Del Mar Union School District

Bid No. 2526-12
Carpet Removal and Installation at Multiple Schools

NOTICE SENT: March 27, 2026

RFI DUE DATE: April 9, 2026 @ 10:00:00 AM

DISTRICT RFI RESPONSE DATE: April 10, 2026

FINAL ADDENDUM: April 10, 2026

BID OPENING DATE: April 15, 2026 @ 10:00:00 AM
11232 El Camino Real, Suite 100, San Diego, CA 92130

DMUSD CONTACT:
Marley Nelms, Director of Business Support Services
(858) 523-6191, FAX: (858) 755-4361

DISTRICT WEBSITE:
www.dmusd.org

THE TERMS AND CONDITIONS OF THIS CONTRACT ARE GOVERNED BY THE CALIFORNIA EDUCATION AND PUBLIC CONTRACT CODES.

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****MUST BE COMPLETED AND RETURNED FOR BID OPENING. THE REST OF THE BID PACKAGE SHOULD BE KEPT FOR YOUR INFORMATION.**

NOTICE INVITING BIDS

BID 2526-12 Carpet Removal and Installation at Multiple Schools

NOTICE IS HEREBY GIVEN that the Del Mar Union School District of San Diego County, California ("District"), acting by and through its Board of Education ("Board"), will receive up to but not later than **10:00:00 AM, April 15, 2026**, sealed bids for the award of a contract(s) for:

BID 2526-12 Carpet Removal and Installation at Multiple Schools

Each bid must conform and be responsive to the bid documents. All interested parties may obtain bid documents from Marley Nelms via email request to mnelms@dmusd.org. Each bid shall be accompanied by a 10% bid bond, based on base bid amount, and other required contract documents as specified in the bid document.

Bids shall be received **Attention Marley Nelms, Director of Business Support Services of the Del Mar Union School District located at 11232 El Camino Real, CA 92130**. Responses must be sealed and clearly marked "**BID 2526-12 Carpet Removal and Installation at Multiple Schools."** Facsimile or electronic copies of the bid will not be accepted. It is the bidder's responsibility to ensure its bid is received by the date and time specified above. Any bid received in the Purchasing Department after this date and time shall be deemed non-responsive and returned to the proposer unopened.

Specifications may be examined and obtained at no charge from the District's webpage: https://www.dmusd.org/Departments/Business-Services/Purchasing/Bid-Opportunities

The Contractor and any subcontractor(s) shall pay not less than the specified prevailing wage rates to all workers employed by them in the execution of this contract. See the Department of Industrial Relations website http://www.dir.ca.gov for prevailing wage rate information. The Contractor shall post a copy of the determination of prevailing rate of wages at each job site.

Each bidder shall possess at the time of bid opening a valid and active **Class C-15 Flooring and Floor Covering** Contractor's license, pursuant to Public Contract Code §3300. The successful bidder must maintain the license throughout the duration of this contract and its renewals, if any. Lack of a valid license will result in disqualification and termination.

No bidder may withdraw its bid for a period of sixty (60) days after the date set for the opening of bids.

The District shall award to the lowest bidder and act as the sole judge as to the merit and qualifications of the services offered. The District reserves the right to reject any and all bids or to waive irregularities in any bid.

Publication of Notice: March 27, 2026 and April 3, 2026

INSTRUCTIONS FOR BIDDERS

1. **Preparation of Bid Form**. The District invites bids on the bid form to be submitted at such time and place as is stated in the Notice to Contractors Calling for Bids. All blanks in the bid form must be appropriately filled in, and all prices must be stated in both words and figures. All bids must be submitted in sealed envelopes bearing on the outside the name of the bidder, his address, and the name of the project for which the bid is submitted. It is the sole responsibility of the bidder to see that his bid is received in proper time. Any bid received after the scheduled closing time for receipt of bids will be returned to the bidder unopened.

2. **Bid Security**. Each bid shall be accompanied by a certified or cashier's check payable to the District, or a satisfactory bid bond in favor of the District executed by the bidder as principal and an admitted surety approved to conduct business in the State of California as surety, in an amount not less than ten percent (10%) of the maximum amount of the bid. The check or bid bond shall be given as a guarantee that the bidder shall execute the contract if it be awarded to him in conformity with the contract documents and shall provide the surety bond or bonds as specified therein within five (5) days after notification of the award of the contract to the bidder.

3. **Review of Plans and Specifications.** Each bidder, at its own expense and prior to submitting its bid, shall thoroughly review and become familiar with all of the plans and specifications for the Project. A bidder is required to review the plans and specifications only in its capacity as a contractor, not as a licensed design professional. Each bidder must report to the District any errors or omissions in the plans and specifications revealed through such review.

4. **Examination of Project Site and Contract Documents.** These Instructions for Bidders do not constitute a comprehensive statement of all requirements applicable to the Project; therefore, each bidder shall thoroughly examine and become familiar with the drawings, specifications, form of agreement, forms of the required bonds, insurance endorsements and other "Contract Documents" defined in the Form of Agreement. A bidder's failure to obtain and/or thoroughly examine any drawing, specification, form, instrument, addendum or other contract document, or to visit the site and become acquainted with conditions there- existing, shall not relieve the bidder from any obligations with respect to its bid or the contract. The submission of a bid shall be taken as a representation and warranty by the bidder that it has complied with the requirements of this Section. At no time after submitting a bid may the bidder dispute, complain, or assert that there were any misunderstandings with regard to the nature or amount of work to be done in connection with the Project.

5. **Interpretation of Contract Documents.** If a 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, the bidder may submit to the District a written request for an interpretation or correction thereof. The bidder submitting the request shall be responsible for its prompt delivery. Prior to the opening of bids, interpretations or corrections of the Contract Documents will be made only by addendum duly issued by the architect. Copies of each addendum will be mailed or delivered to each contractor that has obtained a copy of the bid documents. No person is authorized to provide any oral interpretation of any provision in the Contract Documents, and no oral interpretation shall be binding on the District. If discrepancies in or conflicts between the drawings and specifications are not addressed in any addenda, the bidder shall include in its bid the methods of construction and/or materials resulting in the higher bid amount. **Request for Information (RFI) must be submitted to Marley Nelms, Director of Business Support Services, mnelms@dmusd.org, no later than April 9, 2026, at 10:00:00AM. Responses to RFI and final addendum will be posted on April 10, 2026.**

6. **Agreements and Bonds**. The Agreement form which the successful bidder, as Contractor, will be required to execute, and the forms and amounts of surety bonds which he will be required to furnish at the time of execution of the Agreement, are included in the contract documents and should be carefully examined by the bidder. The required number of executed copies of the Agreement, the Performance Bond, and the Payment Bond for Public Works is as specified in the Special Conditions. The Performance Bond must be executed by an admitted Surety

approved to conduct business in the State of California which meets the highest standards the District is legally permitted to establish.

The Payment Bond must be in the amount of 100 percent of the total amount payable, if it does not equal or exceed five million dollars ($5,000,000) or more; 50% of the total amount payable, if it is $5,000,000 or more and does not exceed ten million dollars ($10,000,000); and 25% of the total amount payable if it exceeds ten million dollars. The Payment Bond must be executed by an admitted Surety approved to conduct business in the State of California which meets the highest standards the District is legally permitted to establish. The Payment Bond must be accompanied by the original or a certified copy of the unrevoked power of attorney or other appropriate instrument entitling or authorizing the person who executed the bond to do so.

7. **Ethics in Bidding.** The District expects each bidder to maintain high ethical standards with respect to bidding on the Project. Prior to the award of a contract for the Project, no bidder shall disclose the amount of any prospective subcontractor's bid or proposal, or any element thereof, to any other prospective subcontractor. Bidders shall not engage in or permit the unethical and unfair practices commonly referred to as bid shopping (e.g., the bidder uses a subcontractor's proposal in attempts to obtain a lower-cost proposal from another subcontractor) and bid peddling (e.g., a subcontractor attempts to obtain a job by offering to work for less than the amount specified in another subcontractor's proposal). If the District determines prior to opening of bids that any bidder has violated any of the foregoing requirements or any other prohibitions set forth in the Subletting and Subcontracting Fair Practices Act (Public Contract Code Section 4100 *et seq*.), the District may reject the bidder's bid as non-responsive and report the bidder's actions to the Contractors State License Board.

8. **Contractor Licensing & Experience.** Each bidder must be properly licensed in the State of California and "in good standing" at the time of submitting its bid to the District. Failure to satisfy this requirement shall result in the bidder being deemed non-responsive and the bidder will be disqualified from work on the Project. Each bidder must clearly specify its California contractor's license number where indicated in the bid form. The bidder to which the District awards a contract for the Project must maintain the required license(s) specified in the Notice Inviting Bids throughout the duration of the Project. Each bidder shall have ten (10) years of experience and been in business in the appropriate field for the past (10) ten years.

9. **Listing Subcontractors.** As required pursuant to the Subletting and Subcontracting Fair Practices Act, each bidder shall submit with its bid a list of the names, license numbers, DIR registration numbers, and locations of the places of business of each subcontractor that will perform work or labor or render service to the bidder in or about the Project, or that, under subcontract to the bidder, will specially fabricate and install a portion of the work, in an amount in excess of one-half of 1 percent of the total amount of the bidder's bid. A bidder may not list more than one subcontractor for any one portion of the work. A bidder that fails to list a subcontractor for any portion of the work represents that it is fully qualified to and shall perform such work using its own forces. If the bid documents require the bidder to submit alternate bids and the bidder intends to use different or additional subcontractors for the alternates, the bidder must submit a separate list of subcontractors for each such alternate. A bidder shall submit the lists of subcontractors only on the form included in the bid documents.

10. **Use of Bid Form is Mandatory.** Each bid must be submitted on the Bid Form included in the bid documents. Changes in or additions to the Bid Form, recapitulations of the work for which the bid is submitted, alternative proposals, and other modifications of the Bid Form or any of the documents to be submitted with the bid are prohibited unless specifically called for in the Contract Documents.

11. **Preparing the Bid.** Bidders must fully and properly complete all information required to be included on the Bid Form. Amounts must be stated in both words and numerals where indicated. Prices, wording and notations must be in ink or typewritten. The signatures and/or initials of each person signing the bid and other documents to be submitted with the bid must be in permanent, preferably blue, ink.

12. **Correcting the Bid.** Bids may contain an erasure, interlineation, or other correction only if the correction does not result in any inconsistency or ambiguity and the correction is authenticated by affixing in the margin immediately opposite the correction the initials of the person or persons signing the bid. In the event of inconsistency between words and numerals, words shall govern over numerals.

    (a) **Mandatory Forms to Include in Bid.** Each bidder shall complete and submit with its Bid Form each of

the forms specified on the bid form, which are included in the bid documents. A bidder's failure to properly complete and submit any such mandatory form may render the bidder's bid non- responsive to the Notice Inviting Bids.

13. **Signing the Bid and Other Required Forms.** The Bid Form, bonds, subcontractors list, contractor's certificates, attachments to the Agreement Form, guarantees and other documents requiring an original signature of the bidder must be signed in permanent, preferably blue, ink by a person or persons duly authorized to sign the document. The District may reject as non-responsive any Bid Form containing a stamped or mechanically- printed signature. Depending on whether the bidder is an individual or the type of business entity, signatures must comply with the following:

a) **Corporations:** If bidder is a corporation, each document shall set forth the legal name of the corporation and shall be signed by both the bidder's President and the bidder's Secretary or Assistant Secretary. Alternatively, the signature of other authorized officers or agents may be affixed to the document if the bidder has included with its bid a certified copy of the resolution of the corporate board of directors authorizing such officers or agents to sign the document. Such documents shall include the title of each such signatory below the signature and shall bear the corporate seal.

b) **Limited Liability Companies:** If bidder is a limited liability company, each document shall set forth the true name of the company and the names of all members of the company, and all such members shall sign the document. Alternatively, the document may be signed by a managing member of the company if the bidder has included in its bid a certified copy of a statement of the limited liability company acknowledging the signatory as a managing member with authority to sign the document.

c) **Partnerships:** If bidder is a partnership of any type, each document shall set forth the true name of the partnership and the names of all persons comprising the partnership, and all such persons shall sign the document. Alternatively, the document may be signed by a general partner of the partnership if the bidder has included in its bid a certified copy of a statement of the partnership acknowledging the signatory as a general partner with authority to sign the document.

d) **Sole Proprietorships:** If the bidder is a sole proprietorship, each document must set forth the true name of the sole proprietorship and its owner, and such owner must sign the document. Alternatively, an agent of the owner may sign a document if the bidder has included in the bid a certified copy of a current and valid power-of-attorney authorizing the agent to sign the document.

e) **Fictitious Names and Joint Ventures:** If the bidder is an entity using a fictitious business name or a joint venture of two or more other parties, documents must satisfy the requirements set forth above for signatures on behalf of corporations and partnerships, as applicable. The signature on any document signed on behalf of any entity using a fictitious business name must so indicate in the signature block. Documents submitted by parties acting as joint venturers must so indicate in the signature block and must be signed by or on behalf of each and every joint venturer.

14. **Sealing and Marking the Bid.** The completed Bid Form and all additional documents and other materials to be submitted with the bid in accordance with the Contract Documents shall be enclosed in a sealed envelope. The bidder shall plainly and clearly mark the outside of the envelope with the bidder's name, address, telephone number, bidder's contractor's license number and the bid package for which the bid is submitted. Bids shall be clearly marked "**BID 2526-12 Carpet Removal and Installation at Multiple Schools**." No other information shall be apparent on the outside of the envelope. The District may reject any bid if the outside of the envelope is improperly or incompletely marked.

15. **Faxed and Electronic Mail Bids.** All bids must be under sealed cover. District will not accept any bid or bid modification submitted by facsimile or electronic mail transmission.

16. **Delivering the Bid.** For purposes of the Notice Inviting Bids and these Instructions for Bidders, any reference to the "Bid Deadline" shall mean the date and time specified as the Bid Deadline in the Notice Inviting Bids and any authorized extension thereto. Bids shall be received **Attention Marley Nelms, Business Support Services department of the Del Mar Union School District located at 11232 El Camino Real, Suite 100, CA 92130**. Responses must be sealed and clearly marked "**BID 2526-12 Carpet Removal and Installation at Multiple**

Schools" Facsimile or electronic copies of the bid will not be accepted. It is the bidder's responsibility to ensure its bid is received by the date and time specified above. The clock located in the District Office is designated as the official clock for bidding purposes shall be used in determining whether bids have been timely delivered and received by the District. Each bidder is solely responsible for ensuring that its bid is timely delivered to and received by the District. Any bid received by the District after the Bid Deadline will be returned to the bidder unopened.

17. **Submitting Bids for Multiple Bid Categories.** If the District is seeking bids for other bid categories related to the Project, bidders may submit bids for more than one bid category. However, the bid for each bid category must be complete unto itself and shall not be dependent on the award, price or some other conditional provision relative to any other separate bid category. No combination bids of any type will be accepted unless expressly permitted in the bid documents.

18. **Interest in More Than One Bid and Unqualified Bidders.** No person or entity shall submit or have any interest in more than one prime bid for the same work except to the extent the bid documents expressly call for alternate bids. The District will not accept more than one bid for the same work from any person or entity, under the same or different names. A reasonable belief by the District that any person or entity has an interest in more than one bid or has submitted more than one bid for the same work on the Project may result in the District rejecting all bids in which the bidder has an interest. A person or entity that has submitted a sub-bid or proposal to a bidder, or that has quoted prices of materials to a bidder, is not thereby disqualified from submitting a sub-bid or proposal to other bidders, but the person, firm or corporation is prohibited from submitting a prime bid for the same bid category. The District will not accept any combination bids unless expressly permitted in the bid documents. No person or business entity that has participated in the preparation of any contract specifications shall be permitted to bid on the Project, and any such bid received by the District shall be deemed non-responsive.

19. **Modifying a Bid.** Prior to the Bid Deadline, a bidder may modify its bid by submitting the written modification to the District, in a sealed envelope, which must be received by the District not later than the Bid Deadline. The envelope shall be marked in the same manner as provided in these Instructions For Bidders for the original bid but shall also include the words "Bid Modification" on the outside of the envelope. The District may reject any modified bid if the modification is not received by the District prior to the Bid Deadline or if it creates an ambiguity or inconsistency, including, without limitation, if the modified bid is unintelligible. In lieu of submitting a modification, a bidder may withdraw its original bid in accordance with these Instructions For Bidders and submit a new bid for the Project, in which case the outside of the sealed envelope shall be marked with the words "Superseding Bid" in addition to the other required information. The bidder must submit any modification or superseding bid in writing to the District via personal or other delivery. The District will not accept oral modifications or superseding bids and will not accept any modifications or superseding bids sent via facsimile or electronic transmission. Any modification or superseding bid must be delivered to and received by the District prior to the Bid Deadline.

20. **Withdrawing a Bid.** A bidder may withdraw its bid at any time prior to the Bid Deadline, either personally or by written request received by the District prior to the Bid Deadline. In such event, the District shall return the withdrawing bidder's bid security upon request. Except as provided in Public Contract Code Section 5100 *et seq*., in no event may a bidder withdraw its bid during the period after opening of bids that is specified in the Notice Inviting Bids. Principal shall not withdraw said bid within the period specified therein after the opening of the same, or if no period be specified, within sixty (60) days after said opening.

21. **Requesting Substitution of Specified Item.** Unless the Contract Documents provide in any particular case that substitution is not permitted, if the Contract Documents call for any specific concern, material, product, thing or service, such specification shall be interpreted as if followed by the words "or equal." Unless provided otherwise in the Contract Documents, a bidder may offer in place of any item specified in the plans, drawings, or other Contract Documents ("Specified Item") any material, process, article, *et cetera* that the bidder can demonstrate is materially equal or better in every respect to the Specified Item and that will completely accomplish the purpose of the Contract Documents. Requests for substitution must be made in writing on the Substitution Request form included in the bid documents or available from the District ("Request Form"). Each substitution request is subject to and must conform to the requirements of Sections 3.10.4.3, 3.10.4.4, and

3.10.4.5 of the General Conditions, including, without limitation, requirements for submitting documentation in support of the request. Substitution requests must be submitted to the District not later than the date that is eight (8) days prior to the Bid Deadline specified in the Notice Inviting Bids. The District will not consider any substitution requests received after such date except to the extent provided in Section 3.10.4.2 of the General Conditions.

The bidder is solely responsible for establishing that a proposed substitution satisfies all requirements of the Contract Documents, including, without limitation, that the proposed substitute item is equal to or better than the Specified Item in all material respects. The bidder must provide with the Request Form, at a minimum, all information required in accordance with Section 3.10.4.4 of the General Conditions to substantiate the request. The District may at any time request any additional information regarding the proposed substitute item. The District, in consultation with the Architect and the Construction Manager as applicable, will decide whether to approve a substitution based on the information provided by the bidder. The District has the sole discretion to determine whether a proposed substitute item is equal to or better than a Specified Item. Any request for substitution that is granted by the District shall be documented and processed by means of a Change Order after execution of the contract. The District may condition its approval of any substitution upon delivery to the District of an extended warranty or other assurances of adequate performance of the substitution. The bidder shall be responsible for and shall bear any and all risks, expenses and costs of delay arising from review or approval of a substitution by the DSA or other governmental agency.

SUBMISSION OF A SUBSTITUTION REQUEST AND SUBSTANTIATING DATA SHALL IN NO WAY OBLIGATE THE DISTRICT TO REVIEW THE REQUEST OR DATA PRIOR TO AWARD OF A CONTRACT FOR THE PROJECT. IF THE DISTRICT AWARDS A CONTRACT FOR THE PROJECT TO A BIDDER AND SUBSEQUENTLY REJECTS A SUBSTITUTION PROPOSED BY SUCH BIDDER, THE BIDDER MUST PROVIDE THE SPECIFIED ITEM IN ACCORDANCE WITH THE CONTRACT DOCUMENTS, AT NO ADDITIONAL COST TO THE DISTRICT.

22. **District Waiver of Bid Irregularities.** The District, in accordance with applicable law, may waive any minor irregularity or informality in any bid or in the bidding.

23. **District Rejection of Irregular Bids.** The District will reject as non-responsive to the Notice Inviting Bids any bids containing irregularities that are not minor irregularities, including, by way of example and not as a limitation, bids that are materially incomplete, bids submitted on forms that have been materially altered, and bids that include any additions or conditional or alternate bids not called for or permitted in the bid documents. In addition, the District may reject as non-responsive to the Notice Inviting Bids any bid in which the bid amounts are obviously unbalanced or inconsistent. The District may, but is not required to, seek information from any bidder that may resolve an ambiguity in the bidder's bid.

24. **District Rejection of Non-Responsive Bids.** If a bid fails to conform to requirements set forth in the Notice Inviting Bids, these Instructions For Bidders, or any of the other Contract Documents (including, without limitation, if the District determines that the bid is unintelligible, internally inconsistent, or ambiguous), the District may reject the bid as not responsive to the Notice Inviting Bids. The District may, but is not required to, seek information from any bidder that may resolve an ambiguity in the bidder's bid.

25. **Bidder Evidence of Responsibility.** In determining whether a bidder is a "responsible" bidder, the District will consider, among other possible factors, the financial standing and general competency of the bidder with respect to the work being bid. If the District is considering awarding a contract for the Project to a bidder, the bidder, within two business days of the District's request, shall provide reasonable evidence of the bidder's construction experience, current and anticipated workload, organization available for the performance of the contract, any terminations from projects prior to completion, references for public works, financial resources, surety and insurance claims experience, stop notice and other legal proceedings, and other factors pertinent to determining

26. **District Award of Contract.** In its discretion, the Governing Board may award a contract for the Project to a responsive bidder, or the Governing Board may reject all bids and may (but is not required to) rebid the Project. If the Governing Board awards a contract for the Project, the award will be to the responsible and responsive bidder with the lowest bid from among the bidders responsive to the Notice Inviting Bids. If two or more

responsive and responsible bidders have submitted the same low bid, the District shall determine the lowest bidder by means of a coin toss or some other random method. The District reserves the right to award any one or more items of the bid to one or more contractors as deemed to be in the best interest of the district. The District may reject any Bid which, in its opinion when compared to other bids received or to the District's internal estimates, does not accurately reflect the cost to perform the Work. The District may reject as non-responsive any bid which unevenly weights or allocates costs, including but not limited to overhead and profit to one or more particular bid items. The District reserves the right to reject any or all bids, or to waive any irregularities or informalities in any bids or in the bidding. The award of the contract, if made by the District, will be to the lowest responsible bidder(s).

27. **Award Process**. Once all Bids are opened and reviewed to determine the lowest responsive and responsible Bidder, the District Board may award the contract. The apparent successful Bidder should begin to prepare the following documents: (1) the Performance Bond; (2) the Payment Bond; and (3) the required insurance certificates and endorsements. Once the District notifies the Bidder of the award, the Bidder will have five (5) business days from the date of this notification to execute the Contract and supply the District with all of the required documents and certifications. Once the District receives all of the properly drafted and executed documents and certifications from the Bidder, the District shall issue a Notice to Proceed to that Bidder.

28. **Bidder Execution of Contract.** The bidder to which the District awards a contract for the Project shall be sent a Preliminary Notice of Award and shall have ten (10) calendar days after notification of the award to execute and deliver to the District the contract and all other documents required in accordance with the Contract Documents. If the bidder fails to execute and provide all such documents within that period, the bidder will forfeit the bid security submitted with its bid in accordance with the Notice Inviting Bids. In such event, the District may award the contract to the next lowest responsible and responsive bidder or release all bidders.

29. **Filing Bid Protests.** A bidder may protest the bidding process, another bid and/or the intended award of a contract for the Project only by filing a written protest with the District's Deputy Superintendent of Business Services in accordance with the procedures set forth in this Section. The District will not consider any verbal protests (e.g., by telephone) or any protests sent by electronic mail (e-mail). In order for a protest to be valid and b e considered by the District the protest must:

    (a) be filed not later than 12:00 p.m. on the second business day following the opening of bids
    (b) clearly identify the bidder on whose behalf the protest is being filed, together with the name, address and telephone number of the person representing the bidder for purposes of the protest;
    (c) clearly identify the specific bidding process, bid, or award of contract being protested;
    (d) clearly identify and describe in detail the specific basis or bases for the protest and all facts relevant thereto and in support thereof;
    (e) clearly identify all references to the specific portions of all documents relevant to the protest;
    (f) clearly identify and describe in detail all arguments in support of the protest, including, not as a limitation, citations to all legal authorities; and
    (g) be submitted with all documentation that is relevant to and supports the basis or bases underlying the protest.

    If a protest filed by a bidder does not comply with each and every one of the foregoing requirements, the District will reject the protest as invalid. If a bidder files a valid protest, the District shall review the protest and all relevant information and documents and will provide written decision to the protesting bidder. In response to a protest, the Governing Board may decline to award a contract, may award a contract to a bidder other than as previously intended, or may award a contract to a bidder as previously intended despite the protest. Such action by the Governing Board shall be a condition precedent to the filing of any claim or demand and to the initiation of any action (legal or equitable) or other proceeding arising from the matter(s) protested.

    COMPLIANCE WITH THE FOREGOING REQUIREMENTS IS MANDATORY. Each bidder that desires to protest must file a protest in accordance with the foregoing requirements, and no bidder may rely on a protest by another bidder as a means of satisfying such requirements. Compliance with the foregoing requirements is the sole and exclusive means of protesting the bidding process, any bid, and/or the intended award of a

contract for the Project, and failure to so comply shall be deemed and construed as a waiver of any and all rights the bidder may have to pursue a claim, demand or action based on the bidding, any bids, and/or any contract awarded for the Project.

30. **Public Works Project.** The Project is a "public work" and "public project" within the meaning of, and, therefore, is subject to, various provisions of the Public Contract Code, Labor Code, Civil Code, and other legal requirements applicable to public works and public projects. The Contract Documents include various provisions relating to public works and public projects as provided by law, and each bidder must thoroughly review and become familiar with the Contract Documents as described above in these Instructions for Bidders. However, the provisions of the Contract Documents are not comprehensive statements of all requirements of law applicable to public works and public projects, and each bidder so acknowledges by submitting a bid for the Project. In addition, by submitting a bid for the Project, each bidder represents and warrants that it is familiar and knowledgeable with respect to all requirements of law applicable to public works and public projects generally and to the Project specifically.

31. **Subcontractor Eligibility and Licensing.** The bidder to which the District awards a contract for the Project shall in no event permit a subcontractor to perform any work in connection with the Project if that subcontractor is ineligible to work on a public works or public project. Each subcontractor that the bidder intends shall perform any work in connection with the Project must be licensed in accordance with law prior to commencing any work on the Project.

32. **Workers' Compensation** In accordance with the provisions of section 3700 of the Labor Code, Contractor shall secure the payment of compensation to his employees. Contractor shall sign and file with District the following certificate prior to performing the work under this contract:

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

The form of such certificate is included as part of the contract documents.

33. **Substitution of Security** Monies withheld by the District to ensure performance under the contract may be released in accordance with Public Contract Code section 22300 and the contract documents.

34. **Prevailing Wages.** The bidder to which the District awards a contract for the Project, and each of that bidder's subcontractors of any tier, shall be required to pay not less than the general prevailing rates of per-diem wages in the locality in which the work is to be performed for each craft or type of worker needed to execute the contract ("Prevailing Wages"). The successful bidder must retain copies of certified payrolls for a minimum of five years from the date of completion and submit upon the request of the District or its authorized agent. A copy of the per-diem rates of Prevailing Wages shall be posted at the site of the Project. Rates are available at http://www.dir.ca.gov/dlsr/pwd/index.htm

35. **Public Works Contractor Registration Certification.** If the bids for this Project are due on or after March 1, 2015, then pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. No bid will be accepted, nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work. If awarded a Contract, the Bidder and its subcontractors, of any tier, shall maintain active registration with the Department of Industrial Relations for the duration of the Project. To this end, Bidder shall sign and submit with its Bid the Public Works Contractor Registration Certification on the form provided, attesting to the facts contained therein. Failure to submit this form may render the Bid non-responsive. In addition, each Bidder shall provide the registration number for each listed subcontractor in the space provided in the Designation of Subcontractors Form.

36. **Apprenticeable Trades and Crafts.** Not later than two calendar days after receiving notice of the award of the contract for the Project, the bidder to which the District awards the contract must provide written notice to the District in regard to whether, as described in Labor Code Section 1777.5, workers in any apprenticeable trade or

craft will be employed on the Project.

37. **Criminal-History Background Checks.** The Contractor shall require and be responsible for ensuring that each person who will be at, on, or in the vicinity of the Project Site on account of the Work, and/or each person who interacts with pupils on account of the Work, has a valid criminal records summary as required by Education Code Section 45125.1. The Contractor must complete, execute, and submit to the District a "Certification of Employee Background" form included in the Required Project Forms, to thereby certify that no person assigned to the Work or who otherwise will be present at or on the Project Site, and/or each person who might interact with pupils, has been convicted of any felony as described in Education Code Section 45122.1. The Contractor must attach to the executed certification a list of all persons to whom the certification applies. The Contractor shall prohibit and prevent each and every person who will be at, on or in the vicinity of the Project Site on account of the Work (including not only all persons assigned to the Work directly by the Contractor, but also all persons assigned to the Work by any Subcontractor, materialman, or other person or entity that furnishes any labor, materials, services, goods or other things in connection with the Work), and/or each person who might interact with pupils, from being present at, on or in the vicinity of the Project Site unless and until the Contractor provides the required certification including such person to the District. Moreover, Contractor shall immediately provide any applicable subsequent arrest and conviction information it receives to the District. If the Contractor is a sole proprietor, the District shall prepare and submit the Contractors fingerprints per Education Code section 45125.1. Any Contractor that is a sole proprietor shall have an immediate and affirmative duty to inform the District of such status so as to allow the District to comply with Education Code section 45125.1. Notwithstanding the foregoing, compliance with Education Code Section 45125.1 shall be subject to the District's sole discretion to grant alternative compliance requirements per Education Code section 45125.2, subdivision (a).

38. **Anti-Discrimination Policy.** It is a policy of the District that, in connection with any work performed under contract, there shall be no discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, religious creed, sex, age, or marital status. No bidder shall discriminate in violation of applicable law in preparing and submitting its bid for the Project. The bidder to which the District awards a contract for the Project will be required to comply with applicable federal and California laws prohibiting such discrimination and to require like compliance by any subcontractors employed on the Project by such bidder.

39. **Project Duration and Liquidated Damages.** The bidder to which the District awards a contract for the Project must complete the Project in accordance with the Contract Documents and within the time period specified in the Special Conditions. Failure of such bidder to fully complete the Project within such time period, or to complete any portion thereof in accordance with any applicable schedule for the Project, may result in the District assessing liquidated damages against the Contractor as provided in the General Conditions.

40. **Execution of Contract.** As required herein the Bidder to whom an award is made shall execute the Contract in the amount determined by the Contract Documents. The District may require appropriate evidence that the persons executing the Contract are duly empowered to do so.

41. **Gratuities.** Bidders shall not provide, offer, imply, or otherwise extend any gratuities, including cash gifts, services, allowances, or enticements in any manner or form, to officers, employees, students, agents, or representatives of the District.

42. **IRS Requirements.** The District shall view the legal position of the bidder as an "independent contractor" and that all persons employed to furnish services are employees of the bidder and not of the District.

    a) The District shall not be liable for any of the contractor's acts or omissions performed under the contract to which the bidder party.

    b) The bidder will complete IRS form W-9 providing taxpayer identification number and also indicate whether bidder is a corporation, sole-proprietor, partnership, individual, etc. This form will be sent to the successful bidder with the Agreement, Performance and Payment Bond and is to be returned with same.

END OF INSTRUCTIONS FOR BIDDERS///

BID FORM

Bid No. 2526-12

Business Name: _____

Contact Name: _____

Business Address: _____

_____

Place of Residence: _____

_____

Business Telephone: (_____) _____ Fax:(_____) _____

E-Mail Address: _____

Acknowledgement of Addenda _____

TO: Del Mar Union School District, acting by and through its Governing Board, herein called the "Owner:"

1. Pursuant to and in compliance with your Notice to Contractors Calling for Bids and the other documents relating thereto, the undersigned bidder, having familiarized himself with the terms of the contract, the local conditions affecting the performance of the contract and the cost of the work at the place where the work is to be done, and with the specifications and other contract documents, hereby proposes and agrees to perform, within the time stipulated, the contract, 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 utility and transportation services necessary to perform the contract and complete in a workmanlike manner all of the work required and with all in strict conformity with the specifications and other contract documents, including addenda, if any for the following project: **Bid No. 2526-12 Carpet Removal and Installation at Multiple Schools.**

SCOPE OF WORK
SPECIFIC TO THE CARPET REMOVAL AND INSTALLATION PROJECT OUTLINED IN EXHIBIT "A"

DESCRIPTION	UNIT	UNIT COST	TOTAL COST
Carpet Removal & Disposal	Square Foot	$	$
Carpet Installation	Square Foot	$	$
LVT Removal & Disposal	Square Foot	$	$
LVT Installation	Square Foot	$	$
Polished Concrete Installation	Square Foot	$	$
TOTAL BASE BID PRICE			$

2. District reserves the right to award as deemed to be in the best interest of the district. The District shall award to the lowest grand total, responsive, responsible bidder, and act as the sole judge as to the merit and qualifications of materials or services offered.
3. It is understood that the District reserves the right to reject this bid and that this bid shall remain open and not be withdrawn for the period specified in the Notice to Contractors Calling for Bids.
4. The required list of References is hereto attached.
5. The required Bid Security is hereto attached.
6. The Designation of Subcontractors is hereto attached.
7. The Contractor's Statement for Maintaining a Drug-Free Workplace is hereto attached.
8. The Contractor's Certificate Regarding Worker's Compensation is hereto attached.
9. The Noncollusion Affidavit is hereto attached.
10. It is understood and agreed that if written notice of the acceptance of this bid is mailed, telegraphed, or delivered to the undersigned after the opening of the bid, and within the time this bid is required to remain open, or at any time thereafter before this bid is withdrawn, the undersigned will execute and deliver to the District a contract in the form attached hereto in accordance with the bid as accepted, and that he will also furnish and deliver to the District the Performance Bond and Payment Bond for Public Works as specified, all within five (5) days after receipt of notification of award, and that the work under the contract shall be commenced by the undersigned bidder, if awarded the contract, on the date to be stated in the Owner's notice to the Contractor to proceed, and shall be completed by the Contractor in the time specified in the contract documents.
11. Notice of acceptance or requests for additional information should be addressed to the undersigned at the address stated below:

    _____

12. The names of all persons interested in the foregoing proposal as principals are as follows:

    _____

(IMPORTANT NOTICE: If bidder or other interested person is a corporation, state legal name of corporation, also names of the president, secretary, treasurer, and manager thereof; if a co-partnership, state true name of firm, also names of all individual copartners composing firm; if bidder or other interested person is an individual, state first and last names in full.)

13. Bidder certifies that he is licensed in accordance with the law providing for the registration of Contractors, License No. _____, Expiration Date _____, class of license _____. List all other classifications for this license number:

    _____

    I, _____, the _____ of the bidder, hereby certify under penalty of perjury under the laws of the State of California, that all of the information submitted by the bidder in connection with this bid and all of the representations made herein are true and correct.

    Executed on this _____ day of _____ at San Diego County, California.

    Proper Name of Bidder:

    _____

    By: _____
    Signature of Bidder

NOTE: If bidder is a corporation, the legal name of the corporation shall be set forth above together with the signatures of authorized officers or agents and the document shall bear the corporate seal; if bidder is a partnership, the true name of the firm shall be set forth above together with the signature of the partner or partners authorized to sign contracts on behalf of the partnership; and if bidder is an individual, his signature shall be placed above.

LOCAL SAN DIEGO COUNTY SCHOOL REFERENCES

Bid No. 2526-12

1) Company: _____ Phone:_____

Contact Person: _____ Fax: _____

Job/Project: _____ Date: _____

Size of Job/Project: _____

Job/Project Contract Amount: _____

Comments: _____

_____

2) Company: _____ Phone:_____

Contact Person: _____ Fax: _____

Job/Project: _____ Date: _____

Size of Job/Project: _____

Job/Project Contract Amount: _____

Comments: _____

_____

3) Company: _____ Phone:_____

Contact Person: _____ Fax: _____

Job/Project: _____ Date: _____

Size of Job/Project: _____

Job/Project Contract Amount: _____

Comments: _____

_____

BID BOND

Bid No. 2526-12

KNOW ALL MEN BY THESE PRESENTS: THAT we, _____, as Principal, and_____ as Surety, are held and firmly bound unto the

Del Mar Union School District, hereinafter called the Owner, in the penal sum of **TEN PERCENT (10%)** OF THE TOTAL AMOUNT OF THE BID of the Principal submitted to the said District for the work described below for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal has submitted the accompanying bid dated _____, 20_____, for

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 sixty (60) days after said opening; and, if the Principal be awarded the contract, and shall within the period specified therefore, or if no period be specified, within (5) days after the prescribed forms are presented to him for signature, enter into a written contract with the Owner, in accordance with the bid as accepted and give bond with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such contract and for the payment for labor and materials used for the performance of the contract, or in the event of the withdrawal of said bid within the period specified or the failure to enter into such contract and give such bonds within the time specified, if the Principal shall pay the District the difference between the amount specified in said bid and the amount for which the District may procure the required work and/or supplies, if the latter amount be in excess of the former, together with all costs incurred by the District in again calling for bids, then the above obligation shall be void and of no effect, otherwise to remain in full force and virtue.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract on the call for bids, or to the work to be performed thereunder, or the specifications accompanying the same, shall in anywise affect its obligation under this bond, and it does hereby waive notice of 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 litigation expenses incurred by the District in such suit, including reasonable attorney's fees, court costs, expert witness fees and investigation expenses.

IN WITNESS WHEREOF, the above-bound parties have executed this instrument under their several seals this _____ day of _____, 20 _____, the name and corporate seal of each corporate party being hereto affixed and these presents duly assigned by its undersigned representative, pursuant to authority of its governing body.

Principal

By _____

Title _____

Surety

By_____

Attorney-in-Fact

(Attach Attorney-In-Fact Certificate)

Title _____

For District Informational Purpose:

Surety Company Name_____Contact _____

Address _____Phone_____

City, State & Zip _____Fax _____

DESIGNATION OF SUBCONTRACTORS

Bid No. 2526-12

In compliance with the Subletting and Subcontracting Fair Practices Act (Chapter 4 (commencing at Section 4100), Part 1, Division 2 of the Public Contract Code of the State of California) and any amendments thereof, each bidder shall set forth below: (a) the name and the location of the place of business of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement to be performed under this contract or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and 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 prime contractor's total bid and (b) the portion of the work which will be done by each subcontractor under this act. The prime contractor shall list only one subcontractor for each such portion as is defined by the prime contractor in this bid.

If a prime contractor fails to specify a subcontractor or if a prime contractor 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 prime contractor's total bid, he shall be deemed to have agreed that he is fully qualified to perform that portion himself, and that he shall perform that portion himself.

No prime contractor whose bid is accepted shall (a) substitute any subcontractor, (b) permit any subcontract to be voluntarily assigned or transferred or allow it to be performed by any one other than the original subcontractor listed in the original bid, or sublet or subcontract any portion of the work in excess of one-half of one percent of the prime contractor's total bid as to which his original bid did not designate a subcontractor, except as authorized in the Subletting and Subcontracting Fair Practices Act. Subletting or subcontracting of any portion of the work in excess of one-half of one percent of the prime contractor's total bid as to which no subcontractor was designated in the original bid shall only be permitted in cases of public emergency or necessity, and then only after a finding reduced to writing as a public record of the authority awarding this contract setting forth the facts constituting the emergency or necessity.

In addition to providing the information required by this form prior to the bid opening, bidder shall be required to submit the addresses, telephone numbers, and license numbers of all listed subcontractors within one (1) business day of the bid opening. Failure to provide the foregoing information within the time limit specified may result in the rejection of the bid as nonresponsive.

DIVISION OF WORK OR TRADE, LICENSE TYPE & LICENSE #		
1.		
2.		
3.		
4.		

CERTIFICATION OF CONTRACTOR AND SUBCONTRACTOR DIVISION OF INDUSTRIAL RELATIONS REGISTRATION

Pursuant to Public Contract Code Section 1725.5, a contractor or subcontractor must be registered with the Department of Industrial relations in order to bid on, to be listed in a bid proposal or to engage in the performance of any defined public work contract.

I_____,_____certify that _____
(Name) (Title) (Contractor Name)

is currently registered as a contractor with the Department of Industrial Relations (DIR):

Contractor's DIR Registration Number _____

Expiration date June 30, 20_____

Contract further acknowledges:

1. Contractor shall maintain DIR registered status for the duration of the project without a gap in registration.
2. Contractor shall note in its invitation to bid the DIR's registration requirement for all subcontractors and their subcontractors.
3. Contractor shall ensure that all subcontractors are registered at time of bid opening and maintain registered status for the duration of the project.
4. Contractor is to furnish DIR Registration Number for all subcontractors on the project within 24 hours of the bid opening.
5. Contractor shall substitute any subcontractor with a DIR registered contractor if listed subcontractors unable to perform the work.

Failure to comply with any of the above may result in a determination of non-responsiveness. I declare under penalty of perjury under California law that the foregoing is true and correct.

_____
Signature

_____
Date

CONTRACTOR'S STATEMENT REGARDING MAINTAINING A DRUG FREE WORKPLACE

Bid No. 2526-12

Del Mar Union School District Policy 4004 in relevant part provides:

This Board Policy is adopted pursuant to the federal Drug-Free Workplace Act of 1988, the federal Drug-Free Schools and Communities Act Amendments of 1989, and the California Drug-Free Workplace Act of 1990. It is the policy of the District that all its workplaces and facilities be drug and alcohol free.

The unlawful manufacture, distribution, dispensation, possession, or use of any alcohol beverage, drug or controlled substance in any workplace or facility of the District is strictly prohibited. All employees are prohibited from the unlawful manufacture, distribution, dispensation, possession, or use of alcohol or a controlled substance in any workplace or facility of the District. All employees will abide by this prohibition as a condition of employment. Any employee who violates this prohibition will be disciplined up to an including dismissal, and/or required to satisfactorily complete a drug abuse assistance or rehabilitation program selected by the District in conformance with law.

All employees must notify the Superintendent in writing within five (5) days of any drug or alcohol statute conviction for a violation occurring in any workplace or facility of the District. A conviction includes any finding of guilt, including a no contest pleas, or imposition of a sentence. Any employee who is convicted of such a violation will be disciplined up to and including dismissal, and/or required to satisfactorily complete a drug abuse assistance or rehabilitation program selected by the District in conformance with law.

Each District consultant, contractor and vendor shall, moreover, advise the District whether they have a policy or procedure for maintaining a drug free workplace at the consultant's, contractor's, or vendor's own place of business and if so, shall briefly describe it in writing to District officials.

If awarded contract for above referenced bid, contractor agrees to comply with Del Mar Union School District Board Policy 4020 as detailed above.

In accordance with the above, the following must be signed and filed with the awarding body as part of the bid package.

Business name: _____

Does_____ Does not_____ Have a policy or procedure for maintaining a drug free workplace at their own place of business.

_____ *Attached is a copy of such policy or procedure or*

_____ *Following is a brief description of such policy or procedure:*

Signature: _____ *Date:* _____

Title: _____

Legal Reference: the Drug Free Workplace Act of 1988 and Public Law 100-690 Section 5151-5160

CONTRACTOR'S CERTIFICATE REGARDING WORKERS' COMPENSATION

Bid No. 2526-12

Labor Code section 3700 in relevant part 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, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

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

_____

_____

_____

(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 this contract.)

NONCOLLUSION DECLARATION

Bid No. 2526-12

State of California)
)
County of _____)

I, _____ declare as follows:

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

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

_____
Proper Name of Bidder / Company Name

_____
Signature of Authorized Agent/Officer

_____
Date

CALIFORNIA AIR RESOURCES BOARD COMPLIANCE FORM
Bid No. 2526-12

This form must be submitted with the bid proposal at due date and time established in bidding documents or the bid may be rejected as nonresponsive.

The California Air Resources Board ("CARB") has implemented regulations for the use of certain vehicles on public works projects. For any project awarded after January 1, 2024, and under the regulations (see Cal. Code Regs., tit. 13, § 2449), the Del Mar Union School District ("District") must obtain valid **Certificates of Reported Compliance ("CRC")** from all contractors and listed subcontractors before awarding a project. The District will be required to retain CRCs for three years after the project is complete, and the CRCs are subject to review by the CARB upon five calendar days' notice.

In addition to this Form, the foregoing CRCs are also required at time of bid submittal and must be included with bid proposal by the stated bid due date & time. Proof of bidder and subcontractor certification must be attached to this page at the time of bid submittal.

The ARB Diesel Off-road Online Reporting System (DOORS) reporting system is where bidders may obtain Certificates of Reported Compliance: DOORS (ca.gov). There is also an additional website that provides bidders with more information on the regulation along with FAQs and user guides. The website if the Off-Road Zone: https://ww2.arb.ca.gov/our-work/programs/truckstop-resources/road-zone.

Please also see the following:

Fact Sheet: Contracting Requirements | California Air Resources Board
https://ww2.arb.ca.gov/resources/fact-sheets/fact-sheet-contracting-requirements

Fact Sheet: Renewable Diesel Fuel Requirements | California Air Resources Board
https://ww2.arb.ca.gov/resources/fact-sheets/fact-sheet-renewable-diesel-fuel-requirements

Fact Sheet: Added Vehicle Restrictions and Tier Phase-Out Requirements | California Air Resources Board

https://ww2.arb.ca.gov/resources/fact-sheets/fact-sheet-added-vehicle-restrictions-and-tier-phase-out-requirements

Project Name _____

Bidder Acknowledges CARB Compliance requirements _____

Name & Title of Bidder: _____

Date: _____

DEL MAR UNION SCHOOL DISTRICT
Bid No. 2526-12
AGREEMENT FORM

This Agreement is made this 23rd day of, April 2026, by and between the Del Mar Union School District ("District"), a California public school district, and _____ ("Contractor"). The District and the Contractor may be referred to herein individually as a "Party" and collectively as the "Parties."

In consideration of the rights and obligations attendant to this Agreement, the Parties agree as follows:

Section 1. Scope of Work: As previously indicated, the bid contract will be to provide labor, equipment and miscellaneous materials to install District purchased and furnished carpet/flooring materials over the properly prepared substrate. Detailed specifications are included in the plans which will be incorporated herein by reference.

Section 2. Time for Completion: As indicated in the Specifications Section (Exhibit A): All work shall be performed between June 4, 2026, and July 17, 2026, any changes must be approved by a District Representative of the Del Mar Union School District.

The District will be the sole judge of the successful bidder. The District reserves the right to reject any or all bids, or to waive any informality or technical defect in a bid.

Section 3. Contract Price: As full consideration for the full and faithful performance of the Agreement by the Contractor, the District shall pay to the Contractor the total amount stipulated in the Contractor's bid for the Project of:
Project Cost: Forty Thousand Seven Hundred Fifteen Dollars and Seventy-Four Cents

$ _____

Section 4. Owner's Contingency: In addition to the Contract Price, the District may, at its sole discretion, maintain an Owner's Contingency in an amount not to exceed ten percent (10%) of the Contract Price. The Owner's Contingency is not included in the Contractor's Bid and shall not be used for purposes of bid comparison or award.

The Owner's Contingency may be utilized by the District to pay for unforeseen conditions, necessary changes in the Work, or other costs that are consistent with the scope and intent of the Contract Documents. Expenditures from the Owner's Contingency shall be made only upon written authorization by the District through a duly executed change order or construction change directive.

The Contractor shall have no right or entitlement to the Owner's Contingency funds except to the extent that such funds are specifically authorized by the District for payment pursuant to an approved change order. Any unused portion of the Owner's Contingency shall remain the property of the District.

Section 5. Component Parts of the Contract: The Contract is composed of all of the documents specified below in the Section ("Contract Documents"), each of which is hereby incorporated as an operative and effective part of the Contract. The Parties intend that the Contract Documents are and shall be complementary and an integrated whole. Any requirement set forth in one Contract Document, but not in one or more of the others, shall be interpreted as if set forth in or applicable to all. The Contract consists of the following Contract Documents:

Notice to Contractors Calling for Bid
Instructions for Bidders
Bid Form
References
Bid Bond
Designation of Subcontractors
Contractor's Statement for Maintaining A Drug-Free Workplace

Workers' Compensation Certificate
Noncollusion Declaration
Agreement
Certification of Employee Background
Performance Bond
Payment Bond for Public Works
Special Conditions
Specifications
General Conditions (Articles)
Addendum(s) as Issued
Installation & Floor Preparation Instructions

Section 6. Provisions Required by Law: Each and every provision required by law to be included in the Contract is hereby deemed to be so included, and the Contract shall be construed and enforced as if all such provisions are so included. If, for any reason, any provision is not included or incorporated into the Contract Documents in accordance with law, or is not correctly included or incorporated, then, upon request of either the District or the Contractor, they shall amend the Contract Documents to include or incorporate, or to correctly include or incorporate, such provision.

Section 7. Third Party Beneficiaries: Except to the extent provided by law (e.g., requirements for payment of prevailing wages to workers on the Project), no party other than the Parties may claim or assert any right or benefit arising from this Agreement or the Contract of which this Agreement is a part. Each provision of the Contract Documents shall be deemed and construed to benefit only the District and/or the Contractor unless and only to the extent the provision is included in the Contract specifically as a result of any law intended to benefit that third party ("Required Provision"). Provisions included in the Contract Documents that relate to or permissibly expand on any Required Provision, but are not necessary for compliance with the law providing for the Required Provision, are to be construed as being included in the Contract for the convenience of the Parties, and shall in no event be construed as benefiting any third party or as providing a basis for any claim, demand, action or other proceeding by a third party relating to the Contract.

Section 8. Governing Law and Venue: The Contract of which this Agreement is a part shall be governed by the laws of the State of California. Any action, arbitration or other proceeding arising from the Contract shall be initiated and conducted only in the County of San Diego, California.

Section 9. Entire Agreement: The Contract as defined in Section 1 of this Agreement, and as may be amended in accordance with the Contract Documents, constitutes the entire understanding and agreement of the Parties with respect to the Scope of Work described in Section 1 of this Agreement. The Contract supersedes and replaces all other oral or written agreements, understandings, negotiations, or discussions.

Section 10. Due Authority of Signatories: Each person signing this Agreement on behalf of a Party represents and warrants that he or she has been duly authorized by such Party to sign, and thereby bind such Party to, this Agreement.

END OF PAGE///

In witness whereof, each Party has executed this Agreement by and through signature of its duly-authorized representative as set forth below.

CONTRACTOR: A&A Flooring, Inc. dba A&S Flooring	DISTRICT: Del Mar Union School District
License No. _____	By _____ Marisa Janicek
By _____	Title _Superintendent_____
Title _____	Date _____
Date _____	Governing Board Date: _____

(Corporate Seal)

Contractors are required by law to be licensed and regulated by the Contractors' State License Board. Any questions concerning a contractor may be referred to the registrar of the board whose address is:

Contractors' State License Board
9821 Business Park Drive
Sacramento, CA 95827

CERTIFICATION OF EMPLOYEE BACKGROUND

BID NO. 2526-12

CERTIFICATION OF EMPLOYEE BACKGROUND

Concerning Department of Justice (DOJ) Fingerprint and Criminal Background Investigation Requirements of Education Code (EC) Section 45125.1 *et seq.*

To: Del Mar Union School District
Attn: Marley Nelms
11232 El Camino Real
San Diego, California 92130
Email:_____

Vendor:_____
Attn: _____
Address : _____
City, State, Zip Code: _____
Email: _____

With respect to the ☐ Agreement ☐ Proposal dated_____between the **Del Mar Union School District ("District")** and the individual, company, or contractor named above **("Vendor")** for provision of _____ services.

Please check all appropriate boxes and sign below:

REQUIREMENTS SATISFIED

☐ A) The Vendor certifies to the District that it has completed the criminal background check requirements of EC 45125.1 and that none of its employees that may come into contact with, or interact with, District students have been convicted of a felony.
ORI # _____

List or attach names of all employees that have successfully completed the fingerprinting and criminalbackground check clearance in accordance with the law.

Employee	Employee	Employee

WAIVER REQUEST

☐ B) **FOR CONSTRUCTION OR REPAIR CONTRACTS ONLY.** The Vendor seeks a waiver of the DOJ fingerprint & criminal background investigation permitted by EC section 45125.1. Vendor acknowledges that the District may approve or reject any waiver request in its sole discretion. Vendor and its employees will have more than LIMITED CONTACT with pupils but will ensure that one (1) or more of the following are utilized to protect pupil safety. [EC 45125.2(a)].

Check all methods to be used:

☐ 1) Installation of a physical barrier at the worksite to limit contact with students.

☐ 2) Continual supervision and monitoring of all employees of the Vendor by an employee of the Vendor, who has complied with EC section 45125.1:_____(employee name).

☐ C) **FOR ANY CONTRACT INCLUDING CONSTRUCTION OR REPAIR CONTRACTS.**

☐ 1) Surveillance of employees of the Vendor by school personnel: _____
(District employee name to be filled in by District).

☐ 2) The services provided by the Vendor are for an "emergency or exceptional situation" per EC 45125.1(b) or EC 45125.2(d).

I certify under penalty of perjury that the information contained in this Certification and any attachment is true and correct. I understand that it is Vendor's sole responsibility to provide the District with any subsequent arrest and conviction information it receives throughout the duration of the contract between the District and Vendor.

Print or type name and title of CERTIFYING AUTHORITY:_____

Signature of CERTIFYING AUTHORITY:_____Date:_____

PERFORMANCE BOND

(If Required)

KNOW ALL MEN BY THESE PRESENTS: that

WHEREAS, the **Del Mar Union School District** (hereinafter designated as "Public Entity"), by action taken on this _____ day of _____, 2026, has awarded to_____**,** hereinafter designated as the "Principal," a contract for the work described as follows: **Bid No. 2526-12 Carpet Removal and Installation at Multiple Schools**

(The "Project"); and

WHEREAS, said Principal is required under the terms of said contract to furnish a bond for the faithful performance of said contract,

NOW THEREFORE, we, the Principal and _____, as Surety, are held and firmly bound unto the Public Entity in the penal sum of **$_____ (100% of contract price**) 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 above bounded Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by and well and truly keep and perform, the covenants, conditions, and agreements in the said contract and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Public Entity, its officers and agents, as therein stipulated, then this obligation shall become null and void, otherwise, it shall be and remain in full force and virtue.

And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration of addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in anywise affect its obligation on this bond, it does hereby waive notice of such change, extension of time, alteration, or addition to the terms of the contract, 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 litigation expenses incurred by the District in such suit, including attorneys' fees, court costs, expert witness fees and investigation expenses.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and surety above named, on the _____ day of _____, 20 _____.

Principal _____

By _____

[Attach required acknowledgments]

Surety _____

By _____

Attorney-in-Fact

For District Informational Purpose:

Surety Company Name _____ Contact _____

Address_____ Phone_____

PAYMENT BOND FOR PUBLIC WORKS

(Required for contracts of $25,000 or more)

KNOW ALL MEN BY THESE PRESENTS: That _____

WHEREAS, the **Del Mar Union School District** (hereinafter designated as "Public Entity"), by action taken on this _____ day of _____, 2026, has awarded _____hereinafter designated as the "Principal," a contract for the work described as follows: **Bid No. 2526-12 Carpet Removal and Installation at Multiple Schools**

(The Project:), and
WHEREAS, said Principal is required by Chapter 5 (commencing at section 3225) and Chapter 7 (commencing at Section 3247), Title 15, Part 4, Division 3 of the California Civil Code to furnish a bond in connection with said contract;

NOW THEREFORE, we, the Principal and _____, as Surety, are held and firmly bound unto the Public entity in the penal sum of **$_____ (100% of contract price)** 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 assign, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his or its subcontractors, heirs, executors, administrators, successors or assigns, shall fail to pay any of the persons named in section 30181 of the California Civil Code, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the contractor and his subcontractors pursuant to section 18663 of the California Revenue and Taxation Code, with respect to such work and labor the surety or sureties will pay for the same, in an amount not exceeding the sum hereinabove specified, and also, in case suit is brought upon this bond, all litigation expenses incurred by the Public Entity in such suit, including reasonable attorney's fees court costs, expert witness fees and investigation expenses.

This bond shall insure to the benefit of any of the persons named in Section 30181 of the California Civil Code so as to give a right of action to such persons of their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement hereinabove described, 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 circumstanced 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 District of Public Entity 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 30110 or 30112 of the California Civil Code, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named, on the _____ day of _____, 20_____.

Principal _____
By _____
[Attach required acknowledgments]
Surety _____

By _____
Attorney-in-Fact
For District Informational Purpose:

Surety Company Name_____Contact _____

Address _____Phone _____

City, State & Zip _____Fax _____

SPECIAL CONDITIONS

Bid No. 2526-12

A. Time of Performance. The work shall be commenced on the date stated in the Owner's Notice to the Contractor to Proceed. District and Contractor each hereby stipulate that the stated performance period is accepted as reasonable and that no other performance period shall be acceptable unless accepted in writing (See Article 2 of Agreement and Article 6 of General Conditions.)

Work under this contract shall be scheduled and coordinated in compliance with the following:

1. The anticipated award of contract is **April 22, 2026,** to be awarded by the Board of Governors

2. Anticipated commencement of work will be **June 4, 2026.** All work to be completed **no later than July 17, 2026.**

B. Specifications. Referenced in Exhibit "A"

C. Liquidated Damages. If work under this contract is not ready for the intended use within the specified time period, the agreed liquidated damages provision established in Article 6 of the General Conditions is five hundred dollars ($500.00) per day for each calendar date completion is delayed.

D. Documents Furnished. The number of copies of specifications to be furnished to Contractor free of charge, per Article 3 of the General Conditions, is one (1).

E. Bonds. Contractor shall provide (I) a bid bond in the amount of ten (10%) of the contract price; (II) a payment bond in the amount of one hundred percent (100%) of the contract price; and (III) a performance bond in the amount of one hundred percent (100%) of the contract price.

F. Insurance. As provided in General Conditions, Contractor procures and maintains and shall require all subcontractors, if any, whether primary or secondary, to procure and maintain either:

Comprehensive General Liability Insurance.
with a combined single limit per occurrence of not less than……..$1,000,000

OR

Commercial General Liability and Property Damage Insurance
(Including automobile insurance) which provides limits of not less than:

(A)	Per Occurrence (combined single limit)…….	$1,000,000
(B)	Project Specific Aggregate (for this project only)……	$1,000,000
(C)	Products/Completed Operations……	$1,000,000
(D)	Personal & Advertising Injury limit……	$1,000,000

Insurance Covering Special Hazards: Following special hazards shall be covered by riders or riders to above-mentioned commercial liability insurance or public liability insurance or property damage insurance policy or policies of insurance, or by special policies of insurance, in amounts as follows:

(A)	Automotive and truck where operated in amounts……..	$1,000,000
(B)	Material hoist where used in amounts……	$1,000,000
(C)	Explosion, Collapse & Underground (XCU) coverage…...	$1,000,000
(D)	Excess Liability Insurance coverage in the amount of….	$1,000,000

Additional Insurance Endorsement: Any general liability policy provided by Contractor hereunder shall contain an endorsement which applies its coverage to Owner, members of Owner's board of trustees, and the officers, agents, employees and volunteers of Owner, the State Allocation Board, if applicable, the architect, and the architect's consultants, individually and collectively, as additional insured's.

Executed Copies: The number of executed copies of the Agreement, the Performance Bond, and the Payment Bond for Public Works required is one (1).

G. **License Classification:** Each bidder shall be a licensed Contractor pursuant to the Business and Professions Code and shall be licensed in one of the following classifications: C-15 Flooring and Floor Covering Contractors.

H. **Criminal-History Background Checks.** The Contractor shall require and be responsible for ensuring that each person who will be at, on, or in the vicinity of the Project Site on account of the Work, and/or each person who interacts with pupils on account of the Work, has a valid criminal records summary as required by Education Code Section 45125.1. The Contractor must complete, execute, and submit to the District a "Certification of Employee Background" form included in the Required Project Forms, to thereby certify that no person assigned to the Work or who otherwise will be present at or on the Project Site, and/or each person who might interact with pupils, has been convicted of any felony as described in Education Code Section 45122.1. The Contractor must attach to the executed certification a list of all persons to whom the certification applies. The Contractor shall prohibit and prevent each and every person who will be at, on or in the vicinity of the Project Site on account of the Work (including not only all persons assigned to the Work directly by the Contractor, but also all persons assigned to the Work by any Subcontractor, materialman, or other person or entity that furnishes any labor, materials, services, goods or other things in connection with the Work), and/or each person who might interact with pupils, from being present at, on or in the vicinity of the Project Site unless and until the Contractor provides the required certification including such person to the District. Moreover, Contractor shall immediately provide any applicable subsequent arrest and conviction information it receives to the District. If the Contractor is a sole proprietor, the District shall prepare and submit the Contractors fingerprints per Education Code section 45125.1. Any Contractor that is a sole proprietor shall have an immediate and affirmative duty to inform the District of such status so as to allow the District to comply with Education Code section 45125.1. Notwithstanding the foregoing, compliance with Education Code Section 45125.1 shall be subject to the District's sole discretion to grant alternative compliance requirements per Education Code section 45125.2, subdivision (a).

Certification of Employee Background will be required to be submitted with the AGREEMENT and the PERFORMANCE and PAYMENT BONDS at the time of award of contract. This form will require verification that prior to commencement of work all supervisors on this project will have received fingerprint clearance from the California Department of Justice and will provide continuous supervision and monitoring of the contractor's employees. Failure to provide this verification will cause the Contractor to be non-responsive and the project to be re-awarded to the next lowest, responsive bidder.

I. **Award of Bid:** The District reserves the right to reject any or all bids, or to waive any irregularities or informalities in any bids or in the bidding. The award of the contract, if made by the Owner, will be to the lowest responsible, responsive bidder(s).

J. **Work Schedule:** A work schedule is to be reviewed and approved by the Owner's Representative, Nathan Wulff, Director of Maintenance, Operations & Facilities, prior to any work being done. He can be reached at (858) 755-9301 ext. 6044.

K. **Safety:** The contractor shall be responsible for the safety of his workers and his subcontractors, the public, school staff, and students within his area of work. The contractor shall provide substantial barricades around his area of work. At the end of each workday the area shall be left reasonably free of debris and secured.

L. Owner's Contingency:

1. The District may establish an Owner's Contingency for the Project in an amount not to exceed ten percent (10%) of the Contract Price.
2. The Owner's Contingency is a District-controlled allowance and is not part of the Contractor's Bid or Contract Price.
3. The Owner's Contingency may be used for, including but not limited to:
    - Unforeseen site conditions;
    - Errors or omissions in the Contract Documents;
    - District-directed scope changes;
    - Necessary work not reasonably inferable at the time of bid.
4. All use of the Owner's Contingency shall require prior written authorization by the District and shall be processed through a formal change order or construction change directive in accordance with the Contract Documents.
5. Approval of change orders utilizing the Owner's Contingency shall comply with District approval thresholds. Change orders within staff authority may be approved administratively. Change orders exceeding such authority, or otherwise requiring approval under District policy or applicable law, shall be submitted to the Governing Board for approval or ratification.
6. Markups for overhead, profit, and bond on change order work funded by the Owner's Contingency shall be limited to the percentages specified elsewhere in the Contract Documents.
7. The Contractor shall not include contingency amounts in its Bid for risks that are properly allocable to the Owner's Contingency.
8. The existence of an Owner's Contingency does not relieve the Contractor of its obligation to fully complete the Work for the Contract Price, except as modified by approved change orders.
9. Any portion of the Owner's Contingency not expended at Project completion shall remain with the District and shall not be due or payable to the Contractor.

END OF SPECIAL CONDITIONS///

EXHIBIT “A”
SCOPE OF WORK AND SPECIFICATIONS

Flooring Removal and Installation (LVP, Carpet, and Polished Concrete) SUMMER 2026		
Ashley Falls	601	25'x38' w/4'x4' walkoff mats
7-SPACES		Nook 11'x9'
	602	25'x38' w/4'x8' walkoff mats "L" shape
	604	25'x38' w/4'x8' walkoff mats "L" shape
		Nook 11'x9'
	605	25'x38' w/4'x8' walkoff mats "L" shape
		Nook 14'x8'
Ocean Air	432	27'x33' w/4'x4' & 4'x6' walk-off mats
6-SPACES		Nook 8'x8'
	437	27'x33' w/4'x4' & 4'x6' walk-off mats
		Nook 8'x8'
	504	27'x33' w/4'x4' & 4'x6' walk-off mats
	505	27'x33' w/4'x4' & 4'x6' walk-off mats
Sage Canyon	304	25'x35' w4'x4' walk-off mats
3-SPACES	305	25'x40' w4'x4' walk-off mats
	306	25'x35' w4'x4' walk-off mats
Sycamore Ridge	C-1	28'x37' w/6'x6' walk-off mats
7-SPACES	C-5	28'x37' w/6'x6' walk-off mats
	E-1	26'x33' w/4'x4' & 4'x6' walk-off mats
	E-2	26'x33' w/4'x4' & 4'x6' walk-off mats
	E-5	26'x33' w/4'x4' & 4'x6' walk-off mats
	E-6	26'x33' w/4'x4' & 4'x6' walk-off mats
	G-3	LVT Demo - Polished Concrete 25'x37'
Torrey Hills	D-3	27'x35' w/4'x4' & 4'x6' walk-off mats
8-SPACES	E-1	27'x35' w/4'x4' & 4'x6' walk-off mats
	E-2	27'x35' w/4'x4' & 4'x6' walk-off mats
	E-3	27'x35' w/4'x4' & 4'x6' walk-off mats
	E-4	27'x35' w/4'x4' & 4'x6' walk-off mats
	K-1	30'x35' w/4'x4' & (2) 4'x6' walk-off mats
		LVT 9'x35' same as room K-5
	L-1	27'x30' w/4'x4' & 4'x6' walk-off mats
		Keep existing LVT at the sink
	L-4	27'x30' w/4'x4' & 4'x6' walk-off mats
		Keep existing LVT at the sink

1. **Demolition, Removal & Replacement:**

   Remove all existing carpet and luxury vinyl tile (LVT) flooring in designated areas. This includes removal of adhesives, tack strips, transitions, and all associated materials. The awarded contractor shall be fully responsible for demolition and proper disposal of all materials off-site according to applicable regulations.

2. **Subfloor Preparation & Testing:**

   Prepare all subfloor surfaces to receive new finishes according to Tarkett manufacturer requirements. This involves scraping, grinding, patching, and cleaning to remove all adhesives and contaminants.

   - Substrates shall be smooth, level, and structurally sound.
   - Perform pH testing of concrete substrates (maximum pH of 9.0).
   - If moisture or staining is present, perform moisture vapor emission rate (MVER) and relative humidity (RH) testing per ASTM standards.
   - Use only subfloor preparation materials approved by the manufacturer.
   - All surfaces must be dust-free and suitable for adhesion prior to installation.

3. **Material Delivery, Storage & Handling:**

   - Deliver materials in original packaging with manufacturer identification.
   - Store materials in a dry, climate-controlled environment (65°F–90°F, max 65% RH).
   - Acclimate materials on-site for a minimum least 48 hours prior to installation.

4. **Carpet Installation (Tarkett Powerbond® Cushion RS®):**

   Furnish and install Tarkett Powerbond® Cushion RS® carpet in strict accordance with manufacturer specifications:

   - The installation method shall utilize factory-applied “dry” adhesive (peel-and-stick system).
   - Install carpet tight, flat, and aligned, with proper seam placement and minimal cross-seams.
   - Seam locations shall avoid high-traffic and doorway areas and follow approved shop drawings.
   - All seams shall be chemically welded and sealed per manufacturer requirements.
   - Roll flooring to ensure full adhesion and eliminate bubbles or irregularities.

- Carpet shall be installed to achieve a uniform, monolithic appearance.
- Installation shall comply with ADA requirements.

5. **LVT Removal and Preparation for Polished Concrete (Sycamore Ridge Room G-3):**

   Remove existing LVT flooring and prepare the concrete surface for polishing. This includes adhesive removal, grinding, patching, and surface preparation to ensure a clean, even finish suitable for polishing.

6. **Polished Concrete Preparation:**

   Prepare concrete surfaces for polishing by grinding and refining the slab to meet the requirements of the polishing contractor. Coordinate to ensure the substrate is ready.

7. **Environmental & Product Requirements:**
   - Carpet shall meet CRI Green Label Plus standards for low VOC emissions.
   - Product shall contain recycled content and meet sustainability certifications.
   - Product shall be free of added pesticides (antimicrobials).
   - Carpet shall include a manufacturer's lifetime limited warranty.
8. **Installer Qualifications & Quality Assurance:**
   - Installer shall be experienced in commercial flooring and certified or trained by Tarkett.
   - Provide shop drawings indicating layout, seams, and transitions prior to installation.
   - Contractor shall provide a minimum one (1) year installation warranty.
   - No subcontracting of installation without written approval.
9. **General Requirements:**
   - Protect adjacent surfaces and finishes during demolition and installation.
   - Maintain a clean, safe, and orderly work environment.
   - Coordinate work with other trades.
   - Remove debris daily and clean installed areas.
   - Protect finished flooring from damage until project completion.
   - All work shall comply with manufacturer specifications and industry standards.
   - All scope clarifications shall be coordinated with the District Representative prior to installation.
   - Any changes must be approved through a formal Request for Information (RFI) process.

REVISED 3/2023

Please contact Tarkett at 800-248-2878 or www.tarkettna.com for the latest version of this document. This specification is designed for editing to comply with specific project requirements and is therefore provided in open Word format. The text can be modified, deleted or added to as needed. The user is solely responsible for the accuracy of the revised document. TARKETT SHALL NOT BE LIABLE FOR ANY DAMAGES THAT MAY RESULT FROM USE OF THIS SUGGESTED SPECIFICATION GUIDE.

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NOTE: Italicized items draw attention to areas/items where one must choose whether to retain the shaded information or portions thereof in the project specification (therefore, un-italicize it) or delete the italicized information or portions thereof from the specification. Such decisions are at the discretion of the architect, based upon job requirements, and/or dependent upon the product style being specified.

SECTION 096816 – CARPETING

PART 1 – GENERAL

1.01 SUMMARY

A. Related Documents: Drawings and general provisions of the Contract, *including <<<General and Supplementary Conditions>>> <<<Division 1 Specification Sections>>> <<<09650 Resilient Flooring>>> <<<09690 Carpet Tile>>> <<<(other applicable sections)>>>* apply to this Section.

1.02 SUBMITTALS

A. Shop Drawings showing the extent of product, seam direction and accessories shall be submitted to Architect for approval prior to installation. Check pattern match, if any, for matching during installation and possible waste factors in ordering required amounts. Should also indicate columns, doorways, enclosing walls or partitions, built-in cabinets, and locations where cutouts are required. Copy of approved shop drawings to be available on job site during installation.

B. Floor schedule using same room designations indicated on drawings.

C. Product Data: Provide data on specified products, describing physical and performance characteristics, sizes, patterns, colors available, and method of installation.

D. Verification Samples: Submit samples illustrating color and pattern for each carpet material specified.

E. Manufacturer's Installation Instructions: Indicate special procedures and perimeter conditions requiring special attention.

F. Maintenance Data: Include maintenance procedures, recommendations for maintenance materials and equipment, and suggested schedule for cleaning.

G. Manufacturer's Product Warranty.

H. Certifications: Manufacturer to submit copies of the following independent laboratory reports showing compliance with requirements per these methods outlined in Part 2 of this document. Submitted results shall represent average results for production goods of the specified style.

1. *<<<ASTM E-648 Flooring Radiant Panel>>>*
2. *<<<ASTM E-662: Smoke Density>>>*

3. *<<<AATCC 134: Electrostatic Propensity>>>*
4. *<<<ASTM D-3936: Delamination>>>*
5. *<<<Other from methods specified in Part 2>>>*

1.03 QUALITY ASSURANCE

A. Manufacturer Qualifications
   1. Company specializing in manufacturing specified carpet with minimum 15 years documented experience.

   2. Upon request, manufacturer to provide representative to assist in project start-up and to inspect installation while in process and upon completion. Representative will notify designated contact if any installation instructions are not followed.

   3. Single Source Responsibility: Obtain each type of product from one source and by a single manufacturer.

B. Installer Qualifications
   1. Installation Qualification: Contractors for floor covering installation should be experienced in managing commercial flooring projects and provide professional installers, qualified to install the various flooring materials specified. An installer is "qualified" if trained, or certified by Tarkett or a certified INSTALL (International Standards & Training Alliance) carpet installer.

   2. Mockups: carpet products with mockups specified in other Sections

   3. *Certify payment of Prevailing Wage Rates to the installers.*

   4. Flooring contractor possessing Contract for the product installation shall not sub-contract the labor without written approval of the Project Manager.

   5. Flooring contractor will be responsible for proper product installation, including floor testing and preparation as specified by the manufacturer and JOB CONDITIONS herein.

   6. Flooring contractor to provide Owner a written installation warranty that guarantees the completed installation to be free from defects in materials and workmanship for a period of one year after job completion.

1.04 DELIVERY, STORAGE, & HANDLING

A. Deliver materials to the site in manufacturer's original packaging listing manufacturer's name, product name, identification number, and related information.

B. Store in a dry location, between 65 degrees F and 90 degrees F and a relative humidity below 65%. Protect from damage and soiling. Stack carpet rolls horizontally on a flat surface, stacked no higher than two rolls.

C. Make stored materials available for inspection by the Owner's representative.

D. Store materials in area of installation for minimum period of 48 hours prior to installation.

1.05 PROJECT CONDITIONS

A. Sub-floor preparation is to include all required work to prepare the existing floor for installation of the product as specified in this document and Manufacturer's installation instructions.

B. Powerbond Cushion installations utilizing #54 Seam Weld or C-XL Water Based Seam Sealer **do not** require moisture vapor emission rate (MVER) testing nor relative humidity (RH) testing **provided that** no free liquids are present and that no moisture stained concrete is evident. pH testing **is** required for all

Powerbond Cushion installations as detailed below. In the event that free liquids and/or moisture stained concrete are observed, a full assessment of the concrete substrate is required. This assessment includes MVER testing per ASTM F-1869-04 (Standard Test Method for Measuring Moisture Emission Rate of Concrete) and In-Situ RH testing per ASTM F-2170-02 (Standard Test Method for Measuring Relative Humidity in Concrete). For assistance with installations that require MVER and RH testing, please contact Tarkett's Installation Services at 800-241-4902, ext. 2625, 2623, 2129, 2023 or 2670. In cases where such testing is mandated, Tarkett requires that at least 1 MVER and 2 RH tests be performed on the initial 1000 sq ft. of each project. In addition, a minimum of one test, alternating between MVER and RH, per 1000 sq ft. is required for the balance of the project. The required pH range is 9.0 or less as tested according to ASTM F-710-05. Preparing the surface of a concrete slab for pH testing requires the following attention to detail. Make sure the concrete surface is adequately cleaned of any adhesives, primers, curing compounds, surface contaminants, etc. Exercise care not to over clean the surface of the concrete removing the thin layer of carbonation. This can result in higher, non-responsive pH readings. Slightly wet the concrete sub floor surface with a small amount of distilled water and allow the water to stand for one minute. Apply pH test paper to the wet concrete surface and allow the pH test paper to remain in contact with the wet area for one minute. The pH test paper will change color depending on the pH of the wetted surface and a color scale is provided with the pH test papers for comparison. Note: pH test paper commonly supplied in MVER test kits only measures up to a pH of 12 accurately. Please see Powerbond Cushion Installation & Floor Preparation Instructions for specific requirements for moisture vapor emission rate, ambient conditions, and other requirements.

C. All material used in sub-floor preparation and repair shall be recommended by the carpet manufacturer and shall be chemically and physically compatible with the carpet system being bid.

D. Maintain minimum 65 degrees F ambient temperature and 65% Relative Humidity for 72 hours prior to, during, and 48 hours after installation.

E. Do not install flooring until space is enclosed and weatherproof, wet-work in space is completed and nominally dry, work above ceilings is complete, and ambient temperature and humidity conditions are and will be continuously maintained at values near those indicated for final occupancy.

1.06 EXTRA MATERIALS

A. Provide additional 5% for "attic stock."

PART 2 – PRODUCTS

2.01 RECYCLED CONTENT

A. Product must contain a minimum of 7% recycled content by weight. This percentage is calculated by dividing the weight of recycled content in one square yard of finished carpet by the total weight of one square yard of finished product and multiplying by 100. [(Recycle Content Weight) / (Total Product Weight) x 100].

B. Product must contain 7% post-consumer recycled content by weight from recycled post consumer carpet. This ensures that carpet is diverted from landfills for the production of the product and that virgin resource use in the product is reduced.

C. Recycled content must be certified by a neutral, independent, third party organization such as Scientific Certification Systems. Product must carry product label certifying overall recycled content (including post-industrial and post-consumer content). Report percentage of post-industrial and post-consumer recycled content as a percentage of total product weight.

2.02 TAKE BACK PROGRAM

A. Product is part of Tarkett Restart take back program. Contact restart.tna@tarkett.com to participate in Restart program.

2.03 NSF 140 CERTIFICATION

A. Product must be certified at the Gold level to ANSI standard **NSF 140**, the Sustainable Carpet Assessment Standard (SCAS). Product certification must be conducted by an independent, third party organization such as Scientific Certification Systems. Provide documentation.

2.04 ASTHMA & ALLERGY FRIENDLY CERTIFICATION

A. Product must be CERTIFIED asthma & allergy friendly® by Allergy Standards Ltd.

2.05 PRODUCT WARRANTY

A. Warranty to be sole source responsibility of the Manufacturer. Second source warranties and warranties that involve parties other than the carpet manufacturer are unacceptable.

B. If the product fails to perform as warranted when properly installed and maintained, the affected area will be repaired or replaced at the discretion of the Manufacturer.

C. Chair pads are not required but are recommended for optimum textural performance. Absent the use of chair pads, more intensive maintenance will be required for areas in direct contact with chair caster traffic, and some degree of appearance change is to be expected.

D. Warranty shall not exclude carpet product installed on stairs provided it is properly installed and maintained.

E. The non-prorated Lifetime Limited warranty shall specifically warrant against:
   1. Excessive Surface Wear: More than 15% loss of pile fiber weight
   2. Excessive Static Electricity: More than 3.0 kV per AATCC 134
   3. Resiliency Loss of the Backing: More than 10% loss of backing resiliency
   4. Delamination
   5. Edge Ravel
   6. Zippering

F. Tuft Bind warranty in lieu of edge ravel and zippering is not acceptable.

2.06 - FIBER

A. Nylon Fiber: Bulked Continuous Filament (BCF) Nylon in a loop pile construction <<< *Dynex*>>><<< *Dynex SD*>>> <<<*TDX Nylon*>>><<<*Aquafil ECONYL®*>>> <<<*Solution Dyed*>>> <<<*Yarn Dyed*>>> <<<*Multi-Colored / Solid / Patterned*>>>.

B. For yarn containing recycled content, report post consumer and post industrial recycled content of the pile face yarn per total yarn weight i.e. [(Recycle Content in Pile Face Yarn) / (Total Weight of Pile Face Yarn) x 100]

C. Fiber to contain carbon-core filament for permanent static control. Topical treatments are not acceptable.

D. Durable soil protection should be applied to the fiber during product manufacturing to resist fiber soiling. Application Rate: 2% of Face Weight.

2.07 CUSHION CHARACTERISTICS

A. Primary Backing: Synthetic Non-Woven.

B. Secondary Backing: Powerbond Closed Cell Cushion
   1. Product Size: 6-Foot Width Roll Goods
   2. Cushion Type: Closed Cell Cushion
   3. Cushion Thickness: .156 inch thick
   4. Cushion Density (ASTM D-1667): Min. 18.5 lbs/cu ft
   5. Compression Set (ASTM D-1667): Maximum 10%
   6. Compression Force Deflection (ASTM D-1667): Minimum 7 lbs/sq. inch @ 25%; Maximum 25 lbs/sq. inch at 25%
   7. Moisture Barrier: Impermeable to moisture and airflow. Moisture Penetration by Impact @ 10 psi: No penetration of backing after 10,000 impacts. Provide independent test results. The British Spill Test is NOT an acceptable measurement for moisture barrier.
   8. Seam Method: Chemical weld; molecularly bound seams to be impermeable to moisture and airflow
   9. Seam Integrity: Moisture Penetration by Impact at SEAMS @ 10 psi; No penetration after 10,000 impacts. Provide independent test results. The British Spill Test is NOT an acceptable measurement for moisture barrier.
   10. Seam Integrity: Phillips Chairs Test: No seam separation after 50,000 cycles; Provide independent test results
   11. Face yarn fully fused to secondary backing system that will not delaminate
   12. Delamination: No delamination per ASTM D3936
   13. Product must not contain pesticides (US EPA Registered Antimicrobials). Installation adhesives are exempt from this section.

C. *Product to provide asbestos enclosure properties. Enclosure means an airtight, impermeable, permanent barrier around ACBM (Asbestos Containing Building Material) to prevent the release of asbestos fibers into the air.*

D. *Product provides radon reduction barrier.*

2.08 PERFORMANCE CHARACTERISTICS

A. Test reports for the following performance assurance testing to be submitted upon request. Submitted results shall represent average results for production goods of the referenced style. Requirements listed below must be met by all products.

1. Flooring Radiant Panel
   ASTM E-648 / NFPA 253: Class 1 (CRF: 0.45 watts/sq cm or greater)

2. Federal Flammability
   CPSC FF 1-70: Passes

3. Smoke Density
   ASTM E-662 / NFPA 258: $\leq$ 450 Flaming Mode

4. Electrostatic Propensity
   AATCC 134 (Step & Scuff): 3.0 kV or less

5. Static Coefficient of Friction
   ASTM C-1028: Passes ADA Requirements for Accessible Routes (minimum 0.60)

6. Delamination of Secondary Backing of Pile Floor Coverings
   ASTM D-3936: No Delamination

7. Lightfastness
   AATCC 16E: *<<< $\geq$ 4 @ 60 hours yarn dyed>>> <<< $\geq$ 4 @ 100 hours solution dyed>>>*

8. TARR
   <<<Severe Traffic: 3.5 minimum>>> <<<All other applications: 3.0 minimum>>>

9. Moisture Barrier
   Moisture Penetration by Impact @ 10 psi: No penetration of backing and seam after 10,000 impacts

10. Air Flow Barrier
    Air Permeability of Textile Fabrics: No Air Flow (0.0 cu. ft/min) through backing and seam

11. Seam Integrity
    Seam to remain intact after 50,000 cycles per Phillips Chair Test

12. Other
    As specified in 2.03, 2.04 and 2.05 of this document

2.09 PRODUCT SPECIFICATIONS

A. Manufactured by Tarkett

1. <<<*STYLE NAME*>>> Powerbond® Cushion RS® (Color: TBD)
   A. Construction:
   B. Gauge:
   C. Stitch Rate: <<<>>> / inch
   D. Tuft Density: <<<>>> tufts/sq inch
   E. Pile Height Average:
   F. Pile Thickness:
   G. Density Factor (UM44D):
   H. Fiber System: <<< >>> BCF Nylon with Static Control & Eco- Ensure
   I. Dye Method:
   J. R-Value: 0.84 Hr-ft2-ºF/Btu
   K. Static Coefficient of Friction: ASTM C-1028; Passes ADA requirements.
   L. Static Propensity: AATCC 134: 3.5 kv or less
   M. Flooring Radiant Panel: ASTM E-648 or NFPA 253: Class 1
   N. Acoustic Requirements: Noise Reduction Coefficient (NRC): 0.22 Minimum
   O. Seam Integrity: No seam separation after 50,000 cycles per Phillips Chair Test
   P. Cushion Compression Set: Maximum 10%
   Q. Cushion Compression Force Deflection: Minimum 7 lbs/sq. inch @ 25%; Maximum 25 lbs/sq. inch at 25%
   R. Cushion Density 18.5 lbs per cubic foot
   S. Cushion Thickness: 0.156 inch
   T. Total Weight: <<>> (RS) oz/sq yd +/- 5%
   U. Environmental Impact: No pesticides added to product (US EPA Registered Antimicrobials)

(NOTE TO ARCHITECT: ADD/SUBTRACT UNDER 2.07 AS REQUIRED.)

B. Substitutes/Alternates

Subject to compliance with all requirements, “or equal” must match the selected colors, have similar aesthetic appearance and tuft density, factory-applied “dry” adhesive, asbestos enclosure properties and recycability. Substitution sample and submittals must be submitted for written approval of quality and color at least ten days prior to bid to be considered. Sample of proposed substitute must be inclusive of both the face and proposed cushion (color-only sample not acceptable).

2.10 ACCESSORIES

A. Materials recommended by Manufacturer for patching, priming, seam welding, etc.

B. Base, Carpet Edge, and Transition Strips: As specified in applicable sections.

PART 3 EXECUTION

3.01 EXAMINATION / PREPARATION

A. Prepare sub-floor to comply with criteria established in Manufacturer's installation instructions. Use only preparation materials that are acceptable to the Manufacturer.

1. Remove all deleterious substances from substrate(s) that would interfere with or be harmful to the installation (i.e. floor wax).
2. Remove sub-floor ridges and bumps. Fill cracks, joints, holes, and other defects.

B. Verify that sub-floor is smooth and flat within specified tolerances and ready to receive carpet.

C. Verify that substrate surface is dust-free and free of substances that would impair bonding of product to the floor.

D. Verify that concrete surfaces are ready for installation by conducting moisture and pH testing. Results must be within limits recommended by Manufacturer.

E. There will be no exceptions to the provisions stated in the Manufacturer's installation instructions.

3.02 INSTALLATION – GENERAL

A. Install product in accordance with Manufacturer's installation instructions. Product must have low VOC, factory applied, "dry" adhesive for a peel & stick method installation. Must be applied to the back at the time of manufacture. Product must meet the requirements of CRI's Green Label Plus (GLP) program for carpet. Provide documentation.

B. No US EPA registered pesticides (antimicrobials) are to be added to the product. Antimicrobial treatments are registered with the EPA as preservatives of the products only, and no health benefit should be claimed or expected. If antimicrobials are added then third party documentation with a seal is required stating that the pesticides used will cause NO HARM to the occupants. Installation adhesives are exempt from this section.

C. Product as installed to be securely attached to the floor in compliance with Americans with Disabilities Act (ADA), Section 4.5.3.

D. Verify product match before cutting to ensure minimal variation between dye lots.

E. Layout product and locate seams in accordance with shop drawings.
1. Locate seams in area of least traffic, out of areas of pivoting traffic, *and parallel to main traffic. Minimize cross seams.*
2. Do not locate seams perpendicular through door openings.
3. Align run of pile *in same direction as anticipated traffic and* in same direction on adjacent pieces.
4. Locate change of color or pattern between rooms under door centerline.
5. Provide monolithic color, pattern, and texture match within any one area.

F. Install product tight and flat on sub-floor, well-fastened at edges, with a uniform appearance.

G. Double-cut product seams with accurate pattern match. Make cuts *<<<straight>>> <<<serpentine>>>*, true, and unfrayed.

H. Seal seams with manufacturer's recommended seam sealer as stated in installation instructions. Make sure the seam is fully sealed.

I. Roll with appropriate roller for complete contact of product with adhesive to sub-floor.

J. Trim carpet neatly at walls and around interruptions.

K. Completed product is to be smooth and free of bubbles, puckers, and other defects.

L. To ensure asbestos enclosure, the carpet material should be sealed around the perimeter of the installation using a one-inch strip of contact adhesive spread directly underneath the outer edge of the product.

3.03 PROTECTION & CLEANING

A. Remove excess adhesive and/or seam sealer from floor and wall surfaces without damage.

B. All rubbish, wrappings, debris, trimmings, etc. to be removed from site and recycled or disposed of properly.

C. Clean and vacuum surfaces using a beater brush/bar commercial vacuum.

D. After each area of is installed, protect from soiling and damage by other trades.

END OF SECTION

NOTE: Italicized items are at the discretion of the architect, dependent upon job requirements, and/or dependent upon the product style being specified.

Exhibit "B"

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GENERAL CONDITIONS

Article 1. DEFINITIONS

a. The "District" and "Contractor" are those mentioned as such in the agreement. For convenience and brevity, these terms, as well as terms identifying other persons involved in the contract are treated throughout the contract documents as if they are of singular number and masculine gender.

b. "Subcontractor," as used herein, includes those having a direct contract with Contractor and one who furnishes material worked to a special design according to plans and specifications of this work, but does not include one who merely furnishes material not so worked.

c. "Surety" is the person, firm, or corporation, admitted as a California admitted surety, that executes as surety the Contractor's Performance Bond and Payment Bond for Public Works.

d. "Provide" shall include "provide complete in place," that is, "furnish and install."

e. Words such as "indicated," "shown," "detailed," "noted," "scheduled," or words of similar meaning shall mean that reference is made to the drawings, unless otherwise noted. It shall be understood that the direction, designation, selection, or similar import of the Architect is intended, unless stated otherwise.

f. "Work" of the Contractor or subcontractor includes labor or materials or both.

g. The term "day" as used herein shall mean calendar day unless otherwise specifically designated.

h. Where the words "equal," "equivalent," "satisfactory," "directed," "designated," "selected," "as required," and words of similar meaning are used, the written approval, selection, satisfaction, direction, or similar action of the Architect is required.

I. Where the word "required" and words of similar meaning are used, it shall mean, "as required to properly complete the work as required by the Architect," unless stated otherwise.

j. The word "perform" shall be understood to mean that the Contractor, at Contractor's expense, shall perform all operations necessary to complete the work, including furnishing of necessary labor, tools, and equipment, and further including the furnishing and installing of materials that are indicated, specified, or required to complete such performance.

k. Where the words "acceptable," "acceptance," or words of similar import are used, it shall be understood that the acceptance of the Architect and District is intended.

l. Where shown, the words "includes," and "including," do not limit the work to the items following those words.

Article 2. DRAWINGS AND SPECIFICATIONS

a. Contract Documents. Contract Documents are complementary, and what is called for by one shall be as binding as if called for by all. The intention of documents is to include all labor and materials, equipment, and transportation necessary for the proper execution of the work. Materials or work described in words which as applied have a well-known technical or trade meaning shall be deemed to refer to such recognized standards.

b. Interpretations. Drawings and specifications are intended to be fully cooperative and to

agree. However, if Contractor observes that drawings and specifications are in conflict, he shall promptly notify the architect in writing and any necessary changes shall be adjusted as provided in contract for changes in work. If such conflict arises, the following order of precedence shall generally apply, provided, however, that the order of precedence shall not be so rigidly interpreted as to affect an absurd or costly result:

1. Special Conditions shall take precedence over General Conditions.

2. Technical Specifications implement, in additional detail, the requirements of the General Conditions. In the event of conflict between the Technical Specifications and the General Conditions, the General Conditions shall take precedence.

3. In the event of a conflict between the Technical Specifications and the drawings, the higher quality, higher quantity and most stringent requirements shall be deemed to apply and shall govern as to materials, workmanship, and installation procedures.

4. With regard to drawings:

   (a) Figures govern over scaled dimensions;
   (b) Larger details govern over general drawings;
   (c) Addenda/change order drawings govern over contract drawings;
   (d) Contract drawings govern over standard drawings.

5. Work not particularly shown or specified shall be the same as similar parts that are shown or specified.

c. Misunderstanding of drawings and specifications shall be clarified by the architect, whose decisions shall be final.

d. Standards, Rules, and Regulations referred to are recognized printed standards and shall be considered as one and a part of these specifications within limits specified.

Article 3. COPIES FURNISHED

Contractor will be furnished copies of bid packet and specifications as set forth in Special Conditions. Additional copies and plans may be obtained at cost of reproduction.

Article 4. OWNERSHIP OF DRAWINGS

All drawings, specifications, and copies thereof furnished by District are its property. They are not to be used on other work and with exception of signed contract sets, are to be returned to District on request at completion of work.

Article 5. DETAIL DRAWINGS AND INSTRUCTIONS

a. In case of ambiguity, conflict, or lack of information, architect shall furnish with reasonable promptness additional instructions, by means of drawings or otherwise, necessary for proper execution of work. For purposes of this section "reasonable promptness" shall mean as soon as possible in order for Contractor to execute the work. If the item is identified by the Contractor as a critical path item, "reasonable promptness" shall mean no more than five business days. All such drawings and instructions shall be consistent with contract documents, true developments thereof, and reasonably inferable therefrom.

b. Work shall be executed in conformity therewith and Contractor shall do no work without proper drawings and instructions.

Article 6. TIME FOR COMPLETION AND LIQUIDATED DAMAGES

a. Project shall be commenced on or before the date stated in District's notice to the contractor to proceed and shall be completed by Contractor in the time specified in the Special Conditions. The District is under no obligation to consider early completion of the project and the contract completion date shall not be amended by the District's acceptance of the Contractor's proposed earlier completion date. Furthermore, Contractor shall not, under any circumstances receive additional compensation from the District for indirect, general, administrative or other forms of overhead costs for the period between the time of earlier completion proposed by the Contractor and the official contract completion date. If the work is not completed in accordance with the foregoing, it is understood that the District will suffer damage. It being impractical and infeasible to determine the amount of actual damage, it is agreed that Contractor shall pay to District as fixed and liquidated damages, and not as a penalty, the sum stipulated in the Special Conditions for each calendar day of delay until work is completed and accepted. Contractor and his surety shall be liable for the amount thereof. Any money due or to become due the Contractor may be retained to cover said liquidated damages. Should such money not be sufficient to cover said liquidated damages, District shall have the right to recover the balance from the Contractor or his sureties, who will pay said balance forthwith. Regardless of the time lines in the schedule submitted by Contractor, no delay claims shall be accepted by District unless the event or occurrence delays the completion of the Project beyond the contractual completion date.

b. Contractor shall abide by District's determination of what constitutes inclement weather based upon the inspector or geotechnical engineer's recommendation. A bad weather day is a day when the weather causes unsafe work conditions or is unsuitable for work that should not be performed during inclement weather (i.e., exterior finishes). Time extensions shall only be granted when the work that is stopped during inclement weather is on the critical path of the Project schedule. The District's consideration of time extension requests will take into account situations when rain days exceed the normal frequency and amount based on the closest weather station data averaged over the past three years, for the period of this contract and when Contractor can show such rain days impact the critical path. Contractor shall be expected to perform all work he can possibly complete during inclement weather (i.e., interior work).

c. **Extension of Time.** Contractor shall not be charged liquidated damages because of any delays in completion of work due to unforeseeable causes beyond the control and without the fault or negligence of Contractor including, but not restricted to: acts of God, or of public enemy, acts of Government, acts of District or anyone employed by it or acts of another Contractor in performance of a contract with District, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes. Contractor shall within five (5) days of beginning of any such delay (unless District grants a further period of time prior to date of final settlement of the contract) notify District in writing of causes of delay; thereupon District shall ascertain the facts and extent of delay and grant extension of time for completing work when, in its judgment, the findings of fact justify such an extension. The District's findings of fact thereon shall be final and conclusive on all parties. In case of a continuing cause of delay, only one claim is necessary. Time extensions to the project should be requested by the Contractor as they occur and without delay. Regardless of the time lines in the schedule submitted by Contractor, no delay claims shall be accepted by District unless the event or occurrence delays the completion of the project beyond the contractual completion date.

d. **Determining Damages for Delay.** District's liability to Contractor for delays for which

District is responsible shall be limited to an extension of time for delays unless such delays were unreasonable under the circumstances involved and were not within the contemplation of the parties when the contract was awarded. Contractor agrees that the District's representative shall determine the actual costs to Contractor of any delay for which Contractor may claim damages from District. Such costs, if any, shall be directly related to the project, and shall not include costs that would be borne by the Contractor in the regular course of business, including, but not limited to, office overhead and ongoing insurance costs. The District shall not be liable for any damages which the Contractor could have avoided by any reasonable means including, but not limited to, the judicious handling of forces, equipment, or plant.

e. **Removal or Relocation of Main or Trunkline Utility Facilities.** The Contractor shall not be assessed for liquidated damages for delay in completion of the project, when such delay was caused by the failure of the awarding authority of this contract or the owner of the utility to provide for removal or relocation of the existing main or trunkline utility facilities; however, when the Contractor is aware that removal or relocation of an existing utility has not been provided for, Contractor shall promptly notify the awarding authority and the utility in writing, so that provision for such removal or relocation may be made to avoid and minimize any delay which might be caused by the failure to remove or relocate the main or trunkline utility facilities, or to provide for its removal or relocation. In accordance with section 4215 of the Government Code, if the Contractor while performing the contract discovers any existing main or trunkline utility facilities not identified by the public agency in the contract plans or specifications, he shall immediately notify the public agency and utility in writing. The public utility, where they are the owner, shall have the sole discretion to perform repairs or relocation work or permit the Contractor to do such repairs or relocation work at a reasonable price. The Contractor shall be compensated for the costs of locating, repairing damage not due to the failure of the Contractor to exercise reasonable care, and removing or relocating such utility facilities not indicated in the plans and specifications with reasonable accuracy, and for equipment on the project necessarily idled during such work. Such compensation shall be in accordance with the extra work provisions set out at Article 40 hereof.

Article 7. PROGRESS SCHEDULE

a. Within fourteen (14) days after the date of the Award of the Contract, Contractor shall prepare a baseline progress schedule in hard copy and disk form and shall submit this schedule for the District's approval. The schedule shall clearly identify all staffing and other resources which in the Contractor's judgment are needed to complete the project within the time specified for completion. The schedule shall include milestones and shall include the "critical path" of construction. The Contractor is fully responsible to determine and provide for any and all staffing and resources at levels which allow for good quality and timely completion of the project; the District's approval of the progress schedule does not relieve the Contractor of any such responsibility. Contractor's failure to incorporate all elements of work required for the performance of the contract or any inaccuracy in the schedule shall not excuse the Contractor from performing all work required for a completed project within the specified contract time period, notwithstanding the Owner's acceptance of the schedule. **The first payment will not be made unless the District has been provided and has accepted the project schedule.**

b. The schedule shall allow enough time for inclement weather. Such schedule shall indicate graphically the beginning and completion dates of all phases of construction, and shall indicate the critical path for all critical, sequential time related activities. All required schedules shall indicate "float time" for all "slack" or "gaps" in the non-critical activities. Submitted construction schedules shall have a duration which does not exceed the contract time. Excess time may be picked up with "float time" at the discretion of the District. A "bar chart" in reasonably complete detail shall be

adequate in contracts over $1 million and shall show critical path items. All required schedules shall be periodically updated to reflect changes in the status of the job, including weather delays. **At a minimum, the Contractor shall be required to provide and keep updated a monthly schedule in order to prevent delay claims.**

Article 8. CONTRACT SECURITY

Unless otherwise specified in Special Conditions, Contractor shall furnish a surety bond in an amount equal to 100 percent of contract price as security for faithful performance of this contract and shall furnish a separate bond as security for payment of persons performing labor and furnishing materials in connection with this contract. The Payment Bond must be in the amount of 100 percent of the total amount payable. Both the Payment and the Performance Bonds must be executed by an admitted Surety approved to conduct business in the State of California which meets the highest standards the District is legally permitted to establish. Aforesaid bonds shall be in form set forth in these contract documents. Upon request of Contractor, District will consider and accept multiple sureties on such bonds.

Article 9. ASSIGNMENT

Contractor shall not assign this contract or any part thereof without prior written consent of District. Any assignment of money due or to become due under this contract shall be subject to a prior lien for services rendered or material supplied for performance of work called for under said contract in favor of all persons, firms, or corporations rendering such services or supplying such materials to the extent that claims are filed pursuant to the Civil Code, the Code of Civil Procedure, and/or the Government Code.

Article 10. PROHIBITED INTERESTS

No official of District and no District representative who is authorized in such capacity and on behalf of District to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with construction of project, shall be or become directly or indirectly interested financially in this contract or in any part thereof. No officer, employee, architect, attorney, engineer or inspector of or for District who is authorized in such capacity and on behalf of District to exercise any executive, supervisory or other similar functions in connection with construction of project, shall become directly or indirectly interested financially in this contract or in any part thereof.

Article 11. SEPARATE CONTRACTS

District reserves the right to let other contracts in connection with this work or other work at the same site. Contractor shall afford other contractors reasonable opportunity for introduction and storage of their materials and execution of their work and shall properly connect and coordinate his work with theirs.

If any part of Contractor's work depends for proper execution or results upon work of any other contractor, the Contractor shall inspect and promptly report to architect any defects in such work that renders it unsuitable for such proper execution and results. His failure to inspect and report shall constitute his acceptance of other contractor's work as fit and proper for reception of his work, except as to defects which may develop in the other contractor's work after execution of contractor's work.

To insure proper execution of his subsequent work, Contractor shall measure and inspect work already in place and shall at once report to the architect any discrepancy between executed work and contract documents.

Contractor shall ascertain to his own satisfaction the scope of the project and nature of any other contracts that have been or may be awarded by District in prosecution of project to the end that

Contractor may perform this contract in the light of such other contracts, if any. Nothing herein contained shall be interpreted as granting to Contractor exclusive occupancy at site of project. Contractor shall not cause any unnecessary hindrance or delay to any other contractor working on project. If simultaneous execution of any contract for project is likely to cause interference with performance of some other contract or contracts, District shall decide which contractor shall cease work temporarily and which contractor shall continue or whether work can be coordinated so that contractors may proceed simultaneously. District shall not be responsible for any damages suffered or for extra costs incurred by Contractor resulting directly or indirectly from award, performance, or attempted performance of any other contract or contracts on project, or caused by any decision or omission of District respecting the order of precedence in performance of contracts.

Article 12. SUBCONTRACTING

a. Contractor agrees to bind every subcontractor by terms of the contract as far as such terms are applicable to subcontractor's work. If Contractor subcontracts any part of this contract, Contractor shall be as fully responsible to District for the acts and omissions of his subcontractor and of persons either directly or indirectly employed by his subcontractor, as he is for acts and omissions of persons directly employed by himself. Nothing contained in these contract documents shall create any contractual relation between any subcontractor and District. The District shall be deemed to be the third party beneficiary of the contract between the contractor and the subcontractor.

b. District's consent to or approval of any subcontractor under this contract shall not in any way relieve Contractor of his obligations under this contract and no such consent or approval shall be deemed to waive any provision of this contract. The District reserves the right of approval of all subcontractors proposed for use on this Project, and to this end, may require financial, performance and such additional information as is needed to secure this approval. If a Subcontractor is not approved, the Contractor shall promptly submit another of the same trade for approval.

c. Substitution or addition of subcontractors shall be permitted only as authorized in chapter 4 (commencing at section 4100), part 1, division 2 of the California Public Contract Code.

Article 13. DISTRICT'S RIGHT TO TERMINATE CONTRACT

District may, without prejudice to any other right or remedy, serve written notice of intent to terminate upon Contractor and his surety stating its intention to terminate this contract if the Contractor (i) refuses or fails to prosecute the work or any separable part thereof with such diligence as will insure its completion within the time specified or any extension thereof, or (ii) fails to complete said work within such time, or (iii) if the Contractor should file a bankruptcy petition, or (iv) if he should make a general assignment for the benefit of his creditors, or (v) if a receiver should be appointed on account of his insolvency, or (vi) if he should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workers or proper materials to complete the work in time specified, or (vii) if he should fail to make prompt payment to subcontractors or for material or labor, or (viii) persistently disregard laws, ordinances or instructions of District, or (ix) otherwise be guilty of a substantial violation of any provision of the contract, or (x) if he or his subcontractors should violate any of the provisions of this contract. The notice of intent to terminate shall state generally the reasons for such intention to terminate. Unless within five days (5) days after the service of such notice, such condition shall cease or such violation shall cease and satisfactory arrangements for the correction thereof be made, this contract shall be deemed to have ceased and terminated. The Contractor then shall not be entitled to receive any further payment until work is finished. Upon the termination of the contract as provided above, District shall immediately serve upon surety and contractor written notice of termination stating that the contract has ceased and terminated. Surety shall have the right to investigate, take over and perform this contract, provided, however,

that if surety, within five (5) days after service upon it of said notice of termination, does not give District written notice of its intention to take over and perform this contract and does not commence performance thereof within seven (7) days from the date of service upon it of such notice of termination, District may take over the work and prosecute same to completion by contract or by any other method it may deem advisable for the account and at the expense of Contractor. If Surety does not perform the project work itself, the Surety shall consult with the District regarding its planned choice of a contractor or contractors to complete the project, and upon request by District, Surety shall provide District Evidence of Responsibility of Surety's proposed contractor or contractors. District shall be entitled to reject Surety's choice of contractor or contractors if District determines in is sole discretion that the contractor or contractors are nonresponsible. If Surety provides District written notice of its intention to take over and perform this contract, within fourteen (14) days of such written notice of intent to take over and perform, Surety or its chosen contractor or contractors (if such contractor or contractor's are approved by District) shall provide District a detailed Progress Schedule as specified in Article 7 above. Contractor and his surety shall be liable to District for any excess cost or other damages occasioned the District as a result of Surety or Surety's contractor or contractors takeover and performance. If the District takes over the work as hereinabove provided, the District may, without liability for so doing, take possession of and utilize in completing the work such materials, appliances, plant, and other property belonging to the Contractor as may be on the site of the work and necessary therefore.

If the unpaid balance of the contract price exceeds the expense of finishing work, including compensation for additional architectural, managerial, and administrative services, such excess shall be paid to Contractor. If such expense shall exceed such unpaid balance, Contractor shall pay the difference to District. Expense incurred by District as herein provided, and damage incurred through Contractor's default, shall be certified by architect.

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

Notwithstanding the foregoing provisions, this contract may not be terminated or modified where a trustee-in-bankruptcy has assumed the contract pursuant to 11 U.S.C. section 365 (Federal Bankruptcy Act).

Article 14. GUARANTEE

Besides guarantees required elsewhere, Contractor shall, and hereby does, guarantee all work for a period of one year after date of acceptance of work by District. Contractor shall repair or replace any or all such work, together with any other work, which may be displaced in so doing, that may prove defective in workmanship and/or materials within a one-year period from date of acceptance without expense whatsoever to District, ordinary wear and tear, unusual abuse or neglect excepted. District will give notice of observed defects with reasonable promptness. Contractor shall notify District upon completion of repairs.

In the event of failure of Contractor to comply with above-mentioned conditions within one week after being notified in writing, District is hereby authorized to proceed to have defects repaired and made good at the expense of Contractor. Contractor hereby agrees to pay costs and charges therefore immediately on demand.

If, in the opinion of the District, defective work creates a dangerous condition or requires immediate correction or attention to prevent further loss to the District or to prevent interruption of operations of the District, the District will attempt to give the notice required by this article. If the Contractor cannot be contacted or does not comply with the District's request for correction within a reasonable time as determined by the District, the District may, notwithstanding the provisions of this article, proceed to make such correction or provide such attention. The costs of such correction or attention shall be charged against the Contractor. Such action by the District will not relieve the Contractor of the guarantees provided in this article or elsewhere in this contract.

This article does not in any way limit the guarantee on any items for which a longer guarantee is specified or on any items for which a manufacturer gives a guarantee for a longer period. Contractor shall furnish District with all appropriate guarantee or warranty certificates upon completion of the project.

Article 15. NOTICE AND SERVICE THEREOF

a. Any notice from one party to the other under the contract shall be in writing and shall be dated and signed by party giving such notice or by the duly authorized representative of such party. Any such notice shall not be effective for any purpose whatsoever unless served in one of the following manners:

   1. If notice is given to District, by personal delivery thereof to District's representative or District's architect or by depositing same in United States mail, enclosed in a sealed envelope addressed to District for attention of said representative or architect, postage prepaid and registered;
   2. If notice is given to Contractor, by personal delivery thereof to said Contractor or to his foreman at site of project, or by depositing same in United States mail, enclosed in a sealed envelope addressed to said Contractor at his regular place of business or at such other address as may have been established for the conduct of work under this contract, postage prepaid and registered;

   3. If notice is given to surety or other person, by personal delivery to such surety or other person or by depositing same in United States mail, enclosed in a sealed envelope addressed to such surety or person at the address of such surety or person last communicated by him to party giving notice, postage prepaid and registered.

   4. If notice is served by mail, it shall be deemed received and all time periods associated with the giving of notice shall run from the third day after mailing.

Article 16. WORKERS

a. Contractor shall at all times enforce strict discipline and good order among his employees. Contractor shall not employ on work any unfit person or any one not skilled in work assigned to him.

b. Any person in the employ of the Contractor whom District may deem incompetent or unfit shall be dismissed from work and shall not again be employed on it except with the written consent of District.

Article 17. WAGE RATES

a. Pursuant to the provisions of article 2 (commencing at section 1770), chapter 1, part 7, division 2 of the Labor Code of California, the Director of Industrial Relations has ascertained the general prevailing rate of per diem wages in the locality in which this public work is to be performed for each craft, classification, or type of worker needed to execute the contract. Copies of said determination are on file at District's principal office and are available to any interested party on request.

b. Holiday and overtime work, when permitted by law, shall be paid for at a rate of at least one and one-half times the general prevailing rate of per diem wages as determined by the Director of Industrial Relations, unless otherwise specified.

c. Each worker of the Contractor or any of his subcontractors engaged in work on the project shall be paid not less than the general prevailing rate of per diem wages determined by the Director of Industrial Relations, regardless of any contractual

relationship which may be alleged to exist between the Contractor or any subcontractor and such workers.

d. The Contractor shall, as a penalty to the District, forfeit not more than fifty dollars ($50) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for the work or craft in which the worker is employed for any public work done under the contract by him or her or by any subcontractor under him or her. Prevailing wage rates shall also be used when determining wages paid for change order items. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of the Contractor's mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages, or the previous record of the Contractor in meeting his or her prevailing wage obligations, or the Contractor's willful failure to pay the correct rates of prevailing wages. The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor, and the Contractor shall be bound by the provisions of Labor Code section 1775.

e. Any worker employed to perform work on the project, which work is not covered by any classification listed in the general prevailing rate of per diem wages determined by the Director of Industrial Relations, shall be paid not less than the minimum rate of wages specified therein for the classification which most nearly corresponds to work to be performed by him. Such minimum wage rate shall be retroactive to the time of initial employment of such person in such 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 or other specified training programs and similar purposes.

g. Contractor shall post at appropriate conspicuous points on the site of project, a schedule showing all determined minimum wage rates and all authorized deductions, if any, from unpaid wages actually earned.

h. Contractor and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work.

I. The payroll records required above shall be certified and shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

1. A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his or her authorized representative on request.

2. A certified copy of all payroll records shall be made available for inspection or furnished upon request to a representative of District, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.

3. A certified copy of all payroll records shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the District, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. The public shall not be given access to such records at the principal office of the

Contractor.

j. Contractor shall file a certified copy of the records required above with the District or entity that requested such records within ten days after receipt of a written request.

k. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the District, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the Contractor shall not be marked or obliterated.

l. Contractor shall inform the District of the location of the records required above, including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.

m. In the event of noncompliance with the requirements of this article regarding maintenance of records, the Contractor shall have ten days in which to comply subsequent to receipt of written notice specifying in what respects the Contractor must comply with this article. Should noncompliance still be evident after such ten-day period, the Contractor shall, as a penalty by the District, forfeit twenty-five dollars ($25) for each calendar day, or portion thereof, for each worker until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalty shall be withheld from progress payments then due. A Contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

Article 18. APPRENTICES

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 indentured to the Contractor in full compliance with provisions of the Labor Code. The prime contractor shall bear the responsibility of compliance with Labor Code section 1777.5 for all apprenticeable occupations and agrees that he will comply with said section which reads:

(a) Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works.

(b) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.

(c) Only apprentices, as defined in 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 with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate 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 he or she is training or (2) the rules and regulations of the California Apprenticeship Council.

(d) When the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and

training of apprentices in the area or industry affected. However, approval or denial of the apprenticeship program shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that the program. "Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

(e) Prior to commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, 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 the awarding body if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

(f) The apprenticeship program that can supply apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.

(g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates where the contractor agrees to be bound by those standards, but, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Division of Apprenticeship Standards, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

(I) A contractor covered by this section that has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or that has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).

(j) Upon proper showing by a contractor that he or she employs apprentices in a

particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Division of Apprenticeship Standards may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.

(k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:

(1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.

(2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.

(3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.

(4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

(l) When an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

(m) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract. At the end of each fiscal year the California Apprenticeship Council shall make grants to each apprenticeship program in proportion to the number of hours of training provided by the program for which the program did not receive contributions, weighted by the regular rate of contribution for the program. These grants shall be made from funds collected by the California Apprenticeship Council during the fiscal year pursuant to this subdivision from contractors that employed registered apprentices but did not contribute to an approved apprenticeship program. All these funds received during the fiscal year shall be distributed as grants.

(n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

(o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars ($ 30,000) or 20 working days.

(p) All decisions of an apprenticeship program under this section are subject to Section 3081."

Article 19. HOURS OF WORK

a. As provided in article 3 (commencing at section 1810), chapter 1, part 7, division 2 of the Labor Code, eight (8) hours of labor shall constitute a legal day's work. The time of service of any worker employed at any time by the Contractor or by any subcontractor on any subcontract under this contract upon the work or upon any part of the work contemplated by this contract is limited and restricted to eight (8) hours during any one-calendar day and forty (40) hours during any one-calendar week, except as hereinafter provided. Notwithstanding the provisions herein above set forth, work performed by employees of Contractor in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon this public work upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half times the basic rate of pay.

b. The Contractor and every subcontractor shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by him in connection with the work or any part of the work contemplated by this contract. The record shall be kept open at all reasonable hours to the inspection of the District and to the Division of Labor Law Enforcement, Department of Industrial Relations of the State of California.

c. The Contractor shall pay to the District a penalty of twenty-five dollars ($25) for each worker employed in the execution of this contract by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week in violation of the provisions of article 3 (commencing at section 1810), chapter 1, part 7, division 2 of the Labor Code.

d. Any work necessary to be performed after regular working hours, or on Sundays or other holidays shall be performed without additional expense to District.

Article 20. WORKERS' COMPENSATION INSURANCE

a. The Contractor shall provide, during the life of this contract, workers' compensation insurance for all of his employees engaged in work under this contract, on or at the site of the project, and, in case any of his work is sublet, the Contractor shall require the subcontractor similarly to provide workers' compensation insurance for all the latter's employees. Any class of employee or employees not covered by a subcontractor's insurance shall be covered by the Contractor's insurance. In case any class of employees engaged in work under this contract, on or at the site of the project, is not protected under the Workers' Compensation Statutes, the Contractor shall provide or shall cause a subcontractor to provide, adequate insurance coverage for the protection of such employees not otherwise protected. The Contractor shall file with the District certificates of his insurance protecting workers.

b. Company or companies providing insurance coverage shall be acceptable to the District, and in the following form and coverage.

1. Statutory Workers' Compensation and Employer's Liability Coverage: Contractor shall maintain insurance to afford protection for all claims under California Workers' Compensation Act and other employee benefit acts, and in addition, shall maintain Employer's Liability Insurance for a minimum limit of $1,000,000. The Workers' Compensation Policy shall include the following endorsements, copies of which shall be provided to District:

(a) The Voluntary Compensation Endorsement; and
(b) Broad Form All States Endorsement; and
(c) The Longshoremen's and Harbor Workers endorsement, where applicable to the work under this contract; and
(d) Waiver of Subrogation Endorsement.

Article 21. COMMERCIAL GENERAL LIABILITY AND PROPERTY DAMAGE INSURANCE

a. Contractor shall procure and maintain during the life of this contract and for such other period as may be required herein, at its sole expense, such comprehensive general liability insurance or commercial general liability and property damage insurance as shall protect Contractor and District from all claims for bodily (personal) injury, including accidental death, as well as claims for property damage arising from operations under this contract, and other covered loss, however occasioned, occurring during the policy term. Such policy shall comply with all the requirements of this article, and shall be in the form and amounts as set forth in the Special Conditions hereof. The limits set forth in the Special Conditions shall not be construed to relieve the Contractor from liability in excess of such coverage, nor shall it limit Contractor's indemnification obligations to District, and shall not preclude the District from taking such other actions available to District under other provisions of the contract documents or law.

b. Contractor shall make certain that any and all subcontractors hired by Contractor are insured in accordance with this contract. If any subcontractor's coverage does not comply with the foregoing provisions, Contractor shall indemnify and hold District harmless from any damage, loss, cost, or expense, including attorneys' fees, incurred by District as a result thereof.

c. Company or companies providing insurance coverage shall be acceptable to the District and authorized to conduct business in the State of California.

d. Any general liability policy provided by Contractor hereunder shall contain an endorsement which applies its coverage to District, members of District's board of trustees, and the officers, agents, employees and volunteers of District, the State Allocation Board, if applicable, the architect, and the architect's consultants, individually and collectively, as additional insureds using form CG2010 11-85 or equivalent which must include products and completed operations coverage, broad form property damage coverage, coverage for collapse, explosion and underground, and include independent contractor coverage.

e. The coverage afforded by the additional insured endorsement described in paragraph d above, shall apply as primary insurance, and any other insurance maintained by District, the members of District's Board of Trustees, or its officers, agents, employees and volunteers, or any self-funded program of District, shall be in excess only and not contributing with such coverage.

f. Contractor shall notify District in writing of the amount, if any, of self-insured retention provided under the General Liability coverage, with a maximum limit of $25,000. District may approve higher retention amounts, based upon review of documentation submitted by Contractor. Such review shall take into consideration Contractor's net worth and reserves for payment of claims of liability against Contractor, which must be sufficient to adequately compensate for the lack of other insurance coverage required hereunder.

g. All general liability policies shall be written to apply to all bodily injury, including death, property damage, personal injury and other covered loss, however occasioned, occurring during the policy term, and shall specifically insure the

performance by Contractor of that part of the indemnification contained in Article 24 hereof, relating to liability for injury to or death of persons and damage to property. If the coverage contains one or more aggregate limits, a minimum of 50% of any such aggregate limit must remain available at all times; if over 50% of any aggregate limit has been paid or reserved, District may require additional coverage to be purchased by Contractor to restore the required limits. Contractor may combine primary, umbrella, and as broad as possible excess liability coverage to achieve the total limits indicated above. Any umbrella or excess liability policy shall include the additional insured endorsement, products and completed operations coverage and broad form property damage described in paragraphs d and e, above. To the extent that the umbrella insurer requires notice of changes to the primary policy, notice will be considered to be given and not prejudice the District's rights to recover under the umbrella policy.

h. Contractor and District release each other, and their respective authorized representatives, from any Claims (as defined in Article 24 hereof), but only to the extent that the proceeds received from any policy of liability insurance carried by District or Contractor, other than any self-insurance, covers any such Claim or damage. Included in any policy or policies of liability insurance provided by Contractor hereunder shall be a standard waiver of rights of subrogation against District by the insurance company issuing said policy or policies.

I. If coverage is written on a “claims made” basis, the Certificate of Insurance shall clearly so state. In addition to the coverage requirements specified above, such policy shall provide that:

1. The policy retroactive date coincides with or precedes Contractor's commencement of work under the Agreement (including subsequent policies purchased as renewals or replacements).

2. Contractor will make every effort to maintain similar insurance during the required extended period of coverage following expiration of the Agreement, including the requirement of adding all additional insureds.

3. If insurance is terminated for any reason, Contractor shall purchase an extended reporting provision of at least two years to report claims arising in connection with the Agreement.

4. The policy allows for reporting of circumstances or incidents that might give rise to future claims.

j. Contractor's failure to procure the insurance specified herein, or failure to deliver certified copies or appropriate certificates of such insurance, or failure to make the premium payments required by such insurance, shall constitute a material breach of the contract, and District may, at its option, terminate the Agreement for any such default by Contractor.

k. The requirements as to the types and limits of insurance coverage set forth herein and in the Special Conditions to be maintained by the Contractor, and any approval of said insurance by the District or its insurance advisor(s), are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to the Agreement, including, but not limited to, the provisions concerning indemnification.

l. District shall retain the right at any time to review the coverage, form, and amount of insurance required herein and may require Contractor to obtain insurance reasonably sufficient in coverage, form and amount to provide adequate protection against the kind and extent of risk which exists at the time a change in insurance is required.

m. All deviations from the contractual insurance requirements stated herein must be approved in writing by District's risk manager.

Article 22. BUILDER'S RISK/APPLICABLE INSTALLATION/FIRE INSURANCE

a. It is the Contractor's responsibility to maintain or cause to be maintained builder's risk insurance or applicable installation coverage on all work, material, equipment, appliances, tools, and structures which are a part of the contract and subject to loss or damage by fire, extended coverage, and vandalism and malicious mischief. District accepts no responsibility until the contract is formally accepted by the Governing Board for the work. The Contractor is required to file with the District a certificate evidencing builder's risk or applicable installation of not less than the amount identified in the special conditions insurance coverage.

b. Provide insurance coverage on completed value form, all-risk or special causes of loss coverage.

1. Insurance policies shall be so conditioned as to cover the performance of any extra work performed under the contract.
2. Coverage shall include all materials stored on site and in transit.
3. Coverage shall include Contractor's tools and equipment.
4. Insurance shall include boiler, machinery and material hoist coverage.

c. Company or companies providing insurance coverage shall be acceptable to the District and authorized to conduct business in the State of California.

Article 23. PROOF OF CARRIAGE OF INSURANCE

a. Contractor shall, as soon as practicable following the placement of insurance required hereunder, but in no event later than the effective date of the Agreement, deliver to District certificates of insurance evidencing the same, together with appropriate separate endorsements thereto, evidencing that Contractor has obtained such coverage for the period of the Agreement. Contractor shall deliver certified copies of the actual insurance policies specified herein, within thirty days after commencement of work. Thereafter, copies of renewal policies, or certificates and appropriate separate endorsements thereof, shall be delivered to District within thirty (30) days prior to the expiration of the term of any policy required herein. Contractor shall permit District at all reasonable times to inspect any policies of insurance of Contractor which Contractor has not delivered to District.

b. Certificates and insurance policies shall include the following clause:

"This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to District stating date of cancellation, reduction or other adverse change respecting such insurance. The date of cancellation, reduction or adverse change may not be less than thirty (30) days after date of mailing notice."

Any notice required to be sent pursuant to this section shall be to District's address as shown in the Notice to Contractors Calling for Bids.

c. Certificates of insurance shall state in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, and cancellation and reduction notice. All Certificates of Insurance provided by Contractor shall name District, the architect, and architect's consultants as additional insureds.

d. After receiving written Notice of Cancellation of Insurance, Contractor shall have ten (10) days to provide other policies of insurance similar to the canceled policies and

acceptable insurance. If such replacement coverage is not provided, the District may secure insurance at the Contractor's expense.

e. Nothing contained in the insurance requirements shall be construed as limiting the extent of the Contractor's responsibility for payment of damages resulting from operations under this agreement.

Article 24. INDEMNIFICATION

District shall not be liable for, and Contractor shall defend and indemnify District to the fullest extent permitted by law against any and all claims, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees, expert witness fees, investigation costs and court costs (hereinafter collectively referred to as "Claims"), which arise out of or are in any way connected to the work covered by this contract arising either directly or indirectly from any act, error, omission or negligence of Contractor or its contractors, licensees, agents, servants or employees, including, without limitation, Claims caused by the concurrent act, error, omission or negligence of District or its agents or employees. However, Contractor shall have no obligation to indemnify District from a Claim if it is determined by a court of competent jurisdiction that such Claim was caused by the active negligence, sole negligence, or willful misconduct of District or its agents or employees.

Article 25. LAWS AND REGULATIONS

a. Contractor shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on conduct of work as indicated and specified. If Contractor observes that drawings and specifications are at variance therewith, he shall promptly notify architect in writing and any necessary changes shall be adjusted as provided in contract for changes in work. If Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to architect, he shall bear all costs arising therefrom.

b. Contractor shall be responsible for familiarity with the Americans with Disabilities Act (ADA) (42 USC 12101 et seq.). Installations of equipment and other devices shall be in compliance with ADA regulations.

Article 26. PERMITS AND LICENSES

Permits and licenses necessary for prosecution of work shall be secured and paid for by Contractor, unless otherwise specified.

Article 27. INSPECTION FEES FOR PERMANENT UTILITIES

All inspection fees and other municipal charges for permanent utilities including, but not limited to, sewer, electrical, phone, gas, water, and irrigation shall be paid for by District. Contractor shall be responsible for arranging the payment of such fees, but inspection fees and other municipal fees relating to permanent utilities shall be paid by District. Contractor may either request reimbursement from District for such fees, or obtain the funds from District prior to paying such fees.

Article 28. EASEMENTS

Easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by District, unless otherwise specified.

Article 29. SURVEYS

Surveys to determine location of property lines and corners will be supplied by District. Surveys

to determine locations of construction, grading, and site work shall be provided by Contractor.

Article 30. EXCISE TAXES

If under federal excise tax law any transaction hereunder constitutes a sale on which a federal excise tax is imposed and the sale is exempt from such excise tax because it is a sale to a state or local government for its exclusive use, the District, upon request, will execute a certificate of exemption which will certify (1) that the District is a political subdivision of the state for the purposes of such exemption and (2) that the sale is for the exclusive use of the District. No excise tax for such materials shall be included in any bid price.

Article 31. PATENTS, ROYALTIES, AND INDEMNITIES

The Contractor shall hold and save the District and its officers, agents, and employees harmless 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 this contract, including its use by the District, unless otherwise specifically stipulated in the contract documents.

Article 32. MATERIALS

a. Except as otherwise specifically stated in this contract, Contractor shall provide and pay for all materials, labor, tools, equipment, water, lights, power, transportation, superintendency, temporary constructions of every nature, and all other services and facilities of every nature whatsoever necessary to execute and complete this contract within specified time.

b. Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of good quality.

c. Materials shall be furnished in ample quantities and at such times as to insure uninterrupted progress of work and shall be stored properly and protected as required. Contractor shall be entirely responsible for damage or loss by weather or other causes to materials or work under this contract.

d. No materials, supplies, or equipment for work under this contract shall be purchased subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or in any part thereof is retained by seller or supplier. Contractor warrants good title to all material, supplies, and equipment installed or incorporated in work and agrees upon completion of all work to deliver premises, together with all improvements and appurtenances constructed or placed thereon by him, to District free from any claims, liens, or charges. He further agrees that neither he nor any person, firm, or corporation furnishing any materials or labor for any work covered by this contract shall have any right to lien upon premises or any improvement or appurtenance thereon, except that Contractor may install metering devices or other equipment of utility companies or of political subdivisions title to which is commonly retained by utility company or political subdivision. In event of installation of any such metering device or equipment, Contractor shall advise District as to owner thereof. Nothing contained in this article, however, shall defeat or impair right of persons furnishing material or labor under any bond given by Contractor for their protection or any rights under any law permitting such persons to look to funds due Contractor in hands of District, and this provision shall be inserted in all subcontracts and material contracts and notice of its provisions shall be given to all persons furnishing material for work when no formal contract is entered into for such material.

Article 33. SUBSTITUTIONS

a. Whenever in specifications any materials, process, or article is indicated or specified by grade, patent, or proprietary name or by name of manufacturer, such specification shall be deemed to be used for the purpose of facilitating description of material, process, or article desired and shall be deemed to be followed by the words "or equal." Contractor may, unless otherwise stated, offer any material, process, or article which shall be substantially equal or better in every respect to that so indicated or specified. Any material, process, or article not exactly meeting the specifications in the documents in every respect shall be considered a substitution. If a material, process, or article offered by Contractor is not, in opinion of architect, substantially equal or better in every respect to that specified, then Contractor shall furnish the material, process, or article specified. Burden of proof as to equality of any material, process, or article shall rest with Contractor.

b. If a bidder desires to request substitution of an “or equal” item or product or work, it must make such a request in writing no later than 30 days after the award of the contract stating the make and grade of the item, product or work which is to be substituted. Such request must be accompanied by documentation substantiating the request. The documentation submitted must include any and all illustrations,

specifications, and other relevant data including catalog information which describes the substituted item or product or work and substantiates that it is an “or equal” to the specified item or product or work. In addition, the submittal documentation must also include a statement of the cost implications of the substitution being requested stating whether and why the substitution will reduce or increase the contract price. The documentation submitted must also include information regarding the durability and life cycle cost of the substituted item, product or work. Substantiating data shall include a signed affidavit from the contractor stating that the substituted item or product or work is equivalent to the specified item or product or work in every way except as listed on the affidavit. IF A PROPOSED SUBSTITUTION IS REJECTED, BIDDER SHALL BE RESPONSIBLE TO PROVIDE THE ITEM OR PRODUCT OR WORK AS ORIGINALLY SPECIFIED. DISTRICT HAS THE COMPLETE AND SOLE DISCRETION TO DETERMINE IF AN ITEM OR ARTICLE IS AN EQUAL ITEM.

After award of the contract should the District determine in its sole discretion that substitution of an item or product is reasonable and necessary or reasonable and appropriate, the Contractor shall submit any substitution requests together with all data required to substantiate that the substituted product or item is an "or equal" to the specified product or item. The make and grade of the item, product or work which is to be substituted shall be provided to the District representative. The documentation submitted must include any and all illustrations, specifications, and other relevant data including catalogue information which describes the substituted item, product or work and substantiates that it is an "or equal" to the specified item, product or work. In addition, the submittal documentation must also include a statement of the cost implications of the substitution being requested stating whether and why the substitution will reduce or increase the contract price. The documentation submitted must also include information regarding the durability and life cycle cost of the substituted item, product or work. Substantiating data shall include a signed affidavit from the Contractor stating that the substituted product is equivalent to the specified product or item in every way except as listed on the affidavit. Failure to submit all the needed substantiating data, including the signed affidavit, to the District Representative or Architect in a timely fashion so that the substitution can be adequately reviewed and considered prior to any necessity for its use or application may result in the rejection of the proposed substitution. The District Representative or Architect is not obligated to review multiple substitution submittals for the same product or item due to the Contractor's failure to submit a complete package either at time of submission of bid documents or in a timely manner after award of contract.

c. In event Contractor furnishes material, process, or article more expensive than that specified, the difference in cost of such material, process, or article so furnished shall be borne by Contractor.

Article 34. SHOP DRAWINGS

a. Contractor shall check and verify all field measurements and shall submit with such promptness as to cause no delay in his own work or in that of any other contractor, subcontractor, architect, other independent contractor or worker on the Project, three (3) copies of all shop or setting drawings, schedules, and materials list, and all other submittals in accordance with other provisions of the contract required for the work of various trades. Contractor shall sign all submittals affirming that submittals have been reviewed and approved by Contractor prior to submission to architect. Each signed submittal shall affirm that the submittal meets all the requirements of the contract documents except as specifically and clearly noted and listed on the cover sheet of the submittal.

b. Contractor shall advise District immediately, if architect has not checked and approved with reasonable promptness, such schedules and drawings for

conformance with design concept of project and compliance with information given in contract documents. Contractor shall make any corrections required by architect, file with him three (3) corrected copies, and furnish such other copies as may be needed for construction. Architect's approval of such drawings or schedules also shall not relieve Contractor from responsibility for deviations from drawings or specifications unless he has in writing called architect's attention to such deviations at time of submission and has secured his written approval. Architect's approval of such drawings and schedules also shall not relieve contractor from responsibility for errors in shop drawings or schedules. For purposes of this section "reasonable promptness" shall mean such reasonable promptness as to cause no delay in the work or in the activities of the District, Contractor or separate contractors, while allowing sufficient time in the architect's professional judgment to permit adequate review. In contracts in excess of $1 million, "reasonable promptness" shall mean such reasonable promptness as to not affect the critical path.

Article 35. SUBMITTALS

a. Contractor shall furnish for approval, within fourteen (14) days following award of contract a log of all samples, material lists and certifications, mix designs, schedules, and other submittals, as required in specifications. Such log shall indicate whether samples will be provided as specified and in accordance with other provisions of this contract.

b. Contractor will provide samples and submittals, together with catalogs and supporting data required by architect within a reasonable time period so as not to cause delays on the project.

c. This provision shall not authorize any extension of time for performance of this contract. Architect will check and approve such samples, only for conformance with design concept of work and for compliance with information given in contract documents. Work shall be in accordance with approved samples. Architect's action will be taken within fourteen (14) calendar days after receiving such samples and submittals. If in the architect's professional judgment fourteen days is an insufficient amount of time to permit adequate review, Architect shall, within the initial fourteen (14) day period, notify the Contractor, with a copy to the Inspector and the District, of the amount of time that will be required to respond.

   If the Architect's response results in a change in the project, then such change shall be effected by a written change order.

Article 36. CLOSEOUT SUBMITTALS

The Contractor shall be responsible for the timely delivery of the technical manuals, warranties and guarantees as required in the technical specifications. The final payment will not be made until the District representative has had an opportunity to review and accept the required documents.

Article 37. PAYMENTS

a. Payment will be made in one lump sum less the ten percent (10%) retention per site due and payable within thirty (30) days after the completion and acceptance of the work at each site. Contractor will have the option to submit for payment one invoice (minus 10% retention) for total contract sum due and payable within thirty (30) days after the completion and acceptance of all work at all sites covered by the contract.

b. The final payment of ten percent (10%) of the value of work done under this contract, if unencumbered, shall be made within sixty (60) days after the date of completion of the work, provided however, that in the event of a dispute between the District and the Contractor, the District may withhold from the final payment an amount not to

exceed one hundred and fifty percent (150%) of the disputed amount. Completion means any of the following as provided by Public Contract Code section 7107:

1. The occupation, beneficial use, and enjoyment of a work of improvement, excluding any operation only for testing, start up, or commissioning, by the public agency, or its agent, accompanied by cessation of labor on the work of improvement.

2. The acceptance by the public agency, or its agent, of the work of improvement.

3. After the commencement of a work of improvement, a cessation of labor on the work of improvement for a continuous period of 100 days or more, due to factors beyond the control of the contractor.

4. After the commencement of a work of improvement, a cessation of labor on the work of improvement for a continuous period of 30 days or more, if the public agency files for record a notice of cessation or a notice of completion.

c. This contract is subject to the provisions of Public Contract Code Section 7107.

d. For purposes of this contract, the acceptance by the District means acceptance by District's Representative. Acceptance by Contractor of said final payment shall constitute a waiver of all claims against District arising from this contract.

Article 38. PAYMENTS WITHHELD

a. In addition to amount which District may retain under any and all other articles in this Contract including those entitled "Payments," and "Time for Completion and Liquidated Damages," District may withhold a sufficient amount or amounts of any payment or payments otherwise due to Contractor, as in his judgment may be necessary to cover:
   1. Payments which may be past due and payable for just claims against Contractor or any subcontractors for labor or materials furnished in and about the performance of work on the project under this contract.

   2. Defective work not remedied.

   3. Failure of Contractor to make proper payments to his subcontractor or for material or labor.

   4. Completion of contract if there exists a reasonable doubt that contract can be completed for balance then unpaid.

   5. Damage to another contractor.

   6. Amounts which may be due District for just claims against Contractor.

   7. Failure of Contractor to keep the record ("as-built") drawings up to date.

   8. Failure to provide update on construction schedule as required by Article 7 hereof.

   When the above grounds are removed, payment shall be made for amount withheld because of them.

b. District may apply such withheld amount or amounts to payment of such claims or obligations at its discretion. In so doing, District shall be deemed the agent of Contractor and any payment so made by District shall be considered as a payment

made under contract by District to Contractor and District shall not be liable to Contractor for such payments made in good faith. Such payments may be made without prior judicial determination of claim or obligations. District will render Contractor a proper accounting of such funds disbursed on behalf of Contractor.

Article 39. CHANGES AND EXTRA WORK

a. **Changes in Work**. District, without invalidating contract, and as provided by law, may order extra work or make changes by altering, adding to, or deducting from work, the contract sum being adjusted accordingly. All such work shall be subject to prevailing wage rates and shall be executed under the conditions of the original contract except that any claim for extension of time caused thereby shall be adjusted at the time of ordering such change.

b. In giving instructions, Contractor agrees that architect shall have authority to make minor changes in work, not involving change in cost, and not inconsistent with the purposes or approvals of the project. Otherwise, except in an emergency endangering life or property, no extra work or change shall be made unless pursuant to a written order from District, and no claim for an addition to the contract sum shall be valid unless so ordered.

c. **Unforeseen Conditions**. Contractor shall provide District with notice of unforeseen conditions immediately upon discovery of such conditions.

d. Value of any such extra work, change, or deduction shall be determined at the discretion of District in one or more of the following ways:

1. By acceptable lump sum proposal from Contractor with itemization as required by District.

2. By unit prices contained in Contractor's original bid and incorporated in contract documents or fixed by subsequent agreement between District and Contractor.

3. By the cost of material and labor and a percentage for overhead and profit. The following form shall be followed as applicable for additions and deductions to contract:

		EXTRA/ CREDIT
(a)	Material (attach itemized quantity and unit cost plus sales tax)	_____
(b)	Labor (attach itemized hours and base rates from identified prevailing wage schedules)	_____
(c)	General Liability and **Builder's Risk** Insurance, Workers' Compensation Insurance, Social Security, Pension and Unemployment	_____

Taxes at actual and verified cost. **(Do not include this amount If OCIP is in place.)**

(d)	Subtotal	_____
(e)	Subcontractor's overhead and profit not to exceed **10%** of Item (d)	_____
(f)	Subtotal	_____
(g)	General Contractor's Overhead and	

Profit, including extended home office overhead, not to exceed **10**% of Item (d)_____

(h) Subtotal _____

(i) Bond Premium, not to exceed 1% of Item (h) _____

(j) Total _____

e. Regardless of whether the cost of the change order is determined pursuant to 1, 2, or 3, above, in additional to the cost of the material and labor for deleted items, Contractor shall credit back an appropriate and reasonable overhead mark-up and the bonding mark up for deleted items.

f. Should Contractor claim that any instruction, request, drawing, specification, action, condition, omission, default, or other situation (i) obligates the District to pay additional compensation to the Contractor; or (ii) obligates the District to grant an extension of time for the completion of the contract; or (iii) constitutes a waiver of any provision in the contract, CONTRACTOR SHALL NOTIFY THE DISTRICT, IN WRITING, OF SUCH CLAIM AS SOON AS POSSIBLE, BUT IN NO EVENT WITHIN MORE THAN FIVE (5) WORKING DAYS FROM THE DATE CONTRACTOR HAS ACTUAL OR CONSTRUCTIVE NOTICE OF THE CLAIM. CONTRACTOR SHALL ALSO PROVIDE DISTRICT WITH SUFFICIENT WRITTEN DOCUMENTATION SUPPORTING THE FACTUAL BASIS OF THE CLAIM. Contractor shall be required to certify under penalty of perjury the validity and accuracy of any claims submitted. The Contractor's failure to notify the District within such five (5) working day period shall be deemed a waiver and relinquishment of the claim against the District. If such notice be given within the specified time, the procedure for its consideration shall be as stated above in this article.

In the event a mutual agreement cannot be reached on the cost of a change order, Contractor and District agree that an industry estimating guide, such as an estimating guide published by Means, shall be used to determine the cost of a disputed change order item.

h. All costs associated with the change are to be included in the change order proposal to the District. Costs may be in terms of time, money or both.

Article 40. DEDUCTIONS FOR UNCORRECTED WORK

If District deems it inexpedient to correct work injured or not done in accordance with contract, an equitable deduction from contract price shall be made therefore.

Article 41. PAYMENTS BY CONTRACTOR

Contractor shall pay:

a. For all transportation and utility services not later than the 20th day of the calendar month following that in which such services are rendered,

b. For all materials, tools, and other expendable equipment to the extent of ninety percent (90%) of cost thereof, not later than the 20th day of the calendar month following that in which such materials, tools, and equipment are delivered at site of project and balance of cost thereof not later than the 30th day following completion of that part of work in or on which such materials, tools, and equipment are incorporated or used, and

c. To each of his subcontractors, not later than the 5th day following each payment to Contractor, the respective amounts allowed Contractor on account of work performed by respective subcontractor to the extent of such subcontractor's interest therein.

Article 42. CONTRACTOR'S SUPERVISION

a. Unless personally present on the premises where work is being done, Contractor shall keep on the work, during its progress, a competent full-time job (project) superintendent satisfactory to District. The job superintendent shall not be changed except with the written consent of District unless the job superintendent proves to be unsatisfactory to Contractor and ceases to be in his employ. The job superintendent shall represent Contractor in his absence and all directions given to him shall be as binding as if given to Contractor. Other directions shall be so confirmed on written request in each case.

b. Contractor shall give efficient supervision to work, using his best skill and attention to control safety and job coordination. He shall carefully study and compare all drawings, specifications, and other instructions and shall at once report to architect any error, inconsistency or omission which he may discover. The Contractor shall not be liable to District for any damage resulting from errors or deficiencies in the contract documents or other instructions by the architect.

Article 43. INSPECTOR'S FIELD OFFICE

a. Contractor shall provide for the use of inspector a separate trailer or temporary private office of not less than seventy-five square feet of floor area to be located as directed by inspector and to be maintained until removal is authorized by District. The Office shall be of substantial waterproof construction with adequate natural light and ventilation by means of stock design windows. Door shall have a key-type lock or padlock hasp. The inspector's field office shall have heating and air-conditioning and shall be equipped with a telephone, a telephone answering machine, a fax machine and use of an on-site copier at Contractor's expense.

b. A table satisfactory for the study of plans and two chairs shall be provided by Contractor. Contractor shall provide and pay for adequate electric lights, local telephone service, and adequate heat and air conditioning for the field office until authorized removal.

c. The provisions of this section are intended to be complementary to any requirements provided elsewhere in these contract documents, however in the event of conflicts between this section and other provisions of these contract documents, this section shall prevail.

Article 44. DOCUMENTS ON WORK

a. Contractor shall keep one copy of all contract documents, including addenda, change orders, Division I, Title 21 of the California Code of Regulations, Parts 1-5 and 12 of Title 24 of the California Code of Regulations, and the prevailing wage rates applicable at the time of the contract, which are a part of contract documents, on job at all times. Said documents shall be kept in good order and shall be available to District representative, architect and his representatives. Contractor shall be acquainted with and comply with the provisions of said Titles 21 and 24 as they relate to this project. (See particularly Duties of the Contractor, Title 24 California Code of Regulations, section 4-343.) Contractor shall also be acquainted with and comply with all California Code of Regulations provisions relating to this project, particularly Titles 17, 19, 21 and 24.)

b. Contractor shall also make available all books, records, accounts, contracts, bids,

etc. upon request of District.

Article 45. RECORD ("AS BUILT") DRAWINGS

a. Contractor shall maintain a clean, undamaged set of contract drawings and shop drawings. In addition to maintaining one complete set of record drawings (herein referred to as "as-builts"), Contractor shall require each trade to do its own as-builts. The trade as-builts shall contain information showing clean and clear drawings with horizontal and vertical controls suitable for conversion to electronic media. Graphic quality must be equal to clean and clear original drawings; adequacy of the drawings shall be determined by the District's representative or architect. Contractor shall mark the set to show the actual installation where the installation varies from the work as originally shown. Contractor shall mark whichever drawings are most capable of showing conditions fully and accurately where shop drawings are used, and shall record a cross-reference at the corresponding location on the contract drawings. Contractor shall give particular attention to concealed elements that would be difficult to measure and record at a later date. Contractor shall use colors to distinguish variations in separate categories of the work.

b. Contractor shall note related change order numbers where applicable. Contractor shall organize record drawings sheets into manageable sets, bound with durable paper cover sheets and shall print suitable title, dates and other identification on the cover of each set.

c. At the end of the project, the Contractor shall provide the district representative with a complete set of as-built drawings. The complete set shall contain information showing clean and clear drawings with horizontal and vertical controls suitable for conversion to electronic media. Graphic quality must be equal to clean and clear original drawings; adequacy of the drawings shall be determined by the District's representative or architect. The as-builts must show the entire site for each major trade, including but not limited to water, sewer, electrical, data, telephone, cable, fire, alarm, gas, and plumbing.

Article 46. UTILITY USAGE

a. All temporary utilities, including but not limited to electricity, water, gas, and telephone used on work shall be furnished and paid for by Contractor. Contractor shall furnish and install necessary temporary distribution systems, including meters, if necessary, from distribution points to points on site where utility is necessary to carry on the work. Upon completion of work, Contractor shall remove all temporary distribution systems.

b. Contractor shall provide necessary and adequate utilities and pay all costs for water, electricity, gas, oil, and sewer charges required for completion of the project.

c. All permanent meters installed shall be listed in the Contractor's name until completion occurs, as defined in Article 6 hereof, at which time further pro-rating will be determined if necessary. When District begins using the project, charges over and above power actually used for construction will be the responsibility of the District.

d. If contract is for construction in existing facilities, Contractor may, with written permission of District, use District's existing utilities by making prearranged payments to District for utilities used by Contractor for construction.

Article 47. SANITARY FACILITIES

The Contractor shall provide a sanitary temporary toilet building as directed by the inspector for the use of all workers. The building shall be maintained in a sanitary condition at all times and

shall be left at the site until the inspector directs removal. Use of toilet facilities in the work under construction shall not be permitted except by approval of the inspector.

Article 48. TRENCHES

If the contract price exceeds $25,000, the Contractor shall submit to the District or a registered civil or structural engineer employed by the District, 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 five feet or more in depth. If such plan varies from the shoring system standards established by the Construction Safety Orders, the plan shall be prepared by a registered civil or structural engineer. No excavation of such trench or trenches shall be commenced until said plan has been accepted by District or the person to whom authority to accept has been delegated by District.

Article 49. PROTECTION OF WORK AND PROPERTY

a. he Contractor shall be responsible for all damages to persons or property that occur as a result of his fault or negligence in connection with the prosecution of this contract. Contractor shall be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance by the District. All work shall be solely at the Contractor's risk. Contractor shall adequately protect adjacent property from settlement or loss of lateral support as provided by law and contract documents. Contractor shall take all necessary precautions for the safety of employees on the project and shall comply with all applicable safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to premises where work is being performed. Contractor shall erect and properly maintain at all times, as required by conditions and progress of work, all necessary safeguards, signs, 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 member of his organization on the work, whose duty shall be prevention of accidents. The name and position of the person so designated shall be reported to District by Contractor.

b. In an emergency affecting safety of life or of work or of adjoining property, Contractor, without special instruction or authorization from architect or District, is hereby permitted to act, at his discretion, to prevent such threatened loss or injury, and he shall so act, without appeal, if so authorized or instructed by architect or District. Any compensation claimed by Contractor on account of emergency work shall be determined by agreement.

c. Contractor shall provide such heat, covering, and enclosures as are necessary to protect all work, materials, equipment, appliances, and tools against damage by weather conditions.

d. Contractor shall take adequate precautions to protect existing sidewalks, curbs, pavements, utilities, adjoining property, and structures, and to avoid damage thereto, and repair any damage thereto caused by construction operations. Contractor shall:

    1. Enclose working area with a substantial barricade, arrange work to cause minimum amount of inconvenience and danger to students and faculty in their regular school activities, and perform work which may interfere with school routine before or after school hours. (This subsection applies to new construction on existing sites.)

    2. Provide substantial barricades around any shrubs or trees indicated to be preserved.

    3. Deliver materials to the building area over a route designated by architect.

4. When directed by District, take preventive measures to eliminate objectionable dust.

5. Confine Contractor's apparatus, the storage of materials, and the operations of his workers to limits indicated by law, ordinances, permits, or directions of architect. Contractor shall not unreasonably encumber premises with his materials. Contractor shall enforce all instructions of District and architect regarding signs, advertising, fires, danger signals, barricades, and smoking and require that all persons employed on work comply with all regulations while on construction site.

6. Take care to prevent disturbing or covering any survey markers, monuments, or other devices marking property boundaries or corners. If such markers are disturbed by accident, they shall be replaced by an approved civil engineer or land surveyor, licensed in the State of California, at no cost to the District.

Article 50. LAYOUT AND FIELD ENGINEERING

All field engineering required for laying out this work and establishing grades for earthwork operations shall be furnished by the Contractor at his expense. Such work shall be done by a qualified civil engineer approved by the architect. Any required "as-built" drawings of site development shall be prepared by the approved civil engineer.

Article 51. REMOVAL OF HAZARDOUS MATERIALS

a. Since removal and/or abatement of asbestos, PCBs and other toxic wastes and hazardous materials is a specialized field of work with specialized insurance requirements, unless otherwise specified in the contract documents, district shall contract directly for such specialized services, if required, and shall not require the Contractor to subcontract for such services.
b. In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Contractor shall immediately stop work in the area affected and report the condition to the District, inspector, and architect in writing. The work in the affected area shall not thereafter be resumed except by written agreement of the District and Contractor if in fact the material is asbestos or PCB and has not been rendered harmless. The work in the affected area shall be resumed in the absence of asbestos or PCB, or when it has been rendered harmless, by written agreement of the District and Contractor, or by arbitration under Article 71 hereof.

Article 52. CUTTING AND PATCHING

a. Contractor shall do all cutting, fitting, or patching of work as required to make its several parts come together properly and fit it to receive or be received by work of other contractors showing upon, or reasonably implied by, the drawings and specifications for the completed structure. Contractor shall make good after them as architect may direct.

b. All cost caused by defective or ill-timed work shall be borne by party responsible therefore.

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 save with consent or at the direction of architect.

Article 53. CLEANING UP

Contractor at all times shall keep premises 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 premises. Upon completion of work, Contractor shall clean the interior and exterior of the building or improvement including fixtures, equipment, walls, floors, ceilings, roofs, window sills and ledges, horizontal projections, and any areas where debris has collected so surfaces are free from foreign material or discoloration. Contractor shall clean and polish all glass, plumbing fixtures, and finish hardware and similar finish surfaces and equipment and contractor shall also remove temporary fencing, barricades, planking and construction toilet and similar temporary facilities from site.

Article 54. CORRECTION OF WORK BEFORE FINAL PAYMENT

a. Contractor shall promptly remove from the premises all work condemned by District as failing to conform to the contract, whether incorporated or not. Contractor shall promptly replace and re-execute his own work to comply with contract documents without additional expense to District and shall bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement.

b. If Contractor does not remove such condemned work within a reasonable time, fixed by written notice, District may remove it and may store the material at Contractor's expense. If Contractor does not pay expenses of such removal within ten (10) days' time thereafter, District may, upon ten (10) days' written notice, sell such materials at auction or at private sale and shall account for net proceeds thereof, after deducting all costs and expenses that should have been borne by Contractor.

Article 55. ACCESS TO WORK

District and its representatives shall at all times have access to work wherever it is in preparation or progress. Contractor shall provide safe and proper facilities for such access so that District's representatives may perform their functions under contract.

Article 56. OCCUPANCY

District reserves the right to occupy buildings at any time before completion, and such occupancy shall not constitute final acceptance of any part of work covered by this contract.

Article 57. DISTRICT'S INSPECTOR

a. If applicable, an inspector will be employed by District in accordance with requirements of Title 24 of the California Code of Regulations and will be assigned to the work. His duties are specifically defined in Part 1, Title 24, Section 4-342 of the California Code of Regulations.

b. All work shall be under the observation of said inspector. He shall have free access to any or all parts of work at any time. Contractor shall furnish inspector reasonable facilities for obtaining such information as may be necessary to keep him fully informed respecting progress and manner of work and character of materials. Inspection of work shall not relieve Contractor from any obligation to fulfill this contract. Inspector or architect shall have authority to stop work whenever the provisions of the contract documents are not being complied with and Contractor shall instruct his employees accordingly.

Article 58. TESTS AND INSPECTIONS

a. If contract, District's instructions, laws, ordinances, or any public authority require any work to be specially tested or approved, Contractor shall give notice in accordance with such authority of its readiness for observation or inspection **at least two (2) working days prior to being tested or covered up.** If inspection is by a public

authority other than District, Contractor shall inform District of date fixed for such inspection. Required certificates of inspection shall be secured by Contractor. Observations by District shall be promptly made and where practicable at source of supply. If any work should be covered up without approval or consent of District, it must, if required by District, be uncovered for examination and satisfactorily reconstructed at Contractor's expense in compliance with the contract. Costs for testing and inspection shall be paid by District. Costs of tests of any materials found not to be in compliance with the contract shall be paid by the Contractor.

b. Where such inspection and testing are to be conducted by an independent laboratory or agency, such materials or samples of materials to be tested shall be selected by such laboratory or agency, or District's representative, and not by Contractor.

c. In advance of manufacture of materials to be supplied by Contractor under the contract, which by the terms of the contract must be tested, Contractor shall notify District in advance so that District may arrange for testing of same at the source of supply. Any materials shipped by Contractor from the source of supply prior to having satisfactorily passed such testing and inspection, or prior to receipt of notice from District's representative that such testing and inspection will not be required, shall not be incorporated into the work without the prior approval of District and subsequent testing and inspection.

d. Re-examination of questioned work may be ordered by District. If so ordered, work must be uncovered by Contractor. If such work is found to be in accordance with the contract documents, District shall pay the costs of re-examination and replacement. If such work be found not to be in accordance with the contract documents, Contractor shall pay such costs.

Article 59. SOILS INVESTIGATION REPORT

Except as provided in Article 68, when a soils investigation report obtained from test holes at the site is available, such report shall not be a part of this contract. Any information obtained from such report or any information given on drawings as to subsurface soil condition or to elevations of existing grades or elevations of underlying rock is approximate only, is not guaranteed, and does not form a part of the contract. Contractor is required to make a visual examination of site and must make whatever tests he deems appropriate to determine the underground condition of the soil. Limited soil tests and subsurface investigations, if any, are available for review and consideration by Contractor and were conducted for the purpose of design only. Subsurface investigation information is made available by District solely as a matter of convenience and general information for Contractor. No representation is made by District or Architect that information provided is completely representative of all conditions and materials which may be encountered. If such a report is referenced in the contract documents for performance of the Work, such reference shall be to establish minimum requirements only. Further, no representation is made by District or Architect that information provided is solely adequate for purposes of construction. District disclaims responsibility for interpretations by Contractor of soil and subsurface investigation information, such as in protecting soil-bearing values, rock profiles, presence and scope of boulders and cobbles, soil stability and the presence, level and extent of underground water. Contractor shall determine means, methods, techniques and sequences necessary to achieve required characteristics of completed Work. Conditions found after execution of the Agreement to be materially different from those reported and which are not customarily encountered in the geographic area of the Work shall be governed by provisions of the General Conditions of the Contract for unforeseen conditions.

Article 60. ARCHITECT'S STATUS

a. In general and where appropriate and applicable**,** the architect shall be the District's representative during the construction period and shall observe the progress and quality of the work on behalf of the District. He shall have the authority to act on

behalf of District only to the extent expressly provided in the contract documents. After consultation with the Inspector and after using his best efforts to consult with the District, the architect shall have authority to stop work whenever such stoppage may be necessary in his reasonable opinion to insure the proper execution of the contract.

b. Contractor further acknowledges that the architect shall be, in the first instance, the judge of the performance of this contract.

Article 61. ARCHITECT'S DECISIONS

Contractor shall promptly notify District in writing if the architect fails within a reasonable time, make decisions on all claims of the District or Contractor and on all other matters relating to the execution and progress of the work.

Article 62. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon application of either party, the contract shall forthwith be physically amended to make such insertion or correction.

Article 63. LABOR/EMPLOYMENT SAFETY

The Contractor shall maintain emergency first aid treatment for his employees which complies with the Federal Occupational Safety and Health Act of 1970 (29 USC, section 651 et seq.).

Article 64. NOTICE OF TAXABLE POSSESSORY INTEREST

The terms of this document may result in the creation of a possessory interest. If such a possessory interest is vested in a private party to this document, the private party may be subjected to the payment of personal property taxes levied on such interest.

Article 65. ASSIGNMENT OF ANTITRUST ACTIONS

Contractor or subcontractor offers and agrees to assign to District all rights, title, and interest in and to all causes of action it may have under section 4 of the Clayton Act (15 USC, section 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 the purchase of goods, services, or materials pursuant to this contract or any subcontract. This assignment shall be made and become effective at the time District tenders final payment to the Contractor, without further acknowledgment by the parties.

Article 66. SUBSTITUTION OF SECURITY

a. Upon the Contractor's request, the District will make payment of funds withheld from progress payments to ensure performance under the contract pursuant to the requirements of Public Contract Code section 22300 if the Contractor deposits in escrow with the District or with a bank acceptable to the District, securities eligible for investment under Government Code section 16430, bank or savings and loan certificates of deposit, or other security mutually agreed to by the Contractor and the District, subject to the following conditions:

1. The Contractor shall bear the expense of the District and the escrow agent, either the District or the bank, in connection with the escrow deposit made.

2. Securities or certificates of deposit to be placed in escrow shall be of a value at least equivalent to the amounts of retention to be paid to the Contractor pursuant

to this section.

3. The Contractor shall enter into an escrow agreement satisfactory to the District, which agreement shall include provisions governing inter alia:

(a) The amount of securities to be deposited,

(b) The providing of powers of attorney or other documents necessary for the transfer of the securities to be deposited,

(c) Conversion to cash to provide funds to meet defaults by the Contractor, including, but not limited to, termination of the Contractor's control over the work, stop notices filed pursuant to law, assessment of liquidated damages or other amounts to be kept or retained under the provisions of the contract,

(d) Decrease in value of securities on deposit,

(e) The termination of the escrow upon completion of the contract.

4. The Contractor shall obtain the written consent of the surety to such agreement.

5. As an alternative to Contractor depositing into escrow securities of a value equivalent to the amounts of retention to be paid to the Contractor, upon Contractor's request, District will make payment of retentions earned directly to the escrow agent at the expense of Contractor pursuant to and in accordance with Public Contract Code section 22300.

Article 67. EXCAVATIONS DEEPER THAN FOUR FEET

If this contract involves digging trenches or other excavations that extend deeper than four feet below the surface, then all of the following shall apply:

a. The Contractor shall promptly, and before the following conditions are disturbed, notify the District, in writing, of any:

1. Material that the Contractor believes may be material that is hazardous waste, as defined in section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.

2. Subsurface or latent physical conditions at the site differing from those indicated.

3. Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.

b. Upon receiving any such notice, the District shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the work District shall issue a change order under the procedures described in this contract.

c. In the event that a dispute arises between the District and the Contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the work, the Contractor shall not be excused from any scheduled completion date provided for by this contract, but shall proceed with all work to be performed under

the contract. A 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. (Public Contract Code section 7104).

Article 68. COMPLIANCE WITH STATE STORM WATER PERMIT FOR CONSTRUCTION

a. Contractor shall be required to comply with all conditions of the State Water Resources Control Board (State Water Board) National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity (the "Permit") for all construction activity which results in the disturbance of in excess of **ONE ACRE** of total land area or which is part of a larger common area of development or sale. District shall be responsible for filing the Notice of Intent and for obtaining the Permit. A copy of the Permit and supporting rules and orders by the State Water Board is on file with the District. District shall provide a draft of the Storm Water Pollution Prevention Program (SWPPP) for the project to Contractor at least two weeks prior to the opening of bids. It shall be Contractor's responsibility to evaluate the cost of compliance with the SWPPP in bidding on this contract. Contractor shall comply with all requirements of the State Water Resources Control Board. Contractor shall include all costs of compliance with specified requirements in the contract amount.

b. Contractor shall be responsible for implementing and complying with the provisions of the Permit and the SWPPP, including the standard provisions, monitoring and reporting requirements as required by Permit. Contractor shall provide copies of all reports and monitoring information to District.

c. Contractor shall comply with the lawful requirements of any applicable municipality, the County, drainage district, and other local agencies regarding discharges of storm water to separate storm drain system or other watercourses under their jurisdiction, including applicable requirements in municipal storm water management programs.

d. Failure to comply with the Permit is a violation of federal and state law. Contractor hereby agrees to indemnify and hold harmless District, its officers, agents, and employees from and against any and all claims, demands, losses or liabilities of any kind or nature which District, its officers, agents, and employees may sustain or incur for noncompliance with the Permit arising out of or in connection with the project, except for liability resulting from the negligence or willful misconduct of District, its officers, agents or employees. District may seek damages from Contractor for delay in completing the contract in accordance with Article 6 hereof, caused by Contractor's failure to comply with Permit.

Article 69. RESOLUTION OF CONSTRUCTION CLAIMS OF $375,000 OR LESS

a. For public work claims of $375,000 or less between Contractor and District, if District has not elected to resolve disputes by arbitration pursuant to article 7.1 (commencing with section 10240) of chapter 1 of part 2 of the Public Contract Code, the provisions of article 1.5 (commencing with section 20104) of chapter 1 of part 3 of the Public Contract Code apply ("Article 1.5").

b. For purposes of Article 1.5, "public work" has the same meaning as in sections 3100 and 3106 of the Civil Code. "Claims" means a separate demand by Contractor for a time extension, or payment of money or damages for work done by or for Contractor, payment for which is not otherwise expressly provided in the contract or to which Contractor would not otherwise be entitled, or a payment disputed by District.

c. Each claim shall be submitted in writing before the date of final payment and shall include all necessary substantiating documentation. District shall respond in writing

within forty-five (45) days of receipt of the claim if the claim is less than $50,000 ("$50,000 claim") or within sixty (60) days of receipt of the claim, if the claim is over $50,000 but less than or equal to $375,000 ("$50,000-$375,000 claim"). In either case, District may request in writing within thirty (30) days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the District may have against the claimant. Any additional information shall be requested and provided upon mutual agreement of the District and the claimant. District's written response to the claim shall be submitted to claimant within fifteen (15) days after receipt of the further documentation for $50,000 claims or within thirty (30) days after receipt of the further documentation for $50,000-$375,000 claims or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

d. Within fifteen (15) days of receipt of the District's response, if claimant disputes District's written response or within fifteen (15) days of the District's failure to respond within the time prescribed, the claimant shall provide written notification to District demanding an informal conference to meet and confer ("conference") to be scheduled by the District within thirty (30) days. If the claim or any portion of the claim remains in dispute following the meet and confer ("meet and confer conference") to be scheduled by the District within 30 days, the claimant may file a claim as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the period of time within which a claim must be filed is tolled from the time the claimant submits a written claim until the time the claim is denied, including time utilized as a result of the meet and confer process, including time utilized by the meet and confer process.

e. If a civil action is filed to resolve claims within sixty (60) days (but no earlier than thirty (30) days) following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide that both parties select a disinterested third person mediator within fifteen (15) days, shall be commenced within thirty (30) days of the submittal and concluded within fifteen (15) days from the commencement of the mediation unless time is extended upon a good cause showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

f. If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to chapter 2.5 (commencing with section 1141.10) of title 3 of part 3 of the Code of Civil Procedure, notwithstanding section 1141.11 of that code. The Civil Discovery Act of 1986 (article 3 [commencing with section 2016] of chapter 3 of title 3 or part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration. The court may, upon request by any party, order any witness to participate in the mediation or arbitration process.

g. Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates not to exceed their customary rate. Such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds. Any party who, after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment, shall pay the attorney's fees of the other party arising out of the trial de novo in addition to payment of costs and fees required under chapter 2.5 (commencing with section 1141.10) of title 3 of part 3 of the Code of Civil Procedure. District shall not fail to pay any portion of a claim which is undisputed unless otherwise provided herein and shall pay interest at the legal rate commencing on the

date the suit is filed in court on any arbitration award or judgment.

h. Any arbitration, mediation or other forms of alternate dispute resolution shall be handled within the boundaries of the District unless otherwise mutually agreed.

Article 70. RESOLUTION OF CONSTRUCTION CLAIMS IN EXCESS OF $375,000

a. If a dispute in excess of a total value of $375,000, arises out of, or relates to this contract, or the breach thereof, and if said dispute cannot be settled through normal contract negotiations, the parties agree that as a condition precedent to the initiation of litigation, the dispute shall first be submitted to mediation pursuant to this Article 71. The mediation is voluntary, non-binding, and intended to provide an opportunity for the parties to evaluate each other's cases and arrive at a mutually agreeable resolution of the dispute. These provisions relating to voluntary mediation shall not be construed or interpreted as mandatory arbitration.

b. Either party may initiate mediation by notifying the other party or parties in writing. A Request for Mediation shall contain a brief statement of the nature of the dispute or claim, and the names, addresses, and phone numbers of all parties to the dispute or claim, and those, if any, who will represent them in the mediation.

c. The mediation process set forth in this section shall be administered by the American Arbitration Association (AAA) and governed by their rules in effect at the time of filling, or by any other neutral organization agreed to by the parties (hereinafter called "Administrator").

d. The costs for all mediation, including the administrative fees and mediator compensation, will be shared equally by all parties. Fees shall be jointly negotiated by all parties directly with the Administrator. The expenses of witnesses for any party shall be paid by the party producing such witnesses.

e. A single mediator, acceptable to all parties, shall be used to mediate the dispute. The mediator will be knowledgeable in construction matters and will be selected from lists furnished by the Administrator. The initial mediation session shall commence within thirty (30) days of filing, unless otherwise agreed by the parties, or at the direction of the mediator.

f. At least ten (10) days before the first scheduled mediation session, each party shall provide the mediator a brief memorandum setting forth its position with regard to the issues that need to be resolved. At the discretion of the mediator, such memoranda may
be mutually exchanged by the parties. At the first session, the parties will be expected to produce all information reasonably required for the mediator to understand the issue presented. The mediator may require each party to supplement such information.

g. Mediation hearings will be conducted in an informal manner and discovery will not be allowed unless agreed to by all parties. All discussions, statements, or admissions will be confidential to the proceedings and will not be used for any other purpose as they relate to either party's legal position. There shall be no stenographic record of the mediation.

h. Mediation sessions are private. The parties and their representatives may attend mediation sessions. Other persons may attend only with the permission of the parties and with the consent of the mediator. The parties may have an attorney present and shall advise the other parties no less than five (5) working days before the mediation of their intent to have an attorney present, so that the other parties may also have their attorneys present.

i. The mediator does not have authority to impose a settlement on the parties but will attempt to assist the parties in reaching a satisfactory resolution of their dispute. The mediator is authorized to conduct joint and separate meetings with the parties and to make oral and written recommendations for settlement. Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the dispute, provided the parties agree and assume the expenses of obtaining such advice. Arrangements for obtaining such advice shall be made by the mediator or the parties, as the mediator shall determine.

j. The mediator is authorized to end the mediation whenever, in the mediator's judgment, further efforts at mediation would not contribute to a resolution of the dispute between the parties.

k. Any resultant agreements from mediation shall be documented in writing, as agreed upon during the mediation, and may be used as the basis for a change order or other directive as appropriate. All mediation results and documentation shall be non-binding and inadmissible for any purpose in any legal proceedings, unless such admission is otherwise agreed in writing by all parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery in subsequent proceedings.

l. The Mediation shall be terminated by the execution of a Settlement Agreement by the parties; by a written declaration of the Mediator to the effect that further efforts at Mediation are no longer worthwhile; or by a written declaration of a party or parties to the effect that the Mediation proceedings are terminated.

m. If mediation is unsuccessful in resolving the dispute, the parties thereafter may agree to submit the matter to the Administrator for binding arbitration. The parties agree that the matter shall be submitted to one (1) arbitrator, unless they agree to three (3) arbitrators in writing. The parties further agree that they will faithfully observe this agreement, and that the parties will abide by and perform any award rendered by the arbitrator(s), that a judgment of a court having competent jurisdiction may be entered upon the award, and that such judgment shall be enforceable as a final judgment to the fullest extent under the law. The parties agree to split evenly all arbitration and arbitrator(s) fees and expenses. The arbitration shall be subject to, and proceed in accordance with California Code of Civil Procedure, Section 1280 through 1294.2. If the parties do not agree to submit to binding arbitration, neither party is prevented from pursuing other legal remedies.

n. Any arbitration, mediation or other forms of alternate dispute resolution shall be handled within the boundaries of the District unless otherwise mutually agreed.

Article 71. GOVERNING LAW AND VENUE

This Contract shall be governed in accordance with the laws of the State of California and venue shall be in San Diego County.

Article 72. FINGERPRINTING

District Determination of Fingerprinting Requirement Application is set forth in the Special Conditions.

(a) Contracts for Construction, Reconstruction, Rehabilitation or Repair of a School Facility Involving **More than Limited Contact with Students**.

If the District determines based on the totality of the circumstances concerning the Project that the Contractor and Contractor's employees are subject to the

requirements of Education Code section 45125.2 pertaining to Contracts for Construction, Reconstruction, Rehabilitation or Repair of a School Facility because they will have contact other than limited contact with pupils, by execution of the Agreement/Contract, the Contractor acknowledges that Contractor is entering into a contract for the construction, reconstruction, rehabilitation, or repair of a school facility where the Contractor and/or Contractor's employees will have more than limited contact with students and the services to be provided do not constitute an emergency or exceptional situation. In accordance with Education Code section 45125.2 the Contractor shall, at Contractor's own expense, (a) install a physical barrier to limit contact with students by Contractor and/or Contractor's employees, or (b) provide for the continuous supervision and monitoring of the Contractor and/or Contractor's employees by an employee of the Contractor who has received fingerprint clearance from the California Department of Justice, or (c) provide for the surveillance of the Contractor and Contractor's employees by a District employee.

(b) Contracts for Construction, Reconstruction Rehabilitation or Repair of a School Facility Involving **Only Limited Contact With Students.**

If the District determines based on the totality of the circumstances concerning the Project that the Contractor and Contractor's employees are subject to the requirements of Education Code section 45125.2 pertaining to Contracts for Construction, Reconstruction, Rehabilitation or Repair of a School Facility because they will have only limited contact with pupils, by execution of the Agreement/Contract, the Contractor acknowledges that Contractor is entering into a contract for the construction, reconstruction, rehabilitation or repair of a school facility involving only limited contact with students. Accordingly, the parties agree that the following conditions apply to any work performed by the Contractor and/or Contractor's employees on a school site: (1) Contractor and/or Contractor's employees shall check in with the school office each day immediately upon arriving at the school site; (2) Contractor and/or Contractor's employees shall inform school office staff of their proposed activities and location at the school site; (3) Once at such location Contractor and/or Contractor's employees shall not change locations without contacting the school office; (4) Contractor and Contractor's employees shall not use student restroom facilities; and (5) If Contractor and/or Contractor's employees find themselves alone with a student, Contractor and Contractor's employees shall immediately contact the school office and request that a member of the school staff be assigned to the work location.

Article 73. COMPLIANCE WITH DTSC GUIDELINES – IMPORTED SOILS

If the project requires the use of imported soils, the Contractor shall be responsible to use and shall certify that the imported material it uses is free of any hazardous and/or toxic substance or material of any nature or type as defined in accordance with California Law and the California Health and Safety Code. The District reserves the right to reject any imported material that has come from agricultural or commercial land uses. Contractor must notify the District of the source of material and comply with the San Diego Regional Water Quality Control Board Resolution 95-63 and when applicable, with the guidelines of the Department of Toxic Substances Control (DTSC).

Article 74. NO ASBESTOS

a. The Contractor will be required to execute and submit a Certificate Regarding Non-Asbestos Containing Materials.

b. Should asbestos containing materials be installed by the Contractor in violation of this

certification, or if removal of asbestos containing materials is part of the Project, decontaminations and removals will be performed in accordance with the requirements of all applicable laws and 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. The 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 the District which 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. If removal of asbestos containing materials is part of the project, the cost of all asbestos removal, including, but not necessarily limited to the cost of the asbestos removal contractor, the cost of the asbestos consultant, analytical and laboratory fees, time delays and additional costs that may be incurred by the District shall be borne entirely by the Contractor.

d. Hold Harmless: Interface of work for the Project with work containing asbestos shall be executed by the Contractor at his/her risk and at his/her 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 Agreement, the Contractor acknowledges the above and agrees to the fullest extent permitted by law to hold harmless the District, its Governing Board, employees, agents, representatives, including its architect and assigns, for all asbestos liability which may be associated with this work. The Contractor further agrees to instruct his/her employees with respect to the above-mentioned standards, hazards, risk and liabilities.

END OF GENERAL CONDITIONS DOCUMENT