to be provided by him in performing all work as required and/or called for by the Contract Documents.
5. Contractor shall review Section 011000 - Summary of Work, and provide manpower, resources, etc., as required to complete each phase of project on or before the date required for project completion. Contractor shall allow in Proposal weekend workers, shifts of workers and additional productivity not limited to workers, materials, temporary facilities and equipment as required to meet project schedule duration with limited access times as indicated herein.
6. Demolition of existing items are shown diagrammatically on construction documents. Contractor shall review existing plans to confirm configuration and scope to facilitate project.
7. The Contract Documents show and describe the existing conditions as they are believed to have been used in the design of the work and are only provided as information for the bidder. The Owner and Architect are not making any warranties regarding this information. The Owner and Architect shall not be liable for any loss sustained by the successful bidder resulting from any variance between the conditions and design data given in the Contract Documents and the actual conditions revealed during the bidder's pre-bid examination or during the progress of the work. Bidder agrees that the submission of a bid shall be incontrovertible evidence that the bidder has complied with and agrees to further comply with all the requirements of this section.
8. Allowances:
 - a. Selected materials, services and equipment, and in some cases, their installation are shown and specified in the Contract Documents by allowances herein. Allowances have been established in lieu of additional requirements and to defer selection of actual materials, miscellaneous additional work scope and equipment to a later date when additional information is available for evaluation.
 - b. Special allowances have been established for unforeseen conditions, latent conditions and related items to be authorized by the architect for use.
 - c. The contractor shall include in his base bid all overhead, profit, supervision, bonds, insurance and all other indirect costs for allowance items. No costs for overhead, profit, supervision, bonds, insurance and all other indirect costs will be added to lump sum and miscellaneous allowance as it is used by the Owner and directed by the Architect.
 - 1) In the event the allowance is required in an Alternate, the contractor shall include in his alternate bid all overhead, profit, supervision, bonds, insurance and all other indirect costs for allowance items specific to that alternate.
 - d. Where use of the allowances is for additional scope where the basis of payment is Time and Material, the overhead, profit, supervision, insurance and related indirect costs shall be included in the contractor's base bid.
 - 1) In the event the allowance is in and Alternate, the same costs shall be included in the costs of the alternate as bid to the Owner.

C. INTERPRETATION OF DOCUMENTS:

Should a bidder find discrepancies in, and/or omissions from the drawings and specifications, and/or should he be in doubt as to their meaning, he shall at once notify the Architect and should it be found necessary, a written addendum or clarification will be sent to all bidders. The Architect will not be responsible for oral instructions.

1. Questions during bidding shall be submitted in writing to Architect's office. Use Pre-Bid

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Request For Information Form at the end of this section. Fax copies will be accepted, but Architect is not responsible for incomplete or missed transmissions. Upon receipt of Pre-Bid Request For Information, Architect shall contact sender with a response.

2. No questions will be answered (3) working days prior to bid opening.
3. E-mail questions will not be accepted.

D. BID PROPOSALS:

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

1. Bids shall be made upon the bid forms (provided by the Architect in the Project Manual – (acceptable to make copies), properly executed and with all items filled out; numbers shall be stated both in writing and in figures. In the event of inconsistency between words and figures in the bid, figures shall control words. The complete bid form shall be without alterations to content, form and project scope; and the signatures of all persons signing shall be in longhand and original wet signature.
2. Alternate proposals will not be considered unless called for. No oral, telegraphic or telephonic proposals or modifications will be considered.
3. Before submitting proposals for this work, including RFP's, each bidder will be held to have examined the project premises and satisfied himself as to the existing conditions under which he will be obliged to operate, and that no changes will be made subsequently in this connection or in behalf of the Contractor for any error or negligence on his part, and he shall include in the bid a sum to cover the cost of all items included in the contract and/or subsequent RFP's. No additional cost will be considered for price increases of any materials, labors, methods and/or procedures. The Contractor shall make allowances for any and all price changes occurring during this project from bidding through final completion and project acceptance by Owner.
 - a. Each bidder shall make such surveys and investigations, including investigation of subsurface or latent physical conditions at the site or where work is to be performed, as it may deem necessary for performance of the work at the price being bid. Each bidder shall determine the character, quality, and quantities of the work to be performed and the materials and equipment to be provided, and shall correlate its observations, investigations, and determinations with all requirements of the project.
 - b. The Contract Documents show and describe the existing conditions as they are believed to have been used in the design of the work and are only provided as information for the bidder. The Owner is not making any warranties regarding this information. The Owner shall not be liable for any loss sustained by the successful bidder resulting from any variance between the conditions and design data given in the Contract Documents and the actual conditions revealed during the bidder's pre-bid examination or during the progress of the work. Bidder agrees that the submission of a bid shall be incontrovertible evidence that the bidder has complied with and agrees to further comply with all the requirements of this section.
4. Bids will be delivered to the Owner at locations and time noted on "Bid Proposal" on or before the day and hour set for the opening of bids. Bid forms (provided by the Architect), shall be enclosed in a envelope, and bear the title of work and the name of the bidder. It is the sole responsibility of the bidder to see that his bid is received in proper time. Any bid received after the schedule closing time for receipt of bids will be returned to the bidder unopened, in accordance with Government Code Section 53068.
5. Each bidder shall include with Proposal a Non-Collusion Affidavit, Prevailing Wage Compliance Certificate, required bond documents and Certification of Workmen's Compensation to be executed by bidder and submitted with bid. Form is included in "Bid Proposal" section. Form shall be fully executed and included with Bid Proposal.
 - a. Anti-Discrimination: The successful bidder will be required to sign a contract, which

contains the following provisions prohibiting discrimination:

- 1) "Anti-Discrimination in Employment: In connection with the performance of work under this Contract, the Contractor agrees (as prescribed in Chapter 6 of Division 3 of Title II of the Government Code of the State of California, commencing at Section 12900 and by Labor Code Section 1735) not to discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, gender, or age. The aforesaid provisions shall include, but are limited to, the following: hiring, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms compensation, and selection for training, including apprenticeship. The Contractor agrees to post hereafter in conspicuous places, available for employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. The Contractor further agrees to insert the foregoing provisions in all subcontracts entered into hereunder, except subcontracts for standard commercial supplies of raw materials."
6. Each bidder shall submit a list of the proposed subcontractors on the project as required by the Subletting and Subcontracting Fair Practices Act (Public Contract Code Section 4100 and following sections) on the form furnished with the Contract Documents.
 - a. If alternate bids are called for and the bidder intends to use different or additional subcontractors, a separate list of subcontractors must be submitted for each such alternate bid. The Owner may request that bidder submit information to assess the responsibility of the bidder's proposed subcontractors. The apparent low bidder shall, within 24 hours of the bid opening, provide a complete listing of all subcontractors, including full name, address, telephone numbers and contractor's license number and type.
 7. General Information:
 - a. The District reserves the right to reject any or all bids and/or waive any irregularities or informalities in any bids and/or in the bidding process.
 - b. The District has determined the general prevailing rate of per diem wages in the locality in which this work is to be performed for each craft or type of worker needed to execute this Contract. These rates are on file on the Internet at the following address: www.dir.ca.gov/DLSR/statistics_research.html. Copies may be downloaded by the Contractor. A copy of these rates shall be posted at the job site by the Contractor. Refer to section Prevailing Wage Rates & Apprenticeship Requirements for additional requirements. District will be monitoring prevailing wages on this project.
 - c. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work shall be at least time and one half.
 - d. It shall be mandatory upon the Contractor to whom the Contract is awarded (Contractor), and upon any subcontractor under him, to pay not less than the specified rates to all workers employed by them in the execution of the Contract. It is Contractor's responsibility to determine any rate change which may have or will occur during the intervening period between each issuance of written rates by the Director of Industrial Relations.
 - e. A Payment Bond and a Performance Bond will be required prior to execution of the Contract refer to Section "Bonds and Certificates Required" for additional requirements. The executed Bonds shall be on the forms herein Project Manual.
- E. WITHDRAWAL OF BID PROPOSAL:
Any bid may be withdrawn, either personally, by written request, or by telegraphic or facsimile

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request confirmed in the manner specified herein for bid modifications, at any time prior to the scheduled closing time for receipt of bids. In accordance with this paragraph, the bid security shall be returned for bids withdrawn prior to the scheduled closing time for receipt of bids. No bidder may withdraw any bid for a period indicated in the project manual after the award of the contract.

1. A bidder's unawarded alternative bids remain open for a period of 120 calendar days after award of contract or acceptance of completed project, whichever come first, as irrevocable offers to enter into either change orders or separate contracts for the stated price adjustment.

F. CORPORATION AS BIDDER:

In case a bid is submitted by a corporation, it shall be signed in the name of such corporation by a duly authorized officer or agent thereof.

G. SALES TAXES:

Sales taxes and any or all taxes and any other City, County, State, or Federal, except property taxes shall be included in the bid. All bids shall include all license fees, permit fees, and other fees to complete this project. See herein for permits, inspections, and assessments required for this project.

H. ADHERENCE:

No bid will be considered that does not strictly adhere to all requirements of these instructions to Bidders. The District reserves the right to waive any irregularities or informalities in any bids or in the bidding process.

I. COMPETENCY OF BIDDERS

In selecting the lowest responsive and responsible bidder, consideration will be given not only to the financial standing but also to the general competency of the bidder for performance of the work. By submitting a bid, each bidder agrees that in determining the successful bidder and its eligibility for the award, the Owner may consider the bidder's experience, facilities, conduct, and performance under other contracts, financial condition, reputation in the industry, and other factors relating to or which could affect the bidder's performance of the project.

J. BIDS TO BE ACCEPTED BY OWNER:

The lowest bid shall be the lowest total of the bid prices on the base contract and all alternates.

1. After the lowest bidder is determined, the District will select which alternates to award based on which are most advantageous to the District.
2. A bidder's un-awarded alternative bids remain open for a period of up to 120 calendar days or project duration whichever is less, after date of award of contract as irrevocable offers to enter into either change orders or separate contracts for the stated price adjustment.

K. OPENING OF BIDS:

Bids will be opened and publicly read aloud at the time and place set in the Notice to Contractors. The Owner may require such bidder or representative to affirmatively state that he knows the contents of his own bid and that he then believes that such bid is complete and correct in all particulars.

1. At the time set for the opening of bids, the sealed bids will be opened and publicly read aloud at the place indicated in the Notice to Contractors Calling for Bids. However, if this project calls for prequalification of bidders pursuant to Public Contract Code Section 20111.5, only those sealed bids received from bidders who have been prequalified when

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required herein, for at least one day prior to bid opening shall be opened and publicly read aloud.

L. AWARD OR REJECTION OF BIDS:

The contract shall be awarded to the responsible bidder complying with these instructions. The Owner reserves the right to reject any and all bids and to waive any informality or irregularity in any bids or bidding process. The award, if made, will be made within one hundred twenty (120) calendar days after the opening of the bids.

1. If two identical low bids are received from responsive and responsible bidders, the Owner will determine which bid will be accepted pursuant to Public Contract Code Section 20117.
2. If made by the Owner, award of the contract will be by action of the governing board or other governing body to the lowest responsive and responsible bidder. In the event an award of the contract is made to a bidder and that bidder fails or refuses to execute the Agreement and provide the required documents within the time required, the Owner may award the contract to the next lowest responsive and responsible bidder or release all bidders. An election by the Owner to reject all bids does not release the bid security of any bidder who has previously been awarded the contract and failed or refused to execute the Agreement and provide the required documents.

M. EXAMINATION OF SITE:

The Bidder shall carefully examine the site of the contemplated work prior to submitting a bid proposal and shall have satisfied himself as to the existing conditions and the conditions under which he will be obligated to operate, and/or that will in any manner affect the work under the contract. No allowance will be made subsequently in this connection for items that could be reasonably be inferred to be required to complete project scope from a careful examination of site of the contemplated work as well as plans of existing facilities. Refer to item (B) above for additional requirements.

N. ADDENDA AND BULLETINS:

Any addenda or bulletin items issued during the time of bidding shall be an integral part of the Contract Documents used by the Bidder for the preparation of his bid, all items of addenda and/or bulletins shall be included in the Bid Proposal and shall be made part of the Contract. Delivery of any Addenda or Bulletin in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, delivery by mail to the last known business address of the Contractor, or fax transmittal with telephone confirmation of complete receipt will be considered to be proper service of said documents.

O. PERMITS, INSPECTIONS SPECIAL REPORTS AND ASSESSMENTS, ETC.:

The Contractor, under the Agreement to be executed for this Contract, shall obtain and pay for all permits required for the complete execution of the work and for all inspections that are required by Federal, State or local (City or County) laws, special District requirements and/or ordinances. The Contractor shall be responsible for determining the necessity for said Permits and Inspections.

1. List of Permits required:
 - a. None.
 - a. Off-site improvements – off site street improvements including tie-ins/utilities connections, replacement and new items and related items
 - b. Demolition, transportation and disposal fees
 - c. Notification of hazardous materials abatement

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- d. Storm Water Management Plan/Permit (construction)
- e. Joshua Basin Water Storage District
- f. San Joaquin Valley Air Pollution Control
- g. Construction Waste Reduction, Disposal and Recycling and related items
- h. TRPA

2. List of Fees/Assessments:

- a. None.
- a. Storm Water Management Plan permits fees (NOI fee shall be paid by Owner).
- b. California Environment Quality Act (CEQA)
- c. TRPA; reporting, inspections, documentation and compliance with TRPA ordinance and procedures.

3. List of Special Reports and Documents:

- a. Construction Activities Management Plan (SJVAPCD)
 - 1) Construction sites 5 gross acres and larger
- b. Dust Control Plan (SJVAPC)
 - 1) Construction sites 5 gross acres and larger.
- c. Storm Water Management Plan, annual reporting, permit, training and related requirements per Agency requirements. (State Water Resource Board)
 - 1) Construction sites 1 gross acre and larger
- d. Indirect Source Review (SJVAPCD)
- e. San Joaquin Valley Air Pollution Control District (SJVAPCD)
 - 1) Contractor shall fill out construction notification form – included herein and pay any required fees. This shall be done prior to any work being done on site (Copy of form at the end of this Section).
 - a) This project is classified as a residential development construction site that is at least 1.00 acre but is less than 10.00 acres in area.
 - b) A Dust Control Plan is required for any construction site exceeding the above acreage of distributed surface area or exceeding 2,500 cubic yard per day of moved deposited, or relocated bulk materials on at least three days of the project. Construction Notification Forms submitted for sites requiring Dust Control Plans will be rejected.
 - c) Submit the Notification Form by mail or fax to the District's Compliance Division at the nearest office listed below:

Northern Region Office
4800 Enterprise Way
(209) 557-6400 Tel
(209) 557-6475 Fax

Central Region Office
1990 East Gettysburg Avenue
Fresno, CA 93726
(559) 230-5950 Tel

(559) 230 – 6062 Fax

Southern Region Office
34946 Flyover Court
Bakersfield, CA 93308
(661) 392-5540 Tel
(661) 392-5586 Fax

- d) If Contractor projects exceeding above number of cubic yards, Contractor shall submit a Dust Control Plans prior to doing any site work. All fees, costs and application shall be paid by the Contractor.
 - e) In the event the project is delayed due to Dust Control Plan approval, the Contractor shall be given additional days at no additional cost to Owner.
- 2) Demolition notification to SJVAPCD required post hazardous material removal, prior to any demolition.

4. Construction Activities Management Plan

The contractor shall submit a Construction Activities Management Plan to SJVAPCD a minimum of 30 days prior to the start of construction. The plan shall include the SJVAPCD Best Available Control Technologies for diesel-fueled equipment not limited to the following:

- a. Minimize the number of large pieces of construction equipment operating during any given period.
- b. Schedule construction related truck/equipment trips during non-peak hours to reduce peak-hour emissions.
- c. Construction equipment shall be properly maintained according to manufacturer specification.
- d. Fuel all off-road and portable diesel powered equipment including but not limited to: bulldozers, graders, cranes, loaders, scrapers, backhoes, generators, compressors, auxiliary power units with CARB motor vehicle diesel fuel.
- e. Use 1996 or newer heavy duty off road vehicles to the extent feasible.
- f. Use Caterpillar pre-chamber diesel engines (or equivalent) together with proper maintenance and operation to reduce emissions of oxides of nitrogen (NOx).
- g. Electrify equipment where possible.
- h. Use Compressed Natural Gas (CNG), liquefied natural gas (LNG), bio-diesel, or propane for on-site mobile equipment instead of diesel-powered equipment.

5. Dust Control Plan

Regulation VIII, Fugitive PM10 Prohibitions, of the District's Rules and Regulations apply to many activities that generate fugitive dust, and particularly to construction sites. Fugitive dust is emitted into the air by activities that disturb the soil, such as earthmoving and vehicular/equipment traffic on unpaved surfaces. Windblown dust is also of concern where soil has been disturbed at construction sites.

- a. Visible Dust Emissions (VDE) may not exceed 20% opacity during periods when soil is being disturbed by equipment or by wind at any time. Visible Dust Emissions opacity of 20% means dust that would obstruct an observer's view of an object by 20%. District inspectors are state certified to evaluate visible emissions. Dust control may be achieved by applying water before/during earthwork and onto unpaved traffic areas, phasing work to limit dust, and setting up wind fences to limit wind blown dust.
- b. Soil Stabilization is required at regulated construction sites after normal working hours and on weekends and holidays. This requirement also applies to inactive

construction areas such as phased projects where disturbed land is left unattended. Applying water to form a visible crust on the soil and restricting vehicle access are often effective for short-term stabilization of disturbed surface areas. Long-term methods including applying dust suppressants and establishing vegetative cover.

- c. Carryout and Trackout occur when materials from emptied or loaded vehicles falls onto a paved surface or shoulder of a public road or when materials adhere to vehicle tires and are deposited onto a paved surface or shoulder of a public road. Should either occur, the material must be cleaned up at least daily, and immediately if it extends more than 50 feet from the exit point onto a paved road. The appropriate clean-up methods require the complete removal and cleanup of mud and dirt from the paved surface and shoulder. Using a blower device or dry sweeping with any mechanical device other than a PM10-efficient street sweeper is a violation. Construction sites, or sites with a high amount of traffic on one or more days, must prevent carryout and trackout from occurring by installing gravel pads, grizzlies, wheel washers, paved interior roads, or a combination thereof at each exit point from the site. In many cases, cleaning up trackout with water is also prohibited as it may lead to plugged storm drains. Prevention is the best method.
- d. Unpaved Access and Haul Roads, as well as unpaved vehicle and equipment traffic areas at construction sites must have dust control. Speed limit signs limiting vehicle speed to 15 mph or less at construction sites must be posted every 500 feet on uncontrolled and unpaved roads.
- e. Storage Piles and Bulk Materials have handling, storage, and transportation requirements that include applying water when handling materials, wetting or covering stored materials, and installing wind barriers to limit VDE. Also, limiting vehicle speeds, loading haul trucks with a freeboard of six inches or greater along with applying water to the top of the load, and covering the cargo compartments are effective measures for reducing VDE and carryout from vehicles transporting bulk materials.
- f. Demolition activities require the application of water to the exterior of the buildings and to unpaved surfaces where materials may fall. A Dust Control Plan will be required for large demolition projects. Consider all structures slated for demolition as possibly being regulated due to potential asbestos, per District Rule 4002 - National Emission Standards for Hazardous Air Pollutants. Contact the District well before starting because a 10 working-day notice will likely be required before a demolition can begin.
- g. Dust Control Plans identify the dust sources and describe the dust control measures that will be implemented before, during, and after any dust generating activity for the duration of the project. Owners or operators are required to submit plans to the District at least 30 days prior to commencing the work for the following:
 - 1) Non-residential developments of five or more acres of disturbed surface area.
 - 2) The relocation of more than 2,500 cubic yards per day of materials on at least three days.
- h. Operations may not commence until the District has approved the Dust Control Plan. A copy of the plan must be on site and available to workers and District employees. All work on the site is subject to the requirements of the approved dust control plan. A failure to abide by the plan by anyone on site may be subject to enforcement action.
- i. Contractor for construction projects that are at least one acre in size and where a Dust Control Plan is not required, must provide written notification to the District at least 48 hours in advance of any earthmoving activity.
- j. Record Keeping is required to document compliance with the rules and must be kept for each day any dust control measure is used. The District has developed record forms for water application, street sweeping, and "permanent" controls such

as applying long term dust palliatives, vegetation, ground cover materials, paving, or other durable materials. Records must be kept for one year after the end of dust generating activities (Title V sources must keep records for five years).

- k. Exemptions exist for several activities. Those occurring above 3,000 feet in elevation are exempt from all Regulation VIII requirements. Further, Rule 8021 – Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities exempts the following construction and earthmoving activities:
 - 1) Blasting activities permitted by California Division of Industrial Safety.
 - 2) Maintenance or remodeling of existing buildings provided the addition is less than 50% of the size of the existing building or less than 10,000 square feet (due to asbestos concerns, contact the District at least two weeks ahead of time).
 - 3) Additions to single family dwellings.
 - 4) The disking of weeds and vegetation for fire prevention on sites smaller than ½ acre.
 - 5) Spreading of daily landfill cover to preserve public health and safety and to comply with California Integrated Waste Management Board requirements.
- l. Nuisances are prohibited at all times because District Rule 4102 – Nuisance applies to all construction sources of fugitive dust, whether or not they are exempt from Regulation VIII. It is important to monitor dust-generating activities and implement appropriate dust control measures to limit the public’s exposure to fugitive dust.
- m. For more information please contact the Compliance Division of the District office nearest to you. Information on Regulation VIII, where you may obtain copies of record keeping forms, the Dust Control Plan template, and the Construction Notification form, is available on the District’s website at: www.valleyair.org, under Compliance Assistance/Dust Control.

6. Storm Water Management Plan

- a. Refer to Division 1 Section “Storm Water Pollution Prevention Plan” for additional requirements.

7. Indirect Source Review (Rule 9510 SJVAPCD)
xxxxxxxxxxxx

P. FORMAL PROTEST OF BID PROPOSAL:

Any bidder having submitted a bid on the project or third party may file a protest against the proposed contract award or challenging the validity of other bids. The protest must meet all of the following requirements:

- 1. The protest shall be submitted in writing and shall contain all the materials required by these provisions; one that does not contain all the required material shall not be recognized.
- 2. The protest shall be received by the Owner no later than close of business on the second business day after bid opening; protest(s) received after that time shall not be recognized.
- 3. Each protest shall contain the following:
 - a. Identification by name, address, and telephone number of the protesting person(s), company and/or organization and identification of the project to which the protest pertains.
 - b. The protest shall set forth in detail all grounds for the protest, including without limitation all facts, identification by name of any other bids or bidders involved in the protest, all supporting documentation, together with any legal authorities and/or argument in support of the grounds for the protest. Any matters not set forth in the

TC - ALLIED HEALTH MODULAR MODIFICATIONS

written protest shall be deemed waived. All factual contentions must be supported by competent, admissible, and credible evidence.

4. Any protest not conforming to the requirements of this section shall be rejected as invalid.
5. Where a protest is filed in conformity with this section, the Owner's staff or such individual(s) as may be designated by the Owner shall review and evaluate the basis of the protest and provide a written decision to the protesting bidder. The written decision shall either concur with or deny the protest.
6. Submission of a written protest to and receipt of a written decision from the Owner staff shall be considered an administrative remedy, and failure to follow this procedure shall be a bar to any legal action.
7. The written decision by the Owner's staff may be appealed to the Owner. The appeal must be filed with the Owner's governing board within two business days of the protesting bidder's receipt of the written decision of the Owner's staff.
8. The appeal must clearly state the reasons and basis for appealing the decision of the Owner's staff, making specific reference to any portions of the material submitted with the protest required.
9. A hearing on the appeal shall be held before the Owner's governing board within 45 days or less of receipt of the appeal.
10. The Owner's governing board or other governing body will make a decision within seven days following the hearing. The decision of the Owner's governing board or other governing body is not subject to arbitration, mediation, reconsideration, or further appeal.
11. Submission of an appeal to and receipt of a decision from the Owner's governing board or other governing body shall be considered an administrative remedy, and failure to follow this procedure shall be a bar to any legal action.

Q. PROCEDURE FOR PROTESTING BEING DEEMED A NON-RESPONSIVE BIDDER.

Any bidder or prospective bidder deemed non-responsible after having submitted a bid may file an appeal of the action to the Owner's governing board or other governing body. The protest must meet all of the following requirements:

1. The appeal shall be submitted in writing, and shall contain all the materials required by these provisions; one that does not contain all the required material shall not be recognized.
2. The appeal must be received by the Owner's governing board or other governing body within two business days of the action by Owner giving rise to the protest; one received after that time shall not be recognized.
3. A hearing on the appeal shall be held before the Owner's governing board prior to the award of contract.
4. The decision of the Owner's governing board or other governing body is not subject to arbitration, mediation, reconsideration, or further appeal.
5. Submission of a protest to and receipt of a decision from the Owner's governing board or other governing body shall be considered an administrative remedy, and failure to follow this procedure shall be a bar to any legal action.

R. PRE-AWARD MEETINGS: The Architect may conduct pre-award meetings to discuss the project with various bidding Contractors, listed Subcontractors, Surety and Owner. Meetings will be held in the Architect's office.

S. SCHEDULE OF VALUE: The Prime Contractor shall provide a draft detailed cost breakdown two (2) calendar days after time of bid opening. Failure to provide this complete information shall be grounds of bidder being declared non-responsive.

Breakdown cost by at least each Project Manual section and as indicated herein (refer to 006002-9.2.1.1 for minimum list of items).

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T. STARTING WORK:

1. Pre-Award Documents: All documents shall be submitted and approved prior to starting work. Failure to provide complete information prior days indicated shall be considered non-responsive and bid bond will be forfeited, and Contractor shall be declared in default. (All days below are calendar days).
 - a. Performance bond and data - 10 days
 - b. Payment bond and data - 10 days
 - c. All insurance certificates - 10 days
 - d. Schedule of Values final - 2 days prior to starting work
 - e. Proof of Contractor's/Subcontractor's license - 10 days
 - f. DVBE, MBE and WBE listing of Contractors/
Subcontractors by dollar volume for
this project - 10 days
 - g. Drug-free workplace certification 10 days
2. Notice of Award: If awarded, the Owner will prepare a Notice of Award. The Contractor shall provide all the above documents no later than 10 calendar days from the Notice of Award preparation date.
3. Contract: If awarded and Contractor provides the required documents as prescribed herein and documents are accepted and approved by the Owner, the Owner will prepare a contract for execution (copy enclosed herein). The Contractor shall execute and return the contract on or before 7 calendar days of receipt of contract.
4. Notice to Proceed: The Owner shall prepare and deliver to the Contractor a Notice to Proceed. The Contractor shall commence the work within fifteen (15) calendar days after the Notice to Proceed document date, or by special arrangements with Architect.
 - a. Subsequent to receipt of Notice to Proceed, no work may start in site until receipt of SJVAPCD approval of Construction Notification Form, Fingerprint Clearances, Dust Control Plan (if required), permits, Hazardous Material Notifications and Storm Water Prevention Plan Approval.
 - b. Contractor shall use best endeavors to submit items to required agencies.

PART 2 - PERFORMANCE OF WORK UNDER CONTRACT

A. SUPERVISION:

1. The General Contractor and all subcontractors engaged by general contractor will be required to designate one responsible on-site person with authority to receive directions and issue instructions for the orderly prosecution of the work.
 - a. The General Contractor shall designate a project superintendent, who shall not carry tools, unless approved by Architect, prior to project starting.

B. LIQUIDATED DAMAGES:

Should the contractor fail to complete this contract within the time limits fixed for such completion, or within the time limits as may be extended as provided elsewhere in this Project Manual, damages will be sustained by the Owner. It is hereby understood and agreed that it is and will be impracticable or extremely difficult to determine the actual amount of damages which the Owner will sustain in the event of any by reason of such delays, and it is therefore agreed that the Contractor will pay to the Owner the sum stipulated below for each and every delay beyond the time limit specified or as may be extended, as and for liquidation damages; and in case the Contractor fails to make such payment, the Owner may deduct the amount thereof from any money due or that may become due the Contractor under the contract. Refer to Division Section "Contract Agreement" for amount per

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calendar day.

C. QUALIFICATIONS OF BIDDERS AND PROOF OF LICENSE:

Plans, Project Manual and Bid Proposal forms will only be issued to those Contractors who have the following qualifications:

1. Valid State Contractors license of the type required to perform the work of this Contract, and
2. Written proof of ability to provide the required Bonds and Insurance Certificate.
3. A generally recognized record for satisfactory execution of Contracts of similar sizes and character.
4. Contractor's License: Prior to award of this contract for work to be performed by the Contractor, as defined by Section 7026 of the Business and Professions Code, the Contractor shall prove he or she is licensed in a classification appropriate to the work to be undertaken. Contractor shall present his or here pocket license or certificate of licensure and provide a signed statement which swears, under penalty of perjury, that the pocket license or certificate of licensure presented is his or hers, is current and valid, and is in a classifications appropriate to the work to be undertaken.
Within 10 days of award of contract, Contractor shall provide same information for all subcontractors who will be working on or at this project. First Pay Request will not be approved until this is completed and documented accepted by the Architect.
5. "Pursuant to the requirements of SB 1362 and California Labor Code section 3099.2, all employees performing electrical work for a subcontractor holding a C-10 license must be certified. If employees working on project are found to be not certified, they shall be immediately removed. Failure to provide proof of this documentation on all employees will be considered a violation and subject the subcontractor to corrective action up to and including being removed from the project."

D. BUILDING CODE REQUIREMENTS:

1. All work performed under this Contract shall conform with the applicable portions and editions of the following codes:
 - a. California Code of Regulations--CCR, T24 Parts 1-9.
 - b. Public Health Code of the California State Department of Public Health and Local Health Department.
 - c. California Occupational Safety and Health Act (CAL/OSHA).
 - d. Rules and regulations of the State and Local Fire Marshals.
 - e. Safety Orders of the Industrial Accident Commission, State of California.
 - f. California Electric Code.
 - g. California Plumbing Code.
 - h. All laws governing the employment of labor, posting of minimum wage rates, and accident prevention.
 - i. Refer to Section 014300 - Governing Agency for additional items.
 - j. American Disability Act, Federal law.
2. Requirements of enforcing authorities may supersede requirements of the above laws and regulations, and nothing in the Contract Documents shall be construed to permit work not conforming to applicable codes.
3. All of the above laws and regulations, are as much a part of this contract as if they were incorporated in their entirety herein.

E. BID, PERFORMANCE AND PAYMENT BONDS:

General Contractor shall take out and maintain Bid, Performance and Payment bonds as indicated in Section 004313 "Bonds and Certificates Required."

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F. WORKER'S COMPENSATION INSURANCE:

The Contractor shall take out and maintain during the life of this Contract, Worker's Compensation Insurance for all of his employees employed on the project and he shall require all subcontractors similarly to provide Worker's Compensation Insurance. Refer to Section 004313 "Bonds and Certificates Required".

G. LIABILITY INSURANCE:

The Contractor shall take out and maintain at all times during the performance of the work under this Contract, through companies and Agencies approved by the Owner, and containing provisions satisfactory to the Owner, the following insurance (refer to Section 004313 "Bonds and Certificates Required"):

1. Public Liability Insurance.
2. Automobile Liability Insurance.
3. Contractual Liability Insurance.

H. "ALL RISK" INSURANCE:

The Contractor shall purchase and maintain "All Risk" property insurance upon the entire Work at the site. Refer to Section 004313 "Bonds and Certificates Required" for type required by this project.

I. CERTIFICATES OF INSURANCE:

Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These Certificates shall contain a provision that coverages afforded under the policies will not be canceled until at least thirty (30) days' prior written notice has been given to the Owner. Refer to Section 004313 "Bonds and Certificates Required".

J. ASSIGNMENT OF ANTITRUST AND UNFAIR BUSINESS PRACTICE CLAIMS IN PUBLIC WORKS CONTRACTS:

1. In accordance with Section 7103.5(b) of the Public Contract Code, the Contractor and subcontractor shall conform to the following requirements. In entering into public works contract or subcontract to supply goods, services, or materials pursuant to a public works contract, the Contractor or subcontractor offers and agrees to assign to the awarding body 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, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the Contractor, without further acknowledgement by the parties.

K. ASSIGNMENT OF ANTITRUST AND UNFAIR BUSINESS PRACTICE CLAIMS IN PUBLIC PURCHASING CONTRACTS:

1. In accordance with Section 4552 of the Government Code, the bidder shall conform to the following requirements. 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, services, or materials by the bidder for sale to the purchasing body pursuant to the

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bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder.

L. FINGERPRINTING REQUIREMENTS:

1. Contractors and their employees shall comply with the Michelle Montoya School Safety Act, Section 45125.1 of the Education Code. Refer to Section 004317 – Fingerprinting Requirements.

M. DVME, MBE, WBE REPORTING REQUIREMENTS:

The California Community Colleges requires each District to annually report Disabled Veteran Business Enterprises, Minority Business Enterprises and Women Business Enterprises that receive construction contracts either as a prime contractor, sub contractor, sub-sub contractor or material provider.. Each successful bidder shall provide a listing of DVBE, MBE and WBE contracts that are included in bid as part of Pre-Award Documents. List Name of Enterprise, type of contract, contact person, dollar amount and percentage of total contract to be awarded. (California Community Colleges have no specific goal or requirement of dollar amount for any specific project.)

M. DISABLED VETERANS BUSINESS ENTERPRISE CONTRACTING GOALS

To the extent required by law, the Contractor shall meet requirements of law relating to the participation of Disabled Veterans Business Enterprises Contracting Goals, pursuant to AB 1633, and shall comply with Public Contract Code Section 10115 et seq., Education Code Section 17076.11 and all applicable regulations. Contractor further agrees that, when required, Contractor will ensure compliance by all subcontractors and will complete all forms required by the Owner, the Office of Public School Construction, the State Allocation Board or other agencies exercising jurisdiction over the project. **The Owner will reject all bids not complying with the provisions. All Contractors shall complete and submit with their bids, the Declaration of Good Faith Efforts to use Disabled Veteran Business Enterprises (DVBE)” form as included in bid form.**

N. IMMIGRATION REFORM AND CONTROL ACT OF 1986:

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

O. DRUG FREE WORKPLACE CERTIFICATION:

Pursuant to Government Code Section 8350 and following sections, the successful bidder will be required to execute and return to Owner the Drug-Free Workplace Certificate contained in the Contract Documents with the executed Construction Agreement. The bidder will be required to take positive measures outlined in the certificate to ensure the presence of a drug-free workplace. Failure to abide with the conditions set forth in the Drug-Free Workplace Act could result in penalties, including termination of the Construction Agreement or suspension of payment under the Construction Agreement.

P. ASBESTOS-CONTAINING PRODUCTS:

1. Contractor agrees that asbestos-containing products or materials will not be used or substituted in performing work under the Agreement.
2. At the completion of work under this Agreement, Contractor will certify in writing to the Owner that, to the best of Contractor's knowledge, no asbestos-containing products or materials were used or substituted in performing work under the Agreement.

Q. PCB-CONTAINING PRODUCTS & LEAD PLUMBING ITEMS:

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1. Contractor agrees that lead plumbing domestic water items, other lead containing products, asbestos, PCB-containing products or materials will not be used or substituted in performing work under the Agreement.
2. At the completion of work under this Agreement, Contractor will certify in writing to the Owner that, to the best of Contractor's knowledge, no lead plumbing domestic water items, no other lead containing products, asbestos/PCB-containing products or materials were used or substituted in performing work under the Agreement.

R. PRELIMINARY NOTICE, STOP NOTICE, STOP NOTICE RELEASES AND ALL OTHER LEGAL NOTIFICATIONS:

Preliminary Notices and all other legal notifications must be served with the Contractor, Owner and Architect:

Owner: West Kern Community College District Office
29 Cougar Court
Taft, CA 93268
Attn.: Brock McMurray
Phone: (661) 763-7717

Architect: AP Architects
3434 Truxtun Avenue - Suite 240
Bakersfield, CA 93301
Attn.: Jose Vargas
Phone: (661) 327-1690

Contractor: - verify -

END OF SECTION 002113

SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT CONSTRUCTION NOTIFICATION FORM

Project Information

Project Name: _____
 Project Address: _____
 Major X-Streets: _____
 City: _____ County: _____ Today's Date: _____
 Expected Construction Start Date: _____ Total project site area: _____ Acres
 End Date: _____ Total disturbed surface area: _____ Acres
 The project is: Residential Non-residential (commercial, industrial, institutional, public, etc.)

Construction activities on any site that will include ten acres or more of disturbed surface area for residential developments, five acres or more for non-residential developments, or involve moving, depositing or relocating more than 2,500 cubic yards per day of bulk materials on at least three days are required to submit a Dust Control Plan to the District prior to the start of any construction activity. The Construction Notification Form may not be used to circumvent any Dust Control Plan requirement.

Contacts

Property Owner: _____
 Address: _____
 City/State/Zip: _____
 Phone: _____ Fax: _____ Cell: _____

Developer: _____
 Address: _____
 City/State/Zip: _____
 Contact Person: _____
 Phone: _____ Fax: _____ Cell: _____

General Contractor: _____
 Address: _____
 City/State/Zip: _____
 Contact Person: _____
 Phone: _____ Fax: _____ Cell: _____

Property Owner: _____
 Address: _____
 City/State/Zip: _____
 Contact Person: _____
 Phone: _____ Fax: _____ Cell: _____

For District Use:

Notification received on: _____ Notification accepted by: _____

BID PROPOSAL

02/29/16

Bids will be received via the Taft College Vendor Portal bid posting located on <https://vendors.planetbids.com/portal/66036/bo/bo-search> on **Tuesday, 04/30/2024, up until 2:00pm.**

Submitted to:
Board of Trustees
West Kern Community College District

Submitted by:

Name of Firm

_____, California

Board Members:

Having carefully examined the Advertisement for Bids, Instructions to Bidders, General Conditions to the Contract, Supplementary Conditions, Special Conditions, Specifications and Drawings entitled - **ALLIED HEALTH MODULAR MODIFICATIONS** – Taft College - located in Taft, California, as well as the premises and the conditions affecting the work, including Addendum (a) No (s) _____, inclusive, the Undersigned proposes to furnish all material and labor called for by all documents for the "entire work", in accordance with said documents for the sum of:

BASE BID

_____ \$ _____

The undersigned understands that all documents required prior to starting work shall be provided no later than 10 days from the Notice of Award preparation date.

The undersigned understands that the time required to complete the work is the essence of the Contract and agrees to commence the work within fifteen (15) calendar days of the Notice to Proceed date, unless noted otherwise. The undersigned further agrees that this bid may not be withdrawn for a period of one hundred twenty (120) days after the date set for the opening thereof unless otherwise required by law.

The undersigned agrees, if awarded the Contract, to complete it within **60** calendar days plus any extensions of time, as provided for in the General Conditions of the Contract; failing to complete the work within the above stipulated time, he agrees to be bound by the conditions as set forth in the Supplementary Conditions, Article 17, and Instructions to Bidders - Section 002113.

The undersigned has checked carefully all the above figures and understands that the Owner will not be responsible for any errors or omissions on the part of the undersigned in making up this bid.

The undersigned confirms there are no clerical errors in preparation of this bid proposal.

The undersigned hereby certifies that this bid is genuine and not sham or collusive or made in the interest or in behalf of any person not herein named, and that the undersigned has not directly or indirectly induced or solicited any other bidder to refrain from bidding, and that the undersigned has not in any manner sought by collusion to secure for himself any advantage over any other bidder.

Enclosed find () Bid Bond () Certified Check () Cashier's Check for 10% of the amount bid.

SUBCONTRACTOR LIST:

Pursuant to the Provisions of the Public Contracts Code Sections 4100 to 4107 inclusive, every bidder shall set forth the name and location of the place of business of each subcontractor who will perform work or labor

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I declare, under penalty of perjury, that information provided and representations made in this bid are true and correct and that this declaration was executed on _____, at _____, _____, California.
(date) (city) (county)

Respectfully submitted,

Name of Firm

Corporate Seal
If Applicable

Individual, Partnership, Corp.**

Phone(_____)_____

By_____

Fax(_____)_____

Address_____

License Type & Number/Exp. date

DIR Registration # & Exp. date

No bid is valid unless signed by the person making the bid.

** State whether your firm is a corporation, a co-partnership, private individual, or individuals, doing business under a firm name. If the bidder is a partnership, the bid should be signed with the partnership name and by one of the authorized partners. If the bidder is a corporation, it should be signed by a person authorized to execute bids on behalf of the corporation.

BID BOND

Be advised that we, _____
as Principal ("Principal") and _____

_____ a corporation duly licensed to transact business under the laws of the State of California as Surety ("Surety") are firmly bound to _____ as Obligee ("Obligee") in the sum of \$ _____ for the payment of which the Principal and the Surety bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, by this Bond.

The Principal has submitted a bid for _____.

The condition of our obligation is this: if the Principal is awarded the contract upon its proposal, and shall, within the required number of days after the notice of award, execute a contract with the Obligee in accordance with the contract documents, submit the required payment and performance bonds, and provide all other required documents, then this obligation shall be null and void; but in the event that the Principal fails and/or refuses to execute and deliver those documents, this bond will be charged with the costs of the damages experienced by the Obligee as a result of that refusal, including but not limited to, publication costs, the difference in money between the amount of the bid of the Principal and the amount for which the Obligee may legally contract with another party to perform the work if the amount is in excess of the former; building lease or rental costs, transportation costs, professional service costs, and additional salary costs that result from the delay due to the Principal's default on the awarded contract. In no event, however, shall the Surety's liability exceed the penal sum indicated above.

The Surety, for value received, stipulates and agrees that its obligations and its bond shall not be impaired or affected by an extension of the time within which the Obligee may accept such bid; and Surety waives notice of any time extension.

Dated: _____ PRINCIPAL
By: _____
Title: _____

Dated: _____ SURETY
By: _____
Title: _____

NON-COLLUSION AFFIDAVIT

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To: WEST KERN COMMUNITY COLLEGE DISTRICT
29 Cougar Court
Taft, CA 93268

State of California)
) ss.
County of _____)

_____, being duly sworn, deposes and says:

That he or she is the _____(position) of
_____(name of bidder), the party making the bid; that
the bid is not made in the interest of, or on behalf of any undisclosed person, partnership, company,
association, organization or corporation; that the bid is genuine and not collusive or sham; that the bidder has
not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly
or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or
that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by
agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or
to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any
advantage against the public body awarding the contract of anyone interested in the proposed contract; that
all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly,
submitted his or her bid price or any price breakdown, or their contents, or divulged relative information or
data, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization,
bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

(Firm Name)

(Printed Name - Authorized Agent)

(Signature - Authorized Agent)

Subscribed and sworn to before me on _____, 20 _____.

Notary Public

NOTARY SEAL

**PUBLIC WORKS CONTRACTOR REGISTRATION LAW (SB-854) AND
PREVAILING WAGE COMPLIANCE CERTIFICATION:**

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To: WEST KERN COMMUNITY COLLEGE DISTRICT
29 Cougar Court
Taft, CA 93268

In submitting this proposal, I hereby certify that I will conform to the State of California Public Works Contract Requirements regarding wages; benefits; on-site audits with 48-hour notice; payroll records; registration with the DIR per SB-854 guidelines and, apprentice and trainee employment requirements. I will submit CPR's online electronically as prescribed by the Labor Commissioner.

Contractor (type or print)

Contractor's signature

Dated

**CONTRACTOR'S CERTIFICATE
REGARDING WORKER'S COMPENSATION**

TC – ALLIED HEALTH MODULAR MODIFICATIONS

To: WEST KERN COMMUNITY COLLEGE DISTRICT
29 Cougar Court
Taft, CA 93268

Labor Code Section 3700 provides:

"Every employer except the State and all political subdivision or institutions thereof, shall secure the payment of compensation in one or more of the following ways:

- "(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this State.
- "(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his 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 those provisions before commencing the performance of the work of this contract.

Dated:

CONTRACTOR

By: _____

Title: _____

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

END OF SECTION 004113

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 0 & 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes, but is not limited to, the following:
 - 1. Performance Bond.
 - 2. Payment Bond.
 - 3. Bid Bond.
 - 4. Worker's Compensation Insurance.
 - 5. Comprehensive General Liability Insurance.
 - 6. All-Risk Builder's Risk Insurance.
 - 7. Remodel/Repair Installation Floater Insurance.
 - 8. Automobile Insurance.
 - 9. Evidence of Insurance.
 - 10. Additional information as required to proof bonds/insurance meets requirements.
 - 11. Performance Bond and Payment Bond forms.
 - 12. Drug free workplace certification.
 - 13. Preliminary Notices.
- B. See Division 0 Section "Performance Bond" and Section "Payment Bond" for bonds and insurance requirements that related to this section and related and complimentary requirements for the project.
- C. See Division 0 Section "Drugfree Workplace Certification" for additional requirements that related to this section and related and complimentary requirements for the project

1.3 PRESUMPTION OF QUALIFICATIONS

- A. All surety companies with a minimum rating of "A-VIII," as rated by the current edition of Best's Key Rating Guide, published by A.M. Best Company, Oldwick, New Jersey 08858 and qualified to do business in California shall be presumed to be satisfactory to the DISTRICT for the issuance of insurance and bonds. In the alternative, any surety company who satisfies the requirements set forth in California Code of Civil Procedure Section 995.660 shall be accepted and approved for the issuance of bonds.

1.4 SUBMITTALS

- A. General: Submit the following in accordance with conditions of the Contract, Division 0, and Division 1 Specification Sections.
- B. Provide the following additional items with Performance and Payment Bonds:
 - 1. Proof of Surety to do business in California as a California-admitted Surety for Bonds and Insurance.

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2. Telephone number, with area code, to contact Surety direct and name of person to contact.
 3. Surety/Insurance meets requirements of California Code of Civil Procedures Section 995.660.
- C. Evidence of Insurance.
1. Before the work is started, the Contractor shall forward to the Architect three (3) copies of a Certificates of Insurance and all the Contractual Liability coverage called for in the Contract Documents is in force, and specifically covers this particular Contract with the Owner, including the hold harmless requirements. In addition, the Certificates shall contain the following:
 - a. "No cancellation of this policy or endorsement of same shall be effective until; until the thirtieth (30th) day following the receipt of notice of such cancellation of the policy or endorsements by the Owner."
 - b. Provide additional insured on (Form B) as issued by Insurance Services Office, Inc. List names of those required here in this Project Manual.
 - c. Certificates of Insurance shall contain transcripts from the policies authenticated by the proper office of the Insurer, evidencing in particular those insured, the extent of the insurance, the location of and the operations to which the insurance applies, the expiration date and the thirty (30) day NOTICE OF CANCELLATION CLAUSE.
 2. The Contractor must certify to the Owner that he has obtained similar certificates or memorandum evidence of insurance from each of his Subcontractors before their work commences. Each subcontractor must be covered by insurance of the same character and in the same amounts as the Contractor. All policies shall name architect and consulting engineers as additional insured.
- D. Provide the following items with evidence of insurance for all insurance policies for this project:
1. Proof insurance Underwriter is qualified to do business in California.
 2. The insurance required must be written by a Best's Key Rating Guide "A-VIII" or better rated carrier admitted to write insurance in the state where the work is located at the time the policy is issued or satisfies requirements set forth in California Code of Civil Procedures Section 995.660.
- E. Acceptance of the Certificates of Insurance shall not relieve or decrease the liability of the Contractor, subcontractors and/or others doing work or providing materials and service for this project.

1.5 INDEMNIFICATION

- A. CONTRACTOR shall defend, indemnify and hold harmless DISTRICT, Architect, Inspector, the State of California and their officers, employees, agents and independent contractors from all liabilities, claims, actions, liens, judgments, demands, damages, losses, costs or expenses of any kind arising from death, personal injury, property damage or other cause based or asserted upon any act, omission, or breach connected with or arising from the progress of Work or performance of service under this Agreement or the Contract Documents. As part of this indemnity, CONTRACTOR shall protect and defend, at its own expense, DISTRICT, Architect, Inspector, the State of California and their officers, employees, agents and independent contractors from any legal action including attorneys' fees or other proceeding based upon such act, omission, or breach.

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Furthermore, CONTRACTOR agrees to and does hereby defend, indemnify and hold harmless DISTRICT, Architect, Inspector, the State of California and their officers, employees, agents and independent contractors from every claim or demand made, and every liability, loss, damage, expense or attorneys' fees of any nature whatsoever, which may be incurred by reason of:

1. Liability for (1) death or bodily injury to persons; (2) damage or injury to, loss (including theft), or loss of use of, any property; (3) any failure or alleged failure to comply with any provision of law or the Contract Documents; or (4) any other loss, damage or expense, sustained by any person, firm or corporation or in connection with the Work called for in this Agreement or the Contract Documents, except for liability resulting from the sole or active negligence, or the willful misconduct of the DISTRICT.
2. Any bodily injury to or death of persons or damage to property caused by any act, omission or breach of CONTRACTOR or any person, firm or corporation employed by CONTRACTOR, either directly or by independent contract, including all damages or injury to, loss (including theft), or loss of use of, any property, sustained by any person, firm or corporation, including the DISTRICT, arising out of or in any way connected with Work covered by this Agreement or the Contract Documents, whether said injury or damage occurs either on or off DISTRICT property, but not for any loss, injury, death or damages caused by the sole or active negligence or willful misconduct of the DISTRICT.
3. Any dispute between CONTRACTOR and CONTRACTOR's subcontractors/supplies/sureties, including, but not limited to, any failure or alleged failure of the Contractor (or any person hired or employed directly or indirectly by the Contractor) to pay any Subcontractor or Material man of any tier or any other person employed in connection with the Work and/or filing of any stop notice or mechanic's lien claims.

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

- B. In any and all claims against the Owner or the Architect or Architect's Consultants, or any of their employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or by any Subcontractor under workers compensation acts, disability benefit acts or other employee benefit acts.
- C. The obligations of the Contractor under this Paragraph shall not extend to the liability of the Architect, the Architect's consultants or any of their agents or employees arising out of 1) The preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or, 2) the giving of or the failure to give directions or instructions by the Architect, the Architect's consultants or any of their agents or employees, provided such giving or failure to give is the primary cause of the injury or damage.
- D. Additional Insured: The Contractor to name the following as additional insured on the Contractor's policy or policies of comprehensive general liability insurance:
Self-Insured Schools of California
 1. West Kern Community College District
Board of Trustees-officers-officials
 2. Taft College employees, consultants and volunteers

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3. AP Architects and Architect's consultants, its agents and employees

Such insurance shall include products and completed operations and contractual liability coverages, shall be primary and non-contributing with any insurance maintained by Architect, Architect's consultants, or its agents and employees, and shall provide that the Architect be given thirty days, unqualified written notice prior to any cancellation thereof.

1.6 WAIVER OF SUBROGATION

Contractor hereby agrees to waive subrogation which any insurer or contractor may acquire from contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the district for all work performed by the contractor, its employees, agents and subcontractors.

1.7 GENERAL

In the absence of contrary written instructions from the Owner, the Contractor at the Contractor's expense, shall obtain and maintain insurance at all times during the prosecution of the Contract, in companies and through agencies approved by the Owner, and with limits not less than those stated hereinafter.

PART 2

2.1 PERFORMANCE BOND/PAYMENT BOND

- A. Coincident with the signing of the agreement by the Contractor, he shall sign with his sureties and deliver with said Agreement to the Owner for approval, a bond in the standard form with good and sufficient sureties, in an amount of not less than One Hundred Percent (100%) of the Contract Price, conditioned for the completed and Faithful Performance of the entire contract under and in accordance with each and every one of the conditions and specifications and a bond in the amount of One Hundred Percent (100%) of the Contract Price covering Labor and Material. The Contractor's Bonds shall include reimbursement to the Owner for whatever additional Architect's fees may be incurred by reason of the delinquency or insolvency of the Contractor.

Performance Bond shall insure the Owner of full and prompt performance of Contract during construction and for one (1) year after recording Notice of Completion.

1. Surety shall be California admitted.
2. Surety shall provide proof of ability to bond amount equal to or exceeding project cost.
3. Refer to Presumption of Qualification for additional requirements.

2.2 BID BOND

- A. Each bid shall be accompanied by a certified or cashier's check payable to the OWNER, or a satisfactory bid bond in favor of company as surety, in an amount not less than ten (10%) percent of the maximum amount of the bid. The check or bid bond shall be given as a guarantee that the Bidder shall execute the Contract, if it is awarded to him, in conformity with the Contract Documents and shall provide the surety bond or bonds as specified within

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ten (10) calendar days after notification of the award of the Contract to the Bidder. The security shall be forfeited to the OWNER should the Bidder to whom the Contract is awarded fail to execute the Agreement and provide the bonds within ten (10) calendar days of award.

Copies or faxes of bid bond signatures will not be accepted. Bid bond shall be executed by contractor principal and surety, both with wet signatures and seal. The attorney-in-fact who executes the Bid Bond on behalf of the surety shall affix to the Bond a certified and current copy of his power of attorney. The Surety Company issuing the Bid Bond shall be California admitted in the State of California and U. S. Treasury listed.

2.3 WORKER'S COMPENSATION INSURANCE

- A. Contractor shall provide, during the term of this Contract, Worker's Compensation Insurance for all of his employees engaged in Work under this Contract, on or at the site of the project, and in case any of his work is sublet, Contractor shall require the Subcontractor to provide Worker's Compensation Insurance for all of his employees. Any class of employee or employees not covered by a Subcontractor's insurance shall be covered by the Contractor's insurance. In case any class of employees engaged in work under this Contract, on or at the site of the project, is not protected under the Worker's Compensation laws, Contractor shall provide or cause a Subcontractor to provide, adequate insurance coverage for the protection of those employees not otherwise protected. Contractor shall file, with the Owner, certificates of insurance.
1. The Worker's Compensation Insurance shall be written by a company California admitted in the State of California, and shall be written for not less than the following, as established by the Owner, or greater if required by law.
 2. Provide employer's liability endorsements:
 - a. State workers' compensation statutory benefits - policy limits of not less than \$1,000,000.00.
 - b. Employer's Liability - policy limits of not less than \$1,000,000.00.
 - 1) Per accident for bodily injury or disease. If the contractor maintains higher limits that the minimums shown herein, then, District shall be entitled to coverage for the higher limits maintained by the contractors.

2.4 COMPREHENSIVE GENERAL LIABILITY INSURANCE

- A. Commercial General Liability Insurance in Contractor's name, with personal injury limits indicated herein for combined Single Limit per occurrence coverage and annual aggregate. The policy is to be on a Comprehensive General Liability form and must include Contractual Liability endorsed to specifically cover an Indemnity Agreement contained in the Contract. The Comprehensive General Liability coverage may be provided on an "occurrence" form or a "claims made" basis. If the coverage is on a "claims made" basis, the policy shall provide for a non-cancelable 5 year extended reporting period.
1. The Contractor shall carry such public liability and property damage insurance that will protect the Contractor, Owner, Architect and Engineers from claims for damages for bodily injury, including accidental death, as well as for claims for property damages, which may arise from operations under the contract whether such operations be by the Contractor or by any Subcontractor or anyone directly or indirectly employed by either party. The limits of coverage shall be as stated herein.
 2. In the event that any suits, actions, or claims are brought against the Owner, Architect, and/or Architect's Consultants, money equal to the "claim amount may be withheld from payments due the Contractor under and by virtue of this contract as

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may be considered necessary by the Owner for such purpose. Money due the Contractor will not be withheld when the Contractor produces satisfactory evidence that adequate public liability and property damage insurance has been obtained.

3. The policy shall include coverage for the following:
 - a. Premises - operations
 - b. Contractual liability
 - c. Products
 - d. Completed operations
 - e. Broad form PD and including X, C and U coverage
 - f. Personal injury
 - g. Owners, contractors protective

2.5 CONSTRUCTION ALL-RISK BUILDER'S RISK INSURANCE

- A. The Contractor shall purchase and maintain property insurance upon the entire Work at the site to the full insurable value thereof. This insurance shall include the interests of the Owner, the Architect and his Consultants, Contractor, Subcontractors and Sub-subcontractors in the Work, and shall be a standard insurance Services Office all physical loss coverage, including fire and extended coverage, vandalism and malicious mischief coverage for an amount equal to One Hundred Percent (100%) of the completed value of entire project. If not covered under the "builder's risk" insurance or otherwise provided for in the Contract Documents, the Contractor shall effect and maintain similar property insurance on portions of the Work stored off the site or in transit when such portions of the Work are to be included in an Application for Payment. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by and of the above causes before final acceptance and shall bear the expense thereof. Policy shall have limits equal to 90% of the insurable value thereof, including items of labor and materials connected therewith whether in or adjacent to the structure insured, materials in place or to be used as part of the permanent construction, including surplus materials, shanties, protective fences, bridges, or temporary structures, miscellaneous materials and supplies incident to the work, and such scaffolding, staging, towers, forms, and the equipment as are not owned or rented by the Contractor, the costs or which are included in the cost of the work. Such insurance shall be maintained for the life of the contract.
 1. If the Owner finds it necessary to occupy or use a portion or portions of the Work prior to Notice of Completion thereof, such occupancy or use shall not commence prior to a time mutually agreed to by the Owner and Contractor and to which the insurance company or companies providing the property insurance have consented by endorsement to the policy or policies. This insurance shall not be cancelled or lapsed on account of such partial occupancy or use. Consent of the Contractor and of the insurance company or companies to such occupancy or use by the Owner shall not be unreasonably withheld.
 2. The policy value for remodel and similar projects shall be the construction contract amount.

2.5 REMODEL/REPAIR INSTALLATION FLOATER INSURANCE

- A. The Contractor shall purchase and maintain property insurance upon the entire Work at the site to the full insurable value thereof of work for this Contract. This insurance shall include the interests of the Owner, the Architect and his Consultants, Contractor, Subcontractors and Subsubcontractors in the Work, and shall be a standard insurance Services Office all physical loss coverage, including fire and extended coverage, vandalism and malicious mischief coverage for an amount equal to One Hundred Percent (100%) of the completed value of entire project. If not covered under the installation floater insurance or otherwise

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provided for in the Contract Documents, the Contractor shall effect and maintain similar property insurance on portions of the Work stored off the site or in transit when such portions of the Work are to be included in an Application for Payment. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by and of the above causes before final acceptance and shall bear the expense thereof.

1. If the Owner finds it necessary to occupy or use a portion or portions of the Work prior to Notice of Completion thereof, such occupancy or use shall not commence prior to a time mutually agreed to by the Owner and Contractor and to which the insurance company or companies providing the property insurance have consented by endorsement to the policy or policies. This insurance shall not be cancelled or lapsed on account of such partial occupancy or use. Consent of the Contractor and of the insurance company or companies to such occupancy or use by the Owner shall not be unreasonably withheld.

2.6 AUTOMOBILE LIABILITY INSURANCE

- A. Automobile Liability Insurance with an Employer's Non-Ownership Liability Endorsement in the Contractor's name. Limits of liability shall not be less than amount indicated herein for Combined Single Limit per occurrence. Provide CSL, BI and PD coverage for owned, non-owned and hired autos.

1. Provide owned, non-owned and hired automobile insurance endorsement.

2.7 DRUG FREE WORKPLACE CERTIFICATION

- A. Pursuant to Government Code Section 8350 and following sections, the successful bidder will be required to execute and return to Owner the Drug-Free Workplace Certificate contained in the Contract Documents with the executed Construction Agreement. The bidder will be required to take positive measures outlined in the certificate to ensure the presence of a drug-free workplace. Failure to abide with the conditions set forth in the Drug-Free Workplace Act could result in penalties, including termination of the Construction Agreement or suspension of payment under the Construction Agreement.

1. Submit certification with required documents as prescribed herein on form provided herein.

PART 3 - EXECUTION

3.1 GENERAL

- A. The Contractor shall not commence work under this Contract until he has obtained and paid for all insurance required herein and such insurance has been approved by the Owner, nor shall the Contractor allow any Subcontractor to commence work on his Subcontract until such insurance required of the Subcontractor has been so obtained and accepted.

3.2 PRELIMINARY NOTICES

- A. Subcontractor and Materialmen with contractual relationship with the contractor:

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1. If a subcontractor, material men and lower tier subcontractor files his 20-day preliminary notice and is not paid after 10 days of supplying labor and materials, the subcontractor can file a stop notice with the public entity to withhold the disputed amount from the general contractor. The public entity will only release the withheld amount to the general contractor once a stop notice release is received from the claimant attesting that payment for service has been rendered.
 - a. A prime contractor or subcontractor shall pay to any subcontractor, not later than (7) seven days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed the contractor on account of the work performed by the subcontractors, to the extent of each subcontractor' s interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from the prime contractor or subcontractor to a subcontractor, the prime contractor or subcontractor may withhold no more than 150 percent of the disputed amount or as prescribed by California Law.
 2. However, if a subcontractor does not file a 20-day preliminary notice, provides labor and services, and is not paid, the subcontractor is ineligible to file a stop notice with the public entity. The subcontractor must wait until the project is completed or until a NOC is filed to submit a claim to the surety for payment of services. This means, that even if a project is not completed until a year after an unpaid subcontractor provides labor or materials, but the subcontractor did not file a 20-day preliminary notice, that subcontractor will have to wait a year before receiving payment through a surety. In this case, the subcontractor can make a claim **within 15 days** after recordation of a NOC, or if no NOC has been recorded, up to 75 days after completion of the work of improvement.
- B. Subcontractor and Materialmen with no direct contractual relationship with contractor:
1. If the preliminary notice was required to be given by a person who has no direct contractual relationship with the contractor, and who has not given notice as provided by California Law, that person may enforce a claim by giving written notice to the surety and the bond principal, as provided by California Law, **within 15 days** after recordation of a notice of completion. If no notice of completion has been recorded, the time for giving written notice to the surety and the bond principal is extended to 75 days after completion of the work of improvement
- C. Notices:
1. All notices herein provided to be given or which may be given by either party to the other shall be deemed to have been fully given when made in writing and deposited with the United States Postal Service, Registered or Certified, and postage prepaid and addressed as prescribed herein the Project Manual. Nothing herein contained shall preclude the giving of any such notice by personal service.

BONDS AND CERTIFICATES SCHEDULE

- | A. | Bonds: | <u>Amount</u> |
|----|----------------------------------|---------------|
| | 1. Performance Bond/Payment Bond | 100% Contract |
| | 2. Bid Bond | 10% Contract |
- B. Insurance:
1. Worker's Compensation Insurance per State of California policy limits of not less than \$1,000,000.00.
 - a. Employer's Liability Endorsement \$1,000,000 min.
 2. Comprehensive General Liability:
 - a. Combined single limits for bodily injury and property damage:

\$5,000,000 - Each Occurrence
\$10,000,000 - Annual Aggregate

\$1,000,000 - Each Occurrence
\$2,000,000 - Annual Aggregate
 - b. Personal Injury, with Employment Exclusion deleted.
 - c. Include coverage of the following:
 - 1) Premises - operations
 - 2) Contractual liability
 - 3) Products
 - 4) Completed operations
 - 5) Broad form PD and including X, C and U coverage
 - 6) Personal injury
 - 7) Owners, contractors protective
 3. All-Risk Builder's Risk Insurance: Shall be written for the full amount of the Contract amount.
 3. Installation/Remodel Floater: Shall be written for the full amount of Contract.
 4. Comprehensive Automobile Liability:
 - a. Combined single limits for bodily injury and property damage:
\$1,000,000 - Each Occurrence
 - b. Hired Automobile Liability Endorsement.
- C. Bond Forms:
1. Performance Bond (following page).
 2. Payment Bond (next following page).
- D. Drug Free Workplace Certification: Submit with executed agreement and related documents.

PERFORMANCE BOND

BE ADVISED THAT:

The _____ of _____ County, California ("District") has awarded to _____ as Principal ("Principal"), the contract for the work described as follows:

Project Name: _____
Architect's Project No.: _____
District Name: _____

The Principal is required to furnish a Bond in connection with the contract guaranteeing faithful performance;

We the undersigned Principal and _____ as Surety are held and firmly bound to the District in the sum of _____ to be paid to the District; for which payment we bind ourselves, our heirs, executors and administrators, successors or assigns, jointly and severally, firmly by this Bond.

The condition of this Bond is this: that if the Principal, its heirs, executors, administrators, successors, or assigns, well and truly perform the covenants, conditions, and agreements in the contract and any alterations made as provided in it, at the time and in the manner specified, and indemnifies and holds harmless the District, its officers, and agents, as stipulated in the contract, then this obligation shall become null and void; otherwise it shall remain in full force and effect.

The Surety, for value received, stipulated and agrees that no change, extension of time, alteration, or addition to the terms of the contract or the work to be performed or the specifications shall in any way affect its obligation on this Bond, and it waives notice of any change, extension of time, alteration, or addition to the terms of the contract, the work, or the specifications.

In the event suit is brought upon this bond by the District and judgment is recovered, the Surety shall pay all costs incurred by the District in such suit, including reasonable attorney's fees, to be fixed by the Court.

AS WITNESS, we have affixed our signatures and seals this _____ day of _____, 20____.

(Principal Seal)

PRINCIPAL

By: _____

Title: _____

(Surety Seal)

SURETY

By: _____

Title: _____

Name, Address & Telephone No.
of California Agent of Surety

PAYMENT BOND

BE ADVISED THAT:

The _____ of _____ County, California ("District") has awarded to _____ as Principal ("Principal"), the contract for the work described as follows:

Project Name: _____
Architect's Project No.: _____
District Name: _____

The Principal is required by Chapter 7 (commencing at Section 3247), of the California Civil Code to furnish a bond in connection with the contract;

Therefore, we, the Principal and _____ as Surety, are held and firmly bound unto the District in the penal sum of: _____ dollars (\$ _____), lawful money of the United States of America for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by this Bond.

The condition of this obligation is such that if the Principal, his or its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay any of the persons named in Section 3181 of the California Civil Code, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the contractor and his subcontractors pursuant to Section 18806 of the California Revenue and Taxation Code, with respect to their work and labor the Surety or Sureties will pay for them, in an amount not exceeding the sum specified above, and also, in case suit is brought upon this Bond, all litigation expenses incurred by the District, including reasonable attorney's fees, architect's fees, court costs, expert witness fees, and investigation expenses.

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

It is further stipulated and agreed that the Surety on this Bond shall not be exonerated or released from the obligation of this Bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement described above or pertaining or relating to the furnishing of labor materials, or equipment for it, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement described above, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under the contract or agreement or under the Bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the Bond and that this Bond be construed most strongly against the Surety and in favor of all persons for whose benefit it is given, and under no circumstances shall Surety be released from liability to those for whose benefit the Bond has been given, by reason of any breach of contract between the Owner or District and original contractor or on the part of any Obligee named in such Bond, but the sole conditions of recovery shall be that claimant is a person described in Section 3181 of the California Civil Code, and has not been paid the full amount of his claim and that Surety waives notice of any change, extension of time, addition, alteration, or modification mentioned above.

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Any claim under this Bond may be addressed to:

(Name, Address and Telephone
Number of Surety)

(Name, Address and Telephone
Number of Agent or
Representative)

AS WITNESS, we have affixed our signatures and seals this _____ day of _____, 20____.

(Principal Seal)

PRINCIPAL

By: _____

Title: _____

(Surety Seal)

SURETY

By: _____

Title: _____

DRUG-FREE WORKPLACE CERTIFICATION

PROJECT: _____

DISTRICT: _____

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

Pursuant to Government Code Section 8355, every person or organization awarded a contract from a state agency shall certify that it will provide a drug-free workplace by doing all of the following:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace, and specifying actions which will be taken against employees for violations of the prohibition;
2. Establishing a drug-free awareness program to inform employees about all of the following:
 - A. The dangers of drug abuse in the workplace;
 - B. The person's or organization's policy of maintaining a drug-free workplace;
 - C. The availability of drug counseling, rehabilitation, and employee assistance programs;
 - D. The penalties that may be imposed upon employees for drug abuse violations;
3. Requiring that each employee engaged in the performance of work on the Project be given a copy of the statement required by subdivision (a), and that as a condition of employment on the Contract the employee agrees to abide by the terms of the statement.

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

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

I acknowledge that I am aware of the provisions of Government Code Section 8350 and following sections, and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

Legal Name of Contractor

Signature

Title

Date

Print Name

END OF SECTION 004313

NOTICE OF AWARD AND REQUEST FOR SUBMITTAL OF BONDS AND INSURANCE

This notice shall confirm your notification of award. The items below are required to be submitted prior to Notice to Proceed being issued. Per Contract Documents, you have 10 days from the Notice of Award date to provide the following:

Project: ALLIED HEALTH MODULAR MODIFICATIONS
 Project No: _____
 District: WEST KERN COMMUNITY COLLEGE DISTRICT
 Contractor: _____

Notice of Award Date: _____
 Initial Request Date: _____
 Date Due: _____
 Date Received - Initial: _____

Note: Contractor to submit all items in REQ column per Division 0 Section 004313

Required Documents:	Date Completed	REQ	NA	By Others
1 Performance Bond for 100% of the contract amount	_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2 Payment Bond for 100% of the contract amount	_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 Bond Company State of California Certificate of Authority	_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4 Bond document US Treasury listing proof	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5 Bond document Power of Attorney and Proof to sign documents	_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6 Bond document proof of ability to bond within capacity (memo)	_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7 Bond proof/ valid & issued from underwriter (add to memo #6)	_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8 Bond Best Report	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
9 Workers Compensation & Employers Liable Endorsement	_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10 Comprehensive General Liability Insurance - \$ 10,000,000 aggregate <i>or (pick one – can't be both)</i>	_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comprehensive General Liability Insurance - \$ 2,000,000 aggregate	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11 Additional insured per item 1.5.D with binders	_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
All Risk Builders Insurance, Construction Cost Amount <i>or (pick one – can't be both)</i>	_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12 Installation/ Remodel floater insurance - Construction Cost Amount	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13 Memo from Contractor that all subs have same type of insurance	_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14 Proof of License (copy - front and back of pocket license)	_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15 DIR Registration verified	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
MBE/ WBE voluntary compliance information and percentages <i>or (pick one – can't be both)</i> DVBE Certification <i>(for K-12)</i>	_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17 Comprehensive automobile liability - \$ 1,000,000	_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18 Executed contracts (3 copies) original signature by Contractor	_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19 W-9 Request for Taxpayers ID Number and Certification	_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20 Other items and notes for complete package	_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
a. Drug Free Workplace Certification				
b. Fingerprinting Clearance from DOJ				

cc: Contractor/ Owner/ File

For official use only:

Bonding Company: _____

AM Best Number: _____

Location: _____

Documents from: _____

AM Best rating: _____

US Treasury Listed: _____

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 0 & 1 Specification Sections, apply to this Section.

1.2 WAGES RATES AND PAYROLL RECORDS

- A. Pursuant to the provisions of Article 2 (commencing at Section 1770), Chapter 1, Part 7, Division 2, of the California Labor Code, OWNER has ascertained the general prevailing rate of per diem wages for each craft, classification, or type of worker needed to execute the work of the Project in the locality in which this public work is to be performed. The general prevailing rates of per diem wages are available at OWNER's office. CONTRACTOR is responsible to pay those rates determined to be applicable by the Director of Industrial Relations and OWNER shall not be responsible for any damages arising from the error.
- B. When permitted by law, holiday and overtime work shall be paid at a rate of at least one and one-half times the specified rate of per diem wages, unless otherwise specified.
- C. CONTRACTOR shall pay and shall cause to be paid to each worker engaged in work on the Project not less than the general prevailing rate of per diem wages, regardless of any contractual relationship which may exist between CONTRACTOR or any Subcontractor and such workers.
- D. Pursuant to Labor Code Section 1775, CONTRACTOR shall forfeit and OWNER shall withhold from payments to CONTRACTOR not more than \$200 for each calendar day any worker is paid less than the established prevailing wage rates for the work or craft in which the worker is employed by CONTRACTOR on the Project. The difference between the established prevailing wage rates and the amount paid to each worker for each whole or partial calendar day for which each worker was paid less than the established prevailing wage rates shall be paid to each worker by CONTRACTOR.
- E. Any worker employed to perform work on the Project which is not covered by any classification available in OWNER's office, shall be paid not less than the minimum rate of wages specified for the classification which most nearly corresponds with work to be performed by him, and that minimum wage rate shall be retroactive to the time of initial employment of the person in the classification.
- F. Pursuant to Labor Code Section 1773.1, per diem wages are deemed to include employer payments for health and welfare, pension, vacation, travel, subsistence, apprenticeship, and similar purposes.
 - a. Jobsite interviews may be conducted periodically by an independent enforcement agency throughout the duration of the project. The Contractor shall allow the enforcement agency access to the project and access to workers during working hours to confirm prevailing wage rates and apprenticeship requirements are complied with.
 - b. Request for exemption from prevailing wage requirements shall be made (3) three business days prior to bidding in time for the Architect to issue an addendum to communicate information to bidders. Request for exemption will not be accepted

after above mentioned date.

- G. At appropriate conspicuous points on the site of the Project, CONTRACTOR shall post a schedule showing all determined minimum wage rates and all authorized deductions, if any, from unpaid wages actually earned.
- H. CONTRACTOR shall submit a breakdown of all labor costs for this Project by trade. This breakdown shall be for all labor that CONTRACTOR or any subcontractor supplies to the Project. This information shall be provided to OWNER before the first payment request after the Notice to Proceed has been issued. Failure to provide the labor cost breakdown will result in delay in processing the payment request until the complete cost breakdown is provided by CONTRACTOR and received and approved by OWNER. No other labor expenses will be considered unless approved in writing by OWNER.
- I. Pursuant to the provisions of Labor Code Section 1776, CONTRACTOR shall keep and shall cause each Subcontractor performing any portion of the work on the Project to keep an accurate payroll record, showing the name, address, social security number, work classification, straight time, and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by CONTRACTOR in connection with the Work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating that (1) the information contained in the payroll record is true and correct, and (2) the employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by the employer's employees on the Project.
- J. The payroll records required under this article shall be certified. All contractors and subcontractors must furnish electronic certified payroll records (eCPR) directly to the Labor Commissioner using the Department of Industrial Relations (DIR) electronic certified payroll reporting system. All payroll records shall be available for inspection at all reasonable hours at CONTRACTOR's principal office on the following basis:
 - a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request;
 - b. A certified copy of all required payroll records shall be made available for inspection or furnished upon request to a representative of OWNER, the Division of Labor Standards Enforcement, and/or the Division of Apprenticeship Standards of the Department of Industrial Relations;
 - c. A certified copy of all payroll records required under this article shall be made available for inspection or copies made upon request by the public; provided, however, that a request by the public shall be made through either OWNER, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to Paragraph above, prior to being provided the records, the requesting party shall reimburse the costs of preparation by CONTRACTOR, Subcontractors, and the entity through which the request was made. The public shall not be given access to the records at CONTRACTOR's principal office.
 - d. All contractors and subcontractors must furnish electronic certified payroll records (eCPR) directly to the Labor Commissioner using the Department of Industrial Relations (DIR) electronic certified payroll reporting system..
 - e. The form of certification shall be as follows and included with each and every payment request:

I, _____(printed name), the undersigned, am the _____(position in business) with the authority to act for and on behalf of _____ (name of business and/or CONTRACTOR), and verify under penalty of perjury that the

records or copies submitted and consisting of _____(description, number of pages) are the originals or true, full, and correct copies of the originals which depict the payroll record(s) of the actual disbursements by way of cash, check, or whatever form to the individual or individuals named.

Dated: _____ Signature: _____

K. CONTRACTOR shall file a certified copy of the required payroll records with the entity requesting the records within 10 days after receipt of a written request. In the CONTRACTOR shall forfeit \$100 for each calendar day, or portion of each calendar day, for each worker until strict compliance is effectuated. Upon request by the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due.

L. Payroll records made available for inspection as copies and furnished upon request to the public by OWNER, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of CONTRACTOR shall not be marked or obliterated.

M. CONTRACTOR shall inform OWNER of the location of the payroll records, including the street address, city, and county, and within five working days shall provide a written notice of a change of location and address.

N. It shall be CONTRACTOR's responsibility to ensure compliance with the provisions of this article and the provisions of Labor Code Section 1776.

O. In addition to the above items, the Contractor shall submit a certificate, that the Contractor has in their possession certified weekly payroll records with each pay request for all workers on-site. Contractor shall maintain copies of contractor, subcontractor and sub-subcontractor's certified payroll records on file for seven years after date of Notice of Completion.

P. Contractor shall certify with each and every pay application that current prevailing wage payroll documents are on file at their office.

a. The form of certification to accompany each pay request application shall be as :

I, _____(printed name), the undersigned, am the _____(position in business) with the authority to act for and on behalf of _____ (name of business and/or Contractor), and verify under penalty of perjury that the certified weekly payroll records are on file at the following address and available for inspection during normal business hours and all contractors and subcontractors have furnished electronic certified payroll records (eCPR) directly to the Labor Commissioner using the Department of Industrial Relations (DIR) electronic certified payroll reporting system.

Dated: _____ Signature: _____
Street _____ City _____ State _____

1.3 APPRENTICES

A. CONTRACTOR acknowledges and agrees that the Contract Documents are governed by the provisions of Labor Code Section 1777.5 where applicable. It shall be CONTRACTOR's responsibility to ensure compliance with this article and with Labor Code Section 1777.5 for all apprenticing occupations.

TC – ALLIED HEALTH MODULAR MODIFICATIONS

- B. Apprentices of any crafts or trades may be employed, and when required by Labor Code Section 1777.5, shall be employed provided they are properly registered in full compliance with the provisions of the Labor Code.
- C. Every apprentice shall be paid the prevailing rate of per diem wages for apprentices in the trade to which the apprentice is registered, and shall be employed only at the work of the craft or trade to which the apprentice is registered.
- D. Only apprentices as defined in Labor Code Section 3077 who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards, and who are parties to written apprentice agreements under Chapter 4 (commencing at Section 3070), Division 3, of the Labor Code, are eligible to be employed on public works. The employment and training of each apprentice shall be in accordance with either (1) the apprenticeship standards and apprentice agreements under which the apprentice is in training, or (2) the rules and regulations of the California Apprenticeship Council.
- E. Pursuant to Labor Code Section 1777.5, CONTRACTOR and any subcontractors employing workers in any apprenticeship craft or trade performing any work under the Contract Documents shall employ apprentices in at least the ratio set forth in Labor Code Section 1777.5, and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the project site for a certificate approving CONTRACTOR or Subcontractor under the applicable apprenticeship standards for the employment and training of apprentices in the area of industry affected.
- F. Prior to commencing work on the Project, CONTRACTOR shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the project site. The information submitted shall include an estimate of journeyman hours to be performed on the Project, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to OWNER if requested. Within 60 days after concluding work on the Project, CONTRACTOR and all Subcontractors shall submit a verified statement of the journeyman and apprentice hours performed on the Project to the awarding body, if requested, and to the apprenticeship program. This information shall be public.
- G. If in performing any of the Work, CONTRACTOR employs journeymen or apprentices in any apprenticeable craft or trade, CONTRACTOR shall contribute to the California Apprenticeship Council the same amount that the Director of Industrial Relations determines is the prevailing amount of apprenticeship training contributions in the area of the Project, subject to any credits permitted by law.
- H. If CONTRACTOR or any Subcontractor is determined by the Chief of the Division of Apprenticeship Standards to have knowingly violated Labor Code Section 1777.5, it shall:
 - a. Forfeit as a civil penalty an amount not exceeding \$100 (\$300 for knowing subsequent violations) for each full calendar day of noncompliance. Notwithstanding Labor Code Section 1727, upon receipt of a determination that a civil penalty has been imposed by the Chief of the Division of Apprenticeship Standards, OWNER shall withhold the amount of the civil penalty from contract progress payments then due or to become due.
 - b. In lieu of the monetary penalty, for a first-time violation and with the concurrence of a specified apprenticeship program, the Chief of the Division of Apprenticeship Standards may order CONTRACTOR or any Subcontractor to provide apprentice employment equivalent to the work hours that would have been provided for

apprentices during the period of noncompliance.

- c. In the event CONTRACTOR or any Subcontractor is determined by the Chief of the Division of Apprenticeship Standards to have knowingly committed a serious violation of any provision of Section 1777.5, the Chief of the Division of Apprenticeship Standards may also deny CONTRACTOR or any Subcontractor, and their responsible officers, the right to bid on or be awarded or perform work as a subcontractor on any public works contract for a period of up to one year for the first violation and up to three years for a subsequent violation.

CONTRACTOR or any Subcontractor (or responsible officer) shall have the right to obtain a review of the determination imposing a debarment or civil penalty as provided by law.

- I. CONTRACTOR and all Subcontractors shall comply with Labor Code Section 1777.6, which forbids certain discriminatory practices in the employment of apprentices.

- J. CONTRACTOR shall become fully acquainted with the law regarding apprentices prior to commencement of the work. Special attention is directed to Labor Code Sections 1777.5, 1777.6, and 1777.7, 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.

1.4 HOURS OF WORK

- A. CONTRACTOR shall furnish, and shall require all Subcontractors to furnish, sufficient forces to ensure the Work is prosecuted in accordance with the detailed project schedule without payment of overtime wage rates whenever possible.
- B. As provided in Article 3 (commencing at Section 1810), Chapter 1, Part 7, Division 2 of the Labor Code, eight hours of labor shall constitute a legal day of work. The time of service of any worker employed at any time by CONTRACTOR, or by any subcontractor, upon the Work or upon any part of the work contemplated by the Contract Documents is limited and restricted to eight hours per day and 40 hours during any one week. Upon completion of all hours worked in excess of eight hours per day, work shall be permitted upon this Project at not less than one and one-half times the basic rate of pay.
- C. CONTRACTOR shall keep, and shall cause all subcontractors to keep, an accurate record showing the name and actual hours worked each calendar day and each calendar week by each worker employed in connection with the Work or any part of the Work contemplated by the Contract Documents. The record shall be kept open at all reasonable hours to the inspection of OWNER and to the Division of Labor Standards Enforcement, Department of Industrial Relations.
- D. Saturdays, Sundays, holidays (including all OWNER designated holidays), and any day with work hours before 7:30 a.m. and/or after 4 p.m. shall be considered overtime for OWNER's representatives, consultants, and inspectors, and shall be compensated as such by CONTRACTOR per OWNER's submitted invoice. Such cost shall be billed to CONTRACTOR and deducted from subsequent progress payments or the final payment.
- E. As a penalty, CONTRACTOR shall pay \$100 to the Awarding Body for each worker employed by CONTRACTOR or by any subcontractor in the performance of the Contract Documents for each calendar day during which the worker is required or permitted to work more than eight hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Article 3 (commencing at Section 1810), Chapter 1, Part 7, Division 2 of the Labor Code.
- F. Any work performed before or after regular working hours or on Saturdays, Sundays, or

holidays (including all OWNER designated holidays) shall be performed without additional expense to OWNER. Should inspection or testing services be necessary on a Saturday, Sunday, or holiday (including all OWNER designated holidays), CONTRACTOR shall pay all additional expenses incurred. Such cost shall be billed to CONTRACTOR and deducted from the next payment.

- G. CONTRACTOR shall anticipate work that would occur outside the normal work hours of 7:30 a.m. to 4 p.m. Such activities would include but are not limited to early morning concrete pours (because of hot weather), early or late material deliveries, required off-site inspections, or any other activity that would require the Project Inspector or OWNER personnel to work longer than an eight-hour day.
- H. The Project Inspector cannot be asked to leave the Project after eight hours of work so CONTRACTOR would not have to pay overtime. If the extended work day is a result of CONTRACTOR'S work, the Project Inspector will perform its DSA assigned work as necessary to assure the Project is kept on schedule and CONTRACTOR is responsible to pay all costs associated with fulfilling these DSA assignments, including the Project Inspector's overtime. These costs shall be billed to CONTRACTOR and deducted from subsequent progress payments or the final payment.

1.5 PUBLIC WORKS CONTRACTOR REGISTRATION PROGRAM

- A. All contractors and subcontractors who bid or work on a public works project must register and pay an annual fee to DIR.
 - 1. Contractors will apply and pay the fee online and must meet minimum qualifications to be registered as eligible to bid and work on public works projects:
 - a. Must have workers' compensation coverage for any employees and only use subcontractors who are registered public works contractors.
 - b. Must have Contractors State License Board license if applicable to trade.
 - c. Must have no delinquent unpaid wage or penalty assessments owed to any employee or enforcement agency.
 - d. Must not be under federal or state debarment.
 - e. Must not be in prior violation of this registration requirement once it becomes effective. However, for the first violation in a 12 month period, a contractor may still qualify for registration by paying an additional penalty.
 - 2. The registration fee is not related to any project. It is more like a license that enables the registrant to bid on and perform public works.
 - 3. DIR will post a list of registered contractors and subcontractors on its website so that awarding bodies and contractors will be able to comply with requirements to only use registered contractors and subcontractors.
- B. No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- C. No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

TC – ALLIED HEALTH MODULAR MODIFICATIONS

- D. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

PART 2 - PRODUCTS (Not Applicable)

PART 3 – EXECUTION

3.1 FURNISHING OF ELECTRONIC CERTIFIED PAYROLL RECORDS TO LABOR COMMISSIONER

- A. All contractors and subcontractors must furnish electronic certified payroll records (eCPR) directly to the Labor Commissioner using the Department of Industrial Relations (DIR) electronic certified payroll reporting system.

- 1. CPRs will be furnished online by Contractors.

END OF SECTION 004318



AIA Document A201

General Conditions of the Contract for Construction

*THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION
WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS MODIFICATION*

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GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

ARTICLE 1

GENERAL PROVISIONS

1.1 BASIC DEFINITIONS

1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of the Agreement between Owner and Contractor (hereinafter the Agreement), Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. ~~Unless specifically enumerated in the Agreement, the Contract Documents do not include other documents such as bidding requirements (advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or portions of addenda relating to bidding requirements).~~

1.1.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Architect and Contractor, (2) between the Owner and a Subcontractor or Sub-subcontractor or (3) between any persons or entities other than the Owner and Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

1.1.3 THE WORK

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

1.1.4 THE PROJECT

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

1.1.5 THE DRAWINGS

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

1.1.6 THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equip-

ment, construction systems, standards and workmanship for the Work, and performance of related services.

1.1.7 THE PROJECT MANUAL

The Project Manual is the volume usually assembled for the Work which may include the bidding requirements, sample forms, Conditions of the Contract and Specifications.

1.2 EXECUTION, CORRELATION AND INTENT

~~1.2.1 The Contract Documents shall be signed by the Owner and Contractor as provided in the Agreement. If either the Owner or Contractor or both do not sign all the Contract Documents, the Architect shall identify such unsigned Documents upon request.~~

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

1.2.3 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

1.2.4 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

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

1.3 OWNERSHIP AND USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

1.3.1 The Drawings, Specifications and other documents prepared by the Architect are instruments of the Architect's service through which the Work to be executed by the Contractor is described. The Contractor may retain one contract record set. Neither the Contractor nor any Subcontractor, Sub-subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications and other documents prepared by the Architect, and unless otherwise indicated the Architect shall be deemed the author of them and will retain all common law, statutory and other reserved rights, in addition to the copyright. All copies of them, except the Contractor's record set, shall be returned or suitably accounted for to the Architect, on request, upon completion of the Work. The Drawings, Specifications and other documents prepared by the Architect, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor, Sub-subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the

Work without the specific written consent of the Owner and Architect. The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this license shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by the Architect. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect's copyright or other reserved rights.

1.4 CAPITALIZATION

1.4.1 Terms capitalized in these General Conditions include those which are (1) specifically defined, (2) the titles of numbered articles and identified references to Paragraphs, Subparagraphs and Clauses in the document or (3) the titles of other documents published by the American Institute of Architects.

1.5 INTERPRETATION

1.5.1 In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

ARTICLE 2

OWNER

2.1 DEFINITION

2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representative.

2.1.2 The Owner upon reasonable written request shall furnish to the Contractor in writing information which is necessary and relevant for the Contractor to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein at the time of execution of the Agreement and, within five days after any change, information of such change in title, recorded or unrecorded.

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

~~2.2.1 The Owner shall, at the request of the Contractor, prior to execution of the Agreement and promptly from time to time thereafter, furnish to the Contractor reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. [Note: Unless such reasonable evidence were furnished on request prior to the execution of the Agreement, the prospective contractor would not be required to execute the Agreement or to commence the Work.]~~

~~2.2.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site.~~

2.2.3 Except for permits and fees which are the responsibility of the Contractor under the Contract Documents, the Owner shall secure and pay for necessary approvals, easements, assess-

ments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

2.2.4 Information or services under the Owner's control shall be furnished by the Owner with reasonable promptness to avoid delay in orderly progress of the Work.

~~2.2.5 Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, such copies of Drawings and Project Manuals as are reasonably necessary for execution of the Work.~~

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

2.3 OWNER'S RIGHT TO STOP THE WORK

2.3.1 If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents as required by Paragraph 12.2 or persistently fails to carry out Work in accordance with the Contract Documents, the Owner, by written order signed personally or by an agent specifically so empowered by the Owner in writing, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Subparagraph 6.1.3.

2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

2.4.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may after such seven-day period give the Contractor a second written notice to correct such deficiencies within a second seven-day period. If the Contractor within such second seven-day period after receipt of such second notice fails to commence and continue to correct any deficiencies, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for the Architect's additional services and expenses made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

ARTICLE 3

CONTRACTOR

3.1 DEFINITION

3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Contractor" means the Contractor or the Contractor's authorized representative.

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

3.2.1 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Subparagraph 2.2.2 and shall at once report to the Architect errors, inconsistencies or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies or omissions in the Contract Documents unless the Contractor recognized such error, inconsistency or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing it involves a recognized error, inconsistency or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume appropriate responsibility for such performance and shall bear an appropriate amount of the attributable costs for correction.

3.2.2 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies or omissions discovered shall be reported to the Architect at once.

3.2.3 The Contractor shall perform the Work in accordance with the Contract Documents and submittals approved pursuant to Paragraph 3.12.

3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless Contract Documents give other specific instructions concerning these matters.

3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons performing portions of the Work under a contract with the Contractor.

3.3.3 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Contractor.

3.3.4 The Contractor shall be responsible for inspection of portions of Work already performed under this Contract to determine that such portions are in proper condition to receive subsequent Work.

3.4 LABOR AND MATERIALS

3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

3.4.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

3.5 WARRANTY

3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

3.6 TAXES

3.6.1 The Contractor shall pay sales, consumer, use and similar taxes for the Work or portions thereof provided by the Contractor which are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

3.7 PERMITS, FEES AND NOTICES

3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work which are customarily secured after execution of the Contract and which are legally required when bids are received or negotiations concluded.

3.7.2 The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities bearing on performance of the Work.

3.7.3 It is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance therewith, the Contractor shall promptly notify the Architect and Owner in writing, and necessary changes shall be accomplished by appropriate Modification.

3.7.4 If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs.

3.8 ALLOWANCES

~~3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities against which the Contractor makes reasonable objection.~~

~~3.8.2 Unless otherwise provided in the Contract Documents:~~

- ~~1 materials and equipment under an allowance shall be selected promptly by the Owner to avoid delay in the Work;~~
- ~~2 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;~~

~~3 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum and not in the allowances;~~

~~4 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Clause 3.8.2.2 and (2) changes in Contractor's costs under Clause 3.8.2.3.~~

3.9 SUPERINTENDENT

3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case.

3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

3.10.2 The Contractor shall prepare and keep current, for the Architect's approval, a schedule of submittals which is coordinated with the Contractor's construction schedule and allows the Architect reasonable time to review submittals.

3.10.3 The Contractor shall conform to the most recent schedules.

3.11 DOCUMENTS AND SAMPLES AT THE SITE

3.11.1 The Contractor shall maintain at the site for the Owner one record copy of the Drawings, Specifications, addenda, Change Orders and other Modifications, in good order and marked currently to record changes and selections made during construction, and in addition approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work.

3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

3.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

3.12.3 Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

3.12.4 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for

which submittals are required the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Architect is subject to the limitations of Subparagraph 4.2.7.

3.12.5 The Contractor shall review, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. Submittals made by the Contractor which are not required by the Contract Documents may be returned without action.

3.12.6 The Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect. Such Work shall be in accordance with approved submittals.

3.12.7 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

3.12.8 The Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and the Architect has given written approval to the specific deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's approval thereof.

3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Architect on previous submittals.

3.12.10 Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents.

3.12.11 When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the Architect shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

3.13 USE OF SITE

3.13.1 The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

3.14 CUTTING AND PATCHING

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

3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the

Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

3.15 CLEANING UP

3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials.

3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be charged to the Contractor.

3.16 ACCESS TO WORK

3.16.1 The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.

3.17 ROYALTIES AND PATENTS

3.17.1 The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

3.18 INDEMNIFICATION

~~**3.18.1** To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 3.18.~~

3.18.2 In claims against any person or entity indemnified under this Paragraph 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 3.18 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

3.18.3 The obligations of the Contractor under this Paragraph 3.18 shall not extend to the liability of the Architect, the Archi-

tect's consultants, and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the Architect, the Architect's consultants, and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.

ARTICLE 4

ADMINISTRATION OF THE CONTRACT

4.1 ARCHITECT

4.1.1 The Architect is the person lawfully licensed to practice architecture or an entity lawfully practicing architecture identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Architect" means the Architect or the Architect's authorized representative.

4.1.2 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.

4.1.3 In case of termination of employment of the Architect, the Owner shall appoint an architect against whom the Contractor makes no reasonable objection and whose status under the Contract Documents shall be that of the former architect.

4.1.4 Disputes arising under Subparagraphs 4.1.2 and 4.1.3 shall be subject to arbitration.

4.2 ARCHITECT'S ADMINISTRATION OF THE CONTRACT

4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents, and will be the Owner's representative (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the correction period described in Paragraph 12.2. The Architect will advise and consult with the Owner. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified by written instrument in accordance with other provisions of the Contract.

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

4.2.3 The Architect will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility as provided in Paragraph 3.3. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Con-

tractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

4.2.4 Communications Facilitating Contract Administration. Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate through the Architect. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

4.2.5 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

4.2.6 The Architect will have authority to reject Work which does not conform to 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 inspection or testing of the Work in accordance with Subparagraphs 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons performing portions of the Work.

4.2.7 The Architect will ~~review and approve~~ or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Paragraphs 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. ~~The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.~~

4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Paragraph 7.4.

4.2.9 The Architect will conduct inspections to determine the date or dates of ~~Substantial~~ Completion and the date of final completion, will receive and forward to the Owner for the Owner's review and records written warranties and related documents required by the Contract and assembled by the Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

4.2.10 If the Owner and Architect agree, the Architect will provide one or more project representatives to assist in carrying

out the Architect's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

4.2.11 The Architect will interpret and decide matters concerning performance under and requirements of the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Paragraph 4.2, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until 15 days after written request is made for them.

4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions so rendered in good faith.

4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

4.3 CLAIMS AND DISPUTES

4.3.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. Claims must be made by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.

4.3.2 Decision of Architect. Claims, including those alleging an error or omission by the Architect, shall be referred initially to the Architect for action as provided in Paragraph 4.4. A decision by the Architect, as provided in Subparagraph 4.4.4, shall be required as a condition precedent to arbitration or litigation of a Claim between the Contractor and Owner as to all such matters arising prior to the date final payment is due, regardless of (1) whether such matters relate to execution and progress of the Work or (2) the extent to which the Work has been completed. The decision by the Architect in response to a Claim shall not be a condition precedent to arbitration or litigation in the event (1) the position of Architect is vacant, (2) the Architect has not received evidence or has failed to render a decision within agreed time limits, (3) the Architect has failed to take action required under Subparagraph 4.4.4 within 30 days after the Claim is made, (4) 45 days have passed after the Claim has been referred to the Architect or (5) the Claim relates to a mechanic's lien.

4.3.3 Time Limits on Claims. Claims by either party must be made within ~~21~~ days after occurrence of the event giving rise to such Claim or within ~~21~~ days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be made by written notice. An additional Claim made after the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner.

4.3.4 Continuing Contract Performance. Pending final resolution of a Claim including arbitration, unless otherwise agreed in writing the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

4.3.5 Waiver of Claims: Final Payment. The making of final payment shall constitute a waiver of Claims by the Owner except those arising from:

- .1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents; or
- .3 terms of special warranties required by the Contract Documents.

4.3.6 Claims for Concealed or Unknown Conditions. If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than ~~21~~ days after first observance of the conditions. The Architect will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall so notify the Owner and Contractor in writing, stating the reasons. Claims by either party in opposition to such determination must be made within ~~21~~ days after the Architect has given notice of the decision. If the Owner and Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be referred to the Architect for initial determination, subject to further proceedings pursuant to Paragraph 4.4.

4.3.7 Claims for Additional Cost. If the Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Paragraph 10.3. If the Contractor believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Architect, (2) an order by the Owner to stop the Work where the Contractor was not at fault, (3) a written order for a minor change in the Work issued by the Architect, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension or (7) other reasonable grounds, Claim shall be filed in accordance with the procedure established herein.

4.3.8 Claims for Additional Time

~~4.3.8.1 If the Contractor wishes to make Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.~~

4.3.8.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data

substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated, and that weather conditions had an adverse effect on the scheduled construction.

4.3.9 Injury or Damage to Person or Property. If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally liable, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Subparagraphs 4.3.7 or 4.3.8.

4.4 RESOLUTION OF CLAIMS AND DISPUTES

4.4.1 The Architect will review Claims and take one or more of the following preliminary actions within ten days of receipt of a Claim: (1) request additional supporting data from the claimant, (2) submit a schedule to the parties indicating when the Architect expects to take action, (3) reject the Claim in whole or in part, stating reasons for rejection, (4) recommend approval of the Claim by the other party or (5) suggest a compromise. The Architect may also, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim.

4.4.2 If a Claim has been resolved, the Architect will prepare or obtain appropriate documentation.

4.4.3 If a Claim has not been resolved, the party making the Claim shall, within ten days after the Architect's preliminary response, take one or more of the following actions: (1) submit additional supporting data requested by the Architect, (2) modify the initial Claim or (3) notify the Architect that the initial Claim stands.

4.4.4 If a Claim has not been resolved after consideration of the foregoing and of further evidence presented by the parties or requested by the Architect, the Architect will notify the parties in writing that the Architect's decision will be made within seven days, which decision shall be final and binding on the parties but subject to arbitration. Upon expiration of such time period, the Architect will render to the parties the Architect's written decision relative to the Claim, including any change in the Contract Sum or Contract Time or both. If there is a surety and there appears to be a possibility of a Contractor's default, the Architect may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

4.5 ARBITRATION

4.5.1 Controversies and Claims Subject to Arbitration. Any controversy or Claim arising out of or related to the Contract, or the breach thereof, shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator or arbitrators may be entered in any court having jurisdiction thereof, except controversies or Claims relating to aesthetic effect and except those waived as provided for in Subparagraph 4.3.5. Such controversies or Claims upon which the Architect has given notice and rendered a decision as provided in Subparagraph 4.4.4 shall be subject to arbitration upon written demand of either party. Arbitration may be commenced when 45 days have passed after a Claim has been referred to the Architect as provided in Paragraph 4.3 and no decision has been rendered.

4.5.2 Rules and Notices for Arbitration. Claims between the Owner and Contractor not resolved under Paragraph 4.4 shall, if subject to arbitration under Subparagraph 4.5.1, be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect, unless the parties mutually agree otherwise. Notice of demand for arbitration shall be filed in writing with the other party to the Agreement between the Owner and Contractor and with the American Arbitration Association, and a copy shall be filed with the Architect.

4.5.3 Contract Performance During Arbitration. During arbitration proceedings, the Owner and Contractor shall comply with Subparagraph 4.3.4.

4.5.4 When Arbitration May Be Demanded. Demand for arbitration of any Claim may not be made until the earlier of (1) the date on which the Architect has rendered a final written decision on the Claim, (2) the tenth day after the parties have presented evidence to the Architect or have been given reasonable opportunity to do so, if the Architect has not rendered a final written decision by that date, or (3) any of the five events described in Subparagraph 4.3.2.

4.5.4.1 When a written decision of the Architect states that (1) the decision is final but subject to arbitration and (2) a demand for arbitration of a Claim covered by such decision must be made within 30 days after the date on which the party making the demand receives the final written decision, then failure to demand arbitration within said 30 days' period shall result in the Architect's decision becoming final and binding upon the Owner and Contractor. If the Architect renders a decision after arbitration proceedings have been initiated, such decision may be entered as evidence, but shall not supersede arbitration proceedings unless the decision is acceptable to all parties concerned.

4.5.4.2 A demand for arbitration shall be made within the time limits specified in Subparagraphs 4.5.1 and 4.5.4 and Clause 4.5.4.1 as applicable, and in other cases within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations as determined pursuant to Paragraph 13.7.

4.5.5 Limitation on Consolidation or Joinder. No arbitration arising out of or relating to the Contract Documents shall include, by consolidation or joinder or in any other manner, the Architect, the Architect's employees or consultants, except by written consent containing specific reference to the Agreement and signed by the Architect, Owner, Contractor and any other person or entity sought to be joined. No arbitration shall include, by consolidation or joinder or in any other manner, parties other than the Owner, Contractor, a separate contractor as described in Article 6 and other persons substantially involved in a common question of fact or law whose presence is required if complete relief is to be accorded in arbitration. No person or entity other than the Owner, Contractor or a separate contractor as described in Article 6 shall be included as an original third party or additional third party to an arbitration whose interest or responsibility is insubstantial. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of a dispute not described therein or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

4.5.6 Claims and Timely Assertion of Claims. A party who files a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded. When a party fails to include a Claim through oversight, inadvertence or excusable neglect, or when a Claim has matured or been acquired subsequently, the arbitrator or arbitrators may permit amendment.

4.5.7 Judgment on Final Award. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

ARTICLE 5

SUBCONTRACTORS

5.1 DEFINITIONS

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

5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

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

~~5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect will promptly reply to the Contractor in writing stating whether or not the Owner or the Architect, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Architect to reply promptly shall constitute notice of no reasonable objection.~~

~~5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.~~

~~5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such change and an appropriate Change Order shall be issued. However, no increase in the Contract Sum shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.~~

~~5.2.4 The Contractor shall not change a Subcontractor, person or entity previously selected if the Owner or Architect makes reasonable objection to such change.~~

5.3 SUBCONTRACTUAL RELATIONS

~~5.3.1 By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.~~

5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

~~5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner provided that:~~

- ~~1. assignment is effective only after termination of the Contract by the Owner for cause pursuant to Paragraph 14.2 and only for those subcontract agreements which the Owner accepts by notifying the Subcontractor in writing; and~~
- ~~2. assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.~~

~~5.4.2 If the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted.~~

ARTICLE 6

CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided elsewhere in the Contract Documents.

6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Contractor shall make any revisions to the construction schedule and Contract Sum deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights which apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.

6.2 MUTUAL RESPONSIBILITY

6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

6.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

6.2.4 The Contractor shall promptly remedy damage wrongfully caused by the Contractor to completed or partially completed construction or to property of the Owner or separate contractors as provided in Subparagraph 10.2.5.

~~6.2.5 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Paragraph 4.3 provided the separate contractor has reciprocal obligations.~~

6.2.6 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Paragraph 3.14.

6.3 OWNER'S RIGHT TO CLEAN UP

6.3.1 If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Paragraph 3.15, the Owner may clean up and allocate the cost among those responsible as the Architect determines to be just.

ARTICLE 7

CHANGES IN THE WORK

7.1 CHANGES

7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor and Architect; a Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect alone.

7.1.3 ~~Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.~~

7.1.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are so changed in a proposed Change Order or Construction Change Directive that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

7.2 CHANGE ORDERS

7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor and Architect, stating their agreement upon all of the following:

- ~~1 a change in the Work;~~
- ~~2 the amount of the adjustment in the Contract Sum, if any; and~~
- ~~3 the extent of the adjustment in the Contract Time, if any.~~

7.2.2 Methods used in determining adjustments to the Contract Sum may include those listed in Subparagraph 7.3.3.

7.3 CONSTRUCTION CHANGE DIRECTIVES

7.3.1 ~~A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.~~

7.3.2 ~~A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.~~

7.3.3 ~~If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:~~

- ~~1 mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;~~
- ~~2 unit prices stated in the Contract Documents or subsequently agreed upon;~~

~~3 cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or~~

~~4 as provided in Subparagraph 7.3.6.~~

7.3.4 ~~Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.~~

7.3.5 ~~A Construction Change Directive signed by the Contractor indicates the agreement of the Contractor therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.~~

7.3.6 ~~If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall be determined by the Architect on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, a reasonable allowance for overhead and profit. In such case, and also under Clause 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Subparagraph 7.3.6 shall be limited to the following:~~

- ~~1 costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' or workmen's compensation insurance;~~
- ~~2 costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;~~
- ~~3 rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;~~
- ~~4 costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and~~
- ~~5 additional costs of supervision and field office personnel directly attributable to the change.~~

7.3.7 ~~Pending final determination of cost to the Owner, amounts not in dispute may be included in Applications for Payment. The amount of credit to be allowed by the Contractor to the Owner for a deletion or change which results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.~~

7.3.8 ~~If the Owner and Contractor do not agree with the adjustment in Contract Time or the method for determining it, the adjustment or the method shall be referred to the Architect for determination.~~

7.3.9 ~~When the Owner and Contractor agree with the determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.~~

7.4 MINOR CHANGES IN THE WORK

7.4.1 The Architect will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

ARTICLE 8

TIME

8.1 DEFINITIONS

~~8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.~~

8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Paragraph 9.8.

8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

8.2 PROGRESS AND COMPLETION

8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor. The date of commencement of the Work shall not be changed by the effective date of such insurance. Unless the date of commencement is established by a notice to proceed given by the Owner, the Contractor shall notify the Owner in writing not less than five days or other agreed period before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

~~8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.~~

8.3 DELAYS AND EXTENSIONS OF TIME

~~8.3.1 If the Contractor is delayed at any time in progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, or by delay authorized by the Owner pending arbitration, or by other causes which the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.~~

~~8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Paragraph 4.3.~~

~~8.3.3 This Paragraph 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.~~

ARTICLE 9

PAYMENTS AND COMPLETION

9.1 CONTRACT SUM

9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

9.2 SCHEDULE OF VALUES

9.2.1 Before the first Application for Payment, the Contractor shall submit to the Architect a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

9.3 APPLICATIONS FOR PAYMENT

~~9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for operations completed in accordance with the schedule of values. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents.~~

~~9.3.1.1 Such applications may include requests for payment on account of changes in the Work which have been properly authorized by Construction Change Directives but not yet included in Change Orders.~~

9.3.1.2 Such applications may not include requests for payment of amounts the Contractor does not intend to pay to a Subcontractor or material supplier because of a dispute or other reason.

~~9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.~~

9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

9.4 CERTIFICATES FOR PAYMENT

9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the

Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Subparagraph 9.5.1.

9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on 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 Architect's knowledge, information and belief, quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon ~~Substantial~~ Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

9.5 DECISIONS TO WITHHOLD CERTIFICATION

9.5.1 The Architect may decide not to certify payment and may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Subparagraph 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Subparagraph 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also decide not to certify payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss because of:

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or another contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 persistent failure to carry out the Work in accordance with the Contract Documents.

9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

9.6 PROGRESS PAYMENTS

~~**9.6.1** After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.~~

9.6.2 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in similar manner.

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

9.6.4 Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law.

9.6.5 Payment to material suppliers shall be treated in a manner similar to that provided in Subparagraphs 9.6.2, 9.6.3 and 9.6.4.

9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

9.7 FAILURE OF PAYMENT

~~**9.7.1** If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the amount certified by the Architect or awarded by arbitration, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, which shall be accomplished as provided in Article 7.~~

9.8 SUBSTANTIAL COMPLETION

~~**9.8.1** Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.~~

~~**9.8.2** When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or design-~~

~~nated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract Documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate.~~

~~9.8.3 Upon Substantial Completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof as provided in the Contract Documents.~~

9.9 PARTIAL OCCUPANCY OR USE

~~9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Subparagraph 11.3.11 and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Subparagraph 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.~~

~~9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor and 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.~~

~~9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.~~

9.10 FINAL COMPLETION AND FINAL PAYMENT

~~9.10.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make~~

such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's observations and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in said final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Subparagraph 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

~~9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.~~

~~9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims. The making of final payment shall constitute a waiver of claims by the Owner as provided in Subparagraph 4.3.5.~~

~~9.10.4 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment. Such waivers shall be in addition to the waiver described in Subparagraph 4.3.5.~~

ARTICLE 10

PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

10.1.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

10.1.2 In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner and Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor, or in accordance with final determination by the Architect on which arbitration has not been demanded, or by arbitration under Article 4.

10.1.3 The Contractor shall not be required pursuant to Article 7 to perform without consent any Work relating to asbestos or polychlorinated biphenyl (PCB).

10.1.4 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.1.4.

10.2 SAFETY OF PERSONS AND PROPERTY

10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

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

10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Clauses 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Clauses 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Paragraph 3.18.

10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

10.2.7 The Contractor shall not load or permit any part of the construction or site to be loaded so as to endanger its safety.

10.3 EMERGENCIES

10.3.1 In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Paragraph 4.3 and Article 7.

ARTICLE 11

INSURANCE AND BONDS

11.1 CONTRACTOR'S LIABILITY INSURANCE

11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 claims under workers' or workmen's compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;

- .2 claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 claims for damages insured by usual personal injury liability coverage which are sustained (1) by a person as a result of an offense directly or indirectly related to employment of such person by the Contractor, or (2) by another person;
- .5 claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; and
- .7 claims involving contractual liability insurance applicable to the Contractor's obligations under Paragraph 3.18.

11.1.2 The insurance required by Subparagraph 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment.

11.1.3 Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These Certificates and the insurance policies required by this Paragraph 11.1 shall contain a provision that coverages afforded under the policies will not be cancelled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment as required by Subparagraph 9.10.2. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

~~11.2 OWNER'S LIABILITY INSURANCE~~

~~11.2.1 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.~~

11.3 PROPERTY INSURANCE

11.3.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance in the amount of the initial Contract Sum as well as subsequent modifications thereto for the entire Work at the site on a replacement cost basis without voluntary deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Paragraph 9.10 or until no person or entity

~~other than the Owner has an insurable interest in the property required by this Paragraph 11.3 to be covered, whichever is earlier. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Work.~~

11.3.1.1 Property insurance shall be on an all-risk policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, false-work, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's services and expenses required as a result of such insured loss. Coverage for other perils shall not be required unless otherwise provided in the Contract Documents.

11.3.1.2 If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Owner shall so inform the Contractor in writing prior to commencement of the Work. The Contractor may then effect insurance which will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, without so notifying the Contractor, then the Owner shall bear all reasonable costs properly attributable thereto.

11.3.1.3 If the property insurance requires minimum deductibles and such deductibles are identified in the Contract Documents, the Contractor shall pay costs not covered because of such deductibles. If the Owner or insurer increases the required minimum deductibles above the amounts so identified or if the Owner elects to purchase this insurance with voluntary deductible amounts, the Owner shall be responsible for payment of the additional costs not covered because of such increased or voluntary deductibles. If deductibles are not identified in the Contract Documents, the Owner shall pay costs not covered because of deductibles.

11.3.1.4 Unless otherwise provided in the Contract Documents, this property insurance shall cover portions of the Work stored off the site after written approval of the Owner at the value established in the approval, and also portions of the Work in transit.

~~11.3.2 Boiler and Machinery Insurance. The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner, this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.~~

~~11.3.3 Loss of Use Insurance. The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.~~

11.3.4 If the Contractor requests in writing that insurance for risks other than those described herein or for other special hazards be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

11.3.5 If during the Project construction period the Owner insures properties, real or personal or both, adjoining or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Subparagraph 11.3.7 for damages caused by fire or other perils covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

11.3.6 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverages required by this Paragraph 11.3. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be cancelled or allowed to expire until at least 30 days' prior written notice has been given to the Contractor.

11.3.7 Waivers of Subrogation. The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other perils to the extent covered by property insurance obtained pursuant to this Paragraph 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

11.3.8 A loss insured under Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Subparagraph 11.3.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

11.3.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or in accordance with an arbitration award in which case the procedure shall be as provided in Paragraph 4.5. If after such loss no other special agreement is made, replacement of damaged property shall be covered by appropriate Change Order.

11.3.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection be made, arbitrators shall be chosen as provided in Paragraph 4.5. The Owner as fiduciary shall, in that case, make settlement with insurers in accordance with directions of such arbitrators. If distribution of insurance proceeds by arbitration is required, the arbitrators will direct such distribution.

11.3.11 Partial occupancy or use in accordance with Paragraph 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

11.4 PERFORMANCE BOND AND PAYMENT BOND

11.4.1 ~~The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.~~

11.4.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.

ARTICLE 12

UNCOVERING AND CORRECTION OF WORK

12.1 UNCOVERING OF WORK

12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Architect, be uncovered for the Architect's observation and be replaced at the Contractor's expense without change in the Contract Time.

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

12.2 CORRECTION OF WORK

12.2.1 The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect's services and expenses made necessary thereby.

12.2.2 If, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date

for commencement of warranties established under Subparagraph 9.9.1, or by 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 Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2 shall survive acceptance of the Work under the Contract and termination of the Contract. The Owner shall give such notice promptly after discovery of the condition.

12.2.3 The Contractor shall remove from the site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

12.2.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect, the Owner may remove it and store the salvable materials or equipment at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten days after written notice, the Owner may upon ten additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation for the Architect's services and expenses made necessary thereby. If such proceeds of sale do not cover costs which the Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

12.2.5 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

12.2.6 Nothing contained in this Paragraph 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the time period of one year as described in Subparagraph 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

12.3 ACCEPTANCE OF NONCONFORMING WORK

12.3.1 If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13

MISCELLANEOUS PROVISIONS

13.1 GOVERNING LAW

13.1.1 The Contract shall be governed by the law of the place where the Project is located.

13.2 SUCCESSORS AND ASSIGNS

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

13.3 WRITTEN NOTICE

13.3.1 Written notice shall be deemed to have been duly served if delivered in person to the individual or a member of the firm or entity or to an officer of the corporation for which it was intended, or if delivered at or sent by registered or certified mail to the last business address known to the party giving notice.

13.4 RIGHTS AND REMEDIES

13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

13.4.2 No action or failure to act by the Owner, Architect or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

13.5 TESTS AND INSPECTIONS

13.5.1 Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. ~~Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so the Architect may observe such procedures. The Owner shall bear costs of tests, inspections or approvals which do not become requirements until after bids are received or negotiations concluded.~~

13.5.2 ~~If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Subparagraph 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so the Architect may observe such procedures.~~

~~The Owner shall bear such costs except as provided in Subparagraph 13.5.3.~~

~~13.5.3 If such procedures for testing, inspection or approval under Subparagraphs 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, the Contractor shall bear all costs made necessary by such failure including those of repeated procedures and compensation for the Architect's services and expenses.~~

~~13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.~~

13.5.5 If the Architect is to observe tests, inspections or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

13.6 INTEREST

13.6.1 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

13.7 COMMENCEMENT OF STATUTORY LIMITATION PERIOD

13.7.1 As between the Owner and Contractor:

- .1 ~~Before Substantial Completion.~~ As to acts or failures to act occurring prior to the relevant date of ~~Substantial Completion~~, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than such date of ~~Substantial Completion~~;
- .2 ~~Between Substantial Completion and Final Certificate for Payment.~~ As to acts or failures to act occurring subsequent to the relevant date of ~~Substantial Completion~~ and prior to issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of issuance of the final Certificate for Payment; and
- .3 **After Final Certificate for Payment.** As to acts or failures to act occurring after the relevant date of issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of any act or failure to act by the Contractor pursuant to any warranty provided under Paragraph 3.5, the date of any correction of the Work or failure to correct the Work by the Contractor under Paragraph 12.2, or the date of actual commission of any other act or failure to perform any duty or obligation by the Contractor or Owner, whichever occurs last.

ARTICLE 14

TERMINATION OR SUSPENSION OF THE CONTRACT

14.1 TERMINATION BY THE CONTRACTOR

14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor, for any of the following reasons:

- .1 issuance of an order of a court or other public authority having jurisdiction;
- .2 an act of government, such as a declaration of national emergency, making material unavailable;
- .3 because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Subparagraph 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents;
- .4 if repeated suspensions, delays or interruptions by the Owner as described in Paragraph 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less; or
- .5 the Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Subparagraph 2.2.1.

14.1.2 If one of the above reasons exists, the Contractor may, upon seven additional days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit and damages.

14.1.3 If the Work is stopped for a period of 60 days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has persistently failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Subparagraph 14.1.2.

14.2 TERMINATION BY THE OWNER FOR CAUSE

14.2.1 The Owner may terminate the Contract if the Contractor:

- .1 persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

14.2.2 When any of the above reasons exist, the Owner, upon certification by the Architect that sufficient cause exists to jus-

tify such action, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 accept assignment of subcontracts pursuant to Paragraph 5.4; and
- .3 finish the Work by whatever reasonable method the Owner may deem expedient.

14.2.3 When the Owner terminates the Contract for one of the reasons stated in Subparagraph 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the

Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Architect, upon application, and this obligation for payment shall survive termination of the Contract.

14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

14.3.2 An adjustment shall be made for increases in the cost of performance of the Contract, including profit on the increased cost of performance, caused by suspension, delay or interruption. No adjustment shall be made to the extent:

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of this Contract.

14.3.3 Adjustments made in the cost of performance may have a mutually agreed fixed or percentage fee.

SECTION 006002 - SUPPLEMENTARY CONDITIONS

11/01/16

The following supplements modify, change, delete from or add to the Division 1 - General Requirements Section 006001 "General Conditions of the Contract for Construction", AIA Document A201, Fourteenth Edition, 1987. Where any subparagraph or Clause thereof is modified or deleted by these Supplementary Conditions, the unaltered provisions of that Article, Paragraph, Subparagraph or Clause shall remain in effect.

Following Article numbers refer to Articles in the "General Conditions of the Contract for Construction".

ARTICLE 1 - GENERAL PROVISIONS

ARTICLE 1.1.1

Amended as follows:

Change last sentence to read as follows:

"The Contract Documents shall also include, but are not limited to, Notice of Award, the Notice to Contractors, Contract Agreement, Instructions to Bidders, Bid Proposal, All Addenda, Labor and Material and Faithful Performance Bonds and Certificates, General and Supplementary Conditions, all items included in Division 0 -Bidding and Contract Documents" and all items included in Division 1 - "General Requirements". Technical Sections - two through thirty three.

ARTICLE 1.2.1

Change to read:

The Owner has reviewed the Contract Documents issued for bidding for this project. The Contractor by submitting a proposal for this project affirms that he or she has reviewed all the contract documents issued for and during bidding by act of submitting a proposal for this project.

ARTICLE 1.2.2

Add the following to 1.2.2:

No relief, neither extra payment nor time adjustment shall subsequently be made on behalf of the Contractor for any extra expense to which the Contractor may be put due to failure or neglect to make such examination.

ARTICLE 1.2.6

Add the following:

1. Larger scale drawings govern smaller scale, and figured dimensions govern scale measurements. No measurements shall be scaled. If figures or information on any drawings are insufficient, the Contractor shall secure the Architect's Instructions before proceeding.
2. Misplacement, addition, typographical error, or omission of any word, letter, figure or punctuation mark in no way changes the true spirit, intent or meaning of the drawings and specifications.
3. Naming any material and/or equipment requires Contractor to furnish and install the named material/equipment, including all incidental and accessory items and/or labor necessary to achieve full and complete functioning of the material and/or equipment according to the best practices of the trade(s) involved, unless specifically noted otherwise.
4. In the event of conflicting statements or requirements the Contractor shall notify the Architect prior to bidding and in sufficient time to permit the issuance of written clarification. Failure to notify the Architect prior to bidding shall not relieve the Contractor of the responsibility of so doing before any affected work is performed, at which time he agrees to accept the decision of the Architect and proceed accordingly without additional compensation.
5. The Architect's decision shall be binding in the case of determining intents or meanings. Abbreviations and symbols not indicated on legends shall be per Architect's decision regardless of standards of the construction industry.
Contractor shall confirm any differences prior to bidding.
6. In the event conflicts between Working Drawings and Project Manual, or within either document, the better quality or greater quantity shall prevail. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all. The Contract Documents are intended to encompass all labor and materials, equipment, and transportation necessary for proper execution of the Work. Any item of work mentioned in the Specifications and not shown on the

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- drawings, or shown on the drawings and not mentioned in the Specifications, shall be provided by Contractor as if shown in both.
7. The general character of the detail work is shown on the Contract Drawings. The Architect may furnish additional details to more fully explain the work, and same shall be considered a part of the Contract. Any work executed before receipt of such details, if not in accordance with same, shall be removed and replaced, or adjusted, as directed, without expense to the Owner. Should any detail, field directive and/or notification through Architect's Activity Report be submitted later than the Contract Drawings be, in the opinion of the Contractor, more elaborate than the Contract Drawings and the Project Manual indicate, written notice thereof shall be given to the Architect within five (5) days of receipt of same. The assertion will then be considered, and, if justified, said detail drawings will be amended or the extra work authorized. Non-receipt of such notice shall relieve the Owner of any additional cost.
 8. In the event of conflict or inconsistency between the Supplementary Conditions and the General Conditions, the Supplementary Conditions shall control. Where any portion of the Contract Documents are silent and information appears elsewhere in the Contract Documents, such other portions of the Contract Documents shall control.
 9. Details shown on drawings both typical and specific shall be incorporated in the project at all appropriate locations whether specifically referenced at each location or not. Work not particularly detailed, marked or specified shall be the same at similar parts that are detailed, marked or specified.
 10. The drawings and Specifications describe the work to be performed by Contractor. Generally, the Specifications describe work which cannot be readily indicated on the drawings and indicate types, qualities, and methods of installation of the various materials and equipment required for the Work. It is not intended to mention every item of work in the Specifications which can be adequately shown on the drawings, or to show on the drawings all items of work described or required by the Specifications even if they could have been shown.
 11. Locations of electrical conduits, mechanical items, utility lines, landscape irrigation, other lines and plumbing lines are diagrammed on the Construction Documents. Plumbing, Mechanical, Landscape Irrigation, Fire Protection and Electrical Plans are diagrammatic, and, therefore, do not necessarily represent the exact as-built installation and or field conditions. Each Contractor shall field verify and coordinate locations prior to proceeding with work to confirm routing and connections. Contractor shall be responsible for the final routing lengths. No extra will be allowed for increases due to routing obstructions, depth deviations, off sets due to above and underground appurtenances, coordination of lines or length of line from POC to POC that occur due to actual field conditions with limits herein. The drawings indicate diagrammatically what is to be done and shall not be a basis for extra cost within limits herein.
 - a. Refer to Architect's Plans and Specifications for construction details which will affect the work and equipment. Examine all trade Plans and Specifications to ensure that this work does not conflict with any trades. It shall remain the Contractor's responsibility to submit Shop Drawings/Coordination Drawings, if he/she has any questions about the final layout. Nothing on these Plans or Project Manual/Specifications shall be construed to permit work not conforming to all applicable codes and regulations.
 - 1) Contractor shall allow for deviance of up to 40 feet for each existing line(s) shown on drawings with reference to line locations, cross overs and rerouting around appurtenances (above and below grade) and related items.
 - 2) No extra cost or credit will be allowed or requested for points of connections 20+/- feet deviating from location(s) of point of connection(s) indicated on drawings.
 - 3) Depths of existing lines shall be field verified with pot holes by contractor prior to excavation for any trenches for utilities. Contractor shall allow for a deviance of 36" for underground lines if a depth is indicated on existing utility lines or utility drawings. If no depth is indicated on plans of utility lines, contractor is responsible for POC regardless of depth of line. Contractor is responsible for making transition to final POC depth of line with required depth of line indicated on drawings.

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12. The existence and location of any underground utility piping, conduits and or structures shown on the construction documents were obtained by a search of available records. Existing drawings of the site utilities are on file at the office of the Maintenance and Operations. Contractor is to review these drawings prior to starting work. To the best of the architects and consulting engineer's knowledge there are no existing utilities except as shown on these plans. These plans are intended to show locations of electrical lines and landscape irrigation lines that they may be in construction area. The contractor shall take due precautionary measures to protect all utilities and structures shown on these plans and those discovered during construction. The contractor shall be responsible for field verification of the location and depth of existing underground and above ground utilities and shall perform potholing as necessary at all potential and assumed crossings prior to commencing on site construction. The contractor shall be responsible for taking all precautions necessary to protect all existing utilities and structures from damage during and the course of the work, and shall be responsible for repairing or replacing any utilities or structures damage during the course of the work.
 - a. The Contractor is required by Government Code 4216 "California One Call Law" to call dig alert at least two (2) working days before digging. Contractor is required by same code to hand-expose to the point of no conflict 24" on either side of the underground facility so you can determine its exact location before using power equipment.
13. Contractor Waives Common Practice: The Contractor shall waive "common practice" and "common usage" as construction criteria wherever the Contract Documents details, plans, specifications, governing codes or ordinances require greater quantity or better quality than common practice or common usage would require.
14. Contractor is aware that this Project may be split into several phases, (refer to summary of work herein). If the Project is split into phases, Contractor has made allowances for any delays or damages which may arise from coordination with contractors for other phases. If any delays should arise from a contractor working on a different phase, Contractor's sole remedy for damages, including delay damages, shall be against the contractor who caused such damage and not against Owner. Contractor shall provide access to contractors for other phases as necessary to prevent delays and damages to contractors working on other phases of construction.
15. Definitions:
 - a. Equivalent to: Equal or superior in function and quality and approved by the Architect.
 - b. Furnish: Purchase and deliver to job site in new condition as well as "supply and deliver to the project site, ready for unloading, unpacking, assembly, installation, and similar operations."
 - c. Indicated: Refers to graphic representations, notes or schedules on the Drawings, or other Paragraphs or Schedules in Project Manual, and similar requirements in Contract Documents. Where terms such as "shown," "noted," or "scheduled" are used, it is to help locate the reference; no limitation on locations is intended except as specifically noted.
 - d. Install: Receive and store at job site until required; in place secure and connect; furnish required appurtenances. Used to describe operations at the project site, including the actual "unloading, unpacking, assembly, erection, placing, anchoring, applying, working to dimension, finishing, curing, protection, cleaning and similar operations."
 - e. Installer: An entity engaged by CONTRACTOR, either as an employee, subcontractor, or sub-subcontractor for performance of a particular construction activity, including installation, erection, application, and similar required operations. Installers are required to be experienced in the operations they are engaged to perform and licensed as required in the individual specification sections.
 - f. Or Equal: Where named products in specification text are accompanied or are deemed by law to be followed by the term "or equal," or other language of similar effect, CONTRACTOR shall comply with those Contract Document provisions for "substitutions" when obtaining Architect's review and consideration.
 - g. Provide: Includes "provide complete in place," that is, furnish and install.
 - h. Refer: Indicates that the subject is defined or specified in further detail at another location in the Contract Documents or elsewhere as indicated. Except, as otherwise noted, "refer" does not imply that CONTRACTOR must purchase or subcontract the subject work in any special manner.

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- i. Section: Refers to a Section of this Project Manual.
- j. Standards: The most recent issue approved and accepted.
- k. As Shown, etc: Where “as shown”, “as indicated”, “as detailed”, or words of similar import are used, reference is made to the Drawings accompanying the Specifications unless otherwise stated. Where “as directed”, “as required”, “as permitted”, “as authorized”, “as accepted”, “as selected”, or words of similar import are used, the direction, requirement, permission, authorization, approval, acceptance or selection by Architect is intended unless otherwise stated.
- l. Plural: Words in singular shall include the plural whenever applicable or the context so indicates.

Add the following paragraph to Article 1:

ARTICLE 1.6

DSA Requirements:

1. All work shall comply with Title 24, C.C.R., Part 1-6, 9 and 12.
 2. Title 24, Parts 1-5 must be kept on the site during construction.
 3. Substitutions affecting DSA regulated items, not limited to Structural Safety, Fire and Life Safety and Access Compliance will be considered as changes to approved plans or specifications. They are to be treated as addenda or CCD, and will require DSA's approval prior to fabrication and installation. (Sec. 4-338, Part 1, and IR A-6)
 4. All addenda must be stamped and signed by A/E on Record and delegated Design Professional when applicable, and approved by DSA. (Sec 4-338 (Sec. 4-338(b), Part 1)
 5. Construction Change Documents (CCD) and supplementary drawings must be signed by A/E on Record or delegated Design Professional and approved by DSA prior to commencement of work shown. (DSA IR A-6)
 6. Should any existing conditions such as deterioration or non-confirming construction be discovered which is not covered by the DSA approved documents wherein the finished work will not comply with Title 24, California Code of Regulations, a construction change document or a separate set of plans and specifications, detailing and specifying the required repair work shall be submitted to and approved by DSA before proceeding with the repair work.
 7. A Project Inspector and testing lab when required must be employed by the Owner and approved by A/E of Record, Structural Engineer when applicable and DSA. (Sec.4-341 (d), Part 1)
 8. Scope of work: Refer to “Summary of Work” section of the Project Manual is intended to match the scope of work on the cover drawing.
-
1. All work shall comply with Title 24, C.C.R., Part 1-6, 9 and 12.
 2. Title 24, Parts 1-5 must be available during construction.
 3. Substitutions affecting regulated items, not limited to Structural Safety, Fire and Life Safety and Access Compliance will be considered as changes to approved plans and/or specifications. They are to be treated as addenda or change orders, and will require Architects approval prior to fabrication and installation.
 4. Construction change directives (preliminary change orders) must be approved by Architect
 5. Change orders and supplementary drawings must be approved by Architect
 6. A Project Inspector and testing lab when required must be employed by the Owner and approved by Architect
 7. Scope of work: Refer to “Summary of Work” section of the Project Manual is intended to match the scope of work on the cover drawing.
 8. Deferred approvals: “The submittal shall be approved by the Architect. Fabrication and installation of deferred approval item shall not be stated until drawings, specifications and engineering calculations (if needed) for the system have been approved and accepted by the Architect.

ARTICLE 2 - OWNER

ARTICLE 2.1.2

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Amend as follows:

Change "Mechanic's Lien" to "Stop Notice".

ARTICLE 2.2.1

Delete in its entirety.

ARTICLE 2.2.2

Change to read:

The Contractor shall verify surveys describing physical characteristics as required for his work and utility locations for the site of the project. The Owner shall furnish a legal description of the site if requested, in writing, by the Contractor. Available utility drawings the Owner has shall be made available upon written request of Contractor. Contractor shall be responsible for any copies and associated cost of reproduction.

ARTICLE 2.2.5

Change to read:

The Contractor will be furnished, free of charge, (25) copies of Drawings and Project Manuals. Additional copies are available from the Architect at printing cost plus 10% mark-up.

ARTICLE 2.3

Add the following to paragraph 2.3.1:

The waiver by the Owner of any breach of any requirements, condition or provision of this Contract shall not be a waiver of any subsequent or other breach of this Contract nor of any terms, conditions or provisions of this Contract.

ARTICLE 2.4.1

Amended as follows:

Second to last sentence change word "approval" to "review".

ARTICLE 2.4.1.1

Add the following:

Owner shall have first right of refusal for all items to be demolished and/or removed from project. Owner shall remove said items unless directed otherwise by Construction Documents. Owner shall notify Contractor of items he wishes to salvage within 60 days of contract award.

ARTICLE 2.5

Add the following paragraph to Article 2:

- 2.5.1 The Owner will employ a project inspector to serve as Inspector for the Owner according to the regulations of the Division of the State Architect and subject to the provisions of Section 4-333b, Group 1, Chapter 4, Part 1, Title 24, California Code of Regulations. The Inspector shall be approved by the Division of the State Architect, Architect and Structural Engineer. The term "Inspector" means the project inspector employed by the Owner.
- 2.5.2 Duties, rights and authority of the Inspector will be as set forth in Section 4-342, Group 1, Chapter 4, Part 1, Title 24, California Code of Regulations. The Inspector will be responsible for periodic surveillance of the work in all stages of its progress.
- 2.5.3 The Owner shall have the right to visit the project site at any time. The Owner may bring visitors with them. Contractor shall provide safety devices for Owner, Architect and visitors.

ARTICLE 2.6

Add the following paragraph to Article 2:

2.6 Construction Manager.

- 2.6.1 The Owner, at their option, may employ a Construction Manager and/or Project Manager to be their representative or to assist the Architect. The Construction Manager/Project Manager may, but not limited to, review and negotiate Change Request, order of magnitude cost for Owner-initiated Change Request, evaluate periodic Pay Request, evaluate Contractor's schedule, evaluate Contractor's manpower and other items as directed by Owner, and/or Architect.

ARTICLE 3 - CONTRACTOR

ARTICLE 3.1

Add the following to paragraph 3.1:

3.1.2 Duties of the Contractor shall include those set forth in Section 4-343, Group 1, Chapter 4, Part 1, Title 24, California Code of Regulations.

- .1 The Contractor will make and submit Verified Reports in accordance with Sections 4-336, Group 1, Chapter 4, Part 1, Title 24, California Code of Regulations.

3.1.3 Status of Contractor:

- .1 Contractor is and shall at all times be deemed to be an independent contractor and shall be wholly responsible for the manner in which it performs the services required of it by the terms of the Contract Documents.
- .2 Nothing contained in the Contract Documents shall be construed as creating the relationship of employer and employee, or principal and agent, between Owner and Contractor or any of Contractor's agents or employees.
- .3 Contractor exclusively assumes the responsibility for the acts of its employees as they relate to the services to be provided during the course and scope of their employment. Contractor, its agents, and employees shall not be entitled to any rights or privileges of Owner employees and shall not be considered in any manner to be Owner employees.
- .4 Owner shall be permitted to monitor the activities of Contractor to determine compliance with the terms of the Contract Documents.
- .5 Contractors are required by law to be licensed and regulated by the Contractors' State License Board. Any contractor not so licensed is subject to penalties under the law and the Construction Agreement will be considered void pursuant to Business and Professions Code Section 7028.7. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, 3132 Bradshaw Road, Post Office Box 2600, Sacramento, California, 95826.

3.1.4 Changes in name or nature of Contractor's legal entity

- .1 Before Contractor makes any change in the name or legal nature of the Contractor's entity, Contractor shall first notify Owner in writing and cooperate with Owner in making such changes as Owner may request in the Contract Documents.

3.1.5 Debarred Contractor

- .1 Pursuant to Labor Code Sections 1777.1 and 1777.7, a contractor may be prohibited from bidding or performing work as a subcontractor on a public works project. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract, and any public money that may have been paid to a debarred subcontractor by a contractor on the Project shall be returned to the awarding body. The contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Project.
- .2 Pursuant to Public Contract Code Section 4701, CONTRACTOR shall request the substitution of any subcontractor who has been debarred by the California Labor Commissioner from working as a subcontractor on public work.

3.1.6 Contractor shall be that entity awarded this Construction Agreement by official action of OWNER. Throughout the Contract Documents CONTRACTOR is treated as being of singular number and neuter gender.

3.1.7 Contractor selection process and prohibited interest:

- a. As a means of maintaining the integrity of the formal selection process, contacts with

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- individual members of OWNER's Board of Trustees or governing body on behalf of any bidding firm relative to this Project will be considered inappropriate.
- b. No official of OWNER who is authorized in such capacity and on behalf of OWNER to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting or approving, any architectural, engineering, inspection, construction, or material supply contract, or any subcontract in connection with construction of the Project, shall have any direct or indirect financial interest in any part of this Project.
 - c. No officer, employee, architect, attorney, engineer, or inspector of or for OWNER who is authorized in such capacity and on behalf of OWNER to exercise any executive, supervisory, or other similar functions in connection with construction of the Project shall have any direct or indirect financial interest in any part of this Project.
 - d. CONTRACTOR shall receive no compensation and shall repay OWNER for any compensation received should CONTRACTOR aid, abet, or knowingly participate in any violation of this Article.

ARTICLE 3.2.1

Supplement as follows:

- 3.2.1.1 If Contractor or its subcontractors, material, or equipment suppliers, or any of their officers, agents, and employees performs, permits, or causes the performance of any work to be done under the Contract Documents which it knows, or should have known, to be in error, inconsistent, or ambiguous, or not sufficiently detailed or explained, Contractor shall bear any and all resulting costs, including without limitation the costs of correction without increase or adjustment to the contract price or the time for performance.

ARTICLE 3.3

Supplement as follows:

- 3.3.5 In accordance with generally accepted construction practices, the Contractor will be solely and completely responsible for conditions of the job 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.
- 3.3.6 Visits to the site by the Architect, his agents and employees to review the Contractor's performance is not intended to include review of the adequacy of the Contractor's safety measures, in, on or near the construction site.
- 3.3.7 The Contractor shall properly locate all building and other improvements off site and on site, and shall furnish all engineering required for such work, including the locations and identification of bench marks, markers, property lines, lines and grades. He shall check floor elevations and grades against data shown on the Drawings, and shall report any discrepancies to the Architect and Engineer of Record before laying out the work.
- 1 All work shall be constructed according to the vertical and horizontal measurements of the construction documents, campus standards for on site improvements and standards of local entities for offsite improvements. Adequate stakes shall be set under the direction of a licensed surveyor/engineer for the Contractor. All construction surveying shall be performed in accordance to the surveying procedures of the surveying/engineer of record. If third party subcontractors perform the construction layout and surveying for this project without the coordination of the surveyor/engineer of record, they have assumed the position of the surveyor/engineer of record. The final check of design is to be the construction staking as the design meets the existing control and elevations. Layout surveyor shall provide in his bid time to review existing design and confirm compliance with requirements herein.
 - 2 All existing street cross sections shall be verified for minimum cross fall at time of staking. Any discrepancies to the standard design criteria shall be brought to the architect and surveyor/engineer of record attention prior to proceeding with construction and layout.
 - 3 If construction continues without verification, the Contractor assumes the responsibility of the correctness of the intended design.

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- 3.3.8 Where work of one trade joins, is on, adjacent to or covers other work, there shall be no discrepancy when said work is completed. In engaging one kind of work with another, marring or damaging same will not be permitted. Should improper work of any trade be covered by another that results in damage or defects, the whole work affected shall be made good by responsible Contractor without expense to the Owner. Sequencing of work and Contractor's ways and means shall be coordinated and allowances made for coordination between trades as well as ways and means of all trades on project.
- 3.3.9 The Contractor shall consult the other Contractors on the project, if any, and the Architect, regarding the installation of such other Contractor's work and ways and means before starting the various phases of his work, in order to avoid the possibility of the removal of his work to permit others to install their work.
- 3.3.10 Assistance required by the Architect in obtaining measurements and/or information on the work shall be furnished fully and efficiently by the Contractor at no cost to the Owner. This includes but not limited to the following:
- .1 Submissions of details/supplemental information as requested by Architect to clarify field conditions and similar details to that of Construction Documents.
 - .2 Submissions of supplemental data to confirm compliance with construction documents. Architect may request data to confirm ICC/UL/or other approval agencies approval(s) for any assembly.
 - .3 Field dimensions, field topographic grades, and field conditions as requested by architect.
 - .4 Digital photographs, field sketches and or other means requested by architect for use determining contract document compliance, project conformance and responses to field conditions and questions by contractor, owner and architect. Failure to provide this information within two (2) business days shall be grounds for claim for delays by owner to contractor and contractor will be subject to liquidated damages penalty for every calendar day beyond two days indicated herein that information is not provided completely as requested by architect.
 - .5 Information/data required by architect to be used in making aesthetic decisions.
- 3.3.11 Protection of Workers in Trenches: As required by Section 6705 of the California Labor Code, and in addition thereto, whenever work under the Contract involves the excavation of any trench or trenches, or other excavation 5 feet or more in depth, Contractor shall submit for acceptance by the Owner or by a registered civil or structural engineer, employed by the Owner, to whom authority to accept has been delegated, in advance of excavation, a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation, or such trench or trenches. If such plan varies from the shoring system standards established by the Construction Safety Orders of the Division of Industrial Safety, the plan shall be prepared by a registered civil or structural engineer employed by the Contractor, and shall costs therefore shall be included in the price named in the Contract for completion of the Work as set forth in the Contract Documents. Nothing in this Section shall be deemed to allow the use of a shoring, sloping, or other protective system less effective than that required by the Construction Safety Orders. Nothing in this Section shall be construed to impose tort liability on the Owner, Architect and Consulting Engineers, nor any of their officers, agents, representatives, or employees.
- .1 The Architect/Consulting Engineers shall not be responsible in any way for the contractor's, sub constructor's, Materialmen and lower tier sub contractor's compliance with the "Occupational Health and Safety Regulations" of the US Department of Labor or with State of California Department of Industrial Relations "Construction Safety Orders".

ARTICLE 3.4

Add the following:

- 3.4.1 No material, supplies, or equipment for work under the Contract Documents shall be purchased subject to any chattel mortgage or under a conditional sale or other agreement by which an interest in all or any part is retained by the seller or supplier. Contractor warrants good title to all material, supplies, and equipment installed or incorporated in the Work, and upon completion of all work agrees to surrender the premises to Owner, together with all improvements and appurtenances

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constructed or placed by Contractor, free from any claims, liens, or charges. Contractor further agrees that neither Contractor nor any person, firm, or corporation furnishing any materials or labor for any work covered by the Contract Documents shall have any right to a lien upon the premises or any improvement or appurtenance, except that Contractor may install metering devices or other equipment of utility companies or political subdivisions, title to which is commonly retained by the utility company or political subdivision. In the event of the installation of any metering device or equipment, Contractor shall advise Owner as to its owner. Nothing contained in this article however shall defeat or impair the legal right of persons furnishing material or labor to look to funds due and owing Contractor for payment. 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.

ARTICLE 3.5

Add the following:

- 3.5.2 The term of warranty(s) shall be one year, (or more where noted in project manual), from the date of owner execution of Notice of Completion document. Contractor and Surety expressly agrees to act as co-warrantor of such equipment and materials, and contractor shall supply the Owner with all warranty documents relative to equipment and materials incorporated in the job and warranted by their suppliers or manufacturers.
- 3.5.3 Contractor shall, within five (5) working days of notice of warranty or guarantee item, review warranty or guarantee items, not limited to investigations, diagnosis and review, at the project site with the required related Contractors and suppliers. There shall be no cost to review items to confirm warranty item disposition. Warranty or guarantee item remedy shall be approved by Owner and Architect prior to execution. Correction of items shall be completed within 30 days of determination of items being warranty/guarantee item, unless approved by Owner in writing. Contractor to coordinate work around existing operations and do work during non-occupied times or as directed by Owner. No cost shall be incurred to Owner due to this work without prior written approval by Owner and Architect.
- a. In the event Contractor or Surety fails to commence and pursue with diligence any replacements or repairs within seven calendar days after being notified in writing, Owner is authorized to proceed to have any defects repaired at the expense of Contractor and Surety, and Contractor and Surety agree to pay the costs and charges immediately on demand.
 - b. If defective work creates a dangerous condition, in the opinion of Owner, or requires immediate correction or attention to prevent further loss to Owner or to prevent interruption or operations of Owner, Owner shall attempt to give the notice required by this Article. If Contractor or Surety cannot be contacted or neither complies with Owner's request for correction within a reasonable time, as determined by Owner, without regard to the provisions of this Article, Owner may proceed to make the correction or provide the attention, and the costs of correction or attention shall be charged against Contractor. Any action by Owner shall not relieve Contractor of the guarantees provided in this Article or elsewhere in the Contract Documents.
 - c. Contractor shall correct any such defective work, as well as any damage to any other part of the Work resulting from such defective work, and provide repair, replacement, or reimbursement, at its sole expense, in a manner approved by Owner and with due diligence and dispatch as required to make the Work ready for use by Owner, ordinary wear and tear, unusual abuse, or neglect excepted. Such corrections shall include but not be limited to any necessary adjustments, modifications, changes of design (unless of Owner's design), removal, repair, replacement, or reinstallation, and shall include all necessary parts, materials, tools, equipment, transportation charges, and labor as may be necessary, and cost of removal. Replacement shall be performed at a time and in such a manner so as to minimize the disruption to Owner's use of the Work.
 - d. Owner may collect its reasonable costs and attorneys' fees in any action to enforce this Article, including additional services required by the Architect.
- 3.5.4 Before and prior to the anniversary of the guarantee-warranty period, there will be a meeting and review of the subject work by the Owner, Architect, and Contractor, or their designated representatives. It shall be the responsibility of the Contractor to arrange for this meeting; the

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Contractor's failure to do so will have the effect of extending the guarantee-warranty period until such time as this meeting is held. The guarantee-warranty period will not be complete until such items as noted in the Warranty List generated by this meeting are acted upon to the satisfaction of the Architect.

- 3.5.5 All copies of guarantees and warranties shall be certified by Contractors, Subcontractors and material suppliers.
- 3.5.6 The Contractor, Subcontractor, Materialmen, Supplier, and Manufacturer and/or Fabricator, shall notify the Architect, Owner and Prime Contractor of any requirement(s) for a warranty and/or guarantee to be effective. All contingent conditions of warranty and guarantee shall be met prior to release of retention funds and final acceptance of project as complete. In the event annual and/or follow-up periodic inspections of items under warranty and/or guarantee are required to maintain the warranty and/or guarantee, the provider of said items shall allow for these visits and follow-up reports to Architect, Owner and Prime Contractor in submitting a bid for this project. In the event said required visits are not made by provider of items, the requirements for visit or periodic visit shall be voided.
1. All contingent items on warranty and/or guarantee shall be clearly written as an attachment to submittals and highlighted with yellow marker and yellow tab. Failure to do so voids contingent items on warranty and/or guarantee.
 2. All items required by prime Contractor, Owner, Subcontractors and/or Others to be done as a condition of warranty shall be clearly written as an attachment to submittals and highlighted with orange marker and orange tab. Failure to do so voids contingent items on warranty and/or guarantee.
 3. The official start date of all warranties and guarantees shall be the date of recording of the Notice of Completion.

ARTICLE 3.6

Add the following:

Convict Made Materials: Except as may be provided by law, the Contractor agrees that no materials manufactured or produced in a penal or correctional institution shall be incorporated in the construction under this Contract.

ARTICLE 3.8.1

Change to read as follows:

The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct. The Owner reserves the right to change the use of allowances at any time during the project. The Owner may select any vendors, contractor, subcontractor or material men for implementation of any allowance items at owner's discretion. Contractor shall make payments from allowance funds as directed by owner. The Architect shall issue a SI, (Supplemental Instruction), for each allowance usage to be used and what specifically it will be used for project or other item as so directed.

ARTICLE 3.8.2

Change to read as follows:

Unless otherwise provided in the Contract Documents:

- .1 Materials, labor, equipment, vendors and other contractors under an allowance shall be selected by the Owner. Contractor shall give Owner forty-five (45) calendar day notice prior to when said equipment and material will be required for Work.
- .2 Contractor's costs for unloading and handling at the site including miscellaneous labor and other expenses shall be included in the contract sum and not in the allowances unless approved in advance by Owner and Architect.
- .3 Whenever costs are more than or less than the allowances, the Contract Sum shall be adjusted accordingly by Constructive Cost Directive.
- .4 Contractor shall include in base bid all overhead, profit (all tiers) bonds, insurance and all other non direct cost related items in addition to allowances prescribed herein.

ARTICLE 3.10.2

Add the following:

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3.10.2.1 Architect shall be allowed twenty-one (21) calendar days for initial review of submittals and fourteen (14) calendar days each time a submittal is re-submitted.

ARTICLE 3.10.4

Add the following:

3.10.4 Contractor shall show anticipated rain, sleet, snow, wind and other weather driven delays on project schedule, as separate line items for each weather delay type, based upon Contractor's proposed ways and means. Line items on Contractor's initial submitted schedule will be used as a basis for additional weather days (time) for aforementioned weather delays only when days indicated on initial schedule for weather delays have been exceeded and weather conditions exceed Contractor's ways and means basis. Conditions shall be based upon weather conditions meeting and exceeding requirements indicated in Article 8.3.2 herein this section.

- 1) Contractor shall indicate on submitted Initial Project Schedule the criteria of each type of weather related delay per 24 hour period that affects the contractor's ways and means. Failure to indicate information on initial project schedule shall mean contractor has reviewed NOAA weather data, highest within last 5 years, for subject project site and based upon that data, weather conditions will have no impact on contractor's ways and means during the construction duration as indicted in herein.
 - a) Contractor shall indicate on Project Schedule the criteria of rain/sleet delay, inches per 24 hour period that affects the contractor's ways and means. Contractor shall use days exceeding contractors ways and means criteria from NOAA data as a basis of days in initial schedule. (Example "Rain delays days - 1" per 24 hour period").
 - b) Contractor shall indicate on Project Schedule the criteria of snow delay, inches per 24 hour period that affects the contractor's ways and means. Contractor shall use days exceeding contractors ways and means criteria from NOAA data as a basis of days in initial schedule. (Example "Snow delays days - 5" per 24 hour period").
 - c) Contractor shall indicate on Project Schedule the criteria of wind delay, wind speed miles per hour sustained for 2 hours that affects the contractor's ways and means. Contractor shall use days exceeding contractors ways and means criteria from NOAA data as a basis of days in initial schedule. (Example "Wind delays days – 40 MPH for 2 hours per 24 hour period").
 - d) Contractor shall indicate on Project Schedule the criteria of any other anticipated weather delay not indicated herein.

- 2) Contractor shall use weather data as published by NOAA that exceed the actual number of rain/sleet/snow/wind days actually recorded, during the project duration, using highest value within last 5 years at the project site as basis on projected weather related delays that exceed the contractors ways and means criteria indicated on the initial schedule. Using this data along with Contractors Ways and Means criteria will be the basis of consideration for additional weather days beyond those on contractor's initial schedule. This will only be used for additional time when Contractor can show weather delay affected critical path on contractors published initial schedule that exceed weather days indicated on said schedule.
 - a) In the event Contractor uses weather data inconsistent, in initial project schedule or subsequent claims for time extensions, with the aforementioned NOAA data, will be a basis of rejection of claim for additional time due to weather conditions.
 - b) In the event the Contractor fails to list the ways and means criteria on initial project schedule shall be a basis of rejections of claim for additional time due to weather conditions.

ARTICLE 3.11.1

Add the following:

- .1 Said documents and samples shall be available to the Project Inspector, Architect, Owner and representatives of all agencies having jurisdiction over the work.
- .2 Record Drawings: Contractor shall keep accurate dimensioned locations, on said record copy of

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documents, showing actual locations and elevations of all buried, above ground and concealed Work including piping, conduit, valves, stub outs and the like. Elevations shall be referenced to first floor finished elevations as datum. Locating dimensions shall be referenced to permanently fixed accessible and readily identifiable portions of building or site appurtenances. Locations shall be by intersecting coordinate dimensions parallel to and at right angles to building lines. The Contractor must update the Record Drawings as work progresses. At the end of each month, the Architect may review the Record Drawings. If the records are incomplete, or incorrect, an appropriate amount of dollar, equivalent to the cost of uncovering the work to determine the locations of piping and the like, may be deducted from the next progress payment. The deducted sum will be withheld until the Record Drawings are updated and/or corrected to the approval of the Architect and confirmed by Project Inspector.

- .3 CONTRACTOR shall keep one copy of all Contract Documents, including addenda, change orders, shop drawings, and other modifications, and Titles 19, 21, and 24 of the California Code of Regulations, on the job at all times. The documents shall be kept in good order and accurately marked to record all changes made during construction. The documents shall be available to the Project Inspector, Owner, Architect and its representatives at all times. CONTRACTOR shall be acquainted with and comply with all statutes and regulations as they relate to this Project. (See particularly the duties of Contractor, 24 California Code of Regulations, Sections 4-343.) CONTRACTOR shall also be acquainted with and comply with all provisions of the California Code of Regulations relating to conditions on this Project, particularly Titles 8 and 17.

ARTICLE 3.12.1

Amended as follows:

Add the following: "Wherein the Contract Documents reference is made to shop drawings it shall include, as defined below, product data as may be applicable."

ARTICLE 3.12.4

Add the following:

3.12.4.1 Contractor shall provide shop drawings of all items that are fabricated and purchased for this project.

ARTICLE 3.12.12

Add as follows:

Contractor shall submit an itemized list of changes of items different than specified/indicated herein and on construction documents. List shall include items that are different and omitted. In the event items are not included on list, omitted and/or different; Contractor shall be responsible for providing specified item(s). Liabilities subsequent to items omitted/or different shall be responsibility of Contractor and shall be warranted a minimum of five (5) years or greater as prescribed by law. If no list is included with Submittals and Shop Drawings, Architect assumes all items are as specified.

If it is found within five (5) years of Notice of Completion or greater as prescribed by law, that the Contractor has varied from the drawings and/or Specifications in materials, quality, omission, form, or finish, or in the amount or value of the materials and labor used, the Architect shall make a recommendation either: (1) that all such improper work should be removed, remade, and replaced, and all work disturbed by these changes be made good at Contractor's sole expense; or (2) that Owner deduct from any amount due Contractor the sum of money equivalent to the difference in value between the work performed and that called for by the drawings and Specifications if final payment has not been made to contractor. The Architect shall determine such difference in value. At its option, Owner may pursue either recommendation made by the Architect.

ARTICLE 3.12.13

Add as follows:

Some drawings, shop drawings, product data, samples or other documents may be required of Contractor. If Contractor performs, permits, or causes the performance of any work under the documents provide and/or prepared by or on the behalf of Contractor which document is in error, inconsistent or ambiguous, or not sufficiently detailed or explained, Contractor shall bear any and all resulting costs, including, without limitation, the cost of correction, without increase to or adjustment in the contract price or the time for performance. In no case shall any subcontractor proceed with the work if uncertain without Contractor's written direction

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and/or approval.

ARTICLE 3.13.1

Add as follows:

1. Such areas when outside the limits of the contract and project area shall upon completion of the contract be restored to their original condition.
2. No pets, not limited to dogs and cats, will be permitted to be on site during construction. Contractor shall post a sign at each project entry indicating requirement (exception shall be service animals).

ARTICLE 3.15.1.1

Supplement as follows:

1. Each Contractor shall:
 - a. Proceed with due caution to protect the work of others.
 - b. Remove and legally dispose of all excess material, debris, etc., resulting from his work.
 - c. Clean all finger marks, smudges, smears, spatters, drippings, etc., from his work and the work of others, caused by workmen in his employ.
 - d. The subcontractors and all lower tier contractors and vendor, upon completion of their work and prior to leaving the project, shall meet with the Project Inspector, Architects field representative and the General Contractor, to review the work performed and make such corrections as may be found necessary for compliance with contract documents.
 - e. Supplementary cleaning shall be performed as may be required due to work performed pursuant to items as listed on Final Inspection (Punch List).
 - f. Cleaning of various items shall be done in accordance with recommended procedures for respective material, and damage by improper cleaning shall be corrected by the Contractor at his expense. Refer to manufactures written recommendations for cleaning of items manufactured.

ARTICLE 3.18.

Replace with the following:

3.18.1

- A. CONTRACTOR shall defend, indemnify and hold harmless DISTRICT, Architect, Project Inspector, the State of California and their officers, employees, agents and independent contractors from all liabilities, claims, actions, liens, judgments, demands, damages, losses, costs or expenses of any kind arising from death, personal injury, property damage or other cause based or asserted upon any act, omission, or breach connected with or arising from the progress of Work or performance of service under this Agreement or the Contract Documents. As part of this indemnity, CONTRACTOR shall protect and defend, at its own expense, DISTRICT, Architect, Project Inspector, the State of California and their officers, employees, agents and independent contractors from any legal action including attorneys' fees or other proceeding based upon such act, omission, or breach.

Furthermore, CONTRACTOR agrees to and does hereby defend, indemnify and hold harmless DISTRICT, Architect, Project Inspector, the State of California and their officers, employees, agents and independent contractors from every claim or demand made, and every liability, loss, damage, expense or attorneys' fees of any nature whatsoever, which may be incurred by reason of:

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

by CONTRACTOR, either directly or by independent contract, including all damages or injury to, loss (including theft), or loss of use of, any property, sustained by any person, firm or corporation, including the DISTRICT, arising out of or in any way connected with Work covered by this Agreement or the Contract Documents, whether said injury or damage occurs either on or off DISTRICT property, but not for any loss, injury, death or damages caused by the sole or active negligence or willful misconduct of the DISTRICT.

3. Any dispute between CONTRACTOR and CONTRACTOR's subcontractors/supplies/sureties, including, but not limited to, any failure or alleged failure of the Contractor (or any person hired or employed directly or indirectly by the Contractor) to pay any Subcontractor or Material man of any tier or any other person employed in connection with the Work and/or filing of any stop notice or mechanic's lien claims.
4. Contractor shall require each subcontractor to abide by the terms and conditions indicated herein.

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

- B. In any and all claims against the Owner or the Architect or Architect's Consultants, or any of their employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or by any Subcontractor under workers compensation acts, disability benefit acts or other employee benefit acts.
- C. The obligations of the Contractor under this Paragraph shall not extend to the liability of the Architect, the Architect's consultants or any of their agents or employees arising out of 1) The preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or, 2) the giving of or the failure to give directions or instructions by the Architect, the Architect's consultants or any of their agents or employees, provided such giving or failure to give is the primary cause of the injury or damage.
- D. See insurance requirements for additional insured scope.
- E. The obligations of this Article expressly include but are not limited to the obligations of indemnification and defense of Owner, the Architect, Project Inspector, and their directors, officials, officers, agents and employees arising in any manner out of any claims against them brought by other contractors, subcontractors, material men, suppliers, or other third parties alleging any of them owe the claimant either time, compensation, or damages due to any act, omission, or occurrence caused or contributed to in any degree by Contractor or any of its subcontractors.
- F. The Contractor shall further indemnify and hold harmless the Owner, Architect and their agents from and against all claims, damages, losses and expenses including, but not limited to, Attorney's fees arising out of the injury to unauthorized persons trespassing upon the premises.
- G. It is the express intent of the parties hereto that the Owner, Architect and Engineers are exculpated from any liability whatsoever occasioned by the Contractor's failure to carry out the Work in accordance with the Contract Documents.

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ARTICLE 3.19

Add the following paragraph to Article 3:

Right to Audit: The Contractor shall maintain and make available to Owner all books, papers, job cost records, detailed cost estimates, claims, and accounts, including payment, property, payroll, personnel, subcontractors, and financial records related to or which arise out of the Work or under terms of the Contract. The form of record keeping shall be subject to approval by the Owner. These books, papers, records, and accounts shall be made available for examination during normal business hours by Owner and Owner's representative and shall be retained at Contractor's principal place of business, in California, for audit during normal business hours at such place of business for four years after recording of the Notice of Completion of the project. Contractor shall provide an office to enable Owner and Owner's representative to conduct such audit during normal business hours.

ARTICLE 4 - ADMINISTRATION OF THE CONTRACT

ARTICLE 4.2.1

Add the following:

- a. The Architect shall be OWNER's representative during construction and shall periodically observe the progress and quality of the Work on behalf of OWNER. The Architect shall have the authority to act on behalf of OWNER only to the extent expressly provided in the Contract Documents. The Architect shall have authority to stop work whenever necessary, in the Architect's reasonable opinion, to ensure the proper execution of the Work of the Project.
- b. The Architect shall be, in the first instance, the judge of the performance of the Work. The Architect has the authority under the Contract Documents to enforce CONTRACTOR's faithful performance.
- c. The Architect shall have all authority and responsibility established by law, including Title 24 of the California Code of Regulations. The Architect has the authority to enforce compliance with the Contract Documents and CONTRACTOR shall promptly comply with instructions from the Architect or an authorized representative of the Architect.
- d. On all questions related to quantities, acceptability of material, equipment, or workmanship, execution, progress, or sequence of work, the interpretation of plans, specifications, or drawings, and the acceptable performance of CONTRACTOR, the decision of the Architect shall govern and shall be a condition precedent to any payment, unless otherwise ordered by OWNER. CONTRACTOR shall not impair or delay the progress and completion of the Work by virtue of any question or dispute arising out of or related to the foregoing matters, or the instructions of the Architect relating to them.

ARTICLE 4.2.7

Delete the following:

Delete the words "and approve" from the first sentence of subparagraph 4.2.7.

Delete the last sentence from subparagraph 4.2.7 and substitute the following:

The Architect's review of a specific item shall not indicate approval of an assembly of which the item is a component.

ARTICLE 4.2.7.1

Add the following

The term "approved," where used in conjunction with the Architect's action on the CONTRACTOR'S submittals, applications, and request, is limited to the responsibilities and duties of the Architect stated in General and Supplementary Conditions. Approval shall not release CONTRACTOR from responsibility to fulfill Contract Document requirements, unless otherwise provided in the Contract Documents.

ARTICLE 4.2.9

Change as follows:

Change "Substantial Completion" to "Completion"

ARTICLE 4.3; Paragraphs 4.3.3, 4.3.6 and 4.3.9

Change as follows:

Change all citations of 21 days to 10 days.

ARTICLE 4.3.1

Add the following:

1. Any claim must be served by certified U.S. mail to Owner or bondified server.
2. Any claim/dispute by claimant shall be submitted with references to construction documents that relate to claim/dispute. Provide evidence references that substantiate claim/dispute is valid at time of initial claim submission.
3. No claim/dispute shall be considered valid or received unless accompanied with above items.
4. Copies of claims shall be delivered to Architect, Consulting Engineers, Owners Legal Representative (Name available on request), related Contractors and Sub Contractors and Project Inspector. This shall be done concurrently with served copy to Owner.

ARTICLE 4.3.3

Add the following

- A. If Contractor claims compensation for any damage allegedly sustained by reason of any acts or omissions of Owner or its agents, Contractor shall submit to the Architect a written statement of the damage sustained and potential for damage yet to be sustained. Such written statement shall be submitted, either within ten calendar days after the act or omission by Owner or its agents is discovered or reasonably should have been discovered, or within ten calendar days after first sustaining damage, whichever comes first. On or before the 10th day after the act or omission was discovered, or the first damage was sustained, whichever comes first, Contractor shall file with Owner, Architect and others noted herein, a detailed and itemized statement indicating the factual basis in support of its claim and the amount of damage.
- B. **IF CONTRACTOR FAILS TO COMPLY WITH ANY OF THE PROVISIONS OF THIS ARTICLE CONCERNING THE SUBMISSION OF STATEMENTS, ITS CLAIM FOR COMPENSATION SHALL BE FORFEITED AND INVALIDATED AND IT SHALL NOT BE ENTITLED TO CONSIDERATION FOR PAYMENT ON ACCOUNT OF ANY SUCH DAMAGE.**
- C. In no event shall Contractor be permitted to reserve rights to make or pursue claims of any kind, whether for compensation in any form, or for time extensions, without the Owner's express written consent. Any attempt to make such reservation or otherwise avoid the effect of this article shall be void and of no force or effect whatsoever.
- D. Any change order executed by Contractor with such reservation or other language of qualified acceptance shall be read and interpreted as though such language did not exist. No action by Owner or Architect is required to invalidate such language, and no oral communication or other act or omission by Owner or anyone acting on Owner's behalf, except Owner's express written consent, shall be construed as acquiescence in or consent to such reservation or other qualified acceptance language.
- E. Contractor shall diligently proceed with performance of the Work, and Owner shall continue to make payment of undisputed amounts, during any time period while claims are pending.

ARTICLE 4.3.8.1

Amend to read as follows:

If the Contractor wishes to make claim for an increase in the contract time, written notice as provided herein shall be given. The Contractor's claim shall include effect of delay on progress of the Work. In the case of a continuing delay, only one claim is necessary. Refer herein for requirements for a claim to be valid.

ARTICLE 4.3.8.1.1

Add the following:

No payment or compensation of any kind shall be made to the Contractor for damages because of any hindrance or delay from any cause in the progress of work, whether such hindrance or delay be avoidable or unavoidable. Any finding by any administrative officer and/or judge that a delay was caused either wholly or in part by actions of someone other than the Contractor shall only entitle the Contractor to equivalent extensions of time.

ARTICLE 4.3.8.2

Add the following:

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4.3.8.2.1 Refer to requirements herein of initial project schedule submission for criteria of weather conditions (exceeding last 5 years maximum), that were abnormal for period of time that could not have been reasonably anticipated by contractor. Refer to requirements herein of initial project schedule submission of contractor's ways and means criteria for weather conditions for weather delays as well as indicating number of days on initial project schedule submission of anticipated days for rain, snow and wind as well as other weather related project delays.

ARTICLE 4.3.8

Add the following:

Article 4.3.8.3

The earlier time difference from the date of completion of the project as established by the Contractors Schedule and the later time indicated in the Contract Documents shall be considered float time that can be used by either or both Owner and Contractor. While the Contractor may schedule completion of the Project earlier than the date established by the Contract Documents, no additional compensation shall become due the Contractor for the use of float time between the Contractor's projected early completion date and the completion date established by the Contract Documents. The Owner may use this float time for additional work due to Change Orders, use of Allowance funds and Contractors Change Orders that impact the project schedule.

ARTICLE 4.3

Add the following:

Article 4.3.10. STOP NOTICES

1. The Owner shall withhold funds due to or to become due to Contractor upon receipt of a Stop Notice. The Owner will withhold payment of funds until a Stop Notice Release has been received, except as noted herein. A Stop Notice shall be considered released once claimant has filed a Stop Notice Release with the Owner or based on a determination made through a summary proceedings originated with the Contractor. Contractor may provide a Stop Notice specific bond equal to 125% of claim stated in the Stop Notice. This bond shall be in a form approved by the Owner. Upon approval approving the bond form and receipt of, the Owner will release funds being held by the Stop Notice.
 - a. The Stop Notice and Stop Notice Release must be served by first class mail, registered mail, or certified mail on the contractor and/or its subcontractor, either at his residence or anywhere he maintains an office, or by personal service. It must also be filed with the Owner to such person prescribed in the Instructions to Bidders by any of the same methods aforementioned.
 - b. The Architect shall be copied on all Stop Notices and Stop Notices Releases served to Contractor, Subcontractors and filed with Owner.
 - c. Stop Notices served shall not be considered released until a Stop Notice Release is served to aforementioned parties.
2. The Stop Notice must be signed and verified by the claimant or his or her agent, and contain all of the following information:
 - a. The type of labor, services, equipment or materials furnished or agreed to be furnished;
 - b. The name of the person to or for whom the labor, services, equipment or materials were furnished by such claimant;
 - c. The value of the labor, services, equipment or materials already furnished, and the total value of the labor, services, equipment or materials agreed to be furnished;
 - d. The name and address of the claimant;
 - e. A statement of the claimant's demand and the jobsite location.
3. The Stop Notice Release must be signed and verified by the claimant or his or her agent, and contain all of the following information:
 - a. Reference Stop Notice that Stop Notice Release is for specifically. Indicated date of Stop Notice, amount of release and who against. The type of labor, services, equipment or materials furnished or agreed to be furnished by such claimant;

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- b. The name of the person to or for whom the labor, services, equipment or materials were furnished;
- c. The value of the labor, services, equipment or materials already furnished, and the total value of the labor, services, equipment or materials agreed to be furnished;
- d. The name and address of the claimant;
- e. A statement of the claimant's demand and the jobsite location.

ARTICLES 4.5.1 THROUGH 4.5.7

The 4.5.8 Article shall supersede Articles 4.5.1 through 4.5.7 when a conflict between articles.

ARTICLE 4.5.8

Add the following:

This contract is subject to the provisions of Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code, and incorporated herein by reference. Those provisions provide a process utilizing informal conferences, non-binding judicially supervised mediation and judicial arbitration to resolve disputes on construction claims of \$375,000 or less. A claim means a separate demand by the Contractor for (a) time extension; (b) payment of money or damages arising from work done by or on behalf of the Contractor pursuant to the Contract and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to; or, (c) an amount the payment of which is disputed by the Owner. The claim shall be in writing and include the documents necessary to substantiate the claim. The claim must be submitted prior to the date of final payment within the time limits set forth in Section 20104.2. The Owner may respond to the claim within the time limits set forth in Section 20104.2. If the claim remains in dispute, the parties are obligated to meet and confer for the purposes of settlement of the dispute.

If the dispute is not settled following the meet-and-confer process, the Contractor may file a claim pursuant to provisions of the Government Code. The court shall submit the matter to non-binding mediation. If the matter remains in dispute, the case will be submitted to judicial arbitration as set forth in Section 20104.4.

ARTICLE 4.5.9

Add the following:

The Division of the State Architect shall not be subject to arbitration.

ARTICLE 5 - SUBCONTRACTORS

ARTICLE 5.1

Add the following:

- 5.1.3 All subcontractors shall be appropriately licensed to perform the work for which employed in conformity with the laws of the State of California.
- 5.1.4 In accordance with California Business and Professions Code Section 7059, if Contractor is designated as a "specialty contractor" (as defined in Public Contract Code Section 7058), all of the work to be performed outside of the Contractor's license specialty, except "incidental" work as that term is used in Section 7059(a), shall be performed by a licensed subcontractor in compliance with the Subletting and Subcontracting Practices Act, California Public Contract Code Section 4100, et seq.

ARTICLE 5.2

Amend to read as follows:

Contractor shall comply with the subletting and Subcontracting Fair Practices Act (Government Code S4100 et seq.) including but not limited to submitting with his bid a list of those subcontractors who will perform a portion of the work in an amount in excess of one-half of one percent of the total bid. Said list shall include the name and address of each such subcontractor together with the portion of the work which will be done by that subcontractor.

- a) Listing of Subcontractors shall include subcontractors who exceed the above amounts.
- b) Owner's consent to or approval of any subcontractor shall not in any way relieve Contractor

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- of its obligations under the Contract Documents , and no such consent or approval shall be deemed to waive any provision of the Contract Documents.
- c) Failure to list a Subcontractor shall be considered a violation of P.C.C. 4110 and the full 10% penalty will be assessed the prime Contractor due to the using for construction of the Sub or Sub-sub not listed, exceeding amounts above. Per P.C.C. 4110, the prime Contractor shall be entitled to a public hearing and to five (5) days' notice of the time and place thereof.
 - d) If Contractor specifies more than one subcontractor for the same portion of work or fails to specify a subcontractor, and such portion of the work exceeds one-half of one percent of the total bid, Contractor agrees that it is fully qualified to perform and shall perform such work itself. The substitution or addition of subcontractors shall be permitted only as authorized by Public Contract Code Sections 4100, et seq.
 - e) Substitution of subcontractors.
The Contractor, in submitting a request for substitution of subcontractors, acknowledges the following:
 - 1) The Contractor's assumption of that neither the contract time nor the contract price or subject to adjustment solely on account of an approved subcontractor substitution.
 - 2) The Contractor's responsibility for meeting all of its obligations under the Contract Documents is not limited by virtue of the Owner's consent to a subcontractor's substitution.
 - 3) All additional fees or costs associated with re-submittal, review and approval of submittals by the new subcontractor are to be borne by the Contractor.

ARTICLE 5.3

Amend to read as follows:

- .1 Subcontractors shall perform work under a written agreement with the Contractor which incorporates the Contract Documents. The terms shall obligate the subcontractor to assume towards the Contractor the duties assumed by the Contractor towards the Owner under his contract.
 - a. Contractor agrees to bind each and every subcontractor to the terms of the Contract Documents as far as the terms are applicable to the subcontractor's work. Each subcontract shall contain a reference to Contract Documents, and the terms of the Contract Documents shall be incorporated into and made a part of each subcontract. If Contractor subcontracts any part of its work under the Construction Agreement, Contractor shall be responsible to Owner for any acts and omissions of its subcontractors and of persons either directly or indirectly employed by its subcontractors. Nothing contained in the Contract Documents shall create any contractual relationship between any subcontractor and Owner.
 - b. Contractor shall require subcontractors to include the provisions of this article in their sub-subcontracts, if any.
- .2 A copy of each subcontract, if in writing, or if not in writing, then a written statement signed by the Contractor giving the name of the subcontractor and the terms and conditions of such subcontract, shall be filed with OWNER before the subcontractor begins work. Each subcontract will provide for termination in accordance with these General and Supplementary Conditions. Each subcontract shall provide for its annulment by CONTRACTOR at the order of the Architect if in the Architect's opinion the subcontractor fails to comply with the requirements of the Contract Documents insofar as the same may be applicable to this work.
 - a. The Owner shall be afforded the contractual right to review all subcontracts for the project. The Contractor shall provide one (1) copy, at no charge, when requested by the Owner.
- .3 Each subcontract applicable to this Project is hereby assigned to Owner, such assignment to become effective only upon termination of the Construction agreement for cause pursuant to the Contract Documents, and only as to such subcontracts as Owner may, in its sole discretion, select and provide written notice of such assignment, and such assignments are subject to the rights and

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- obligations of the surety on any applicable bonds, as detailed in the Contract Documents.
- .4 Each subcontract will provide for termination in accordance with these General Conditions. Each subcontract shall provide for its annulment by Contractor at the order of the Architect if in the Architect's opinion the subcontractor fails to comply with the requirements of the Contract Documents insofar as the same may be applicable to this work.
 - .5 CONTRACTOR shall require subcontractors to include the provisions of this article in their sub-subcontracts, if any.

ARTICLE 5.4

Delete in its entirety.

ARTICLE 6 - CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

ARTICLE 6.2.5

Delete in its entirety and substitute the following:

Should the Contractor or Subcontractors wrongfully cause damage to the work or property of any separate Contractor or Subcontractor, the Contractor shall, upon due notice, promptly attempt to settle with such other Contractor by agreement, or otherwise to resolve the dispute. If such separate Contractor or Subcontractor sues the Owner and/or Architect on account of any damage alleged to have been caused by the Contractor, the Owner shall notify the Contractor, who shall defend such proceedings at the Contractor's expense, and if any judgement or award against the Owner and/or Architect arises therefrom, the Contractor shall pay or satisfy it and shall reimburse the Owner and/or Architect for all attorney's fees and court costs which the Owner and/or Architect has incurred. The Owner and/or Architect may deduct such monies due direct from the Contractor's due monthly payment. The Architect, Architect's staff and consulting engineers shall be reimbursed at current rate sheet rates on file for all time required in the resolution of the above by the Contractor.

ARTICLE 7 - CHANGES IN THE WORK

ARTICLE 7.1.3

Delete subparagraph 7.1.3 and substitute the following:

Changes in the work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order or Construction Change Directive, (CCD).

ARTICLE 7.2.1

Delete subparagraph 7.2.1 and substitute the following:

A Change Order is a written instrument prepared by the Architect, signed by the Owner, Contractor and Architect and approved by the Division of the State Architect in accordance with Section 4-338, Group 1, Chapter 4, Part 1, Title 24, California Code of Regulations, stating their agreement upon all of the following:

- .1 A change in the scope of work;
- .2 the amount of the adjustment in the Contract Sum, if any; and
- .3 the extent of the adjustment in the Contract Time, if any.

ARTICLE 7.2.3

Add the following:

If additions, deletions or revisions to the work are necessary, and the execution of a written Change Order would delay the project, the Architect may, without invalidating the Contract, issue an Architect's Construction Cost Directive (CCD) directing such work prior to issuance of a Change Order. A preliminary approval from DSA may be obtained, if deemed necessary by the Architect, and a written Change Order will follow. The Contractor shall comply with such instructions without delay.

ARTICLE 7.3

Delete this article in its entirety and substitute the following:

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- 7.3.1 The Owner, at any time during the progress of the work, shall have the right to order alterations in, additions to, or deviations or omissions from the work contemplated by this Contract, and the same shall in no way make void the Contract. If any such changes involve an increase or decrease in the Contract amount, the Change Order shall state the amount to be added to or deducted from the Contract amount, and shall also state the additional time, if any, needed for the performance of the work and shall comply with 7.2.1.
- 7.3.2 Upon receipt of an Architect's CCD, the Contractor shall promptly proceed with the change in the work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the directive for determining the proposed adjustment in the Contract Sum or Contract Time.
- 7.3.3 An Architect's CCD signed by the Contractor indicates the agreement of the Contractor therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as an item on the next Change Order.
 - 1. The Architect may issue a CCD based upon a proposal from the Contractor including any adjustment for time and cost. The proposal from the Contractor shall indicate the Contractor's agreement with the CCD when they are the same as the Contractor's proposal.
- 7.3.4 If the Contractor does not respond within ten (10) calendar days per Articles 4.3.3 and 4.3.5, or disagrees with the method of adjustment in the Contract Sum and contract time, the method and the adjustment shall be determined by the Architect on the basis of reasonable expenditures and savings of those performing the work attributed to the change, including, in case of an increase in the Contract Sum, a reasonable allowance for overhead and profit. In such case, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data.
- 7.3.5 If the Owner and Contractor do not agree with the adjustment in Contract Time or the method for determining it, the adjustment or the method shall be referred to the Architect for determination.
- 7.3.6 The cost or credit to the Owner resulting from a Change in the Work shall be determined in one or more of the following ways:
 - 1. By mutual acceptance of a lump sum amount, properly itemized and substantiated.
 - 2. By unit prices stated in the Contract Documents or subsequently agreed upon.
 - 3. By Alternate bids in Contractor's original proposal authorized prior to expiration date indicated herein.
 - 4. By actual cost and prescribed herein percentage overhead and profit mark up.
 - 5. If none of the preceding methods is agreed upon, then the total cost of such work shall be based on the Contractor's expenditure or savings and a percentage for overhead and profit.
 - 6. Limit labor charges of no greater than the prevailing rate for the classification of labor necessary to complete the change limited to the actual field cost.
 - 7. The labor cost incurred by the Contractor to prepare the estimate of the change, supervision of the performance of the changed work and the like shall be excluded from the labor costs of the change and included in the overhead and profit mark up. (See 01035 for allowed not-to-exceed amounts.)
 - 8. It is expressly understood that the value of such extra work or changes as determined by the any of the methods herein expressly includes any and all of the contractors' costs and expense, both direct and indirect, resulting from delays or additional time required on the project, or resulting from accelerated work to avoid delays to the project

#	Description	Extra	Credit
a	Materials (attached itemized quantity and unit costs including any sales tax.	_____	_____
b	Labor (attached itemized hours and rates)	_____	_____
c	\$ Subtotal	_____	_____
d	Subcontractor's overhead and profit on the cost of work performed by sub-contractors (one lower tier) shall be a total sum not exceeding five percent (5%) of such work.		

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e		\$ Subtotal		
f	Subcontractor's overhead and profit on the cost of work performed by subcontractor shall be a total sum not exceeding ten percent (10%) of the cost of labor, materials, rentals, etc.			
g		\$ Subtotal		
h	Contractor's overhead and profit on the cost of work excluding work by Contractor shall be a total sum not exceeding ten percent (10%) of cost of such work.			
	(Refer to project manual "Allowances" where overhead and profit are included in base bid and alternates where occur)			
i	Contractor's overhead and profit on the cost of work performed by contractor without subcontractor shall be a total sum not exceeding ten percent (10%) of the cost of labor, materials, rentals, etc. .			
	(Refer to project manual "Allowances" where overhead and profit are included in base bid and alternates where occur)			
j	Bond Premium (Submit invoice from Bonding provider) . (Refer to project manual "Allowances" where bond premium are included in base bid and alternates where occur)			
k	Insurance (Submit invoice from Insurance provider). .			
	(Refer to project manual "Allowances" where insurance are included in base bid and alternates where occur)			
l		\$ Total		
m	Number of additional days time extension requested due to this time and material change. (Submit as built critical path schedule validating time extension for review and approval)			
	Total Days			
	Subcontractor's labor, material, overhead and profit shall be submitted with documentation in original form as submitted to General Contractor.			
	(Refer to project manual "Allowances" where overhead and profit are included in base bid and alternates where occur).			

- 7.3.7 Should methods 1, 4 or 5 as stated above be employed, the Contractor shall provide a detailed breakdown including a line-by-line itemization for labor, materials, equipment, taxes, Subcontractor overhead and profit and General Contractor overhead and profit. Subcontractor overhead and profit shall be limited to (refer to 012600 - Modification Procedures). General Contractor overhead and profit shall be limited to (refer to 012600 - Modification Procedures). This amount shall include supervision, field office expense and home office expenses. Credits, as well as extras, shall be itemized and include overhead costs.
- 7.3.8 All Contractor costs for field supervision, field overhead and home office overhead shall be considered a part of lines "h" and "i" above and shall not in any case exceed percent indicated in 01035. No additional claims beyond the agreed Change Order amount shall be considered valid.

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- 7.3.9 No claims for overhead, burden, or any additional cost shall be considered for time extensions due to weather in any case up to 10% increase in construction allowed days due to weather as allowed herein to be included in contractor proposal.
- 7.3.10 Allowances:
1. The Contractor shall include in his base bid all overhead, profit, supervision, bonds, insurance and all other indirect costs for allowance items. None of these items will be added to lump sum and miscellaneous allowance as it is used by the Owner and directed by the architect. In the event the allowance is required in an Alternate, the contractor shall include in his alternate bid all overhead, profit, supervision, bonds, insurance and all other indirect costs for allowance items specific to that alternate.
 2. Time and Material basis as changes in the work. For changes that increase the contract price and work is authorized based upon the cost of labor, material, equipment and subcontract prices, plus a percentage for overhead and profit the following requirements shall apply. In the event the costs for changes in the work are not agreed to by the Architect and Contractor the work may be authorized to move forward on a time and material basis. If a Time and Material basis is used and scope of work is being paid thru an allowance overhead and profit are to be included in base bid and alternates where occur.
- 7.3.11 Claims for delays while awaiting instruction or clarification shall not be considered.
- 7.3.12 Costs which shall not be paid in Change Orders under the Contract Documents include but are not limited to interest costs of any type, claim preparation or filing costs, costs in preparing or reviewing proposed change orders or proposals, RFP's, SI's, CCD's etc., lost revenue, lost profit, lost income or earnings, rescheduling costs, costs of idled equipment, lost earnings or interest on unpaid retainage, claims consulting costs, costs of corporate officers or staff visiting the site, fluctuation of foreign currency conversion or exchange rate costs, or loss of other business.
- 7.3.13 If Contractor should claim that any instruction, request, drawing, specification, action, condition, omission, default, or other situation constitutes a change, extra work, or otherwise obligates Owner to pay additional compensation to Contractor or to grant an extension of time, or constitutes a waiver of any provision in the Contract Documents, Contractor shall notify Owner in writing of such claim within five calendar days from the date Contractor has actual or constructive notice of the factual basis supporting the claim. The notice shall state the factual basis for the claim and cite in detail the Contract Documents (including plans and specifications) upon which the claim is based. Contractor's failure to notify Owner and Architect within the five-day period shall be deemed a waiver and relinquishment of such a claim. If the notice is given within the specified time, the procedure for its consideration shall be as stated in these General Conditions. In the event of failure to agree, the matter shall be treated as a claim following the claims procedures in the Contract Documents.
- 7.3.14 Change Orders shall be processed and forwarded to the Contractor promptly for execution. The Contractor shall return the Change Order within ten (10) days fully executed, or shall indicate within seven (7) days any disputes. The Contractor's failure to respond to the Change Order within the prescribed time period shall be deemed a waiver of the Change Order and the Contractor shall relinquish the claim against the Owner for additional monies and/or time.
- 7.3.15 In furtherance of the intent to settle all change orders fully and finally at the issuance date of the change order, the following shall be expressly incorporated in writing and deemed incorporated in all change orders by reference:

The compensation (time and costs) set forth in this change order comprises the total compensation due Contractor for the change(s) defined in the change order, including impact on unchanged work. Acceptance of this change order constitutes a full and complete accord and satisfaction of any and all claims by the Contractor arising out of the or related to the change order, including but not limited to claims for contract balance and retention, time, extended field or home office, or other overhead, all acceleration, impact, disruption and delay damages, any and all other direct and/or indirect costs, claims by subcontractors and suppliers, and any and all other claims against the owner for time or money, from any source and under any legal theory whatsoever, as to the subject of this change order. No signature under protest or accompanied by reservation or rights or protest language, or any other attempts to avoid such waiver shall be on any force or effect whatsoever. No additions or deletions to this change order shall be allowed, except with written permission of the Owner.

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ARTICLE 7.4.1.1

Add the following:

Supplemental Instructions: The Architect shall issue SI's, (Supplemental Instructions), as the document to provide a written order to the Contractor for items as indicated above. Unless otherwise noted above, this SI does not warrant a cost or time impact to the Contract cost or time. If Contractor does not agree, Contractor has 10 calendar days from date of receipt of SI to file a claim for adjustment in writing to the Architect.

1. The Architect shall use SI's for written order for usage of allowance funds for project if any allowances are indicated.

ARTICLE 7.4.2

Add the following:

The Contractor shall reimburse Owner for Architect's/Staff plus expenses and consulting engineer(s) time at prevailing office rates for time required to respond to request for information from Contractor of items that are indicated substantially in construction documents, and/or any related construction documents associated with project. Architect shall invoice Owner for costs incurred. Contractor shall reimburse Owner for additional costs incurred by Architect and Consulting Engineers via a negative CCD

1. In the event the Architect determines that Contractor's requests for clarification or interpretation are not justified, or do not reflect adequate, competent supervision or knowledge by Contractor, material men, or by the subcontractors, Contractor shall be required to pay the Architect's reasonable and customary fees in processing and responding to such requests.
2. Architect shall submit a CCD to Owner and Contractor indicating additional costs incurred by Architect and Consulting Engineers due to actions by the Contractor. Upon Owner approval of CCD, costs will be added to project as CCD to be included in a Change Order.
3. Contractor has 10 calendar days from receipt of CCD specific to these items to dispute additional costs incurred by Architect and Consulting Engineers. Disputed items will not be considered after 10 days beyond date of receipt of CCD by Contractor for charges by the Architect and Consulting Engineers.

ARTICLE 8 - TIME

ARTICLE 8.1.1

Delete paragraph in its entirety and add the following:

The contract time is the period of time, including authorized adjustments, allotted in the Contract Documents from the date of commencement to the Final Completion of the Contract. The Owner shall endeavor to allow the Contractor to commence on site on the date stated in the Notice to Proceed. However, the Owner and/or Architect may delay this start date by up to sixty (60) calendar days at their discretion and the Contractor and his subcontractors must allow in their bid for all financial and scheduling implications of this. This clause shall not affect the Contract "duration". This clause shall not be affected by limit on bid withdrawal dates.

ARTICLE 8.1.3

Change the following:

Remove the word "Substantial"

ARTICLE 8.2.3

Change to read as follows:

The Contractor shall proceed expeditiously with adequate forces and shall achieve Project Completion within the Contract Time. The Contractor must be use constantly his best endeavors to prevent delays in the progress of the Work and maintain the original days of construction duration unless extended by change order.

ARTICLE 8.3.1

Delete in its entirety and substitute the following:

If the Contractor is delayed at any time in progress of the work by an act or neglect of the Owner, Owner's

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representative, Project Inspector, Consulting Engineers or Architect, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, or by delay authorized by the Owner pending arbitration, or by other causes which the Architect determines may justify delay, then the scheduled completion date may be extended for a period equal to the length of the delay to the critical path by a No-Cost Change Order.

ARTICLE 8.3.2

Delete in its entirety and substitute the following:

Any claim for extension of time shall be made in writing to the Architect not more than ten (10) calendar days after the commencement of the delay; otherwise, any claim for such an extension of time shall be deemed waived. In the case of a continuing delay, only one claim is necessary, however, that claim must be made within ten (10) calendar days of the commencement of that delay. Claims for delays caused by unforeseeable adverse weather conditions must be filed for each delay. In the event of a continuing continuous weather delay, only one claim is necessary, but must be filed starting with first day of delay and revised to indicate last day of delay no later than (10) calendar days after last day of delay.

Any request for an extension of time must be specific as to the cause of the delay and must specify how many days or portions of days of delay have been caused, or will be caused, by the act, omission or event giving rise to the request for the time extension. If adverse weather conditions are the basis for the Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated and indicated herein, and that weather conditions had an adverse effect on the initial submitted project schedule of construction beyond the number of days that exceed, during the project duration, the average annual number of rain/sleet /snow/wind days as outlined below.

- 1) The following criteria will be used to evaluate contractors claim for additional time due to weather conditions. **Whichever is greater shall be used as a basis of evaluation:**
 - a) Adverse weather conditions shall be considered only as those conditions that exceed the average annual number of rain/snow/wind days, during the project duration, as established by the Annual Local Climatological Summary, and NOAA National Technical Memorandum N R-65 (Revised) as published by the United States Government, National Weather Service, National Climate Center, Ashville, North Carolina.
 - b) Adverse weather conditions shall be considered only as those conditions that exceed the actual number of rain/snow/wind days actually recorded, during the project duration, using highest value within last 5 years at the project site.
- 2) Contractor shall use anticipated rain, sleet, snow, wind and other weather delays indicated in initial project schedule submission prior to submitting a claim for additional time due to weather conditions. Contractor shall document all instances of use of weather delays on project schedule used to date at each subsequent project schedule submission.
- 3) Refer herein for requirements of contractor to provide criteria of other weather delay type not indicated herein based upon Contractor's proposed ways and means in initial project schedule submission.

ARTICLE 8.3.2

Add the following:

8.3.2.1 If the Contractor files for an extension of time due to excessive moisture content of the soil, the Claim shall be made within ten (10) calendar days of the discovery. The Owner's Soils Engineer shall determine the level of moisture content allowable for the work to proceed based on the type of work underway and the type of soils. An extension of time may be granted by the Owner only for portions or areas of the work adversely affected by the excessive moisture. The balance of the work shall proceed. The Contractor shall also notify the Owner when conditions appear to be adequately dry so that the moisture content can be tested to determine the length of the time extension.

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- .1 The standard of review shall be if the soil moisture is different than would be expected at the project site and the general locality of the project based on the last 5 year's most severe weather conditions per NOAA and its impact on soil moisture. If the site and/or general locality, most severe will govern, has soil moisture consistent with the actual site conditions, no time extension due or additional costs due to excessive moisture content will be granted and it will be considered a Contractor's ways and means responsibility and contractor to provide project temporary measures to maintain project schedule not limited to dewatering and other temporary measures.

ARTICLE 8.3.3

Delete paragraph in its entirety and substitute the following:

No damages or compensation of any kind shall be paid to a Contractor because of delays in the progress of work, whether such delays be avoidable or unavoidable. The granting of an extension of time because of unavoidable delays shall in no way operate as a waiver on the part of the Owner of the right to collect liquidated damages for other delays or of the right to collect other damages or of any other rights to which the Owner is entitled.

ARTICLE 8.3.4

Add the following paragraph:

Delays shall be reviewed against the critical path schedule and shall be considered only if the affected item is within the critical path, at time of delay. Contractors shall make all efforts to identify such items which may cause delay early in the project to avoid such delays. The lack of a critical path schedule, as described elsewhere, shall void claims for delay unless the Architect determines the delay is justified. Critical path delays will only be considered if all related activities, including submittal approvals, are current and in order. In the event of multiple claims for delays only the cumulative impact will be evaluated based upon concurrent activities and only critical path items take precedence over concurrent activities.

ARTICLE 8.3.5

Add the following paragraph:

Should the Owner, for any cause, authorize a suspension of work, the time of such suspension will be added to the time allowed for completion. Suspension of work by order of the Owner shall not be deemed a waiver of the claim of the Owner for damages for non-completion of the Work as above required.

ARTICLE 9 - PAYMENTS AND COMPLETION

ARTICLE 9.2.1.1

Add the following:

The Schedule of Values shall list the following items as a minimum list:

- .1 Overhead and other reoccurring monthly costs related to overhead burden, not limited to the following:
 - a. On-site supervision
 - b. Office supervision (Home office)
 - c. On-site job clerk/support staff
 - d. Office support staff
 - e. Project meetings
 - f. Temporary on-site office
 - g. On-site telephone local, internet and long distance
 - h. On-site utility costs
 - i. Temporary fencing, (Project fencing)
 - j. Temporary toilets, wash areas and related items
- .2 Contractor's profit
- .3 Contractor's direct project costs, not limited to the following:
 - a. Mobilization

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- b. Demobilization
- c. Temporary utilities, (direct usage i.e. water, natural gas and etc)
- d. Project temporary barricades, specific use
- e. Equipment rental
- f. Contractor-owned equipment
- g. Bonds
- h. Insurance

.4 Technical section items, Division 2 through Division 33.

ARTICLE 9.3.1

Delete in its entirety and substitute the following:

9.3.1 At the end of each calendar month, Contractor shall submit to the Architect an itemized Application for Payment for operations completed in accordance with the Schedule of Values. Such application shall be notarized and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require; such as, copies of requisitions from subcontractors and materials suppliers, and reflecting retainage. The form of application for payment shall be a notarized AIA Document G702, Application and Certificate for Payment, supported by AIA G703, Continuation Sheet.

- .1 Until final payment, the Owner shall pay 95% of the amount due the Contractor on account of progress payments unless noted otherwise in instructions to bidders and holdouts indicated in the project manual.
- .2 Payment by Owner of any payments of any payment request is not an indication that the owner has inspected, approved or accepted any part of the work, nor shall payment constitute a waiver in any respect of owner rights.
- .3 Contractor shall not be entitled to have any payment request processed or any payment for any work performed so long as contractor has failed to comply with any lawful or proper direction the whole or any portion of the work given by the owner or the architect.
- .4 Contractor shall not be entitled to have any payment for item(s) without architect approved submittals unless agreed in advance by architect in writing.
- .5 Contractor shall invoice for Overhead, Profit and other reoccurring monthly costs related to overhead burden items indicated herein above. Contractor shall divide the total costs by number of months indicated as time of completion in contract by total cost for a monthly amount to invoice. This amount to be invoiced monthly with each pay application. In the event the time of construction will exceed time of completion the architect reserves the right to reduce the monthly cost by projected time of completion.
 - a. The Contractor may upon prior advanced approval by the architect invoice the Overhead, Profit and other reoccurring monthly costs as a percentage of total project completion if approved by architect prior to start of construction. Under no circumstances may total amount of cumulative costs billed of items exceed Contractors Schedule of Values amount without an approved change order. Once either method is approved no change can be allowed for payment amount determination for duration of project except as noted otherwise herein.
 - b. Profit shall be considered as a fixed item from Contractors Schedule of Values and paid on a monthly basis as indicated above.
- .6 Contractor may substitute securities, listed in Government Code section 16430, for any amounts withheld by the Owner to insure performance under this Contract pursuant to Public Contract Code Section 22300.
 - a. The Contractor shall make the election to utilize the Section 22300 Escrow Procedure on or before 30 days after the Notice to Proceed is given to the Contractor. Request after that date will not be recognized or considered.
 - b. The securities or other forms of deposit must be reviewed and approved by the Owner for conformity with the standards prescribed in subdivision (c) of Section

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22300 and acceptance by Owner's legal council.

- .7 Contractor shall provide Conditional Lien Releases by Contractor, subcontractors, sub-tier and suppliers for all funds being submitted with each Application for Payment. Prior to next Application for Payment, Contractor shall provide Unconditional Lien Releases by Contractor, subcontractors and suppliers for all funds paid by previous Application for Payment. All contractors and subcontractors must furnish proof that electronic certified payroll records (eCPR) are directly submitted to the Labor Commissioner using the Department of Industrial Relations (DIR) electronic certified payroll reporting system, with each Application for Payment.
 - a. Owner and or Architect have the discretion to require from Contractor any of the following information with the application for payment: (1) certified payroll covering the period of the prior application for payment, (2) receipts or bills of sale for any items.
 - b. In addition, upon submittal of the first payment request, a complete per diem wage rate breakdown for all trades must be submitted in order for the payment request to be processed.
 - c. Contractor not providing Unconditional Lien Release for each subcontractor, sub-tier contractor, supplier and vendor from the previous approved application of payment is grounds for rejection of Application for Payment.
 - d. Conditional and unconditional releases shall be per California Civil Code Sections 8132 and 8134 for progress payment and Sections 8136 and 8138 for final payment.
- .8 Attach the Application for Payment Request-Certification form with the pay request. Form is in Section 006000 "Forms".
- .9 Applications for Payment shall be prepared for only those materials and equipment incorporated into the work in their final locations and shall not include a request for payment for materials and equipment stored on site or off site, unless previously agreed to in Article 9.3.2. below.
- .10 For any payment request the Owner determines not to be a proper payment request suitable for payment, the Owner shall return the request to the Contractor as soon as practicable, but not later than seven (7) days, after the Owner's receipt from Architect. A request returned pursuant to this paragraph shall be accompanied by a document setting forth, in writing, the reasons why the payment request is not proper.
- .11 Contractor shall review Pay Request with Project Inspector (7) days prior to the 25th day of the month. The Owner and Owner's representative shall be invited to review session. Upon mutual agreement, Contractor shall forward Application for Payment Request along with certification and related documents to Architect, completed, see Section 006000 "Forms". Architect shall submit, when approved, application for Payment Request to Owner or reject within seven (7) days of receipt by Architect. Architect shall copy Contractor on Pay Request transmittal to Owner.

ARTICLE 9.3.1.1

Delete this paragraph.

ARTICLE 9.3.2

Delete this paragraph and substitute the following:

If approved in advance by the Owner, payment may be made for materials and equipment delivered and suitably stored at the site for subsequent incorporation in the work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include applicable insurance, consent of surety, storage and transportation to the site for such materials and equipment stored off site.

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- A. The item(s) to be stored off-site must be fabricated products or products specifically for use in the project and cannot be raw materials or other stock that may be used for other purposes without express written approval of the Architect in advance of request.
- B. The Contractor shall furnish the Architect a clear, complete description of the actual fabricated materials for which off-site storage is requested, a bill of sale listing the quantity and the cost of the materials, equipment or other items, F.O.B point of origin and evidence of payment for these materials.
- C. The Project Inspector or other designee shall inspect the materials, equipment or other items at the site, prior to recommending payment for these items. The Contractor shall pay the cost of the Project Inspectors time and any other expenses incurred in performing the inspections. The inspection report must clearly identify what was inspected, where and in what condition it was at the time of inspection. Project Inspector shall photograph all items and confirm each and every item is identified and tagged for use for this project.
- D. The Contractor shall provide evidence that the off-site storage facility is bonded as a warehousing facility.
- E. The Contractor shall obtain and pay for a separate, project specific, broad based comprehensive coverage insurance policy, which provides coverage at replacement value for all loss from any cause, including loss during transport from the off-site storage to the project site as well as all transportation charges.
- F. The Owner shall be listed as “Co-Owner” of the policy. The policy shall not have a deductible since, as the co-owner, Owner must not be liable for payment of any deductible for material for which the Owner will make payment to the Contractor.
- G. The Owner must be provided with the “Original” Policy. Insurance certificates are not acceptable.
- H. Contractor shall obtain consent of surety for approval to store items off-site and provide proof of consent of surety to store items listed off-site.

No application for payment for off-site stored items shall be considered until all of the above has been received, reviewed and approved by the Owner and Architect.

ARTICLE 9.3.4

Add the following:

The project may be funded with multiple funding sources. The District may require a supplemental invoice(s) to accompany progress pay requests to document portions of progress work for reimbursement to District from said funding sources. Such supplemental invoices could possibly document that work is encumbered by District but not yet completed. Contractor shall use best endeavors to cooperate with owner’s requirements and provide up to five (5) additional copies of complete invoices when so requested.

ARTICLE 9.4.1

Amend as follows:

The word "seven" in subparagraph 9.4.1 of the General Conditions is hereby changed to "ten".

Add the following to paragraph 9.4.1:

If during the course of construction the Architect determines that the application for payment does not reflect the work completed to date, he may re-adjust the billed value to reflect actual construction progress.

- A. The Architect may access interim liquidated damages at any time in anticipation of project not being completed on schedule if construction work is behind schedule. Assessment shall not exceed days behind schedule at time of assessment. The amount held for interim liquidated damages will be evaluated periodically and adjusted to actual liquidated damages no later than the end of construction.

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- B. If the Contractor can recover construction work back to approved construction schedule based on allowed project duration schedule, Architect has option to release assessment or wait until project completion and release funds if project was completed in contract time with approved adjustments in contract time or maintain assessment retention.
- C. In the event Contractor has no current schedule, Architect shall determine if project is on, ahead, or behind schedule based on allowed project duration herein. Architect may consult with Contractor, Owner and others to make a determination of schedule status in the absence of a current schedule.

ARTICLE 9.4.2

Make the following change:

Remove the word “Substantial”.

ARTICLE 9.4.3

Add the following:

It is recognized that the Certificate of Payment to be issued by the Architect pursuant to paragraph 9.4 of the General Conditions may be based on estimates, and it is agreed that no inaccuracy or error in the estimate will operate to release the Contractor, or any Surety, for liability for damages arising from such work, or stop the Owner from enforcing each and every provision of the Contract, and the Owner shall have the rights, subsequently, to correct any errors made in any estimates. The Contractor shall not be entitled to include any work done or materials furnished for purposes of payment, or be entitled to any payment made on account of any work done or materials furnished so long as any lawful or proper directions for correction in defects of the work, or any portion thereof, given by the Owner or the Architect, shall remain non-complied with.

ARTICLE 9.5

Add the following:

- 9.5.3 A. In addition to any amount(s) which Owner may retain under the article entitled herein, Owner may withhold sufficient amount(s) of any payment(s) otherwise due to Contractor, as in its judgment may be necessary to cover the following:
1. Payments which may be past due and payable for claims against Contractor or any Subcontractors at any level for labor or materials furnished in the performance of work under the Contract Documents.
 2. Defective work not remedied.
 3. Failure of Contractor to make proper payments to its subcontractor(s) or material men for materials and/or labor.
 4. Completion of work if there exists a reasonable doubt that the work cannot be completed for the balance then unpaid.
 5. Damage to another contractor.
 6. All costs and expenses associated with Owner having to acquire alternate educational facilities as temporary measures if Contractor fails to complete the Project within the period of time required by the Contract Documents. The Owner may secure temporary measures, with all costs and expenses associated paid by contractor, if based upon the current construction schedule; completion will be delayed from project duration at fault of Contractor.
 7. Project schedule not up-to-date with the current application for payment.
 8. Unpaid regular time and overtime charges due consultants, Project Inspectors, the Architect, and Owner or others as a result of extra services that were provided at Contractor's request or as a result of actions of Contractor or those employed by Contractor, including subcontractors, sub-tier contractors, material suppliers, or others will be withheld from current payment requests.
 9. Contractor agrees that Owner may withhold 150 percent of the estimated cost of any additional testing or retesting required as a result of the fault or negligence of Contractor, or Subcontractors, sub-tier contractors, vendors, or suppliers, until such time as Owner receives confirmation that payment for such additional testing or

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10. retesting has been made by Contractor.
 11. Failure to maintain a current record set of drawings. The record drawings shall be updated to the date current with each application for payment.
 12. Failure to submit daily reports by Contractor's project superintendent each month or as when requested by Architect and/or Owner.
 13. Failure to submit items required to accompany payment requests at initial and final completion.
 14. Failure to submit and keep current any construction schedule required by the Contract Documents.
 15. Failure to compensate the Architect for substitution review within the required time period.
 16. Failure to compensate Owner for overtime charges for Owner representatives and employees incurred as a result of services provided during the current payment period.
 17. Failure to compensate Owner and/or the Architect for the cost of review time to evaluate Contractor's proposed solutions to effect repair of work not in accordance with Contract Documents.
 18. Failure to submit per diem wage rates for all trades pursuant to appropriate provisions of the General and Supplementary Conditions and Divisions 0 and 1 of Project Manual.
 19. Penalties for violation of labor laws.
 20. Cost of site clean-up.
 21. Required payments to indemnify, hold harmless, or defend Owner.
 22. Compensation for unpaid extra services for the Architect caused by Contractor.
 23. Compensation for unpaid extra services for the Testing Agency/Laboratory(s) and Project Inspector(s), including but not limited to reinspection required due to Contractor's failed tests, installation of unapproved or defective materials, or CONTRACTOR's requests for inspection and failure to attend the requested inspection.
 24. Any liquidated damages, forfeiture of fees, or other damages assessed against Contractor by reason of failure to complete the Project on time.
 25. All cost related to work in place without submittals approved by the Architect.
- B. If Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents, or fails to perform any provision of the Contract Documents, after 10 days' written notice to Contractor, Owner may make good such deficiencies without prejudice to any other remedy it may have.
1. Owner shall reduce the total contract price by the cost of making good such deficiencies.
 2. If Owner deems it expedient to correct work not performed in compliance with the Contract Documents, an equitable deduction from the contract price shall be made.

ARTICLE 9.6.1

Delete subparagraph 9.6.1 and substitute the following:

Provided a completed Application for Payment with required attachments is received by the Architect not later than the last day of a month and provided the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner provided in the Contract Documents.

ARTICLE 9.6.2

Add the following:

9.6.2.1 CONTRACTOR shall pay:

- a) All transportation and utility services not later than the 20th day of the calendar month following the month in which the services are rendered;
- b) Ninety five percent, unless noted otherwise in instructions to bidders, of the cost of all materials,

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tools, and other expendable equipment, not later than the 20th day of the calendar month following the month in which the materials, tools, and equipment are delivered to the project site, and the balance of the cost not later than the 30th day following completion of that part of the work in which the materials, tools, and equipment are incorporated or used; and

- c) To each of its subcontractors the respective amounts allowed CONTRACTOR on account of work performed by each subcontractor not later than the seventh day following each payment to CONTRACTOR.

ARTICLE 9.7.1

Delete in its entirety and substitute the following:

The Architect will issue a Certificate for Payment after receipt of a proper Application for Payment request from contractor as defined below. Architect, within seven (7) calendar days after receipt of the Contractor's proper Application for Payment will send proper Application for Payment along with certificate for Payment to Owner for approval/payment or send notice to contractor if pay request was not a proper pay request and list reasons Application for Payment was not approved by Architect. Architect shall send/post Contractor's approved Application for Payment with certificate for Payment to Owner via US Mail or equivalent. The Owner will pay the Contractor within 30 calendar days after receipt of Contractor's proper Application for Payment approved by Architect for Payment. The Owner shall send/post payment to Contractor via US Mail or equivalent within time period. The number of days available to Owner to make a timely payment of proper Application for Payment without incurring interest shall be reduced by the number of days by which the Architect exceeds seven (7) calendar days not counting for days until a proper pay request is received by Architect from Contractor.

1. The seven (7) calendar days for Architect's review of Application starts after all information is complete and proper as defined herein. In the event information is received in segments, time starts counting after all information is received and no sooner. Definition of "proper" pay request is as follows:
 - a. Dollar values consistent with work completed through date submitted.
 - b. Math correct, including incorrect rounding of retention.
 - c. Approvals and signatures of required parties, including notarized documents.
 - d. Conditional lien releases for current application for payment and unconditional lien releases for previous application for payment included.
 - e. Special hold-out items identified.
 - f. Prevailing wage documentation has been filled electronically with the Labor Commissioner and is current as well as on file at contractor's office and current with each pay request application.
 - 1) Provide proof of submittal of current Prevailing wage documentation on line electronically with the Labor Commissioner when requested.
 - 2) Provide affidavit that records have been filed electronically and are on file and current with each pay request.
 - g. Record drawing documentation approved for period by project inspector or Architect.
 - h. Bonds and insurance in force.
 - i. Reductions for non-conforming work indicated.
 - j. As-built schedule with adjustments showing schedule to complete work and updated completion date.
 - k. 5 copies of each complete pay request application, certifications and attachments.
 - l. Current projected construction schedule indicating as built schedule of work done to date.
 - m. Copies of Bonded Weighmaster Certificates shall be submitted to the Architect along with pay requests for work done. Payment will not be made on non-structural concrete items poured requiring Bonded Weighmaster Certificates without receipt of Certificates of items poured requesting payment.
 - n. Completed Application for Payment Request-Certifications completely filled out by Contractor and approval by Project Inspector. Architect and Owner will review and if approved will approve for payment processing or send back to contractor with reasons not

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approved.

2. Final Pay Request:

- a. Include all items indicated in #1 above plus the following;
- b. 100% completion of project closeout items.
- c. Notice of completion filed by Owner and 35-calendar day waiting period expired.
- d. Resolution of Stop Notices per Public Contract Code.
- e. Resolution of all claims.
- f. Consent of Surety Company to final payment, AIA Document G707, executed by Surety Company.
- g. 5 copies of each complete pay request application and attachments.
- h. Record schedule.

ARTICLE 9.8.

Change title to read as follows:

9.8 COMPLETION

ARTICLE 9.8.1

Delete in its entirety:

ARTICLE 9.8.2

Delete in its entirety and substitute the following:

- A. Contractor shall notify the Architect in writing when the project is acceptably completed, all work scope is done and ready for Project Inspector and Contractor to make a list of items to be corrected.
- B. The Project Inspector and Contractor shall make a list of items to be corrected and finish any items discovered incomplete. These items shall be completed and corrected prior to Architect and Consultants preparing a Final Inspection and Punch List Preparation. Contractor shall notify Architect in writing when all items are completed and corrected as well as items completed and corrected from Project Inspector and Contractor list of items previously prepared.
- C. Architect's field representatives (Architectural, Mechanical, Electrical, and other consultants) will make a field survey of the project to confirm that it has reached a state of completion, and items for "B" above have been done, in order to eliminate an unreasonably long Punch List on final inspection.
 1. All items in scope of work have been completed and accepted by Contractor and Project Inspector.
 2. All building systems are operational, tested and commissioned.
 3. Cleaning of building, grounds and related items completed except when approved by Architect in writing in advance of field survey. Contractor's temporary measures may be left in place until final demobilization but a condition on removal for final payment processing.
 4. Contractor to provide a written status update of project closeout check list.
- D. If not ready, the Architect will give the Contractor a written brief summary of what must be done for the project to be considered complete, enough for the Punch List preparation.
- E. When, in the opinion of the Architect, the job is ready for the Punch List preparation, a Punch List of items requiring completion and/or correction will be prepared. (This Punch List will be made as specific and complete as possible, and will include the listing of all specified closing items required of the Contractor, such as Record Drawings, maintenance manuals, written guarantees, etc.) Any items observed or noted subsequent to Punch List preparation, shall also be corrected prior to re-inspection, unless the Architect determined, in writing, that any such items properly fall into the category of work to be corrected during the warranty/guarantee period.
 1. Architect's Punch List preparation will be scheduled and respective contractors, sub-

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contractors and vendors shall be present during the Punch List inspection. Sub-Contractors, contractors and vendors will be required to show operational status of items in project scope of each respective discipline.

2. Mechanical, Electrical, and other consultants Punch List preparation will be scheduled and respective sub-contractor, contractors and vendors shall be present during the Punch List inspection. Sub-Contractors, contractors and vendors will be required to show operational status of items in project scope of each respective discipline.
3. All Punch List items shall be completed and/or corrected before Contractor calls for Punch List re-inspection.
 - a. The Architect shall be notified in writing by Contractor when all Punch List items are complete and project is ready for punch list back check by Architect and consultants. Architect shall schedule punch list back check with contractor within 10 calendar days from receipt of written notice from Contractor.
 - b. The Architect will allow contractor two, (2), punch list back check visits of all items. Any additional site visits for items not completed and acceptable to Architect after second site visit will be charged to the contractor as a negative change order for time spent by Architect to do re-inspections and office related work including reimbursable expenses incurred due to additional site visits.

ARTICLE 9.8.3

Delete in its entirety:

ARTICLE 9.9.1

Delete in its entirety and add the following:

It is understood and agreed that the Owner shall have the right to occupy the building or use the improvement contemplated by the Contract prior to the completion of the entire work, and that such occupancy or use shall not operate as an acceptance of nor relieve the Contractor from completing any part of the work.

ARTICLE 9.9.2

Delete in its entirety and add the following:

In case that the Contractor has not completed the work, and the contract time including authorized time extensions has expired, the Owner reserves the right to occupy any portion of the Work at any time before completion and while work is in progress. In the event of such occupancy, the Contractor shall provide, without additional cost to the Owner, suitable protection by means of fencing, barriers, posted signs or other temporary measures and methods, as required to prevent persons other than those directly connected with the Work from entering remaining areas where continuing Work is being conducted, vehicles are operating, or materials are stored.

ARTICLE 9.9.3

Delete in its entirety and add the following:

Occupancy by the Owner prior to final acceptance shall not be construed by the Contractor as being an acceptance of that part of the Project so occupied, nor shall the Contractor be entitled to, or make demand for, additional compensation or extension of time because of such occupancy.

ARTICLE 9.9.4

Add the following:

Occupancy by the Owner prior to final acceptance shall not be deemed to constitute a waiver of existing claims on behalf of the Owner or Contractor against each other.

ARTICLE 9.9.5

Add the following:

The metered cost of electricity, water, fuel, etc., for the occupied portions, and the cost of operating the heating and air conditioning systems for the occupied portions will be borne by the Owner except as follows:

1. Contractor shall provide water for earthwork activities and related items.
2. Contractor shall provide all temporary measures for connecting and disconnection to above items.

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The Contractor must save the Owner and his authorized representatives from any liability whatsoever caused by the Contractor, his employees, agents or representatives' refusal or negligence in the payment of all bills, expenses and/or utilities. Should the Contractor fail in this obligation within thirty (30) days of the bill due date, then the Architect may settle all current outstanding balances at his sole discretion direct with the appropriate body, and deduct such monies direct from the Contractor's due monthly payments, retention or other available monies plus charges, including an administration fee by Architect.

ARTICLE 9.9.6

Add the following:

Use and occupancy by the Owner prior to final acceptance shall not relieve the Contractor of his responsibility to provide and maintain all insurance and bonds required of the Contractor under the Contract until the final Completion of the Work which shall be defined as thirty five (35) days after filing Notice of Completion, (NOC), contingent upon punch list being 100% complete and all project closeout items 100% complete with no exceptions. In the event the NOC has been filed and there are outstanding punch list items the contractor shall maintain insurance and bonds until such time the punch list is 100% complete, project closeout items 100% complete or 35 days after NOC whichever is greater.

ARTICLE 9.10.2.1

Add the following:

Subject to the provisions of this subparagraph 9.10.2, the final payment will be made thirty-five (35) days after the recording of the Notice of Completion, provided that the Architect shall then have issued the final certificate provided for in subparagraph 9.10.1. The acceptance of said final payment by the Contractor shall constitute a waiver of all claims against the Owner arising under this Contract, and this sentence supersedes subparagraph 9.10.4 of the General Conditions.

1. Notice of Completion shall be prepared and approved by Owner prior to recording. The official project acceptance date shall be the date of Owner acceptance of the project and authorization to filing of the Notice of Completion. Owner shall record Notice of Completion within 10 days of acceptance of project as being complete. All warranties start dates will be Date of recordation of Notice of Completion.
2. The project shall be accepted by the Owner who shall authorize after acceptance of the project the subsequent filing of the Notice of Completion. The final payment shall be made thirty-five (35) days from the date of recordation of the Notice of Completion, provided that: The Contractor shall furnish satisfactory evidence that all claims for labor and materials have been paid and that no claims shall have been presented to the Owner by any person or persons based upon any act or omission of the Contractor, and no Stop Notices or claims shall have been filed against said work or the property whereon it was done.
 - a. The Contractor in direct contract with the owner must record and file with owner an Affidavit of Payment of Debts and Claims and release of Stop Notices prior to request for project acceptance is considered by the Owner. By this document, the contractor hereby certifies that on date of document recordation, he/she has been paid in full less retainage for all materials and equipment furnished, for all labor and services performed, and for all known indebtedness and claims against the undersigned for damages arising in any manner on or against the Project, its land, improvements, and equipment of any kind.
 - b. All others not limited to sub contractors, lower tier contractors, suppliers, vendors and others providing services, materials, equipment and related items **must record their liens and serve owner stop notice within thirty (30) days** of the date the Notice of Completion is recorded to place and person indicated in project manual herein. (Civil Code §3116).
 - c. Within 60 days after the date of Notice of Completion of the Project, the retention withheld by the Owner shall be released. In the event of a dispute between the Owner and General Contractor and or sub contractors, the Owner entity may withhold from the final payment an amount not to exceed 150 percent of the disputed amount. Completion is defined as:
 - 1) Owner acceptance of project and filing of Notice of Completion, in the absence of, the following shall govern:

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- a) The occupation, beneficial use, and enjoyment of a work of improvement, excluding phased projects completed phases, any operation only for testing, startup, or commissioning, by the public agency, or its agent, accompanied by cessation of labor on the work of improvement.
- b) The acceptance by the public agency, or its agent, of the work of improvements in writing.
- c) After the commencement of a work of improvements, a cessation of labor on the work of improvement for a continuous period of 100 days or more, due to factors beyond the control of the contractor.
- d) After the commencement of a work of improvement, a cessation of labor on the work of improvement for a continuous period of 30 days or more, if the public agency files for record a Notice of Cessation or a Notice of Completion.

9.10.2.1.1 Notice of Completion will not be prepared nor moved forward for Owner approval until all of the following are complete:

1. Project Closeout 100% complete.
2. Punch list items 100% complete.
3. Record documents approved and delivered.
4. All warranties and guarantees have been delivered and accepted by Owner and Architect.
5. Training complete.
6. The contractor(s) final verified report is filed with the Division of State Architect of the Department of General Services.
7. OWNER is able to occupy all portions of the project as intended on Construction Documents.
8. Contractor in direct contract with the owner upon completion of work shall execute all certifications specified elsewhere.

ARTICLE 9.10.3

Delete in its entirety and substitute the following

If for any justifiable reason, any Contract items cannot be completed prior to the final inspection, they will, with the Owner's concurrence and at the Owner's sole option, be deleted by Change Order to start the Stop Notice filing period as soon as possible. Such Change Order will include the Contractor's agreement to do the work at the prices listed in the Change Order or receipt of Owner's Purchase Order, as soon as the reasons for the delay no longer prevail, and the agreement of the Contractor's surety to be responsible for the work on the terms and condition of the original bond, when such Purchase Order is issued.

1. Scope of work on Purchase Order will be a standalone project meeting the requirements, general conditions and supplementary conditions herein. All technical and completion requirements will be the same as herein.

ARTICLE 9.11

Add the following:

- 9.11.1 Should the Contractor fail to complete his/her contract within the time fixed for such completion in the Project, the Contractor shall become liable to the sum per calendar day per phase as indicated, for each day any phase of said Work remains incomplete beyond the time set for completion for agreed and liquidated damages, and not as a penalty, agreed upon by the parties to the contract, it being expressly stipulated that it would be impracticable and extremely difficult to fix the amount of damage. If it appears to the Contractor that he/she will not complete the work provided for in the contract in the time agreed, the Contractor shall make written application to the Owner at least five (5) calendar days prior to the expiration of the time for completion, stating the reasons for the amount of extension which the Contractor believes should be granted. The Owner may then, in its discretion, grant or deny such extension.
- 9.11.2 Any monies due or to become due the Contractor may be retained to cover the said liquidated damages. Should such monies not be sufficient to cover such damages, the Owner shall have the

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right to recover the balance from the Contractor and/or his sureties.

ARTICLE 9.12

Add the following:

Correction of Work Before Final Payment

- 9.12.1 Contractor shall promptly remove from the premises all work identified by Owner as failing to conform to the Contract Documents, whether incorporated or not. Contractor shall promptly replace and repair its own work to comply with the Contract Documents, without additional expense to OWNER, and shall bear the expense of making good all work of other contractors destroyed or damaged by that removal or replacement, including compensation for the Architect's additional services.
- 9.12.2 If Contractor does not remove work within a reasonable time following written notification, Owner may remove and store the material at Contractor's expense. If Contractor does not pay the expenses of removal within 10 days, Owner may sell the materials at auction or private sale upon 10 days' written notice, and shall account for any net proceeds after deducting all costs and expenses that should have been borne by Contractor.

ARTICLE 10 - PROTECTIONS OF PERSONS AND PROPERTY

ARTICLE 10.1.1

Add the following at the end of subparagraph:

This requirement will apply continuously and not be limited to normal working hours. Contractor shall verify requirements of working hours allowed by local jurisdictions. Contractor shall make provisions for allowed working hours and securing necessary special permits to work beyond allowed hours allowed by local jurisdictions.

ARTICLE 10.1.1

Add the following:

- 10.1.1.1 The duty of the Architect, to conduct periodic surveillance of the Contractor's performance, is not intended to include review of the adequacy of the Contractor's safety measures, in, on, off or near the construction site.
- a) Comments made in the Architect's field reports with regards to safety items are not intended to relieve the Contractor of his responsibility or intended to set a precedence that the Architect has any responsibility in safety items. The Architect has no training or experience in safety adequacy on construction sites.
 - b) The Contractor shall refer all items to his Safety Officer for disposition that are commented and/or mentioned during any visits by the Architect either by meeting minutes, casual conversations or follow up reports.

ARTICLE 10.1.1.2

Add the following:

The Contractor shall protect and preserve the Work from all damage or accident, including vandalism providing any temporary roofs, window and door coverings, boxings, or other construction, as required. This shall include any adjoining facility/property of the Owner or others affected by the Work of the Contractor.

ARTICLE 10.1.1.3

Add the following:

The Contractor shall assume full responsibility for all glass and plastic glazing installed under this Contract against damage from any source during construction as well as adjacent glass and plastic glazing damaged by contractor, subcontractors and/or lower tier contractors. He shall replace all broken, cracked or scratched glass or plastic without expense to the Owner prior to date of recording of Notice of Completion.

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ARTICLE 10.1.2

Add the following:

10.1.2.1 Exception to the above shall be where indicated herein that asbestos, lead, PCB or other hazardous materials to be removed by others. Owner shall remove and dispose of hazardous materials prior to work being done by contractor in affected areas. See Division 2 Demolition Sections for additional requirements.

ARTICLE 10.1.3

Add the following:

10.1.3.1 Exception to the above is if asbestos, lead, PCB or other hazardous material is indicated to be removed by this contractor herein, by submitting a bid contractor is consenting to do work.

ARTICLE 10.1.4

Add the following:

10.1.4.1 Exception to the above is if asbestos, lead, PCB or other hazardous material is indicated to be removed by this contractor. Contractor shall remove and dispose of hazardous materials prior to work being done by contractor in affected areas. See Division 2 Demolition Sections for additional requirements.

ARTICLE 10.2.1

Supplement as follows:

- .4 all students, staff, faculty, Owner employees and the general public who are using the site.
- .5 and shall check all projections, off-sets, footings, etc., and properly determine that there are no encroachments of the building or appurtenances on adjoining property or the property of other public entities. Where encroachments occur as a result of the work performed under these contract Documents, the Contractor shall remove such encroachments at his own cost, and at no expense to the Owner; and
- .6 shall give to adjoining landowners all legal notices of excavation that may be required by law or otherwise, and he shall take all steps necessary or required by law to protect the adjoining land and the building and/or other structures situated thereon.
- .7 Shall not dispose of hazardous waste/materials without proper permits-authorizations. Contractor shall provide Owner with copies of permits/approvals of all disposal of hazardous materials.

ARTICLE 10.2.3

Add the following:

This project may be constructed at the time facility is in use; therefore, the Contractor shall take specific precautions to prevent injury and access to Staff, faculty and students. Material storage and vehicle access shall be subject to Owner approval. Provide for limited access time for delivery of materials and related items. Confirm and coordinate with Director of Maintenance and Operations and secure all approvals in writing. Refer to Project Summary for more restrictive requirements.

ARTICLE 11 - INSURANCE AND BONDS

ARTICLE 11.1.2

Supplement as follows:

1. In the absence of contrary written instructions from the Owner, the Contractor at the Contractor's expense, shall obtain and maintain insurance at all times during the prosecution of the contract, in companies and through agencies approved by the Owner, and within limits not less than those stated in Section 004313 - "Bonds and Certificates Required".

ARTICLE 11.2

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Delete in its entirety.

ARTICLE 11.3

Amended as follows:

The Contractor, in lieu of the Owner, shall purchase and maintain insurance, and perform in accordance with the provisions of Articles 11.3 through 11.3.11.

ARTICLE 11.3.1

Shall read as follows:

This insurance does not cover any tools or equipment owned or rented by the Contractor, Subcontractor, Sub-Subcontractor or their employees, the capital value of which is not included in the cost of the work.

ARTICLE 11.3.1.3

Amended as follows:

The Contractor, in lieu of the Owner, shall purchase and maintain insurance, and perform in accordance with the provisions herein.

Omit last sentence "If deductibles are not identified in the contract documents, the owner shall pay costs not covered because of deductibles."

ARTICLE 11.3.2

Amended as follows:

Delete in its entirety.

ARTICLE 11.3.3

Amended as follows:

Delete in its entirety.

ARTICLE 11.3.6

Amended as follows:

The Contractor will provide a copy of the policies, prior to commencing any work for Owner's records.

ARTICLE 11.3.9 and 11.3.10

Amended as follows:

Delete all reference to Arbitration and Article 4.5.

ARTICLE 11.4.1

Delete in its entirety and substitute the following:

"The Owner will require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract". Refer to Section 004313 - "Bonds and Certificates Required" for additional requirements.

ARTICLE 12 - UNCOVERING AND CORRECTION OF WORK

ARTICLE 12.2

The following material supplements paragraph 12.2 of the General Conditions:

- A. Add to subparagraph 12.2.1 of the General Conditions the following:
 - ". . . such additional services by the Architect, whether required by correction of rejected work, damage to work by actions of contractor(s) and/or to accommodate deviations from the Contract Documents, will be charged for at the prevailing office rate for Architect's/Staff plus expenses, consulting engineer(s) time at prevailing office rates and invoices for associated cost items. Architect shall invoice Owner for costs incurred. Contractor shall reimburse Owner for additional costs incurred by Architect and Consultants via a negative CCD.
1. The Architect shall submit a CCD to Owner and Contractor indicating additional costs

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incurred by Architect and Consulting Engineers due to actions by the Contractor. Upon Owner approval of CCD, costs will be added to project as a negative CCD to be included in a Change Order.

2. The Contractor has 10 calendar days from receipt of CCD specific to these items to dispute additional costs incurred by Architect and Consulting Engineers. Disputed items will not be considered after 10 calendar days beyond date of receipt of CCD by Contractor for charges by the Architect and Consulting Engineers.
- B. The warranty and guarantee periods specified in subparagraph 12.2.2 of the General Conditions shall commence on the date recording of the Notice of Completion.
- C. If the Contractor, after notice, fails to proceed promptly to comply with items of the warranty or guarantee as indicated herein, the Owner, may have defects corrected and the Contractor and his Surety shall be liable for all costs incurred.

ARTICLE 13 - MISCELLANEOUS PROVISIONS

ARTICLE 13.1

Add the following subparagraphs to paragraph 13.1:

13.1.2 No discrimination shall be made in the employment of persons upon public works because of race, religious creed, color, national origin, ancestry, physical handicap, medical conditions, marital status, or sex of such person, except as provided in Labor Code Section 1420, and every Contractor violating the provisions of Section 1735 of the Labor Code is subject to all the penalties provided by said section.

ARTICLE 13.2.1

Add the following subparagraphs to paragraph 13.2.1:

13.2.1.1 Assignment Under Anti-Trust Claims: Pursuant to Public Contract Code Section 7103.5, Contractor and subcontractors shall conform to the following requirements:

- .1 In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, contractor or subcontractor offers and agrees to assign to the Owner all rights, title, and interest in all 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, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the Owner tenders Final Payment to the Contractor, without further acknowledgment by the parties.

ARTICLE 13.5.1

Delete the second and third sentences of subparagraph 13.5.1 and substitute the following:

The Owner shall make arrangements for such tests, inspections and approvals with an independent testing laboratory and shall pay the testing laboratory in accordance with Sections 4-333C and 4-335, Group 1, Chapter 4, Part 1, Title 24, California Code of Regulations. The Contractor shall give the Architect and Project Inspector timely notice of when and where tests and inspections are to be made so that the Architect and Project Inspector may observe such procedures.

Delete the last sentence of subparagraph 13.5.1 in its entirety.

ARTICLE 13.5.2

Delete subparagraph 13.5.2 and substitute the following:

If the Architect, Owner or public authorities having jurisdiction determine that portions of the work require additional testing, inspection or approval not included under subparagraph 13.5.1, the Owner will make arrangements for such additional testing, inspection or approval by the testing laboratory, and the Contractor

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shall give timely notice to the Architect and Project Inspector of when and where tests and inspections are to be made so the Architect and Inspector may observe such procedures. The Owner will pay the testing laboratory as provided in subparagraph 13.5.1.

ARTICLE 13.5.3

Delete subparagraph 13.5.3 and substitute the following:

If such procedures for testing, inspection or approval under subparagraphs 13.5.1 and 13.5.2 reveal failure of the portions of the work to comply with requirements established by the Contract Documents, the Owner will deduct compensation for the testing laboratory's and Architect's services and expenses made necessary by such failure from the Contract Sum by Change Order via a negative CCD. The Contractor shall also bear all other related costs made necessary by such failure.

- A. The Contractor shall reimburse Owner for all costs incurred due to failure of testing, inspection or approval by testing lab and related staff, Architect's/Staff plus expenses and consulting engineer(s) time at prevailing office rates for time required to respond to failure of testing, inspection or approval. Contractor shall reimburse Owner for all additional costs incurred via a negative CCD.
- B. The Architect shall submit a CCD to Owner and Contractor indicating additional costs incurred. Upon Owner approval of CCD, costs will be added to project as a negative CCD to be included in a Change Order.
- C. The Contractor has 10 calendar days from receipt of CCD specific to these items to dispute additional costs incurred by Testing laboratory, Architect and Consulting Engineers. Disputed items will not be considered after 10 calendar days beyond date of receipt of CCD by Contractor for charges by the Testing Laboratory, Project Inspector, Architect and Consulting Engineers.
- D. The Contractor shall provide a minimum of five (5) welders where Shop Welding requires welding inspection and/or three (3) welders where Field Welding Inspection requires welding inspection. The purpose is to minimize Inspection cost. If the above requirement is not met, Contractor shall be charged for excess Test/Inspection fees as determined by the Architect as prescribed herein. In the event welding requiring inspection is minimal Contractor shall secure approval in writing from Architect for a lesser number of welders prior to execution of welding.

Delete subparagraph 13.5.4 in its entirety.

ARTICLE 13.5.7

Add the following:

Whenever the Contractor arranges to work at night or any time when work is conducted other than the normal 40-hr. week, 0700 to 1600 Monday through Friday, or to vary the period during which work is carried on each day, he shall give the Owner a minimum of 48-hr. notice so that Project Inspector and Testing Laboratory may be notified. Such work shall be done without extra compensation to the Contractor. Whenever Contractor arranges to work beyond or before 0700 to 1600 Monday through Friday and test and inspection work is done at a premium time cost, the Contractor shall pay the difference between premium time and non-premium time as a Contractor shall reimburse Owner for all additional costs incurred via a negative CCD.

- A. Architect shall submit a CCD to Owner and Contractor indicating additional costs incurred. Upon Owner approval of CCD, costs will be added to project as a negative CCD to be included in a Change Order.
- B. Contractor has 10 calendar days from receipt of CCD specific to these items to dispute additional costs incurred. Disputed items will not be considered after 10 days beyond date of receipt of CCD by Contractor.

ARTICLE 13.5.8

Add the following:

Authorized representatives and agents of State and Federal Governments shall be permitted to inspect all

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work, materials, payrolls, records and shall be given access to site at all times for such inspection.

ARTICLE 13.7.1

Change the following:

Change all “Substantial Completion(s)” references, notes and text to “Notice of Completion”

ARTICLE 14 - TERMINATION OR SUSPENSION OF THE CONTRACT

ARTICLE 14.1

Amend as follows:

- 14.1.1 If the Work is stopped for a period of forty five (45) days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing any of the Work under this contract with a Contractor, then the Contractor may, upon ten (10) additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner payment for all Work executed and for any proven loss sustained upon any materials, equipment, tools and construction equipment and machinery.
- 14.1.2 If the Work is stopped for a period of forty-five (45) days by the Contractor because the Architect has not issued a Certificate for Payment as provided in Paragraph 9.7 or because the Owner has not made payment thereon as provided in Paragraph 9.7, then the Contractor may, upon ten (10) additional days' written notice to the Owner and Architect, terminate the Contract, contingent upon the Owner not paying the Contractor after ten (10) days have elapsed.

THE FOLLOWING ARTICLES SHALL BE ADDED TO THE GENERAL CONDITIONS:

ARTICLE 15 - SUBSTITUTIONS

- a. Substitutions or Approval of Materials: Whenever any particular brand name or make of material or apparatus is hereinafter called for, every bidder submitting a bid upon this specification and the accompanying drawings, obligates himself to the use of such brands and makes, or of such other brands or makes, as shall have been duly approved by the Architect and the Owner in the manner described herein. Whenever any article of any material is specified by a reference to the name of any manufacturers or dealers or by specific reference to the catalogs of manufacturers or dealers. The intent is to establish a standard of excellence, which the Architect and the Owner have determined upon as requisite and necessary for this project, and subject only therefore, to such modifications as the Architect and Owner may make in accordance with the procedure given in this Article. It is therefore mandatory and binding upon the bidder to abide within the limits of the restrictions imposed. Where the words "or equal", "as selected", "approved", "approved make" or other synonymous terms are used in reference to material, quality, methods or apparatus in lieu of or in addition to other specific reference, it is to be distinctly understood that the approval of any such substitution is vested in the Architect whose decision shall be final and binding upon all concerned. The intent of this specification is NOT TO ELIMINATE PROPERLY QUALIFIED ENTRANTS FROM COMPETITION, but to confine the bidding to the part of the contractors, manufacturers and dealers, to those whose standing and qualifications are such that the Architect and the Owner feel warranted to give them their approval. If however, any bidder desires to have consideration given to INDIVIDUALS, FIRMS, MATERIALS, BRANDS, MAKES, ETC., OTHER THAN SPECIFIED, he may within thirty-five (35) calendar days after the award of the contract, submit or cause to be submitted to the Architect for his approval data substantiating a request for a substitution of "an equal" item. Requests for approval of materials or equipment shall be submitted to the Architect in writing prior to the established deadline except as outlined in sub-paragraph "b" below. Requests received after the established deadline will not be considered. All requests shall clearly define and describe materials or equipment for which approval is requested shall also include the figures received by the Contractor in bid form for the material or materials which are submitted for approval or substitution,

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- together with the figures in bid form of the specified material or materials for which substitutions are proposed. In case a substitution is offered which is less than the cost of the material or appliance specified, then a credit shall be taken for the difference between the two costs in order that the Owner shall obtain whatever benefits may be derived from the substitution. Requests shall be accompanied by manufacturer's literature, specifications, drawings, cuts, performance data, samples, etc., where same is necessary to completely describe the products. If the Architect does not consider this request for approval of a specified article or material an equal to the specified item, the Contractor shall furnish and install the specified item.
- b. Substitution or Approval of Materials After Expiration of Submittal Period: Since all bids are based upon materials and equipment specified, or substitutions approved in writing prior to bid date, the Architect and the Owner will consider substitutions after bidding where it is necessary to make a substitution because of strikes, lockouts, bankruptcy, discontinuing of a product, etc. Requests for such substitutions of materials after the award of a contract shall be made in writing to the Architect and shall be made within ten (10) days after the date that the Contractor ascertains he cannot obtain the materials or equipment specified. Such requests shall be accompanied by complete description of the materials or apparatus on which a substitution is desired to be made. Substitutions of material or apparatus other than those specified will not be accepted except upon the recommendation of the Architect to the Owner and with written approval of the Owner.
- 1) In the event the Contractor requests a substitution, no cost increase will be allowed under any circumstances unless recommended by the Architect. A cost decrease will be allowed if item substituted is not equal to specified item as determined by the Architect and recommended in his review of substitution.
 - 2) All substitutions shall be executed by a change order.
- c. If the Substitution is Permitted: The Contractor shall be solely and directly responsible for fitting approved substituted material and equipment into the available space in a manner acceptable to the Architect, and for the proper operation of the substituted equipment with all other equipment with which it may be associated. The Contractor shall bear all costs of meeting the above requirements for presenting a proposed substitution, and if the substitution is accepted, he must bear all cost involved including costs of Architect's and Consulting Engineer's services required in adapting the substituted material or equipment to the installation to the complete satisfaction of the Architect.
- d. Submitting of Bids: It is to be understood that all bids shall be based upon materials and equipment as specified or substitutions approved in writing prior to the bid date.
- e. The Owner reserves the right to sole source items as allowed by Public Contract Code. Refer to Division One Section "Materials and Equipment" for additional requirements and conditions.

ARTICLE 16 - TRADE SECTIONS

- a. For convenience, these specifications are arranged in several trade sections, but such separation shall not be considered as the limits of the work required of any subcontract of trade. The terms and conditions of such limitations are wholly between the Contractor and his subcontractors. It shall be his responsibility to see that all subcontractors and/or material suppliers examine all project manual sections and all contract documents to determine the extent of their work. Neither the Owner nor the Architect will be responsible for Contractor's omission of material and/or labor required by the Contract Documents, Project Manual, Addenda or reasonably inferred therein.
- b. In the event material and/or labor specified under a trade section shall be in contradiction of jurisdiction agreements, it shall be the responsibility of the Contractor, under whose Section the work and/or material has been specified, to inform the General Contractor of such conflict prior to bidding. Future claims for reimbursement due to jurisdiction conflict will not be recognized by either the Owner or the Architect.
- c. Any conflicts which may arise between the trades in regard to the extent of their respective works shall be adjusted by the Contractor.
- d. The requirements of Division 0 – Procurement and Contracting Requirements, and Division 1 - General Requirements and also including the Instructions to Bidders: General Conditions (AIA), Supplementary Conditions and all documents pertinent thereto, shall apply to each Technical

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Section of the Specification as though specifically set forth therein.

ARTICLE 17 - CONSTRUCTION TIME AND LIQUIDATED DAMAGES

- a. The Contractor shall construct and execute all the work described in the said Bid Proposal, drawings and Project Manual in accordance with and subject to all of the requirements, covenants, stipulations and restrictions therein contained within the calendar days stipulated in the Bid Proposal.
 - 1) Notice of Completion date will be used for calculating liquidated damages. It will be calculated by the number of days beyond stipulated number of days in project manual verses number of days from first day of construction through date of Notice of Completion.
- b. Should the Contractor fail to complete this Contract and the work provided herein within the time fixed for such completion, the Contractor shall become liable to the Owner for all loss and damage which the latter may suffer on account thereof.
 - 1) The Architect may assess interim liquidated damages at any time in anticipation of project not being completed on schedule if construction work is behind schedule. Assessment shall not exceed days behind at time of assessment. The amount held for interim liquidated damages will be evaluated and adjusted to actual liquidated damages no later than the end of construction.
- c. It is HEREBY UNDERSTOOD AND AGREED, that it is and will be difficult and impossible to ascertain and determine the actual damage the Owner will sustain in the event, and if by reason of such delay; and it is therefore agreed that said Contractor will pay the Owner as liquidated damages and not as a forfeiture the sum set forth in the Owner-Contractor Agreement, per day for each and every day of delay beyond the time herein prescribed for finishing the said work, plus such additional costs as may be incurred is not paid, the Contractor agrees that the Owner may deduct the amount thereof from any money due or that may become due the Contractor under this Contract.
- d. This article does not exclude the recovery of damages under other provisions of the Contract Documents.
- e. It is further agreed, when it is obvious by all parties concerned, that the Contractor will not be able to complete the work within the stipulated time limit plus extension, if any, the Owner shall require him to expedite certain buildings, and/or portions of buildings and grounds for occupancy by the end of the stipulated time. This work shall be done and occupancy made without additional compensation to the Contractor or jeopardizing the Owner's right in rejecting or accepting the work at completion of the Contract. Normal wear and tear, due to occupancy, will not be cause for the Contractor to perform additional work over and above the regular Contract requirements, nor will the occupancy relieve the Contractor of any responsibility of completing any work in occupied areas.

ARTICLE 18 - INTERRUPTION OF OWNER'S OPERATIONS

- A. The Contractor shall confine his operation and storage of material and equipment within the area of his work and shall cooperate fully to insure the Owner a continued uninterrupted facility. Work requiring interruption of existing services shall be performed at the Owner's convenience on weekends and/or after hours as required. Contractor to provide security as required to protect his work during construction period until project is completed and accepted by Owner/Architect.

ARTICLE 19 – USE OF ASBESTOS, PCB OR LEAD MATERIALS/PRODUCTS

- A. Contractor shall not use any asbestos, PCB or lead containing products or materials in performing the work under the Contract Documents. Upon completion of the Project, Contractor shall certify in writing to Owner that no asbestos, PCB or lead containing materials or products were used by Contractor or any subcontractor in performing the work required by the Contract Documents.

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- B. Should asbestos containing materials be installed by Contractor in violation of this certification, or if removal of asbestos containing materials is otherwise a part of the Project, decontaminations and removals will meet the following criteria:
1. Decontamination and removal of work found to contain asbestos or work installed with asbestos containing equipment shall be done only under the supervision of a qualified consultant, knowledgeable in the field of asbestos abatement and accredited by the Environmental Protection Agency (EPA).
 2. Any asbestos removal contractor shall be an EPA accredited contractor qualified in the removal of asbestos and shall be chosen and approved by an owner approved asbestos consultant who shall have sole discretion and final determination in this matter.
 3. The asbestos consultant shall be chosen and approved by Owner who shall have sole discretion and final determination in this matter.
 4. The work will not be accepted until asbestos contamination is reduced to levels deemed acceptable by the asbestos consultant.
 5. Cost of all asbestos removal, including but not limited to the cost of an asbestos removal contractor, the cost of the asbestos consultant, additional Architects costs, analytical and laboratory fees, time delays, and additional costs as may be incurred by Owner shall be borne entirely by Contractor.
 6. Interface of work for the Project with work containing asbestos shall be executed by Contractor at Contractor's risk and at Contractor's discretion with full knowledge of the currently accepted standards, hazards, risks, and liabilities associated with asbestos work and asbestos containing products. By execution of the Construction Agreement, Contractor acknowledges the above and agrees to hold harmless Owner, its governing board, or other governing body, employees, agents, and the Architect and assigns for all asbestos liability which may be associated with this work. Contractor further agrees to instruct Contractor's employees with respect to the above standards, hazards, risks, and liabilities. Should lead containing materials be installed by Contractor in violation of this certification, or if removal of lead containing materials is part of the Project, decontaminations and removals will meet the criteria approved by Owner.
 7. The cost of all removals or decontaminations resulting from the installation of materials in violation of this certification shall be at the sole expense of Contractor.
- C. Contractor upon completion of work shall execute certifications as follows:
1. Asbestos Certification shall be used for documentation of non-asbestos materials used in project.
 2. PCB Certification shall be used for documentation of non-PCB materials used in project.
 3. Lead Certification shall be used for documentation of non-lead materials used in project.

ARTICLE 20 - MISCELLANEOUS ITEMS

- A. The Owner and Architect and their agents and employees will not be responsible for Contractor's means, methods, techniques, sequences of procedures of construction, or the safety precautions and programs incident thereto, and the aforementioned will not be responsible for Contractor's failure to perform the work in accordance with the Contract Documents.
- B. The services to be performed by the Architect under this Contract are intended solely for the benefit of the Owner. Nothing contained herein shall confer any rights upon or create any duties on the part of the Owner/Architect Agreement including, but not limited to any Contractor, subcontractor, supplier, or the agents, officers, employees, insurers, or sureties of any of the aforementioned.

END OF SECTION 006002

CONTRACT-AGREEMENT

THIS CONTRACT, made and concluded this _____ day of _____ 2024, A.D., by and between WEST KERN COMMUNITY COLLEGE DISTRICT, hereinafter referred to as the Owner, and _____ referred to as the Contractor.

WITNESSETH: That, whereas the Contractor heretofore made a proposal to do certain work for the said Owner, specified and described in certain drawings and specifications, and entitled as follows on the Bid Proposal:

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TAFT COLLEGE
TAFT, CA

In strict accordance with drawings and specifications prepared therefore by AP Architects.

WHEREAS: The Contractor, before signing this Contract, has carefully read and examined in connection herewith said proposal and specifications and has carefully examined the site where said work is to be done, and has investigated the character of such work and the materials required to be furnished, and by reason of such reading, examination and investigation, the said Contractor agrees that he thoroughly understands the intent and meaning of this Contract and all component parts of said Contract and the requirements, covenants, stipulations and restrictions thereof;

NOE, THEREFORE, in consideration of the promises and of the payments hereinafter to be made by the Owner to and on account of said Contractor, and the understanding of said Contractor to do said work the parties hereto specifically covenant and agree that,

ARTICLE I

This Contractor shall receive and accept the following sum as full compensation for furnishing all materials and doing all the work contemplated and embraced in this Contract, and for furnishing all necessary tools, machinery, implements, apparatus and other means of construction; also all loss or damage arising out of the nature of the work to be done under said specifications, or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered during the progress of said work, and before the acceptance thereof by said Owner, and shall be responsible for the consequences of his own negligence or carelessness or discontinuance of the work, and for well and faithfully completing the work in the manner and according to the drawings and specifications and all requirements of the Architect and/or Engineer and any and all parties having jurisdiction thereover, for the whole thereof, the following sum which represents the Contract Price:

_____ DOLLARS (\$_____)

The following Alternates are included in the Contract sum:

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ARTICLE II - PAYMENTS

The Owner agrees, in consideration of the performance of this Contract, to pay the Contractor in the following manner:

- (a) Payments will be made only on the certificate of the Architect.
- (b) Monthly payments shall be made to the Contractor in amounts equal to ninety-five percent (95%) of the estimated value of the work done and the materials furnished and incorporated in the work during the month preceding the date upon which such value is estimated plus ninety-five percent (95%) of the estimated value of all materials which, on the date of estimation of value, are suitably stored on the site for incorporation into the work; provided that no such monthly payment, or payment of any kind, shall theretofore have been made for any such work done or materials furnished and incorporated or materials suitably stored on the site. The aforesaid estimation of value shall be made by the Architect and noted by him upon the certificates furnished by him pursuant to paragraph (2) of this Article II.
- (c) Upon completion of the work, a sum sufficient to increase the total payments to ninety-five percent (95%) of the Contract Price, less an amount determined by Owner to be adequate to complete any unfurnished part of the work by another Contractor should the work not be completed within a reasonable time established by the Owner.
- (d) The project shall be accepted by the Board of Trustees who shall authorize after acceptance of the project the subsequent filing of the Notice of Completion. The final payment shall be made thirty-five (35) days from the date of recordation of the Notice of Completion, provided that: The Contractor shall furnish satisfactory evidence that all claims for labor and materials have been paid and that no claims shall have been presented to the Owner by any person or persons based upon any act or omission of the Contractor, and no Stop Notices or claims shall have been filed against said work or the property whereon it was done.

NOTE: No certificates given or payments made on account of any Contract shall constitute an acceptance of any equipment, material or work, which may subsequently be found to be defective.

ARTICLE III - TIME OF COMPLETION AND LIQUIDATED DAMAGES

The Contractor agrees to commence the work within fifteen (15) calendar days from the date of the Notice to Proceed and prior to receiving Notice to Proceed shall obtain Owner's approval of Insurance and Bonds as required in the supporting documents. Failure to obtain approval of the required documents, within the allotted time, shall not be cause for extension of the time of construction as set forth hereafter.

The Contractor further agrees to construct and execute all of the work described in said drawings, specifications, proposals, addenda and any and all other requirements, covenants, stipulations and restrictions, within 240 calendar days from and after the date of commencement, said date of commencement being agreed upon as the fifteenth (15th) calendar day following the date of Notice to Proceed or first day of construction on Project site, whichever is first. Architect shall issue actual start date to Contractor and Owner.

Both parties agree that the aforementioned stipulated contract period to be a reasonable time scale for completion of the work and Contractor will provide best endeavors to complete the work within the contract period.

If the Contractor shall neglect, fail or refuse to complete the work within the time herein specified, then the contractor does hereby agree, as a part consideration for awarding of this Contract to pay to the Owner the sum of:

Two Hundred fifty Dollars - No Cents

DOLLARS (\$ 250.00)

per day plus such additional costs as may be incurred by the Architect because of such delays, not as a

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penalty but as liquidated damages for such breach of Contract as hereinafter set forth for each and every day that the Contractor shall be in default after the time stipulated in the Contract for completing the work.

The said amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, and said amount is agreed to be the amount of damages which the Owner would sustain and said amounts shall be retained from time to time by the Owner from the current periodical estimates.

It is further agreed that time is the essence of each and every portion of this Contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the Contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this Contract. Provided, that the Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due.

- (a) To any preference, priority or allocation order duly issued by the Government.
- (b) To unforeseeable cause beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God, or of the public enemy, acts of the Owner, acts of another Contractor in the performance of the Contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather (as defined in Construction Documents), and
- (c) To any delays of subcontractors occasioned by any of the causes specified in subsections (a) and (b) of this Article. Provided, further, that the Contractor shall, within seven (7) days from the beginning of such delay, notify the Owner, in writing, of the causes of delay, who shall ascertain the facts and extent of the delay and notify the Contractor within a reasonable time of its decision in the matter.

ARTICLE IV - DRAWINGS AND SPECIFICATIONS

This Contract, the drawings and the specifications have been prepared, and are intended to supplement one another. The drawings and specifications shall be deemed by this reference to be incorporated within this Contract, the drawings shall be deemed by this reference to be incorporated within the specifications, and the specifications shall be deemed by this reference to be incorporated with the drawings. In the event a conflict is found to exist between the drawings and specifications, the Architect shall interpret. In the event that the drawings and specifications, or either of them shall be found to conflict with this Contract, then the more restrictive, better quality and/or greater quantity shall govern. Omissions from this Contract of items of provisions present in the specifications or drawings or either of them shall not be deemed a conflict within the meaning of this Article.

ARTICLE V - CHANGES, ETC.

Should the Owner, at any time during the progress of the work desire any alterations, or deviations in, or additions to , or omissions from the Contract or the drawings or specifications, said Owner, or representative thereof, shall be at liberty to order them, in writing, and the same shall in no way affect or make void this Contract, but the amount thereof shall be added to, or deducted from, the amount of the Contract Price aforesaid, as the case may be, by a fair and reasonable valuation. This Contract, subject to the provisions of Article II (a) hereof, shall be deemed completed when the work is finished in accordance with the original drawings and specifications, as amended by such changes, whatever may be the nature or extent thereof.

No such changes, whatever may be the nature, or modification shall release or exonerate any surety or sureties upon any guarantee or bond given in connection with this Contract, if required.

ARTICLE VI - RULE OF PRACTICE

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The rule of practice to be observed in this Contract shall be that upon the demand of either the Owner or the Contractor, the character or valuation of any and all changes, omissions, or extra work shall be agreed upon and fixed in writing, signed by the Owner and the Contractor, prior to execution.

ARTICLE VII - ACCEPTANCE OF THE WORK

The payment of the progress payments by the Owner shall not be construed as an absolute acceptance of the work done up to the time of such payments, except as to such matters as are open and obvious, but the entire work, and at the time when it shall be claimed by the Contractor that the Contract and work is completed. Liability under the bonds is to continue for one (1) year from the date of notice of completion and bonds will not be released until such date. In the event any warranties and guarantees exceed the one (1) year, liability under the bonds shall continue until said warranties and guarantees expire.

ARTICLE VIII - FAILURE TO PROVIDE WORKMEN AND MATERIALS

If the Contractor at any time during the progress of the work should refuse or neglect, without the fault of the Owner, to supply sufficient amount of materials or enough workmen to complete the Contract within the time herein set forth, due allowance being made for the contingencies provided for herein, for a period of more than seven (7) days after having been notified by the Owner in writing to furnish the same, the Owner shall have the power to furnish and provide said materials and/or workmen to finish the said work, and the reasonable expense thereof shall be deducted from the amount of the Contract Price.

ARTICLE IX - PENALTIES

This Contractor shall forfeit, as a penalty to the said Owner, the sum of one hundred dollars (\$100.00) for each laborer, workman, or mechanic employed in the execution of this Contract, or any sub-contractor under him, for each calendar day during which such laborer, workman and/or mechanic is required or permitted to labor in violation of the State of California prevailing wage requirements, and said Owner, when making payments of money due under this Contract, shall withhold and retain there from all sums and amounts which have been forfeited pursuant to the herein said stipulation.

ARTICLE X - INSURANCE AND BONDS

Insurances and bonds, as set forth in the supporting contract documents, shall be maintained in effect during the period of this Contract.

ARTICLE XI - RELATION TO BID PROPOSALS

Be it further stipulated and agreed that said Owner does promise and agree to employ the said Contractor to provide the materials and do the work according to the terms and conditions herein contained and referred to, for the prices aforesaid, and herein contracts to pay the same at the time, in the manner and upon the conditions set forth above; and the said parties for themselves, their heirs, executors, administrators, successors, and assigns, do hereby agree to the full performance of the covenants herein contained.

It is further agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid proposal of said Contract, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

ARTICLE XII - ASBESTOS/PCB-CONTAINING PRODUCTS & LEAD PLUMBING ITEMS

Contractor agrees that lead plumbing domestic water items, asbestos, PCB-containing products or materials

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will not be used or substituted in performing work under the Agreement.

At the completion of work under the Agreement, Contractor will certify in writing to the Owner that to the best of Contractor's knowledge, no lead plumbing domestic water items, asbestos/PCB-containing products or materials were used or substituted in performing work under the Agreement.

ARTICLE XIII - COMPLIANCE WITH STORM WATER PREVENTION AND AIR POLLUTION CONTROL RULES

Contractor shall comply with all storm water prevention and air pollution control rules, regulations, ordinances, and statutes which apply to any work performed pursuant to the Contract, including any storm water prevention and pollution control rules, regulations, ordinances, and statutes specified in Section 11017 of the Government Code, as well as local requirements, County, City and local Storm Water Prevention and Air Pollution Control Districts. Contractor shall require all subcontractors to abide by these items.

ARTICLE XIV – ANTI-DISCRIMINATION IN EMPLOYMENT

In connection with the performance of work under this Contract, the Contractor agrees (as prescribed in Chapter 6 of Division 3 of Title II of the Government Code of the State of California, commencing at Section 12900 and by Labor Code Section 1735) not to discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, gender, or age. The aforesaid provisions shall include, but are not limited, the following: hiring, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms compensation, and selection for training, including apprenticeship. The Contractor agrees to post hereafter in conspicuous places, available for employees and applicants for employment, notices setting forth the provisions of this anti-discrimination clause. The Contractor further agrees to insert the foregoing provisions in all subcontracts entered into hereunder, except subcontracts for standard commercial supplies of raw materials.

ARTICLE XV - CONTRACTOR - EMPLOYEE REQUIREMENTS

By signing this Contract, the Contractor certifies he is aware of the provisions of section 3700 of the Labor Code which require every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that he will comply with such provisions before commencing the performance of the work of this Contract.

In accordance with the provisions of Section 3700 of the Labor Code, every contractor will be required to secure payment of compensation to his employees.

The Contractor and Subcontractors under him shall comply with the provisions of Division 2, Part 7, Chapter 1, Article 2, Sections 1770-1780 with particular reference to the employment and use of apprentices and other provisions that require him to make travel and subsistence payments to each workman needed to execute the work, as such collective bargaining agreements filed in accordance with the Labor Code, and to pay not less than the minimum per diem wages as determined by the Director of the Department of Industrial Relations, on file in the principal office of the Owner.

Special attention is directed to Sections 1777.5, 1777.6 and 1777.7 of the California Labor Code and Title 8, California Code of Regulations Section 200 et. seq. Each contractor and/or subcontractor must, prior to commencement of the public works contract, contact the Division of Apprenticeship Standards, 455 Golden Gate Avenue, San Francisco, or one of its branch offices regarding apprentices and specifically the required ratio thereunder. Responsibility for compliance with this section lies with the prime Contractor. During the performance of this Contract, the Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin.

ARTICLE XVI - NOTICES

All notices herein provided to be given or which may be given by either party to the other shall be deemed to have been fully given when made in writing and deposited with the United States Postal Service, Registered or Certified, and postage prepaid and addressed as follows:

To Owner: WEST KERN COMMUNITY COLLEGE DISTRICT
Attention: Brock McMurray
29 Cougar Court
Taft, CA 93268
(661) 763-7717

To Contractor:

The address to which the notices shall or may be mailed as aforesaid to either party shall or may be changed by written notice given by such party to the other, as hereinbefore provided, but nothing herein contained shall preclude the giving of any such notice by personal service.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands the year and date first herein written.

CONTRACTOR

WEST KERN COMMUNITY COLLEGE DISTRICT

OWNER

By _____
Authorized Signature

By _____
Authorized Signature
Brock McMurray

Date _____

Date _____

END OF SECTION 006003

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of Contract, including General and Supplementary Conditions and other Division 0 & 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. Section includes, but not limited to the following:

1. Project information.
2. Work covered by Contract Documents.
3. Phased construction.
4. Work by Owner.
5. Work under separate contracts.
6. Future work.
7. Purchase contracts.
8. Owner-furnished products.
9. Contractor-furnished, Owner-installed products.
10. Access to site.
11. Coordination with occupants.
12. Work restrictions.
13. Specification and drawing conventions.
14. Miscellaneous provisions.

- B. Related Requirements:

1. Division 1 Section 012100 "Allowances": for purchase contracts.
2. Division 1 Section 015000 "Temporary Facilities" for limitations and procedures governing temporary use of Owner's facilities.

1.3 PROJECT INFORMATION

- A. Project Identification:

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Taft College
29 Cougar Court
Taft, CA 93268

- B. Owner:

WEST KERN COMMUNITY COLLEGE DISTRICT
Brock McMurray
29 Cougar Court
Taft, CA 93268

- C. Architect:

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AP Architects
Jose Vargas – Project Manager
3434 Truxtun Avenue Suite 240,
Bakersfield CA 93301

- D. Architect's Consultants: The Architect has retained the following design professionals who have prepared designated portions of the Contract Documents:

1.4 WORK COVERED BY CONTRACT DOCUMENTS

- A. The Work consists of the construction of a new flooring and alterations to existing G – Modulares building interior and building improvements are required as part of the work.
- B. Type of Contract:
1. Project will be constructed under a single prime contract.

1.5 WORK UNDER OTHER CONTRACTS

1.6 WORK SEQUENCE

- A. The Work will be conducted in one phase to provide the least possible interference to the activities of the Owner's personnel and to permit an orderly transfer of personnel and equipment to the new facilities. Project completion is scheduled for specific number calendar days, (refer to Bid Proposal). Contractor shall review scope of work, and provide manpower, resources, etc., as required to complete project on or before the date required for project completion. Contractor shall allow in Proposal weekend workers, shifts of workers and additional productivity not limited to workers, materials, temporary facilities and equipment as required to meet project schedule with limited access times as indicated herein.

1.7 CONTRACTOR USE OF PREMISES

- A. General: Limit use of the premises to construction activities in areas indicated; allow for Owner occupancy and use by the public.
1. Confine operations to areas within Contract limits indicated. Portions of the site beyond areas in which construction operations are indicated are not to be disturbed.
 2. Keep driveways and entrances serving the premises clear and available to the Owner and the Owner's employees at all times. Do not use these areas for parking or storage of materials. Schedule deliveries to minimize space and time requirements for storage of materials and equipment on site.
 3. When performing new construction on existing sites, become informed and take into specific account the maturity of the students on the site, and perform work which may interfere with educational facility routine before or after facility hours; enclose the work area with a substantial barricade and arrange work to cause a minimum of inconvenience and danger to students and staff in their regular facility activities.
- B. Use of the Existing Building: Maintain the existing buildings in a weathertight condition throughout the construction period. Repair damage caused by construction operations. Take all precautions necessary to protect the building and its occupants during the construction period.

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1.8 OWNER OCCUPANCY

- A. Partial Owner Occupancy: The Owner reserves the right to occupy and to place and install equipment in completed areas of the building, prior to Notice of Completion provided that such occupancy does not interfere with completion of the Work. Such placing of equipment and partial occupancy shall not constitute acceptance of the total Work.
 - 1. Prior to partial Owner occupancy, mechanical and electrical systems shall be fully operational. Required inspections and tests shall have been successfully completed. Upon occupancy the Owner will provide operation and maintenance of mechanical and electrical systems in occupied portions of the building.
- B. All work shall be complete and approved prior to occupancy not limited to the following:
 - 1. No portion of building may be occupied requiring impaired Required Fire Detection System unless system is installed and approved.
 - 2. All completed work shall be in compliance with CBC 901.5 and CFC 901.5.1 related to acceptance tests.

1.9 WORK RESTRICTIONS:

- A. Work Restrictions, General: Comply with restrictions on construction operations.
 - 1. Comply with limitations on use of public streets and other requirements of authorities having jurisdiction.
 - 2. Smoking is not permitted within the building or within 25 feet (8 m) of entrances, operable windows, or outdoor air intakes.
 - 3. Use of controlled substances on the Project site is not permitted.
- B. On-Site Work Hours: Limit work in the existing building to normal business working hours of 6:00 a.m. to 5:00 p.m., Monday through Friday, except as otherwise indicated.
- C. Construction work that generates noise beyond 90db that will disturb adjacent areas shall be scheduled around class schedule and office hours of occupied rooms within 125 feet of work to be done. This work may have to be done during after hours, evenings and Contractor shall verify class schedules when work will generate noise beyond 90db.
- D. Deliver materials to the building area over the route designated by the facility Maintenance and Operations department. Times of deliveries shall coincide not to be done during 5 minutes before class change time between classes and 5 minutes after if said deliveries path is thru any area students will occupy during class change times. If a delivery is overlapping class change times, cease work, provide temporary barricades and resume 5 minutes after classes resume.

PART 2 - PRODUCTS (Not applicable).

PART 3 - EXECUTION (Not applicable).

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END OF SECTION 011000

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of Contract, including General and Supplementary Conditions and other Division 0 & 1 Specification sections, apply to this section.

1.2 SUMMARY

- A. This section specifies administrative and procedural requirements for handling and processing Contract modifications.

1.3 MINOR CHANGES IN THE WORK and REQUEST FOR INFORMATION (RFI)

- A. Supplemental instructions authorizing minor changes in the Work, not involving an adjustment to the Contract Sum or Contract Time, will be issued by the Architect. The Architect may issue written Supplemental Instructions, (SI), which interpret the Contract Documents or which order minor changes in the work without change in Contract sum or Contract time. The Contractor shall carry out such Supplemental Instructions promptly.
 - 1. Unless otherwise noted, SI, (Supplemental Instructions) does not warrant a cost or time impact to the Contract cost or time. If Contractor does not agree, Contractor has 10 calendar days from date of receipt of SI to file a claim for adjustment in writing to the architect.
 - 2. The Architect shall use SI's for written order for usage of allowance funds for project if any allowances are indicated.
- B. Contractor shall be able to ask valid questions concerning items required to construct project. This shall be done by the following methods in order as follows: (1) Contractor to review plans and determine if information is prescribed therein; (2) Contractor to review question with Project Inspector and determine if information is indicated, intended and/or prescribed in construction documents; (3) Contractor place an informal inquiry with architect and discuss question: and if no answer is determined then (4) Contractor shall prepare a Request for Information (RFI) and deliver to architect for determination of answer and or direction from architect as prescribed herein.
 - 1. Contractor shall submit Request for Information (RFI) on enclosed form at end of this Section.
 - 2. Contractor shall attach to RFI what they consider to be answer to Request for Information. Failure to provide this information shall be grounds for Architect to Request for Clarification.
 - 3. An RFI is defined as a request for information for information that cannot be found in the construction documents and related submittals. Items not considered RFI's are as follows:
 - a. A request for a proposed alternative materials, products or colors.
 - b. Substitutions.
 - c. Coordination of Contractor changed/initiated field conditions.

1.4 CHANGES IN WORK

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- A. The Owner, without invalidating the Contract may make changes by altering, adding to, or deducting from the work, the Contract sum and construction duration being adjusted accordingly. All such work shall be executed under the conditions of the original contract. Unless so authorized, the Contractor shall not deviate from nor alter the work as shown on the drawings or specifications. Additional work may be added to project by using project allowances as prescribed herein.
 - 1. In the event additional work is added to the project via allowances the Contractor shall provide an analysis of the schedule impact if any. If additional work is shown to impact the construction schedule the Contractor shall be entitled additional time as agreed to by architect. If additional work is shown by schedule analysis to have no impact, no additional construction duration will added to project.
 - 2. Any changes in construction duration shall be documented by a Change Order to Contract.

- B. If Contractor should claim that any instruction, request, drawing, specification, action, condition, omission, default, or other situation constitutes a change, extra work, or otherwise obligates Owner to pay additional compensation to Contractor or to grant an extension of time, or constitutes a waiver of any provision in the Contract Documents, Contractor shall notify Owner in writing of such claim within ten calendar days from the date Contractor has actual or constructive notice of the factual basis supporting the claim. The notice shall state the factual basis for the claim and cite in detail the Contract Documents (including plans and specifications) upon which the claim is based. Contractor's failure to notify Owner and Architect within the ten-day period shall be deemed a waiver and relinquishment of such a claim. If the notice is given within the specified time, the procedure for its consideration shall be as stated in these General Conditions. In the event of failure to agree, the matter shall be treated as a claim following the claims procedures in the Contract Documents.

- C. No change shall be made without such authorization, signed by the Owner, and countersigned by the Architect, or signed by the Architect and stating that the Owner has authorized such changes.
 - 1. Refer to Supplementary Conditions for Construction Change Directive (CCD) procedures.
 - 2. Refer to Supplementary Conditions for Supplemental Instructions (SI) procedures.

- D. Any changes processed by the Contractor or any work performed not in conformance with these plans and specifications which requires extra drawing, specifications, calculations, inspections and any other work by the Architect and/or Engineers shall be paid for by the Contractor. Payment shall be made to the Architect at current hourly rate on file due and payable upon presentation of invoice.

1.5 CHANGE ORDER PROCESS-(OWNER AND CONTRACTOR INITIATED PROPOSAL REQUEST, AND ALLOWANCES.)

- A. Owner-Initiated Proposal Requests: Proposed changes in the Work that will require adjustment to the Contract Sum or Contract Time will be issued by the Architect, with a detailed description of the proposed change and supplemental or revised Drawings and Specifications, if necessary.
 - 1. Request for Proposal requests (RFP), issued by the Architect are for information only. Do not consider them an instruction either to stop work in progress, or to execute the proposed change.
 - 2. Unless otherwise indicated in the proposal request, within 20 calendar days of receipt of the proposal request, submit to the Architect for the Owner's review an estimate of cost necessary to execute the proposed change as well as Construction Duration impact.
 - a. Include a list of quantities of products to be purchased and unit costs, along with the

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- total amount of purchases to be made. Where requested, furnish survey data to substantiate quantities.
- b. Indicate applicable taxes, delivery charges, equipment rental, and amounts of trade discounts.
 - c. Include a statement indicating the effect the proposed change in the Work will have on the Contract Duration.
 - d. Before Contractor is authorized to proceed with extra work or changes on the basis set forth above, the Owner and the Contractor shall be in complete agreement on what the term "costs" shall include and the amount of overhead and profit the Contractor is to charge.
 - e. All unit prices, whether set forth in the Contract or subsequently agreed upon, shall include overhead, profit, supervision, increased premium on all Bonds, increased premium on all insurances and other indirect cost for all tiers of contractors and related material men unless said items are being paid thru an allowance where overhead, profit, supervision, bonds, insurance and related items are included in contractor's base bid.
 - f. If there has been no response within 20 calendar days to an Architect's Request for Proposal, the Architect may direct the change to be done Time and Material. Under no circumstance may the contractor increase cost or increase schedule time due to Owner not receiving proposal timely.
- B. Contractor-Initiated Change Order Proposal Requests: When latent or other unforeseen conditions require modifications to the Contract, the Contractor may propose changes by submitting a request for a change to the Architect.
1. Include a statement outlining the reasons for the change and the effect of the change on the Work. Provide a complete description of the proposed change. Indicate the effect of the proposed change on the Contract Sum and Contract Time.
 2. Include a list of quantities of products to be purchased and unit costs along with the total amount of purchases to be made. Where requested, furnish survey data to substantiate quantities.
 3. Indicate applicable taxes, delivery charges, equipment rental, and amounts of trade discounts.
 4. Comply with requirements in Supplementary Conditions Article 15 Substitutions if the proposed change in the Work requires the substitution of one product or system for a product or system specified.
 5. Claim submitted to the Architect for extensions of time and extra cost shall be made on forms carrying Contractor's letterhead and shall contain a complete breakdown of all costs and extension of Surety Bonds and Insurance impacts.
 6. Before Contractor is authorized to proceed with extra work or changes on the basis set forth above, the Owner and the Contractor shall be in complete agreement on what the term "costs" shall include and the amount of overhead and profit the Contractor is to charge as any Contract Duration impacts.
- C. For changes that increase or decrease the contract price, or being paid by allowance item, the Contractor shall include the following amounts for overhead and profit:
1. Contractor's overhead and profit on the cost of work excluding work by Contractor shall be a total sum not exceeding ten percent (10%) of cost of such work. (See below for allowances)
 2. Contractor's overhead and profit on the cost of work performed by contractor without subcontractor shall be a total sum not exceeding ten percent (10%) of the cost of labor, materials, rentals, etc. (See below for allowances)
 3. Subcontractor's overhead and profit on the cost of work performed by subcontractor shall be a total sum not exceeding ten percent (10%) of the cost of labor, materials, rentals, etc.
 4. Subcontractor's overhead and profit on the cost of work performed by sub-contractors (one

- lower tier) shall be a total sum not exceeding five percent (5%) of such work.
5. Allowances: The contractor shall include in his base bid all overhead, profit, supervision, bonds, insurance and all other indirect costs for allowance items. None of these items will be added to lump sum and miscellaneous allowance as it is used by the Owner and directed by the Architect. In the event the allowance is required in an Alternate, the Contractor shall include in his alternate bid all overhead, profit, supervision, bonds, insurance and all other indirect costs for allowance items specific to that alternate.
- D. Time and Material basis as changes in the work. For changes that increase the contract price and work is authorized based upon the cost of labor, material, equipment and subcontract prices, plus a percentage for overhead and profit the following requirements shall apply. In the event the costs for changes in the work are not agreed to by the Architect and Contractor the work may be authorized to move forward on a time and material basis. If a Time and Material basis is used and scope of work is being paid thru an allowance overhead and profit are to be included in base bid and alternates where occur.
1. Daily reports by Contractor, as follows:
 - a. General. At the close of each working day, Contractor shall submit a daily report to the Architect and the Project Inspector on forms approved by Owner, together with applicable delivery tickets listing all labor, materials, and equipment involved for that day, and for other services and expenditures, when authorized, concerning extra work items. An attempt shall be made to reconcile the report daily, and it shall be signed by the Architect and Contractor. In the event of disagreement, pertinent notes shall be entered by each party to explain points which cannot be resolved immediately. Each party shall retain a signed copy of the report. Reports by subcontractors or others shall be submitted through Contractor.
 - b. Labor. The report shall show names of workers, classifications, and hours worked and hourly rate. Project supervision expenses, including for foremen and above, are not allowed. (iii) Materials. The report shall describe and list quantities of materials used and unit cost.
 - c. Equipment. The report shall show the type of equipment, size, identification number, and hours of operation, including loading and transportation, if applicable, and hourly/daily costs.
 - d. Other Services and Expenditures. Other services and expenditures shall be described in such detail as Owner may require.
 2. Basis for Establishing Costs
 - a. Labor. The costs of labor will be the actual cost for wages prevailing locally for each craft classification or type of worker at the time the extra work is done, plus employer payments of payroll taxes and insurance, health and welfare, pension, vacation, apprenticeship funds, and other direct costs resulting from federal, state, or local laws, as well as assessments or benefits required by lawful collective bargaining agreements. The use of labor classifications which would increase the extra work cost will not be permitted unless Contractor establishes the necessity for such additional costs. Labor costs for equipment operators and helpers shall be reported only when such costs are not included in the invoice for equipment rental.
 - b. Materials. The cost of materials reported shall be at invoice or lowest current price at which such materials are locally available and delivered to the work site in the quantities involved, plus sales tax, freight, and delivery. Owner reserves the right to approve materials and sources of supply, or to supply materials to Contractor if necessary for the progress of the work. No markup shall be applied to any material provided by the Owner.
 - c. Tool and Equipment Rental. No payment will be made for the use of tools which

have a replacement value of \$100 or less or where an invoice is not provided. Regardless of ownership, the rates to be used in determining equipment rental costs shall not exceed listed rates prevailing locally at equipment rental sources or distributors at the time the work is performed. The rental rates paid shall include the cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, and all incidentals. Necessary loading and transportation costs for equipment used on the extra work shall be included. If equipment is used intermittently, and when not in use could be returned to its rental source at less expense to Owner than holding it at the work site, it shall be returned, unless Contractor elects to keep it at the work site at no expense to Owner. All equipment shall be acceptable to the Architect in good working condition, and suitable for the purpose for which it is to be used. Manufacturer's ratings and manufacturer's approved modifications shall be used to classify equipment and it shall be powered by a unit of at least the minimum rating recommended by the manufacturer.

- d. Other Items. Owner may authorize other items which may be required on the extra work. These items include labor, services, material, and equipment which are different in their nature from those required by the work and which are of a type not ordinarily available from Contractor any of the Subcontractors. Detailed invoices covering all such items shall be submitted with the request for payment. (v) Invoices. Vendors' invoices for material, equipment rental, and other expenditures shall be submitted with the request for payment. If the request for payment is not substantiated by invoices or other documentation, Owner may establish the cost of the item involved at the lowest price which was current at the time of the report.

- 3. Daily worker time sheets shall be approved by the Project Inspector as well as copies of all materials invoices delivered to project site for this specific change. Time sheets and copies of all material costs shall be provided with pay request for this specific change with daily approvals by Project Inspector

E. The following form shall be used by Contractor as applicable to communicate proposed additions and deductions to the Contract Documents and use of allowances:

#	Description	Extra	Credit
a	Materials (attached itemized quantity and unit costs including any sales tax.	_____	_____
b	Labor (attached itemized hours and rates)	_____	_____
c	\$ Subtotal	_____	_____
d	Subcontractor's overhead and profit on the cost of work performed by sub-contractors (one lower tier) shall be a total sum not exceeding five percent (5%) of such work.	_____	_____
e	\$ Subtotal	_____	_____
f	Subcontractor's overhead and profit on the cost of work performed by subcontractor shall be a total sum not exceeding ten percent (10%) of the cost of labor, materials, rentals, etc.	_____	_____
g	\$ Subtotal	_____	_____
h	Contractor's overhead and profit on the cost of work excluding work by Contractor shall be a total sum not exceeding ten percent (10%) of cost of such work.	_____	_____

(Refer to project manual "Allowances" where overhead and profit are included in base bid and alternates where occur)

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i	Contractor's overhead and profit on the cost of work performed by contractor without subcontractor shall be a total sum not exceeding ten percent (10%) of the cost of labor, materials, rentals, etc. .	_____	_____
	(Refer to project manual "Allowances" where overhead and profit are included in base bid and alternates where occur)		
j	Bond Premium (Submit invoice from Bonding provider) .	_____	_____
	(Refer to project manual "Allowances" where bond premium are included in base bid and alternates where occur)		
k	Insurance (Submit invoice from Insurance provider) (Refer to project manual "Allowances" where bonds and insurance are included in base bid and alternates where occur)	_____	_____
l	\$ Total	_____	_____
m	Number of additional days time extension requested due to this time and material change. (Submit as built critical path schedule validating time extension for review and approval)	_____	_____
	Total Days	_____	_____
	Subcontractor's labor, material, overhead and profit shall be submitted with documentation in original form as submitted to General Contractor.		
	(Refer to project manual "Allowances" where overhead and profit are included in base bid and alternates where occur)	_____	_____

F. It is expressly understood that the value of such extra work or changes as determined by any of the methods herein expressly includes any and all of the contractors' costs and expense, both direct and indirect, resulting from delays or additional time required on the project, or resulting from accelerated work to avoid delays to the project.

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION (Not Applicable)

END OF SECTION 012600



CONSTRUCTION REQUEST FOR INFORMATION

DATE: _____ RFI # _____

ATTN: Jose Vargas PROJECT: ALLIED HEALTH MODULAR MODIFICATIONS
3434 Truxtun Avenue Ste 240
Bakersfield CA 93301

PROJECT#: _____

Subject: _____ Section #: _____

Sheet #: _____

Description: _____

Clarification Unforeseen Condition Owner Change Others

Requesting Sponsor: _____ Approved by: _____

Total number of pages: _____ Contractor: _____

RFI has been reviewed with Project Inspector without resolution

The Architect has 15 business days after written request is received to respond to Request for Information. No delay will be recognized on account of failure of Architect to furnish such interpretations within that period. Partial response or request for clarification of Request for Information constitutes response by Architect. Claims for adjustment shall be made within 10 calendar days after occurrence of the event giving rise to such claim in writing. Date received at Architect's office of signed original claim shall constitute date received. Architect shall be reimbursed by Contractor for time at current hourly rates prevailing to respond to Request for Information that are found to be substantially answered in Construction Documents.

ARCHITECT'S RESPONSE:

RFI not valid RFI valid

Issued RFI Response #: _____

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 0 & 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section specifies administrative and procedural requirements for project meetings including but not limited to:
 - 1. Pre-Construction Conference.
 - 2. Pre-Installation Conferences.
 - 3. Progress Meetings.
 - 4. Project Coordination Meetings.
- B. Related sections include the following construction schedules are specified in another Division-1 Section.
 - 1. Division 1 Section "Submittals" for construction schedules and related items.
 - 2. Division 1 Section "Progress Schedule and Reports" for construction schedules.

1.3 PRE-CONSTRUCTION CONFERENCE

- A. Schedule a pre-construction conference and organizational meeting at the Project site or other convenient location no later than 15 days after Notice to Proceed and prior to commencement of construction activities. Conduct the meeting to review responsibilities and personnel assignments.
- B. Attendees: The Owner, Architect, the Contractor and its superintendent, major subcontractors, manufacturers, suppliers and other concerned parties shall each be represented at the conference by persons familiar with and authorized to conclude matters relating to the Work.
- C. Agenda: Discuss items of significance that could affect progress including such topics as:
 - 1. Tentative construction schedule.
 - 2. Critical Work sequencing.
 - 3. Designation of responsible personnel.
 - 4. Procedures for processing field decisions and Change Orders.
 - 5. Procedures for processing Applications for Payment.
 - 6. Distribution of Contract Documents.
 - 7. Submittal of Shop Drawings, Product Data and Samples.
 - 8. Preparation of record documents.
 - 9. Use of the premises.
 - 10. Office, Work and storage areas.
 - 11. Equipment deliveries and priorities.
 - 12. Safety procedures.
 - 13. First aid.

14. Security.
15. Housekeeping.
16. Working hours.

1.4 PROGRESS MEETINGS

- A. Conduct progress meetings at the Project site at periodic scheduled intervals. Coordinate schedules with the Owner and Architect of proposed meeting dates in advance of meetings. Discuss at Pre-construction meeting. Coordinate dates of meetings with preparation of the payment request such Architect and Project Inspector can discuss any issue with Contractor on project site.
- B. Attendees: In addition to representatives of the Owner and Architect, each subcontractor, supplier or other entity concerned with current progress or involved in planning, coordination or performance of future activities shall be represented at these meetings by persons familiar with the Project and authorized to conclude matters relating to progress.
- C. Agenda: Review and correct or approve minutes of the previous progress meeting. Review other items of significance that could affect progress. Include topics for discussion as appropriate to the current status of the Project.
 1. Contractor's Construction Schedule: Review progress since the last meeting. Determine where each activity is in relation to the Contractor's Construction Schedule, whether on time or ahead or behind schedule. Determine how construction behind schedule will be expedited; secure commitments from parties involved to do so. Discuss whether schedule revisions are required to ensure that current and subsequent activities will be completed within the Contract Time.
 2. Review the present and future needs of each entity present, including such items as:
 - a. Interface requirements.
 - b. Time.
 - c. Sequences.
 - d. Deliveries.
 - e. Off-site fabrication problems.
 - f. Access.
 - g. Site utilization.
 - h. Temporary facilities and services.
 - i. Hours of Work.
 - j. Hazards and risks.
 - k. Housekeeping.
 - l. Quality and Work standards.
 - m. Safety of Students and Staff.
 - n. Documentation of information for payment requests.
 - o. HCP Impacts on project and work schedules.
- D. Reporting: No later than 3 business days after each progress meeting date, distribute copies of minutes of the meeting to each party present and to other parties who should have been present. Include a brief summary, in narrative form, of progress since the previous meeting and report.
 1. Schedule Updating: Revise the construction schedule after each progress meeting where revisions to the schedule have been made or recognized. Issue the revised schedule concurrently with the report of each meeting.
 2. Send Architect, Construction Manager, Project Inspector, and Owner digital files of meeting report and revised schedules.

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3. Architect shall provide a copy of field report made during visit to Contractor within 10 days of site visit.

1.5 PROJECT COORDINATION MEETINGS

- A. Conduct coordination meetings at the site before each construction activity that requires coordination with other construction. The various Contractors involved in or affected by the installation, and its coordination or integration with other materials and installations shall attend the meeting. Advise the Architect of scheduled meeting dates.
 1. Coordination Meetings Schedule (Minimum):
 - a. Ceiling/Attic Contractors: The following Contractors shall attend and coordinate construction activities and space requirements:
 - 1) Mechanical Systems.
 - 2) Plumbing Systems.
 - 3) Electrical Systems.
 - 4) Ceiling Systems.
 - 5) Structural Systems.
 - 6) Fire Sprinkler Systems.
 - 7) Data Cabling Systems.
 - 8) Other Systems.
 - b. Site/Building Utilities Contractors: The following Contractors shall attend the coordination construction activities and space requirements:
 - 1) All Site/Building Utilities Systems.
 - 2) All Site/Building Electrical Systems.
 - 3) All Site/Building Mechanical Systems.
 - 4) All Site/Building Fire Protection Systems.
 - 5) All Site/Building Data Cabling Systems.
 - 6) Other Site/Building Systems.
 - 7) Landscape/Irrigation Site Systems and Requirements Leaching.
 2. Record significant discussions and agreements and disagreements of each meeting, along with the approved coordination drawings. Distribute the record of the meeting to everyone concerned, promptly, including the Owner and Architect.
 3. Do not proceed if the coordination meeting cannot be successfully concluded. Initiate whatever actions are necessary to resolve impediments to performance of Work and reconvene the coordination meeting at the earliest feasible date.

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION (Not Applicable)

END OF SECTION 013100

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of Contract, including General and Supplementary Conditions and other Division 0 & 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section specifies administrative and procedural requirements for submittals required for performance of the Work, including, but not limited to,;
 - 1. Contractor's construction project schedule.
 - 2. Product Data.
- B. Administrative Submittals: Refer to other Division-1 Sections and other Contract Documents for requirements for administrative submittals. Such submittals include, but are not limited to:
 - 1. Permits/Public Works.
 - 2. Applications for payment.
 - 3. Performance and payment bonds.
 - 4. Insurance certificates.
 - 5. List of Subcontractors.
 - 6. Schedule of Values.
 - 7. Electronic certified payroll records directly to the Labor Commissioner.
 - 8. Preliminary notices (20-day notice).

1.3 SUBMITTAL PROCEDURES

- A. Coordination: Coordinate preparation and processing of submittals with performance of construction activities. Transmit each submittal sufficiently in advance of performance of related construction activities to avoid delay.
 - 1. Coordinate each submittal with fabrication, purchasing, testing, delivery, other submittals and related activities that require sequential activity.
 - 2. Coordinate transmittal of different types of submittals for related elements of the Work so processing will not be delayed by the need to review submittals concurrently for coordination.
 - a. The Architect reserves the right to withhold action on a submittal requiring coordination with other submittals until related submittals are received.
 - b. No color selections will be made until all color samples for entire project have been received by the Architect and determined to be acceptable.
 - 3. Processing: Allow sufficient review time so that installation will not be delayed as a result of the time required to process submittals, including time for re-submittals.
 - a. Allow three weeks for initial review (21 calendar days). Allow additional time if processing must be delayed to permit coordination with subsequent submittals. The Architect will promptly advise the Contractor when a submittal being processed must be delayed for coordination.
 - b. If an intermediate submittal is necessary, process the same as the initial submittal.
 - c. Allow two weeks (14 calendar days) for reprocessing each submittal.
 - d. No extension of Contract Time or claims for additional costs will be approved or

authorized because of failure to transmit submittals to the Architect sufficiently in advance of the Work and Critical Path Schedule to permit processing requirements indicated herein. Submittals covering component items and forming an interrelated system of items must be coordinated and submitted concurrently rather than individual submittals for review.

- e. Time is defined as calendar days, starting from date item is received in architect's office and end with date of transmittal to General Contractor as last day of review.
 - 1) Where Submittal is required to be reviewed by consulting Engineer, time to review will be increased by seven (7) calendar days for review.
 - 2) Where Submittal is required to be reviewed by two parties--i.e., Architect-Engineer, Engineer-Engineer--add fourteen (14) calendar days for review.
 - 3) The Architects' office is closed from December 16 through January 2 of each calendar year. Submittals received less than 21 calendar days before office closing may not be processed before office closed dates noted herein. The balance of the 21 calendar days will resume after January 2 of each closing for submittals and related items. It is the contractor's responsibility to have critical submittals received by the architect 21 calendar days prior to above closing for timely processing.
 - a). Consulting engineering related submittals and re-review items will add time as indicated herein above to the amount of time indicated due to office closing.
 - f. Shop drawings, submittals and related items shall be submitted at a time sufficiently early to allow review by the Architect and the Division of State Architect (DSA) if required, and to accommodate the rate of construction progress required under the Contract Documents. Contractor will be required to pay the Architect's reasonable and customary fees to expedite review of shop drawings which are not submitted in timely fashion.
 - g. Contractor shall have no claim for damages or extension of time due to any delay resulting from contractor having to make required revisions to shop drawings unless the Architect's review of the drawings is delayed beyond the time provided in the contract documents and contractor can establish that the Architect's delay is review actually resulted in a delay in Contractor's construction schedule. Contractor shall provide a record as built schedule as proof of delays within 10 days of the event that gives rise to a delay claim. Contractor shall not be entitled to any claim for damages resulting from DSA review beyond days allowed herein documents after submittal. However, owner may consider an extension of time due to any delay caused by DSA review.
4. All submittals shall be cross-referenced to contract documents to expedite checking. Use Project Manual's section designation and Working Drawing's sheet number(s).
- B. Submittal Preparation: Place a permanent label or title block on each submittal for identification. Indicate the name of the entity that prepared each submittal on the label or title block.
- 1. Provide a space approximately 4" x 4" on the label or beside the title block on Shop Drawings to record the Contractor's review and approval markings and the action taken. Provide on the label or beside the title block on Shop Drawings to record the Architect's review and approval markings and the action taken.
 - 2. Include the following information on the label for processing and recording action taken.
 - a. Project name.
 - b. Date.
 - c. Name and address of Architect.
 - d. Name and address of Contractor.
 - e. Name and address of subcontractor.
 - f. Name and address of supplier.

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- g. Name of manufacturer.
 - h. Number and title of appropriate Specification Section.
 - i. Drawing number and detail references, as appropriate.
 3. Submittals shall be stamped and signed by the Prime Contractor to the effect that the contents have been reviewed and approved by him and meet the requirements for this project. Submittals will not be reviewed without this approval by Prime Contractor. Contractor's review and approval of shop drawings shall include the following stamp:
 - a. "Contractor has reviewed and approved not only the field dimensions but the construction criteria and has also made written notation regarding any information in the shop drawings that does not conform to the Contract Documents. This shop drawing has been coordinated with all other shop drawings received to date by Contractor and this duty of coordination has not been delegated to subcontractors, material suppliers, the Architect, or the engineers on this Project.

Signature of Contractor"
- C. Submittal Transmittal: Package each submittal appropriately for transmittal and handling. Transmit each submittal from Contractor to Architect using a transmittal form. Submittals received from sources other than the Contractor will be returned without action.
1. On the transmittal record relevant information and requests for data. On the form, or separate sheet, record deviations from Contract Document requirements, including minor variations and limitations. Include Contractor's certification that information complies with Contract Document requirements.
- D. Failure to provide adequate and correct submittals: Contractor shall make a complete and acceptable submittal to the Architect by the second submission of submittals. Owner shall withhold funds due to Contractor to cover additional costs of the Architect's review beyond the second submission and any other costs incurred by Owner.
1. Architect shall be reimbursed for all time spent in reviewing and processing of re-submittals of any submittals after the second submission where items have not been addressed, corrected and/or providing a complete submittal as requested by architect in previous submissions of a submittal.
- E. Submittal quantities:
1. Provide digital PDF copies of all submittals except as follows:
 - a. Shop Drawings: Provide 4 copies of shop drawings. Architect and Engineer will red line any corrections and retain 4 copies. Contractor will be sent a PDF file of black and white scanned shop drawing for distribution and printing by Contractor. In the event of corrections and resubmittal contractor shall send 4 corrected copies of Shop Drawings at each resubmittal.

1.4 CONTRACTOR'S CONSTRUCTION PROJECT SCHEDULE

- A. Bar-Chart Schedule: Prepare a fully developed, horizontal bar-chart type Contractor's construction project schedule. Identify critical path items throughout project schedule. Submit within 15 days of the award of contract.
1. Provide a separate time bar for each significant construction activity. Provide a continuous vertical line to identify the first working day of each week. Use the same breakdown of units of the Work as indicated in the "Schedule of Values".
 2. Within each time bar indicate estimated completion percentage in maximum 10 percent increments. As Work progresses, place a contrasting mark in each bar to indicate Actual

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- Completion.
 3. Prepare the schedule on a sheet, or series of sheets of sufficient width to show data for the entire construction period.
 4. Secure time commitments for performing critical elements of the Work from parties involved. Coordinate each element on the project schedule with other construction activities; include minor elements involved in the sequence of the Work. Show each activity in proper sequence. Indicate graphically sequences necessary for completion of related portions of the Work.
 5. Coordinate the Contractor's construction project schedule with the schedule of values, list of subcontracts, submittal schedule, progress reports, payment requests and other schedules.
 6. Indicate completion in advance of the date established for Final Completion. Indicate Final Completion on the schedule to allow time for the Architect's procedures necessary for certification of Final Completion.
- B. Phasing: Provide notations on the schedule to show how the sequence of the Work is affected by requirements for phased completion to permit Work by separate Contractors, partial occupancy by the Owner prior to Final Completion.
- C. Work Stages: Indicate important stages of construction for each major portion of the Work, including testing and installation.
- D. Weather Delays: Contractor shall show anticipated rain, sleet, snow, wind and other weather driven delays on initial project schedule, as separate line items for each weather delay type, based upon Contractor's proposed ways and means. Refer to Project Manual herein for additional requirements.
- E. Area Separations: Provide a separate time bar to identify each major construction area for each major portion of the Work. Indicate where each element in an area must be sequenced or integrated with other activities.
- F. Distribution: Following response to the initial submittal, print and distribute copies to the Architect, Owner, subcontractors, and other parties required to comply with scheduled dates. Post copies in the Project meeting room and temporary field office.
- G. Submit with each payment request an updated construction project schedule with the above item plus the following items:
1. As-built project schedule of work performed to date.
 2. Adjusted project schedule showing schedule to complete work.
 3. Number of weather delay days and audit of days used for each type of weather delay.
 4. Updated Final Completion project schedule dates.

1.5 PRODUCT DATA

- A. Collect Product Data into a single submittal for each element of construction or system. Product Data includes printed information such as manufacturer's installation instructions, catalog cuts, standard color charts, roughing-in diagrams and templates, standard wiring diagrams and performance curves. Where Product Data must be specially prepared because standard printed data is not suitable for use, submit as "Shop Drawings."
1. Mark each copy to show applicable choices and options. Where printed Product Data includes information on several products, some of which are not required, mark copies to indicate the applicable information. Include the following information:
 - a. Manufacturer's printed recommendations.
 - b. Compliance with recognized trade association standards.
 - c. Compliance with recognized testing agency standards.
 - d. Application of testing agency labels and seals.

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- e. Notation of dimensions verified by field measurement.
 - f. Notation of coordination requirements.
2. Do not submit Product Data until compliance with requirements of the Contract Documents has been confirmed.
 3. Preliminary Submittal: Submit a preliminary single-copy of Product Data where selection of options is required.
 4. Submittals: Submit copies of each required submittal; submit hardcopies where required for maintenance manuals. The Architect will retain one, and will return the other marked with action taken and corrections or modifications required.
 - a. Unless noncompliance with Contract Document provisions is observed, the submittal may serve as the final submittal.
 5. Distribution: Furnish copies of final submittal to installers, subcontractors, suppliers, manufacturers, fabricators, and others required for performance of construction activities. Show distribution on transmittal forms.
 - a. Do not proceed with installation until an applicable copy of Product Data applicable is in the installer's possession.
 - b. Do not permit use of unmarked copies of Product Data in connection with construction.

1.6 MATERIALS SPECIFIED

- A. The Contract is based on standards of quality established in the Contract Documents.
 1. In agreeing to the terms and conditions for the Contract, the Contractor has accepted the responsibility to verify that the specified products will be available and to place orders for all required materials in such a timely manner as needed to meet his agreed construction schedule.
 2. Neither the Owner nor the Architect has agreed to the substitution of materials or methods called for in the Contract Documents, except as they may specifically otherwise state in writing and when approved in advance of purchase and installation per requirements herein.
- B. Colors: Provide finish selections indicated in the Project Manual and Plans.
 1. Acceptable Manufacturers: The products and manufacturer's specified in the Project Manual and Plans are for purposes of establishing color selection options and quality.
 2. Manufacturer's Standard colors and Finishes: Where the Project Manual or Plans specifies a manufacturer's standard color or finish, the Architect makes no guarantee that matching colors or finishes are available as other non-listed manufacturer's "standard colors" from the listing of acceptable manufacturers. The Contractor shall be responsible for providing colors matching those indicated in the Project Manual of listed acceptable manufacturer in the Project Manual at no additional cost.
 3. Custom Colors: Where the Finish Schedule Project Manual and or Plan indicates a specific manufacturer's colors, other acceptable manufacturer shall provide matching custom colors where a standard color in not acceptable at no additional cost.

1.7 SAMPLES

- A. Submit full-size, fully fabricated Samples cured and finished as specified and physically identical with the material or product proposed. Samples include partial sections of manufactured or fabricated components, small cuts or containers of materials, color range sets, complete units of repetitively used materials, units of work to be used for independent inspection and testing, and

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swatches showing color, texture and pattern.

1. Mount, display, or package Samples in the manner specified to facilitate review of qualities indicated. Prepare Samples to match the Architect's Sample. Include the following:
 - a. Generic description of the Sample.
 - b. Sample source.
 - c. Product name or name of manufacturer.
 - d. Compliance with recognized standards.
 - e. Availability and delivery time.
 2. Submit Samples for review of kind, color, pattern, and texture, for a final check of these characteristics with other elements, and for a comparison of these characteristics between the final submittal and the actual component as delivered and installed.
 - a. Where variation in color, pattern, texture or other characteristics are inherent in the material or product represented, submit multiple units (not less than 6), that show approximate limits of the variations.
 - b. Refer to other Specification Sections for requirements for Samples that illustrate workmanship, fabrication techniques, details of assembly, connections, operation and similar construction characteristics.
 3. Preliminary submittals: Where Samples are for selection of color, pattern, texture or similar characteristics from a range of full selection, submit three (3) full sets of choices for the material or product.
 - a. Color selection shall be done upon complete submittal of materials and/or products needing color selection. It is the responsibility of the general contractor to see to it that required submittals for color selection shall be submitted to the Architect prior to time for implementation to not affect project schedule.
 - b. Provide ninety (90) days time allowance for the Architect to work out preliminary schemes for College approval from receipt of complete color submittal of all items for this project.
 4. Submittals: Except for Samples illustrating assembly details, workmanship, fabrication techniques, connections, operation and similar characteristics, submit 4 sets; one will be returned marked with the action taken.
 5. Maintain sets of Samples, as returned, at the Project site, for quality comparisons throughout the course of construction.
 - a. Unless noncompliance with Contract Document provisions is observed, the submittal may serve as the final submittal.
 - b. Sample sets may be used to obtain final acceptance of the construction associated with each set.
- B. Distribution of Samples: Prepare and distribute additional sets to subcontractors, manufacturers, fabricators, suppliers, installers, and others as required for performance of the Work. Show distribution on transmittal forms.
1. Field Samples specified in individual Sections are special types of Samples. Field Samples are full-size examples erected on site to illustrate finishes, coatings, or finish materials and to establish the standard by which the Work will be judged.
 - a. Comply with submittal requirements to the fullest extent possible. Process transmittal forms to provide a record of activity.

1.8 ARCHITECT'S ACTION

- A. Except for submittals for record, information or similar purposes, where action and return is required or requested, the Architect will review each submittal, mark to indicate action taken, and return.
 - 1. Compliance with specified characteristics is the Contractor's responsibility.
 - 2. Numerous serious corrections, or incomplete submittals, will necessitate resubmittal, in which case, only one copy will be returned with notations. Contractor shall resubmit required number of sets with corrections made with original mark-up submittal for review.

- B. Conditions of Review: Architect's review is for general conformance with the design concept and contract documents. Review action on a submittal by the Architect does not in any way constitute a change order. Markings or comment shall not be construed as relieving the Contractor from compliance with the project plans and specifications, nor departures therefrom. The Contractor remains responsible for details and accuracy, for conforming an correlating all quantities and dimensions, for selecting fabrication processes for techniques of assembly, and for performing his work in a safe manner.
 - 1. The Contractor is responsible for coordination of his work with and between that of all subcontractors and trades.
 - 2. Absolutely no deviation from the Contract Documents will be permitted without written acknowledgement from Architect of receipt and Review of Written Notification from the Contractor to the Architect accompanying this submittal of all deviations contained in this submittal.
 - 3. The Architect's review is not the final stage of acceptance for any part of the project, nor does it relieve the Contract responsibilities.
 - 4. Contractor shall submit an itemized list of changes of items different than specified/indicated herein and on construction documents. List shall include items that are different and omitted. In the event items are not included on list, omitted from submittal and/or different than specified; Contractor shall be responsible for providing specified item(s). Liabilities subsequent to items omitted/or different shall be the responsibility of Contractor and shall be warranted a minimum of five (5) years or greater as prescribed by law. If no list is included with Shop Drawings, Architect assumes all items are as specified. Items discovered within five (5) years of Notice of Completion shall be corrected and provided by Contractor and Subcontractor at no cost to Owner.

- C. Action: The Architect will identify each submittal with a uniform, self-explanatory action sheet. The sheet will be appropriately marked, as follows, to indicate the action taken:
 - 1. No Exceptions Taken: If this box is marked, the work covered by the submittal may proceed provided it complies with the requirements of the contract documents; acceptance of the work will depend upon that compliance.
 - 2. Make Corrections Noted: If box is marked, the work covered by the submittal may proceed provided it complies with both the Architect's/Engineer's notations or corrections to the submittal and with the requirements of the contract documents; acceptance of the work will depend on that compliance. Submit corrected copy for record if requested by the Architect.
 - 3. Revise and Resubmit: If this box is marked, do not proceed with the work covered by the submittal, including purchasing, fabrication, delivery, or other activity. Revise the submittal in accordance with the Architect's/Engineer's notations and resubmit without delay. Repeat if necessary.
 - 4. Rejected: If this box is marked, do not proceed with the work covered by the submittal, including purchasing, fabrication, delivery, or other activity. Revise the submittal or prepare a new submittal in accordance with the Architect's/Engineer's notations and resubmit to Architect.
 - b. Do not permit submittals marked "Rejected" or, "Revise and Resubmit" to be used at the Project site, or elsewhere where Work is in progress.
 - 5. Action Not Required: Where a submittal is primarily for information or record purposes,

- special processing or other activity, the submittal will be returned, marked "Action Not Required".
6. Remarks: The review has occasioned comments that have been attached to the submittal. Process these comments as if they had been written on the submittal itself.
 7. Requires Intermediate Submittal: Submittal does not meet all requirements for a complete approval. Submittal requires additional information for processing.

1.9 SUBSTITUTIONS

A. Substitution Request:

1. Cost to Contractor or Bidder for review of Substitution Request.
 - a. Each review of a Substitution Request by the Architect will be billed to the submitter (Contractor or Bidder) at the current hourly rate on file at Architect's office, two hour minimum for each review, whether approved or rejected.
 - b. The Contractor will have a thirty-five (35) day period from the contract award date, in which to review the total contract documentation and issue any substitution or clarification requests to the Architect free of any financial charge.
 - c. The Contractor will be expected to identify any omissions, anomalies, divergence or discrepancies in the Contract Documents within this time period and so inform the Architect, in writing.
 - d. Any such omissions, anomalies, divergence or discrepancies not identified to the Architect within this period shall be deemed to be included within the bid sum and not subject to a Change Order by the Architect.
 - 1) The Architect may waive the review cost if, in his sole opinion, the submittal was complete and the time involved in the review was not substantial, and it was in the best interest of the Owner.
2. Content of Request:
 - a. Complete the attached Substitution Request Form (at the end of this Section), substantiating compliance of proposed substitution with Contract Documents.
 - b. For products, attach to the Substitution Request Form:
 - 1) Product identification, including manufacturer's name and address.
 - 2) Manufacturer's literature including product description, performance and complete test data and reference standards.
 - 3) Samples.
 - c. For construction methods, attach to the Substitution Request Form:
 - 1) Detailed description of proposed methods.
 - 2) Drawings illustrating methods.
 - d. Attach to the Substitution Request Form an itemized comparison of proposed substitution with product or method specified.
 - e. Provide long-term serviceability data comparing side by side analysis with specified materials.
 - f. Provide manufacturer's experience in years with product with specific product formulation that is to be substituted.
 - g. Provide certified warranty issued for this specific project including application--precisely.
 - h. Provide system component analysis and statement the product is certified by Contractor to be compatible with all other items of assemblies where product/material/method is specified.

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3. In making request for substitution, Contractor attests that:
 - a. Contractor has personally investigated proposed product or method, and determined that it is equal or superior in all respects to that specified.
 - b. Contractor will provide the same guarantee or warranty for substitution as for product or method specified.
 - c. Contractor will coordinate installation of accepted substitution into Work, making such changes as may be required for Work to be complete in all respects.
 - d. Contractor waives all claims for additional costs related to substitution which subsequently become apparent.
 - e. Contractor will pay all cost of Consultant to interpret physical properties to compare substitution with specified product, if requested by Architect.
 - f. Colors: The Contractor will match the color and/or finish available for the acceptable manufacturers listed in the Project Manual and/or Plans as a custom color and at no additional cost to the Owner.
4. Submit three (3) copies of Substitution Request prior to submittals required.

B. Acceptance of Substitutions

1. Procedures:
 - a. The Contract is based on materials, equipment and methods described in the Contract Documents.
 - b. Architect will consider proposals submitted in accordance with the Substitution Request.
 - c. Substitutions will be considered when submitted within 35 days after date of Contract.
 - d. Architect is solely responsible for judging the acceptance of substitutions.
 - e. Substitutions will not be considered if:
 - 1) They are indicated or implied on product submittals without formal request submitted in accordance with Substitution Request.
 - 2) Acceptance will require substantial revision of Contract Documents.
 - 3) They are submitted more than 35 days after date of Contract, unless the specified or drawing item has been verified to be discontinued or is otherwise unavailable, or the Owner desires a cost savings for the product or system.
2. Time to review: Architect shall be allowed twenty-eight (28) calendar days to review each substitution submittal. In the event review cannot be completed and more information is requested by the Architect to complete this review, upon receipt of requested information, twenty-eight (28) calendar days will be allowed for additional review after receipt of requested and complete information.

PART 2 - PRODUCTS

2.1 SUBSTITUTION REQUEST FORM

See the form attached to the end of this Section.

PART 3 - EXECUTION

3.1 GENERAL

The attached form will be reproduced by the Contractor or any of his Subcontractors for any and all proposed substitutions. No other forms will be accepted.



SUBSTITUTION REQUEST

DATE: _____ Substitution Request # _____

ATTN: Jose Vargas **PROJECT:** ALLIED HEALTH MODULAR MODIFICATIONS
AP Architects
3434 Truxtun Ave Suite 240
Bakersfield CA 93301 **PROJECT#:** _____ **NOA DATE:** _____

We hereby submit for your consideration the following product/ manufacturer instead of the one(s) specified in the Project Manual/ Plans:

Item: _____ Section #: _____

Manufacturer: _____ Sheet #: _____

A. Reason for not providing specified product: _____

B. Proposed Substitution: _____

C. Cost shall be shouldered by the undersigned for changes to the building design, including engineering and detailing costs caused by the requested substitution. (Negative response maybe cause for rejection.)

Yes No Explain: _____

D. Provide the following with Substitution Request Package:	*NI –Not Indicated; N/A – Not Applicable	Checklist for Architect			
		Yes	No	N/A	NI
1 Attached data includes product data, specifications, photographs, samples, code approvals and laboratory test data adequate for evaluation of request. All test data shall be complete with relevant test(s).		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2 Attach data includes description of change to contract documents that proposed substitution will have. Include complete information on changes to drawing and/ or project manual which proposed substitution will require for proper installation.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 Does proposed substitution affect dimensions shown on contract documents?		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4 Does proposed substitution affect other trades and is it clear on the request form? Provide system component compatibilities.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5 Does proposed substitution affect local availability of service and maintenance including where nearest service representative is located and travel time to project site?		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6 Attached cost data with detail breakdown of differential, either plus or minus.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7 If substitution is of higher quality, will this impact future replacement cost?		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8 What is the impact of substitution on construction schedule?		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9 Provide long term serviceability data compared with specified material.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10 Provide manufacturing experience in years with product with specified material product formation substituted.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11 Provide certified product warranty equal or greater to what is required for this project.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12 Is a consultant required to integrate physical properties to compare material/product?		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13 Will the Substitute Manufacturer provide colors matching color selection of listed manufacturers in Project Manual?		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

E. The undersigned certifies that the following paragraphs, unless modified by attachments, are correct:

1. The undersigned will compensate the Architect, Architect's staff, and consulting engineers at Architect's rate per hour for changes required to the building design, including engineering design, detailing, and construction costs caused by the requested substitution. The Architect is herein defined as any of those firms or individuals listed by reference on the Directory, including all Consultants identified herein.
2. Attach all cost data with explanations if different from Specified or Drawing item. Include in that explanation a discussion on quality or proposed substitution and cost differential.
3. Attach all cost data with explanations if different from Specified or Drawing item. Include in that explanation a discussion on quality or proposed substitution and cost differential.
The undersigned will pay for any subsequent changes in incorporating the proposed substitution that were not
4. apparent at the time of approval into the Work, including compensation to the Architect and consulting agent(s) as described in item 2 above.
5. The undersigned certifies that the substituted material/product/method is compatible with all the items in the system application's specified use in this project.
6. Failure to provide complete substitution package per above requirements are ground for rejection.

The undersigned states that the function, appearance and quality are equivalent or superior to the construction document item. The undersigned agrees to waive all claims for additional costs related to accepted substitution, including cost associated with changes to building design, engineering, or details, which may subsequently become apparent. (Negative response maybe cause for rejection.)

Submitted by: _____ Approved by General Contractor: _____
Signature

Signature: _____ Signed by: _____ Date: _____
Address: _____ Address: _____

Phone: _____ Fax: _____ Phone: _____ Fax: _____

ARCHITECT'S RESPONSE:

Substitution Request #: _____

Date: _____

Reviewed by: _____

Remarks: _____

- Accepted – Submit as construction submittal
- Accepted as noted – Submit as construction submittal
- Rejected – Use specified material
- Received too late – Use specified material

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of Contract, including General and Supplementary Conditions and other Division 0 & 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section specifies general administrative and procedural requirements for warranties and bonds required by the Contract Documents, including manufacturer's standard warranties on products and special warranties.
 - 1. Refer to the General Conditions for terms of the Contractor's special warranty of workmanship and materials.
 - 2. General closeout requirements are included in Section "Project Closeout."
 - 3. Specific requirements for warranties for the Work and products and installations that are specified to be warranted, are included in the individual Sections of Divisions 2 through 33.
 - 4. Certifications and other commitments and agreements for continuing services to Owner are specified elsewhere in the Contract Documents.
 - 5. Items that are omitted and/or different than specified/indicated herein and on Construction Documents and items not indicated as a change on Submittals, shall be warranted as required in Sections 006002 and 013300.
- B. Disclaimers and Limitations: Manufacturer's disclaimers and limitations on product warranties do not relieve the Contractor of the warranty on the Work that incorporates the products, nor does it relieve suppliers, manufacturers, and subcontractors required to countersign special warranties with the Contractor.
- C. Notwithstanding any tests, approvals, certificates, commissioning, inspection or otherwise by the Owner, Architect or any other consultant employed by or on behalf of the employer, the Contractor shall be and remain fully and exclusively responsible and liable for ensuring that his works, and all goods and materials therein are in every respect and detail in accordance with the Contract Documents, and no such tests, approval certificates, commissioning, inspection or otherwise shall in any way diminish or negate the Contractor's responsibility or liability as foresaid.

1.3 WARRANTY REQUIREMENTS

- A. Related Damages and Losses: When correcting warranted Work that has failed, remove and replace other Work that has been damaged as a result of such failure or that must be removed and replaced to provide access for correction of warranted Work.
- B. Reinstatement of Warranty: When Work covered by a warranty has failed and been corrected by replacement or rebuilding, reinstate the warranty by written endorsement. The reinstated warranty shall be equal to the original warranty with an equitable adjustment for depreciation.
- C. Replacement Cost: Upon determination that Work covered by a warranty has failed, replace or rebuild the Work to an acceptable condition complying with requirements of Contract Documents. The Contractor is responsible for the cost of replacing or rebuilding defective Work regardless of whether the Owner has benefited from use of the Work through a portion of its anticipated useful service life.
- D. Owner's Recourse: Written warranties made to the Owner are in addition to implied warranties, and shall

TC – ALLIED HEALTH MODULAR MODIFICATIONS

not limit the duties, obligations, rights and remedies otherwise available under the law, nor shall warranty periods be interpreted as limitations on time in which the Owner can enforce such other duties, obligations, rights, or remedies.

1. Rejection of Warranties: The Owner reserves the right to reject warranties and to limit selections to products with warranties not in conflict with requirements of the Contract Documents.
- E. The Owner reserves the right to refuse to accept Work for the Project where a special warranty, certification, or similar commitment is required on such Work or part of the Work, until evidence is presented that entities required to countersign such commitments are willing to do so.

1.4 SUBMITTALS

- A. Submit written warranties to the Architect prior to the date certified for Notice of Completion. If the Architect's Certificate of Notice of Completion designates a commencement date for warranties other than the date of Notice of Completion for the Work, or a designated portion of the Work, submit written warranties upon request of the Architect.
1. When a designated portion of the Work is completed and occupied or used by the Owner, by separate agreement with the Contractor during the construction period, submit properly executed warranties to the Architect within fifteen days of completion of that designated portion of the Work.
- B. When a special warranty is required to be executed by the Contractor, or the Contractor and a subcontractor, supplier or manufacturer, prepare a written document that contains appropriate terms and identification, ready for execution by the required parties. Submit a draft to the Owner through the Architect for approval prior to final execution.
1. Refer to individual Sections of Divisions 2 through 33 for specific content requirements, and particular requirements for submittal of special warranties.
- C. Bind warranties and bonds in heavy-duty, commercial quality, durable 3-ring vinyl covered loose-leaf binders, thickness as necessary to accommodate contents, and sized to receive 8-1/2" by 11" paper.
1. Provide heavy paper dividers with celluloid covered tabs for each separate warranty. Mark the tab to identify the product or installation. Provide a typed description of the product or installation, including the name of the product, and the name, address and telephone number of the installer.
 2. Identify each binder on the front and the spine with the typed or printed title "WARRANTIES AND BONDS, the Project title or name, and the name of the Contractor.
 3. When operating and maintenance manuals are required for warranted construction, provide additional copies of each required warranty, as necessary, for inclusion in each required manual.

PART 2 - PRODUCTS (Not Applicable).

PART 3 – EXECUTION

3.1 FORMS

- A. Project Warranty Form, See attached.
- B. Subcontractor Warranty Form, See attached.

END OF SECTION 017800

PROJECT WARRANTY

Project: ALLIED HEALTH MODULAR MODIFICATIONS

Date:

Taft College

Owner: West Kern Community College District

Architect: AP Architects

Contractor:

Inspector:

File No:

Project No:

DSA Appl No:

_____(Contractor) hereby warrants to the Owner that materials and equipment furnished under the Contract in the _____ (Name of Project) are of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work is free from defects not inherent in the quality required or permitted, and that the Work conforms with the requirements of the Contract Documents. Work not conforming to these requirements, including substitution not properly approved and authorized, may be considered defective. This warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage.

If, within ___ year(s) after the date of Notice of Completion of the Work or designated portion thereof, or by terms of an applicable special warranty required by the Contract Documents extending this time period, and of the Work is found to be not in accordance with the requirements of the Contract Documents or proves to be defective in materials or workmanship, the Contractor expressly agrees to correct it, without expense to the Owner, promptly after receipt of written notice from the Owner or his agent to do so unless the Owner has previously given the Contractor written acceptance of the condition. This period of ___ year(s) shall be extended with respect to portions of the Work first performed after Notice of Completion by the period of time between Notice of Completion and the actual performance of Work. This obligation of the Contractor to correct the Work shall survive acceptance of the Work under the Contract and termination of the Contract. The Owner shall give such notice promptly after discovery of the condition.

Nothing contained in this warranty shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the time period of ___ year(s), or special extended time periods required by the Contract Documents, for correction of the Work as described above relates only to the specific obligation of the Contractor to correct the work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

In the event of the Contractor's failure to comply with the conditions of this warranty within 5 days after being notified in writing by the Owner or his agent, the Contractor hereby authorizes the Owner to proceed to have said defects repaired and made good at the Contractor's expense and the Contractor will honor and pay the costs and charges therefore upon demand.

The term "Work" means the construction and services required by the Contract Documents and includes all other labor, materials, equipment and services provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or part of the total construction performed under the Contract Documents.

Date _____

Contractor

Address

Telephone

Signature of Contractor

Title

SUBCONTRACTOR WARRANTY

Project: ALLIED HEALTH MODULAR MODIFICATIONS

Date:

Taft College

Owner: West Kern Community College District

Architect: AP Architects

File No:

Contractor:

Project No:

Inspector:

DSA Appl No:

_____ (Subcontractor) hereby warrants to _____ (General Contractor) that materials and equipment furnished under the Contract, pursuant to Specifications Section(s) _____ in the _____ (Name of Project) are of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work is free from defects not inherent in the quality required or permitted, and that the Work conforms with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. This warranty excludes remedy or damage or defect caused by abuse, modifications not executed by the Subcontractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage.

If, within ___ year(s) after the date of Notice of Completion of the Work or designated portion thereof, or by terms of an applicable special warranty required by the Contract Documents extending this time period, and of the Work is found to be not in accordance with the requirements of the Contract Documents or proves to be defective in materials or workmanship, the Subcontractor expressly agrees to correct it, without expense to the Owner, promptly after receipt of written notice from the Contractor to do so unless the Owner has previously given the Contractor written acceptance of the condition. This period of ___ year (s) shall be extended with respect to portions of the Work first performed after Notice of Completion by the period of time between Notice of Completion and the actual performance of Work. This obligation of the Subcontractor to correct the Work shall survive acceptance of the Work under the Contract and termination of the Contract. The Contractor shall give such notice promptly after discovery of the condition.

Nothing contained in this warranty shall be construed to establish a period of limitation with respect to other obligations which the Subcontractor might have under the Contract Documents. Establishment of the time period of ___ year(s), or special extended time periods required by the Contract Documents, for correction of the Work as described above relates only to the specific obligation of the Subcontractor to correct the work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Subcontractor's liability with respect to the Subcontractor's obligations other than specifically to correct the Work.

In the event of the Subcontractor's failure to comply with the conditions of this warranty within 5 days after being notified in writing by the Contractor, the Subcontractor, hereby authorizes the Contractor to proceed to have said defects repaired and made good at the Subcontractor's expense and the Subcontractor will honor and pay the costs and charges therefore upon demand.

The term "Work" means the construction and services required by the Contract Documents and includes all other labor, materials, equipment and services provided by the Subcontractor to fulfill the Subcontractor's obligations. The Work may constitute the whole or part of the total construction performed under the Contract Documents.

Date _____

Contractor _____

Address _____

Telephone _____

Signature of Contractor _____

Title _____