

# SPECIFICATIONS FOR



## **Bid No. 6559 - Career Technical Education Center: Installation of Six (6) Shade Structures**



**Bid Submittal Date:  
Wednesday, April 30, 2025**

**Opening Time:  
2:00 P.M.  
Conference Room "A"**

**Non-Mandatory Job Walk:  
Tuesday, April 15, 2025 @ 10:00 a.m.  
Meet at the Career Technical Education Center Flagpole  
7301 Old River Road  
Bakersfield, CA 93311**

***DVBE COMPLIANCE AND DEPARTMENT OF INDUSTRIAL  
RELATIONS (DIR) PUBLIC WORKS COMPLIANCE MONITORING***

**KERN HIGH SCHOOL DISTRICT  
Michael Zulfa, Ed.D., Superintendent**

KERN HIGH SCHOOL DISTRICT  
**01-TABLE OF CONTENTS**

**BID NO. 6559 – CAREER TECHICAL EDUCATION CENTER: INSTALLATION OF SIX (6) SHADE STRUCTURES**

**COVER PAGE**

**SECTION I**

**DIVISION 0            BID AND AGREEMENT DOCUMENTS**

01-TABLE OF CONTENTS .....	i
02-NOTICE TO CONTRACTORS CALLING FOR BIDS .....	1 – 5
03-INSTRUCTIONS TO BIDDERS .....	1 – 14
◆ 04-BID FORM .....	1 – 5
◆ 05-BID BOND .....	1 ONLY
◆ 06-LIST OF SUBCONTRACTORS.....	1 – 2
◆ 07-NON-COLLUSION DECLARATION .....	1 ONLY
◆ 08-EXCLUSION OF ASBESTOS PRODUCTS .....	1 ONLY
◆ 09-NOTIFICATION OF ASBESTOS MATERIAL LOCATIONS.....	1 ONLY
◆ 10-EXCLUSION OF LEAD PRODUCTS .....	1 ONLY
◆ 11-CERTIFICATE OF ATTENDANCE AT MANDATORY JOB WALK(N/A).....	1 ONLY
◆ 12-FINGERPRINTING CERTIFICATION BY CONTRACTORS.....	1 ONLY
◆ 13-CONTRACTOR'S QUALIFICATION'S QUESTIONNAIRE .....	1 – 7
◆ 14-SUBSTITUTION LISTING .....	1 – 2
◆ 15-SUBSTITUTION WARRANTY FORM .....	1 ONLY
◆ 16-DVBE PARTICIPATION.....	1 – 13
17-ESCROW AGREEMENT FOR SECURITY DEPOSITS IN LIEU OF RETENTION.....	1 – 3
18-CONSTRUCTION AGREEMENT.....	1 – 4
19-PAYMENT BOND .....	1 – 2
20-PERFORMANCE BOND.....	1 – 3
21-DRUG-FREE WORKPLACE CERTIFICATION .....	1 – 2
◆ 22-DAVIS BACON COMPLIANCE CERTIFICATION (NOT APPLICABLE).....	1 ONLY
23-WORKERS' COMPENSATION CERTIFICATE.....	1 ONLY
24-GUARANTEE.....	1 ONLY
25-BID QUESTION FORM.....	1 ONLY
26-SHOP DRAWING TRANSMITTAL.....	1 ONLY
27-CHANGE ORDER.....	1 – 2
28-APPLICATION AND CERTIFICATE FOR PAYMENT .....	1 – 5
29-LIST OF DRAWINGS .....	1 ONLY
30-EXCLUSION OF ASBESTOS PRODUCTS (CONTRACT CLOSEOUT).....	1 ONLY
31-EXCLUSION OF LEAD PRODUCTS (CONTRACT CLOSEOUT).....	1 ONLY
32-INDEX TO GENERAL CONDITIONS .....	1 – 2
33-GENERAL CONDITIONS .....	1 – 86
34-SUPPLEMENTAL GENERAL CONDITIONS(NOT USED).....	1 ONLY
◆ 35-SUFFICIENT FUNDS DECLARATION.....	1 ONLY
◆ 36-ROOF PROJECT CERTIFICATION.....	1 ONLY
◆ 37-IRAN CONTRACTING ACT CERTIFICATION .....	1 ONLY
38-NOTICE OF CLAIM.....	1 ONLY
39-PROGRESS PAYMENT REQUEST .....	1 ONLY
◆ (Indicates items that must be returned by the time of bid opening, or bidder may be declared "Nonresponsive".)	

**KERN HIGH SCHOOL DISTRICT  
02-NOTICE TO CONTRACTORS CALLING FOR BIDS**

1. OWNER: Kern High School District
2. PROJECT IDENTIFICATION NAME: Bid No. 6559 – Career Technical Education Center:  
Installation of Six (6) Shade Structures
3. PROJECT LOCATION: Career Technical Education Center  
7301 Old River Road  
Bakersfield CA 93311
4. PROJECT DESCRIPTION: Install six (6) owner furnished shade structures and associated site work per plans and specifications. Existing utility plans are included in bid documents for reference, contractor shall use all means necessary to verify utilities do not conflict with shade structure footings.

This project is anticipated to start on approximately **May 12, 2025**, and will have a duration of **forty-nine (49) calendar days** for completion.

5. BID DEADLINE: Bids are due on **Wednesday, April 30, 2025 at 2:00 p.m.** or at any other date or time as set by Addendum.
6. PLACE OF BID RECEIPT: Kern High School District (OWNER)  
Conference Room “A”  
5801 Sundale Avenue  
Bakersfield, CA 93309
7. METHOD OF BID RECEIPT: Personal delivery, courier, or mailed via United States Postal Service to above address:  
  
Richard J. Ruiz, Director  
KERN HIGH SCHOOL DISTRICT  
Business Services Department  
5801 Sundale Avenue  
Bakersfield, CA 93309
8. PLANS ARE AVAILABLE AT: Blueprint Service Company  
(Hard Copy) 1100 18<sup>th</sup> Street  
Bakersfield, CA 93301  
(661) 327-2501

The initial set of plans and specifications are provided at no cost to listed Prospective Bidders, with subsequent sets available for purchase by contractors.

OR, DOWNLOAD PDF: <https://vendors.planetbids.com/portal/14319/portal-home>

9. SEALED BID MARKING: Bid No. 6559 – Career Technical Education Center: Installation of Six (6) Shade Structures

10. ALTERNATES: If alternate bids are called for, the contract will be awarded to the lowest responsive and responsible bidder on the basis indicated below:

*[Check one and only one]*

- (a) The lowest bid shall be the lowest bid price on the base contract without consideration of the prices on the additive or deductive items.
- (b) The lowest bid shall be the lowest total of the combined bid prices on the base contract and alternates [identify alternate bid items by number or description] \_\_\_\_\_
- (c) The lowest bid shall be the lowest total of the bid prices on the base contract and alternates [identify alternate bid items by number or description] \_\_\_\_\_, taken in order, up to a maximum amount to be publicly disclosed before the first bid is opened.
- (d) The lowest bid shall be determined in a manner that prevents any information that would identify any of the bidders or proposed subcontractors or suppliers from being revealed to the public entity before the ranking of all bidders from lowest to highest has been determined.
- (e) Not applicable to this project, as no alternates are requested.

11. **NON-MANDATORY JOB WALK: Meet at the Career Technical Education Center Flagpole**

**Tuesday, April 15, 2025**

Date

**10:00 a.m.**

Time

**Location: Meet at the Career Technical Education Center Flagpole, 7301 Old River Road, Bakersfield, CA 93311 to acquaint prospective bidders with the requirements of the Department of Industrial Relations (DIR) Compliance Monitoring Unit (CMU), Disabled Veteran Business Enterprise (DVBE) Program, and Contractor/Subcontractor Prequalification Requirements.**

If a job walk or pre-bid meeting is required on this project, attendance at the entire job walk or meeting is mandatory and failure to attend the entire job walk or entire meeting will result in your bid being rejected as non-responsive. Contact OWNER for details on required job walks, bid meetings, and related documentation.

12. PLAN DEPOSIT REQUIRED: The initial set of plans and specifications is provided at no cost to registered plan holders, with subsequent sets available for purchase by contractors.

13. This project  requires  does not require prequalification pursuant to Public Contract Code section 20111.6 of all general contractors and all mechanical, electrical and plumbing subcontractors (C-4, C-7, C-10, C-16, C-20, C-34, C-36, C-38, C-42, C-43, and C-46) (see Section 14 of the Instructions to Bidders, and other bid package documents, for details).

If required, a prequalification package may be obtained by downloading the necessary forms from [www.kernhigh.org](http://www.kernhigh.org).

14. This is a prevailing wage project. OWNER has ascertained 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 at OWNER'S office, and a copy may be obtained upon request, or at [www.dir.ca.gov](http://www.dir.ca.gov). A copy of these rates shall be posted at the job site.

It shall be mandatory upon the contractor to whom the contract is awarded (CONTRACTOR), and upon any subcontractor, to pay not less than the specified rates to all workers employed by them in the execution of the contract.

15. The contract to be awarded on this project includes provisions for assessment of liquidated damages pursuant to Government Code Section 53069.85 and Public Contract Code section 7203 in the amount of **\$1,000.00 per calendar day**.
16. A Payment Bond for contracts over \$25,000 and a Performance Bond for all contracts will be required prior to commencement of work. These bonds shall be in the amounts and form called for in the Contract Documents.
17. Pursuant to the provisions of Public Contract Code Section 22300, CONTRACTOR may substitute certain securities for any funds withheld by OWNER to ensure CONTRACTOR'S performance under the contract. At the request and expense of CONTRACTOR, securities equivalent to any amount withheld shall be deposited, at the discretion of OWNER, with either OWNER 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 16430, 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 OWNER. CONTRACTOR shall be the beneficial owner of any securities substituted for funds withheld and shall receive any interest on them. The escrow agreement shall be in the form indicated in the Contract Documents.

18. To perform the work required by this Notice, CONTRACTOR must possess a valid and active contractor's license of the following classification: **B**.
19. [Check One]:

- This Project is not subject to the requirements of Subchapter 4.5 of Chapter 8 of Title 8 of the California Code of Regulations for compliance monitoring and enforcement by the DIR.
- This Project is subject to the requirements of Subchapter 4.5 of Chapter 8 of Title 8 of the California Code of Regulations for compliance monitoring and enforcement by the DIR. Contractor and all subcontractors must furnish certified payroll records to the Department of Industrial Relations' Division of Labor Standards Enforcement (DSLE) weekly using the eCPR system. To enroll or obtain additional information and assistance, go to DIR eCPR website at <https://www.dir.ca.gov/Public-Works/Certified->

[Payroll-Reporting.html](#).

Public works projects shall be subject to compliance monitoring and enforcement by the Department of Industrial Relations. A contractor or subcontractor shall not be qualified to submit a bid or to be listed in a bid proposal subject to the requirements of Public Contract Code section 4104 unless currently registered and qualified under Labor Code section 1725.5 to perform public work as defined by Division 2, Part 7, Chapter 1 (§§1720 et seq.) of the Labor Code. A contractor or subcontractor shall not be qualified to enter into, or engage in the performance of, any contract of public work (as defined by Division 2, Part 7, Chapter 1 (§§1720 et seq.) of the Labor Code) unless currently registered and qualified under Labor Code section 1725.5 to perform public work.

The following notice is given as required by Labor Code Section 1771.5(b)(1): CONTRACTOR and any subcontractors are required to review and comply with the provisions of the California Labor Code, Part 7, Chapter 1, beginning with Section 1720, as more fully discussed in the Contract Documents. These sections contain specific requirements concerning, for example, determination and payment of prevailing wages, retention, inspection, and auditing payroll records, use of apprentices, payment of overtime compensation, securing workers' compensation insurance, and various criminal penalties or fines which may be imposed for violations of the requirements of the chapter. Submission of a bid constitutes CONTRACTOR'S representation that CONTRACTOR has thoroughly reviewed these requirements.

- 20. This project  has  has not been found to be substantially complex and to require a retention greater than 5%. As such, the OWNER  will  will not retain more than 5% of the amount of any progress payments.
- 21. Insurance Requirements: CONTRACTOR shall provide the following insurance coverages, which shall remain in full force and effect during the Project. Bidders are referred to Article 58 of the General Conditions for more detailed information

*[Check those that apply]:*

- Workers' Compensation
- Comprehensive General Liability
  - Requirement A - \$1,000,000 per Occurrence, \$2,000,000 Aggregate
  - Requirement B - \$2,000,000 per Occurrence, \$4,000,000 Aggregate
  - Requirement C - \$5,000,000 per Occurrence, \$10,000,000 Aggregate
- CONTRACTOR shall require its subcontractors, if any, to take out and maintain commercial liability insurance with policy limits not less than \$1,000,000 per occurrence and \$2,000,000 aggregate per project on bodily injury and property damage.
- Comprehensive Auto Liability
- Course of Construction/Builder's Risk is required on contracts over \$250,000.00

Approved:  
KERN HIGH SCHOOL DISTRICT  
Facilities Planning Department

Signed by:  
*Randall Rowles*  
By: \_\_\_\_\_  
84DD9DE1C7544DE...  
Randall Rowles  
Director IV, Facilities

KERN HIGH SCHOOL DISTRICT  
Business Services Department

Signed by:  
*Brandi Rodriguez*  
By: \_\_\_\_\_  
0D72A533BA4B48C...  
Brandi Rodriguez for Richard J. Ruiz  
Director, Business Services

GOVERNING BOARD

DocuSigned by:  
*Kenneth R Seals*  
By: \_\_\_\_\_  
5D68B78DAFA64FA...  
Kenneth R. Seals, Ed.D.  
Assistant Superintendent, Business

KERN HIGH SCHOOL DISTRICT  
**03-INSTRUCTIONS TO BIDDERS**

**WARNING: READ THIS DOCUMENT CAREFULLY**  
**DO NOT ASSUME THAT IT IS THE SAME AS OTHER**  
**SIMILAR DOCUMENTS YOU MAY HAVE SEEN**  
**EVEN IF FROM THE SAME OWNER**

**PROJECT TITLE: BID NO. 6559 – CAREER TECHNICAL EDUCATION CENTER:  
INSTALLATION OF SIX (6) SHADE STRUCTURES**

**OWNER: KERN HIGH SCHOOL DISTRICT**

1. Preparation of Bid Form.

The Owner invites bids on the form attached to be submitted at the time and place stated in the Notice to Contractors Calling for Bids. Bids shall be submitted on the prescribed Bid Form, completed in full. All bid items and statements shall be properly and legibly filled out. Numbers shall be stated both in words and in figures where so indicated, and where there is a conflict in the words and the figures, the words shall govern. The signatures of all persons shall be in longhand. Prices, wording, and notations must be in ink or typewritten.

2. Form and Delivery of Bids.

The bid must conform to and be responsive to all Contract Documents and shall be made on the Bid Form provided. The complete bid, together with any additional materials required, shall be enclosed in a sealed envelope, addressed and hand-delivered or mailed to the Owner at the address set forth in the Notice to Contractors Calling for Bids, and must be received on or before the time set for the opening of bids. The envelope shall be plainly marked in the upper left-hand corner with the bidder's name, the project designation, and the date and time for the opening of bids. It is the bidder's sole responsibility to ensure that its bid is received prior to the bid deadline. In accordance with Government Code Section 53068, any bid received after the scheduled closing time for receipt of bids shall be returned to the bidder unopened.

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 20111.6, only those sealed bids received from bidders who have been prequalified for at least five (5) days prior to bid opening shall be opened and publicly read aloud.

3. Bid Security.

Each bid shall be accompanied by a bid security in cash, a certified or cashier's check, or bid bond in an amount not less than 10 percent of the total bid price payable to the



Owner. The bid security shall be given as a guarantee that if awarded the contract the bidder will execute and return the Construction Agreement within 10 working days after award of the contract and will furnish on the prescribed forms a satisfactory Payment (labor and material) Bond and separate Performance Bond, in accordance with the Contract Documents and Civil Code Sections 9550 et seq., and certificates evidencing that the required insurance is in effect in the amounts set forth in the Contract Documents. In case of refusal or failure to timely execute the Construction Agreement and furnish the required bonds and insurance certificates, the bid security shall be forfeited to the Owner. If the bidder elects to furnish a bid bond as its bid security, the bidder shall use the bid bond form included in the Contract Documents, unless the Owner elects to waive the use of the form provided, in its sole discretion.

#### 4. Signature.

At the various times the Contract Documents are required to be submitted (such as the Bid Form, all bonds, the Designation of Subcontractors form, all Information Required of Bidder or prequalification forms, Workers Compensation Certificate, Drug-Free Workplace Certification, Non-Collusion Affidavit, the Construction Agreement, and all Guarantees), they must be signed in the name of the bidder and must bear the signature of the person or persons duly authorized to sign these documents. Where indicated, if bidder is a corporation, the legal name of the corporation shall first be set forth, together with two signatures: one from among the chairman of the board, president, or vice president, and one from among the secretary, chief financial officer, or assistant treasurer. Alternatively, the signature of other authorized officers or agents may be affixed, if duly authorized by the corporation. Such documents shall include the title of such signatories below the signature and shall bear the corporate seal. Where indicated, if bidder is a joint venture or partnership, the bidder shall submit with the bid certifications signed by authorized officers of each of the parties to the joint venture or partnership, naming the individual (1) who shall be the agent of the joint venture or partnership, (2) who shall sign all necessary documents for the joint venture or partnership and, (3) should the joint venture or partnership be the successful bidder, who shall act in all matters relative to the resulting contract for the joint venture or partnership. If bidder is an individual, his/her signature shall be placed on such documents.

#### 5. Modifications.

Changes in or additions to any of the bid documents, the summary of the work bid upon, or the alternative proposals, or any other modifications which are not specifically called for by the Owner, may result in the Owner's rejection of the bid as not being responsive. No oral or telephonic modification of any bid will be considered. However, prior to the opening of bids, a telegraphic modification signed by the bidder and postmarked and received prior to the opening of bids, or a facsimile modification duly signed by the bidder received prior to the opening of bids, may be considered if included within a sealed bid.

6. Erasures, Inconsistent, or Illegible Bids.

The bid submitted must not contain any erasures, interlineations, or other corrections unless each correction creates no inconsistency and is suitably authenticated and noted by signature of the bidder. In the event of inconsistency between words and figures in the bid, words shall control figures. In the event the Owner determines that any bid is unintelligible, illegible, or ambiguous, the Owner may reject the bid as not being responsive.

7. Examination of Site and Contract Documents.

At its own expense and prior to submitting bids, each bidder shall examine all documents relating to the project, visit the site, and determine the local conditions which may in any way affect the performance of the work, including the general prevailing rate of per diem wages and other relevant cost factors. Each bidder shall be familiar with all federal, state, and local laws, ordinances, rules, regulations, and codes affecting the performance of the work, including the cost of permits and licenses required for the work. 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.

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.

8. Withdrawal of Bids.

Any bid may be withdrawn, either personally, by written request, or by telegraphic or facsimile request confirmed in the manner specified above 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 of 60 days after the award of the contract except as allowed by Public Contract Code section 5101 et seq. A bidder's unawarded alternate bids remain open for a period of six months after award of contract as irrevocable offers to enter into either change orders or separate contracts for the stated price adjustment.

9. Agreement and Bonds.

The Construction Agreement and the form of the Payment and Performance Bonds which the successful bidder as Contractor will be required to execute are included in the Contract Documents and should be carefully examined by the bidder. The Payment Bond shall be in an amount not less than 100 percent of the amount of the contract in accordance with Civil Code Section 9550. The successful bidder as Contractor will also be required to furnish a separate Performance Bond in the amount of 100 percent of the contract amount. Sufficient bonds shall be fully executed and returned to Owner with the executed Construction Agreement, and no later than the start of the Work.

10. Interpretation of Contract Documents.

If any bidder is in doubt as to the true meaning of any part of the Contract Documents, or finds discrepancies in or omissions from the drawings and specifications, a written request for an interpretation or correction shall be submitted to the Owner on the provided form for such questions. The bidder submitting the written request shall be responsible for its prompt delivery. Any interpretation or correction of the Contract Documents will be made only by addendum issued by the Owner, and a copy of any addendum will be hand-delivered, mailed, or faxed to each bidder known to have received a set of the Contract Documents. No person is authorized to make any oral interpretation of any provision in the Contract Documents, nor shall any oral interpretation be binding on the Owner. If there are discrepancies on drawings, plans, or specifications, or conflicts between drawings, plans, specifications, terms, or conditions, the interpretation of the Owner shall prevail. Bidder shall become familiar with the plans, specifications, and drawings.

**SUBMISSION OF A BID WITHOUT REQUESTING CLARIFICATIONS SHALL BE INCONTROVERTIBLE EVIDENCE THAT THE BIDDER HAS DETERMINED THAT THE PLANS, SPECIFICATIONS, AND DRAWINGS ARE SUFFICIENT FOR BIDDING AND COMPLETING THE WORK, THAT 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 PROGRESS SCHEDULE TO BE SUBMITTED BY THE SUCCESSFUL BIDDER INCORPORATING THE OWNER'S TIME LINES FOR COMPLETION OF THE PROJECT.**

11. Bidders Interested in More Than One Bid.

No person, firm, or corporation shall be allowed to make or file or be interested in more than one bid for the same work. A person, firm, or corporation that has submitted a sub-proposal to a bidder, or that has quoted prices of materials to a bidder, is not disqualified from submitting a proposal or quoting prices to other bidders or submitting a bid on the project.

12. Award of Contract.

(a) The Owner reserves the right to reject any or all bids, or to waive any irregularities or informalities in any bids or in the bidding process, as allowed by law. If two identical low bids are received from responsive and responsible bidders, the Owner will determine which bid will be accepted by lot, pursuant to Public Contract Code Section 20117.

(b) 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 ten days, the Owner may (i) award the contract to the next lowest responsive and responsible bidder or release all bidders, and (ii) pursue the bid bond, or the securities, of the bidder that received the initial award. 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.

(c) In ascertaining the low bidder, the bids will be examined without reference to any substitutions requested by any bidder, whether or not the substitution request would result in a modification of the contract price.

13. Alternatives.

If alternate bids are called for, the contract will be awarded to the lowest responsive and responsible bidder on the basis indicated in the Notice to Contractors Calling for Bids. Owner reserves the right to award or reject any, all, or any combination of the alternates called for in the bid documents, whether or not the alternate(s) was included in the calculations used to identify the low bidder. All bid alternates not part of the contract initially awarded by Owner shall remain open and valid for a period of six months after the contract is awarded as irrevocable offers to enter into either change orders or separate contracts on the items for the price adjustment contained in the bid alternate.

14. Prequalification of Bidders.

**[check one]**

Prequalification of Prime Contractor (Bidder) is not required to bid on this project. Bidders must complete and submit with their bids the Contractor's Qualifications Questionnaire that is included in the bid documents provided by Owner.

Pursuant to Public Contract Code section 20111.6, prequalification of the prime contractor (bidder), and of its mechanical, electrical, and plumbing ("MEP") subcontractors (C-4, C-7, C-10, C-16, C-20, C-34, C-36, C-38, C-42, C-43, and C-

46), is required for the bidder to submit a bid on this project. Prospective bidders and their MEP subcontractors (1) are required to submit to the Owner a completed prequalification questionnaire and financial statement, on forms provided by the Owner, no later than ten business days prior to the date fixed for the public opening of sealed bids, and (2) must be announced as prequalified no later than five business days prior to the date fixed for the public opening of sealed bids. The prequalification application documents may be obtained by contacting the Owner. In addition, responses to the Contractor's Qualifications Questionnaire may be required by Section 15, below.

**NON-COMPLIANCE WITH THIS REQUIREMENT WILL DEEM THE PRIME CONTRACTOR (BIDDER) NON-RESPONSIVE.**

**THE CONTRACTOR PREQUALIFICATION QUESTIONNAIRE IS AVAILABLE FOR DOWNLOAD AT [www.kernhigh.org](http://www.kernhigh.org)**

15. 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. To this end, where bidders are not required to prequalify, or where bidders are required to prequalify but Owner requires additional information, each bid shall include responses to the "Contractor's Qualifications Questionnaire" included in the bid package provided by the Owner.

The Owner may also consider the qualifications and experience of subcontractors and other persons and organizations (including those who are to furnish the principal items of material and equipment) proposed for those portions of the work. Operating costs, maintenance considerations, performance data, and guarantees of materials and equipment may also be considered by the Owner. In this regard, the Owner may conduct such investigations as the Owner deems necessary to assist in the evaluation of any bid and to establish the responsibility, qualifications, and financial ability of the bidder, proposed subcontractors, and other persons and organizations to do the work to the Owner's satisfaction within the prescribed time. The Owner may request that bidder submit information to assess the responsibility of the bidder's proposed subcontractors. The Owner reserves the right to reject the bid of any bidder who does not pass any such evaluation to the satisfaction of the Owner, or in the Owner's sole discretion, to permit substitution of subcontractor(s) found non-responsible.

A prequalified bidder may nonetheless be declared non-responsive or non-responsible prior to award of the contract.

16. Listing Subcontractors.

Each bidder shall submit with its bid 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. 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. In addition to the information provided with the bid pursuant to the above statutes, the apparent low bidder shall, within 24 hours of the bid opening, provide for all subcontractors their telephone numbers and contractor's license classification.

17. Workers' Compensation.

In accordance with the provisions of Labor Code Section 3700, the successful bidder shall secure the payment of compensation to all employees. The successful bidder awarded the contract shall sign and file with the Owner, at the time of returning the executed Construction Agreement, and no later than the start of the Work, the certificate which is included as a part of the Contract Documents.

18. Contractor's License.

At the bid opening date and time, if a bidder is not properly licensed to perform the project in accordance with Division 3, Chapter 9, of the California Business and Professions Code and the Notice Calling for Bids as required, that bidder's bid will be rejected as non-responsive. Business and Professions Code Section 7028.15 precludes payment for work or materials unless the Registrar of Contractors verifies to the Owner that the bidder was properly licensed at the time the bid was submitted. If this project is federally funded, the bidder must be properly licensed prior to the award of the contract. Any bidder not properly licensed is subject to penalties under the law and the contract will be considered void. If the license classification specified in these Contract Documents is that of a "specialty contractor" as defined in Business and Professions Code Section 7058, the specialty contractor awarded the contract for this work shall construct a majority of the work in accordance with the provisions of Business and Professions Code Section 7059.

19. Anti-Discrimination.

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

20. Hold Harmless.

The successful bidder awarded the contract shall hold harmless and indemnify various parties as more clearly set forth elsewhere in the Contract Documents.

21. Substitutions.

(a) All bids should be calculated and submitted on the project as described in the bid documents, and on the assumption that substitution requests submitted with, or after, the bid will not be approved. Notwithstanding the foregoing, substitution requests submitted with, or after, bids will be given due consideration pursuant to the Contract Documents, including but not limited to General Conditions Article 19; and, if a request is approved, adjustments to the contract (including any adjustment to contract price or time) must be finalized in a Board-approved change order at the same time as, or after, award of the contract. Bidders not desiring to bid without prior approval of a proposed substitution should follow the procedure contained in this section for pre-bid review of proposed substitutions. Any such request shall include the OWNER's Substitution Listing form and Substitution Warranty form contained in the bid documents. Lack of an approval within twenty (20) days of submission shall be deemed a rejection of it.

(b) Should the bidder wish to request prior to bid opening any substitution for the specified materials, process, service, or equipment, the bidder shall submit a written request on the OWNER's Substitution Listing form **and** Substitution Warranty form contained in the bid documents at least ten (10) working days before the bid opening date and time. All such requests shall comply with the Contract Documents, including but not limited to General Conditions Article 19. If the requested substitution is acceptable, the Owner will approve it in an addendum issued to all bidders of record. The lack of an addendum shall be deemed as rejection of the requested substitution. Requests received less than ten (10) working days prior to bid opening will not be considered prior to the bid date, but may be considered after the bid opening (see subparagraph (a), above). Extensions of the bid date shall not operate to extend the deadline for requesting substitutions unless the Owner so states in an addendum issued to all bidders of record.

(c) [Not used]

(d) [Not used]

(e) Unless expressly authorized in the bid documents, no bid may be conditioned on the Owner's acceptance of a proposed substitution. Any bid containing any such condition may be treated as a non-responsive bid.

(f) It is expressly understood and agreed that the Owner reserves the right to reject any proposed substitution before, with, or after the bid. It is further expressly understood and agreed that in the event the Owner rejects a proposed

"equal" item, or any other proposed substitution, the specified material, process, service, or equipment designated by brand name or trade name, or other item as specified, will be provided.

(g) No substitution request of any kind or nature may be made after the bid date, except by the express written permission of the Owner and on such terms as Owner may require, or in an emergency, as in the case where a specified material, process, service, equipment, or other item has become unavailable through no fault of the bidder.

(h) These time limitations shall be complied with strictly, and in no case will an extension of time for completion be granted because of the failure to request the substitution of an item at the times and in the manner set forth herein.

(i) For any requested substitution of "equal" items that was submitted with, or after, the bid, the Owner may notify the bidder of the Owner's decision before, or after, award of the contract. Notification of all decisions by the Owner shall be in writing, and no proposed substitution shall be deemed approved unless the Owner has confirmed it in writing.

(j) With respect to all proposed substitutions, the requirements applicable to the Contractor in the Contract Documents shall be applicable to all bidders requesting substitutions.

## 22. Surety Qualifications.

Bid bonds executed by a surety insurer admitted in the State of California for purposes of issuance of such bonds will be accepted by Owner as sufficient.

Payment and/or performance bonds executed by a surety company admitted in the State of California with a minimum "A minus, VIII" rating ("A minus, V" when the price stated in the Contract Documents is less than \$500,000) as rated by the current edition of Best's Key Rating Guide published by A.M. Best Company, Oldwick, New Jersey 08858, shall be presumed by Owner to be sufficient for the issuance of such bonds. In the alternative, any admitted surety company which satisfies the requirements set forth in Code of Civil Procedure Section 995.660 shall be accepted and approved for the issuance of bonds, and documents demonstrating satisfaction of the requirements of Section 995.660 with respect to the bid bond must be submitted with the bid. No personal sureties will be accepted.

## 23. Liquidated Damages and Project Schedule.

All work must be completed within the time limits set forth in the Contract Documents. Bidders must understand that the goodwill, educational process, and other business of the Owner will be damaged, that the public will be incalculably inconvenienced, and that the Owner will incur additional costs, if the project is not completed within the time limits required.



Should the work not be completed within the specified time for the milestones or completion, the successful bidder awarded the contract may be liable for liquidated damages for failure to timely complete the project, as provided in the Agreement and other Contract Documents. Such damages shall be deducted from any payments due or to become due to the successful bidder.

**SUBMISSION OF A BID ON THIS PROJECT SHALL BE TAKEN AS CONCLUSIVE AND IRREFUTABLE EVIDENCE THAT BIDDER AGREES WITH THE REQUIREMENTS OF THIS SECTION.**

24. 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 no later than the start of the Work. 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.

25. Non-Collusion Declaration; Sufficient Funds Declaration.

In accordance with the provisions of Public Contract Code Section 7106, each bid must be accompanied by a properly notarized Non-Collusion Declaration. In addition, the completed Sufficient Funds Declaration shall be submitted with each bid.

26. Implementation of Disabled Veteran Business Enterprises Requirements.

In accordance with Education Code Section 17076.11, the Owner has a participation goal for disabled veteran business enterprises of at least three percent per year of the overall dollar amount of funds allocated to the Owner by the State Allocation Board pursuant to the Leroy F. Greene School Facilities Act of 1998 for construction or modernization and expended each year by the Owner. Prior to and as a condition precedent for final payment under any contract for this project, the successful bidder will be required to provide appropriate documentation to the Owner identifying the amount paid to disabled veteran business enterprises in conjunction with the contract, so the Owner can assess its success at meeting this goal.

27. Asbestos and Lead-Based Paint Certifications.

The form of Contractor's Certificates Regarding Non-Asbestos Containing Materials, Exclusion of Asbestos Products, and Exclusion of Lead Products, as contained in the Contract Documents, shall be executed and submitted with the bid.

28. Fingerprinting Requirements.

The successful bidder and all subcontractors at any level will be required to comply with any applicable laws on fingerprinting construction workers. Minimum requirements are set forth in the Contract Documents, and the form for certification of compliance is contained in the Contract Documents. The successful bidder must complete and return this form when directed by Owner, and no later than the start of the Work.

29. California Products.

Price, fitness, and quality being equal with regard to supplies, the Owner may prefer supplies grown, manufactured, or produced in California. The Owner may next prefer supplies partially grown, manufactured, or produced in California. Where the Owner has a preference, the bids of the suppliers or the prices quoted by them (i) must not exceed by more than five percent the lowest bids/prices quoted by out-of-state suppliers, (ii) the major portion of the manufacture of the supplies is not done outside of California, and (iii) the public good will be served. Refer to specifications for indications of Owner preferences. Government Code Sections 4330-4334.

30. License Required.

To perform the work required for this project, Bidder must possess the classification of contractor's license specified in the Notice to Contractors Calling for Bids.

31. Post-Bid Credits.

Should any bidder or proposed subcontractor to any bidder issue any credit or otherwise reduce its bid or quote pertaining to the work of this project, or not require full payment by the bidder, then the bidder shall pass such credit or other reduction on to the Owner less only the applicable markups for profit and overhead as specified in the Contract Documents on change orders.

32. Contents of Bid.

The bid will include the following documents: Bid Form, List of Subcontractors, Substitution Listing and Substitution Warranty forms, Non-collusion Declaration, Sufficient Funds Declaration, Exclusion of Asbestos Products, Notification of Asbestos Containing Material, Exclusion of Lead Products, Contractors' Qualification Questionnaire (not required if a prequalification process is specified), Bid Bond or other bid security, and Certification of Attendance at Mandatory Job Walk, if a job walk is required on this project.

33. Bid Protests.

Any bidder having submitted a bid on the project 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:

- (a) 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.
- (b) The protest shall be received by the Owner no later than close of business on the second business day after bid opening; one received after that time shall not be recognized.
- (c) Each protest shall contain the following:
- (i) 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.
  - (ii) 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 written protest shall be deemed waived. All factual contentions must be supported by competent, admissible, and credible evidence.
- (d) Any protest not conforming to the requirements of this section shall be rejected as invalid.
- (e) 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.
- (f) 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.
- (g) 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 or other governing body within two business days of the protesting bidder's receipt of the written decision of the Owner's staff.
- (h) 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.
- (i) A hearing on the appeal shall be held before the Owner's governing board prior to the award of the contract.

(j) The Owner's governing board or other governing body will make a decision at, or in writing 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.

(k) 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.

34. Procedure for Protesting Being Deemed A Non-Responsible 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:

(a) 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.

(b) 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.

(c) A hearing on the appeal shall be held before the Owner's governing board or other governing body prior to the award of contract.

(d) The Owner's governing board or other governing body will make a decision at, or in writing 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.

(e) 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.

35. Projects Subject to Prevailing Wage Monitoring and Enforcement By Department of Industrial Relations' Division of Labor Standards Enforcement (DLSE).

If the project is subject to prevailing wage monitoring and enforcement by the DIR, as indicated in the Notice Calling for Bids, the successful bidder and all subcontractors will be subject to the requirements of Subchapter 4.5 of Chapter 8 of Title 8 of the California Code of Regulations. The successful bidder and all subcontractors will be required to furnish certified payroll records to the DIR on the frequency specified in the Notice Calling for Bids using the DIR's eCPR system. To enroll or obtain additional information and assistance, bidders may go to the website at <https://apps.dir.ca.gov/eCPR/DAS/altlogin>. Failure to timely submit certified payroll records may result in debarment from public works projects by the Labor Commissioner for a period of one to three years.

36. Contractor/Subcontractor Registration with Department of Industrial Relations (DIR).

**All bids submitted by contractors for public works projects must contain proof of compliance of proper registration for contractor and subcontractors with Department of Industrial Relations (DIR) pursuant to Labor Code Section 1725.5 (with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)). Such proof shall be indicated on the Bid Form and List of Subcontractors.**

**No public works contracts shall be awarded to a contractor who has not properly registered with Department of Industrial Relations (DIR), and no contractor shall perform work on a public works project unless the contractor is properly registered with Department of Industrial Relations pursuant to Labor Code Section 1725.5.**

37. If the base bid is \$1,000,000 or more, then the contractor shall submit a completed Iran Contracting Act Certification with its bid.

38. If the contract involves a roof project under Public Contract Code sections 3000 et seq., then the contractor shall submit a completed Roof Project Certification with its bid.

KERN HIGH SCHOOL DISTRICT  
04-BID FORM

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

**BID NO. 6559 – CAREER TECHNICAL EDUCATION CENTER: INSTALLATION OF SIX (6) SHADE STRUCTURES**

**To: Kern High School District**, acting by and through its Governing Board, herein called the "OWNER."

A. In compliance with your Notice to Contractors Calling for Bids and related documents for the Contract, the undersigned bidder, having familiarized himself with the terms of the Contract, the local conditions affecting the performance of the Contract, the cost of the work at the place where the work is to be done, and the drawings and specifications and other Contract documents, proposes and agrees to perform the Contract within the time stipulated and for the base bid price below, including all of its component parts and everything required to be performed, and to provide and furnish any and all of the labor, materials, tools, expendable equipment, and all applicable taxes, utility, and transportation services necessary to perform the Contract and complete in a workmanlike manner all of the work required in connection with the above-referenced Contract, including sheeting, shoring, and bracing, or equivalent method for protection of life and limb in trenches and open excavation in conformance with applicable safety orders, within the time limits set for completion of all work, all in strict conformity with the drawings and specifications and other Contract documents, including Addenda Nos. \_\_\_\_\_ *[list all addenda]* on file at the office of said OWNER for:

Base Bid for the Contract is the sum of:

\_\_\_\_\_ dollars.  
*[written in words]*  
\$ \_\_\_\_\_  
*[written in numbers]*

B. If any of the following alternate bids are utilized and awarded, the undersigned agrees to make price adjustments, as indicated, to the Base Bid.

**ALTERNATE BID 1:**

State the amount to be \_\_\_\_\_ "**added**" to the Base Bid for Alternate Bid 1

\_\_\_\_\_ rs.  
**No Alternate Bids**  
\$ \_\_\_\_\_  
*[written in numbers]*

C. The Bidder agrees that upon written notice of award of the contract based on this bid, he will execute the contract and provide all bonds and other required documents within 10 working days after contract award.

D. Attached is bid security not less than 10 percent of the bid, in the amount of \$ \_\_\_\_\_, in the form of (cash) (bid bond) (certified check) (cashier's check).  
[circle one]

E. The Bidder acknowledges that OWNER reserves the right to accept or reject any and/or all Base Bids and alternate bids. This entire bid shall remain open and active for 60 days after bid opening, and any alternate bids not initially awarded shall remain active, as an irrevocable offer by the Bidder to enter into either a change order or separate contract, for up to six months after Notice to Proceed has been issued.

F. [Not Used]

G. It is understood and agreed that should the Bidder fail or refuse to return executed copies of the Agreement, bonds, insurance certificates, and other required documents to the OWNER within the time specified in Paragraph C, above, the bid security shall be forfeited to the OWNER.

H. In submitting this bid, the Bidder offers and agrees that if the bid is accepted it will assign to the OWNER all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Business & Professions Code Section 16700 and following sections) arising from purchases of goods, materials, or services by the Bidder for sale to the OWNER pursuant to the bid. Such assignment shall be made and become effective at the time the OWNER tenders final payment under the contract. (Public Contract Code Section 7103.5; Government Code Section 4552.)

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

J. The Bidder understands that a licensed contractor shall not submit a bid to a public agency unless the Bidder's contractor's license number appears clearly on the bid, the license expiration date is stated, and the bid contains a statement that the representations made therein are made under penalty of perjury. Any bid not containing this information, or a bid containing information which is subsequently proven false, may be considered non-responsive and may be rejected by the public agency.

K. Bidder's contractor's license is: \_\_\_\_\_, 20\_\_  
[number] [class][expires]

L. Bidder's State of California Department of Industrial Relations Registration:

\_\_\_\_\_  
[number] [registration date] [expiration date]

M. The Bidder understands and agrees that Contract delays arising from governmental and other agencies, including without limitation utilities such as gas, water, electricity, sewer, telephone, and the like, as well as delays from State approvals, including without limitation from the Division of State Architect (DSA), or for deferred approvals, and delays from other State agencies, often impact construction schedules and the progress of the Work, and Bidder agrees, by placement of bidder's signature at the end of this paragraph, that Bidder has noted and reviewed such information, and that such delays as are noted in the Supplemental General Conditions applicable to the Work are both reasonable and contemplated for this Contract, and that Bidder's only remedy in the event of such delays actually impacting the Work is an extension of time with no monetary compensation. If this space is checked by OWNER, [ ] the Supplemental General Conditions contain additional information on the anticipated delays.

**Not Applicable**

\_\_\_\_\_ [Signature of Bidder]

N. The undersigned hereby declares that all of the representations of this bid, including all documents comprising the bid package, are true and are made under penalty of the perjury laws of the State of California.

**INDIVIDUAL/DBA**

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

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

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

Date: \_\_\_\_\_ Telephone: \_\_\_\_\_ FAX: \_\_\_\_\_

**PARTNERSHIP**

Partnership Name: \_\_\_\_\_

Signed by: \_\_\_\_\_, Partner

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

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

Date: \_\_\_\_\_ Telephone: \_\_\_\_\_ FAX: \_\_\_\_\_

Names of Other Partners \_\_\_\_\_



**CORPORATION**

Corporation Name: \_\_\_\_\_,

a \_\_\_\_\_ Corporation.  
(State of Incorporation)

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

Date: \_\_\_\_\_ Telephone: \_\_\_\_\_ FAX: \_\_\_\_\_

By: \_\_\_\_\_ [Required] [Seal]  
(President/Chief Executive Officer/Vice President) [Circle One]

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

By: \_\_\_\_\_ [Required]  
(Secretary/Treasurer/Chief Financial Officer/Assistant Treasurer) [Circle One]

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

**JOINT VENTURE**

Joint Venturer Name: \_\_\_\_\_

Signed by: \_\_\_\_\_ (Joint Venturer)

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

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

Date: \_\_\_\_\_ Telephone: \_\_\_\_\_ FAX: \_\_\_\_\_

Other Parties to Joint Venture:

If an individual joint venturer: \_\_\_\_\_  
(Signature)

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

If a DBA joint venturer: By: \_\_\_\_\_  
(Signature)

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

If a partnership joint venturer: By: \_\_\_\_\_  
(Name)

Signed by: \_\_\_\_\_, Partner  
(Signature)

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

If a Corporation joint venturer: \_\_\_\_\_ (Seal)

\_\_\_\_\_,  
(Name)

a \_\_\_\_\_ Corporation.  
(State of Incorporation)

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

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

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

KERN HIGH SCHOOL DISTRICT  
**05-BID BOND**

**IF USED BY BIDDER, MUST BE COMPLETED AND SUBMITTED WITH BID**

KNOW ALL MEN BY THESE PRESENTS, that we, \_\_\_\_\_ as Principal, and \_\_\_\_\_ as Surety, are held and firmly bound unto the Kern High School District (referred to as District) in the sum of ten (10%) percent of the total amount of the bid of the Principal submitted to the District for the work and obligations described below for the payment of which sum in lawful money of the United States, well and truly to be made, we jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns.

The condition of this obligation is such that whereas the Principal has submitted the accompanying bid dated **Wednesday, \_\_\_\_\_ at 2:00 p.m. for: Bid No. 6559 – CAREER TECHNICAL EDUCATION CENTER: INSTALLATION OF SIX (6) SHADE STRUCTURES.**

NOW, THEREFORE, if the Principal shall not withdraw said bid within the period specified therein after the opening of the same, or if no period be specified, within 60 days after said opening; and if the Principal is awarded the contract, and shall within the specified period, or if no period is specified within five working days after the award of the contract, enter into a written contract with the District in accordance with the bid as accepted and give bonds with good and sufficient surety or sureties as may be required for the faithful performance and proper fulfillment of such contract and for the payment of labor and materials used for the performance of the contract, provide certificates evidencing the required insurance is in effect (in the amounts required in the contract documents), and provide any other documents required under the contract documents to be submitted at the time the contract is executed, then the above obligation shall be void and of no effect, otherwise to remain in force and effect.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or the call for bids, or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation under this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of said contract or the call for bids, or to the work, or to the specifications.

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

IN WITNESS WHEREOF, the parties have executed this instrument under their several seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the name and corporate party being hereto affixed and duly signed by its undersigned authorized representative.

DATED: \_\_\_\_\_

PRINCIPAL

By \_\_\_\_\_

Title \_\_\_\_\_

DATED: \_\_\_\_\_

SURETY

By \_\_\_\_\_

Title \_\_\_\_\_

Note: Signatures of those executing for the Surety must be properly acknowledged.

KERN HIGH SCHOOL DISTRICT  
**06-LIST OF SUBCONTRACTORS**

**TO BE SUBMITTED WITH BID**

**PROJECT TITLE: BID NO. 6559 – CAREER TECHNICAL EDUCATION CENTER:  
INSTALLATION OF SIX (6) SHADE STRUCTURES**

- A. In compliance with the Subletting and Subcontracting Fair Practices Act (Public Contract Code Section 4100 and following sections) and any amendments to the Act, each Bidder shall set forth below:
1. The name, the location of the place of business, and the California contractor license number of:
    - a. Each subcontractor who will perform work or labor or render service to the Bidder in or about the construction of the work or improvement in an amount in excess of one-half of one percent of the Bidder's total bid, and
    - b. Each subcontractor licensed by the State of California who, under subcontract to the Bidder, specially fabricates and/or installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of one percent of the Bidder's total bid;
  2. The portion of the work which will be done by each subcontractor.
  3. The additional information required in the table below.
- B. The Bidder shall list only one subcontractor for each such portion as is defined by the Bidder in this bid.
- C. If the Bidder fails to specify a subcontractor, or if the Bidder specifies more than one subcontractor for the same portion of work to be performed under the contract in excess of one-half of one percent of the Bidder's total bid, the Bidder shall be deemed to have agreed that the Bidder is fully qualified to perform that portion, and that the Bidder alone shall perform that portion.
- D. No Bidder whose bid is accepted shall (i) substitute any subcontractor, (ii) permit any subcontractor to be voluntarily assigned or transferred, or allow it to be performed by anyone other than the original subcontractor listed in the original bid, or (c) sublet or subcontract any portion of the work in excess of one-half of one percent of the Bidder's total bid as to which the original bid did not designate a subcontractor, except as authorized in the Subletting and Subcontracting Fair Practices Act.
- E. Violations of any provision of the Subletting and Subcontracting Fair Practices Act may be deemed by the OWNER to make the bid non-responsive and/or the Bidder non-responsible.

- F. The contractor is not qualified to bid, and subcontractors are not qualified to be listed in the contractor's bid, on the Project, nor may the contractor or subcontractors engage in the performance of any contract, unless they are currently registered and qualified to perform public work under Labor Code section 1725.5. (LC 1771.1(a).) In addition, a bid may not be accepted, nor may a contract or subcontract be entered, without proof of registration of the contractor or subcontractor. (LC 1771.1(b).) Therefore, the registration number for all listed subcontractors must be included below. (See Notice to Contractors Calling for Bids and Instructions to Bidders for more details.)
- G. Attach additional sheets, as necessary.

SUBCONTRACTOR'S NAME & STREET ADDRESS (CITY, STATE, ZIP)	DEPARTMENT OF INDUSTRIAL RELATIONS REGISTRATION NUMBER	LICENSE NUMBER	DESCRIPTION OF PORTION OF WORK TO BE SUBCONTRACTED

Firm Name: \_\_\_\_\_

By: \_\_\_\_\_  
*[Signature must match that on bid]*

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

KERN HIGH SCHOOL DISTRICT  
**07-NON-COLLUSION DECLARATION**

**PROJECT TITLE: BID NO. 6559 – CAREER TECHNICAL EDUCATION CENTER:  
INSTALLATION OF SIX (6) SHADE STRUCTURES**

**OWNER: KERN HIGH SCHOOL DISTRICT**

**TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID**

The undersigned declares:

I am the \_\_\_\_\_ of \_\_\_\_\_,  
the party making the foregoing bid. The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on \_\_\_\_\_ [date], at \_\_\_\_\_ [city], \_\_\_\_\_ [state].

Contractor \_\_\_\_\_

By \_\_\_\_\_

Signed \_\_\_\_\_

*[Signature must match that on bid]*

KERN HIGH SCHOOL DISTRICT  
**08-EXCLUSION OF ASBESTOS PRODUCTS**

TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID

**PROJECT TITLE:**    **BID NO. 6559 – CAREER TECHNICAL EDUCATION CENTER:  
INSTALLATION OF SIX (6) SHADE STRUCTURES**

**OWNER:**        **KERN HIGH SCHOOL DISTRICT**

The CONTRACTOR agrees that asbestos containing products or materials will not be used in performing work under the Agreement.

At completion of work under the Agreement, the CONTRACTOR will warrant and represent to the OWNER the following:

1.        That no asbestos containing products or materials were used in performing work under the Agreement.
  
2.        That should any asbestos containing products be found on the project, the CONTRACTOR will replace them, together with all related materials, at no cost to the OWNER.
  
3.        That should the replacement require any interruption in the normal operation of the school, the CONTRACTOR will pay all costs necessarily incurred to keep the school functioning with the least possible disruption to its day-to-day operations.

Executed at \_\_\_\_\_, California, on \_\_\_\_\_, 20\_\_\_\_.

Firm Name \_\_\_\_\_

By \_\_\_\_\_

Signed \_\_\_\_\_

*[Signature must match that on bid]*



# KERN HIGH SCHOOL DISTRICT

BOARD OF TRUSTEES

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Kenneth R. Seal, Ed.D.  
Assistant Superintendent, Business

## 09-Notification of Asbestos Material Locations

To: Kern High School District Contractors/Vendors  
From: Richard J. Ruiz, Director, Business Services  
Re: Notification of Asbestos Material Locations

*Must be returned by the time of bid opening, or bidder may be found "Non-responsive".*

In 1986, Congress passed the Asbestos Hazard Emergency Response Act (AHERA). Among other things, the law requires all schools, kindergarten through twelfth grade, to be inspected for asbestos-containing building material. Further, all independent contractors and their employees who may come in contact with asbestos are to be provided information regarding the location of asbestos-containing building material.

Because your company provides services for our district and because you do work which may disturb asbestos-containing building material, you are notified by this letter of the existing presence of asbestos-containing materials located within certain buildings utilized by this school district.

In the past, asbestos was used extensively in building materials because of its insulating and fire retardant capabilities. Virtually any building constructed before the late 1970's contains at least some asbestos in pipe insulation, structural fireproofing, floor tiles, mechanical areas, wall plasters, and in other miscellaneous building materials.

It is mandated by Federal law, before any of your employees perform any work within this school district's jurisdiction, they must be informed of the actual location of the asbestos-containing materials. To provide this information, the District has contracted with an EPA accredited contractor to conduct extensive inspections, collect samples of suspect materials, have samples analyzed by an EPA accredited laboratory, and develop a management plan which identifies the locations of asbestos-containing building materials.

You are hereby informed of the immediate availability of the District's asbestos management plan located, for your review, at the school site and at the District administration office. The District has appointed Jay M. Olsen as our District's asbestos coordinator. He is available to interpret this management plan for any concerned parties. It is also your responsibility to ensure your employees have been thoroughly trained before conducting any work within the school district facilities if that work may result in the disturbance of asbestos-containing materials. Should disturbance of asbestos-containing materials result from operations conducted by your company, you will be responsible for all costs involved in any required corrective actions. If asbestos disturbance is anticipated in your scope of work only persons with appropriate accreditation, registrations, licenses, and training can conduct this work. All work which may result in the disturbance of asbestos-containing building material must be coordinated through me. A signed copy of this correspondence must be on file prior to beginning work.

Firm Name \_\_\_\_\_

Acknowledgment of Receipt By \_\_\_\_\_ Date \_\_\_\_\_  
[Signature must match that on bid]



KERN HIGH SCHOOL DISTRICT  
**10-EXCLUSION OF LEAD PRODUCTS**

**TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID**

**PROJECT TITLE: BID NO. 6559 – CAREER TECHNICAL EDUCATION CENTER:  
INSTALLATION OF SIX (6) SHADE STRUCTURES**

**OWNER: KERN HIGH SCHOOL DISTRICT**

Pursuant to the provisions of the California Education Code for construction, modernization, or renovation of school facilities, lead based paint, lead plumbing, and solders, or other potential sources of lead contamination shall not be utilized in the construction of any new school facility or the modernization or renovation of any existing school facility.

The CONTRACTOR agrees that sources and potential sources of lead contamination, whether in products or materials, will not be used in performing work under the Agreement.

At completion of work under the Agreement, the CONTRACTOR will warrant and represent to the OWNER the following:

1. That no sources or potential sources of lead contamination were used in performing work under the Agreement.
2. That should any sources or potential sources of lead contamination be found to have been used by the CONTRACTOR or any subcontractor, supplier, or vendor on the Project, the CONTRACTOR will replace them, together with all related materials, at no cost to the OWNER.
3. That should the replacement require any interruption in the normal operation of the school, the CONTRACTOR will pay all costs necessarily incurred to keep the school functioning with the least possible disruption to its day-to-day operations.

Executed at \_\_\_\_\_, California, on \_\_\_\_\_, 20\_\_\_\_.

Firm Name \_\_\_\_\_

By \_\_\_\_\_

Signed \_\_\_\_\_

*[Signature must match that on bid]*

KERN HIGH SCHOOL DISTRICT  
**11-CERTIFICATE OF ATTENDANCE AT MANDATORY  
JOB WALK**

*On contracts including a mandatory job walk, this form must be submitted  
with the bid or bidder may be declared "non-responsive"*

**BID NO. 6559 – CAREER TECHNICAL EDUCATION CENTER: INSTALLATION OF SIX (6)  
SHADE STRUCTURES**

It is the District's intention to provide all contractors with equal access to information regarding this contract. Further, the District has issued plans and specifications to the Contractor and has allowed the Contractor the opportunity to inspect the site with knowledgeable personnel at the job walk. Therefore it is understood that the District may declare the bid non-responsive for any of the following conditions:

1. If Contractor, or a representative, attends the entire mandatory job walk but fails to complete and submit this form;
2. If Contractor, or a representative, fails to attend the entire mandatory job walk and fails to complete and submit this form; or
3. If Contractor, or a representative, fails to attend the entire mandatory job walk but certifies that he/she was in attendance. *[NOTE: This may also lead to a determination that Contractor is non-responsive.]*

Please check one of the following:

I, or my representative, attended the entire mandatory job walk.

OR

I, or my representative, did not attend the entire mandatory job walk.

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

Executed at \_\_\_\_\_, California, on \_\_\_\_\_, 20 \_\_\_\_.

Firm Name \_\_\_\_\_

By \_\_\_\_\_

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

KERN HIGH SCHOOL DISTRICT  
**12-FINGERPRINTING CERTIFICATION BY CONSTRUCTION CONTRACTORS – EC**  
**§45125.2**

Kern High School District (referred to as "District") for **BID NO. 6559 – CAREER TECHNICAL EDUCATION CENTER: INSTALLATION OF SIX (6) SHADE STRUCTURES**

I, \_\_\_\_\_, am an  
[Type or Print Name]

**[Check One]**

- Owner of the company named below
- Partner of the partnership named below
- President or CEO of the corporation named below
- Principal of the joint venture named below
- Other [specify] \_\_\_\_\_

The Contracting Entity named below is a contractor on the referenced project and as such hereby certifies:

**[Check One or More]**

- [For compliance with Education Code Section 45125.2(a)(1)]  
That a physical barrier will be erected, **at the sole expense(s) of Contracting Entity**, at the workplace to limit employee contact with District pupils.
- [For compliance with Education Code Section 45125.2(a)(2)]  
That the Contracting Entity named below will provide, **at the sole expense(s) of Contracting Entity**, continual supervision and monitoring of the employees of the entity and its subcontractors through its employee \_\_\_\_\_ . It has been ascertained by the Department of Justice that the named employee has not been convicted of a violent or serious felony. Contractor has requested subsequent arrest information from the Department of Justice concerning such employee and will immediately notify District and remove the employee from the Project if subsequent arrest information indicates the employee has been convicted of a serious or violent felony.
- [For compliance with Education Code Section 45125.2(a)(3)]  
That the Contracting Entity named below has contracted with the District for reimbursement of District expense incurred in providing surveillance by school personnel of the employees of the entity and its subcontractors on the Project.
- [For compliance with Education Code Section 45125.1. This section is applicable to a construction contractor when it fails to comply with 45125.2.]  
That the Contracting Entity is in compliance with Education Code section 45125.1.

\_\_\_\_\_  
[Name of Contracting Entity]

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

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

KERN HIGH SCHOOL DISTRICT  
**13-CONTRACTOR'S QUALIFICATIONS QUESTIONNAIRE**

TO BE SUBMITTED WITH THE BID IF PREQUALIFICATION IS NOT REQUIRED FOR THE CONTRACT

**NOTE: SEE THE NOTICE TO CONTRACTORS CALLING FOR BIDS TO DETERMINE WHETHER PREQUALIFICATION IS REQUIRED FOR THIS CONTRACT. IF PREQUALIFICATION IS REQUIRED FOR THIS CONTRACT, INSTEAD OF PREPARING AND SUBMITTING THIS FORM YOU MUST EITHER (1) FOLLOW THE PROCEDURES MENTIONED IN THE NOTICE TO CONTRACTORS CALLING FOR BIDS TO BECOME PREQUALIFIED, OR (2) IF YOU HAVE PREVIOUSLY BEEN PREQUALIFIED WITH THE KERN HIGH SCHOOL DISTRICT PURSUANT TO AN ANNUAL OR QUARTERLY PREQUALIFICATION PROCESS AND YOUR PREQUALIFICATION LETTER IS STILL VALID, YOU MUST SUBMIT YOUR APPROVAL LETTER.**

The prospective Bidder shall furnish all the following information accurately and completely. Failure to fully and completely comply with this requirement may result in rejection of any bid submitted. Additional sheets may be attached if necessary. "You" or "your" as used in this questionnaire refers to the Bidder's firm and any of its owners, officers, directors, shareholders, parties, or principals. District has discretion to request additional information depending on the project.

**- WARNING -**

Certain information may lead to a determination of non-responsibility and rejection of the bid.

**(1) Firm name and address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**(2) Telephone:** \_\_\_\_\_

**(3) Type of firm:** (check one) Individual  Partnership  Corp.

**(4) License No.** \_\_\_\_\_ **Class:** \_\_\_\_\_

Name of license holder: \_\_\_\_\_

**(5) Have you or any of your principals ever been licensed under a different name or different license number?** Response must include information pertaining to principals' association outside of the firm bidding this Project. If yes, give name and license number:  
\_\_\_\_\_.

**(6) Names and titles of all principals of the firm:**  
\_\_\_\_\_

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**(7) Number of years as contractor.** Include only years in this type of construction and only the years with the current entity in its current form: \_\_\_\_\_ Years

**(8) Person who inspected work site for your firm:**

Name and Title: \_\_\_\_\_

Date of Inspection: \_\_\_\_\_

**(9) Years of experience your firm has in public school construction work:**

As general contractor: \_\_\_\_\_ As subcontractor: \_\_\_\_\_

**(10) In the last five years has your firm or any of its principals defaulted so as to cause a loss to a surety?** Response must include information pertaining to principals' associations outside of the firm bidding this Project. If the answer is yes, give date, name, and address of surety and details.

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**(11) In the last five years have you or any of your principals been assessed liquidated damages for any project?** Response must include information pertaining to principals' associations outside of the firm bidding this Project. If yes, explain:

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**(12) In the last five years have you or any of your principals been in litigation or arbitration, or a mediation that did not resolve the dispute, on a question or questions relating to a public works construction project?** Response must include information pertaining to principals' association outside of the firm bidding this Project. If yes, provide name of public agency and details of the dispute. Attach additional pages as necessary.

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**(13) In the last five years have you or any of your principals ever failed to complete either a public works or private construction project?** Response must include information pertaining to principals' association outside of the firm bidding this Project. If yes, provide owner's name and details. Attach additional pages as necessary.

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**(14) In the last five years have you or any of your principals been assessed back-charges on any public works construction project?** If so, explain, including the identity of the public entity, the basis for their claims, and the final result. Attach additional pages as necessary.

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**(15) In the last five years have you or any of your principals ever failed to complete a public works construction project within the time frame originally set for completion, plus any extension of time granted for weather delays?** An extension of time for any reason other than weather delays requires an explanation. Response must include information pertaining to principals' association outside of the firm bidding this Project. If yes, provide owner's name and details. Attach additional pages as necessary.

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**(16) List names, addresses, and telephone numbers of three architects or engineers with whom you have worked on a public works project in the last five years:**

Project One: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Project Two: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Project Three:

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**(17) Conflicts of Interest:** Do you now or have you in the last five years had any direct or indirect business, financial, or other connection with any official, employee, or consultant of the District or architect? If yes, describe. Attach additional pages as necessary.

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**(18) In the last five years have you or any of your principals filed a claim for additional compensation from a public entity on a construction project?** If yes, explain and include the identity of the public entity, the basis for the claim, the response by the public entity, and the final result. Attach additional pages as necessary.

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**(19) In the last five years have you or any of your principals ever failed to pre-qualify, or been deemed unqualified, on any public works construction project?** If yes, explain and include the identity of the public entity, the basis for their claims, and the final result. Attach additional pages as necessary.

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**(20) In the last five years have you or any of your principals ever been declared a “non-responsible” bidder on any public works construction project?** If yes, explain and include the identity of the public entity, the basis for their claims, and the final result. Attach additional pages as necessary.

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(21) **Staff/Roster Functions:** List all members of your staff who will be assigned or responsible for work as a team member on this Project (except clerical) and show job titles, functions, years with firm, and projects completed for company. Include company officers, responsible managing employee (RME), project manager, and superintendent. Provide the following information for each individual (copy this page as many times as required).

**Name and Title:** \_\_\_\_\_

**Function:** \_\_\_\_\_

**Years with firm:** \_\_\_\_\_

**Has the individual had prior exposure as a team member on one of your projects?**

\_\_\_\_\_ Yes      \_\_\_\_\_ No

**List of all school projects this person has completed for you:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Provide an organizational chart reflecting your proposed project team for the Project, including all persons on your project team.**

(22) **Surety:** Indicate the names of all surety companies utilized by you in the last 10 years. Attach additional pages as necessary.

\_\_\_\_\_ Period Covered

\_\_\_\_\_ Period Covered

\_\_\_\_\_ Period Covered

\_\_\_\_\_ Period Covered

(23) **Attach a notarized statement from surety company(ies) proposed to be utilized on this Project, indicating your total bonding capacity and certifying that:**



- A. Currently available bonding capacity exceeds the value of your contract, as estimated by the District; and
- B. Surety(ies) will provide bonding of the project in the event you are awarded Project.

**(24) Insurance: Provide a notarized statement from your workers' compensation carrier specifying your current "Experience Modification Rate" for workers' compensation for the State of California.** Provide a list of above-referenced ratings and corresponding companies for the last five years.

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**(25) Safety:**

- A. Does your firm have a written Safety Program?  
Yes \_\_\_\_\_ No \_\_\_\_\_ **(If yes, attach copy.)**
- B. Does your firm have personnel permanently assigned to safety?  
Yes \_\_\_\_\_ No \_\_\_\_\_ (If yes, provide names and duties.)

**(26) Give the public entity's name, telephone number, and the name of the contact person for the three largest public works projects performed for a public entity, other than a school/college/university, that you have completed in the last five years:** Attach additional sheets as necessary.

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**(27) List of References:** Provide the following information requested below for the **six** largest projects performed for a public school, college, or university, and **three** largest private works projects performed in the last **five years**. If you do not have six projects in education, list those first then all other public works. Attach additional sheets if necessary.

Name of project: \_\_\_\_\_

Name of owner: \_\_\_\_\_

Address and telephone: \_\_\_\_\_

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Contact person at owner: \_\_\_\_\_

Type of construction project: \_\_\_\_\_

Dates of commencement and completion of construction project: \_\_\_\_\_

\_\_\_\_\_

If terminated, date of termination: \_\_\_\_\_

Original contract amount: \_\_\_\_\_

Original contract time: \_\_\_\_\_

Architect: \_\_\_\_\_

Architect's address and telephone: \_\_\_\_\_

\_\_\_\_\_

DSA or public agency inspector: \_\_\_\_\_

Address and telephone: \_\_\_\_\_

\_\_\_\_\_

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

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2025, at \_\_\_\_\_

\_\_\_\_\_ (City, County), State of \_\_\_\_\_.

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Title

KERN HIGH SCHOOL DISTRICT  
**14-SUBSTITUTION LISTING**

*To be submitted with any substitution request, at least 10 working days before bid, with bid,  
or after bid opening*

**TO: Kern High School District ("OWNER")**

1. Pursuant to bidding and contract requirements for the work titled:  
**BID PACKAGE NO.: BID NO. 6559 – CAREER TECHNICAL EDUCATION CENTER:  
INSTALLATION OF SIX (6) SHADE STRUCTURES**

The contract sum is for the work as shown on the drawings, described in the specifications, and otherwise defined in the Contract Documents. However, the undersigned proposes the following substitutions for the Owner’s consideration. Should the Owner accept any or all of the proposed substitutions, the Bidder/CONTRACTOR agrees to reduce the contract sum by the amount shown. Proposed substitutions must be submitted not later than 10 working days prior to the date of bid opening in order for such request to be reviewed and acted upon by OWNER before bidding. All substitutions must be listed on this form. All substitution requests shall be submitted in compliance with the Contract Documents, especially the Instructions to Bidders (§21) and General Conditions (Article 19).

2. Please complete, attaching additional sheets as necessary:

Specified Product or Material	Drawing Number or Specification Section	Proposed Substitution	Proposed Price Reduction

3. Should the CONTRACTOR submit substitutions for the project, the CONTRACTOR must provide a Substitution Warranty form for each substitution and sufficient proof that the substitution is equal to the specified product or material.
4. If a substitution is approved by OWNER as an equal, any additional time required to obtain shop drawings, for ordering materials, to make modifications, for testing or for whatever else is necessary to make the substitution function properly in place of the originally specified item shall be borne solely by the CONTRACTOR. It will also be the responsibility of the CONTRACTOR to acquire and install the substituted item in the time frame allowed under the Contract. No additional time extension will be granted to a CONTRACTOR for a substitution.
5. All bids should be calculated and submitted based on substitution requests already approved by addendum and based on the assumption that other substitution requests, whether submitted with the bid or later, will not be approved.
6. Bidder hereby certifies that the requested substitutions are equal or better in all respects to what is specified, unless otherwise noted.

**SIGNATURE MUST BE IDENTICAL  
TO THAT PROVIDED ON BID FORM**

BIDDER/CONTRACTOR: \_\_\_\_\_

BY: \_\_\_\_\_

KERN HIGH SCHOOL DISTRICT  
**15-SUBSTITUTION WARRANTY FORM**

*To be submitted with any substitution request, at least 10 working days before bid, with bid,  
or after bid opening*

We propose to provide:

\_\_\_\_\_ (describe items being proposed for substitution)

for \_\_\_\_\_ in lieu

of and as an equivalent to \_\_\_\_\_ (describe specified product)

as indicated on the drawings and described in \_\_\_\_\_

Section \_\_\_\_\_ of the Specifications

We agree to assume the cost of any modifications to other portions of the work as necessary to accommodate our material(s) and system(s).

We hereby warrant that \_\_\_\_\_ (items being proposed for substitution)

is the equivalent of \_\_\_\_\_ (Specified product)

in every respect and will perform satisfactorily under the conditions and use indicated on the Drawings and described in the Specifications.

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

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

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

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

Note: Affix Corporate Seal over Signatures

Kern High School District  
**16-DVBE PARTICIPATION**

# State Allocation Board DVBE Policy

## Adopted August 26, 1992

### Definitions

The term "Disabled Veteran Business Enterprise" (DVBE) means a business concern that is certified as a DVBE by the Office of Small Business and Disabled Veteran Business Enterprise Services.

The term "contract" means any agreement awarded by a school district in which all or part of the funding is provided by the State Allocation Board (SAB) under either the Lease-Purchase or State Relocatable Classroom Programs.

The term "bidder" means any person or persons, firm, partnership, corporation or combination thereof who makes an offer, competitive or noncompetitive, with the intent of forming a contract with one or more school districts on a SAB funded project.

### Disabled Veterans Business Enterprise Goals

In addition to the school districts contracting requirements, potential contractors seeking to enter into contracts with school districts on a SAB funded project under the Lease-Purchase and State Relocatable Classroom Program for labor, services, materials, supplies, equipment, construction, alteration, repair or improvement shall be required to meet a three percent participation goal for certified DVBEs or demonstrate that a good faith effort was made to meet the goal by submitting documentation of all actions to comply with California Code of Regulations, Title 2, Division 2, Chapter 3, Subchapter 10.5, Section 1896.63.

In order for any sole proprietorship, partnership, corporation or other enterprises to obtain certification or to be counted toward meeting the DVBE contract goals, such business concern must possess current and valid certification as a DVBE through the Office of Small Business and Disabled Veteran Business Enterprise Services.

For contracts awarded by competitive bid, a bidder must demonstrate fulfillment of this requirement at or prior to the time of bid opening in order to qualify as a responsive bidder. For contracts not awarded by competitive bid, a potential contractor must demonstrate fulfillment of this requirement prior to entering into the contract.

The DVBE participation goal shall apply to all SAB funded school district contracts over \$10,000 in the Lease-Purchase and certain contracts over \$10,000 in the State Relocatable Classroom Program (architectural, on-site inspections and utility hookups).

Any bidder meeting the three percent participation goal for DVBEs is eligible for award of a school district contract. If a bidder is unable to meet the three percent participation goal, the bidder shall demonstrate a good faith effort by submitting documentation of all the following actions:

- Contact was made with the school district to identify DVBEs;
- Contact was made with other State and federal agencies and with local DVBE organizations to identify DVBEs;

Kern High School District  
**16-DVBE PARTICIPATION**

- Advertising was published in trade papers and papers focusing on DVBEs, unless time limits imposed by the awarding department do not permit that advertising;
- Invitations to bid were submitted to potential DVBE contractors; available DVBEs were considered.

The school district shall evaluate the effort made by the bidder to seek out and consider DVBEs as potential subcontractors, and/or material or equipment suppliers. In evaluating such effort, the school district shall consider documentation of the actions specified above. Based on this evaluation, the school district may make a finding that the three percent DVBE participation goal or the good faith effort requirement has been met. The school district finding in this regard is subject to audit by OPSC. A bidder is eligible for award of a school district contract upon a finding by the school district that a three percent DVBE participation goal or good faith effort to meet the participation goal has been achieved.

If a bidder fails to meet either the goal or a good faith effort to meet the three percent goal, such bidder shall be deemed not to be a responsive bidder for purposes of the school district's evaluation of an award of contract and is thus ineligible for an award.

Kern High School District  
**16-DVBE PARTICIPATION**

# Substitutions

If awarded the contract(s), the successful bidder must use the DVBE subcontractor and/or supplier proposed in the final bid unless the contractor requested a substitution from the school district prior to the execution of the contract and the school district has approved such substitution. At a minimum, the request must include:

1. A written explanation of the reason for the substitution,
2. The identity of the person or firm substituted, and
3. Satisfactory evidence that the DVBE contract participation certified in the original bid will still be met after the substitution.

The school district's approval or disapproval of the substitution is not to be construed as an excuse for noncompliance with any other provision of law including, but not limited to, the Subletting and Subcontracting Fair Practices Act or any other contract requirements relating to substitution of subcontractors.

Failure to adhere to at least the DVBE participation proposed by the successful bidder may be cause for contract termination and recovery of damages under the rights and remedies due the school district/State under the default section of the contract.



Kern High School District  
**16-DVBE PARTICIPATION**

# Role of Construction Management

## School Districts

Some school districts choose to contract with a Construction Management firm (CM) to perform certain functions of a project. Subcontractors working on these projects will contract directly with the school district and are treated as prime contractors for purposes of the Disabled Veteran Business Enterprise (DVBE) requirements. Each contract must either meet the participation goals or the good faith effort criteria in order to be eligible for an award. School districts and/or CM firms may assist the bidders that are seeking to comply with the DVBE requirements by developing a list of subcontractors/suppliers that could be solicited for participation. This list of interested subcontractors/suppliers would then be passed on to the plan holding contractors. The CM may assist in the coordination of forms required for submittal by the contractor/subcontractor/supplier.

The CM firm may use Parts I and II of the Prime Bidder Good Faith Effort Worksheet, to develop a list of interested subcontractors/suppliers.

### **Part I—Contacts (Not Applicable to These Bids)**

The CM firm may make the required contacts listed in this part to obtain lists of subcontractors/suppliers that may be solicited to participate.

### **Part II—Advertisements (Not Applicable to These Bids)**

The CM firm may advertise in trade and focus papers. The advertisement must comply with the requirements listed in this part of the form and include a list of the plan holding contractors that will be using subcontractors/suppliers.

The CM firm must provide all “plan holding” contractors with the documentation of the above process to include on their Prime Bidder Good Faith Effort Worksheet.

### **Part III—Solicitations**

This part must be independently performed by each plan holding contractor. The requirements of this part would include inviting subcontractors/suppliers to bid, listing each DVBE contacted and indicating if the firm will be used or why it is not being used.

Kern High School District  
**16-DVBE PARTICIPATION**

## Bidders Most Frequently Asked Questions

- Q.** What programs administered by the State Allocation Board must comply with Disabled Veteran Business Enterprise provisions?

All contracts over \$10,000 in the Lease-Purchase Program, and certain contracts over \$10,000 in the State Relocatable Classroom Program, (architectural, on-site inspections and utility hookups).

- Q.** Where can I get SAB Disabled Veteran Business Enterprise Forms?

Contact the school district advertising for bid/proposals. They will provide you with the most recent forms.

- Q.** I am an inspector, I do not subcontract, how do I comply?

You must complete the Prime Bidder Certification Of Disabled Veteran Business Enterprise Participation form, and the Prime Bidder Good Faith Effort Worksheet form. A business enterprise without any opportunity for subcontracting or purchasing of supplies, must provide a narrative on Prime Bidder Good Faith Effort Worksheet form explaining this and be able to demonstrate its inability to subcontract or purchase supplies if an audit occurs.

- Q.** Must a Disabled Veteran Business Enterprise be certified in order to participate in a contract?

Yes, Disabled Veteran Business Enterprises must be certified by the Office of Small Business and Disabled Veteran Business Enterprise Services.

- Q.** Is there a minimum number of days prior to bid opening that primary bidders are required to place their advertisements in a publication focused toward DVBE and a trade paper for purposes of the "Good Faith Effort"?

The SAB recommends bidders comply with the Good Faith Effort requirements by advertising at least 14 calendar days prior to bid opening.

- Q.** What if a bidder does not have 14 days to advertise for the purposes of completing a Good Faith Effort?

You must advertise for as many days as possible before the bid opening date. The only exception to this requirement is if time constraints imposed by the school district prohibit the bidder from advertising. All bidders must be notified of this exception.

- Q.** Where do I find a list of Disabled Veteran Business Enterprises and list of advertising sources?

The Office of Small Business and Disabled Veteran Business Enterprise Services is located on the Internet and publishes a list of certified Disabled Veteran Business Enterprises and the State Contracting Resources Packet. Their telephone number is 916.375.4940 or 916.322.5060. The Internet address is:

<http://www.pd.dgs.ca.gov/smbus>.

Kern High School District  
**16-DVBE PARTICIPATION**

**Q.** I am a distributor or sales representative of XYZ. I pick up the telephone and place the order. There isn't any installation required or the installation is completed by factory trained personnel. The delivery is arranged by the manufacturer. How do I comply with the Disabled Veteran Business Enterprise requirements?

Transfer the burden of compliance to the manufacturer. Ask your manufacturer:

1. What opportunities do you have to subcontract (delivery, bookkeeping, etc.)?
2. What components of the product do you purchase (nuts, bolts, plastic, wood, cardboard boxes, pallets, etc.)?
3. Is equipment purchased to produce the product (safety glasses, hammer, nail gun, etc.)?
4. Are any of the items identified in questions 1 through 3 currently being provided by DVBEs? If yes, prorate the amount of their participation in the product(s) to be bid and include a copy of their DVBE letter from OSDC.
5. Use the Prime Bidder's Good Faith Effort Worksheet to increase your manufacturer's DVBE participation as follows:

**Part I—Contacts**

Make a contact in each of the three categories. Request DVBE contacts in the subcontracting or purchasing opportunities you have identified (see questions 1 through 3 above). If you have an out-of state manufacturer ask for contacts in your manufacturer's state.

**Part II—Advertisements**

Place your advertisements and list your manufacturer's subcontracting or purchasing opportunities. If you have an out-of-state manufacturer you may advertise in their state as long as all of the requirements listed on the Prime Bidder's Good Faith Effort Worksheet are met.

**Part III—Solicitations**

List DVBE subcontractors and/or suppliers that you or your manufacturer considered for participation in this bid (i.e., those you contacted from the lists provided by the contacts you make in Part I and those who responded to your advertisement in Part II). Indicate if the subcontractor/supplier was selected, a reason if not selected or check "No Response" (if applicable).

Kern High School District  
**16-DVBE PARTICIPATION**

# Forms

- **Prime Bidder Certification of Disabled Veteran**
- **Prime Bidder Good Faith Effort Worksheet**

Kern High School District  
**16-DVBE PARTICIPATION**

**PRIME BIDDER CERTIFICATION OF DISABLED VETERAN  
 BUSINESS ENTERPRISE PARTICIPATION**

To be completed by the prime Bidder.

**GENERAL INSTRUCTIONS**

All or part of the funding for the proposed work/services/equipment/supplies for which your firm is bidding has been made available by the State Allocation Board (SAB) through the Lease-Purchase Program or the State Relocatable Classroom Program and as a result, the contract award must be made in accordance with the SAB participation requirements for Disabled Veterans Business Enterprises (DVBE). The SAB requires that all contracts over \$10,000 awarded must meet a DVBE participation goal of not less than three percent of the contract amount. *If your firm cannot meet the three percent DVBE participation goal, you must demonstrate a good faith effort to attempt to meet the three percent participation.* The school district issuing this solicitation document, not the SAB/OPSC, is responsible to assure compliance with the DVBE program.

**PART I—IDENTIFICATION INFORMATION**

BIDDER'S NAME	TELEPHONE	
BUSINESS ADDRESS		
SCHOOL DISTRICT Kern High School District	COUNTY Kern	APPLICATION NUMBER N/A

**PART II—METHOD OF COMPLIANCE WITH DVBE PARTICIPATION GOALS**

Include this form and any other applicable documents listed in this table with your bid/proposal. Read the three columns in the table below as sentences from left to right. Check the appropriate box to indicate your method of committing the contract dollar amount. If no box can be checked, your bid/proposal will be deemed non-responsive and disqualified.

**Important note**

Architectural, engineering, environmental, land surveying or construction management firms must indicate their method of compliance by marking the appropriate box A, B, C, or D after selection by the district and before the contract is signed.

YOUR BUSINESS ENTERPRISE...	AND YOU...	AND YOU...
A. <input type="checkbox"/> is Disabled Veteran owned and your forces will perform at least three percent of this contract	will include a copy of your DVBE letter from the Office of Small Business and Disabled Veteran Business Enterprise Services (OSDS).	
B. <input type="checkbox"/> is Disabled Veteran owned but is unable to perform the three percent of this contract with your forces	will use DVBE subcontractors/suppliers to bring the contract participation to at least three percent	will include a copy of each DVBE letter from OSDS (including yours, if applicable).
C. <input type="checkbox"/> is not Disabled Veteran owned	will use DVBE subcontractors/suppliers for at least three percent of this contract	
D. <input type="checkbox"/> is unable to meet the required participation goals	will complete a Good Faith effort to obtain DVBE participation	will include the Prime Bidder's Good Faith effort Worksheet.

**Note**

An Office of Small Business and Disabled Veteran Business Enterprise Services (OSDS) letter must be attached for each DVBE participating in the contract. The DVBE letter is obtained from the participating DVBE. If the letter is not provided, the bid may be deemed nonresponsive and may be ineligible for award of the contract.

*Continued on page 2*

Kern High School District  
**16-DVBE PARTICIPATION**

**PRIME BIDDER CERTIFICATION OF DISABLED VETERAN  
 BUSINESS ENTERPRISE PARTICIPATION**

**PART III—DVBE DOLLAR PARTICIPATION OF BID/PROPOSAL**

**Architectural, engineering, environmental, land surveying or construction management firms complete this part after selection by the district and before the contract is signed. All others must complete this section and include it with the bid.**

Show deductive alternate(s) in parenthesis. For more alternates/base bids, use a separate page to show items.

- A. If your business enterprise is a DVBE, list in the appropriate column the total dollar amount of your bid to be performed by your own participation.
- B. List all your DVBE subcontractors/suppliers. Enter in the appropriate column the dollar amount for each of your subcontractors/suppliers.
- C. Enter the total of Lines A and B for each column.
- D. Enter the dollar amount of the bid/proposal to be performed by non-DVBE firms. Note: This line is the sum of the prime and subcontractor(s) non-DVBE dollar participation.
- E. Enter the sum of the column totals from Line C and Line D. Note: Please be aware that the final determination of DVBE compliance is made based on the contract amount resulting from the district's acceptance or rejection or alternates.

	Base Bid/Proposal	Alternate No. 1	Alternate No. 2	Alternate No. 3 or Base Bid B	Alternate No. 4 or Base Bid C	Alternate No. 5 (Modernization or Reconstruction Only)
A. Prime Bidder, if DVBE (own participation)	\$	\$	\$	\$	\$	\$
B. DVBE Subcontractor or Supplier						
1.						
2.						
3.						
4.						
C. Subtotal (A and B)						
D. Non-DVBE						
E. Total Bid						

Kern High School District  
**16-DVBE PARTICIPATION**

**PRIME BIDDER GOOD FAITH EFFORT WORKSHEET**

**This worksheet is to be used to assist the Prime Builder in meeting the three percent DVBE participation goal for project funded through the Lease-Purchase Program or the State Relocatable Classroom Program.**

Bidder Name	Contact Person
Business Address	Telephone
School District Kern High School District	County Kern

**GENERAL INSTRUCTIONS**

If specific information is not provided for Parts I through III, you do not meet the test of the "Good Faith Effort" and cannot so certify. If you are qualifying based on a "Good Faith Effort" you must include this form with your bid/proposal to the district.

**PART I—CONTACTS**

To identify DVBE sub-contractors/suppliers for participation in your bid/proposal, contact must be made with each of the following categories. It is recommended that you contact several DVBE organizations.

CATEGORY	TELEPHONE NUMBER	DATE CONTACTED	PERSON CONTACTED*
1. School District - Kern High School District	661.827.3122		
2. Office of Small Business and Disabled Veteran Business Enterprise Services (OSDS). OSDS publishes a list of Disabled Veteran Business Enterprises at <a href="http://www.pd.dgs.ca.gov/smbus/">http://www.pd.dgs.ca.gov/smbus/</a>	916.375.4940 916.322.5060 (24 hrs)		
3. DVBE Organizations (List):			

\*Write "recorded message" in this column, if applicable.

*Continued on page 2*

Kern High School District  
**16-DVBE PARTICIPATION**

**PRIME BIDDER GOOD FAITH EFFORT WORKSHEET**

**PART II—ADVERTISEMENTS**

You must make at least two (2) advertisements, one (1) in a paper that focuses on DVBE and one (1) in a trade paper. Advertisements must be published at least 14 days prior to bid/proposal opening; if you cannot advertise 14 days prior, advertise as soon as possible and provide an explanation. (advertisements must be published in time to allow for a reasonable response.) Advertisements must include that your firm is seeking DVBE participation, the project name and location, your firm's name, your firm's contact person, and phone number.

Attach copies of advertisements to this form.

FOCUS/TRADE PAPER NAME	CHECK ONE		DATE OF ADVERTISEMENT
	FOCUS	TRADE	
The Kern High School District, as awarding agency, has chosen to waive the			April 9, 2025
advertising requirements. The District will complete the advertising			
requirements for this bid and make the results available to all			
Bidders. Call the Business Services office at (661) 827-3122 for			
the results.			

**PART III—DVBE SOLICITATIONS**

List DVBE subcontractors/suppliers that were invited to bid. Use the following instructions to complete the remainder of this section (read the three columns as a sentence from left to right). If you need additional space to list DVBE solicitations, please use a separate page and attach to this form.

**IF THE DVBE...**

was selected to participate

was not selected to participate

did not respond to solicitation

**THEN...**

check "YES" in the "SELECTED" column, include the applicable dollar amount in Part III of the "Prime Bidder Certification of Disabled Veteran" form.

check "NO" in the "SELECTED" column.

check the "NO RESPONSE" column.

**AND...**

include a copy of their DVBE letter from OSDC.

State why in the "REASON NOT SELECTED" column.

DISABLED VETERANS BUSINESS ENTERPRISES CONTACTED	SELECTED		REASON NOT SELECTED THIS SECTION MUST BE COMPLETED	NO RESPONSE
	YES	NO		

**IMPORTANT NOTE**

Please be aware that certification of the "Good Faith Effort" may only be made if you fully complete Parts I, II, and III on both sides of this form. A copy of this form must be retained by you and may be subject to a future audit.

**Certification**

I, \_\_\_\_\_ certify that I am the bidder's Chief executive officer and that I have made a diligent effort to ascertain the facts with regard to the representations made herein. In making this certification, I am aware of section 12650 et seq. of the Government Code providing for the imposition of treble damages for making false claims.

SIGNATURE OF CHIEF EXECUTIVE OFFICER	DATE
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Kern High School District  
**16-DVBE PARTICIPATION**

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**DVBE STATE, FEDERAL, AND LOCAL CONTACTS**

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**Information Sources**

**State Contacts**

- **California Department of General Services  
Procurement Division**  
707 Third Street, 1<sup>st</sup> Floor, Room 400, West Sacramento, CA 95605  
Receptionist: (916) 375-4940 / 24-Hour Recording: (916) 322-5060  
Fax: (916) 375-4950  
Internet:  
<https://caleprocure.ca.gov/pages/PublicSearch/supplier-search.aspx>
- **The Elite SDVOB Network**  
Tel: (619) 284-9922  
Internet:  
<https://www.elitesdvo.org/index.php/component/mtree/california/san-diego/all>  
Click on "Find a SDVOB/DVBE" to do a search.
- **California Department of Transportation (CALTRANS)**  
Headquarters, 1120 N Street, Sacramento, CA 95814  
Tel: (916) 654-2852  
Internet:  
<https://dot.ca.gov/programs/business-and-economic-opportunity>
- **DBE/DVBE Resource Center**  
11 S. Termino Avenue, Suite 214, Long Beach, CA 90803  
Tel: (800) 599-6996 ext. 1 / Fax: (562) 439-1398  
Internet: <http://www.compliancenews.com>

Kern High School District  
**16-DVBE PARTICIPATION**

**DVBE STATE, FEDERAL, AND LOCAL CONTACTS (CONT.)**

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**Federal Contacts**

- **U.S. Small Business Administration (SBA)  
Central Contractor Registration (CCR)**
  - Internet: <http://www.sba.gov>  
Follow screen prompts.

**Local Contacts**

- **Valley Small Business & Construction Report**
  - Sebastian Prince
  - [sebastian@vsbcr.com](mailto:sebastian@vsbcr.com)
  - website: [www.vsbcr.com](http://www.vsbcr.com)
  - 661-332-3216

**Advertising Sources**

- **California Daily Bid Advisor** (408) 998-0241
- **Challenge News** (800) 298-0240 or (408) 998-0241
- **McGraw-Hill Construction** (626) 932-6161/ (212) 904-4376
- **Kern County Builders Exchange** (661) 324-4921
- **Sacramento Builders Exchange** (916) 442-8991

KERN HIGH SCHOOL DISTRICT  
**17-ESCROW AGREEMENT FOR  
SECURITY DEPOSITS IN LIEU OF RETENTION**

This Escrow Agreement is made and entered into by and between the Kern High School District whose address is 5801 Sundale Avenue, Bakersfield, California, 93309, referred to as "Owner," and

\_\_\_\_\_ whose address is \_\_\_\_\_  
\_\_\_\_\_ referred to as "Contractor" and

\_\_\_\_\_ whose address is \_\_\_\_\_  
\_\_\_\_\_ referred to as "Escrow Agent."

For the consideration set forth in this Agreement, the Owner, Contractor, and Escrow Agent agree as follows:

1. Pursuant to Section 22300 of the Public Contract Code of the State of California, Contractor has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by Owner pursuant to the Agreement entered into between the Owner and Contractor for \_\_\_\_\_ in the amount of \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_, (referred to as the "Agreement"). Alternatively, on written request of Contractor, Owner shall make payments of the retention earnings directly to the Escrow Agent. When Contractor deposits the securities as a substitute for retention earnings, the Escrow Agent shall notify the Owner within 10 days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Agreement between the Owner and Contractor. Securities shall be held in the name of \_\_\_\_\_ and shall designate the Contractor as the beneficial owner.

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

3. When Owner makes payments of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of Contractor until the time the escrow created under this Escrow Agreement is terminated. Contractor may direct investment of the payments into securities. All terms and conditions of this Escrow Agreement and the rights and responsibilities of the parties shall be equally applicable and binding when Owner pays the Escrow Agent directly.

4. Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account and all expenses of Owner. These expenses and payment terms shall be determined by Owner, Contractor, and Escrow Agent.

5. The interest earned on the securities or the money market accounts held in escrow, and all interest earned on that interest, shall be for the sole account of Contractor and shall be subject to withdrawal by Contractor at any time and from time to time without notice to the Owner.

6. Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from Owner to

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

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

8. Upon receipt of written notification from Owner certifying that the work is final and complete, and that Contractor has complied with all requirements and procedures applicable to the Agreement, Escrow Agent shall release to Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all monies and securities on deposit and payment of fees and charges.

9. Escrow Agent shall rely on the written notifications from Owner and Contractor pursuant to Sections 5 to 8, inclusive, of this Escrow Agreement and Owner and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.

10. The names of the persons who are authorized to give written notice or to receive written notice on behalf of Owner and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures, are as follows:

On behalf of Owner:

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

On behalf of Contractor:

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

On behalf of Escrow Agent:

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

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

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

Owner

Contractor

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Escrow Agent

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

Approved:  
KERN HIGH SCHOOL DISTRICT  
Business Services Department

By: \_\_\_\_\_  
Richard J. Ruiz, Director



# KERN HIGH SCHOOL DISTRICT

## BOARD OF TRUSTEES

David Manriquez, President

Kathy Scrivner, Vice President

Steven Rodrigue, Clerk

Derek Tisinger, Clerk Pro Tem

J. Bryan Batey, Member

MICHAEL ZULFA, Ed.D., SUPERINTENDENT

5801 SUNDALE AVENUE • BAKERSFIELD • CALIFORNIA • 93309-2924 • (661) 827-3122 • FAX: (661) 827-3309

Kenneth R. Seal, Ed.D.  
Assistant Superintendent, Business

## KERN HIGH SCHOOL DISTRICT 18-CONSTRUCTION AGREEMENT

THIS AGREEMENT, dated \_\_\_\_\_, 20\_\_\_\_, in the County of Kern, State of California, is by and between the Kern High School District ("OWNER") and \_\_\_\_\_ ("CONTRACTOR").

For the consideration stated herein, OWNER and CONTRACTOR agree as follows:

1. The complete contract includes all of the Contract Documents, including the Notice to Contractors Calling for Bids, Instructions to Bidders, Bid Form, Addenda, Designation of Subcontractors, Workers' Compensation Certificate, Performance Bond, Payment Bond, Change Orders, Shop Drawing Transmittals, all prequalification forms submitted pursuant to Public Contract Code Section 20111.5 or 20111.6, if any, or Contractor's Qualifications Questionnaire, if any, Substitution Listing and Warranty forms on any approved substitutions, Non-Collusion Affidavit, Iran Contracting Act Certification, if any, Roof Project Certification, if any, Sufficient Funds Declaration, Insurance Certificates, Guarantees, Contractor's Certificate Regarding Non-Asbestos Containing Materials and Exclusion of Asbestos and Lead Products, if any, Fingerprinting Certificate, General Conditions, Supplemental General Conditions, if any, Special Conditions and/or Special Requirements, if any, Plans, Drawings, Specifications, this Agreement, and any other documents comprising any portion of the bid package, and all modifications, addenda, and amendments of or to any of these documents, by this reference incorporated herein. The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all.

2. CONTRACTOR shall perform within the time set forth in Paragraph 4 of this Agreement everything required to be performed, and shall provide and furnish all labor, materials, necessary tools, expendable equipment, and all utility and transportation services described in the Contract Documents and required for construction of **BID NO. 6559 – CAREER TECHNICAL EDUCATION CENTER: INSTALLATION OF SIX (6) SHADE STRUCTURES**

All of the Work to be performed and materials to be furnished shall be completed in a good workmanlike manner in strict accordance with the Plans, Drawings, Specifications and all provisions of the Contract Documents as defined above. CONTRACTOR shall be liable to OWNER for any damages arising as a result of a failure to fully comply with this obligation, and CONTRACTOR shall not be excused with respect to any failure to so comply by any act or omission of OWNER, the Architect, Engineer, Inspector, Division of State Architect, or representative of any of them, unless such act or omission actually prevents CONTRACTOR from fully complying with the requirements of the Contract Documents, and unless CONTRACTOR protests at the time of the alleged prevention that the act or omission is preventing CONTRACTOR from fully complying with the Contract Documents. The protest shall not be effective unless reduced to writing and filed with

OWNER within three working days of the date of occurrence of the act or omission preventing CONTRACTOR from fully complying with the Contract Documents.

3. Subject to any additions or deductions as provided in the Contract Documents, as full consideration for the faithful performance of the contract OWNER shall pay to CONTRACTOR the sum of **(\$To Be Determined)**.

4. The Work shall be commenced on or before the fifth day after the date of OWNER'S Notice to Proceed and shall be completed within 49 consecutive calendar days after the deadline to commence the Work.

5. All Work must be completed within the time limits set forth in the Contract Documents. If the Work is not completed in accordance with Paragraph 4 above, it is agreed and understood that OWNER will suffer damage. The parties understand and agree that the goodwill, educational process, and other business of OWNER will be damaged if the project described in this Construction Agreement is not completed within the time limits required. The parties have further agreed that the exact amount of damages for failure to complete the work within the time specified is, in some cases, extremely difficult, impractical, or impossible to determine, and that regarding such damages, and in accordance with Government Code Section 53069.85 and Public Contract Code section 7203, it is agreed that CONTRACTOR shall pay to OWNER as fixed and liquidated damages, and not as a penalty, the sum of **\$1,000.00 for each calendar day** of delay until work is completed and accepted. This amount shall be deducted from any payments due to or to become due to CONTRACTOR. CONTRACTOR and CONTRACTOR'S surety shall be liable for this amount. Time extensions may be granted by OWNER as provided in the Contract Documents.

OWNER encourages efforts by CONTRACTOR to accomplish an early completion of the project, however, CONTRACTOR is directed to utilize and schedule the entire construction period set forth in this Construction Agreement. Any portion of the construction period not so scheduled shall be considered "float" and used the same as other float under the Contract Documents.

6. In the event CONTRACTOR fails to furnish tools, equipment, or labor in the necessary quantity or quality, or fails to prosecute the work or any part of the work contemplated by the Contract Documents in a diligent and workmanlike manner, and if for a period of 10 calendar days after receipt of written demand from OWNER to do so CONTRACTOR fails to furnish tools, equipment, or labor in the necessary quantity or quality, or to prosecute the work and all parts of the work in a diligent and workmanlike manner, or after commencing to do so within said 10 calendar days, fails to continue to do so, then OWNER may exclude CONTRACTOR from the premises, or any portion of the premises, and take possession of the premises or any portion of the premises, together with all material and equipment, and may complete the work contemplated by the Contract Documents or any portion of the work, either by furnishing the tools, equipment, labor or material necessary, or by letting the unfinished portion of the work, or the portion taken over by OWNER to another contractor, or by a combination of methods. In any event, procuring the completion of the work, or the portion taken over by OWNER, shall be a charge against CONTRACTOR, and may be deducted from any money due or becoming due CONTRACTOR from OWNER, or CONTRACTOR shall pay OWNER the amount of the charge, or the portion thereof unsatisfied. The sureties provided for under the Contract Documents shall become and remain liable for payment under this provision should CONTRACTOR fail to pay in full any cost incurred by OWNER.

7. Prior to commencing the work, CONTRACTOR shall take out and maintain during the life of this contract, and shall require all subcontractors, if any, whether primary or secondary, to take out and maintain all insurance as required in the General Conditions.



8. Public Contract Code Section 22300 permits the substitution of securities for any monies withheld by a public agency to ensure performance under a contract. At the request and expense of CONTRACTOR, securities equivalent to the amount withheld shall be deposited by CONTRACTOR with the public agency, or with a state or federally chartered bank in California as the escrow agent. OWNER retains the sole discretion to approve the bank selected by CONTRACTOR to serve as escrow agent. 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 16430 or bank or savings and loan certificates of deposit. CONTRACTOR shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.

In the alternative, under Section 22300, CONTRACTOR may request OWNER to make payment of earned retentions directly to the escrow agent at the expense of CONTRACTOR. Also at CONTRACTOR'S expense, CONTRACTOR may direct investment of the payments in securities, and CONTRACTOR shall receive interest earned on such investment upon the same conditions as provided for securities deposited by CONTRACTOR. Upon satisfactory completion of the contract, CONTRACTOR shall receive from the escrow agent all securities, interest, and payments received by escrow agent from OWNER pursuant to the terms of Section 22300. Not later than 20 days after receipt of such payment, CONTRACTOR shall pay to each subcontractor the respective amount of interest earned, net of costs attributed to retention withheld from each subcontractor, on the amount of retention withheld to ensure performance of CONTRACTOR.

9. If CONTRACTOR is a corporation, the undersigned hereby represents and warrants that the corporation is duly incorporated and in good standing in the State of \_\_\_\_\_, and that \_\_\_\_\_, whose title is \_\_\_\_\_, is authorized to act for and bind the corporation.

10. The complete Contract Documents as set forth in Paragraph 1 of this Construction Agreement constitute the entire agreement of the parties. No other agreements, oral or written, pertaining to the work to be performed, exists between the parties. The Contract Documents can be modified only by an amendment in writing, signed by both parties and approved by the Governing Board of OWNER.

11. The Work is subject to prevailing wages pursuant to Labor Code section 1771 and related statutes. The Work is also subject to compliance monitoring and enforcement by the Department of Industrial Relations.

12. The CONTRACTOR shall submit a list of subcontractors as required by the Instructions to Bidders and Public Contract Code sections 4100 et seq.



The parties have executed this Construction Agreement by the signatures of their authorized representatives effective the date indicated above.

KERN HIGH SCHOOL DISTRICT  
GOVERNING BOARD

CONTRACTOR

By: \_\_\_\_\_  
Kenneth R. Seals, Ed.D.  
Assistant Superintendent, Business

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Contractor's License No.

\_\_\_\_\_  
Tax ID/Social Security No.

(CORPORATE SEAL OF  
CONTRACTOR, if a corporation)

Approved:  
KERN HIGH SCHOOL DISTRICT  
Business Services Department

By: \_\_\_\_\_  
Richard J. Ruiz, Director

KERN HIGH SCHOOL DISTRICT  
**19-PAYMENT BOND**

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the Kern High School District of Kern County, California (referred to as "Owner"), has awarded to \_\_\_\_\_ (referred to as the "Contractor/ Principal") a contract for the work described as follows:

**BID NO. 6559 – CAREER TECHNICAL EDUCATION CENTER: INSTALLATION OF SIX (6) SHADE STRUCTURES**

WHEREAS, Contractor/Principal is required by Division 3, Part IV, Title XV, Chapter 7 (commencing at Section 9550) of the California Civil Code to furnish a bond in connection with the contract;

NOW, THEREFORE, we, the Contractor/Principal and \_\_\_\_\_, as Surety, are held firmly bound unto Owner 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 these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the Contractor/Principal, his/her or its heirs, executors, administrators, successors, or assigns, or a subcontractor, shall fail to pay any person or persons named in Civil Code Section 9100 or fail to pay for any materials or other supplies used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code with respect to work or labor thereon of any kind, or shall fail to deduct, withhold, and pay over to the Employment Development Department any amounts required to be deducted, withheld, and paid over by Section 13020 of the Unemployment Insurance Code with respect to work and labor thereon of any kind, then said Surety will pay for the same, in or to an amount not exceeding the amount set forth above, and in case suit is brought upon this bond Surety will also pay such reasonable attorney's fees as shall be fixed by the court, awarded and taxed as provided in Division 3, Part IV, Title XV, Chapter 7 (commencing at Section 9550) of the California Civil Code.

This bond shall inure to the benefit of any of the persons named in Section 9100 of the California Civil Code so as to give a right of action to such person or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety of this bond shall not be exonerated or released from the obligation of the bond by any change, extension of time for performance, addition, alteration, or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement described above or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement described above, nor by any rescission or attempted rescission of the contract, agreement, or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the

claimant seeking to recover on the bond, and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the Owner 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 9100 of the California Civil Code and has not been paid the full amount of his/her or its claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration, or modification herein mentioned.

Any claims under this bond may be addressed to:

(Name and address of Surety)

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

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

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

(Telephone number of Surety, or agent or representative in California)

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

IN WITNESS WHEREOF, we have hereto set our hands and seals on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

[SEAL]

\_\_\_\_\_  
Contractor/Principal

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

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Surety

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

\_\_\_\_\_  
Print Name and Title

[SEAL AND NOTARIAL ACKNOWLEDGMENT OF SURETY]

KERN HIGH SCHOOL DISTRICT  
**20-PERFORMANCE BOND**

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the Kern High School District of Kern County, California (referred to as "Owner"), has awarded to \_\_\_\_\_ (referred to as "Contractor/Principal") a contract for the work described as follows:

**BID NO. 6559 – CAREER TECHNICAL EDUCATION CENTER: INSTALLATION OF SIX (6) SHADE STRUCTURES**

NOW, THEREFORE, we, the Contractor/Principal and \_\_\_\_\_, as Surety, are held firmly bound unto Owner 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 these presents.

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

The obligation of Surety under this bond shall continue so long as any obligation of Contractor remains, including but not limited to warranty deficiencies or latent or patent deficiencies.

Whenever Contractor/Principal shall be, and is declared by the Owner to be, in default under the contract, the Owner having performed the Owner's obligations thereunder, the Surety shall promptly remedy the default, or shall promptly:

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

Surety expressly agrees that the Owner may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Contractor/Principal.

Surety shall not utilize Contractor/Principal in completing the contract nor shall Surety accept a bid from Contractor/Principal for completion of the work if the Owner, when declaring the Contractor/Principal in default, notifies Surety of the Owner's objection to Contractor/Principal's further participation in the completion of the work.

No further agreement between Surety and Owner shall be required as a prerequisite to the Surety performing its obligations under this bond.

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

FURTHER, for value received, the Surety hereby stipulates and agrees that no change, extension of time, alternation, or modification of the Project Documents, or of the work to be performed thereunder, shall in any way affect its obligations on this bond; it does hereby waive notice of any change, extension of time, alteration, or modification of the Project Documents or of work to be performed thereunder; and the Surety hereby stipulates and agrees that the terms of the Contract are incorporated into this bond by reference.

Any claims under this bond may be addressed to:

(Name and address of Surety)

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

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(Telephone number of Surety, or agent or representative in California)

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IN WITNESS WHEREOF, we have hereto set our hands and seals on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[SEAL]

\_\_\_\_\_  
Contractor/Principal

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

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Surety

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

\_\_\_\_\_  
Print Name and Title

[SEAL AND NOTARIAL ACKNOWLEDGMENT OF SURETY]

Sample Only

KERN HIGH SCHOOL DISTRICT  
**21-DRUG-FREE WORKPLACE CERTIFICATION**

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

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

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

I, the undersigned, agree to fulfill the terms and requirements of Government Code Section 8355 listed above and will publish a statement notifying employees concerning (a) the prohibition of controlled 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.

\_\_\_\_\_  
Name of Contractor

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Sample Only



KERN HIGH SCHOOL DISTRICT  
**22-DAVIS BACON COMPLIANCE CERTIFICATION**

*To be submitted with the bid*

**PROJECT TITLE: BID NO. 6559 – CAREER TECHNICAL EDUCATION CENTER:  
INSTALLATION OF SIX (6) SHADE STRUCTURES**

**OWNER: KERN HIGH SCHOOL DISTRICT**

I hereby certify that I will conform to the Davis Bacon Act regarding wages, on-site audits with 48-hour notice, payroll records, submittals of weekly certified payrolls to the Owner, and apprentice and trainee employment requirements.

\_\_\_\_\_  
Name of Contractor Date

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

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

**Not Applicable to this Bid**

**[TO BE USED ON CONSTRUCTION PROJECTS UNDER CONTRACTS ENTERED INTO OR  
FINANCED BY OR WITH THE ASSISTANCE OF THE FEDERAL GOVERNMENT.]**

KERN HIGH SCHOOL DISTRICT  
**23-WORKERS' COMPENSATION CERTIFICATE**

Labor Code Section 3700 provides:

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

(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer, or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees.

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

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

\_\_\_\_\_  
Name of Contractor Date

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

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

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

KERN HIGH SCHOOL DISTRICT  
**24-GUARANTEE**

**BID NO. 6559 – CAREER TECHNICAL EDUCATION CENTER: INSTALLATION OF  
SIX (6) SHADE STRUCTURES**

We guarantee that the construction work described above has been performed in accordance with, and complies with, the Contract Documents. We agree to repair or replace any or all of the work, together with any other adjacent work which may be required in connection with it, that may prove to be defective in workmanship or material within a period of one year from the date of acceptance of the project by the Owner and the filing of the final verified report with the Division of State Architect (DSA), ordinary wear and tear excepted.

In the event of our failure to comply with these conditions within a reasonable period of time, as determined by Owner, but not later than two days after being notified in writing by Owner, we authorize Owner to proceed to have the defects repaired at our expense, for which we will pay the costs and charges upon demand.

\_\_\_\_\_  
Name of Contractor Date

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

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

Representative of Contractor  
to be Contacted for Service:

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

Telephone number of Contact:

\_\_\_\_\_

KERN HIGH SCHOOL DISTRICT  
**25-BID QUESTION FORM**

**Project Title: CAREER TECHNICAL EDUCATION  
CENTER: INSTALLATION OF SIX (6) SHADE  
STRUCTURES**

**Bid Number: 6559**

**Date:** \_\_\_\_\_ **Contractor:** \_\_\_\_\_

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

**Question By:** \_\_\_\_\_ **Fax No.:** \_\_\_\_\_

**Phone No.:** \_\_\_\_\_

**QUESTION:** \_\_\_\_\_

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**RESPONSE:**

**Date:** \_\_\_\_\_ **Answered By:** \_\_\_\_\_

**Answer:** \_\_\_\_\_

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**Addendum Required:**      YES       NO

**NOTE: All questions must be received by the Kern High School District, Richard J. Ruiz, in written form [Email [sandy.castorena@kernhigh.org](mailto:sandy.castorena@kernhigh.org) ] a minimum of seven (7) days prior to bid opening date. This will allow time to respond to the question and/or issue an addendum to all contractors addressing the question. Questions received less than seven (7) calendar days before bid date will not be acknowledged.**

KERN HIGH SCHOOL DISTRICT  
**26-SHOP DRAWING TRANSMITTAL**

The procedure governing shop drawing submittals is contained in the Contract Documents. All requirements must be followed by the Contractor. Failure to comply with all requirements will constitute grounds for return of the shop drawing for proper resubmittal. The Contractor shall sequentially number each submittal, using this form.

\_\_\_\_\_ Date \_\_\_\_\_ Submittal No.

\_\_\_\_\_ From \_\_\_\_\_ To

\_\_\_\_\_ Project Name

This is: an original submittal \_\_\_\_\_  
a 2nd submittal \_\_\_\_\_  
a [ ] submittal \_\_\_\_\_

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

Complete either (a) or (b)

Check One:

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

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

\_\_\_\_\_  
Signature of Contractor or Supplier

KERN HIGH SCHOOL DISTRICT  
27-CHANGE ORDER NO. \_\_\_\_\_

Project: \_\_\_\_\_

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

**IF NOT ALREADY DONE, YOU ARE HEREBY DIRECTED TO PROVIDE THE EXTRA WORK NECESSARY TO COMPLY WITH THIS CHANGE ORDER.**

DESCRIPTION OF CHANGE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AGREED ADJUSTMENT TO CONTRACT PRICE FOR THIS CHANGE: \$ \_\_\_\_\_

AGREED ADJUSTMENT TO CONTRACT TIME FOR THIS CHANGE: \_\_\_\_\_ calendar days

SUMMARY OF ADJUSTMENTS TO CONTRACT PRICE:

Original Contract Price: \$ \_\_\_\_\_  
Prior Change Order Totals: \$ \_\_\_\_\_  
This Change Order Adjustment: \$ \_\_\_\_\_  
New Contract Price: \$ \_\_\_\_\_

SUMMARY OF ADJUSTMENTS TO TIME FOR COMPLETION:

Original contract time: \_\_\_\_\_ Calendar Days  
Prior change order adjustments to contract time: \_\_\_\_\_ Calendar Days  
This change order's adjustment to contract time: \_\_\_\_\_ Calendar Days  
Adjusted contract time: \_\_\_\_\_ Calendar Days

**THE COMPENSATION (TIME AND COST) SET FORTH IN THIS CHANGE ORDER COMPRISES THE TOTAL COMPENSATION DUE THE CONTRACTOR FOR THE CHANGE DEFINED IN THE CHANGE ORDER, INCLUDING EXTRA WORK AND IMPACT ON UNCHANGED WORK. ACCEPTANCE OF THIS CHANGE ORDER CONSTITUTES A FULL AND COMPLETE ACCORD AND SATISFACTION OF ANY AND ALL CLAIMS BY CONTRACTOR ARISING OUT OF OR RELATING TO THE CHANGE ORDER, INCLUDING BUT NOT LIMITED TO CLAIMS FOR CONTRACT BALANCE AND RETENTION, TIME, EXTENDED FIELD, 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 OF RIGHTS OR PROTEST LANGUAGE, OR ANY OTHER ATTEMPTS TO AVOID SUCH WAIVER SHALL BE OF ANY FORCE OR EFFECT WHATSOEVER. NO ADDITIONS OR DELETIONS TO THIS CHANGE ORDER SHALL BE ALLOWED, EXCEPT WITH WRITTEN PERMISSION OF OWNER. NO LANGUAGE CONTAINED IN BACKUP MATERIAL TO ANY CHANGE ORDER SHALL CONSTITUTE A WAIVER OF THIS REQUIREMENT, AND SUCH BACKUP MATERIAL SHALL BE INTERPRETED AS THOUGH SUCH LANGUAGE DOES NOT EXIST.**

This Change Order is hereby agreed to, accepted, and approved, subject to approval of the Owner's governing board.

On behalf of Owner:

On behalf of Contractor:

\_\_\_\_\_

Title

\_\_\_\_\_

Title

\_\_\_\_\_

Name

\_\_\_\_\_

Name

\_\_\_\_\_

Signature

\_\_\_\_\_

Signature

Approved as to Form and Content:

Approved as to Form and Content:

On behalf of Architect:

On behalf of Facilities Planning:

\_\_\_\_\_

Title

\_\_\_\_\_

Title

\_\_\_\_\_

Name

\_\_\_\_\_

Name

\_\_\_\_\_

Signature

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

\_\_\_\_\_

Date

**28-APPLICATION AND CERTIFICATE FOR PAYMENT P.O. # \_\_\_\_\_ Application# \_\_\_\_\_**  
**CAREER TECHNICAL EDUCATION CENTER: INSTALLATION OF SIX (6) SHADE STRUCTURES**

**OWNER**  
 Kern High School District  
 5801 Sundale Avenue  
 Bakersfield, CA 93309

**CONTRACTOR**

Architect's Project No. \_\_\_\_\_ Date: \_\_\_\_\_

Contract Date: \_\_\_\_\_ Bid/Contract No. 6559

(Provide 2 copies of all materials)

**ARCHITECT'S CERTIFICATE FOR PAYMENT**

In accordance with the Contract Documents, based on an on-site observation and the data comprising the above application, the Architect certifies to the Owner that to the best of the Architect's knowledge, Information and belief that the work has progressed as indicated, the quality of the Work is in accordance with the Contracted Document, and the Contractor is entitled to payment of the

**AMOUNT CERTIFIED \$** \_\_\_\_\_  
 (Attach explanation if amount certified differs from the amount applied for.)

**ARCHITECT/ENGINEER/CONSULTANT: ORDIZ-MELBY ARCHITECTS**

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

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contractor Documents, that all amounts have been paid by the Contractor for Work which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

**CONTRACTOR:**

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

**STATE INSPECTOR'S APPROVAL:** \_\_\_\_\_

**CURRENT CONTRACT BALANCE**

- 1. Original Contract (amount of original bid) (1)\$ \_\_\_\_\_
- 2. Approved Change Orders (line 2a+2b from sheet 2) (2)\$ \_\_\_\_\_
- 3. Revised Contract (line 1 + 2 above) (3)\$ \_\_\_\_\_

**RETAINAGE**

- 4. Prior Retainage (line 6 of *prior billing*) (4)\$ \_\_\_\_\_
- 5. Current Retainage (line 10 below) (5)\$ \_\_\_\_\_
- 6. Total (line 4 + 5) (6)\$ \_\_\_\_\_

**CURRENT BILLING**

- 7. Total Contract Completed (thru current % \_\_\_\_\_ billing include % from worksheet column G) (7)\$ \_\_\_\_\_
- 8. Contract Completed (line 7 of *prior billing*) (8)\$ \_\_\_\_\_
- 9. Current Billing (line 7 less 8) (9)\$ \_\_\_\_\_
- 10. Less Retainage on Current Billing (same as line 5) (10)\$ \_\_\_\_\_
- 11. Less Stop Notice (same as line 2d) (11)\$ \_\_\_\_\_
- 12. Less withhold (same as line 11A page 6) (12)\$ \_\_\_\_\_
- 13. Payments withheld (KHSD) use only (13)\$ \_\_\_\_\_
- 14. Final Amount Due (14)\$ \_\_\_\_\_

**FACILITIES PLANNING AUTHORIZATION:**  
**AMOUNT TO PAY (KHSD use only) \$** \_\_\_\_\_



**NET CHANGE BY CHANGE ORDERS**

---

<b>CHANGE ORDERS ON PREVIOUS APPLICATIONS</b>			
<b>Application #</b>	<b>Change Order #</b>	<b>Additions</b>	<b>Deductions</b>

**TOTAL OF CHANGE ORDERS ON PREVIOUS APPLICATIONS 2A**

**2a \$ \_\_\_\_\_**

<b>CHANGE ORDERS ON THIS APPLICATION</b>			
<b>Board App. Date</b>	<b>Change Order #</b>	<b>Additions</b>	<b>Deductions</b>

**TOTAL OF CHANGE ORDERS ON THIS APPLICATION 2b\$ \_\_\_\_\_  
2 \$ \_\_\_\_\_**

**Place amount on line 2 of Application and Certificate for Payment**

# CONTINUATION SHEET

Project Name: Career Technical Education Center: Installation of Six (6) Shade Structures  
 Bid/Contract Number: Bid No. 6559  
 KHSD Purchase Order Number: \_\_\_\_\_  
 Contract Date: \_\_\_\_\_

Application Number: \_\_\_\_\_  
 Application Date: \_\_\_\_\_  
 Period To: \_\_\_\_\_  
 Architect's Project Number: \_\_\_\_\_

A	B	C	D	E	F	G		H	I
ITEM NUMBER	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED FROM PREVIOUS APPLICATION (D+E)	WORK COMPLETED THIS PERIOD	MATERIALS PRESENTLY STORED (NOT IN D OR E)	TOTAL COMPLETED AND STORED TO DATE (D+E+F)	PERCENT (G+C)	BALANCE TO FINISH (C-G)	RETAINAGE
<b>TOTALS</b>									

\* Place % completed and stored to date on payment sheet

**STOP NOTICES**

---

COMPANY NAME	% HELD MULTIPLIER	AMOUNT HELD	DATE	AMOUNT RELEASE	DATE

TOTALS TO DATE                                      \$ \_\_\_\_\_                                      \$ \_\_\_\_\_

PREVIOUS MONTHS TOTALS                                      \$ \_\_\_\_\_                                      \$ \_\_\_\_\_

CURRENT TOTALS                                      (2c)                                      \$ \_\_\_\_\_                                      (2d)                                      \$ \_\_\_\_\_

**On front page, #11 - Less Current Stop Notice Adjustment                                      (2c-2d)                                      \$ \_\_\_\_\_**

**PAYMENT WITHHELD WORKSHEET/PER ARTICLES 48, GENERAL CONDITIONS**

Application # \_\_\_\_\_

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

1. Past due payments to subcontractor(s).	\$ _____
2. Defective work not remedied (At estimated value by the Architect).	\$ _____
3. Failure of Contractor to make proper payments to Subcontractors.	\$ _____
4. Completion of contract (Amount of work to be done exceeds contract balance unpaid).	\$ _____
5. Damage to another contractor or subcontractor.	\$ _____
6. Costs associated with alternative educational facilities due to project completion delay.	\$ _____
7. Updated progress schedule per General or Supplemental Conditions (\$500 X ____ delinquent days).	\$ _____
8. Overtime charges: Architect, their Consultants, Inspector and District Staff.	
Architect Charges      Hours (    ) X Rate @ \$100.00/Hr.	\$ _____
Consultants Charges    Hours (    ) X Rate @ \$100.00/Hr.	\$ _____
Inspector Charges      Hours (    ) X Rate @ \$100.00/Hr.	\$ _____
District Staff          Hours (    ) X Rate @ \$100.00/Hr.	\$ _____
	\$ _____
9. Testing/Retesting/Inspection/Re-Inspection @ 150% of value for services.	\$ _____
10. Maintain current Record Drawings with current payment application (\$5000/month).	\$ _____
11. Failure to submit Daily Reports (\$2500/month).	\$ _____
12. Failure to submit listed items per specification section 01027.	\$ _____
13. Failure to compensate Architect for substitution review.	\$ _____
14. Overtime Charges of District for services provided.	\$ _____
15. Failure to compensate Architect/District for review of proposed repair solutions.	\$ _____
16. Failure to submit per diem wage rates with first pay application (\$1000/month).	\$ _____
17. Penalties for Violation of labor laws.	\$ _____
18. Site Clean-up.	\$ _____
19. Payments to indemnify, defend, or HOLD harmless the District.	\$ _____
20. Extra Services for Architect.	\$ _____
21. Extra Services required of the Project Inspector.	\$ _____
22. Failure to correct QCR's.	\$ _____
23. Liquidated Damages.	\$ _____
24. Failure to correct Punch List.	\$ _____
25. Failure to complete close-out items per specification section 01700.	\$ _____
<b>TOTAL WITHHELD</b> (insert total on Line 12 on page 1)	\$ _____

KERN HIGH SCHOOL DISTRICT  
**29-LIST OF DRAWINGS**

<b>Sheet Number</b>	<b>Sheet Title</b>
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**GENERAL INFORMATION**

G-001	GENERAL INFORMATION
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**ARCHITECTURAL**

A-111	FIRE PLAN
A-112	SITE PLAN: ACCESSIBILITY
A-113	SITE PLAN: ENLARGED
A-501	DETAILS
A-502	DETAILS

**DRAWINGS BY: USA SHAD PC 04-121917**

T-1.0	TITLE SHEET
T-2.0	UNIT SELECTION
T-3.0	T&I FORMS
11.1-1000	PRODUCT INFORMATION
11.2-2000	SPECIFICATIONS

**As-Built Drawings**

<b>Sheet Number</b>	<b>Sheet Title</b>
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0563-0200	SITE UNDERGROUND ROUTING
C6	SITE UTILITY PLAN-EAST

KERN HIGH SCHOOL DISTRICT  
**30-EXCLUSION OF ASBESTOS PRODUCTS**

**TO BE EXECUTED AND SUBMITTED WITH CONTRACT CLOSE-OUT DOCUMENTS**

I, \_\_\_\_\_, as an authorized representative of  
(Name)

\_\_\_\_\_, hereby certify to the Kern High  
(Company)

School District that no asbestos-containing materials or products were used by our company or any of its subcontractors in performing work required by the Contract Documents for the following project:

**BID NO. 6559 – CAREER TECHNICAL EDUCATION CENTER: INSTALLATION OF SIX (6) SHADE STRUCTURES**

Executed at \_\_\_\_\_, California on \_\_\_\_\_, 20\_\_\_\_\_

Firm Name \_\_\_\_\_

By \_\_\_\_\_

Signed \_\_\_\_\_  
*[Signature must match that on bid]*

KERN HIGH SCHOOL DISTRICT  
**31-EXCLUSION OF LEAD PRODUCTS**

**TO BE EXECUTED AND SUBMITTED WITH CONTRACT CLOSE-OUT DOCUMENTS**

I, \_\_\_\_\_, as an authorized representative of  
(Name)

\_\_\_\_\_, hereby certify to the Kern High  
(Company)

School District that no lead-containing materials or products were used by our company or any of its subcontractors in performing work required by the Contract Documents for the following project:

**BID NO. 6559 – CAREER TECHNICAL EDUCATION CENTER: INSTALLATION OF SIX (6)  
SHADE STRUCTURES**

Executed at \_\_\_\_\_, California on \_\_\_\_\_, 20\_\_\_\_\_

Firm Name \_\_\_\_\_

By \_\_\_\_\_

Signed \_\_\_\_\_  
*[Signature must match that on bid]*

KERN HIGH SCHOOL DISTRICT  
**32-INDEX TO GENERAL CONDITIONS**

		<u>PAGE</u>
ARTICLE 1	DEFINITIONS .....	1
ARTICLE 2	STATUS OF CONTRACTOR .....	4
ARTICLE 3	CONTRACTOR SELECTION PROCESS AND PROHIBITED INTERESTS .....	5
ARTICLE 4	CHANGE IN NAME OR NATURE OF CONTRACTOR'S LEGAL ENTITY .....	5
ARTICLE 5	DEBARRED CONTRACTOR .....	5
ARTICLE 6	SUBCONTRACTING .....	6
ARTICLE 7	ARCHITECT'S STATUS .....	7
ARTICLE 8	OWNER'S INSPECTOR AND INSPECTOR FACILITIES .....	8
ARTICLE 9	COPIES FURNISHED .....	8
ARTICLE 10	OWNERSHIP OF DRAWINGS .....	8
ARTICLE 11	DOCUMENTS ON WORK .....	8
ARTICLE 12	DRAWINGS AND SPECIFICATIONS .....	9
ARTICLE 13	DETAIL DRAWINGS AND SPECIFICATIONS .....	12
ARTICLE 14	SHOP DRAWINGS AND SUBMITTALS .....	13
ARTICLE 15	SAMPLES .....	15
ARTICLE 16	WORK TO COMPLY WITH APPLICABLE LAWS AND REGULATIONS .....	15
ARTICLE 17	WORK AND MATERIALS .....	16
ARTICLE 18	CONTRACTOR'S SUPERVISION, PROSECUTION AND PROGRESS .....	17
ARTICLE 19	SUBSTITUTIONS .....	19
ARTICLE 20	PROTECTION OF WORK AND PROPERTY .....	21
ARTICLE 21	USE OF ASBESTOS OR LEAD MATERIALS/PRODUCTS .....	22
ARTICLE 22	LAYOUT AND FIELD ENGINEERING .....	23
ARTICLE 23	UTILITIES .....	23
ARTICLE 24	UTILITIES: REMOVAL, RESTORATION .....	23
ARTICLE 25	SANITARY FACILITIES .....	25
ARTICLE 26	LABOR—FIRST AID .....	25
ARTICLE 27	CHANGES AND EXTRA WORK .....	25
ARTICLE 28	CORRECTION OF WORK BEFORE FINAL PAYMENT .....	34
ARTICLE 29	DEDUCTIONS FOR UNCORRECTED WORK .....	35
ARTICLE 30	CLEANING UP .....	35
ARTICLE 31	ACCESS TO WORK .....	36
ARTICLE 32	GUARANTEE .....	36
ARTICLE 33	SURVEYS .....	37
ARTICLE 34	SOILS INVESTIGATION REPORT .....	37
ARTICLE 35	PERMITS AND LICENSES .....	38
ARTICLE 36	CUTTING AND PATCHING .....	38
ARTICLE 37	TESTS AND INSPECTIONS .....	39
ARTICLE 38	EXCAVATION DEEPER THAN FOUR FEET .....	39
ARTICLE 39	WORKERS .....	40
ARTICLE 40	FINGERPRINTING WORKERS .....	42



ARTICLE 41	WAGE RATES AND PAYROLL RECORDS .....	42
ARTICLE 42	APPRENTICES .....	45
ARTICLE 43	HOURS OF WORK .....	47
ARTICLE 44	NONDISCRIMINATION .....	48
ARTICLE 45	COST BREAKDOWN AND PERIODICAL ESTIMATES .....	48
ARTICLE 46	PAYMENTS TO CONTRACTOR .....	49
ARTICLE 47	PAYMENTS BY CONTRACTOR .....	51
ARTICLE 48	PAYMENTS WITHHELD .....	51
ARTICLE 49	SUBSTITUTION OF SECURITIES .....	55
ARTICLE 50	PROGRESS SCHEDULE .....	56
ARTICLE 51	EXTENSION OF TIME—LIQUIDATED DAMAGES .....	58
ARTICLE 52	OCCUPANCY .....	60
ARTICLE 53	CONTRACT CLOSEOUT .....	60
ARTICLE 54	COMPLETION .....	64
ARTICLE 55	CLAIMS FOR DAMAGES .....	64
ARTICLE 56	RESOLUTION OF CONSTRUCTION CLAIMS .....	66
ARTICLE 57	PERFORMANCE/PAYMENT BOND .....	68
ARTICLE 58	INSURANCE REQUIREMENTS .....	69
ARTICLE 59	PROOF OF INSURANCE COVERAGE .....	73
ARTICLE 60	INDEMNIFICATION .....	74
ARTICLE 61	ASSIGNMENT .....	75
ARTICLE 62	SEPARATE CONTRACTS .....	75
ARTICLE 63	OWNER'S RIGHT TO TERMINATE CONTRACT .....	76
ARTICLE 64	NO WAIVER .....	78
ARTICLE 65	EXCISE TAXES .....	78
ARTICLE 66	NOTICE OF TAXABLE POSSESSORY INTEREST .....	78
ARTICLE 67	ASSIGNMENT OF ANTITRUST ACTIONS .....	78
ARTICLE 68	PATENTS, ROYALTIES, AND INDEMNITIES .....	79
ARTICLE 69	STATE AUDIT .....	79
ARTICLE 70	PROVISIONS REQUIRED BY LAW DEEMED INSERTED .....	79
ARTICLE 71	NOTICE AND SERVICE .....	79
ARTICLE 72	DISABLED VETERAN BUSINESS ENTERPRISE COMPLIANCE .....	80
ARTICLE 73	INTEGRATION CLAUSE .....	80
ARTICLE 74	INTERPRETATION OF CONTRACT DOCUMENTS .....	80
ARTICLE 75	RECYCLED PRODUCTS .....	81
ARTICLE 76	PROGRESS MEETINGS .....	81
ARTICLE 77	MAINTAINING WORKING SYSTEMS .....	81

KERN HIGH SCHOOL DISTRICT  
**33-GENERAL CONDITIONS**

**ARTICLE 1 DEFINITIONS**

A. Action of the Governing Board or Other Governing Body or its designees: An official act of the governing board or other governing body or designees of OWNER.

B. Approve: 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.

C. Architect: The person, persons, or entity selected by OWNER to provide architectural services to the OWNER for the Contract, and which may be designated as a representative of the OWNER for specified purposes on the Contract.

D. Construction Services Administrator: The person, persons, or entity that may be selected by OWNER to provide pre-construction services, and potentially services during construction, for the Contract, and which may be designated as a representative of the OWNER for specified purposes on the Contract.

E. Contract, and Contract Documents: All contract documents described in Section 1 of the Agreement, including but not limited to all official documents on this Project, including but not limited to the Notice Calling for Bids, Instructions to Bidders, Bid Form, Addenda, Designation of Subcontractors, Workers' Compensation Certificate, Performance Bond, Payment Bond, Change Orders, Shop Drawings and their Transmittals, Information Required of Bidder, all prequalification forms submitted pursuant to Public Contract Code Section 20111.5 or 20111.6, if any, Substitution Listing and Warranty forms on any approved substitutions, Non-Collusion Affidavit, Insurance Certificates, Guarantees, Contractor’s Certificate Regarding Non-Asbestos and/or Lead Containing Materials, if any, Davis-Bacon Compliance Certification, Fingerprinting Certifications, General Conditions, Supplemental General Conditions, if any, Special Conditions and/or Requirements, if any, Plans, Drawings, Specifications, the Construction Agreement, and all Modifications, addenda, and amendments of those documents.

F. Modification of the Contract:

1. A written amendment to the Contract Documents signed by both parties and approved by the OWNER’s governing board; or
2. A fully executed Change Order that has been approved by the OWNER’s governing board.

G. Contractor: That entity awarded this Construction Agreement by official action of OWNER. Throughout the Contract Documents CONTRACTOR is treated as being of singular number and neutral gender.

H. Date of Acceptance of Work: The date when all of the following conditions are satisfied:

1. OWNER is able to beneficially occupy and use all portions of the Work.
  2. CONTRACTOR has correctly and fully performed all of the Work, including its final verified report filed with the DSA.
  3. By action of its governing board, OWNER has accepted the Work to be complete.
- I. Days: Calendar days unless noted otherwise.
- J. District: The Kern High School District
- K. Equivalent to: Equal or superior in function and quality and approved by the Architect.
- L. Furnish: Used to mean “supply and deliver to the project site, ready for unloading, unpacking, assembly, installation, and similar operations.”
- M. Indicated: Refers to graphic representations, notes or schedules on the Drawings, or other Paragraphs or Schedules in Specifications, 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.
- N. Install: 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.”
- O. 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.
- P. Liquidated Damages: Pursuant to Government Code Section 53069.85 and Public Contract Code section 7203, this is the specified sum of money that CONTRACTOR shall forfeit and pay to OWNER for each calendar day that the Project is uncompleted and delayed beyond the stated completion time.
- Q. 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.
- R. Overhead: CONTRACTOR’S overhead (general and administrative) and profit shall include, but not limited to: job site facilities costs, home and field office costs, administrative costs including Superintendent’s and general foreman’s time, vehicle, equipment and on site equipment, tool costs and costs of related project time extensions.
- S. OWNER: The Kern High School District including its authorized representatives for purposes of the Contract, such as an Architect, a Project Inspector or a Construction Services Administrator. OWNER may designate different representatives for different purposes.

- T. Per: Shall mean in accordance with.
- U. Plans: The reproductions of the official drawings adopted and approved by OWNER showing locations, character, dimensions, and details of the work.
- V. Project: The undertaking planned by OWNER, including but not limited to the Work as provided in the Contract Documents.
- W. Project Inspector/Inspector of Record: Any individual approved by OWNER as the on-site inspector for a particular project hired by and paid by OWNER and under general direction of the Architect or registered engineer in charge and under the supervision of OWNER. The Project Inspector shall be responsible for inspecting all work included in the Contract Documents. A special inspector shall be responsible only for inspecting the work for which he/she is approved. Inspectors are independent contractors and are not agents of OWNER.
- X. Project Manual: The volume(s) that include the bidding requirements, sample forms, and all of the initial Contract Documents, such as Conditions of the Contract, Schedules and Details Manual, the Specifications, and the addenda to be used on the Project.
- Y. Project Site: The space available to CONTRACTOR for performance of the Work, either exclusively or in conjunction with others performing other construction as part of the Project. The extent of the Project Site is shown on the Drawings, and may or may not be identical with the description of the land upon which the Project is to be built.
- Z. Provide: Includes “provide complete in place,” that is, furnish and install complete and ready for intended use.
- AA. 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.
- BB. Related Work in Other Sections: A nonrestrictive term used throughout the Specifications to coordinate the Work and facilitate checking and bidding.
- CC. Required: As required by Contract Documents.
- DD. Safety Orders: Issued by Division of Industrial Safety and OSHA Safety and Health Standards for Construction.
- EE. Specification: The printed instruction and requirements which complement the plans as to the methods and manner of performing the Work or to the quantities and qualities of the materials to be furnished.
- FF. Subcontractor: Includes those having a direct contract with the CONTRACTOR and those who furnish material worked to a special design according to plans, drawings, and Specifications of this work, but does not include those who merely furnish material not so worked.
- GG. Surety: The person, firm, or corporation executing CONTRACTOR’S Performance Bond and Payment Bond as surety.

HH. Testing Laboratory: An independent entity engaged to perform specific inspections or test, either at the Project Site or elsewhere, and to report on, and if required, interpret results of those inspections or tests. It is an independent contractor and not an agent or employee of OWNER.

II. Tier (All): Refers to all subcontractors to prime contractor, or subcontractors to subcontractors. This definition includes all layers or tiers to the prime.

JJ. Unfinished: Refers to the status of the Work prior to reaching completion, as described and set forth in Article 61.

KK. Work: All obligations of the CONTRACTOR and subcontractors under the Contract Documents, including all labor or materials (including without limitation, equipment, and appliances), and including everything incorporated in, or to be incorporated in, the Project in order to fully meet the requirements of the Contract Documents.

LL. Working Foreman: A supervising person that provides supervision for the working staff at the project. This person must perform actual defined work for the project for at least six (6) hours a day. This person must be designated by the CONTRACTOR before any work has commenced.

## **ARTICLE 2 STATUS OF CONTRACTOR AND COMMUNICATIONS**

A. CONTRACTOR is and shall at all times be deemed to be an independent contractor and shall be wholly responsible for the manner in which it performs the services required of it by the terms of the Contract Documents.

B. 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.

C. 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.

D. OWNER shall be permitted to monitor the activities of CONTRACTOR to determine compliance with the terms of the Contract Documents.

E. 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.

F. CONTRACTOR shall communicate directly with OWNER for all purposes, except that if OWNER requests that CONTRACTOR communicate with one or more of OWNER's representatives for certain purposes (including purposes addressed elsewhere in the Contract Documents), CONTRACTOR shall communicate directly with such representatives. Any written communication from CONTRACTOR to a representative of the OWNER – whether directed by OWNER pursuant to this provision, required by other provisions of the Contract Documents, or initiated by CONTRACTOR independent of the Contract Documents – must be

contemporaneously copied to the OWNER or any other person as may be directed by the OWNER.

G. CONTRACTOR shall use OWNER's Construction Management Software system to access Project documents and to submit information or requests to the OWNER or others with access to the system. CONTRACTOR's use of the OWNER's software system shall include, but not be limited to, submission of RFIs, submittals, proposals in response to RFPs from the OWNER, comments regarding meeting minutes and other project related information, as necessary.

### **ARTICLE 3 CONTRACTOR SELECTION PROCESS AND PROHIBITED INTERESTS**

A. As a means of maintaining the integrity of the formal selection process, contacts with 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 4 CHANGE IN NAME OR NATURE OF CONTRACTOR'S LEGAL ENTITY**

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

### **ARTICLE 5 DEBARRED CONTRACTOR**

A. 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.

B. Any contract on a public works project entered into between a contractor and a debarred subcontractor under Labor Code sections 1777.1 or 1777.7 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.

C. 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.

## **ARTICLE 6 SUBCONTRACTING**

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. OWNER'S consent to or approval of any subcontractor shall not in any way relieve CONTRACTOR 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. CONTRACTOR must submit with its bid a Designation of Subcontractors. 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.

D. All subcontractors shall be appropriately licensed to perform the work for which employed in conformity with the laws of the State of California.

E. 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 and supplemental" work as that term is used in Section 7059(a), shall be performed by a licensed subcontractor in compliance with the Subletting and Subcontracting Fair Practices Act, California Public Contract Code Section 4100, et seq.

F. 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 Conditions. Each subcontract shall provide for its annulment by CONTRACTOR at the order of the OWNER if in the OWNER's opinion the subcontractor fails to comply with the requirements of the Contract Documents insofar as the same may be applicable to this work.

G. Nothing contained in these General Conditions shall relieve CONTRACTOR of any liability or obligation under the Contract Documents, nor shall any permissible substitution or addition of a subcontractor result in any increase in the contract price or in an extension of time for completion of the Project.

H. CONTRACTOR shall require subcontractors to include the provisions of this article in their sub-subcontracts, if any.

I. 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 obligations of the surety on any applicable bonds, as detailed in the Contract Documents.

## **ARTICLE 7 ARCHITECT'S STATUS**

A. The Architect shall be OWNER'S representative during construction and shall 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 or the Architect's agreement with OWNER, or expressly authorized by the Owner. 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 shall exercise authority under the Contract Documents on behalf of the OWNER 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. In addition to the OWNER, the Architect has the authority on behalf of the OWNER 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 or OWNER relating to them.

E. General supervision and direction of the Work by the Architect shall in no way imply that the OWNER, Architect, or their representatives are in any way responsible for the safety of CONTRACTOR or its employees or that the OWNER, Architect, or their representatives will maintain supervision over CONTRACTOR'S construction methods, means, or personnel other than to ensure that the quality of the finished work is in accordance with the Contract Documents.

## **ARTICLE 8 OWNER'S INSPECTOR AND INSPECTOR FACILITIES**

A. One or more Inspectors, including specialty Inspectors as required, employed by OWNER in accordance with the requirements of the California Code of Regulations will be assigned to the Work. All work shall be performed under the observation of or with the knowledge of the Project Inspector. The Project Inspector shall have free access to all parts of the Work at any time. CONTRACTOR shall furnish the Project Inspector with such information as may be necessary to keep the Project Inspector fully informed regarding the progress and manner of work and the character of materials.



B. The Project Inspector shall observe the Work of CONTRACTOR for compliance in all respects with the approved Contract Documents, and shall report any discrepancies or deficiencies to the Architect, CONTRACTOR, OWNER, and any Construction Services Administrator.

C. Observations by the Project Inspector shall not in any way relieve CONTRACTOR from responsibility for full compliance with all terms and conditions of the Contract Documents, or be construed to lessen to any degree CONTRACTOR'S responsibility for providing efficient and capable superintendence.

D. The Project Inspector is not authorized to make changes in the drawings or Specifications, nor shall the Project Inspector's approval of the Work and methods relieve CONTRACTOR of responsibility for the correction of subsequently discovered defects, or from its obligation to fully comply with the Contract Documents.

## **ARTICLE 9 COPIES FURNISHED**

CONTRACTOR will be furnished two (2) copies of the drawings and specifications free of charge. Additional copies may be obtained for the cost of reproduction.

## **ARTICLE 10 OWNERSHIP OF DRAWINGS**

All documents prepared on behalf of OWNER including, without limitation the Plans, Specifications, drawings, and other documents, are instruments of service of the Architect and/or its consultants and are the property of OWNER. Neither CONTRACTOR nor any Subcontractor of any tier, any material or equipment supplier, or anyone else, shall own or claim a copyright in such documents. Unless otherwise indicated, the Architect shall be deemed the author of such documents. Such documents are furnished to CONTRACTOR for use solely with respect to this Project, and are not to be used for any other purpose by CONTRACTOR or by any Subcontractor of any tier, material or equipment supplier, or anyone claiming through them, without the express written consent of OWNER. CONTRACTOR, Subcontractors of any tier, and material or equipment suppliers are granted a limited license to use and reproduce applicable portions of the documents for use in the execution of their work under the Contract Documents.

## **ARTICLE 11 DOCUMENTS ON WORK**

A. 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 CONTRACTOR shall keep these drawings in an AutoCAD, latest version, format as well as a Bluebeam file format. The documents shall be available to the Architect and its representatives at all times.

B. CONTRACTOR shall, in addition to updating CONTRACTOR'S own set of drawings, update no less than weekly the Record Set of Final Working Drawings (As-Built's) maintained by the OWNER or Architect. Clouding shall be utilized on documents to clarify or identify all record and as-built conditions that differ from the approved plans and specifications. The updates are to be approved by the Inspector, and approved updates shall be a prerequisite for approval of CONTRACTOR'S progress payments.

C. 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 12 DRAWINGS AND SPECIFICATIONS**

A. Drawings and Specifications are intended to delineate and describe the Project and its component parts sufficiently to enable skilled and competent contractors to intelligently bid upon the work, and to carry the Work to a successful and timely conclusion.

B. Organization of the Specifications into divisions, sections, and articles, and arrangement of drawings, shall not control CONTRACTOR in dividing the Work among subcontractors or in establishing the extent of work to be performed by any trade.

C. 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.

D. 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 drawings, or shown on the drawings and not mentioned in the Specifications, shall be provided by CONTRACTOR as if shown in both.

E. All materials or labor for the Work which are shown either by the Drawings or the Specifications (or are reasonably inferable from the Drawings or the Specifications as being necessary to complete the Work) shall be provided by CONTRACTOR, whether or not the Work is expressly covered in either the Drawings and/or the Specifications. It is intended that the Work be of sound, quality construction. CONTRACTOR must furnish adequate labor and materials to cover installation of all items indicated, described, or implied in the portion of the Work to be performed.

F. Drawings and Specifications are intended to comply with all laws, ordinances, rules and regulations of constituted authorities having jurisdiction, and where referred to in the Contract Documents, such laws, ordinances, rules and regulations shall be considered as a part of the Contract Documents within the limits specified.

G. CONTRACTOR shall conduct a detailed and comprehensive review of the Drawings and Specifications to confirm the Drawings and Specifications comply with applicable laws, ordinances, rules and regulations. CONTRACTOR shall require its subcontractors to conduct a similar review of their portions of the Work. If CONTRACTOR or a subcontractor observes that the Drawings or Specifications are contrary to applicable law, ordinance, rule or regulation, CONTRACTOR shall immediately notify the Architect in writing, and CONTRACTOR shall inform the Architect of the relationship of the Work to the critical path of construction. Any changes deemed necessary by the Architect shall be made as provided in the Contract Documents for changes in Work. Said review by CONTRACTOR shall be conducted sufficiently ahead of

commencement of CONTRACTOR'S Work in each area, so as to prevent delay to the Work by reason of the time required for the Architect's review and resolution of any conflicts discovered by CONTRACTOR.

H. If CONTRACTOR or its subcontractors, material or equipment suppliers, or any of their officers, agents or employees performs, permits, or causes the performance of any Work which CONTRACTOR knows or through the exercise of reasonable diligence should have known to be contrary to any law, rule, regulation, or ordinance without seeking and obtaining clarification, CONTRACTOR shall bear any and all costs arising from it, including without limitation the costs of correction, and the cost of any impact on, or damage to, the work of other contractors on the Project, without increase or adjustment to the contract price or the time for performance.

I. Materials or Work described in words which have a well-known technical or trade meaning shall be deemed to refer to those recognized standards.

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

K. 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.

L. Figured dimensions on drawings shall govern, but Work not dimensioned shall be as directed. Work not particularly shown or specified shall be the same as similar parts that are shown or specified. Large scale drawings shall take precedence over smaller scale drawings as to shape and details of construction. Specifications shall govern as to materials, workmanship, and installation procedures, provided however that the drawing or specification calling for the higher quality material or workmanship shall prevail, without additional cost to OWNER.

M. In case of an inconsistency in the Contract Documents (including but not limited to descriptions of work to be done, equipment to be provided or material to be used) where the order of precedence in the Division 01 specifications does not resolve the inconsistency, then it is intended that the more stringent, more restrictive, higher quality, and greater quantity of Work shall apply, without additional cost to OWNER.

N. All items indicated on the drawings or in the Specifications as future items require CONTRACTOR to provide all the mechanical, electrical, and other necessary service hookups or provisions required to make the equipment function as intended. Such items shall be provided to the location where the future item is indicated to be installed.

O. In the event of an inconsistency between the Construction Agreement or General Conditions and the other various Contract Documents, the Construction Agreement or General Conditions shall control.

P. Plans and specifications are intended to be fully cooperative and to agree.

Q. CONTRACTOR shall conduct a detailed and comprehensive review of the Plans and Specifications to confirm the Plans and Specifications are fully cooperative and agree. To the extent required, CONTRACTOR shall require its subcontractors to conduct a similar review of their portions of the Work. If CONTRACTOR or a subcontractor observes that Plans and Specifications are in conflict, CONTRACTOR shall promptly notify the Architect in writing, requesting clarification, and informing the Architect of the relationship of the identified Work to the critical path of the construction. Said review and request by CONTRACTOR shall be conducted sufficiently ahead of commencement of CONTRACTOR'S Work in each area, so as to prevent delay to the Work by reason of the time required for the Architect's review and resolution of any conflicts discovered by CONTRACTOR.

R. Should CONTRACTOR commence work on any part of the Work without seeking clarification, CONTRACTOR **waives** any claim for extra work or damages as a result of any ambiguity, conflict, or lack of information. Questions regarding interpretation of drawings and Specifications shall be clarified by the Architect in writing.

S. 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, and the cost of any impact on, or damage to, the work of other contractors on the Project, without increase or adjustment to the contract price or the time for performance.

T. Should any clarification by the Architect be deemed new or additional work, the contract price shall be adjusted as provided in these General Conditions for "Changes and Extra Work," provided however that existing contract requirements calling for the higher quality material or workmanship shall prevail without additional cost to OWNER or time adjustment. Should any clarification by the Architect be determined not to constitute new or additional work, and should CONTRACTOR disagree with that determination, the CONTRACTOR shall give notice of a claim and the dispute shall be resolved pursuant to the claims resolution provisions of the Contract Documents.

U. In the event the Architect or OWNER determines that CONTRACTOR'S requests for clarification or interpretation are not justified, or do not reflect adequate, competent supervision or knowledge by CONTRACTOR, or by the subcontractors, CONTRACTOR shall be required to pay the Architect's reasonable and customary fees in processing and responding to such requests, which amounts may be deducted from future payments to CONTRACTOR.

V. Some drawings or other documents may be required of CONTRACTOR. If CONTRACTOR performs, permits, or causes the performance of any work under the documents 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 and/or approval.

W. If it is found at any time, whether before or after completion of the Work, that CONTRACTOR has varied from the drawings and/or Specifications in materials, quality, form, or finish, or in the amount or value of the materials and labor used, the Architect may make a recommendation to the OWNER either (1) that all such improper work should be removed,

remade, and replaced, and all work disturbed by these changes be made good all at CONTRACTOR'S sole expense, and the cost thereof, including the cost of any impact on, or damage to, the work of other contractors on the Project, shall either be paid by CONTRACTOR, or shall be deducted from any amount due CONTRACTOR should CONTRACTOR refuse or fail to perform and pay for the corrections in a timely manner; 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 Contract Documents. The Architect or OWNER shall determine such difference in value. At its option, OWNER may pursue either recommendation made by the Architect.

X. All questions submitted by the CONTRACTOR shall be submitted on Exhibit "A" – Request for Information (RFI). The RFI form shall be completely filled out and submitted to the Architect and OWNER for processing.

### **ARTICLE 13 DETAIL DRAWINGS AND SPECIFICATIONS**

A. In case of ambiguity, conflict, or lack of information, the Architect shall furnish additional instructions, by means of drawings or otherwise, necessary for proper execution of the Work. All drawings and instructions shall be consistent with the Contract Documents, true developments of them, and reasonably inferable from them.

B. Architect's additional instructions shall be furnished with reasonable promptness.

C. CONTRACTOR shall inform the Architect of the relationship of the Work under review to the critical path of construction.

D. Work shall be executed in conformity with the Contract Documents and CONTRACTOR shall do no Work without proper drawings and instructions.

E. The Architect will furnish necessary additional details to more fully explain the Work, which shall be considered as part of the Contract Documents.

F. Should any additional details be more elaborate, in the opinion of CONTRACTOR, than scale drawings and specifications warrant, CONTRACTOR shall give written notice to the Architect within five days of receipt of the additional details. In case no notice is given to the Architect within five days, it will be assumed the additional details are reasonable development of the scale drawings. In case notice is given, the additional details will be considered and if found justified the Architect will either modify them or shall recommend to OWNER a change order for any extra work involved. In instances where the CONTRACTOR'S complaint is found not to be justified, should the CONTRACTOR dispute that determination, the CONTRACTOR shall give notice of a claim and the dispute shall be resolved pursuant to the claims resolution provisions of the Contract Documents.

G. All parts of the construction shall be of the best quality of their respective kinds and CONTRACTOR shall use all diligence to become fully involved in the required construction and finish, and in no case to proceed with the different parts of the Work without first obtaining from the Architect directions and/or drawings as may be necessary for proper performance of the Work.

### **ARTICLE 14 SHOP DRAWINGS AND SUBMITTALS**

A. The term "shop drawing" shall be understood to include, but not be limited to detail design calculations, fabrication and installation drawings, lists, graphs, and operating instructions.

B. CONTRACTOR shall check and verify all field measurements and shall promptly submit six copies of all shop or setting drawings, schedules, and material lists required for the Work of various trades, checked and approved by CONTRACTOR. CONTRACTOR shall supply one copy electronically as specified by the OWNER. OWNER may choose to use an On-Line program for this project. If this program is used CONTRACTOR shall submit all submittals via this On-Line program.

C. All submittals of shop drawings, catalog cuts, data sheets, schedules, and material lists (including any schedule of submittals required by the specifications) shall be complete, shall conform to contract drawings and specifications, and shall be submitted as required in the specifications, and at the latest. Except where the preparation of a shop drawing is dependent upon the approval of a prior shop drawing, all shop drawings pertaining to the same class or portion of the Work shall be submitted simultaneously.

D. Shop drawings shall be submitted at the latest 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.

E. Calculations, etc. must be prepared by a Professional Engineer, Structural or other disciplines, licensed by the State of California.

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

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

H. CONTRACTOR'S review and approval of shop drawings shall include the following stamp:

"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"

I. The Architect's review of shop drawings will be limited to checking for general agreement with the Contract Documents, and shall in no way relieve CONTRACTOR of responsibility for errors or omissions contained in them, nor shall the review operate to waive or modify any provision contained in the Contract Documents. The Architect's approval of the drawings or schedules shall not relieve CONTRACTOR of its responsibility for deviations from drawings or specifications unless CONTRACTOR has called the Architect's attention to the deviations, in writing, at the time of submission, and secured the Architect's written approval.

J. Fabricating dimensions, quantities of material, applicable code requirements, and other contract requirements shall be CONTRACTOR'S responsibility.

K. Within 21 calendar days after receipt of shop drawings, the Architect will return one or more prints of each drawing to CONTRACTOR with the Architect's comments noted on them. For resubmittals, Architect will return one or more prints of each drawing to CONTRACTOR with comments within fourteen (14) days.

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

M. CONTRACTOR shall make a complete and acceptable submittal to the Architect by the second submission of drawings. OWNER may withhold funds due to CONTRACTOR in order to cover additional costs of the Architect's review beyond the second submission and any other costs incurred by OWNER.

N. Fabrication of an item shall not be commenced before the Architect has reviewed the pertinent shop drawings and returned copies to CONTRACTOR marked "NO EXCEPTIONS TAKEN," or "MAKE CORRECTIONS NOTED." Revisions indicated on shop drawings shall be considered changes necessary to meet the requirements of the Contract Documents and shall not be taken as the basis of claims for extra work.

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

**P. 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 IN REVIEW ACTUALLY RESULTED IN A DELAY IN CONTRACTOR'S CONSTRUCTION SCHEDULE.**

**CONTRACTOR SHALL NOT BE ENTITLED TO ANY CLAIM FOR DAMAGES RESULTING FROM DSA REVIEW EXTENDING BEYOND 15 CALENDAR DAYS AFTER SUBMITTAL. HOWEVER, OWNER MAY CONSIDER AN EXTENSION OF TIME DUE TO ANY DELAY CAUSED BY DSA REVIEW.**

## **ARTICLE 15 SAMPLES**

A. Within 35 calendar days following award of contract or, upon notice from OWNER, a shorter time as circumstances may require, CONTRACTOR shall furnish for approval all samples required in the Specifications, together with catalogs and supporting data required by the Architect. This provision shall not authorize any extension of time for performance of the Work. The Architect shall review the samples, as to conformance with design concept of Work and compliance with information given in the Contract Documents, and approve or disapprove them within 21 days of receipt of original submittal or 14 days of receipt of a resubmittal.

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

C. Upon demand of the Architect or OWNER, designated samples shall be submitted or tests or examinations and considered before incorporation into the Work. CONTRACTOR shall be solely responsible for delays due to samples not being submitted in time to allow for tests. Acceptance or rejection will be expressed in writing. Work shall be equal to approved samples in every respect. Samples which are of value after testing will remain the property of CONTRACTOR.

D. Work commenced before approval of samples subject to tests or examinations shall be at the sole risk of CONTRACTOR. CONTRACTOR alone shall bear the entire cost of repair, removal, or replacement of Work commenced prior to approval of samples subject to tests or examinations, including the cost of any impact to, or damages to the work of, other contractors on the Project

## **ARTICLE 16 WORK TO COMPLY WITH APPLICABLE LAWS AND REGULATIONS**

A. CONTRACTOR shall give all notices and comply with all laws, ordinances, rules, and regulations relating to the Work required by the Contract Documents.

B. Where Plans, Drawings, or Specifications state that materials, processes, or procedures must be approved by the DSA, State Fire Marshall, or other body or agency, CONTRACTOR shall be responsible for satisfying the requirements of those bodies or agencies. CONTRACTOR shall submit all required material to the body or agency in sufficient time to permit the body or agency to review and approve the submittal without delay to work on the critical path of the Project. All risk of loss in connection with this approval process rests with and is assumed by CONTRACTOR.

## **ARTICLE 17 WORK AND MATERIALS**

A. Except as otherwise specifically stated in the Contract Documents, CONTRACTOR shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, supervision, temporary construction of every kind, and all other services and facilities necessary to perform and complete the Work within the time specified. Some temporary utilities may be supplied by OWNER. If any such utilities are, in the opinion of CONTRACTOR, inadequate or insufficient to meet the needs of CONTRACTOR or any of CONTRACTOR'S subcontractors, then



CONTRACTOR shall provide, at no additional cost, such additional utilities as required to meet the need.

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

C. Materials shall be furnished in ample quantities and at times to ensure uninterrupted progress of the work and shall be properly stored and protected. CONTRACTOR shall be solely responsible for any damage or loss by weather, theft, or other causes to materials or work under the Contract Documents. After issuance of the Notice to Proceed by OWNER, CONTRACTOR shall place orders for materials and/or equipment as specified so that delivery may be made without delays to the Work. Upon demand from the OWNER, CONTRACTOR shall furnish to the OWNER documentary evidence showing that orders have been placed.

D. In the event of failure to comply with the above instructions, OWNER reserves the right to place orders for any materials and/or equipment as it may deem advisable in order that the Work may be completed at the date specified in the Contract Documents, and all expenses incidental to procuring the materials and/or equipment shall be paid for by CONTRACTOR.

E. 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 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.

F. Title to new materials and/or equipment, and attendant liability for their protection and safety, shall remain in the CONTRACTOR until incorporated in the Work and accepted by OWNER. No part of these materials and/or equipment shall be removed from their place of storage except for immediate installation in the Work, and CONTRACTOR shall keep an accurate inventory of all materials and/or equipment in a manner satisfactory to OWNER or its authorized representative.

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

## **ARTICLE 18 CONTRACTOR'S SUPERVISION, PROSECUTION, AND PROGRESS**

A. CONTRACTOR shall maintain competent project supervision on the Work site at all times during working hours, which includes but is not limited to a Project Manager and Superintendent, and all additional personnel necessary to maintain progress of the Work of this contract and the Project within the approved contract schedule satisfactory to the Architect.

B. Before commencing the Work, CONTRACTOR shall give written notice to OWNER and the Architect of the name, qualifications, and experience of CONTRACTOR'S proposed Project Manager and Superintendent. If either the Project Manager or Superintendent is found unsatisfactory by the OWNER, CONTRACTOR shall replace that person with one acceptable to the OWNER. Approval of CONTRACTOR'S Project Manager and Superintendent by the OWNER is ongoing and continual throughout the Work. If either become unacceptable to the OWNER, for whatever reason related to the construction process of the Work, the CONTRACTOR shall provide a different Project Manager or Superintendent acceptable to the OWNER within three calendar days. CONTRACTOR may protest rejection by OWNER. Such protest shall be given to the OWNER in writing, within three calendar days of notice from the OWNER. OWNER'S evaluation and acceptance or rejection of the protest shall be final.

C. Neither the Project Manager nor the Superintendent shall be changed except with the written consent of the OWNER. The Project Manager and the Superintendent shall represent CONTRACTOR, and all directions given to either the Project Manager or the Superintendent shall be binding on CONTRACTOR.

D. CONTRACTOR shall supervise and direct the Work competently and efficiently, devoting such attention and applying such skills as may be necessary to perform the Work in accordance with the Contract Documents. Despite any disputes that may exist between CONTRACTOR and OWNER regarding any issues, CONTRACTOR shall perform the Work, and any extra or changed Work under Article 27, as directed by OWNER, and if CONTRACTOR believe that it is entitled to additional time or money as a result of any extra or changed Work, it must comply with the Contract Documents' procedures, including those for notices of claim and claims.

E. Before commencing the Work, CONTRACTOR shall verify all grade lines, levels, and dimensions indicated on the Drawings and shall report any apparent error or inconsistencies to the Architect before commencing Work. CONTRACTOR shall not proceed until reported apparent errors and inconsistencies are corrected or otherwise resolved by the Architect and OWNER. In the absence of a report by CONTRACTOR of errors or inconsistencies in such matters, CONTRACTOR shall be deemed to have accepted them as being in compliance with the Contract Documents and ready for CONTRACTOR'S Work.

F. CONTRACTOR shall establish and maintain all construction grades, lines, and benchmarks, and be responsible for their accuracy and protection.

G. CONTRACTOR represents itself to OWNER as a skilled, knowledgeable, and experienced CONTRACTOR who will or has carefully studied and compared the Contract Documents with each other, and CONTRACTOR further represents it has reported, or shall at once report, to the Architect any errors, inconsistencies, or omissions discovered in them. CONTRACTOR shall be liable to OWNER for damage resulting from errors, inconsistencies, or omissions in the Contract Documents that CONTRACTOR either:

1. Recognized and knowingly failed to report; or
2. Should have recognized, and which a similarly skilled, knowledgeable, and experienced contractor would have discovered, which CONTRACTOR negligently failed to recognize and report.

H. CONTRACTOR shall verify all indicated dimensions before ordering materials or equipment, or before performing Work. CONTRACTOR shall take field measurements, verify field conditions, and carefully compare the field measurements and conditions and other information known to CONTRACTOR with the Contract Documents before commencing Work. Errors, inconsistencies, or omissions discovered shall be reported to OWNER at once. Upon commencement of any item of Work, CONTRACTOR shall be responsible for dimensions related to the item of Work and shall make any corrections necessary to make Work properly fit at no additional cost to OWNER. This responsibility for verification of dimensions is a non-delegable duty and may not be shifted to subcontractors or agents.

I. Omissions from the Plans, drawings, or Specifications, or the mis-description of details of Work which are manifestly necessary to carry out the intent of the Plans, drawings, and Specifications, or which are customarily performed, shall not relieve CONTRACTOR from performing such omitted or mis-described work, but they shall be performed as if fully and correctly set forth and described in the Plans, drawings, and Specifications.

J. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. CONTRACTOR shall be responsible to see that the finished Work complies accurately and completely with the Contract Documents

K. CONTRACTOR shall perform daily progressive cleaning to keep the premises free of debris such as waste, rubbish, and excess materials generated by its own forces or equipment. In no case shall CONTRACTOR permit debris to pile up or become a hazard to persons or property. CONTRACTOR is responsible for maintaining its Work and its portion of the Project in a clean condition, and shall pick up and remove all trash generated by their own forces. Clean-up not done in a timely manner, when requested by the OWNER, will be arranged to be done by the OWNER and the cost to OWNER may be deducted from payments otherwise due to the responsible CONTRACTOR. Costs for removal of any debris, responsibility for which is unable to be determined, will be borne equally by all Contractors then working on site, and may be deducted from payments otherwise due.

L. CONTRACTOR shall submit to OWNER a fully completed Daily Report, in the form of Exhibit "B" attached hereto, or other form of Daily Report as permitted by OWNER, on a weekly basis. CONTRACTOR'S Daily Report shall indicate the manpower present on-site and the work performed. Problems or delays should be clearly noted along with the action taken.

## **ARTICLE 19 SUBSTITUTIONS**

A. CONTRACTOR shall follow all instructions and requirements for substitutions set forth in the Instructions to Bidders, this article, and the Contract Documents. A substitution must be submitted on the District's listing and warranty forms (14-SUBSTITUTION LISTING; and 15-SUBSTITUTION WARRANTY FORM).

B. Requests for substitution timely submitted before bidding, and those submitted with or after a bid, shall comply with the requirements in the Instructions to Bidders (including but not limited to Section 21) and other Contract Documents. No substitution requests, whether of “equal” materials, process, service, equipment, or otherwise, may be made with, or after, the bid date except by the express written permission of OWNER and on such terms as OWNER may require, or in the case of an emergency as where a specified material, process, service, equipment or other item has become unavailable through no fault of CONTRACTOR.

C. As to any emergency substitution request, CONTRACTOR shall timely submit the request, together with substantiating data, including substitution warranties, in order to prevent delays arising from the substitution request.

D. With respect to all proposed substitutions:

1. Every substitution request shall be on the substitution request forms designated above, and shall be accompanied by all substantiating data.

2. CONTRACTOR shall furnish with its substitution request all drawings, Specifications, samples, performance data, calculations, and other information as may be required to assist the Architect and OWNER in determining whether the proposed substitution is acceptable, including but not limited to the following:

- a. Identification of the product by Specifications section and article numbers; provide manufacturer's name and address, trade name of product, and model or catalog number; list fabricators and suppliers as appropriate.
- b. Product data as required by Specifications.
- c. A list of similar projects using product, dates of installation, and names of, and contact information for, Architect/Engineer and owner.
- d. Itemized comparison of proposed substitution with specified product, listing variations and reference to Specifications section and article numbers.
- e. A quality and performance comparison between proposed substitution and specified product.
- f. Cost data comparing proposed substitution with specified product and amount of net change to contract sum.
- g. Identification of any required license fees or royalties.
- h. A list availability of maintenance services and replacement materials.
- i. A statement of the effect of the substitution on the construction schedule, and the effect of any changes required in other work or products; include a document waiving rights to additional payment or time that may become necessary because of the failure of the substitution to perform adequately.

3. OWNER is not responsible for locating or securing any information which is not included in any substantiating data.

4. The proposed substitution must be, in the opinion of OWNER, substantially equal or better in every respect to what is specified. The burden of proof as to the quality or suitability of proposed substitutions shall be borne by CONTRACTOR.

5. With the assistance of the Architect, OWNER shall be the sole judge as to the quality and suitability of proposed substituted items, and decisions of the OWNER shall be final and conclusive.

6. All substitution requests shall be submitted with a substitution warranty. Any substitution requests submitted without the warranty will not be considered, but will be returned to CONTRACTOR without review or evaluation. If required by OWNER, CONTRACTOR shall provide an extended warranty for the requested substitution.

7. No extension of time shall be granted if the extension request arises from a request for substitution, whether by reason of delay in making the request, delay in OWNER'S approval of the request, delay in obtaining other governmental approvals, delay in coordination of substitutions into or with other work or equipment, delay in obtaining the substituted items, increased time of installation or performance, or for any other reason.

8. Once any part or all of a substitution request has been denied, it is considered always denied.

9. A substitution request shall be submitted separately from any other submittal and shall be clearly marked as a "request for substitution."

10. If the substitution is accepted and approved by the District, it must be finalized in a Board-approved change order, including any change in contract price or time. Other than as described in the Board-approved change order, CONTRACTOR shall bear all costs and be solely and directly responsible for fitting accepted substitute materials and equipment into the available space in a manner acceptable to the Architect and OWNER, and for the proper operation of the substituted equipment with other equipment with which it may be associated. In addition, CONTRACTOR shall acknowledge in writing on CONTRACTOR'S letterhead, that CONTRACTOR accepts complete responsibility for additional costs required for modifications to building or other materials and equipment and additional coordination of work.

11. Any additional time, including Architect review time, and any additional coordination, inspection, materials, equipment, labor, tools, warranty extension, or other items either necessary to accomplish a substitution, or arising as a result of a substitution request, will be the sole responsibility of and at the sole expense of CONTRACTOR, who will reimburse OWNER for review or redesign services associated with approval by the Architect and obtaining all required approvals by other agencies.

12. CONTRACTOR shall also be responsible for meeting all code requirements whether local, city, county, state, federal, or other.

E. If the substitution requested by CONTRACTOR is not substantially equal or better in every respect to that specified, in the opinion of OWNER, CONTRACTOR shall provide and/or perform as specified.

F. In the event CONTRACTOR requests substitution of a material, process, service, or equipment more expensive than that specified and such request is approved by the OWNER, the difference in cost of such material, process, service, or equipment furnished shall be borne by CONTRACTOR, including any claims by any other party for costs related to the furnished material, process, service, or equipment. In the event an approved substitution is lower in cost than the originally specified item, approval of the substitution shall be conditioned by OWNER on a refund by CONTRACTOR to OWNER of all or any portion of the difference in cost, as memorialized in a Board-approved change order.

G. Any engineering, design, or approval agencies' fees required to make adjustments in material or work of all trades directly or indirectly affected by the approved substitution shall be borne entirely by CONTRACTOR. If a substitution is approved, any additional time required to obtain shop drawings, order materials, make modifications, perform testing, or whatever else is necessary to make the substitution function properly in place of the originally specified item shall be borne solely by CONTRACTOR. It will also be CONTRACTOR'S responsibility to acquire and install the substituted item in the time frame allowed under the Contract Documents. No time extension shall be granted to CONTRACTOR for any substitution requested by CONTRACTOR, except as OWNER in its sole discretion may deem appropriate.

H. Requests for substitutions shall be submitted with nine (9) copies of Substitution Request, substantiating data, specifications, samples, performance data, calculations and other information required for Architect and OWNER'S product evaluation.

## **ARTICLE 20 PROTECTION OF WORK AND PROPERTY**

A. CONTRACTOR shall be responsible for all damages to persons or property which occur as a result of CONTRACTOR'S fault or negligence in connection with performance under the Contract Documents, and for the proper care and protection of all materials delivered and Work performed until completion and final acceptance by OWNER. With the exception of damage to the Work caused by "acts of God," as defined in Public Contract Code 7105, CONTRACTOR assumes the risk for damage or destruction of any or all Work performed under the Contract Documents. CONTRACTOR shall adequately protect adjacent property from settlement or loss of lateral support as provided by law and this article.

B. CONTRACTOR shall take, and require subcontractors to take, all necessary precautions for safety of workers and shall comply with all applicable federal, state, local, and other safety laws, standards, orders, rules, regulations, and building codes to prevent accidents or injury to persons on, about, or adjacent to the work site and to provide a safe and healthful place of employment. CONTRACTOR shall furnish, erect, and properly maintain at all times, as directed by OWNER, or required by conditions and progress of work, all necessary safety devices, safeguards, construction canopies, signs, audible devices for protection of the blind, safety rails, belts and nets, barriers, lights, and watchmen for protection of workers and the public, and shall post danger signs warning against hazards created by such features in the course of construction. CONTRACTOR shall designate a responsible employee whose duty shall be to post information regarding protection and obligations of workers and other notices required under occupational safety and health laws, to comply with reporting and other occupational safety requirements, and to protect the life, safety, and health of workers. The name and position of the person so designated shall be reported in writing to OWNER by CONTRACTOR. CONTRACTOR shall correct any violation of safety laws, standards, orders, rules, or regulations. Upon issuance of a citation or notice of violation by the Division of Occupational Safety and Health, the violation shall be corrected immediately by CONTRACTOR at CONTRACTOR'S expense.

C. In an emergency affecting safety of life, work, or adjoining property, CONTRACTOR is permitted to act at its discretion without special instruction or authorization from the OWNER to prevent any threatened loss or injury, and CONTRACTOR shall act if authorized or instructed by the OWNER. Any compensation claimed by CONTRACTOR for emergency work shall be determined according to the Contract Documents.

D. CONTRACTOR shall (unless waived by OWNER in writing):

1. Provide heat, covering, and enclosures necessary to protect all work, materials, equipment, appliances, and tools against damage by weather conditions;
2. Take adequate precautions to protect existing sidewalks, curbs, pavements, utilities, adjoining property, structures, and work of other contractors on the Project, and avoid damage to them, and repair any damage caused by construction operations;
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 school routine before or after school 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 school activities;
4. Provide substantial barricades around any shrubs or trees to be preserved;
5. Deliver materials to the building area over the route designated by the OWNER;
6. Take preventative measures to eliminate excessive dust, and comply with all Air Quality Control Board standards and regulations;
7. Confine apparatus, storage of materials, and the operations of its workers within limits indicated by law, ordinances, permits, or directions of the OWNER and not unreasonably interfere with the work of other contractors on the Project or encumber the premises with materials;
8. Enforce all instructions of OWNER regarding signs, advertising, fires, danger signals, barricades, and smoking, and require that all persons employed on the Work comply with all regulations while on the construction site;
9. Exercise reasonable care to prevent disturbing or covering any survey markers, monuments, or other devices marking property boundaries or corners; if markers are disturbed, they shall be replaced by an approved civil engineer at no cost to OWNER.

E. CONTRACTOR shall certify that the CONTRACTOR has a safety program and that it conforms to SB 198 and the current California/Federal OSHA regulations. The required Safety Program Certification (included in project documents) shall be signed and sent to the OWNER prior to the start of work. CONTRACTOR shall actively and aggressively comply with those regulations, as well as their own safety program/policy. (See Exhibit "C" - Safety Program Certification).

## **ARTICLE 21 USE OF ASBESTOS OR LEAD MATERIALS/PRODUCTS**

A. CONTRACTOR shall not use any asbestos or lead containing products or materials in performing the Work under the Contract Documents. Before beginning any Work, CONTRACTOR shall certify, in writing to OWNER, that no asbestos or lead containing materials or products will be used by CONTRACTOR or any subcontractor in performing the Work required by the Contract Documents. Upon completion of the Work, CONTRACTOR shall again certify in writing to OWNER that no asbestos or lead containing materials or products were used by CONTRACTOR or any subcontractor in performing the Work required by the Contract Documents. Certification shall be on forms provided in the Contract Documents.

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 the 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.

C. Cost of all asbestos removal, including but not limited to the cost of an asbestos removal contractor, the cost of the asbestos consultant, analytical and laboratory fees, time delays, and additional costs as may be incurred by OWNER or other contractors on the Project shall be borne entirely by CONTRACTOR.

D. 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.

E. 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.

F. The cost of all removals or decontaminations resulting from the installation of materials in violation of this certification, or from disruption of existing materials, shall be at the sole expense of CONTRACTOR.

## **ARTICLE 22 LAYOUT AND FIELD ENGINEERING**



All field engineering required for laying out this Work and establishing grades for earthwork operations shall be furnished by CONTRACTOR at its expense. The work shall be done by a qualified civil engineer approved by the Architect. "As-Built" drawings of site development and utilities' locations and inverts shall be prepared by an approved civil engineer.

### **ARTICLE 23 UTILITIES**

A. All utilities, including but not limited to electricity, water, gas, and telephone used on the Work, which are required by CONTRACTOR and not provided by the OWNER, shall be furnished and paid for by CONTRACTOR, at CONTRACTOR's cost, to distribution points on the site. CONTRACTOR shall furnish and install necessary temporary distribution systems, including meters if necessary, from distribution points to points on the site where the utility is necessary for CONTRACTOR to perform the Work. Upon completion of the Work, CONTRACTOR shall remove all temporary distribution systems installed by CONTRACTOR.

B. If this Project is for an addition to an existing facility, CONTRACTOR may use existing OWNER utilities, with the written permission of OWNER, by making prearranged payments to OWNER for utilities used by CONTRACTOR for construction.

### **ARTICLE 24 UTILITIES: REMOVAL, RESTORATION**

A. Pursuant to Government Code Section 4215, OWNER assumes the responsibility for removal, relocation, and protection of utilities located on the construction site at the time of commencement of construction with respect to any main or trunkline utility facilities which are not identified in the Plans and Specifications. CONTRACTOR shall not be assessed any delay in completion of the Project caused by OWNER'S failure to provide for removal or relocation of utility facilities. OWNER shall compensate CONTRACTOR for the costs of locating, repairing damage not due to CONTRACTOR'S failure to exercise reasonable care, and removing or relocating any utility facilities not indicated in the Plans and Specifications with reasonable accuracy, and for equipment necessarily idle during the work, using the provisions of the Contract Documents on changes in the Work.

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

C. If while performing work under the Contract Documents, CONTRACTOR discovers utility facilities not identified by OWNER in the contract Plans or Specifications, CONTRACTOR shall immediately notify OWNER and the utility in writing.

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

### **ARTICLE 25 SANITARY FACILITIES**

Except for facilities provided by OWNER, as noted in these Contract Documents, CONTRACTOR shall provide temporary sanitary toilet facilities as required by law and additional facilities as

directed by the Project Inspector for the use of all workers of CONTRACTOR and CONTRACTOR'S subcontractors. The facilities shall be maintained in a sanitary condition and left at the site until removal is directed by the Project Inspector. Use of toilet facilities contained in the Work under construction shall not be permitted except with the approval of the Project Inspector.

## **ARTICLE 26 LABOR—FIRST AID**

CONTRACTOR shall maintain emergency first aid treatment on the Project site for all workers performing the Work of CONTRACTOR or any subcontractors on the Project, and shall ensure compliance with the Federal Occupational Safety and Health Act of 1970 (29 U.S.C.A., Section 651 et seq.). CONTRACTOR shall give immediate notice to the OWNER of any injuries to anyone on the Project site that require first aid or medical or paramedical attention.

## **ARTICLE 27 CHANGES, SCOPE OF WORK DISPUTES, AND EXTRA WORK**

A. As used in this article, the following definitions shall apply:

1. "Labor" means any amount(s) paid directly to non-supervisory workers (up to and including general foreman) in the form of employee wages and benefits in order to perform the Work. These costs shall include documented payroll cost (wages, payroll taxes, fringe benefits, workers compensation) and general liability insurance as submitted and approved by OWNER.

2. "Material" means all products, equipment, and devices that are physically incorporated into the work to be performed. Any costs or equipment, facilities, or services not physically incorporated in the work to be performed but necessary for its completion shall be considered "overhead." Cash or trade discounts available to the purchaser shall be credited to OWNER. Material costs secured by other than direct purchase and billing will be the price paid to the actual supplier as determined by OWNER. Markup will not be allowed. If cost of materials is deemed excessive, the price will be determined to be the lowest current wholesale price delivered to the site, less cash or trade discount.

3. "Equipment" costs shall include transportation and setup costs, if CONTRACTOR can substantiate that the Work could not have been performed economically with equipment already at the site. Rental costs shall not exceed rates set forth in the then-current "Rental Rate Blue Book," published by Dataquest, Inc., Palo Alto, California, as adjusted to this region. Owned equipment costs shall not exceed rates set forth in the then-current "Cost Reference Guide for Construction Equipment," published by Dataquest. Hours of usage must be documented by CONTRACTOR in order to be the basis for equipment utilization charges for Change Orders. CONTRACTOR will not be allowed to charge for idle equipment.

4. "Overhead" means any necessary costs and expenses incurred in the performance of the Work excluding "labor," "materials," and "equipment" as defined above.

B. 1. Without invalidating the Contract Documents, OWNER may, either itself or through the Architect or any Construction Services Administrator, order in writing that CONTRACTOR perform extra or changed Work or changes by altering, adding to, or deducting from the Work, and the contract price or time, or both, shall be adjusted accordingly, if necessary; and OWNER may also direct CONTRACTOR to accelerate

some or all of the Work. Such an order is a Construction Change Directive (“CCD”) whether or not labeled as such. All the Work shall be subject to the conditions of the Contract Documents. If CONTRACTOR believes that the contract price or time, or both, should be adjusted due to the CCD, then it shall document all costs pursuant to Paragraph F.4, below, if it intends to submit a claim.

2. If CONTRACTOR believes that the contract price or time, or both, should be adjusted (whether due to extra work or change directed by OWNER, the OWNER’s response to an RFI, an unforeseen condition, or any other reason), then it must ask the OWNER to determine, pursuant to Paragraphs D and E below, whether adjustment is warranted and, if so, how much adjustment is warranted. Failure to request such determination within five (5) days of the date CONTRACTOR had actual or constructive notice of the factual basis supporting the request shall act as a **waiver** and relinquishment by CONTRACTOR of any right to an adjustment to the contract price or time; CONTRACTOR will not have satisfied a condition precedent or exhausted administrative remedies. Regardless of the time it may take OWNER to determine any adjustment of price or time, and regardless of any dispute with OWNER regarding such adjustment, CONTRACTOR must promptly and expeditiously perform the ordered extra work or change as may be directed by the OWNER.

C. In giving instructions, the OWNER shall have authority to order minor changes in the Work not involving a change in cost or time and not inconsistent with purposes of the Project, subject to DSA approval. Otherwise, except in an emergency endangering life or property, no extra work or change shall be performed unless pursuant to a written order from OWNER, and no CONTRACTOR claim for any addition to the contract amount or time shall be valid unless the extra work or change is made by written order of OWNER. A Change Order will not be valid or effective until approved or ratified by OWNER’S governing board.

D. If the OWNER determines that the Work ordered to be done constitutes extra Work outside the scope of the Contract Documents, the OWNER shall send a request for a detailed proposal for additional money and time to CONTRACTOR. CONTRACTOR will respond with a detailed proposal within five calendar days of receipt of the request for proposal, or sooner if required by OWNER to avoid delay to the critical path. Any failure by CONTRACTOR to timely submit the detailed proposal will constitute a **waiver** of its right to recover any additional money or time for the extra Work; CONTRACTOR will not have satisfied a condition precedent or exhausted administrative remedies. If the work is to be performed by a subcontractor, CONTRACTOR’S proposal must include a bid from the subcontractor. If OWNER and CONTRACTOR agree on price and time for the ordered extra work or change, then they shall execute a change order on those terms to be approved by the OWNER’s governing board. If OWNER rejects CONTRACTOR’S detailed proposal for the ordered extra work or change, OWNER may direct CONTRACTOR to perform the extra Work or change, in which case CONTRACTOR shall document all costs pursuant to Paragraph F.4, below, if it intends to submit a claim. If OWNER rejects CONTRACTOR’S detailed proposal for the ordered extra work or change, then CONTRACTOR shall give notice of claim to OWNER within 5 days of the rejection, pursuant to Paragraph M, below. Any failure by CONTRACTOR to timely submit a notice of claim shall constitute a **waiver** of its right to recovery any additional money or time for the extra Work; CONTRACTOR will not have satisfied a condition precedent or exhausted administrative remedies.

E. If the OWNER determines that the ordered extra work or change does not constitute Work for which CONTRACTOR may recover additional money or time, the OWNER shall so notify

CONTRACTOR. If CONTRACTOR is not in agreement with the determination by the OWNER, CONTRACTOR shall give notice of claim to OWNER within 5 days of the OWNER's notice of its determination, pursuant to Paragraph M below. Any failure by CONTRACTOR to timely submit a notice of claim shall constitute a **waiver** of its right to recovery any additional money or time for the alleged extra Work; CONTRACTOR will not have satisfied a condition precedent or exhausted administrative remedies. OWNER may direct CONTRACTOR to perform the alleged extra Work, in which case CONTRACTOR shall document all costs pursuant to Paragraph F.4, below, if it intends to submit a claim.

F. At the discretion of OWNER, the value of any extra work, change, or deduction shall be determined in one or more of the following ways:

1. By acceptable lump sum proposal from CONTRACTOR, a total sum for the changed work may be mutually determined by OWNER and CONTRACTOR. CONTRACTOR shall furnish a breakdown of the proposed lump sum cost satisfactory to OWNER, which shall be full and final compensation for the change, including time adjustment.

2. By contract unit prices contained in CONTRACTOR'S original bid and incorporated in the Contract Documents, or fixed by subsequent agreement between OWNER and CONTRACTOR. Where payment for Change Orders is based on unit prices stipulated in CONTRACTOR'S bid, those unit prices shall constitute the total equitable adjustment due for the change. If a change is ordered in an item or work covered by a contract unit price, and the change does not involve a substantial change in the character of the work from that shown on the Plans or included in the Specifications, an adjustment in payment will be made based upon the increase or decrease in quantity and the contract unit price. In the case of such an increase or decrease in a major bid Item, the use of this basis for the adjustment of payment will be limited to that portion of the change which, together with all previous changes to that item, is not in excess of 25 percent of the total cost of such item based on the original quantity and contract unit price. If a change is ordered in an item of work covered by a contract unit price, and the change does involve a substantial change in the character of the work from that shown on the Plans or included in Specifications, an adjustment in payment will be made in accordance with other sections of this article. Should any contract item be deleted in its entirety, payment will be made only for actual costs incurred prior to notification of such deletion.

3. Stipulated contract unit prices are those established by OWNER in the Contract Documents, as distinguished from contract unit prices submitted by CONTRACTOR, and may be used for the adjustment of contract changes. Whether set forth in the Contract Documents or subsequently agreed upon, all contract unit prices shall include overhead, profit, and increased premium on the Surety Bonds.

4. By cost of labor, material, equipment, and subcontract, plus a percentage for overhead and profit. If the value is determined by this method the following requirements shall apply:

(a) Daily reports by CONTRACTOR, as follows:

(i) General. At the end of each week, CONTRACTOR shall submit a daily report to the Architect, the Project Inspector, and any Construction Services Administrator 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 by OWNER and CONTRACTOR to reach agreement on the accuracy of the content of the reports within a week of submittal, and if successful, OWNER and CONTRACTOR shall sign the reports to indicate their agreement with their content. In the event of disagreement as to the accuracy of the content of a daily report, pertinent notes shall be exchanged by the parties to explain points which cannot be resolved immediately. Each party shall retain copies of the reports. Reports by subcontractors or others shall be submitted through CONTRACTOR.

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

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

(iv) 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.

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

(b) Basis for Establishing Costs

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

(ii) Materials. The cost of materials reported shall be at invoice or lowest current price at which such materials are locally available and delivered to the work site in the 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 OWNER.

(iii) Tool and Equipment Rental. No payment will be made for the use of tools which have a replacement value of \$500 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 OWNER in good working condition, and suitable for the purpose for which it is to be used. Manufacturer's ratings and manufacturer's approved modifications shall be used to classify equipment and it shall be powered by a unit of at least the minimum rating recommended by the manufacturer.

(iv) Other Items. 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 or 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.

(c) The following form shall be used by OWNER and CONTRACTOR as applicable to communicate proposed additions and deductions to the Contract Documents.

	<u>EXTRA</u>	<u>CREDIT</u>
(i) Material (attach itemized quantity and unit cost plus sales tax)	_____	_____
(ii) Labor (attach itemized hours and rates)	_____	_____
(iii) Subtotal	_____	_____
(iv) If Subcontractor performed work, add Subcontractor's overhead and profit to portions performed by it, not to exceed 10% of Item (iii) above	_____	_____
(v) Subtotal	_____	_____

(vi) CONTRACTOR'S Overhead and Profit, as allowed by the Contract Documents (not to exceed 10% on CONTRACTOR's own work, and not to exceed 5% on Subcontractors' work)	_____	_____
(vii) Subtotal	_____	_____
(viii) Total	_____	_____

**5. IT IS EXPRESSLY UNDERSTOOD THAT THE VALUE OF SUCH EXTRA WORK OR CHANGES AS DETERMINED BY ANY OF THESE METHODS EXPRESSLY INCLUDES ANY AND ALL OF CONTRACTOR'S COSTS AND EXPENSES, 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.**

G. For extra Work or changes that increase the contract price, CONTRACTOR may include amounts for overhead and profit. CONTRACTOR'S overhead (general and administrative) and profit shall include, but not be limited to additional bond costs, additional job site facilities costs, additional home and field office costs, additional administrative costs, additional cleaning, and additional project supervision costs (which includes but is not limited to a Project Superintendent and foreman and any and all additional personnel necessary to maintain the project progress within the approved contract schedule). For changes that decrease the contract price, the OWNER shall be entitled to credits for reduced overhead and profit in the same percentages that would have been added to a change order adding such work.

H. CONTRACTOR'S overhead (home office and field), profit, and additional bond costs on the cost of work performed by CONTRACTOR shall be a total sum not exceeding 10 percent of those costs of work.

I. CONTRACTOR'S overhead (home office and field), profit, and additional bond costs on the cost of work performed by Subcontractors of all tiers shall be a total sum not exceeding 5 percent of those costs of work.

J. Subcontractors' (all tiers) overhead and profit on the cost of work performed by Subcontractor shall be a total sum not exceeding 10 percent of the cost of labor, materials, rentals, etc.

K. Overhead and profit shall not be applied to taxes, delivery charges, and insurance by CONTRACTOR or its subcontractors or sub-subcontractors.

L. Before CONTRACTOR is authorized to proceed with extra Work or changes on the basis set forth in this Article, OWNER and CONTRACTOR may reach agreement on what the term "costs" shall include and any percentage amount of fixed fee CONTRACTOR is to charge. (See Paragraphs D and E, above.)

M. Notice of Claim: For any dispute with OWNER under the Contract Documents (including but not limited to Paragraphs B, D, or E above, any claim for additional time or money, and any claim of wrongful withholding by OWNER), and for any other potential claim against OWNER under the Contract Documents (including but not limited to any instruction, request, drawing,

response to RFI, unforeseen condition, specification, action, condition, omission, default, or other situation that CONTRACTOR believes (i) constitutes a change, extra work, or otherwise obligates OWNER to pay additional compensation to CONTRACTOR or to grant an extension of time, or (ii) 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. Contractor shall use the form of "Notice of Claim" included in the Contract Documents (38-NOTICE OF CLAIM). No other form of notice is acceptable. Failure to use the specified form of notice shall constitute a **waiver** and release of any claim for damages, additional compensation, or time; CONTRACTOR will not have satisfied a condition precedent or exhausted administrative remedies. The notice of claim 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 submit a proper notice of claim to OWNER within the five-day period shall be deemed a **waiver** and relinquishment of such a claim; CONTRACTOR will not have satisfied a condition precedent or exhausted administrative remedies. If the notice of claim is given within the specified time, the procedure for a subsequent claim shall be as stated in these General Conditions. After giving a notice of claim to OWNER, the CONTRACTOR may give OWNER supplemental information related to that notice of claim if acquired after submission of the notice of claim, but the supplemental information must be submitted (a) within five calendar days of the submission of the notice of claim, and (b) on the "Supplemental Notice of Claim" form. Any supplemental information failing to comply with this provision may be disregarded by the OWNER. Any claim by CONTRACTOR based on a notice of claim must be submitted pursuant to the Contract Documents and failure to timely submit a proper claim shall be deemed a **waiver** and relinquishment of such a claim; CONTRACTOR will not have satisfied a condition precedent or exhausted administrative remedies. (See Articles 55 and 56.)

N. 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, CQR's, ASI'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, costs of not being able to complete the Work before the contractual deadline for completion, or loss of other business.

O. Notwithstanding any other provision in the Contract Documents, the adjustment in the contract price, if any, and the adjustment in the contract time, if any, set out in a change order shall constitute the entire compensation and/or adjustment in the contract time due CONTRACTOR arising out of the change in the work covered by the change order, including any extensions of time, unless otherwise expressly stated in the change order. The amount of any compensation due CONTRACTOR shall be calculated pursuant to this Article. The compensation shall not include any additional charges not set forth in this Article and shall not include delay damages due to processing a change order or refusal to sign a change order, or any indirect, consequential, or incidental costs, including any project management costs, extended home office and field office overhead, administrative costs, or profit except as such matters may be authorized under this Article.

P. 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 contained or incorporated in writing in all change orders:

**THE COMPENSATION (TIME AND COST) SET FORTH IN THIS CHANGE ORDER COMPRISES THE TOTAL COMPENSATION DUE CONTRACTOR FOR**



**THE CHANGE DEFINED IN THE CHANGE ORDER, INCLUDING EXTRA WORK AND IMPACT ON UNCHANGED WORK. ACCEPTANCE OF THIS CHANGE ORDER CONSTITUTES A FULL AND COMPLETE ACCORD AND SATISFACTION, AND WAIVER, OF ANY AND ALL CLAIMS BY CONTRACTOR ARISING OUT OF OR RELATING TO THE CHANGE ORDER, INCLUDING BUT NOT LIMITED TO CLAIMS FOR CONTRACT BALANCE AND RETENTION, TIME, EXTENDED FIELD, 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 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 OF RIGHTS OR PROTEST LANGUAGE, OR ANY OTHER ATTEMPTS TO AVOID SUCH WAIVER SHALL BE OF ANY FORCE OR EFFECT WHATSOEVER. NO ADDITIONS OR DELETIONS TO THIS CHANGE ORDER SHALL BE ALLOWED, EXCEPT WITH WRITTEN PERMISSION OF OWNER. NO LANGUAGE CONTAINED IN BACKUP MATERIAL TO ANY CHANGE ORDER SHALL CONSTITUTE A WAIVER OF THIS REQUIREMENT, AND SUCH BACKUP MATERIAL SHALL BE INTERPRETED AS THOUGH SUCH LANGUAGE DOES NOT EXIST.**

Q. Within 10 days of the notice to proceed, CONTRACTOR shall submit a detailed list of the field office overhead cost components which are time related and which represent costs incurred as a direct result of time extensions. CONTRACTOR will not be entitled to any progress payments until the detailed list is submitted.

R. Change orders require approval by the Division of the State Architect per California Code of Regulations, Title 21, Section 38 prior to execution of change orders. District may provide a procedure for execution of change orders prior to D.S.A. approval, to facilitate construction scheduling allowing Contractor to proceed. For a change order to be a valid modification of the Contract Documents, it must be approved by the District's governing body.

S. For claims of monetary compensation based on delay, in addition to establishing entitlement to a time extension (i.e., that the delay was excusable; see Article 51), CONTRACTOR must establish that OWNER is responsible for the delay, that the delay was unreasonable under the circumstances involved, and that the delay was not within the contemplation of the parties; **however**, CONTRACTOR shall not be entitled to monetary compensation when (a) CONTRACTOR could have reasonably anticipated the delay and avoided or minimized the cost impacts of it, (b) there was a concurrent delay which does not qualify for monetary compensation under this paragraph, (c) the cause of the delay was reasonably unforeseen by the OWNER or the delay was caused by factors beyond the control of the OWNER, including but not limited to a delay caused by a utility company's failure to perform despite OWNER's reasonable arrangements for such performance; or (d) any other defense available to OWNER under law or equity applies. CONTRACTOR has the burden of proving that any delay was excusable and compensable, including an analysis that establishes non-concurrency.

T. If CONTRACTOR believes that acts or omissions of OWNER (including but not limited to OWNER-caused delay) have prevented CONTRACTOR from performing the Work as required by the Contract Documents and CONTRACTOR intends to rely on OWNER's acts or omissions and Civil Code section 1511(1) as reasons to excuse CONTRACTOR's nonperformance or to support, among other things, CONTRACTOR's requests for time extensions under the Contract

Documents, CONTRACTOR shall provide written notice of the excuse within five (5) days of the OWNER's acts or omissions. If Contractor fails to timely submit the written notice, CONTRACTOR shall have **waived** any right to later rely on the OWNER's acts or omissions as a defense to CONTRACTOR's nonperformance or as the basis for a time extension, regardless of the merits of the defense or time extension, as CONTRACTOR will not have satisfied a condition precedent or exhausted administrative remedies. CONTRACTOR acknowledges that these written notices are of critical importance to the OWNER's management of the Work and Project, and its mitigation of costs and delays to the Work and Project.

U. The compensation for change orders shall not include any charges not set forth in this Article and shall not include damages for delays due to the processing of a change order, or the refusal to sign a change order, and shall not include any indirect, consequential, or incidental costs, including any project management costs, extended home office and field office overhead, administrative costs or profit except as such matters may be authorized under this Article. The deviation of an extended home office overhead rate and its application to contract time extensions shall not be allowed. Costs expressly excluded from extended overhead under the Contract Documents include, but are not limited to, interest costs of any type, claim preparation or filing costs of any type, costs in preparing or reviewing proposed change orders, CQR's, ASI's etc., lost revenue, lost profit, lost income or earnings, rescheduling costs, the cost of corporate officer or staff visits to the site, any fluctuations of foreign currency conversion or exchange rate costs, reduction of bonding capacity, or the loss of other business.

## **ARTICLE 28 CORRECTION OF WORK BEFORE FINAL PAYMENT**

A. 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 additional services of OWNER's representatives and consultants, including but not limited to the Architect, the Project Inspector, or a Construction Services Administrator.

B. 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, or proceed to otherwise dispose of the material, in any manner deemed by OWNER to be appropriate under the circumstances, and shall account for any net proceeds after deducting all costs and expenses incurred by OWNER in the removal and /or disposition, or that should have been borne by CONTRACTOR. The balance, if any, of removal and/or disposition costs that remain after deduction of any sale proceeds may be deducted from any payments otherwise due to CONTRACTOR.

C. In cases where any portion of the work is found to be non-compliant with the Contract Documents the following procedure shall be implemented:

1. OWNER shall review the facts and determine if a formal rejection notice is to be issued.
2. If necessary, the OWNER shall prepare a Notice of Non-Compliance (NNC) or and deliver it to the CONTRACTOR. The NNC shall specify the time in which corrections must be made and the estimated value of the Work. This amount will be noted, when

appropriate, on CONTRACTOR'S payment application.

3. When CONTRACTOR has corrected the non-compliant work, CONTRACTOR shall give written notice to the OWNER requesting inspection of the Work.

4. OWNER may withhold from CONTRACTOR'S next pay application any amount required to pay for correction of the non-compliant work. Any election by OWNER to forego immediate withholding shall not prevent such withholding in the future.

5. CONTRACTOR shall make corrections to any rejected work, and repair any work of other contractors that is damaged in the course of making corrections, all at CONTRACTOR'S sole expense. No time extension shall be granted for delays caused by the rejection of non-conforming work.

D. In the alternative, OWNER may, in its sole discretion, permit CONTRACTOR to perform a fix of non-compliant work in any manner acceptable to OWNER, and to any regulatory agencies having oversight of the Project. CONTRACTOR shall bear the entire cost of fixing the non-compliant work, including delays to the Project, and direct and indirect impact costs, and may be required by OWNER to provide additional security in the form of bond, extended warranty, or in any other manner deemed appropriate by OWNER.

## **ARTICLE 29 DEDUCTIONS FOR UNCORRECTED WORK**

A. 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. The written notices, including any punch list, may be referred to as "Notice of Non-Compliance" in communications between the parties, and OWNER may assign an identification number to them for clarity in communications and billings.

2. OWNER shall have exclusive discretion to assign a value to the work deemed deficient, which value may be withheld from future payments to CONTRACTOR until the deficiencies are cured, at which point any money being withheld shall be released to CONTRACTOR, less any costs or impacts incurred by OWNER or any other contractor on the Project by reason of the deficiency of the work or the correction thereof.

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, and where, in the sole discretion of OWNER, circumstances warrant immediate remedy of the situation, the ten (10) day period may be shortened to either forty-eight (48) or seventy-two (72) hours and, if not remedied by CONTRACTOR, then OWNER may cure such deficiency without prejudice to any other remedy it may have, and the other provisions of this Article shall apply.

C. If OWNER elects to cure the deficiency, OWNER shall reduce the total contract price by an amount which, in the exclusive discretion of OWNER, reflects both the cost of curing such deficiencies and the cost of any impact on or damage to any other contractors on the Project. The reduction shall include CONTRACTOR'S overhead and profit applicable to such work.

D. If OWNER deems it inexpedient to correct Work not performed in compliance with the Contract Documents, an equitable deduction from the contract price shall be made.

### **ARTICLE 30 CLEANING UP**

A. CONTRACTOR shall at all times keep the work site free from debris such as waste, rubbish, and excess materials and equipment caused by this Work. CONTRACTOR shall not leave debris under, in, or about the work site, but shall promptly remove all items.

B. Upon completion of the Work, CONTRACTOR shall clean each site where CONTRACTOR's Work has been performed, including but not limited to the interior and exterior of each building, including fixtures, equipment, walls, floors, ceilings, roofs, cabinets (inside and out), windows, window sills and ledges, horizontal projections, vents, louvers, exhaust fans, and any areas where debris deposited or left by CONTRACTOR or subcontractors during performance of the Work has collected. CONTRACTOR shall clean and polish all glass, plumbing fixtures, and finish hardware and similar finish surfaces and equipment affected by the Work, and shall remove from the site any temporary fencing, barricades, planking, sanitary facilities, and similar temporary facilities installed by CONTRACTOR.

C. If CONTRACTOR fails to clean up at the completion of the Work, OWNER may do so and the cost for such cleanup shall be charged back to CONTRACTOR and may be deducted from future progress or final payments.

D. CONTRACTOR shall not include cleaning as an additional line item for change order payments. Cleaning is included in the overhead expenses included in the CONTRACTOR'S and/or Subcontractor's overhead and profit percentage.

### **ARTICLE 31 ACCESS TO WORK**

OWNER and its representatives shall at all times have access to the Work wherever it is in preparation or progress. CONTRACTOR shall provide safe and proper facilities for access so OWNER'S representatives may perform their functions under the Contract Documents.

### **ARTICLE 32 GUARANTEE**

A. CONTRACTOR warrants and guarantees that the Work, including any equipment furnished by CONTRACTOR, shall be:

1. Free from defects in workmanship and material;
2. Free from defects in any design performed by CONTRACTOR;
3. New, and conform and perform to the requirements stated in the Specifications, and where detail requirements are not so stated, shall conform to applicable industry standards; and
4. Suitable for the use stated in the Specifications.

B. The warranty and guarantee period for discovery of defective work shall commence on the date of full and final completion of the Work, and this period shall continue for one year. If during the warranty period the Work is not available for use due to defective work, such time of

unavailability shall not be counted as part of the warranty period. The warranty period for corrected defective work shall continue for a duration equivalent to the original warranty period.

C. OWNER shall give CONTRACTOR prompt written notice after discovery of any defective Work. CONTRACTOR shall correct any such defective Work, as well as any damage to any other part of the Work resulting from such defective Work, and provide repair, replacement, or reimbursement, at its sole expense, in a manner approved by 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. In the event CONTRACTOR or Surety fails to commence and pursue with diligence any replacements or repairs within one week 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.

E. 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.

F. This article does not in any way limit (a) the guarantee on any items for which a longer guarantee is specified, or any items for which a manufacturer gives a guarantee for a longer period; or (b) the statutory periods of limitation for action regarding patent and latent deficiencies. CONTRACTOR shall furnish OWNER with all appropriate guarantee or warranty certificates upon completion of the Project.

G. All guarantees required under this Article shall be considered to be in writing on the guarantee provided by CONTRACTOR, and CONTRACTOR shall use the form included in the Contract Documents unless otherwise agreed by OWNER.

### **ARTICLE 33 SURVEYS**

OWNER shall furnish all surveys describing the physical characteristics, legal limitations, and utility locations for the site of the Project and a legal description of the site. Surveys to determine locations of construction, grading, and site work shall be provided by CONTRACTOR.

### **ARTICLE 34 SOILS INVESTIGATION REPORT**

A. When a soils investigation report has been obtained from test holes at the site, that report is available for CONTRACTOR'S use in preparing its bid and work under the Contract Documents. Any information obtained from the report or any information given on drawings as to subsurface

soil conditions or as to elevations of existing grades or elevations of underlying rock, is approximate only, is not guaranteed, and **is not part of the Contract Documents.** CONTRACTOR is required to make a visual examination of the site and must make whatever tests it deems appropriate to determine the actual underground condition of the soil.

B. CONTRACTOR agrees that it will make no claim against OWNER for damages in the event that during progress of the Work, CONTRACTOR encounters subsurface or latent conditions at the site materially different from those shown on drawings or indicated in Specifications or soils reports, or for unknown conditions of an unusual nature which differ materially from those ordinarily encountered in work of the type provided for in the Plans and Specifications.

C. If during the course of work under the Contract Documents CONTRACTOR encounters subsurface or latent conditions which differ materially from those indicated in the soils investigation report, or drawings, or Specifications, CONTRACTOR shall notify OWNER of same within five working days of discovery of the condition.

**WARNING: OWNER does not warrant the soils at the project site. A soils investigation report is provided for CONTRACTOR'S information only. CONTRACTOR represents it has conducted an independent investigation of the project site and the soil conditions of the site. CONTRACTOR is solely responsible to ascertain site conditions for the purposes of determining construction means and methods before commencing construction.**

#### **ARTICLE 35 PERMITS AND LICENSES**

A. All necessary permits and licenses shall be secured and paid for by CONTRACTOR unless otherwise provided in the Contract Documents.

B. All permits, licenses, and certificates shall be delivered to the Architect before demand is made for the certificate of final payment.

C. CONTRACTOR shall, and shall require subcontractors to, maintain appropriate contractor's licenses in effect as required by law throughout the entire Project.

D. Easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by OWNER unless otherwise specified.

E. Permits and charges for installation and inspection of utility services by serving utilities shall be secured and paid for by OWNER.

#### **ARTICLE 36 CUTTING AND PATCHING**

A. CONTRACTOR shall do all cutting, fitting, or patching of the Work as required to make its several component parts come together properly, and fit it to receive or be received by any work of other contractors indicated on, or reasonable implied by, the drawings and Specifications, and shall follow all directions given by the Architect.

B. Any cost caused by defective or ill-timed work shall be borne by CONTRACTOR.

C. CONTRACTOR shall not endanger any work by cutting, excavating, or otherwise altering work, and shall not cut or alter work of any other contractor except with the written consent of the Architect.

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

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

F. CONTRACTOR is aware that this Project may be split into several phases or scopes awarded to multiple other contractors. If the Project is split into phases or scopes, CONTRACTOR has made allowances for any delays or damages which may arise from coordination with contractors for other phases or scopes. CONTRACTOR shall provide access to contractors for other phases or scopes as necessary to prevent delays and damages to contractors working on other phases or scopes of construction.

G. If any delays should arise from another contractor on any phase or scope, CONTRACTOR'S sole remedy for damages, including delay damages and other impact costs, shall be against the contractor who caused such damage and not against OWNER.

### **ARTICLE 37 TESTS AND INSPECTIONS**

A. If the Contract Documents, OWNER'S instructions, laws, ordinances, or any public authority requires any Work to be specially tested or approved, CONTRACTOR shall give notice, in accordance with requirements of such authority, of CONTRACTOR'S readiness for observation or inspection. Such notice shall be given at least two working days prior to being tested or covered up. If inspection is by authority other than OWNER, CONTRACTOR shall inform OWNER'S Inspector of the date fixed for such inspection. Required certificates of inspection shall be secured by CONTRACTOR. Observations by OWNER shall be promptly made, and where practicable, at the source of supply. If any Work is covered up without approval or consent of OWNER, if required by OWNER, it must be uncovered for examination and satisfactorily reconstructed at CONTRACTOR'S expense, in compliance with the Contract Documents. The cost of inspection or testing of any materials which are not in compliance with the Contract Documents shall be borne by CONTRACTOR. If the inspection or testing was paid for by OWNER, it will be charged back to and paid by CONTRACTOR. Other costs for tests and inspection of materials shall be paid by OWNER, unless otherwise provided in the Contract Documents. Certificates of Inspection secured by the Contractor must be provided to the OWNER.

B. Where the inspection and testing will be conducted by an independent laboratory or agency, the materials or samples of materials to be tested shall be selected by the laboratory or agency, or OWNER'S representative, and not by CONTRACTOR.

C. CONTRACTOR shall notify OWNER in writing a sufficient time in advance of the manufacture of any materials to be supplied to CONTRACTOR under the Contract Documents, which materials must be tested according to the terms of the Contract Documents, in order that OWNER may arrange for testing at the source of supply. Materials shipped by CONTRACTOR from the source of supply without having satisfactorily passed testing and inspection, or prior to receipt of notice from OWNER that testing and inspection will not be required, shall not be incorporated into the Work without the prior approval of OWNER and subsequent testing and inspection.

D. Reexamination or retesting of questioned work may be ordered by OWNER, and if so ordered any work must be uncovered by CONTRACTOR. If the work is determined to be in accordance with the Contract Documents, OWNER shall bear the costs of reexamination or retesting and replacement. If the work is not in accordance with the Contract Documents, CONTRACTOR shall bear the costs.

### **ARTICLE 38 EXCAVATION DEEPER THAN FOUR FEET**

A. CONTRACTOR shall provide adequate sheeting, shoring, and bracing, or equivalent method, for the protection of life and limb in trenches and open excavation. Any such method used shall conform to applicable safety standards.

B. If the Contract Documents involve the excavation of any trench or trenches more than five feet in depth for a contract over \$25,000, in advance of excavation CONTRACTOR shall submit to OWNER, or to whomever OWNER designates, a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of any trench or trenches. If the 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 CONTRACTOR, and all costs of the plan shall be included in the contract price. In no case shall the plan be less effective than that required by the Construction Safety Orders. No excavation of any trench or trenches shall be commenced until the plan has been accepted by CAL-OSHA and a CAL-OSHA permit for the plan is delivered to OWNER.

C. If the Contract Documents involve digging trenches or excavations that extend deeper than four feet below the surface, the following shall apply:

1. Before the following conditions are disturbed, CONTRACTOR shall promptly notify OWNER in writing of any:

a. Material that CONTRACTOR believes may be hazardous waste, as defined in Health and Safety Code Section 25117, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.

b. Subsurface or latent physical conditions at the site different from those indicated.

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

2. OWNER shall promptly investigate the conditions, and if it finds that the conditions do so materially differ, or do involve hazardous waste, and cause a decrease or increase in CONTRACTOR'S cost or the time required for performance of any part of the Work, shall issue a change order under the procedures described in the Contract Documents.

3. In the event of a dispute between OWNER and CONTRACTOR concerning whether or not the conditions materially differ or involve hazardous waste, or cause a decrease or increase in CONTRACTOR'S cost or time required for performance of any part of the Work, CONTRACTOR shall not be excused from any scheduled completion date provided for by the Contract Documents, but shall proceed with all the work to be



performed. CONTRACTOR shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

### **ARTICLE 39 WORKERS**

A. At all times, CONTRACTOR shall enforce strict discipline and good order among its employees, shall not employ any unfit person or anyone not skilled in the work assigned, and shall require the same of all subcontractors of all tiers. It shall be the responsibility of CONTRACTOR to ensure subcontractor compliance with this Article.

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

C. The following rules will be observed at all times while working on the project:

1. Sleeved shirts and long pants will be worn at all times.
2. Hardhats will be worn at all times.
3. Appropriate footwear is to be worn at all times.
4. No swearing, loud or offensive language.
5. No horseplay or fighting.
6. No cat calls, whistles or other gestures that can be considered offensive.
7. No music of any kind, including personal listening devices such as tape, CD and/or MP3 Players.
8. No drinking of alcohol.
9. No drugs.
10. No reckless or unsafe operation of motorized vehicles.
11. No loitering.
12. No soliciting.
13. No smoking of any kind or use of tobacco products.
14. No using finished toilet rooms. Workers shall use chemical toilets only (unless authorized by OWNER).
15. No firearms or other weapons will be permitted on the site.
16. No warming fires or burning of debris.

17. Work hours are between the hours of 7:00 a.m. and 3:30 p.m., Monday through Friday, unless approved by the OWNER.

D. CONTRACTOR shall correct any violation immediately upon being notified of such violation. OWNER has zero tolerance for violations that create a danger or offensive condition in the workplace. CONTRACTOR'S employees that violate such rules may be required to leave school property at once. If OWNER, in its sole discretion, chooses to waive its right to eject a worker for a single violation, that waiver shall not be interpreted as a waiver for any other violation, whether by that employee or any other employee.

E. The Board of Trustees encourages vendors, contractors and sub-contractors doing business with the Kern High School District to utilize the E-Verify program. E-Verify is a free and voluntary internet based system operated by the Department of Homeland Security in partnership with the Social Security Administration that allows employers to electronically verify the employment eligibility of new hires and the validity of their Social Security numbers. ([www.dhs.gov/e-verify](http://www.dhs.gov/e-verify))

#### **ARTICLE 40 FINGERPRINTING WORKERS**

A. CONTRACTOR shall comply with the applicable requirements of Education Code Sections 45125.1 and 45125.2 with respect to fingerprinting CONTRACTOR'S employees. CONTRACTOR shall also ensure that each of its subcontractors on the Project complies with the applicable requirements of Sections 45125.1 and 45125.2. To this end, CONTRACTOR must complete and submit to OWNER the certification form included in the Contract Documents for itself and its subcontractors prior to commencing work on the Project. At CONTRACTOR'S expense, CONTRACTOR shall comply with any directive from OWNER specifying measures to ensure the safety of pupils, including but not limited to one or more measures described in Education Code section 45125.2(a).

B. Should CONTRACTOR or any subcontractor feel its employees will have limited or less contact with OWNER'S pupils, application shall be made to OWNER for a determination on that question. The determination by OWNER shall be final. In the event OWNER makes a determination of limited or less contact with pupils, CONTRACTOR shall comply with any directive by OWNER to ensure the safety of pupils, at CONTRACTOR'S expense.

C. Use of Education Code Section 45122.2(a)(1), (2), or (3) for compliance with these fingerprinting requirements is subject to prior OWNER approval. The determination by OWNER on the application of any of these sections shall be final.

D. In no event shall any employee of CONTRACTOR or its subcontractors come into contact with OWNER'S pupils before the certification is completed and approved by OWNER.

#### **ARTICLE 41 WAGE 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 obtained 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 the 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 any portion of 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.

G. At appropriate conspicuous points on the site of the Project, CONTRACTOR shall post, if not posted by OWNER, 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 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 of the Work performed by the employer's employees on the Project.

J. The payroll records required under this article shall be certified and shall be available for inspection at all reasonable hours at CONTRACTOR'S principal office on the following basis:

1. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request;

2. A certified copy of all 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;

3. 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 2 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.

4. The form of certification shall be as follows:

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 certify 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 event CONTRACTOR fails to comply within the 10-day period, as a penalty to OWNER 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. Payroll records furnished to agencies that are included in the Joint Enforcement Strike Force on the Underground Economy and other law enforcement agencies investigating violations of law shall be unredacted. 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. If this project is subject to prevailing wage monitoring and enforcement by the Department of Industrial Relations Division of Labor Standards Enforcement (DLSE) as indicated in the Notice to Contractors Calling for Bids, CONTRACTOR and all subcontractors shall be subject to the requirements of Subchapter 4.5 of Chapter 8 of Title 8 of the California Code of Regulations. Contractor and all subcontractors must furnish certified payroll records to the Department of Industrial Relations weekly using the eCPR system. To enroll or obtain additional information and assistance, go to DIR website at <https://www.dir.ca.gov/Public-Works/Certified-Payroll-Reporting.html>. CONTRACTOR shall comply with all requirements of the Labor Code and attendant regulations pertaining to prevailing wage monitoring and compliance as indicated in the Contract Documents, and/or as required by the DIR. CONTRACTOR shall permit OWNER, the DIR or their designee to interview CONTRACTOR'S employees concerning compliance with prevailing wage, apprenticeship, and related matters, whether or not during work hours, and shall require each subcontractor to provide OWNER, the DIR or their designee with such access to its employees.

#### **ARTICLE 42 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.

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 standard wage paid to apprentices under the regulations of the craft or trade at which the apprentice is employed, 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 the Work, 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 the Work, 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:

1. 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.

2. 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.

3. 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.

I. 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.

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

K. 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.

## ARTICLE 43 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 7:00 a.m. and/or after 3:30 p.m. shall be considered overtime for OWNER 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 \$25 to the Department of Industrial Relations 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 7:00 a.m. to 3:30 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 employees of OWNER or its representatives or consultants 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 Work complies with the approved plans and specifications and 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.

#### **ARTICLE 44 NONDISCRIMINATION**

In the performance of the terms of the Contract Documents, CONTRACTOR agrees that it will not engage in or permit any Subcontractor it may employ to engage in unlawful discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of such persons.

#### **ARTICLE 45 COST BREAKDOWN AND PERIODICAL ESTIMATES**

A. On forms approved by OWNER, CONTRACTOR shall furnish, within 10 days of request by OWNER, the following:

1. A Schedule of Values including a detailed estimate giving a complete breakdown of contract price for the Work, which shall include all subcontractor and supplier agreements showing dollar amounts of these agreements to justify the Schedule of Values. The Schedule of Values shall also contain, at a minimum, separate line items for Bonds, submittals, mobilization, and closeout documentation. Work shall be itemized specifically stating what separate tasks will be performed, and shall not be lumped together as one general line item, so as to facilitate evaluation of work complete on each pay application. Columns A, B, & C are to be filled out on Continuation Sheet provided in specifications when submitting the Schedule of Values. Once values for each item have been approved, the values shall not be charged without approval by OWNER, and will be used as the basis for subsequent payment applications.

2. A periodical itemized estimate of work done for the purpose of making partial payments.

3. A schedule of estimated monthly payments due CONTRACTOR.

4. A breakdown of all components of CONTRACTORS daily extended office overhead rate, including all cost components which are time related, and which represent costs that will be incurred as a direct result of time extensions. There shall be no allowance for overhead costs or profit on the extended daily field overhead cost component of a Change Order.

5. A "Schedule of Manpower" which shall include CONTRACTOR'S reasonable estimate of man-work-days for each activity on the Construction Schedule assigned to the particular bid package.

6. An "Hourly Rate Schedule" in addition to the "Schedule of Values," this shall consist of a list of all trades to be employed by the CONTRACTOR and the wage rates for each. Wage rates shall include the prevailing wage rate and all "burden" allowed by the Contract Documents.

B. The schedule of values, and estimated payment schedule, and the values employed in making up any of these schedules are subject to the written approval of OWNER and Architect, and will be used only for determining basis of partial payments and will not be considered as fixing



a basis for additions to or deductions from contract price unless OWNER in its sole discretion so elects.

#### **ARTICLE 46 PAYMENTS TO CONTRACTOR**

A. Unless otherwise specified in writing, each month within 30 days after receipt by OWNER of the updated monthly progress schedule and an undisputed and properly submitted progress payment request, OWNER shall pay to CONTRACTOR a sum equal to 95 percent of value of Work performed and materials delivered subject to or under the control of OWNER and unused up to the last day of the previous month (or less than 95 percent if a higher retention rate is being used for the contract; see Paragraph 20 of the Notice to Contractors Calling for Bids), less aggregate previous progress payments. In its sole discretion, OWNER may also deduct from these progress payments any amounts deemed due from CONTRACTOR. If payment of an undisputed and properly submitted progress payment request is not made within 30 days, then OWNER shall owe interest at the legal rate. Each progress payment request shall be reviewed by OWNER as soon as practicable for the purpose of determining that the progress payment request is a proper request. Any progress payment request determined not to be a proper request suitable for payment shall be returned to the contractor as soon as practicable, but not later than seven days, after receipt, along with a document stating the reasons why the request is not proper. The number of days available to OWNER to make a progress payment without owing interest shall be reduced by the number of days by which OWNER exceeds the seven-day return requirement.

B. CONTRACTOR's progress payment requests for a particular month shall be based on monthly estimates which shall be prepared by CONTRACTOR on a form approved by OWNER and filed before the fifth day of the following month. With the approved payment request form, Contractor shall submit a completed Application and Certification for Payment (see OWNER'S form). Submission of a completed and fully executed form, along with all other required documents and information, shall be a prerequisite to the CONTRACTOR'S right to payment. No other form is acceptable. Failure to use the specified form shall constitute a waiver and release of any claim for damages, additional compensation, or additional time. No projection of work to be completed in future months shall be allowed.

C. Before submitting a request for progress payment, CONTRACTOR shall obtain Architect's signature on the Application for Certification for Payment certifying that the work for which the payment is demanded has been performed in accordance with the terms of the Contract Documents and that the amount stated in the certificate is due under the terms of the Contract Documents. The certificate of the Architect shall not be conclusive upon OWNER, but advisory only.

D. If within seven days after written demand the Architect fails to deliver such certificate, CONTRACTOR may file its progress payment request with OWNER without the certificate, but the request shall be accompanied by a statement that demand was made for the certificate and was refused. OWNER will then either allow the payment request as presented or shall in writing state the reasons for refusing to make payment.

E. Work completed as estimated shall be an estimate only and no inaccuracy or error in an estimate shall operate to release CONTRACTOR or Surety from any damages arising from such work or from enforcing each and every provision of the Contract Documents, and OWNER shall have the right to subsequently correct any error made in any estimate for progress payment.

F. CONTRACTOR SHALL NOT BE ENTITLED TO HAVE ANY PROGRESS PAYMENT REQUESTS PROCESSED OR ANY PAYMENT FOR WORK PERFORMED SO LONG AS CONTRACTOR HAS FAILED TO COMPLY WITH ANY LAWFUL OR PROPER DIRECTION CONCERNING THE WHOLE OR ANY PORTION OF THE WORK GIVEN BY OWNER.

G. CONTRACTOR shall submit all of the following information or documents as part of an application for progress payment, otherwise the application will not be processed: (1) Certified payroll covering the period of the prior application for payment (if not previously submitted); (2) unconditional waivers and releases from all Subcontractors/suppliers for which payment was requested under the prior application for payment; (3) receipts or bills of sale for any items included in the application for payment; (4) CONTRACTOR's daily reports; (5) an updated progress schedule that complies with all requirements under the Contract Documents; and (6) an updated schedule of values showing the completion percentage of each line item. 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.

H. PAYMENT BY OWNER OF ANY PROGRESS PAYMENT REQUEST IS NOT AN INDICATION THAT OWNER HAS INSPECTED, APPROVED, OR ACCEPTED ANY PART OF THE WORK OR THE DOCUMENTS SUBMITTED TO THE OWNER, NOR SHALL PAYMENT CONSTITUTE A WAIVER IN ANY RESPECT OF ANY OWNER RIGHTS.

I. Release of retention is separate from progress payments. Retention must be held by the OWNER as required by Public Contract Code section 9203. The release of retention shall be made in accordance with Public Contract Code section 7107, including but not limited to payment within 60 days of completion (as "completion" is defined in that statute) and release of all retention except 150% of disputed amounts. For acceptance of the Project by OWNER, see Article 54, below.

J. Unless otherwise agreed in writing, on or before submittal of request for the final progress payment under the Contract Documents, CONTRACTOR shall complete all Work, including training, and submit to OWNER the following in addition to anything required by the Contract Documents (including but not limited to Paragraph G, above):

1. Information on CONTRACTOR'S results in attaining compliance with the OWNER'S three percent participation goal for Disabled Veterans Business Enterprises;
2. Submittal of accurate final as-built or record drawings, per Article 53 and the Division 01 specifications, and accurate final as-built schedule, per Article 50;
3. All of CONTRACTOR's daily reports on the project;
4. All submittals required of CONTRACTOR under the Contract Documents, including but not limited to manuals, manufacturer guarantees and warranties, keys, and DSA reports (for example, see Section 54.A);
5. A summary of all claims for compensation (money or time) under or arising out of the Contract Documents, stating whether the claims are settled or unsettled and the amounts of the claims, and further specifying the date(s) upon which any required protest and/or notice was given to OWNER;

6. A written release of all claims against OWNER arising by virtue of the Project, the Work, and the Contract Documents, except for those claims mentioned in the summary of claims (see previous subparagraph).

The final progress payment is contingent upon receipt of these documents.

K. Submission of the items required before or at the time of making request for final payment is a part of the Work of CONTRACTOR under the Contract Documents, and CONTRACTOR shall be conclusively presumed to be working on the preparation, collection and submission of the items until such time as they are properly submitted. For this reason, submission of these documents is a precondition to the right to request final payment, as the Work of CONTRACTOR will not be complete until the items are properly submitted. Failure to properly submit the items may also subject CONTRACTOR to assessment of liquidated damages for failure to timely complete the Work.

#### L. PAYMENT PROCEDURES

1. CONTRACTOR is to use the pay request Forms provided in the Contract Documents. No alternate form of pay request will be allowed or accepted.
2. No application for payment will be processed without the approved Schedule of Values required by the Contract Documents.
3. Change Orders, when issued, shall be described on Continuation Sheet in Column B with a value in Column C.
4. Any errors or deviations from the approved draft pay request requests will result in the return of the pay request to CONTRACTOR for correction, without further processing until the corrections have been made. Change Orders must be fully approved by OWNER before any billing applicable to the Change Order will be processed. **(Do not include Change Orders on pay request form if not yet approved by OWNER's governing body).**
5. Payments may be withheld as provided in the Contract Documents.
6. An executed Form 39 – Progress Payment Request - Supplemental Form, which is attached to the Contract Documents, shall accompany each progress pay request. No pay request will be processed without submission of a fully executed Form 39.
7. CONTRACTORS will be responsible to pay their own subcontractors, suppliers and vendors directly, and shall provide appropriate Waivers and Releases from them. OWNER may, with the written consent of CONTRACTOR, elect to pay one or more of CONTRACTOR'S subcontractors, suppliers, or vendors using funds due to CONTRACTOR with a check made payable to the subcontractor, supplier, or vendor, or with a check made jointly payable to CONTRACTOR and its subcontract, supplier, or vendor. OWNER is under no obligation to make such payments, and OWNER shall be compensated by CONTRACTOR for the expense to OWNER of making any such payments.
8. After all Work is Complete and all requirements for issuance of final progress payment and contract closeout have been met, the CONTRACTOR shall submit a

payment request for final progress payment. A completed and signed Conditional Waiver and Release Upon Final Payment and a Consent of Surety to Final Payment shall accompany the final payment request.

9. Upon receipt of final progress payment, CONTRACTOR shall sign and submit an Unconditional Waiver and Release upon Final Payment.

#### **ARTICLE 47 PAYMENTS BY CONTRACTOR**

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 of the cost of all materials, 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 fifth day following each payment to CONTRACTOR.

#### **ARTICLE 48 PAYMENTS WITHHELD**

A. In addition to any amount(s) which OWNER is authorized to retain under law or the "Contract Documents," OWNER may withhold sufficient amount(s) of any payment(s) otherwise due to CONTRACTOR (whether a progress payment or a release of retention), 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 the Work under the Contract Documents.
- 2. The cost of defective work not remedied, whether or not the subject of a Notice of Non-Compliance or Quality Control Alert.
- 3. Failure of CONTRACTOR to make proper payments to its subcontractors, suppliers or vendors for equipment, materials or labor.
- 4. Completion of the Work if there exists a reasonable doubt that the Work can be completed for the balance then unpaid.
- 5. Damage to another contractor caused by CONTRACTOR or any of its subcontractors, vendors or suppliers.
- 6. All costs and expenses associated with OWNER having to acquire alternate educational facilities if CONTRACTOR fails to complete the Project within the period of time required by the Contract Documents.

7. Required manpower of “look-ahead” schedules, or any other scheduling information required by the Contract Documents, not being up-to-date with the current payment request.
8. Overtime charges from OWNER’s consultants (including but not limited to the Project Inspectors, the Architect, and any Construction Services Administrator) that OWNER must pay as a result of actions of CONTRACTOR or those employed by CONTRACTOR, including subcontractors, 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, correction of Work, or completion of Work, required as a result of the fault or negligence of CONTRACTOR, or Subcontractors, vendors, or suppliers.
10. Failure to maintain a current record set of drawings. The drawings shall be updated to the date when the payment request is submitted.
11. Failure to submit daily reports for all days of work prior to and during the period for which payment is being requested.
12. Failure to submit items required to accompany payment requests at initial and final completion.
13. Failure to submit and keep current any construction schedule required by the Contract Documents.
14. Failure to compensate the Architect for substitution review within the required time period.
15. Failure to compensate OWNER for overtime charges for OWNER representatives and employees incurred as a result of services provided during the current payment period.
16. 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.
17. Failure to submit per diem wage rates for all trades pursuant to appropriate provisions of the General Conditions.
18. Penalties for violation of labor laws.
19. Cost of site clean-up.
20. Required payments to indemnify, hold harmless, or defend OWNER.
21. Any other claims by OWNER against CONTRACTOR pertaining to this or any other project for any other reason.
22. Any other Failure to submit extended overhead costs pursuant to provisions of the

General Conditions.

23. Failure of the CONTRACTOR to have the Escrow Agent certify the market value of securities held in escrow with each pay request.
24. Failure to compensate OWNER for overtime charges for OWNER'S representatives and employees incurred as a result of services provided.
25. Should OWNER'S Labor Compliance Program, if any, reasonably require information or documentation from CONTRACTOR, or one of the subcontractors to CONTRACTOR, and for so long as such information has not been provided, CONTRACTOR'S entire progress payment may be withheld or, if deemed appropriate, only that portion pertaining to any defaulting subcontractor may be withheld.
26. Compensation for unpaid extra services for the Architect caused by CONTRACTOR.
27. Compensation for unpaid extra services for the Project Inspector, 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.
28. Correction of a previous payment made in error.
29. Any liquidated damages, forfeiture of fees, or other damages assessed against CONTRACTOR by reason of failure to complete the Work on time or meet a milestone deadline.
30. Failure to correct Quality Control Alerts submitted by the State Inspector with the current pay request.
31. Failure to correct punch list items by phase or by individual completed buildings with the current payment request.
32. Failure to complete closeout items as required by the OWNER'S timeframe(s).
33. Any damages incurred, or that may be incurred, due to CONTRACTOR's breach of the Contract Documents, breach of the standard of care, or violation of law.

If CONTRACTOR believes that the OWNER has wrongfully withheld any amounts from a progress payment, or from a release of retention, then CONTRACTOR shall timely submit a Notice of Claim and a Claim to OWNER as required by the Contract Documents (including but not limited to General Conditions Articles 27, 55, and 56.)

B. OWNER may apply the withheld amount(s) to the payment of any claims or obligations at its discretion. In so doing, OWNER shall be deemed the agent of CONTRACTOR and Surety and any payment made by OWNER shall be considered to be a payment made under the Contract Documents by OWNER to CONTRACTOR, with the consent of Surety, and OWNER shall not be liable to CONTRACTOR or Surety for the payments made in good faith. The payments may be made without prior judicial determination of the claim or obligations, and without any notice to

CONTRACTOR or Surety. OWNER shall submit to CONTRACTOR an accounting of the funds disbursed on behalf of CONTRACTOR.

#### **ARTICLE 49 SUBSTITUTION OF SECURITIES**

A. Pursuant to the provisions of Public Contract Code Section 22300, CONTRACTOR may substitute certain securities for any funds withheld by OWNER to ensure its performance under the Contract Documents. At the request and expense of CONTRACTOR, securities equivalent to any amount withheld shall be deposited, at the discretion of OWNER, with either 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 Project, the securities shall be returned to CONTRACTOR.

B. Securities eligible for investment under this article shall include those listed in Government Code Section 16430, 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 OWNER.

C. CONTRACTOR shall be the beneficial owner of any securities substituted for funds withheld and shall receive any interest.

D. All expenses relating to the substitution of securities under Public Contract Code Section 22300 and this article, including but not limited to OWNER'S overhead and administrative expenses and expenses of escrow agent, shall be CONTRACTOR'S responsibility.

E. Should the value of the substituted security at any time fall below the amount for which it was substituted, or any other amount which OWNER determines to withhold, CONTRACTOR shall immediately and at CONTRACTOR'S expense deposit additional security qualifying under Public Contract Code Section 22300 until the total security deposited is no less than equivalent to the amount subject to withholding under the Contract Documents. The Escrow Agent shall certify the market value of securities held in escrow. Such certification shall be made each month and submitted with the Contractor's Payment Application or separately if no pay application is submitted.

F. In the alternative, under Public Contract Code Section 22300, at its own expense, CONTRACTOR may request OWNER to make payment of earned retention funds directly to the escrow agent.

G. At the request of any subcontractor performing at least five percent of the contractor's total bid, a contractor who uses this process is required to offer the same provisions to the subcontractor.

H. All escrow agreements shall be in conformance with the Escrow Agreement for Security Deposits in Lieu of Retention set forth in Public Contract Code Section 22300, and shall be in the form of agreement provided by OWNER unless otherwise agreed in advance.

I. A request by CONTRACTOR to use any form of this process shall be permitted at any time, but shall be effective only as to retention withheld after the date of the request. OWNER may elect to, but is under no obligation to, pay out retention funds already withheld, either into an account or to CONTRACTOR.

#### **ARTICLE 50 PROGRESS SCHEDULE**

A. The construction schedule is an integral part of the Work. Failure by CONTRACTOR to comply with these provisions or the scheduling provisions in the Division 01 specifications (if any) constitutes a breach of contract by CONTRACTOR that may cause delay to the Work for which CONTRACTOR shall be responsible. It is the intent of the Contract Documents that the Work of CONTRACTOR be performed in compliance with the milestones and deadlines set forth in the Contract Documents. Failure of CONTRACTOR to meet any of the milestones or deadlines in the Contract Documents may result in the assessment of liquidated damages.

B. Immediately after being awarded the Construction Agreement, CONTRACTOR shall prepare a detailed progress schedule, reflecting all incremental activities required in the Work. The schedule shall be consistent with, and reflect all milestones and deadlines indicated in or required by the Contract Documents. The detailed progress schedule shall reflect Construction Completion of all Work, including activity line items for all procurements and submittals, in conformity to the durations shown for such work, and shall reflect Construction Completion by the date shown for such work, all as reflected in the Contract Documents; and it shall include a reasonable amount of float. CONTRACTOR shall submit the detailed progress schedule (both hard copy and electronic version) to OWNER for review within 30 days of the Notice to Proceed or the start of construction, whichever is earlier. The detailed progress schedule shall be updated monthly by CONTRACTOR, or at more frequent intervals if specified elsewhere in the Contract Documents or requested by the OWNER. If a monthly update (both hard copy and electronic version) is not submitted, the OWNER may withhold progress payments until the update is submitted (see Article 48.A.13.)

C. Additional Scheduling Requirements:

1. The construction schedule is an integral part of the Work. Failure by CONTRACTOR to comply with these provisions constitutes failure by CONTRACTOR to satisfactorily complete any and all portions of the Work performed during the time period(s) of noncompliance.

2. The OWNER will set the time and location for any preconstruction meeting. Attendance by CONTRACTOR'S management personnel responsible for the management, administration, and execution of the project is mandatory for any meeting convened. Failure by CONTRACTOR to have CONTRACTOR'S responsible project personnel attend any preconstruction meeting will be grounds for default by CONTRACTOR pursuant to the Contract Documents. No separate payment will be made for CONTRACTOR'S attendance at the meeting. The Notice to Proceed will only be issued on or after completion of any preconstruction meeting.

3. It is expressly understood and agreed that the time of beginning, the rate of progress, and the time of completion of the Work are of the essence of the Contract Documents. The Work shall be executed with such progress as required to prevent any delay to any other contractors working at the site, the Project milestones, and Project completion as required by the Contract Documents. Progress is measured on an individual activity basis. For any contractor delay caused to an individual activity, liquidated damages are assessable. Should CONTRACTOR fail to comply with these provisions, progress payments may be stopped until OWNER determines to its satisfaction that CONTRACTOR is in compliance with these provisions.

4. Float or slack time within the schedule is available without charge or compensation



to whatever party or contingency first exhausts it. Float or slack time is not for the exclusive use or benefit of OWNER or CONTRACTOR but is an expiring resource available to all parties as needed to meet contract milestones and the project completion date.

5. The allocated cost to perform each work activity shall be noted for each activity in the detailed project schedule. The sum of the costs assigned to all activities shall equal the contract value specified in the Construction Agreement. No activity costs shall be assigned to submittal reviews. The accepted cost-loaded detailed project schedule shall constitute the schedule of values from which CONTRACTOR will thereafter formulate monthly progress payment requests.

6. Once each week, on a date established by OWNER, CONTRACTOR shall submit a progress schedule listing the activities completed and in progress for the previous week and the activities scheduled for the succeeding two weeks. The activity designations shall be consistent with the activity designations in the current record schedule. A bar chart shall be used to display the information in pictorial form.

7. Whenever it becomes apparent from the current monthly update, progress review meeting or the current record schedule that phasing, milestone, constraint, or project completion dates will not be met, CONTRACTOR shall execute some or all of the following remedial actions:

- a. Increase construction manpower in such quantities and crafts as necessary to eliminate the backlog of work.
- b. Increase the number of working hours per shift, shifts per working day, working days per week, the amount of construction equipment, or any combination of the foregoing to eliminate the backlog of work.
- c. Reschedule the work in conformance with the specification requirements.
- d. For excusable delays, request a time extension in accordance with the requirements of these provisions.

8. Prior to or concurrent with implementation of any of the above actions, and in compliance with the Contract Documents, CONTRACTOR shall notify OWNER in writing of the causes or reasons for any delay necessitating remedial action. Any resulting record schedule revisions shall be incorporated by CONTRACTOR into the monthly update schedule before the next update and described in the monthly narrative.

9. Under no circumstances will the addition of equipment or construction forces, increasing the working hours or any other method, manner, or procedure to return to the contractually required Completion date be considered justification for a change order or be treated as acceleration where the need for a remedial action has been caused by CONTRACTOR and/or its subcontractors or suppliers, at any tier. CONTRACTOR will be responsible for all costs to OWNER and otherwise to return to the contractually required Completion date.

10. OWNER may elect to withhold progress payments until CONTRACTOR'S progress indicates the milestone date(s) and/or Project Completion date will be met.

11. Time extensions will be granted only to the extent that equitable time adjustments for the activity or activities extend the Project Completion date. For any time extension request, CONTRACTOR must comply with all procedures in the Contract Documents, including the notice of claim and claim procedures in these General Conditions.

12. Since float time within the record schedule and updates is jointly owned, it is acknowledged and agreed that any OWNER-caused delays to the Project may be offset by OWNER-caused time savings, including but not limited to critical path submittals returned in less time than allowed in the Contract Documents, approval of substitution requests which result in a savings of time along the critical path for CONTRACTOR, etc. In the event of OWNER-caused delays, CONTRACTOR shall not be entitled to receive an extension of time or damages of any kind, until all OWNER-caused time savings are exceeded and the Project Completion date is also exceeded.

## **ARTICLE 51 EXTENSION OF TIME—LIQUIDATED DAMAGES**

A. The parties understand and agree that the goodwill, educational process, and other business of OWNER will be damaged, and the work of other contractors will be impacted, if the CONTRACTOR'S Work or the Project does not reach Completion according to milestones set forth in the schedule and within the time limits and durations required. The parties have further agreed that the exact amount of damages for failure to complete the Work within the time specified is, in some cases, extremely difficult, impractical, or impossible to determine. As to those damages that are difficult, impractical, or impossible to determine, CONTRACTOR shall be assessed the sum set forth in the Contract Documents per day as liquidated damages for each and every calendar day beyond the scheduled milestones, durations, Construction Completion dates, or Project Completion date until the Work required under the Contract Documents is complete.

B. In addition, CONTRACTOR may be assessed such sum as liquidated damages for each and every calendar day:

1. Beyond any scheduled milestone not met by CONTRACTOR until such milestone is met;
2. Beyond any scheduled incremental activity completion dates, until such activity is complete;
3. Beyond the completion date set for any phase of construction if the Project is conducted in phases; and
4. Beyond any due dates for submission of, or milestones or incremental activity completion dates contained in, any recovery schedule required of CONTRACTOR.

C. CONTRACTOR will pay to OWNER or OWNER may retain said damages from amounts otherwise payable to CONTRACTOR. For purposes of this article, the Work shall be considered "complete" in accordance with the provisions of the article on "COMPLETION," except that the work may be considered complete without formal acceptance by the OWNER'S governing board or other governing body so long as the governing board, at its next regularly scheduled meeting, accepts the work. Work shall be considered to have met a scheduled milestone when OWNER indicates work is completed in writing.

D. Providing CONTRACTOR has protested and/or given notice of delays on the Project as required by these Contract Documents, CONTRACTOR shall not be charged for liquidated damages as set forth above because of any delays in completion of work which are not the fault or negligence of CONTRACTOR, including but not restricted to acts of God. CONTRACTOR shall provide documentation and justification to substantiate the delay and its relation to the Project's critical path. OWNER shall ascertain the facts and extent of delay and grant extension of time for completing work when, in its judgment, the facts justify an extension. OWNER'S findings of fact shall be final and conclusive on the parties. Any dispute pertaining to a request for time or assessment of liquidated damages shall be resolved pursuant to the provisions in the Contract Documents on notices of claims and claims.

E. Within 5 days of the beginning of any delay (unless OWNER grants in writing a further period of time to file notice prior to the date of final completion of the Project), CONTRACTOR shall notify OWNER in writing of the causes for the delay pursuant to Section 27.M, above. Contractor shall use the form of "Notice of Claim" included in the Contract Documents. No other form of notice is acceptable. Failure to use the specified form of notice shall constitute a **waiver** and release of any claim for damages, additional compensation, or time; CONTRACTOR will not have satisfied a condition precedent or exhausted administrative remedies. Failure to give the required notice in writing within the time provided shall be interpreted as a failure by CONTRACTOR to properly administer the Contract Documents, Project, and Work, and shall constitute a **waiver** by CONTRACTOR of any and all claims of any kind and nature, without limitation, arising from the subject delay; CONTRACTOR will not have satisfied a condition precedent or exhausted administrative remedies. In addition to this notice, in any instance where CONTRACTOR claims delay was caused by OWNER, the Architect or Architect's consultants, Inspector of Record, Department of State Architect, a Construction Services Administrator, another contractor on the Project, or anyone claimed to be an agent of them, and as a precondition to any right to claim additional time, prior to making any request for time, CONTRACTOR shall have satisfied the obligation of the Contract Documents to protest the delay.

F. Extensions of time shall be based solely upon the effect of delays to the Work as a whole and will not be granted unless CONTRACTOR can demonstrate through analysis of the current updated schedule that the delay was caused by one of the causes for which an extension is authorized. A time extension will not be granted unless CONTRACTOR submits a Time Impact Analysis which utilizes networking techniques (fragments) and submits all schedule printouts reflecting the baseline schedule, most recent schedule, and an "as-built" schedule reflecting the alleged delay impacts, submitted in both hardcopy and electronic format, together with a detailed written analysis of the facts and impacts thereof which are alleged to have caused the delay. Such written analysis shall include a detailed description of all facts supporting, if any, an allegation that the alleged delay was both caused by OWNER and either unanticipated and/or unreasonable, and a written analysis of the facts which are alleged to have caused the delay. Time extensions will not be allowed for delays to parts of the work not on the critical path of the currently approved monthly updated construction schedule. Time extensions will not be granted until all available float, slack, or contingency time on the Project is used and the end date of the Work is moved beyond the current adjusted contract completion deadline.

G. CONTRACTOR'S sole remedy for delay or extensions of time in all cases except those due to unanticipated or unreasonable delay caused by OWNER shall be an extension of the contract time at no cost to OWNER. Additional scheduling requirements in cases of delay or requests for time may be included in supplementary conditions.

H. CONTRACTOR agrees that there is significant likelihood of delays in the following areas,

that CONTRACTOR reasonably anticipates such delays as being a part of performing the Work under the Contract Documents, and that such delays are reasonable under the circumstances. CONTRACTOR agrees that the only remedy in the event of any or all of such delays will be an extension of time without monetary compensation. The anticipated project delays include, but are not limited to, the following:

- Utilities: Gas, Water, Power, Sewer, Phone
- Division of State Architect (DSA) Approvals
- Deferred Approvals
- City and County Approvals and Inspections

## **ARTICLE 52 OCCUPANCY**

OWNER reserves the right to occupy buildings, Work, and/or the site, or any portions thereof, at any time before Completion, and occupancy shall not constitute final acceptance of any part of the Work covered by the Contract Documents, nor shall such occupancy extend the date specified for Completion of the Work. Beneficial use and occupancy of any portion of the Project does not commence any warranty period or entitle CONTRACTOR to any additional compensation due to such occupancy, or affect in any way or amount CONTRACTOR'S obligation to pay liquidated damages for failure to complete the Work on time.

## **ARTICLE 53 CONTRACT CLOSEOUT**

A. Utility Connections: The building and/or buildings shall be connected to water, gas, sewer, and electric services, complete and ready for use. Service connections shall be made and existing services reconnected.

B. Record Drawings:

1. CONTRACTOR shall keep the following:
  - a. One complete set of blue line prints of all drawings which form a part of the Project in good order and available on the job site. They shall be used only for the purpose intended. Drawings shall be kept up-to-date as the Work progresses and shall be available at all times for inspection.
  - b. One set of annotated Specifications reflecting any and all changes to the original documents from change orders, substitutions, or any other deviations from the original specifications.
2. The intent of this procedure is to obtain an exact "as built" record of the work upon completion of the Project. The following information shall be carefully and correctly drawn on the prints and all items shall be accurately located and dimensioned from finished surfaces of building walls on all record drawings:
  - a. Any work not installed as indicated on drawings.
  - b. The exact locations and elevations of all covered utilities, including valves, cleanouts, etc.

3. CONTRACTOR shall certify to OWNER the accuracy of the record drawings and annotated Specifications and is liable and responsible for inaccuracies in as-built and/or record drawings and the annotated Specifications, even if they do not become evident until a future date.

4. Upon completion of the Work and correction of all punch list items and as a condition precedent to approval of final payment, CONTRACTOR shall obtain the Inspector of Record's approval and signature on the marked up set of plans and annotated specifications and submit the marked up set to ARCHITECT for its compilation of the marked up sets of all contractors on the Project. ARCHITECT shall create the marked up record set of prints and annotated specifications in AUTOCad format.

5. CONTRACTOR shall deliver to the Architect three complete sets of operating manuals, repair parts lists, and service instructions for all electrical and mechanical equipment, together with equipment warranties.

C. Maintenance Manuals: At least 30 days prior to final inspection, three copies of complete operational and maintenance manuals shall be submitted for review. All installation, operating, and maintenance information and drawings shall be bound in 8-1/2 x 11" binders, indexed with tabs, and include tables of contents. Each manual shall also contain a list of subcontractors, with their addresses and the names of persons to contact in case of emergencies. Identifying labels shall provide names of manufacturers, their addresses, ratings, and capacities of equipment and machinery.

D. Inspection Requirements:

1. Before calling for final inspection, CONTRACTOR shall determine that the following work has been performed:

- a. General construction has been completed;
- b. Mechanical and electrical work complete, fixtures in place, connected and ready for tryout and test;
- c. Electrical circuits scheduled in panels and disconnect switches labeled;
- d. Painting and special finishes complete;
- e. Doors complete with hardware, cleaned of protective film, in good working order without sticking or binding;
- f. Tops and bottoms of doors stained/painted and sealed;
- g. Floors waxed and polished as specified;
- h. Broken glass replaced and glass cleaned;
- i. Grounds cleared of CONTRACTOR'S equipment, raked clean of debris, and trash removed from site;

- j. Work cleaned, free of stains, scratches, and other foreign matter, replacement of damaged and broken material;
- k. Finished and decorative work shall have marks, dirt, and superfluous labels removed;
- l. All flatwork shall have all stains removed including but not limited to oil, gas, rust, paint, etc.

2. Final inspection will be made by OWNER upon written notification from CONTRACTOR that the Work has been completed. CONTRACTOR must prearrange a final inspection with OWNER and its representatives, which may include the Architect, the Project Inspector, any of OWNER's maintenance and operations personnel, and any other consultant (such as a Construction Services Administrator or Construction Services Administrator). There should be a minimum of seven days' notice to OWNER before the final inspection is arranged. CONTRACTOR shall receive from OWNER a list (punch list) of items found unacceptable and shall promptly correct them. Upon written certification from CONTRACTOR that all items have been corrected, OWNER will reinspect for Completion of the Contract. Failure of CONTRACTOR to complete punch list items will necessitate further reinspection by the OWNER, and the cost of such reinspection will be deducted from the amounts owed to CONTRACTOR.

3. Before the final inspection, CONTRACTOR shall deliver keys (labeled) to OWNER. Master keys shall be accounted for in writing.

4. Before the final inspection, CONTRACTOR shall furnish a letter to OWNER stating that a responsible representative of OWNER (give name and position) has been instructed in working characteristics of mechanical and electrical equipment.

5. Within ten (10) days after the inspection that confirms that all work, including the punch list, is complete, CONTRACTOR shall provide proof that it submitted the DSA 6 form to the DSA Dropbox.

E. Guarantee and Warranty: For one year from the date of full and final completion of the Work, CONTRACTOR guarantees and warrants that the Work has been performed in accordance with, and complies with, the Contract Documents. Pursuant to this guarantee and warranty, or any other applicable special warranty or guarantee required by the Contract Documents or provided by CONTRACTOR, if OWNER learns that any of the Work does not comply with the Contract Documents, the CONTRACTOR shall correct it after receipt of OWNER's written notice to do so, unless the OWNER has previously waived in writing such right to demand correction. CONTRACTOR shall correct the Work promptly, and passage of the applicable warranty period shall not release CONTRACTOR from its obligation to correct the Work if OWNER provided the written notice within the applicable warranty period. CONTRACTOR's obligation to correct the warranty item continues until the correction is made. After the correction is made to OWNER's satisfaction, a new warranty period of the same length as the original warranty period shall run on the corrected work. The obligations under this paragraph shall survive acceptance of the Work under the Contract and termination of the Contract.

Nothing contained in this section shall be construed to establish a shorter period of limitation with respect to obligations which the CONTRACTOR might have under the Contract Documents or rights that OWNER may have under the law, including but not limited to rights as to patent and

latent deficiencies in the Work. Establishment of the time period of one (1) year relates only to the specific guarantee and warranty obligation of the CONTRACTOR to correct the Work, and has, for example, no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, or 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 CONTRACTOR's failure to comply with these conditions within a reasonable period of time as determined by OWNER, which shall be at least two days after being notified in writing by OWNER of the necessary repair or replacement, OWNER may proceed to have the defects repaired or replaced at CONTRACTOR's expense, for which CONTRACTOR will pay the costs and charges upon demand or OWNER may withhold such costs and charges pursuant to Article 48.

F. Manufacturer Warranties: CONTRACTOR shall deliver 10 days prior to final inspection, original manufacturer warranties for all materials, equipment and/or supplies purchased and/or installed under the Contract Documents.

G. Equipment Training: Prior to final inspection, CONTRACTOR is responsible for providing the appropriate training for a minimum of two personnel of OWNER for each trade for the newly installed mechanical and electrical equipment required under the Contract Documents.

H. Systems Training: Prior to final inspection, CONTRACTOR is responsible for providing the appropriate training for a minimum of two personnel of OWNER for each system (for example, the HVAC systems overall and in each building or zone, the security system, the lighting systems, and any other system that requires training to operate for the newly constructed facilities).

## **ARTICLE 54 COMPLETION**

A. Acceptance of the Project: OWNER's governing board may accept the Project when all of the following conditions have been met:

1. The entire Work, including minor corrective items and all obligations of CONTRACTOR under the Contract Documents (including but not limited to the requirements listed in Articles 46 and 54), is fully completed to the satisfaction of OWNER; and

2. CONTRACTOR's final DSA report has been filed with the State, as required by Title 24 Code of California Regulations Section 4-336(c)(1).

B. Notice of Completion: Pursuant to Civil Code section 9000 et seq., OWNER may elect to record a Notice of Completion within 15 days after completion (as "completion" is defined in Civil Code Section 9200). Timely recordation of a valid Notice of Completion will shorten the time for a third party to give a stop payment notice, as described in those statutes.

## **ARTICLE 55 CLAIMS FOR DAMAGES**

A. If CONTRACTOR claims compensation for any damage allegedly sustained by reason of any acts or omissions of OWNER, Architect, Inspector of Record, or their agents (including but not limited to costs caused by extra work, costs caused by delay, or a claim of wrongful withholding by OWNER), or claims any time extension based on such acts or omissions,

CONTRACTOR shall submit to the Architect and OWNER a written claim of the damage sustained and potential for damage yet to be sustained. Such written claim shall be submitted on or before the 15th day after the Notice of Claim was submitted to OWNER pursuant to Section 27.M, above or else **waived**; Contractor will not have satisfied a condition precedent or exhausted administrative remedies. The claim must be certified, and must include a detailed and itemized statement indicating the factual basis in support of its claim and the amount of damage. **IF CONTRACTOR FAILS TO COMPLY WITH ANY OF THE PROVISIONS OF THESE GENERAL CONDITIONS, INCLUDING BUT NOT LIMITED TO ARTICLES 27, 55, and 56, CONCERNING THE SUBMISSION OF CLAIMS, ITS CLAIM FOR COMPENSATION FOR AN ISSUE (WHETHER ADDITIONAL MONEY OR TIME) SHALL BE WAIVED, FORFEITED, AND INVALIDATED, AND IT SHALL NOT BE ENTITLED TO TIME EXTENSIONS OR PAYMENT ON ACCOUNT OF SUCH ISSUE.**

B. 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.

C. 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 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.

D. 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.

E. OWNER shall, at CONTRACTOR's cost, timely notify CONTRACTOR of OWNER's receipt of any third party claims relating to the Contract pursuant to Public Contract Code section 9201.

F. In addition, the Contractor shall include a certification with each and every Claim at the time of submission, as follows:

I, \_\_\_\_\_ [*name of declarant*], declare the following:

\_\_\_\_\_ [*Contractor company name*] has contracted with \_\_\_\_\_ [*public entity name*] for the \_\_\_\_\_ Contract ("Contract").

\_\_\_\_\_ [*Contractor company name*] authorized me to prepare the attached Claim for money and/or time extension for \_\_\_\_\_ [*public entity name*] regarding this Contract (such Claim being dated \_\_\_\_\_, 20\_\_, and entitled \_\_\_\_\_, and requesting \$\_\_\_\_\_ and/or \_\_\_ additional days), and I prepared the attached Claim. I am the most knowledgeable person at \_\_\_\_\_ [*Contractor company name*] regarding this Claim.

The attached Claim complies with all laws applicable to submission of a Claim, including but not limited to California Penal Code section 72, Government Code sections 12650 et seq. (False Claims Act), and Business



and Professions Code sections 17200 et seq. (Unfair Business Practices Act). I am aware that submission or certification of false claims, or other claims that violate law or the Contract, may lead to fines, imprisonment, and/or other serious legal consequences for myself or \_\_\_\_\_ [*Contractor company name*].

The attached Claim does not breach the Contract, is not a false claim, does not violate any applicable law, satisfies all provisions of the Contract applicable to submission of the Claim, only contains truthful and accurate supporting data, and only requests money and/or time extensions that accurately reflect the adjustments to money and time for which I believe that \_\_\_\_\_ [*public entity name*] is responsible under its Contract with \_\_\_\_\_ [*Contractor company name*].

While preparing this declaration and Claim I consulted with others (including attorneys, consultants, or others who work for \_\_\_\_\_ [*Contractor company name*]) when necessary to ensure that the statements were true and correct.

Contractor understands and agrees that any Claim submitted without this certification does not meet the terms of the Contract Documents; that Owner, or Owner's representatives, may reject the Claim on that basis; and that unless Contractor properly and timely files the Claim with the certification, Contractor cannot further pursue the Claim in any forum and all rights to additional money or time for the issues covered by the Claim are waived due to a condition precedent not having been satisfied.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, California.

\_\_\_\_\_  
\_\_\_\_\_ [*signature*]  
\_\_\_\_\_ [*name of declarant*]

Contractor's failure to timely submit a certification will constitute a complete waiver of Contractor's rights to (a) recover money or time on the issues for which a Claim was required, (b) submit a Government Code Claim for the money or time, and (c) initiate any action, proceeding or litigation for the money or time. Contractor will not have satisfied a condition precedent or exhausted administrative remedies.

## **ARTICLE 56 RESOLUTION OF CONSTRUCTION CLAIMS**

A. All claims by CONTRACTOR shall be submitted to the OWNER, Architect, and any construction consultant. The OWNER shall make decisions on all claims and on all other matters relating to the execution and progress of the work.

B. All claims by CONTRACTOR shall be subject to the claim resolution procedures in Public Contract Code section 9204 (for contracts entered on or after January 1, 2017). All claims by CONTRACTOR of \$375,000 or less shall also be subject to the settlement and arbitration provisions in Public Contract Code section 20104, et seq., except to the extent that they are in conflict with the procedures in Section 9204. Only claims as to which timely notice was given,

which were timely submitted, which complied with all requirements of this article and law, and which were identified by CONTRACTOR and listed as “unresolved” in connection with CONTRACTOR’S request for final payment, may be pursued. All other CONTRACTOR claims are deemed **waived**.

C. For purposes of the Contract Documents, “claim” means a separate demand for a time extension, or for payment of money or damages arising from work done by or on behalf of CONTRACTOR pursuant to the Contract Documents, and payment of which is not otherwise expressly provided for, or the claimant is not otherwise entitled to, or claims as to the amount of a payment which is disputed by OWNER. For this Project, “claim” shall also include any dispute between OWNER and CONTRACTOR, whether concerning time, damages, compensation, alleged wrongful withholding by the OWNER, or any other matters. The claim shall be in writing, shall include the documents necessary to substantiate the claim, shall be filed on or before the date of final payment, and shall be subject to all time limits and notice requirements for filing claims under the Contract Documents. If a claim Form is specified in the Contract Documents, use of said form for claims filing is mandatory, and said Form, together with any required attachments, is the only writing that will constitute a claim.

D. The procedures for handling all claims pursuant to Public Contract Code section 9204 are summarized as follows (see Section 9204 for all details), with addition of other reasonable procedures:

1. Upon receipt of a claim, the OWNER shall conduct a reasonable review and within 45 days shall provide a written statement to the CONTRACTOR identifying what portion of the claim is disputed and what portion is undisputed. This time period may be extended by mutual agreement. The CONTRACTOR shall furnish reasonable documentation to support the claim. Any payment due on the undisputed portion of the claim shall be made within 60 days of the written statement; if the payment is late, interest of 7% per annum shall accrue.
2. If the CONTRACTOR disputes the written response, or if the OWNER fails to timely issue a written statement, the CONTRACTOR may demand in writing an informal conference to meet and confer within 15 days of the written response or, if the OWNER fails to timely issue a written response, within 15 days of deadline for the written response. Upon receipt of a demand, the OWNER shall schedule a conference within 30 days.
3. If the claim or any portion of it remains in dispute after the conference, within 10 days after the conclusion of the conference the OWNER shall provide a written statement identifying the portion that remains in dispute and the portion that is undisputed. Any payment due on the undisputed portion of the claim shall be made within 60 days of the written statement; if the payment is late, interest of 7% per annum shall accrue.
4. Any disputed portion identified in the written statement shall be submitted to mediation, with the costs to be shared equally. The parties shall agree to a mediator within 10 days of the written statement. This mediation shall excuse the need for mediation under Section 20104.4 after litigation commences.
5. If the mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside Section 9204.

E. Additional procedures for handling claims of \$375,000 or less pursuant to Public Contract Code sections 20104 et seq. are as follows:

1. For claims less than \$50,000:

a. OWNER shall respond to the claim in writing within 45 days of receipt of the claim or may request in writing within 30 days additional documentation which, if required, shall be provided. Additional information shall be provided upon mutual agreement of OWNER and CONTRACTOR.

b. OWNER'S written response to the claim shall be submitted within 15 days after receipt of the further documentation or within a time period equivalent to that taken by CONTRACTOR to provide the additional documentation, whichever is greater.

2. For claims over \$50,000 and less than or equal to \$375,000:

a. OWNER shall respond to the claim in writing within 60 days of receipt of the claim or may request in writing within 30 days additional documentation which, if required, shall be provided. Additional information shall be provided upon mutual agreement of OWNER and CONTRACTOR.

b. OWNER'S written response to the claim shall be submitted to CONTRACTOR within 30 days after receipt of further documentation or within a period of time no greater than that taken by CONTRACTOR in producing the additional documentation, whichever is greater.

3. If CONTRACTOR disputes OWNER'S written response or OWNER fails to respond within a timely fashion, within 15 days after the response or failure to respond CONTRACTOR may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. The informal conference shall be scheduled within 30 days.

F. If the above contractual claim, or any portion of the above contractual claim, remains in dispute after exhausting the above procedures, CONTRACTOR must present a Government Code claim under Government Code sections 900 et seq. The Government Code claim is required in addition to the above contractual claim procedures. For those purposes, the running of the period of time within which a Government Code claim must be filed shall be tolled from the time CONTRACTOR submits its written contractual claim until the time that the contractual claim is denied as a result of the above contractual procedures.

G. After compliance with these provisions, should any legal action be pursued, the provisions relating to mediation and arbitration contained in Public Contract Code Section 20104.4 shall be followed. By mutual agreement and prior to resort to the courts the parties may refer the claim to mediation before a competent mediator knowledgeable in the area of public works contracting.

H. In the event a dispute arises between the parties during the course of the Project, the parties shall attempt to resolve the dispute using the procedures set forth in this article. Pending resolution of the dispute, CONTRACTOR shall diligently continue the Work on the Project to completion. CONTRACTOR agrees it will neither rescind the Contract Documents nor stop the

progress of the Work, and CONTRACTOR'S sole remedy shall be the procedures set forth in this article.

## **ARTICLE 57 PERFORMANCE/PAYMENT BOND**

A. Unless otherwise specified in any Special Conditions, CONTRACTOR shall furnish a Performance Bond, and for any contract of \$25,000 or more, a Payment Bond, each in an amount equal to 100 percent of the price stated in the Contract Documents. All bonds shall be provided by a corporate surety admitted in California. Personal sureties and unregistered sureties are unacceptable. The Performance Bond shall remain in full force and effect through the guarantee period as specified in the Contract Documents and through such extended period as permissible to cover latent conditions.

B. All surety companies with a minimum "A minus, VIII" rating (A minus V" when the price stated in the Contract Documents is less than \$500,000) as rated by the current edition of Best's Key Rating Guide, published by A.M. Best Company, Oldwick, New Jersey, 08858, and admitted in California shall be presumed to be satisfactory to OWNER for the issuance of bonds. In the alternative, any admitted surety company which satisfies the requirements set forth in California Code of Civil Procedure Section 995.660 shall be accepted and approved for the issuance of bonds.

C. Performance and payment bonds must be originals, including seal, using the format provided in the contract documents.

## **ARTICLE 58 INSURANCE REQUIREMENTS**

A. CONTRACTOR shall provide the following insurance coverages, which shall remain in full force and effect during the Project:

1. Workers' Compensation;
2. Comprehensive General Liability, including excess and umbrella coverage;
3. Comprehensive Auto Liability;
4. Asbestos Abatement;
5. Course of Construction/Builder's Risk.
6. Contractors Pollution Liability coverage.

B. All insurance companies must meet the following criteria:

1. California admitted, as confirmed by the California Department of Insurance, or listed in the California Department of Insurance's List of Approved Surplus Line Insurers ("LASLI list");
2. 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
3. U.S. Treasury listed, if required for Federal projects.

C. All of CONTRACTOR'S insurance policies shall name OWNER, OWNER'S governing board or other governing body, OWNER'S consultants (including the Architect, the Architect's consultants, and any Construction Services Administrator), and their officers, agents and employees as additional insureds with regard to damages and defense of claims arising from:

1. Activities performed by or on behalf of the Named Insured;
2. Products and completed operations of Named Insured;
3. Premises owned, leased or used by the Named Insured;
4. The ownership, operation, maintenance, use, loading, or unloading of any auto owned, leased, hired, or borrowed by the Named Insured.

D. Should CONTRACTOR fail to provide insurance as required by the Contract Documents, OWNER may, at OWNER'S option, take out and maintain at the expense of CONTRACTOR, insurance in the name of CONTRACTOR, or subcontractor, as OWNER may deem proper. OWNER may deduct the cost of taking out and maintaining such insurance from any sums which are due or to become due to CONTRACTOR under the Contract Documents.

E. Insurance coverage shall not be less than the following:

1. WORKERS' COMPENSATION

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

b. During the life of the Contract Documents, CONTRACTOR shall provide workers' compensation insurance for all of its employees engaged in Work under the Contract Documents, on or at the site of the Project. In case any of its Work is sublet, CONTRACTOR shall require the subcontractor to similarly provide workers' compensation insurance for all of the subcontractors' employees. Any class of employee or employees not covered by a subcontractor's insurance shall be covered by CONTRACTOR'S insurance. In case any class of employees engaged in Work under the Contract Documents, on or at the site of the Project, is not protected under the workers' compensation statutes, CONTRACTOR shall provide or shall cause a subcontractor to provide adequate insurance coverage for the protection of such employees not otherwise protected before subcontractor commences Work. CONTRACTOR shall file with OWNER certificates of its insurance protecting workers and a 30-day notice shall be provided to OWNER before the cancellation or reduction of any policy of CONTRACTOR or subcontractor. CONTRACTOR shall submit proof of insurance and provide endorsements on the forms provided by OWNER or on forms approved by OWNER.

c. The certificate shall reflect coverage in at least the following amounts:

- (1) State workers' compensation statutory benefits policy—limits of not less than \$1,000,000.
- (2) Employer's liability policy—limits of not less than \$1,000,000.

2. **COMMERCIAL GENERAL LIABILITY - SEE 02-NOTICE TO CONTRACTORS CALLING FOR BIDS FOR GENERAL LIABILITY INSURANCE REQUIREMENTS**

a. During the life of the Contract Documents, CONTRACTOR shall take out and maintain such commercial general liability insurance as shall protect CONTRACTOR and OWNER from all claims for personal injury, including accidental death, to any person (including, as to OWNER, injury or death to CONTRACTOR'S or subcontractor's employees), as well as from all claims for property damage arising from CONTRACTOR's operations under the Contract Documents (including but not limited to all operations by CONTRACTOR's subcontractors and suppliers of all tiers), in amounts set forth in this article.

b. CONTRACTOR shall require its subcontractors of all tiers, if any, to take out and maintain general commercial liability insurance substantively identical with the insurance required in Section 58.E.2.a, above, with each policy having limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate.

c. CONTRACTOR's coverage must be written on an occurrence versus a "claims made" form with policy limits not less than \$2,000,000 per occurrence, \$4,000,000 aggregate per project on bodily injury and property damage, and \$2,000,000 Completed Operations; and include coverage for the following:

- (1) Premises - operations;
- (2) Contractual liability;
- (3) Products;
- (4) Completed operations (including a 10-year extended reporting period);
- (5) Broad form property damage including explosion, collapse, and underground coverages;
- (6) Personal injury;
- (7) DISTRICT'S, CONTRACTOR'S protective.

d. In the event of any payment under the Commercial General Liability Policy, the insurer shall be subrogated to the extent of such payment to all the insured's rights of recovery, but the insurer shall have no rights of subrogation against OWNER, OWNER'S consultants, the Architect, and the Architect's consultants, their elected or appointed officials, or employees, except as respects the negligence of OWNER, the Architect, and Architect's consultants.

e. The Commercial General Liability policy may not include any limitation or exclusion of coverage for losses caused by expansion, subsidence, or movement of soils.

3. COMPREHENSIVE AUTO LIABILITY INSURANCE

Such insurance shall have combined single limits of not less than \$1,000,000, bodily injury, property damage, including coverage for owned, non-owned and hired autos.

4. ASBESTOS ABATEMENT

a. Must be occurrence coverage versus "claims made" coverage.

b. \$1,000,000 per occurrence with not less than \$2,000,000 annual aggregates limits required.

c. Certificates of insurance must specify "asbestos abatement."

5. COURSE OF CONSTRUCTION (COC)/BUILDER'S RISK INSURANCE

a. When a General Contractor is used on new school construction, CONTRACTOR shall provide builders risk coverage on an all risk or open peril form with limits equal to 100 percent of the value of the Project (valuation shall be at replacement cost), including all items of labor and materials in or adjacent to the structure insured, all 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 equipment as are not owned or rented by CONTRACTOR, the cost of which are included in the cost of the Work. Such insurance shall be maintained for the life of the Contract.

b. CONTRACTOR shall maintain a Builder's Risk Completed Value Form providing all risk coverage, naming CONTRACTOR and OWNER as insureds and subcontractors to all levels as additional insureds, as their respective interests appear.

c. A maximum deductible of \$5,000 per occurrence will be allowed on projects. CONTRACTOR shall be responsible for any deductibles under the property insurance policy.

d. The builder's risk insurance limits shall initially be for the full amount of the Project price shown in the Agreement document and shall thereafter be maintained in full force and effect at all times between the signing of the contract and final acceptance of the completed work by OWNER at an amount equaling the estimated cost to OWNER of rebuilding.

e. This Builder's Risk/Course-of-Construction insurance shall insure against all risks, including but not limited to the following perils: Vandalism, theft, malicious mischief, fire, sprinkler leakage, civil authority, sonic boom, explosion, collapse, flood (including rain and accumulation of rain), earthquake (however, for projects

not solely funded through revenue bonds, CONTRACTOR is only required to provide insurance for damages caused by an earthquake above 3.5 magnitude on the Richter Scale up to 5% of the Contract Sum [except as provided in Section 58.E.5.f, below; see Public Contract Code §7105(a)], wind, hail, lightning, smoke, riot or civil commotion, debris removal (including demolition) and reasonable compensation for the Architect's services and expenses required as a result of such insured loss. Such insurance shall include the OWNER, the Architect, and any other person or entity with an insurable interest in the Work as an additional named insured. The CONTRACTOR shall submit to the OWNER for its approval all items deemed to be uninsurable under the Builder's Risk/Course-of-Construction insurance. The risk of the damage to the Work due to the perils covered by the Builder's Risk/Course-of-Construction insurance, as well as any other hazard which might result in damage to the Work, is that of the CONTRACTOR and its surety, and no claims for such loss or damage shall be recognized by the OWNER, nor will such loss or damage excuse the complete, timely, and satisfactory performance of the Contract by the CONTRACTOR.

f. If the Contract is not solely funded through revenue bonds and OWNER accepts an alternate bid by CONTRACTOR for insurance coverage for an earthquake over 3.5 on the Richter Scale, CONTRACTOR shall maintain, in effect during the Work and until final acceptance of the Work by OWNER upon Completion of the entire Contract, insurance providing coverage for loss, destruction or damage arising out of or caused by earthquake and/or other earth movement, whether seismic or volcanic in origin, over 3.5 on the Richter Scale in magnitude. This insurance shall provide coverage in an amount not less than the full cost to repair, replace or reconstruct the Work.

6. CONTRACTOR POLLUTION LIABILITY

a. \$1,000,000 per occurrence and \$1,000,000 aggregate per project.

F. CONTRACTOR shall be responsible for payment of any and all deductibles under any of the above-named coverages.

**ARTICLE 59 PROOF OF INSURANCE COVERAGE**

A. CONTRACTOR shall provide the number of duplicate originals as directed by the OWNER for proof of carriage of required insurance, including endorsements. Said proof shall be presented with the required Payment and Performance Bonds and return of other Contract Documents.

B. CONTRACTOR shall not commence work or allow any subcontractor to commence work under this contract until CONTRACTOR has obtained all required insurance policies (including endorsements) and certificates, which shall be delivered to and approved by OWNER.

C. Certificates and insurance policies (including endorsements) shall include the following:

1. A clause stating:

"This policy shall not be canceled or reduced in required limits of liability or amount of insurance until notice has been mailed to certificate holder stating the date of



cancellation or reduction. The date of cancellation or reduction may not be less than 30 days after the date of mailing the notice."

2. 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, expiration date, and cancellation and reduction notice.

3. A statement that OWNER, OWNER's governing board or other governing body, OWNER's consultants (including the Architect, the Architect's consultants, and any Construction Services Administrator), and their officers, agents, and employees are named additional insureds under the policy described and that the insurance policy shall be primary to any insurance or self-insurance maintained by OWNER, OWNER's governing board or other governing body, OWNER's consultants (including the Architect, the Architect's consultants, and any Construction Services Administrator), and their officers, agents, and employees.

D. OWNER shall be named as certificate holder and additional insured on all certificates and policies (including endorsements). CONTRACTOR shall provide the number of duplicate originals as directed by the OWNER.

E. In the event of modification or cancellation of the policy or policies during the periods of coverage stated in this article, 30 days' prior written notice of such cancellation shall be delivered or mailed by certified mail, return receipt requested, to OWNER.

F. Acceptance of the certificates of insurance and policies (including endorsements) shall not relieve or decrease CONTRACTOR'S liability. Insurance coverage in the minimum amounts set forth in the Contract Documents shall not be construed to relieve CONTRACTOR of liability in excess of such coverage, nor shall it preclude OWNER from taking such other actions as are available to it under any other provisions of the Contract Documents or otherwise in law.

## **ARTICLE 60 INDEMNIFICATION**

A. To the fullest extent permitted by law, CONTRACTOR shall hold harmless, defend, and indemnify OWNER, the Architect, the Inspector of Record, any Construction Services Administrator, and their directors, officials, officers, agents and employees from any and all contract or other claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, brought by other Contractors, subcontractors, materialmen, suppliers, or other third parties alleging the claimant was delayed, is owed for time, or compensation, or damages in any manner arising out of or incident to any acts, omissions, or willful misconduct of CONTRACTOR, its officials, officers, employees, agents, consultants, and subcontractors arising out of or in connection with the performance of CONTRACTOR's scope of Work under the Contract Documents, including without limitation the payment of all consequential damages and other related costs and expenses.

B. To the fullest extent permitted by law, CONTRACTOR shall hold harmless, defend, and indemnify OWNER, the Architect, the Inspector of Record, any Construction Services Administrator, and their directors, officials, officers, employees, volunteers, and agents, and each of them, from any and all contract or other claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any acts, omissions, or willful misconduct of

CONTRACTOR, its officials, officers, employees, agents, consultants, and subcontractors arising out of or in connection with the performance of CONTRACTOR's scope of work under the Contract Documents, including without limitation the payment of all consequential damages and other related costs and expenses. At CONTRACTOR's own cost, expense, and risk and with counsel reasonably satisfactory to OWNER, CONTRACTOR shall defend any and all such suits, actions, or other legal proceedings of every kind that may be brought or instituted against OWNER, the Architect, the Inspector of Record, any Construction Services Administrator, and their directors, officials, officers, employees, agents, or volunteers. CONTRACTOR shall pay and satisfy any judgment, award, or decree that may be rendered against OWNER, the Architect, the Inspector of Record, any Construction Services Administrator, or their directors, officials, officers, employees, agents, or volunteers, in any such suit, action, or other legal proceeding. CONTRACTOR shall reimburse OWNER, the Architect, the Inspector of Record, any Construction Services Administrator, and their directors, officials, officers, employees, agents, and volunteers, for any and all legal expenses and costs incurred by them in connection with any such suit, action, or legal proceeding, or in enforcing the indemnity provided under this Article.

C. To the fullest extent permitted by law, CONTRACTOR shall require each subcontractor to hold harmless, defend, and indemnify OWNER, the Architect, the Inspector of Record, any Construction Services Administrator, and their directors, officials, officers, employees, volunteers and agents, from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage, or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any acts, omissions, or willful misconduct of subcontractor its officials, officers, employees, agents, consultants and subcontractors arising out of or in connection with the performance of the subcontractor's scope of work under the Contract Documents, including without limitation the payment of all consequential damages and other related costs and expenses. At subcontractor's own cost, expense and risk, subcontractor shall defend any and all such suits, actions, or other legal proceedings of every kind that may be brought or instituted against OWNER, the Architect, Inspector of Record, and their directors, officials officers, employees, agents or volunteers.

D. The obligations of this Article exclude liability arising from the active or sole negligence or willful misconduct of OWNER, Architect, the Inspector of Record, any Construction Manager, or their directors, officials, officers, agents or employees.

## **ARTICLE 61 ASSIGNMENT**

CONTRACTOR shall not assign any rights, delegate any duties, transfer, convey, sublet, or otherwise dispose of the Contract Documents or of its rights, title, or interest in or to the Contract Documents or any part of them. If CONTRACTOR shall assign, transfer, convey, sublet, or otherwise dispose of the Contract Documents or its right, title, or interest in them, or any part of them, any attempted or purported assignment, transfer, conveyance, sublease, or other disposition, shall be null, void, and of no legal effect whatsoever, and at OWNER'S option the Contract Documents may be terminated, revoked, and annulled, and OWNER shall then be discharged from any and all liability and obligations to CONTRACTOR, and to its purported assignee or transferee, arising out of the Contract Documents. This expressly includes but is not limited to any attempts to create "pass through" or similar rights for subcontractors to pursue claims directly against OWNER.

## **ARTICLE 62 SEPARATE CONTRACTS**

A. OWNER reserves the right to let other contracts related to this Work. CONTRACTOR shall afford other contractors reasonable opportunity for introduction and storage of their materials and execution of their work, and shall coordinate its Work with those other contractors.

B. If any part of CONTRACTOR'S Work depends upon work of any other contractor for proper execution of results, CONTRACTOR shall inspect and promptly report in writing to the OWNER and Architect any defects in the other contractor's work that render it unsuitable for proper execution or results. CONTRACTOR'S failure to inspect and report shall constitute its acceptance of any other contractor's work as fit and proper for reception of its work except as to defects which may develop in another contractor's work after execution of CONTRACTOR'S Work.

C. To ensure proper execution of CONTRACTOR'S subsequent Work, CONTRACTOR shall measure and inspect work already in place and shall report in writing to the OWNER and Architect any discrepancy between executed work and the Contract Documents.

D. CONTRACTOR shall ascertain to CONTRACTOR'S satisfaction the scope of the Project and nature of any other contracts that have been or may be awarded by OWNER in connection with the Project, in order that CONTRACTOR may perform the Work in light of any other contracts. Nothing contained in the Contract Documents shall be interpreted as granting to CONTRACTOR exclusive occupancy of the Project site. CONTRACTOR shall not cause any unnecessary hindrance or delay to any other contractor working on the Project. If simultaneous execution of any contract for the Project is likely to cause interference with performance of some other contract or contracts, OWNER shall decide which contractor shall cease work temporarily and which contractor shall continue or whether work can be coordinated so that the contractors may proceed simultaneously. OWNER shall not be responsible for any damage suffered or extra costs incurred by CONTRACTOR resulting directly or indirectly from the award or performance or attempted performance of any other contract or contracts on the Project, or caused by any decision or omission of OWNER regarding the order in performing or coordinating the contracts.

## **ARTICLE 63 OWNER'S RIGHT TO TERMINATE CONTRACT**

A. OWNER may serve upon CONTRACTOR and its surety written notice of OWNER'S intention to terminate the Construction Agreement, without prejudice to any other right or remedy, upon the occurrence of any of the following circumstances:

1. If CONTRACTOR refuses or fails to pursue the Work or any part with sufficient diligence to ensure its completion within the time specified, or any extension of time;
2. If CONTRACTOR refuses or fails to complete the Work within the time required;
3. If CONTRACTOR is adjudged a bankrupt, or should make a general assignment for the benefit of its creditors;
4. If a receiver is appointed on account of CONTRACTOR'S insolvency;
5. If CONTRACTOR persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials to complete the Work in the time specified, except in cases for which extension of time is provided;

6. If CONTRACTOR fails to make prompt payment to subcontractors or for material or labor;
7. If CONTRACTOR persistently disregards laws, ordinances, or instructions of OWNER;
8. If CONTRACTOR or one of its SUBCONTRACTORS violates any of the provisions of the Contract Documents.

B. The notice of intent to terminate shall contain the reasons for termination.

C. Unless the CONTRACTOR remedies the identified condition(s) or violation(s) in the notice of intent to terminate, or makes arrangements satisfactory to OWNER for correction within 10 days after service of the notice, the Construction Agreement may be terminated in the total discretion of OWNER. In that event, CONTRACTOR shall not be entitled to receive any further payment until the Work is completed.

D. In the event of OWNER'S election to terminate, OWNER shall immediately serve written notice of termination upon CONTRACTOR and upon the surety on CONTRACTOR'S Performance Bond, and surety shall then have the right to take over and perform this contract; provided however that if within seven days after service upon surety of the notice of election to terminate, surety does not give OWNER written notice of its intention to take over and perform the Construction Agreement, or does not commence performance within 15 days after the date of service of the notice of termination by OWNER on surety, OWNER may take over and complete the Work by contract or by any other method it deems advisable.

E. CONTRACTOR and its surety shall be liable to OWNER for any excess cost or other damages incurred by OWNER in completing the Work, including without limitation any liquidated and other damages for delays to Completion of the Project, or to the work of other contractors. If OWNER takes over the Work as provided above, OWNER may exclude CONTRACTOR and the surety from the premises, or any portion of the premises, and take control of the premises without liability and without affecting the liability of CONTRACTOR and the surety for completion of the Work. In addition, OWNER may take possession of and utilize in completing the Work any materials, appliances, equipment, and other property belonging to CONTRACTOR on the work site necessary for completion of the Project, without liability. At the election of OWNER, various subcontracts with CONTRACTOR may be taken over by OWNER and utilized to complete the scope of work therein, and CONTRACTOR hereby assigns such subcontracts to OWNER effective upon termination of this Construction Agreement and election by OWNER to take over any such subcontract.

F. If the unpaid balance of the contract price exceeds the OWNER's expense of finishing the Work, including without limitation compensation for additional architectural, managerial, inspection, and administrative services, and any damage sustained by OWNER or others, the excess shall be paid to CONTRACTOR. If the expense exceeds the unpaid balance, CONTRACTOR or its surety shall pay the difference to OWNER. Any expenses incurred by OWNER, and any damage incurred through CONTRACTOR'S default, shall be certified by the Architect.

G. These provisions are in addition to and not a limitation on any other rights or remedies available to OWNER.

## **TERMINATION FOR CONVENIENCE:**

H. OWNER has discretion to terminate this Construction Agreement at any time and require CONTRACTOR to cease all work on the project by providing CONTRACTOR written notice of termination specifying the desired date of termination. Upon receipt of written notice from OWNER of such termination for OWNER'S convenience, CONTRACTOR shall:

1. Cease operations as directed by OWNER in the notice;
2. Take any actions necessary, or that OWNER may direct, for the protection and preservation of the Work; and
3. Maintain any insurance provisions and bonds required by the Contract Documents.

I. In case of termination for OWNER'S convenience, CONTRACTOR shall be entitled to receive payment from OWNER for work satisfactorily executed and for proven loss with respect to materials, equipment, and tools, including overhead and profit for that portion of the work completed. In the case of termination for convenience, OWNER shall have the right to accept assignment of subcontractors. The foregoing provisions are in addition to and not in limitation of any other rights or remedies available to OWNER.

## **ARTICLE 64 NO WAIVER**

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

## **ARTICLE 65 EXCISE TAXES**

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

## **ARTICLE 66 NOTICE OF TAXABLE POSSESSORY INTEREST**

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

## **ARTICLE 67 ASSIGNMENT OF ANTITRUST ACTIONS**

A. Public Contract Code Section 7103.5(b) provides:

“In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding body (OWNER) 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. Sect. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the contractor, without further acknowledgment by the parties.”

B. For itself and all subcontractors, CONTRACTOR agrees to assign to OWNER all rights, title, and interest in and to all such causes of action CONTRACTOR and all subcontractors may have under the Contract Documents. This assignment shall become effective at the time OWNER tenders final payment to CONTRACTOR, and CONTRACTOR shall require assignments from all SUBCONTRACTORS to comply with this requirement.

## **ARTICLE 68 PATENTS, ROYALTIES, AND INDEMNITIES**

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

## **ARTICLE 69 STATE AUDIT**

Pursuant to and in accordance with the provisions of Government Code Section 8546.7, CONTRACTOR and any subcontractor connected with the performance of the Contract Documents involving the expenditure of public funds in excess of \$10,000, including, but not limited to the cost of administration of the Contract Documents, shall be subject to examination and audit by the State of California, either at the request of OWNER or as part of any audit of OWNER, for a period of three years after final payment is made under the Contract Documents.

## **ARTICLE 70 PROVISIONS REQUIRED BY LAW DEEMED INSERTED**

Every provision of law and clause required by law to be inserted in the Contract Documents shall be deemed to be inserted, and the Contract Documents shall be read and enforced as though it were included. If through mistake or otherwise any provision is not inserted or is not correctly inserted, upon application of either party the Contract Documents shall be amended to make the insertion or correction. All references to statutes and regulations shall include all amendments, replacements, and enactments on the subject which are in effect as of the date of the Contract Documents and any later changes which do not materially and substantially alter the positions of the parties.

## **ARTICLE 71 NOTICE AND SERVICE**

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

A. If notice is given to OWNER, by personal delivery to OWNER or by depositing the notice in the United States mail, enclosed in a sealed envelope addressed to OWNER and sent by registered or certified mail with postage prepaid.

B. If notice is given to CONTRACTOR (1) by personal delivery to CONTRACTOR or to CONTRACTOR'S superintendent, or (2) by depositing the notice in the United States mail, enclosed in a sealed envelope addressed to CONTRACTOR at its regular place of business or at such address as may have been established for the conduct of work under the Contract Documents, and sent either by registered or certified mail with postage prepaid or by overnight delivery service with ability to track the package.

C. If notice is given to surety or other persons, by personal delivery or by depositing the notice in the United States mail, enclosed in a sealed envelope addressed to the surety or person at the address last communicated by the surety or other person to the party giving notice, and sent by registered or certified mail with postage prepaid.

## **ARTICLE 72 DISABLED VETERAN BUSINESS ENTERPRISE COMPLIANCE**

A. State law and regulations adopted by the State Allocation Board (SAB) require that State-funded contracts have participation goals of 3% for Disabled Veteran Business Enterprises as defined in Public Contract code Section 10115.1.

B. To be considered, a CONTRACTOR is required to meet the participation goals or make a good faith effort to meet the DVBE participation goals as outlined in the regulations.

C. Included, in the bid specifications is a copy of the regulations, procedures, requirements and forms regarding DVBE requirements. A firm must assemble and document information that it has met the participation goals or made a good faith effort to do so. If you should have any questions regarding this procedure contact Richard J. Ruiz, Director, Business Services at (661) 827-3122.

D. Each bidder must meet goals and requirements relating to participation by Disabled Veteran Business Enterprises established by OWNER, or make a good faith effort with respect thereto, in accordance with the criteria established pursuant to Public Contract Code Section 2000(b). **Documents related to compliance are included in the bid package and must be completed and returned at the time of bid opening.**

E. Prior to, and as a condition precedent for final payment under any contract for such project, CONTRACTOR shall provide appropriate documentation to OWNER identifying the amount paid to disabled veteran business enterprises in conjunction with the Contract Documents, so that OWNER can assess its success at meeting this goal.

## **ARTICLE 73 INTEGRATION CLAUSE**

The Contract Documents, including any exhibits or schedules referred to therein constitute the final, complete and exclusive statement of the terms of the agreement between the parties pertaining to the Work and Project, and supersedes all prior and contemporaneous understandings or agreements of the parties. No party has been induced to enter into the Construction Agreement by, nor is any party relying on, any representation or warranty outside those expressly set forth in the Contract Documents.

## **ARTICLE 74 INTERPRETATION OF CONTRACT DOCUMENTS**

No provision of the Contract Documents shall be interpreted for or against a party because that party or its legal representative drafted such provision, and the Contract Documents shall be construed as if jointly prepared by the parties.

#### **ARTICLE 75 RECYCLED PRODUCTS**

A. CONTRACTOR shall certify in writing, as a precondition to requesting final payment, the minimum, if not exact, percentage of postconsumer materials in the products, materials, goods, or supplies, used in the Work.

B. OWNER may waive the certification requirement if CONTRACTOR demonstrates to OWNER'S satisfaction that the percentage of postconsumer material in the products, materials, goods, or supplies can be verified in a written advertisement, including, but not limited to, a product label, a catalog, or a manufacturer or vendor Internet Web site.

#### **ARTICLE 76 PROGRESS MEETINGS**

CONTRACTOR shall attend all progress meetings.

#### **ARTICLE 77 MAINTAINING WORKING SYSTEMS**

It is the CONTRACTOR'S responsibility to keep all systems functioning during the progress of the project(s). This includes, but is not limited to, fire alarm systems, electrical, plumbing, sewer, bells, sprinklers, message boards, cooling, heating, signaling devices, computer systems, etc.



**EXHIBIT "A"**  
**KERN HIGH SCHOOL DISTRICT**  
**AWARDED CONTRACTOR'S REQUEST FOR INFORMATION**

Re: **BID NO. 6559 – CAREER TECHNICAL EDUCATION CENTER: INSTALLATION OF SIX (6) SHADE STRUCTURES**

RFI Number: \_\_\_\_\_ (for District Use only) Date: \_\_\_\_\_

Information Requested By: \_\_\_\_\_

Describe information needed:

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Specification(s) affected by this RFI: \_\_\_\_\_

Drawings affected by this RFI: \_\_\_\_\_

Date information is needed: \_\_\_\_\_

Is there a cost or time impact:       Yes       No

If yes, explain:

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Response:

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Response by: \_\_\_\_\_

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

**EXHIBIT "B"**  
**KERN HIGH SCHOOL DISTRICT**  
**AWARDED CONTRACTOR'S DAILY REPORT**

Contractor's Name: \_\_\_\_\_

Re: **BID NO. 6559 – CAREER TECHNICAL EDUCATION CENTER: INSTALLATION OF SIX (6)  
SHADE STRUCTURES**

Bid Package Number: \_\_\_\_\_

Date: \_\_\_\_\_ Hours on Project: \_\_\_\_\_

Manpower:            \_\_\_\_\_ Journeymen,            \_\_\_\_\_ Apprentices,            \_\_\_\_\_ Laborers  
                             \_\_\_\_\_ Others (Specify: \_\_\_\_\_ )  
                             \_\_\_\_\_ Others (Specify: \_\_\_\_\_ )

Materials Delivered:

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

Equipment Used:

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

Progress (List site(s) worked and what was done):

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

Delays/Problems: \_\_\_\_\_

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

Action Taken: \_\_\_\_\_

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

Extra Work Performed Today: \_\_\_\_\_

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

Comments: \_\_\_\_\_

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

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

**EXHIBIT "C"**

KERN HIGH SCHOOL DISTRICT  
**AWARDED CONTRACTOR'S SAFETY PROGRAM CERTIFICATION**

To: **OWNER – KERN HIGH SCHOOL DISTRICT  
ARCHITECT – ORDIZ-MELBY ARCHITECTS**

Re: **BID NO. 6559 – CAREER TECHNICAL EDUCATION CENTER: INSTALLATION OF  
SIX (6) SHADE STRUCTURES**

Contractor's Name: \_\_\_\_\_

Bid Package Number: \_\_\_\_\_

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

The undersigned hereby certifies that it has a Safety Program/Policy in place that complies with SB198 and current California and Federal OSHA regulations.

The undersigned also hereby certifies that it will actively and aggressively comply with the aforementioned regulations and its own Safety Program/Policy.

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

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

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

**EXHIBIT "D"**  
**UNCONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT**

**NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.**

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<b>Identifying Information</b>
Name of Claimant:
Name of Customer:
Job Location:
Owner:

---

**Unconditional Waiver and Release**

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for all labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by

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**Exceptions**

This document does not affect any of the following:  
Disputed claims for extras in the amount of: \$

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<b>Signature</b>
Claimant's Signature:
Claimant's Title:
Date of Signature:

**EXHIBIT "E"**  
**CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT**

**NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.**

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<b>Identifying Information</b>
Name of Claimant:
Name of Customer:
Job Location:
Owner:

---

**Conditional Waiver and Release**

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

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Maker of Check:
Amount of Check: \$
Check Payable to:

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**Exceptions**

This document does not affect any of the following:  
Disputed claims for extras in the amount of: \$

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<b>Signature</b>
Claimant's Signature:
Claimant's Title:
Date of Signature:

**34-NOT USED AT THIS TIME**

KERN HIGH SCHOOL DISTRICT  
**35-SUFFICIENT FUNDS DECLARATION**  
**(Labor Code Section 2810)**

**To Be Executed by Bidder and Submitted with Bid**

**BID NO. 6559 – CAREER TECHNICAL EDUCATION CENTER: INSTALLATION OF  
SIX (6) SHADE STRUCTURES**

Owner: Kern High School District  
Contract: \_\_\_\_\_

I, \_\_\_\_\_, declare that I am the \_\_\_\_\_  
of \_\_\_\_\_, the entity making and submitting the bid for the above  
Project that accompanies this Declaration, and that such bid includes sufficient funds to  
permit \_\_\_\_\_ *[insert name of entity]* to comply with all local, state or  
federal labor laws or regulations during the Project, including payment of prevailing  
wage, and that \_\_\_\_\_ *[insert name of entity]* will comply with the provisions  
of Labor Code section 2810(d) if awarded the Contract.

I declare under penalty of perjury under the laws of the State of California that  
the foregoing is true and correct and executed on \_\_\_\_\_ 20\_\_, at \_\_\_\_\_ *[city]*,  
\_\_\_\_\_ *[state]*.

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

\_\_\_\_\_  
Signature  
Print Name: \_\_\_\_\_  
Print Title: \_\_\_\_\_

KERN HIGH SCHOOL DISTRICT  
**36-ROOF PROJECT CERTIFICATION**  
*To Be Submitted with Bid*

*[Public Contract Code §3006(a) and (b)]*

I, \_\_\_\_\_ [name], \_\_\_\_\_ [name of employer], certify that I have not offered, given, or agreed to give, received, accepted, or agreed to accept, any gift, contribution, or any financial incentive whatsoever to or from any person in connection with the roof project contract. As used in this certification, "person" means any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals. Furthermore, I, \_\_\_\_\_ [name], \_\_\_\_\_ [name of employer], certify that I do not have, and throughout the duration of the contract, I will not have, any financial relationship in connection with the performance of this contract with any architect, engineer, roofing, consultant, materials manufacturer, distributor, or vendor that is not disclosed below.

I, \_\_\_\_\_ [name], \_\_\_\_\_ [name of employer], have the following financial relationships, with an architect, engineer, roofing consultant, materials manufacturer, distributor, or vendor, or other person in connection with the following roof project contract:

\_\_\_\_\_  
*[name and address of building, contract date and number]*

\_\_\_\_\_  
*[name and address of building, contract date and number]*

\_\_\_\_\_  
*[name and address of building, contract date and number]*

\_\_\_\_\_  
*[name and address of building, contract date and number]*

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

\_\_\_\_\_ Signature \_\_\_\_\_ Date

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

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



KERN HIGH SCHOOL DISTRICT  
**37-IRAN CONTRACTING ACT CERTIFICATION**  
(Public Contract Code Sections 2202-2208)  
**(To be Executed by Bidder and Submitted With Bid)**

As required by Public Contract Code (“PCC”) section 2204 for contracts of \$1,000,000 or more, please insert bidder’s or financial institution’s name and Federal ID Number (if available) and complete **one** of the options below. Please note that California law establishes penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made; contract termination; and three-year ineligibility to bid on contracts. (PCC §2205.)

**OPTION #1 - CERTIFICATION**

I, the official named below, certify I am duly authorized to execute this certification on behalf of the bidder/financial institution identified below, and the bidder/financial institution identified below is **not** on the current list of persons engaged in investment activities in Iran created by California Department of General Services (“DGS”) and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person/bidder, for 45 days or more, if that other person/bidder will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS. (PCC §2204(a).)

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

**OPTION #2 – EXEMPTION**

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a bidder/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services. If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below, and attach documentation demonstrating the exemption approval.

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

KERN HIGH SCHOOL DISTRICT  
**38-NOTICE OF CLAIM**

**This form must be used for giving written Notice of any claim.  
No other form of written Notice is permitted.**

**One copy, each, of this Notice must be given to the Owner to be considered effective Notice.**

**WARNING: FAILURE TO GIVE THIS WRITTEN NOTICE WITHIN THE TIME SPECIFIED IN THE CONTRACT DOCUMENTS CONSTITUTES A WAIVER AND RELEASE OF ANY CLAIM AND DAMAGE RELATED THERETO.**

TO: Kern High School District

CLAIMANT'S NAME: \_\_\_\_\_

PROJECT NAME: \_\_\_\_\_

DATE OF THIS NOTICE: \_\_\_\_\_

DATE OF OCCURRENCE GIVING RISE TO THIS CLAIM: \_\_\_\_\_

AMOUNT OF CLAIM: \_\_\_\_\_

IS A TIME EXTENSION REQUESTED AS PART OF THIS CLAIM?

NO: \_\_\_\_\_

YES: \_\_\_\_\_

IF YES, AMOUNT REQUESTED: \_\_\_\_\_ DAYS

STATE THE FACTUAL BASIS FOR THIS CLAIM: *[Attach additional sheets as needed]*

STATE THE NATURE OF THE DAMAGES CLAIMED: *[Attach additional sheets as needed]*

I am aware of the penalties for submitting a false claim to a public agency. By executing and submitting this Notice, I am certifying to the Owner that I have investigated this claim and have found the foregoing information to be accurate, complete and true, except as expressly noted.

The foregoing is true and correct, and this Notice of Claim is given under penalty of the perjury laws of the State of California.

CLAIMANT'S TYPED/PRINTED NAME: \_\_\_\_\_

CLAIMANT'S SIGNATURE: \_\_\_\_\_

KERN HIGH SCHOOL DISTRICT  
**39-PROGRESS PAYMENT REQUEST - SUPPLEMENTAL FORM  
REGARDING STATUS OF CLAIMS UPDATE, AND  
WAIVER AND RELEASE OF UNLISTED CLAIMS**

**This form must be submitted as part of every progress payment request.  
Each prior and new claim must be identified.  
Progress payments will not be processed without submission of this form.**

**WARNING: FAILURE TO LIST PRIOR AND NEW CLAIMS IN THIS DOCUMENT WILL CONSTITUTE  
A WAIVER AND RELEASE OF ANY CLAIM AND ALL DAMAGE RELATED THERETO.**

**CONTRACTOR'S NAME:** \_\_\_\_\_

**PROJECT NAME:** \_\_\_\_\_

**DATE OF THIS REQUEST:** \_\_\_\_\_

**CLAIMS AS TO WHICH NOTICE HAS ALREADY BEEN GIVEN:**  
[List all] [Use additional sheets as needed]

**NEW CLAIMS, AS TO WHICH NOTICE HAS NOT PREVIOUSLY BEEN GIVEN, AND AS TO WHICH  
THE REQUIRED FORM OF WRITTEN NOTICE IS ATTACHED:**  
[List all] [Use additional sheets as needed]

By executing and submitting this supplement to my request for a progress payment, I am certifying to the Owner that I have listed all claims, including claims as to which notice has already been given in compliance with the requirements of the Contract Documents, and including any new claims arising since the prior progress payment request. The foregoing information is accurate, complete and true, except as expressly noted. I am authorized on behalf of the claimant in such claims to make these representations, and to waive and release claims. Any claim not expressly and specifically identified herein is hereby waived, and the Owner, its Trustees, officers, agents and employees are hereby released from any and all claims not expressly identified herein.

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

**CLAIMANT'S TYPED/PRINTED NAME:** \_\_\_\_\_

**CLAIMANT'S SIGNATURE:** \_\_\_\_\_