DIV 00

CONSTRUCTION CONTRACT DOCUMENTS

RAVENSWOOD CITY SCHOOL DISTRICT

WILLOW OAKS ELEMENTARY SCHOOL
620 Willow Road
Menlo Park, CA 94025

WILLOW OAKS ELEMENTARY SCHOOL ROOF RESTORATON
Project Number : 2018-19-005

2120 Euclid Ave.
East Palo Alto, CA 94303

TABLE OF CONTENTS

Page

BID INSTRUCTIONS 1-5
BID FORM 6-8
BID BOND 9-10
FORMS 11-15
NONCOLLUSION DECLARATION
DESIGNATION OF SUBCONTRACTORS
STATEMENT OF COMPLIANCE
IRAN CONTRACTING ACT CERTIFICTION
NOTICE TO CONTRACTORS REGARDING CRIMINAL RECORD CHECKS 16
AGREEMENT 17-25
ARTICLE 1 – THE PROJECT .....
ARTICLE 2 – THE AGREEMENT .....
ARTICLE 3 – CONTRACTOR'S LICENSE .....
ARTICLE 4 – COMPLETION DATE/NOTICE TO PROCEED .....
ARTICLE 5 – CONTRACT SUM .....
ARTICLE 6 – LIQUIDATED DAMAGES .....
ARTICLE 7 – EARLY COMPLETION .....
ARTICLE 8 – PAYMENT .....
ARTICLE 9 – EARLY TERMINATION .....
ARTICLE 10 – TERMINATION FOR CAUSE .....
ARTICLE 11 – PERFORMING A PORTION OF THE WORK .....
ARTICLE 12 – USE OF SUBCONTRACTORS .....
ARTICLE 13 – PREVAILING WAGE RATES .....
ARTICLE 14 – WORKING HOURS .....
ARTICLE 15 – EMPLOYMENT OF APPRENTICES .....
ARTICLE 16 – INSURANCE .....
ARTICLE 17 – INDEMNIFICATION AGAINST LIABILITY .....
ARTICLE 18 – MISCELLANEOUS PROVISIONS .....
PERFORMANCE BOND 26-27
PAYMENT BOND 28-29
GENERAL CONDITIONS 30-60
ARTICLE 1 – DEFINITIONS .....
ARTICLE 2 – CONTRACT DOCUMENTS .....
ARTICLE 3 – ARCHITECT .....
ARTICLE 4 – DISTRICT .....
ARTICLE 5 – CONTRACTOR .....
ARTICLE 6 – SEPARATE CONTRACTS .....
ARTICLE 7 – PERFORMANCE AND PAYMENT BONDS .....
ARTICLE 8 – PAYMENTS AND COMPLETION .....
ARTICLE 9 – PROTECTION OF PERSONS AND PROPERTY .....
ARTICLE 10 – CHANGE ORDERS .....
ARTICLE 11 – DELAYS AND TIME EXTENSIONS .....
ARTICLE 12 – DISPUTES .....
ARTICLE 13 – WARRANTY OF SUPPLIES, EQUIPMENT AND RELATED SERVICES .....
ARTICLE 14 – REMOVED - NOT APPLICABLE .....
ARTICLE 15 – TRENCHING .....
ARTICLE 16 – STORM WATER DISCHARGE PERMIT .....
ARTICLE 17 – TOXIC SUBSTANCES CONTROL
ACT ARTICLE 18 – .....INSPECTIONS
ARTICLE 19 – AUDITING PROCEDURES .....
ARTICLE 20 – MISCELLANEOUS .....
00630 GUARANTEE FORM 61

BID INSTRUCTIONS

NOTICE IS HEREBY GIVEN that Ravenswood School City District ("District") will receive sealed bids for the construction of the Los Robles-Ronald McNair Academy Site Fence and Sidewalk Improvement, located at 2033 Pulgas Avenue, East Palo Alto, California in accordance with the plans and specifications prepared by SVA Architects, Inc. ("Architect").

This is a state funded project Yes No__X___ (Bidders are advised that state funded projects are subject to certain additional conditions, including with respect to prequalification of certain subcontractors and DVBEs that are more fully described herein.)

1. Time of Opening: Bids will be opened on **Monday, April 8, 2019** Bid documents must be sealed, marked with the project name and bid title. All Bids must be received at the Ravenswood City School District located at the District's main office at 2120 Euclid Ave., E. Palo Alto, CA **BEFORE 10:00:00 AM on Monday, April 8, 2019.** Bids which are submitted on or after **10:00:00 AM** or facsimile bid transmissions will not be accepted.

2. Contractor Requirements:

a. All Bidders must have and maintain a **contractor class A or B** contractor's license in order for their bids to be considered responsive. Bidder may bid only on work of a kind for which it is properly licensed by the California Contractors' State License Board. Joint venture Bidders must possess a joint venture license. The Bidder must be licensed at the time of bid and the license must remain current for the duration of the Project. Failure to supply complete license requirement information and signature under penalty of perjury on the bid form may result in the bid being considered non-responsive and rejected.

~~b.~~ N/A ~~Only **prequalified** contractors and subcontractors may submit bids or be listed in bids for this project. Please contact Norine Bruno with Telacu Construction Management; 714-474-4072 to verify your company's prequalification status. All applications to prequalify must be in writing. The District has retained a third party accountant/auditor to administer the prequalification process and it can take up to three (3) weeks to complete the process, depending on the timeliness and completeness of the application, the number of applications being reviewed, the review process of the application which includes a thorough audit of the financial statements, banking statements and references. A scoring methodology is used and applied objectively on all applications. Potential bidders must allow sufficient time prior to the bid submission date for completion of the prequalification process. Please note that section 20111.6 of the California Public Contract Code requires the prequalification by the District of all electrical, mechanical and plumbing subcontractors on projects involving the use of funds received pursuant to the Leroy F. Greene School Facilities Act of 1998 or from state bond proceeds when the project involves an expenditure of more than $1 million. It is the Bidder's responsibility to determine whether prequalification of subcontractors is required under this project and, if so, to ensure that Bidder uses only prequalified subcontractors.~~

c. Section 17076.11 of the California Education Code requires that the District establish a participation goal for disabled veteran business enterprises ("DVBE") of at least three percent (3%) per year of the overall dollar amount of funds allocated to the District by the State Allocation Board and expended by the District for construction and modernization projects. If this project is state funded, the selected Contractor shall have a three percent DVBE participation goal and comply with the District's procedures for meeting that goal.

d. Pursuant to the California Labor Code, the general prevailing rate of per diem wages and for holiday and overtime work shall be paid to all workers employed by the contractor selected for this project. Copies of prevailing rates of per diem wages are available upon request at the District's Offices or at www.dir.ca.gov. The Department of Industrial Relations will monitor and enforce compliance with applicable prevailing wage requirements on this project in accordance with the California Labor Code, including, but not limited to, sections 1771, 1774,

1776, 1777.5, 1813, and 1815.

3. Duration of Bid: All bid proposals submitted shall be considered irrevocable offers to perform the work in accordance with the Contract Documents if a Notice of Award is issued within one hundred ninety (90) days from the bid opening.

4. Plans and Specifications: Plans and specifications for the above mentioned project will be available **Thursday, March 14 2019. They are available on the District's website at URL: http://www.ravenswoodschools.org/rfps.**

5. Inspection of Site: Non-Mandatory pre-bid site inspections and conferences will be held at Willow Oaks Elementary School at 620 Willow Road, Menlo Park, CA 94025, Tuesday, March 26, 2019 at 10:00am. All attendees are to meet at the Willow Oaks Elementary School outside the main entrance. Attendees must sign in by scheduled time. The District shall have the discretion to bar attendees who fail to arrive by scheduled time from signing in if the circumstances warrant. Before submitting a bid proposal, Bidders shall examine the drawings, read the specifications, the form of Agreement, and other Contract Documents. With advance coordination with the District, bidders must visit the site of the proposed Project and examine the building(s), if any, and any work that may have been done thereon. They shall fully inform themselves of all conditions on, in, at, and about the site, the buildings, if any, and any work that may have been done thereon.

6. Format of Bids: Bid proposals shall be made on the Bid Form included with the Contract Documents. All items on the form must be filled out. Numbers on the Bid Form document shall be written as numbers and shall also be written out as words and the signatures of all individuals must be in longhand. The completed form should be without interlineations, alterations, or erasures. A bid response to any specific item of this bid with terms such as "negotiable," "will negotiate" or similar, may be considered as noncompliance with that specific term.

7. Listing of Alternates: Contractor shall provide pricing for all requested alternates. If no alternates are listed the contractor shall write "not applicable" on the appropriate line item. Should the contractor fail to provide pricing for an alternate the bid may be deemed non-responsive.

8. Method of Determining Lowest Bidder: Pursuant to Public Contract Code section 20103.8, the District shall award the contract for this project to the contractor with the lowest base bid. Alternates will be taken at the discretion of the District after the selection of the lowest Bidder.

9. Signatures on Bids: Each bid must give the full business address of the Bidder. Bids by partnerships must furnish the full name of all partners and must be signed in the partnership's name by one of the members of the partnership, or by an authorized representative, followed by the signature and designation of the person signing. Bids by corporations must be signed with the legal name of the corporation, followed by the name of the state of the incorporation and by the signature and designation of the president, secretary, or other person authorized to bind it in the matter. The name of each person signing shall also be typed or printed below the signature. When requested by the District, satisfactory evidence of the authority of the officer signing on behalf of the corporation shall be furnished.

10. Unit Prices: If required, unit prices on all classes of work as specified or required shall be submitted. Additions to or deductions from the contract sum shall be based on these unit prices.

11. Taxes: Taxes shall be included in the bid prices. Federal excise taxes are generally not applicable to school districts.

12. Use of Subcontractors: Pursuant to the provisions of sections 4100 et seq. of the California Public Contract Code, every Bidder shall in its bid set forth:

a. The name, California contractor license number, public works contractor registration number, and location of the place of business of each subcontractor who will perform work or labor or render service to the Bidder in or about the construction of the Project or improvement, or a subcontractor licensed by the State of California who, under subcontract to the Bidder, specially fabricates and installs a portion of the Project or improvement according to detailed drawings

contained in plans and specifications, in an amount in excess of one-half (1/2) of one percent (1%) of the Bidder's total bid.

b. The portion of the Project which will be done by each such subcontractor. If the Bidder fails to specify a subcontractor for any portion of the Project to be performed under the Agreement in excess of one-half (1/2) of one percent (1%) of the Bidder's total bid, it agrees to perform that portion itself. The successful Bidder shall not, without the consent of the District, either:

i. Substitute any person as subcontractor in place of the subcontractor designated in the original bid.

ii. Permit any subcontractor to be assigned or transferred or allow the work to be performed by anyone other than the subcontractor.

iii. Sublet or subcontract any portion of the Project in excess of one-half (1/2) of one percent (1%) of the total bid as to which its original bid did not designate a subcontractor. In accordance with Public Contract Code section 7106, each Bidder shall be required to complete the Noncollusion Declaration form, which is included in and is part of the Contract Documents.

13. Sureties: Any bonds must be issued by an admitted surety insurer, as defined in Code of Civil Procedure sections 995.010, *et seq.*

14. Bid Proposal Security: Bid proposals should be accompanied by cash, a certified cashier's check, or Bidder's bond for an amount not less than ten percent (10%) of the maximum contract price. The cashier's check or bid bond shall be made payable to the order of the District. The bid security shall be given as a guarantee that the Bidder will enter into the Agreement if awarded the Project, and in the case of refusal or failure to enter into the Agreement within ten (10) calendar days after notification of the award of the Agreement, the cashier's check or bond, as the case may be, shall be retained by the District as liquidated damages. Failure to provide bid security, or bid security in the proper amount, may result in rejection of the bid. Cashiers or certified checks that are filed with the bid will be returned to the unsuccessful Bidder(s) within ten (10) calendar days after the award of the Agreement.

15. Evidence of Responsibility: Prior to awarding a contract, the District may require the Bidder to submit evidence of the Bidder's and/or the Bidder's subcontractor's qualifications to perform the proposed agreement. The District may consider such evidence before making its decision awarding the proposed agreement. Failure to submit evidence of the Bidder's or its subcontractors' responsibility to perform the proposed agreement may result in rejection of the bid.

16. **Bid Protest: Bid protests shall be filed in writing with Ravenswood City School District Business Office to the attention of Steve Eichman, Chief Business Official, at 2120 Euclid Avenue, East Palo Alto, CA 94303 by registered mail, not later than three (3) working days after the bid opening. The protest shall specify the reasons and facts upon which the protest is based.**

17. Award of Agreement/Rejection of Bids: The District's administration may issue a "Notification of Apparent Low Bid" to the bidder that it determines to be the lowest responsible and responsive bidder. The District reserves the right to reject any or all proposals, to contract work with whomever and in whatever manner, to abandon the Project entirely, or to waive any informality in bids received. Unless and until a "Notice to Proceed" is issued by the District, no obligation on behalf of the District exists. Upon issuance of the "Notice to Proceed", the successful bidder will post all required bonds and submit proper evidence of insurance coverage as called for by the Contract Documents. If this is not accomplished within ten (10) calendar days, the District reserves the right to retain the bidder's security to cover the differential in the higher bid award and the District administrative costs, and award the bid to the next lowest responsible and responsive bidder or otherwise proceed as allowed by law.

18. Form of Agreement: The form of contract which the successful Bidder will be required to execute, if awarded the Project, shall be substantially similar to that contained in the bid package. The Agreement shall contain, among other things, matters required by State law to be inserted in contracts

for public work.

19. Payment and Performance Bonds: The successful Bidder, upon notice of award of bid and prior to commencing Project, shall furnish in duplicate a labor and material bond in the amount of one hundred percent (100%) of the contract sum and a faithful performance bond in the amount of one hundred percent (100%) of the contract sum.

20. Insurance: Prior to commencing work, the Contractor is required to furnish the District Certificates of Insurance for workers' compensation, and comprehensive General Liability including broad form property damage, automobile liability and all additional requirements per Article 16 of the Agreement.

21. Prevailing Wage Rates: This is a public works project, and in accordance with the section 1770 et seq. of the Labor Code, the Director of the Department of Industrial Relations has determined the general prevailing rates of wages and employee payments for health and welfare, pension, vacation, travel time, working hours and apprenticeable training requirements which must be paid to all workers.

22. Non-Discrimination: The District will affirmatively ensure that in any contract entered into pursuant to this advertisement, qualified contractors will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, creed, sex or national origin in consideration for award.

23. Withdrawal or Modification of Bid Proposals: Bid proposals may be withdrawn or modified by the Bidder prior to the time fixed for the opening of bids. A notice of withdrawal or modification to a bid must be signed by the Bidder or its designated representative. Following bid opening, a Bidder shall not be relieved of its bid unless by consent of the District or Bidder's recourse to Public Contract Code sections 5100-5108. Bidders must hold their bids open for one hundred and ninety (90) days after the Bid Opening Date.

24. Prevailing Law: In the event of any conflict or ambiguity between these instructions and state or federal law or regulations, the latter shall prevail.

25. Inquiries; Addenda: Questions regarding documents, discrepancies, omissions, or doubt as to meanings shall be referred immediately to the Architect who will send written addenda clarifying such questions to each Bidder. Oral responses will not be binding upon the District. Any addenda or bulletins issued during the time of bidding, shall be covered in the bid, and shall be made a part of the Contract Documents.

26. Forms to Submit with Bid: All bid proposals shall include the following documents, each complete in its entirety. Failure by the bidder to submit the documents/forms may render the bid non-responsive.

Bid Bond

Bid Form
Noncollusion Declaration
Designation of Subcontractors
Statement of Compliance
Iran Contracting Act Certification
DVBE Form (if applicable)

BID FORM

Ravenswood City School District
WILLOW OAKS ELEMENTARY SCHOOL
620 Willow Road
Menlo Park, CA 94025

WILLOW OAKS ELEMENTARY SCHOOL ROOF RESTORATION

PROJECT NUMBER 2018-19-005

2120 Euclid Avenue
East Palo Alto, CA 94303

_____
(Date)

Ravenswood City School District
2120 Euclid Avenue
East Palo Alto, CA 94303

The Undersigned, doing business under the firm name of _____, hereby proposes and agrees to enter into an agreement, to furnish any and all labor, materials equipment and services for the completion of work described hereinafter and in the Contract Documents entitled construction of:

Willow Oaks Elementary School Roof Restoration

Prepared by:

_____
(Estimator Name)

for the sum quoted below:

A. **BASE BID:** Based upon all work required to satisfactorily complete the work indicated in the related Plans and Specifications complying with the Division of the State Architect, excluding the Alternate Bids.

Item 1 – Base Bid:

$ _____

Item 2 – District's Allowance:

$ There is no district allowance
(As stated in the scope of work documents)

Total (Combination of Item 1 and Item 2):

_____ Dollars

B. **ITEMIZED BREAKDOWN OF ALTERNATES:** The Bidder agrees that each of the following itemized amounts in each ALTERNATE BID will not be withdrawn for a period of ninety (90) calendar days after the Bid Opening date. Should the District elect to accomplish any one or combination of the following amounts not included as part of the Contract Price, then the Bidder (Contractor of record) agrees to

incorporate and complete the item as a prepared Change Order at the stipulated amounts.

UNIT PRICES:

Unit Price no. 1: _____ $_____

Unit Price no. 2: _____ $_____

ALTERNATE BID (ADDITION):

Alternate 1:_____ $_____

Alternate 2:_____ $_____

C. **LETTER OF INTENT TO AWARD:** The undersigned hereby designates as its office to which the Notice of Apparent Low Bid may be mailed, emailed, or delivered:

_____

_____

D. **INSURANCE:**

(1) Our Public Liability and Property Damage Insurance is placed with

_____

_____

(2) Our Workers' Compensation Insurance is placed with

_____

_____

E. **COMPLETION DATE.**

Contractor agrees that all work required to be performed by the Contract Documents shall be completed by all milestone dates specified in the scope of work documents. Contractor acknowledges that it shall be liable for liquidated damages if the Project is not completed by these dates.

F. **ADDENDA.**

Contractor acknowledges receipt of the following addenda:

Addendum No. ____	Date of Document: _____
Addendum No. ____	Date of Document: _____
Addendum No. ____	Date of Document: _____
Addendum No. ____	Date of Document: _____

F. **CLARIFICATION.**

Contractor acknowledges receipt of the following clarification:

Clarification No. ____	Date of Document: _____
Clarification No: ____	Date of Document: _____
Clarification No. ____	Date of Document: _____
Clarification No: ____	Date of Document: _____

G. **EXECUTION OF BID.**

If the Bidder is a corporation, state the capacity/title of the corporate officer signing and affix the corporate seal; if a partnership, all partners should sign under the partnership name on a separate page attached to and made part of the bid. Unsigned bids will not be accepted.

The undersigned declares under penalty of perjury under the laws of the State of California that the representations made in this bid are true and correct.

_____	_____
SIGNATURE	**TITLE**
_____	_____
NAME OF COMPANY AS LICENSED	**CONTRACTOR LICENSE NO.**
_____	_____
ADDRESS	**CLASS** **EXPIRATION DATE**
_____	_____
CITY	**STATE** **ZIP**
_____	_____
TELEPHONE NUMBER	**DATE**

BID BOND

We the undersigned _____ as Principal and _____ as Surety, are hereby held and firmly bound unto the Ravenswood City School District "District" in the sum of _____ Dollars ($_____) for payment of which sum, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

The condition of the above obligation is such that whereas the Principal has submitted to the District a certain bid, attached hereto and hereby made a part hereof, to enter into a contract in writing for the construction of

Ravenswood City School District
WILLOW OAKS ELEMENTARY SCHOOL
620 Willow Road
Menlo Park, CA 94025

PROJECT NUMBER 2018-19-005

2120 Euclid Avenue
East Palo Alto, CA 94303

Roof Restoration

in strict accordance with Contract Documents.

NOW, THEREFORE,

a. If said bid shall be rejected, or, in the alternative;

b. If said bid shall be accepted and the Principal shall execute and deliver a contract in the form of agreement attached hereto and shall execute and deliver Performance and Payment Bonds in the forms attached hereto (all properly completed in accordance with said bid) within the time periods stated in the bid documents, and shall in all other respects perform the agreement created by the acceptance of said bid;

Then this obligation shall be void, otherwise the same shall remain in full force and effect, it being expressly understood and agreed that the liability of the Surety for any and all default of the Principal hereunder shall be the amount of this obligation as herein stated.

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 hereunder, or the specifications accompanying the same, shall in any way affect its obligation under this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of said contract or the call for bids, or to the work, or to the specifications.

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

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

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

(Notary Seal)

_____
(Principal)

_____
(Business Address)

_____

_____
(Corporate Surety)

By:_____

_____
(Business Address)

_____

The rate or premium of this bond is _____ per thousand, the total amount of premium charged, $_____.

(The above must be filled in by Corporate Surety).

NONCOLLUSION DECLARATION

Ravenswood City School District
WILLOW OAKS ELEMENTARY SCHOOL
620 Willow Road
Menlo Park, CA 94025

PROJECT NUMBER: 2018-19-005

2120 Euclid Avenue
East Palo Alto, CA 94303

Roof Restoration

I, _____, declare that I am 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 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 Agreement of anyone interested in the proposed Agreement; that all statements contained in the bid are true, and, further, that the Bidder has not, directly or indirectly, submitted its 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 of 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.

_____
(Date)

_____
(Print Name)

_____
(Signature)

_____
(Official Capacity)

_____
(Company Name)

_____
(Company Address)

_____

_____
(Company Telephone Number)

DESIGNATION OF SUBCONTRACTORS

Bidders shall state the portion of work by trade (electrical, painting, etc.) that each subcontractor will perform. Additionally, the Bidder shall state the name, California contractor license number, public works contractor registration number, and business address for all designated subcontractors. Failure to provide this information in a legible manner may result in the rejection of an otherwise acceptable bid.

In compliance with the provisions of sections 4100 to 4113, inclusive, of the Public Contract Code of the State of California, and any amendments thereof, each Bidder shall set forth below the name and the location of the mill, shop, or office of each subcontractor who will perform work or labor or render service to the Bidder on, in, or about the construction of the work or improvement to be performed under these specifications and the portion of the work which will be done by each subcontractor.

If the Bidder fails to specify a subcontractor for any portion of the work to be performed under the contract, the Bidder shall be deemed to have agreed to perform such portion itself, and it shall not be permitted to subcontract that portion of the work except under the conditions hereinafter set forth.

Subletting or subcontracting of any portion of the work 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 legislative body of the District. PRINT LEGIBLY.

PORTION OF WORK	SUBCONTRACTOR NAME	CA LICENSE NUMBER AND DIR REGISTRATION NUMBER	LOCATION (CITY & STATE)

PORTION OF WORK	SUBCONTRACTOR NAME	CA LICENSE NUMBER AND DIR REGISTRATION NUMBER	LOCATION (CITY & STATE)

STATEMENT OF COMPLIANCE

Ravenswood City School District
WILLOW OAKS ELEMENTARY SCHOOL
620 Willow Street
Menlo Park, CA 94025

PROJECT NUMBER: 2018-19-005

2120 Euclid Avenue
East Palo Alto, CA 94303

Roof Restoration

_____
(Company Name)

(hereinafter referred to as "prospective Contractor") hereby certifies, unless specifically exempted, compliance with Government Code Section 12990 and California Administrative Code, Title II, Division 4, Chapter 5, in matters relating to the development, implementation, and maintenance of a nondiscrimination program. Prospective Contractor agrees not to unlawfully discriminate against any employee or applicants for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, sexual orientation, physical and mental disabilities, or age (over forty).

I, _____
(Name of Official)

hereby swear that I am duly authorized to legally bind the prospective Contractor to the above-described certification. I am fully aware that this certification, signed on _____
(date)

in the County of _____, is made under the penalty of perjury
(County)

under the laws of the State of California.

_____
(Signature)

_____
(Print or Type Title)

IRAN CONTRACTING ACT CERTIFICATION
(Public Contract Code Section 2200, *et seq.*)

Ravenswood City School District Project Name: _____

Contractor Name:

_____

I, the person who is identified below and who has signed this certification, hereby certify, subject to penalty for perjury, that: (i) I have inherent authority, or I have been duly authorized by the Contractor, to execute this certification on behalf of the Contractor; and (ii) the option checked below relating to the Contractor's status in regard to the Iran Contracting Act of 2010 (Public Contract Code Section 2200 *et seq.*) is true and correct:

☐ The Contractor is not:

(i) identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203; or

(ii) a financial institution that extends, for 45 days or more, credit in the amount of $20,000,000 or more to any other person or entity identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203, if that person or entity uses or will use the credit to provide goods or services in the energy sector in Iran.

☐ The District has exempted the Contractor from the requirements of the Iran Contacting Act of 2010 after making a public finding that, absent the exemption, the District will be unable to obtain the goods and/or services to be provided pursuant to the Contract.

☐ The Final Contract Sum, as defined in Section 5 of the Agreement, payable to the Contractor for the Project as of the date of this certification does not exceed $1,000,000.

Certifier Signature: _____

Printed Name: _____

Title: _____

Date Executed: _____

Please note: In accordance with Public Contract Code Section 2205, false certification of this form may result in civil penalties equal to the greater of $250,000 or twice the contract amount, termination of the contract and/or ineligibility to bid on contracts for three years.

NOTICE TO CONTRACTORS REGARDING CRIMINAL RECORD CHECKS
(CALIFORNIA EDUCATION CODE SECTION 45125.2)

Ravenswood City School District Project Name: Ravenswood Middle School Realignment Phase 1

In bidding on the Project and/or entering into a contract with the District for the Project, the below indicated bidder certifies that it is aware of the following provisions of the California Education Code and agrees to comply if the bidder is selected as the Contractor for the Project:

Section 45125.2: Construction, etc. contractors; pupil safety

a. A school district contracting with an entity for the construction, reconstruction, rehabilitation or repair of a school facility where the employees of the entity will have contact, other than limited contact, with pupils shall ensure the safety of the pupils by one or more of the following methods:

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

   2. Continual supervision and monitoring of all employees of the entity by an employee of the entity whom the Department of Justice has ascertained has not been convicted of a violent or serious felony. For purposes of this paragraph, an employee of the entity may submit his or her fingerprints to the Department of Justice pursuant to subdivision (a) of Section 45125.1 and the department shall comply with subdivision (d) of Section 45125.1.

   3. Surveillance of employees of the entity by school personnel.

b. An entity that contracts with a school district for the construction, reconstruction, rehabilitation or repair of a school facility is not required to comply with the requirements of Section 45125.1 if one or more of the methods described in subdivision (a) are utilized.

c. For purposes of this section, a violent felony is any felony listed subdivision (c) of Section 667.5 of the Penal Code and a serious felony is any felony listed in subdivision (c) of Section 1192.7 of the Penal Code.

d. This section shall not apply to an entity providing construction, reconstruction, rehabilitation or repair services to a school district in an emergency or exceptional situation, such as when pupil health or safety is endangered or when repairs are needed to make school facilities safe and habitable.

Certifier Signature: _____

Printed Name: _____

Title: _____

Date Executed: _____

AGREEMENT

(use board approval date)

This Agreement made and entered into this _____ day of _____, 20__, between the Ravenswood City School District, San Mateo County, California ("District"), and _____ ("Contractor").

Contractor and District agree as follows:

ARTICLE 1 - THE PROJECT. Contractor agrees to obtain all necessary permits and licenses as are required by law, furnish all labor and materials, including required tools, implements, and appliances and to perform all the work in a good and workmanlike manner, free from any and all liens and claims of mechanics, material, men, subcontractors, artisans, machinists, teamsters, and laborers required in the bid proposal, all in strict compliance with the plans, drawings, and other Contract Documents, required for the Project:

Ravenswood City School District
WILLOW OAKS ELEMENTARY SCHOOL
620 Willow Street
Menlo Park, CA 94025

PROJECT NUMBER: 2018-19-005

Roof Restoration

Unless otherwise specifically noted, the Contractor shall provide and pay for all labor, materials, equipment, transportation, and other facilities and services necessary for the proper execution and completion of the Project. The Contractor shall at all times enforce strict discipline and good order among Contractor's employees and shall not employ on the Project any unfit person or anyone not skilled in the task assigned.

ARTICLE 2 - THE AGREEMENT: The Contractor and the District agree that the Contract Documents are composed of all those documents described in paragraph 2.1 of the General Conditions, all of which are incorporated herein by reference. The specifications and drawings are to be read together such that any work exhibited in the drawings and not mentioned in the specifications, or vice versa, is to be executed as if both mentioned in the specifications and set forth in the drawings to the true intent and meaning of the said drawings and specifications, when taken together. But no part of said specifications that is in conflict with any portion of this Agreement shall be considered as part of this Agreement.

ARTICLE 3 - CONTRACTOR'S LICENSE: Contractor shall have, and maintain in good standing, and require the same of all its subcontractors, the appropriate classification of California State contractor's license during the entire term of this Project.

ARTICLE 4 - COMPLETION DATE / NOTICE TO PROCEED: Contractor agrees that all work required to be performed by the Contract Documents shall be completed by the milestone dates specified in the "Scope of Work" documents. Contractor acknowledges that it shall be liable for liquidated damages as set forth in this Agreement if the Project is not completed by these dates.

If the Notice to Proceed and/or the Agreement is issued more than ten (10) but less than ninety (90) days after the "Letter of Intent to Award Contract", Contractor's sole remedy shall be an extension to the Completion Date, measured by the number of days beyond ten (10) it took to issue the Notice to Proceed. In such instances, Contractor shall not be entitled to any monetary damages or other compensation for lost profit or overhead or for increased cost of performance.

The term "day" as used in the Contract Documents shall mean calendar day.

ARTICLE 5 - CONTRACT SUM: The contract sum is the total amount payable by the District to Contractor for the performance of work under the Contract Documents. The contract sum is Three Hundred Thousand Dollars ($ 300,000.00) Contract Sum"), unless modified in accordance with the Contract Documents.

ARTICLE 6 - LIQUIDATED DAMAGES: The Completion Date specified in Article 4 is of the essence of the Agreement. The Contractor shall complete the Project by the date specified in Article 4 unless the District agrees in writing to an extension of time.

Failure to complete the Project within the time and in the manner provided for by the Contract Documents shall subject the Contractor to liquidated damages. The actual occurrence of damages and the actual amount of the damages which the District would suffer if the Project were not completed within the specified times set forth are dependent upon many circumstances and conditions which could prevail in various combinations and, from the nature of the case, it is impracticable and extremely difficult to fix the actual damages. Damages which the District would suffer in the event of delay include, but are not limited to, loss of the use of the Project, disruption of school activities, costs of administration, inspection, supervision and the loss suffered by the public within the District.

Accordingly, the parties agree that the amount herein set forth shall be presumed to be the amount of damages which the District shall directly incur upon failure of the Contractor to complete the Project within the time specified: Five Hundred Dollars (**$500.00**), plus the extra inspection costs incurred by the District, during or as a result of each calendar day by which the substantial completion of the Project is delayed beyond the date specified in Article 4 of the Agreement and Five Hundred Dollars (**$500.00**), plus the extra inspection costs incurred by the District, during or as a result of each calendar day by which final completion of the Project is delayed beyond the date specified in the Article 4 of the Agreement.

If the Contractor becomes liable for liquidated damages under this section, the District, in addition to all other remedies provided by law, shall have the right to withhold any and all retained percentages of payments, and to collect the interest thereon, which would otherwise be or become due the Contractor until the liability of the Contractor under this section has been finally determined. If the retained percentage is not sufficient to discharge all liabilities of the Contractor incurred under this Article, the Contractor and its sureties shall continue to remain liable to the District until all such liabilities are satisfied in full.

If the District accepts any work or makes any payment under this Agreement after a default by reason of delays, the payment or payments shall in no respect constitute a waiver or modification of any Agreement provisions regarding time of completion and liquidated damages.

ARTICLE 7 - EARLY COMPLETION: Regardless of the cause therefore, the Contractor may not maintain any claim or cause of action against the District for damages incurred as a result of its failure or inability to complete its work on the Project in a shorter period than established in Article 4 of this Agreement, the parties stipulating that such period is a reasonable time within which to perform the work on the Project.

ARTICLE 8 – PAYMENT: The District agrees to pay the Contractor in current funds for the performance of the Agreement the amount proposed in this bid, including approved change orders, and to make payments on account thereof as follows: Each calendar month, ninety-five percent (95%) of the value, proportionate to the amount of the Agreement, or labor and materials incorporated in the Project up to the first day of that month as estimated by the District, and Architect, less the aggregate of previous payments. On substantial completion of the entire Project, a sum sufficient to increase the total payments to ninety-five percent (95%) of the contract sum set forth in Article 5 of this Agreement, and thirty-five (35) days after the Notice of Completion has been recorded, provided the Project to be fully completed and the Agreement fully performed, the balance due under the Agreement. The payment of progress payments by the District shall not be construed as an acceptance of the work done up to the time of such payments, except as to such matters as are open and obvious. The entire Project is to be subjected to inspection and approval of the District or Architect to defects not obvious upon inspection during the progress of the work at the time when it shall be claimed by the Contractor that the Agreement is completed. The District and Architect shall exercise all reasonable diligence in the discovery, and report to the Contractor as the Project progresses, materials and labor which are not satisfactory to the District, so as to avoid unnecessary trouble and cost to the Contractor in making good defective parts or work.

In accordance with the provisions of Public Contract Code section 22300, the District shall,

at the request and expense of the Contractor, permit the substitution of securities or the payment of funds equivalent to the amount of monies withheld as retention from progress payments.

ARTICLE 9 - EARLY TERMINATION: Notwithstanding any provision herein to the contrary, if for any fiscal year of this Agreement the governing body of the District fails to appropriate or allocate funds for future periodic payments under the Agreement after exercising reasonable efforts to do so, the District may, upon thirty (30) days written notice, order work on the project to cease. Additionally, the District may terminate for convenience without an early termination penalty. The District will remain obligated to pay for the work already performed but shall not be obligated to pay the balance remaining unpaid for which the work has not been done.

ARTICLE 10 - TERMINATION FOR CAUSE: If Contractor (1) should be adjudged bankrupt; (2) should make a general assignment for the benefit of its creditors; (3) should persistently or repeatedly refuse or fail, except in cases for which an extension of time is provided, to supply enough properly skilled workers or proper materials; (4) should fail to make prompt payment to subcontractors or for material or labor; (5) persistently disregards laws, ordinances or the instructions of the District; or if any of its subcontractors should persistently violate any of the provisions of the Agreement; (6) fails to comply with the Contract Documents or (7) a receiver should be appointed on account of Contractor's insolvency, then the District may serve written notice upon the Contractor and its surety of its intention to terminate the Agreement. Unless, within five (5) days after the serving of such notice, such violations shall cease and satisfactory arrangements for corrections thereof be made, the Agreement shall, upon the expiration of said five (5) days, at the District's option, terminate.

In the event of any such termination, the District shall immediately serve written notice thereof upon the surety and the Contractor, and the surety shall have the right to take over and perform the Agreement; provided, however, that if the surety, within ten (10) days after the serving upon it of Notice of Termination, does not give the District written notice of its intention to take over and perform the Agreement or does not commence performance within ten (10) days from the date of the serving of such notice, the District may take over the Project and prosecute the same to completion by Agreement or by any other method it may deem advisable, for the account and at the expense of the Contractor, and the Contractor and the surety shall be liable to the District for any excess cost occasioned the District thereby. In such event, the District may, without liability for so doing, take possession of and utilize in completing the Project, such materials, appliances and other property belonging to the Contractor as may be on the site of the Project and necessary therefore. In such case the Contractor shall not be entitled to receive any further payment until the Project is finished. If the unpaid balance of the contract sum shall exceed the expense of finishing the Project, including compensation for additional managerial and administrative services, such excess shall be paid to the Contractor. If such expense shall exceed such unpaid balance, the Contractor shall pay the difference to the District.

ARTICLE 11 - PERFORMING A PORTION OF THE WORK: If the Contractor fails to correct defective work or persistently fails to carry out the work in accordance with the Contract Documents, the District, by written order, may order the Contractor to stop the work, or any portion thereof, until the cause of such order has been eliminated. The District shall not have any duty to stop the work for the benefit of the Contractor or any other person or entity. If the District chooses to correct or carry out the work itself, it shall normally give the Contractor seven (7) days after providing written notice to commence and continue correction of such default or neglect with diligence and promptness. If, however, the condition constitutes an emergency which may subject the District to penalties or termination of the Project by outside jurisdictional agencies, the District may do so without notice to the Contractor. In either case, an appropriate change order shall be issued, deducting, from the payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for the Architect's and consultants' additional services made necessary by such default, neglect, or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor and its surety shall pay the District the difference.

ARTICLE 12 - USE OF SUBCONTRACTORS: Contractor agrees that, as required by State law and the Bid Instructions, all subcontractors which will perform work on this project shall be listed on the Designation

of Subcontractors form, provided with the Contract Documents.

ARTICLE 13 - PREVAILING WAGE RATES: In accordance with the provisions of section 1720, *et seq.*, of the California Labor Code, the Director of the California Department of Industrial Relations has determined the general prevailing rates or wages and employer payments for health and welfare, pension, vacation, travel time, and subsistence pay as provided for in section 1770, *et seq.*, of the California Labor Code. **Pursuant to the California Labor Code, the general prevailing rate of per diem wages and for holiday and overtime work shall be paid to all workers employed by the Contractor selected for this project. Copies of prevailing rates of per diem wages are available upon request at the District's Offices or at www.dir.ca.gov. The Department of Industrial Relations will monitor and enforce compliance with applicable prevailing wage requirements on this project in accordance with the California Labor Code, including, but not limited to, sections 1771, 1774, 1776, 1777.5, 1813, and 1815.** No contractor or subcontractor may be listed on a bid proposal for or be awarded a public works project unless registered with the DIR. Contractor may be responsible for paying subcontractor's employees' prevailing wages if subcontractor does not comply with the provisions of Labor Code sections 1770, *et seq.*

The Contractor and each subcontractor shall keep or cause to be kept an accurate record showing the names and occupants of all laborers, workers and mechanics employed by it in connection with the execution of this Agreement or any subcontract thereunder, and showing also the actual per diem wage paid to each of such workers, which records shall be open at all reasonable hours to inspection by the District, its officers and agents and to the representatives of the Division of Labor Standards Enforcement of the Department of Industrial Relations. Attention is directed to the provisions in section 1777.5 and section 1777.6 of the Labor Code concerning the employment of apprentices by the Contractor or any subcontractor under it.

ARTICLE 14 - WORKING HOURS: In accordance with the provisions of the California Labor Code, eight (8) hours labor shall constitute a day's work, and no laborer, workman or mechanic in the employ of the Contractor, or any subcontractor, doing or contracting to do any part of the work contemplated by this Agreement, shall be required to or permitted to work more than eight (8) hours in one calendar day or forty (40) hours during any one calendar week unless such work is compensated at the lawful overtime rate set forth in the California Labor Code. The Contractor and each subcontractor shall also keep an accurate record showing the names and actual hours worked of all workers employed by it in connection with the work contemplated by this Agreement, which record shall be open at all reasonable hours to the inspection of the District, or its officers or agents and to the Chief of the Division of Labor Standards Enforcement of the Department of Industrial Relations, its deputies or agents; and it is hereby further agreed that Contractor shall forfeit as a penalty to the District the sum of twenty-five dollars ($25.00) for each laborer, workman or mechanic who is required or permitted to labor more than eight (8) hours a day or forty (40) hours a week in violation of this Article 14.

ARTICLE 15 - EMPLOYMENT OF APPRENTICES: Contractor agrees to comply with all provisions of the law regarding the employment of apprentices, including, but not limited to Labor Code §§ 1773.3, 1777.5, 1777.6 and 3077, *et seq.* These sections require that contractors and subcontractors employ apprentices in apprenticeable occupations in a ratio of not less than one (1) apprentice hour for each five (5) journeyman hours, unless an exemption is granted, and that contractors and subcontractors shall not discriminate among otherwise qualified employees as indentured apprentices on any public work on the grounds of race, religious creed, color, national origin, ancestry, sex, or age. Only apprentices who are in training under written apprenticeship agreements will be employed on public works in apprenticeable occupations. The responsibility for compliance with these provisions for all apprenticeable occupations rests with the Contractor.

ARTICLE 16 – INSURANCE:

The Contractor shall procure and maintain for the duration of this Contract and for __ years thereafter, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, and Contractor's agent,

representatives, employees, or subcontractors. Contractor shall include in all of its contracts with Subcontractors provisions requiring such Subcontractors to meet the same insurance requirements as set forth herein.

Comprehensive or commercial general liability (CGL) insurance, on Insurance Office Services Form CG 00 01 (or a form at least as broad as Form CG 00 01) covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than $5,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this Project and location or the general aggregate limit shall be twice the required occurrence limit.

Automobile Liability Insurance, on Insurance Services Office Form Number CA 0001 covering Code 1 (any auto) with limits no less than $5,000,000 per accident for bodily injury and property damage.

Workers' Compensation, including Employers' Liability Insurance, as required by the State of California with Statutory Limits, and Employers' Liability insurance with a limit of no less than $1,000,000 each accident, injury or disease. The Contractor shall require subcontractors to provide workers' compensation insurance for all subcontractors' employees engaged in Work under the subcontract. Any class of employee or employees not covered by a subcontractor's insurance shall be covered by the Contractor's insurance. If the Contractor fails to maintain such insurance, the District, at its sole option and without incurring any further obligation to provide insurance, may take out Workers' Compensation insurance to cover any compensation payable under the provisions of the Act by reason of any employee of the Contractor or a subcontractor being injured or killed, and to deduct the amount of the premium for such insurance from any sums due the Contractor. If injury occurs to any employee of the Contractor for which the employee, or its dependents in the event of its death, is entitled to compensation from the District under the provisions of said Act, or from the sums due the Contractor under these Contract Documents the District may deduct and retain an amount sufficient to cover such compensation or payment of such compensation.

The Contractor shall sign and file with the District the following certification prior to performing the Work of the 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 the Contract."

Builder's Risk/All Risk: The District, during the progress of the Work and until the District's final acceptance of the Work upon completion of the entire Contract, shall maintain Builder's Risk/"All Risk," course-of-construction insurance, issued on a completed value basis on all insurable Work included under the Contract Documents, including completed Work and Work in progress to the full insurable value of the entire Work which is the subject of this Agreement. Coverage is to provide extended coverage and insurance against vandalism, malicious mischief, perils of fire, sprinkler leakage, civil authority, sonic boom, collapse, wind, lightning, smoke, riot, debris removal including demolition, and reasonable compensation for the Architect's services and expenses required as a result of insured loss.

Fire insurance on all Work subject to loss or damage by fire. Contractor shall maintain fire insurance in an amount of fire insurance shall be sufficient to protect the Project and all appurtenant structures against loss of damage in full until the Work is accepted by the District.

Coverage for debris removal limits not less than $1,000,000. In the event that the Contractor is performing abatement of hazardous or contaminated materials work or employs a subcontractor or entity for abatement of hazardous or contaminated materials, environmental liability and pollution insurance, with limits not less than $1,000,000. The policy shall be written on an occurrence form and any deductible shall not exceed $25,000.

Minimum Amounts Required. The amounts of insurance coverage stated above are the minimums that Contractor is required to procure and maintain. If Contractor maintains higher limits than the minimums stated above, the District requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Ay available insurance proceeds in excess of the specified minimum limits of insurance and

coverage shall be available to the District.

Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the District. At the option of the District, either the Contractor shall cause the insurer to reduce or eliminate such deductibles or self-insured retentions as respects the District, its officers, officials, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the District guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

Required Endorsements. The insurance policies required in this Agreement shall contain or shall be endorsed to contain the following provisions:

(a) The District, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor, including materials, parts, or equipment furnished in connection with work or operation and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, CG 11 85 or both CG 20 10 and CG 20 37 if later revisions are used);

(b) For any claims relate to the Project, the Contractor's insurance coverage shall be primary insurance s respects the District, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the District, its officers, officials employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute to it; and

(c) Each insurance policy required by this Agreement shall provide that coverage shall not be canceled, except with notice to the District.

Acceptability of Insurers. Insurance companies shall be legally licensed and admitted through the California Department of Insurance to engage in the business of furnishing insurance in the State of California. All insurance companies shall have an "A-VII" in Bests Rating Guide and shall be satisfactory to the District.

Each policy shall name the District, the Architect, the District's Consultants, and all authorized agents and representatives, and members, directors, officers, trustees, agents and all employees of any of them as additional insured and shall be issued by carrier(s) satisfactory to the District and licensed through the Department of Insurance to conduct insurance business in California.

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

In the event of any damage, not insured by the District, as identified in this agreement under Builder's Risk/All Risk section, it shall be the Contractor's responsibility to perform at its expense all required repair and replacement including damage to adjacent areas.

Verification of Coverage. Before commencement of the Work under this Agreement, certificates of insurance shall be furnished to the District, with complete copies of policies to be furnished to the District promptly upon request. All policies of insurance, exclusions, deductibles, self-insured retentions, and certificates shall be reviewed by, and satisfactory to the District before Contractor commences work on the Project. Approval of the insurance by the District shall not relieve or decrease the extent to which the Contractor or subcontractor of any tier may be held responsible for payment of any and all damages resulting from its action, inaction or operations. Further, failure by Contractor to obtain the required documents prior to work beginning on the Project shall not relieve the Contractor of the obligation to obtain them or constitute a waiver by the District of Contractor's obligation to provide them. The District reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by this Agreement, at any time.

Liability insurance shall be on an occurrence basis. The coverage afforded thereby shall be primary and non-contributory to any other existing valid and collectable insurance to the full limit of liability stated in the declaration, and such insurance shall apply separately to each insured against whom claim is made or suit is brought, but the inclusion of more than one (1) insured shall not operate to increase the insurer's limits of liability.

Certificates of insurance shall state in particular those insured, the extent of insurance, location and operation to which the insurance applies, the expiration date, and cancellation and reduction notices. Certificates and insurance policies shall include the following clause: "This policy shall not be non-renewed, canceled, or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District. Date of cancellation or reduction may not be less than thirty (30) days after the date of mailing notice." If, at any time during the life of this Agreement, the Contractor fails to maintain any item of the required insurance in full force and effect, all Work of this Agreement may, at District's sole option, be discontinued immediately, and all payments due or that become due under the Agreement will be withheld, until notice is received by the District as provided hereinabove that such insurance has been restored to full force and effect and that the premiums therefrom have been paid for a period satisfactory to the District.

Any failure to maintain any item of the required insurance may, at District's sole option, be considered material breach of the Agreement and, in such an event, the District may immediately terminate this Agreement.

Subcontractors. Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated in this Agreement and Contractor shall ensure that the District is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractors shall provide coverage with a format at least as broad as ISO Form CG 20 38 04 13.

ARTICLE 17 - INDEMNIFICATION AGAINST LIABILITY: Notwithstanding any other provision of the Contract Documents, Contractor agrees to indemnify, defend and save harmless the District, its Governing Board, related entities and divisions, officers, agents, consultants and employees from and against any and all claims, demands, losses, defense costs, or liabilities of any kind or nature which they may sustain or incur or which may be imposed upon them for injury to or death of persons, damage to property, or delay or damage to another contractor, or for attorney's fees incurred in defending or prosecuting suits to enforce laws relating to public works contracts, resulting or arising out of, or in any manner connected with Contractor or Contractor's agents, employees or subcontractors' performance or failure to perform under the terms of the Contract Documents, excepting only liability arising out of the sole negligence or willful misconduct of the District. The parties stipulate that any such claims, demands, losses, defense costs, or liabilities would be above, beyond, and entirely separate from, those damages which would be liquidated pursuant to Article 6.

ARTICLE 18 - MISCELLANEOUS PROVISIONS:

a. Entire Agreement: This Agreement constitutes the entire agreement between the parties, and supersedes any prior agreement between the parties, oral or written, including the District's award of the Project to Contractor, unless such agreement is expressly incorporated herein. The District makes only the express representations or warranties specified in this Agreement.

b. Execution of Other Documents: The parties to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

c. Execution in Counterparts: This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, or an original, with all signatures appended together, shall be deemed a fully executed agreement.

d. Binding Effect: Contractor, by execution of this Agreement, acknowledges that Contractor has read this Agreement, understands it, and agrees to be bound by its terms and conditions. This Agreement shall inure to the benefit of and shall be binding upon the Contractor and the District and their

respective successors and assigns.

e. Severability: If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

f. Amendments: The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement signed by the parties.

g. Assignment of Agreement: The Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of the surety on the payment bond, the surety on the performance bond and the District.

h. Written Notice: Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified mail or courier to the last business address known to it who gives the notice.

i. Anti-discrimination: It is the policy of the District that in connection with all work performed under purchasing contracts there shall be no discrimination against any prospective or active employee engaged in the Project because of race, color, ancestry, national origin, sex or religious creed. Therefore, the Contractor agrees to comply with applicable federal and California laws including, but not limited to, the California Fair Employment and Housing Act. In addition, the Contractor agrees to require like compliance by all subcontractors employed on the Project by it.

IN WITNESS WHEREOF the parties have executed this Agreement on the date first hereinabove written.

Contractor:

By: _____ _____
Signature Date

Type or Print Name: _____

Official Capacity: _____

Ravenswood City School District:

By: _____ _____
Gina Sudaria, Date
Acting Superintendent

PERFORMANCE BOND

Ravenswood City School District ("District") and _____ ("Contractor") have entered into a contract for the furnishing of all materials and labor, services and transportation which are necessary, convenient, and proper to construct:

Ravenswood City School District
WILLOW OAKS ELEMENTARY SCHOOL
620 Willow Road
Menlo Park, CA 94025

Roof Restoration

WHEREAS, the Agreement between the District and the Contractor dated _____, 20__, and all of the documents attached to or forming a part of the Contract Documents, are hereby referred to and made a part hereof; and

WHEREAS, the Contractor is required by the Agreement, before entering upon the performance of the work, to file a good and sufficient bond with the District to ensure Contractor's good and faithful performance thereunder.

NOW, THEREFORE, the Contractor and _____ ("Surety"), as Corporate Surety, hereby bind themselves, their heirs, executors, administrators, successors, or assigns, jointly and severally, unto the District in the sum of _____ Dollars ($_____), to be paid to the District upon the occurrence of the condition set forth below.

THE CONDITION OF THIS OBLIGATION IS that if the Contractor shall fail to well and truly perform and fulfill all the undertakings, covenants, terms, and conditions of the Agreement during the original term of the Agreement and any extensions thereof that may be granted by the District, and during the life of any guaranty required under the Agreement, or shall fail to well and truly perform and fulfill all the undertakings, covenants, terms, and conditions of any and all duly authorized modifications to the Agreement that may hereafter be made, then the Surety shall indemnify the District for any damage or loss suffered thereby. In case suit is brought upon this bond the Surety shall pay all court costs, expenses and reasonable attorney's fees.

IT IS HEREBY EXPRESSLY STIPULATED AND AGREED that no change, extension of time, alteration, or addition to the terms of the contract or the work to be performed thereunder or the specifications accompanying the same, shall in any way diminish the Surety's obligation on this bond, and the Surety does hereby waive notice of any such change, extension, alteration, or addition.

SHOULD THE CONDITION of this bond be fully performed, this obligation becomes void; otherwise the obligation shall remain in full force and effect.

IN WITNESS WHEREOF, this instrument has been duly executed by the Contractor and Surety this _____ day of _____, 20__.

(Notary Seal)

_____
(Principal)

_____
(Business Address)

_____

_____

_____ (Corporate Surety)

By:_____

_____
(Business Address)

_____

The rate or premium of this bond is _____ per Thousand Dollars; the total amount of premium charged, $_____.

(The above must be filled in by Corporate Surety).

PAYMENT BOND
(Labor and Material)

Ravenswood City School District ("District") and _____ ("Principal") have entered into a contract for the furnishing of all materials and labor, services and transportation, necessary, convenient, and proper to construct:

Ravenswood City School District
WILLOW OAKS ELEMENTARY SCHOOL
620 Willow Road
Menlo Park, CA 94025

Roof Restoration

WHEREAS, the Agreement between the District and the Principal dated _____, 20__, and all of the documents attached to or forming a part of the Contract Documents, are hereby referred to and made a part hereof; and

WHEREAS, the Principal is required by the Agreement, before entering upon the performance of the work, to file a good and sufficient bond with the body by whom the contract is awarded to secure the claims arising under the Agreement.

NOW, THEREFORE, the Principal and the undersigned ("Surety"), as Corporate Surety, hereby bind themselves, their heirs, executors, administrators, successors, or assigns, jointly and severally, unto the District for the use and benefit of all persons provided under Civil Code section 9554, subdivision (b), in the sum of _____ Dollars ($_____).

THE CONDITION OF THIS OBLIGATION IS that if the Principal or a subcontractor, or their heirs, executors, administrators, successors, or assigns fails to pay any of the persons named in Civil Code section 9100, or any of the amounts due as specified in Civil Code section 9554, subdivision (b), Surety will pay the same in an amount not exceeding the amount hereinabove set forth. Additionally, Surety shall pay all court costs, expenses and reasonable attorneys' fees as fixed by the Court associated with any suit brought upon this bond, including costs and attorneys' fees incurred by the District.

IT IS HEREBY EXPRESSLY STIPULATED AND AGREED that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims so as to give a right of action to them or their assigns in any suit brought upon this bond.

IT IS FURTHER EXPRESSLY STIPULATED AND AGREED that no change, extension of time, alteration, or addition to the terms of said contract or the specifications accompanying the same, shall in any manner diminish the Surety's obligations on this bond, and the Surety does hereby waive notice of any such change, extension, alteration, or addition.

SHOULD THE CONDITION of this bond be fully performed, then this obligation shall become void; otherwise the obligation shall be and remain in full force and effect.

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

(Notary Seal)

_____

(Principal)

_____

(Business Address)

_____

_____

_____ (Corporate Surety)

By: _____

_____

(Business Address)

_____

The rate or premium of this bond is _____ per thousand; the total amount of premium charged, $_____.

(The above must be filled in by Corporate Surety).

Article 1 DEFINITIONS

1.1 District's Representative: Individual designated to represent the District. The term "District" shall also be defined to include the District's Representative.

1.2 Day: The term "day" as used in the Contract Documents shall mean calendar day.

1.3 CO: Change Order.

1.4 COR: Change Order Request.

1.5 Submit/Submission: An application for payment, request for information, substitution, or change order or requests for approval of samples or submittals or shop drawings. Includes resubmission after initial denial or direction to provide additional information.

1.6 Beneficial Occupancy: Notwithstanding any common law principal to the contrary, occupancy by the District shall be "beneficial" when occupancy for teaching purposes is safe and convenient (considering all visual, sound, and odor factors); the Project is weather-tight, functional, and aesthetically pleasing; all portions of the Project (including finishes, painting, hardware, services, safety systems and utilities) are complete and operational; and any remaining punch list work may be conveniently and effectively performed after 3:30 p.m. and/or on weekends and shall be completed within the immediately subsequent twenty eight (28) days.

1.7 Substantial Completion: Substantial Completion is the stage in progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents, except for minor punch list items, that the building may be Beneficially Occupied.

1.8 Final Completion: The point at which Contractor fully completes all contract work including punch list work and has submitted closeout documentation to the satisfaction of the District and Architect.

Article 2 CONTRACT DOCUMENTS.

2.1 The Contract Documents are the following:

1. Agreement
2. Bid Form
3. Bid Bond
4. Payment Bond
5. Performance Bond
6. Insurance Forms
7. Bid Instructions
8. Designation of Subcontractors Form
9. Certificate Regarding Workers' Compensation
10. Non-Collusion Affidavit
11. Iran Contracting Act Certification
12. DVBE Form (if applicable)
13. General and Special Conditions
14. Conditional Waiver and Release Upon Progress Payment for General Contractor
15. Conditional Waiver and Release Upon Progress Payment for Subcontractor (when requested)

16. Unconditional Waiver and Release Upon Progress Payment for General Contractor
17. Unconditional Waiver and Release Upon Progress Payment for Subcontractor (when requested)
18. Conditional Waiver and Release Upon Final Progress Payment for General Contractor
19. Conditional Waiver and Release Upon Final Progress Payment for Subcontractor
20. 'unused'
21. Contractor's Affidavit of Release of Liens
22. Consent of Surety Company to Final Payment
23. Contractor's Affidavit of Payment of Debts and Claims
24. Contractor's Affidavit of Payment of Prevailing Wage
25. Subcontractor's Affidavit of Payment of Prevailing Wage
26. 'unused'
27. Supplementary Conditions
28. Specifications
29. Drawings
30. District's Schedule of Milestones
31. Forms and Attachments
32. Addenda or Clarifications to any of the above

2.2 The District must approve any additions to the listed Contract Documents. Any modification amending or extending the Work shall be as binding as if originally included in the Contract Documents.

2.3 The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. The intention of the documents is to include all labor, materials, equipment, and other items necessary for the proper execution, completion, and operation of the Project. It is not intended that work not covered under any heading, section, branch, class, or trade of the specifications shall be supplied unless it is required elsewhere in the Contract Documents or is reasonably inferable therefrom as being necessary to produce the intended results. Words which have well-known technical or trade meanings are used herein in accordance with such recognized meanings.

2.4 The organization of the specifications into divisions, sections, and articles, and the arrangement of drawings shall not control the Contractor in dividing the Project among subcontractors or in establishing the extent of work to be performed by any trade. Neither the stated description nor the division of the Plans and Specifications to various sections, which is done solely for convenience, shall be deemed to limit the work required, divide or indicate it by labor jurisdiction or trade practice, or set up any bidding barriers to the various sub-contractors or suppliers.

2.5 The Contractor shall be responsible for the proper execution of all work required by the contract documents and for allocating such portions as it sees fit to the various sub-contractors. The Contractor is cautioned that the various individual sections may not contain all work that the Contractor may wish to allocate to a particular sub-contractor or everything bearing on the work of a particular trade, some of which may appear in other portions of the Plans or Specifications.

2.6 If, in the opinion of the Contractor, the construction details indicated on the drawings or otherwise specified are in conflict with accepted industry standards for quality construction and therefore might interfere with its full guarantee of the work involved, it is obligated to promptly bring this information to the attention of the District and Architect in writing, for appropriate action before submittal of bid.

2.7 Intent of Drawings and Specifications.

2.7.1 The Contractor shall make its own layout of lines and elevations and shall be responsible for the accuracy of both its and the subcontractors' work resulting therefrom. All dimensions affecting proper fabrication and installation of all contract Work must be verified prior to fabrication by taking field measurements of the true conditions. The Contractor shall take, and assist subcontractors in taking, all field dimensions required in performance of the work, and shall verify all dimensions and conditions on the site. If there are any discrepancies between dimensions in drawings and existing conditions which will affect the work, the Contractor shall bring such discrepancies to the attention of the Architect for adjustment immediately and in any case before proceeding with the Work. The Contractor shall be responsible for the proper fitting of all Work and for the coordination of all trades, subcontractors and persons engaged upon this Contract.

2.7.2 It is the intent of the Contract Plans and Specifications to show and describe complete installations. Items shown but not specified, or specified but not shown, shall be included unless specifically omitted. These Plans and Specifications shall be deemed to include and require everything necessary and reasonably incidental to the completion of all work described and indicated on the drawings, whether particularly mentioned or shown, or not.

2.7.3 The specifications and drawings are intended to be explanatory of each other. Any work shown on the drawings, and not in the specifications, or vice versa, is to be treated as if indicated in both. In the case of conflict or inconsistency, the Supplementary Conditions (if any) shall control over the General Conditions and the specifications shall control the drawings. Figured dimensions shall control over scaled measurements. In all cases, the more costly or expensive interpretation is deemed to control and be the interpretation incorporated into the Contract Documents and Contract Sum.

Article 3 ARCHITECT

3.1 Nothing contained in the Contract Documents shall create any contractual relationship between the Architect and the Contractor.

3.2 The Architect will be the District's representative during construction and until final payment. Unless directed otherwise herein, all communications and correspondence from the Contractor shall be directed jointly to the Architect and the District.

3.3 The Architect shall at all times have access to the Project wherever it is in preparation and progress.

3.4 The Architect will make periodic visits to the site to familiarize itself generally with the progress and quality of the work and to determine in general if the Project is proceeding in accordance with the Contract Documents and will keep the District informed of its observations.

3.5 Based on such observations and the Contractor's applications for payment, the Architect will determine and verify the amounts owing to the Contractor and will issue recommendations for payment to the District as provided herein.

3.6 The Architect's decision in matters relating to artistic effect will be final if consistent with the intent of the Contract Documents.

3.7 The Architect will have authority to reject work which does not conform to the Contract Documents. Whenever, in its reasonable opinion, the Architect considers it necessary or advisable to ensure the proper implementation of the intent of the Contract Documents, it

will have authority to require the Contractor to stop the Project or any portion thereof, or to require special inspection or testing of the work as provided herein whether or not such work be then fabricated, installed or completed. However, neither the authority to act under this subparagraph, nor any decision made by the Architect in good faith, either to exercise or not to exercise such authority, shall give rise to any duty or responsibility of the Architect to the Contractor, any subcontractor, any of their agents or employees, or any other person performing any of the work.

3.8 Submittals.

3.8.1 The Architect will monitor the submittal process. The Architect will review or take other appropriate action upon the Contractor's submittals, such as shop drawings, product data and samples, but only for the limited purpose of checking for conformance with the information given and design concept expressed in the Contract Documents. Contractor shall assume that the Architect may take as many as fourteen (14) days to review submittals and shall include such review period in its Project schedule. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents.

3.9 The Architect will have authority to order minor changes in the Project *after notifying the District*. The Architect will prepare change orders in accordance with the Contract Documents. Upon a change order request by the District, the Contractor is to submit a breakdown of all costs and/or credits incurred to accomplish the requested change. The breakdown is to be of sufficient detail to allow justification of additional costs and/or credits. All change orders shall be signed by the District, Architect, and Contractor, and must be approved by the Division of the State Architect (DSA).

3.10 The Architect will conduct inspections to determine the dates of substantial completion and final completion. The Architect will receive written guarantees and waivers and related documents required of and assembled by the Contractor, and, upon review by the design team, will recommend issuance of a final certificate of payment.

3.11 The duties, responsibilities and limitations of authority of the Architect as the District's representative during construction as set forth in these General Conditions will not be modified without written consent of the District which the modification will be shown to the Contractor.

3.12 The Architect will not be responsible for the acts or omissions of the Contractor, or any subcontractors, or any of its agents or employees, or any other persons performing any of the work.

Article 4 DISTRICT.

4.1 The District shall not be held responsible for delays caused by the period of time during which the DSA or any other state or local government agency reviews change order requests, requests for information or submittals unless (and then only to the extent to which) the District caused the delay.

4.2 Information and Services:

4.2.1 The District shall furnish all existing surveys describing the physical characteristics, known utility locations, legal limitations, and a legal description of the project site.

4.2.2 Except as provided herein, the District shall secure and pay for necessary approvals, easements, assessments, and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

4.2.3 The District shall forward all instructions to the Contractor through the Architect.

4.2.4 The District will pay all fees required by the Division of the State Architect.

4.3 District's Right to Carry Out the Work. If the Contractor defaults or neglects to carry out the work in accordance with the Contract Documents and fails within seven (7) days after receipt of written notice from the District to commence and continue correction of such default or neglect with diligence and promptness, the District may, without prejudice to any other remedy it may have, make good such deficiencies. In such case, an appropriate change order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for the additional services of the District's Architect, and Engineers, and other representatives and consultants made necessary by such default, neglect, or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amount, District shall have the right to recover the difference from the Contractor or its sureties.

4.4 Use of Completed Parts of the Work before Acceptance.

4.4.1 Prior to Substantial Completion, whenever the work or any part thereof is in a condition making use thereof possible, and the best interest of the District requires such use, the District may take possession of, connect to, open for public use, or use the work or a part thereof. When so used, maintenance and repairs due to ordinary wear and tear or vandalism will be made at the District's expense.

4.4.2 The use by the District of the work or part thereof as contemplated in this section shall in no case be construed as constituting acceptance of the work or any part thereof and shall not constitute Substantial Completion until the District may take Beneficial Occupancy, as such is defined in these General Conditions. Such use shall neither relieve the Contractor of any of its responsibilities under the Contract nor act as a waiver by the District of any of the conditions thereof. Contractor shall continue to maintain all required insurance on the project.

Article 5 CONTRACTOR.

5.1 Review of Contract Documents.

5.1.1 The Contractor shall carefully study and compare the Agreement, general conditions, drawings, specifications, addenda and modifications and shall at once report to the Architect any error, inconsistency or omission it may discover. The Contractor shall do no work without proper drawings and specifications or interpretations. If the Contractor performs any construction activity knowing it involves a recognized error, inconsistency or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume appropriate responsibility for such performance and shall bear an appropriate amount of the attributable costs for correction.

5.1.2 The District will not be responsible for the cost of delays related to Contractor's failure to submit complete RFI's, submittals, or requests for substitution in sufficient time to receive a response prior to commencement of the related work.

5.2 Personnel.

5.2.1 The Contractor shall comply with Education Code Section 45125.2 regarding Contractor/Subcontractor personnel and pupil safety. Contractor acknowledges that it has responsibility for Contractor's and all Subcontractors' compliance with this requirement and that failure to comply shall with this requirement shall be a material breach of this Agreement.

5.2.2 All persons working for Contractor and subcontractors on the Project must refrain from using profane or vulgar language, or any other language that is inappropriate if it were spoken by employees of the District, on the District site.

5.2.3 The Contractor shall employ a full-time, on site competent superintendent and necessary assistants who shall have complete authority to act for the Contractor on all matters pertaining to the work, who shall be designated on Contractor's Bid Form. The superintendent shall have a minimum of five (5) years experience in construction supervision. The superintendent shall be satisfactory to the District and, if not satisfactory, shall be replaced by the Contractor with one that is acceptable. The superintendent shall not be changed without the written consent of the District unless the superintendent ceases to be employed by the Contractor.

5.2.4 The Contractor shall employ a competent estimator and necessary assistants, or contract for sufficient services of an estimating consultant who shall be designated on the Contractor's Bid Form. The estimator shall have a minimum of five (5) years experience in estimating. The estimator shall be satisfactory to the District and, if not satisfactory, shall be replaced by the Contractor with one that is acceptable. The estimator shall not be changed without the written consent of the District unless the estimator ceases to be employed by the Contractor.

5.2.5 The Contractor shall employ a competent scheduler and necessary assistants, or contract for sufficient services of a scheduling consultant who shall be designated on Contractor's Bid Form. The scheduler shall have a minimum of five (5) years experience in scheduling. The scheduler shall be satisfactory to the District and, if not satisfactory, shall be replaced by the Contractor with one that is acceptable. The scheduler shall not be changed without the written consent of the District unless the scheduler ceases to be employed by the Contractor.

5.2.6 Contractor shall at all times enforce strict discipline and good order among Contractor's employees, and shall not employ on the Project any unfit person or anyone not skilled in the task assigned.

5.2.7 If Contractor or any subcontractor on the Project site fails to comply with any provision of this paragraph 5.2, the District may have the offending person(s) immediately removed from the site, and such person(s) shall be replaced, at no additional expense to the District, within three (3) days of such removal. Contractor, on behalf of it and its subcontractors, hereby waives any claim that the provisions of this paragraph or the enforcement thereof interferes, or has the potential to interfere, with its right to control the means and methods of its performance of its duties under this Contract.

5.3 Subcontractors.

5.3.1 Within ten (10) days of the date that the District executes the Agreement, the Contractor shall provide the Architect with signed contracts with all of its subcontractors (including those which need not be listed in the Bid), and a typed list of all subcontractors, which shall include the following information:

1. Address

2. Telephone Number and Email Address
3. Contractor's License Type and Number
4. DIR Registration Number
5. Contact Person
6. Portion of Work to be Performed
7. Subcontractor Bid Proposal
8. Contract Amount

The list shall be accompanied by proof of all required bonds to be carried by subcontractors.

5.3.2 If the Contractor elects to enter into any subcontract for any section of the work, the Contractor assumes all responsibility for ascertaining that the subcontractor for the work is competent, solvent and thoroughly acquainted with all conditions of the work and has included all materials and appurtenances in connection therewith.

5.3.3 It shall be the responsibility of the Contractor to notify its Subcontractors of all portions of specifications or plans that the Contractor intends to include as part of the subcontract.

5.3.4 The Contractor shall insert the following language into all of its contracts with its subcontractors: "[Subcontractor's name] hereby warrants that it has reviewed all portions of [contractor's name]'s contract with the District, including all scheduling requirements. Such Contract Documents are hereby incorporated into this Agreement, and subcontractor shall be as responsible for carrying out the provisions thereof which relate to its scope of work as if it had contracted directly with the District."

5.3.5 The Contractor shall be responsible to its subcontractors for damages justifiably incurred by the subcontractors, including delay damages, except those which are caused by the action or inaction of that subcontractor or those with whom that subcontractor has contracted. The Contractor shall be responsible to the District for the acts and omissions of all employees, agents and all other persons performing any of the work on behalf of the Contractor or any subcontractor.

5.4 Communication Procedures.

5.4.1 The Contractor shall attend a mandatory Pre-Construction Conference, during which the District's Representative, Architect, and IOR shall review the Project reporting procedures and other requirements.

5.4.2 The Contractor shall meet weekly with the District's Representative, Architect, and IOR to review the project status. The Contractor shall provide copies of its superintendent's daily logs for the previous week, current project schedules and logs of outstanding submittals, requests for information, and requests for change orders (which shall include respective dates of submittal and required responses and shall designate the party whose response is pending).

5.4.3 The Architect will prepare minutes of the weekly construction meetings describing all agreements and commitments made (including who made them and when the commitments are to be fulfilled) and shall endeavor to distribute a copy to each required attendee, whether its representative attended or not, within three (3) days. Attendees will have two (2) days after receipt of the minutes to advise the Architect of any difference in understanding of what occurred at the meeting.

5.4.4 When the Contractor sends correspondence regarding samples, submittals, or shop drawings, Contractor shall send them to the Architect who will forward them onto the appropriate party(ies).

5.5 The Contractor shall supervise and direct the work, using its best skill and attention. It shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Project under the Contract Documents.

5.6 Timing of Design Team Review.

5.6.1 The Contractor shall provide a revised and updated Priority Schedule with each RFI and submittal. The Priority Schedule shall include a listing of pending requests, including the most current request, ranked in order of priority.

5.6.2 The Architect shall endeavor to respect the Contractor's requested order of priorities. The total response time is subject to the complexity of the RFI's and submittals, the number of RFI's or submittals submitted concurrently and any re-prioritization by the Contractor.

5.6.3 The District will not be responsible for the costs of delays related to Contractor's failure to submit RFI's, submittals, or requests for substitution in sufficient time to receive a response prior to commencement of the related work.

5.7 Shop Drawings, Product Data, Samples and Similar Submittals.

5.7.1 Shop Drawings are drawings, diagrams, illustrations, schedules, and other data that is specifically prepared by the Contractor or a subcontractor, sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the work.

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

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

5.7.4 Shop drawings, product data, samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the work for which submittals are required the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents.

5.7.5 All submittals shall be forwarded to the Architect within thirty (30) days of issuance of the Notice to Proceed if not requested earlier in the scope of work or supplementary conditions document. Contractor must make any request for extension of this time period within this time for any incomplete submittal. Any such request must include a schedule reflecting the anticipated submission, which incorporates adequate time for review and procurement, so as not to impede progress of the Project.

5.7.6 The Contractor shall perform no portion of the work requiring submittal and review of shop drawings, product data, samples or similar submittals until the respective submittal has been approved by the Architect. All such work shall be in accordance with approved submittals. In the event Contractor makes substitutions in materials, equipment, or designs without approval of the District and Architect, the Contractor shall remove the improper material and install the correct material and restore the area as if the unapproved substitution had never occurred.

5.7.7 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor thereby represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will

do so, and has checked and coordinated the information contained within such submittals with the requirements of the work, Schedule, and Contract Documents.

5.7.8 Samples which are of value after testing will remain the property of the Contractor.

5.7.9 All requests for substitution shall be submitted the Architect no fewer than ten (10) days prior to the bid date. The Contractor shall clearly identify any request for substitution and provide sufficient product data to facilitate review by the Architect. No substitutions will be considered for any board-approved District standard items.

5.8 Requests for Information.

5.8.1 The Contractor shall review any request for information prior to submission to the Architect to insure that the information requested in such RFI is not already provided in the Contract Documents. RFI's shall contain information regarding any potential cost or schedule impacts. RFI's shall come only from the Contractor and not from any subcontractor.

5.9 Whenever the Contractor arranges to work at night, or at any time when work is not usually in progress, or to vary the period during which work is carried out each day, it shall obtain advance approval from the District. Such work shall be done without extra compensation to the Contractor, and such additional inspection costs shall be chargeable to the Contractor providing such work is not performed at the request of the District to meet an earlier completion time than that established in the Agreement.

5.10 The Contractor shall maintain at the site for the District one stamped copy of all drawings, specifications, addenda, approved shop drawings, change orders, and other modifications, in good order and marked to record all changes made during construction, which shall be available to the District's Representative, Architect, and IOR. The drawings, marked to record all changes made during construction, shall be delivered to the District upon completion of the Project.

5.11 Review of the Contractor's submittals shall not:

1. relieve the Contractor of any of the Contractor's obligations;
2. constitute approval of safety precautions, construction means, methods, techniques or procedures;
3. relieve the Contractor of responsibility for any deviation from the requirements of the Contract Documents unless the Contractor has informed the Architect in writing of such deviation at the time of submission and the Architect has given written approval of such deviation; or
4. indicate approval of an assembly of which the item is a component.

5.12 Temporary Office and Site Conditions.

5.12.1 The Contractor shall obtain District approval for any space or area used for temporary facilities and staging requirements.

5.12.2 The Contractor shall obtain permits for, install and maintain in safe condition whatever scaffolds, hoisting equipment, barricades, walkways, or other temporary structures that may be required to accomplish the work or pursuant to State or local regulations. Such structures shall be adequate for the intended use and capable of safely accepting all loads that may be imposed upon them. They shall be installed and maintained in accordance with all applicable federal, state and local codes and regulations.

5.12.3 Portable chemical toilets or water closets and urinals shall be provided by the Contractor

for the use of its employees, trade contractors, subcontractors and their employees; and in no case shall the permanent plumbing fixtures of buildings on the site be used for such purpose.

5.12.4 The Contractor shall promptly remove all such temporary facilities when they are no longer needed for the work or on completion of the project and shall make any necessary repairs caused by such use and removal.

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

5.12.6 The Contractor will provide, at its expense, water and utilities, excluding telephone, including all connections and related charges.

5.12.7 The Contractor shall provide and maintain temporary heat from an approved source whenever in the course of the work it may become necessary for curing, drying or warming spaces as may be required for the installation of materials or finishes. The Contractor shall provide and maintain any and all facilities that may be required for dewatering in order that work may proceed on the project. If it is necessary for dewatering to occur continually, the Contractor shall have on hand whatever spare parts or equipment that may be required to avoid interruption of service.

5.12.8 The Contractor shall submit written request to the District for any utility shut downs five (5) days prior to any utility (including, but not limited to, water, electricity, gas, and sewer) being disconnected or turned off, and shall inform the District of the anticipated duration of the unavailability of such utility.

5.13 Contractor's Safety Program.

5.13.1 Each Contractor who will perform work at the site shall prepare and submit to the District for general review a safety program, as required by the Contract Documents and all other governing laws and ordinances. The safety program, in addition to normal legislative requirements of a safety program, will address the additional requirements to provide for the safety of anyone using the school site, to separate the construction area from the remaining school property, and to prohibit the use of school facilities by Contractor's employees unless specifically permitted otherwise.

5.13.2 The District, the Architect and its representatives shall not be responsible for Contractor's implementation of or compliance with its safety programs, or for initiating, maintaining, monitoring or supervising the implementation of such programs or the procedures and precaution associated therewith, or for the coordination of any of the above with others at the site.

5.14 The Contractor shall perform all the work required by the Contract Documents and furnish all labor, materials, plant, equipment, tools and appurtenances necessary to perform said work and complete it within the time specified. The Contractor shall at all times perform the work of this Contract in a competent and workmanlike manner and, if not specifically stated, accomplish the work according to the best standards of construction practice.

5.15 Contractor shall do all cutting, fitting, or patching of its work that may be required to make its several parts come together properly and fit it to receive or be received by work of other contractors as shown, or reasonably implied by, the Contract Plans and Specifications for the completed structure, and shall restore finishes to the satisfaction of the Architect. Any cost caused by defective or ill-timed work shall be borne by the party responsible therefore.

5.16 The Contractor shall cooperate and coordinate with technical inspection and testing required of other contractors.

5.17 The Contractor shall submit Verified Reports as defined in Sections 4-336 and 4-343(c), Group 1, Chapter 4, Part I, Title 24, and California Code of Regulations.

5.18 Instructions and Manuals.

5.18.1 Prior to Final Completion of the Project, the Contractor shall compile manufacturers' operations and maintenance manuals, warranties and guarantees, and certificates, and index into three (3) bound copies in an organized manner. This information shall then be submitted to the Architect for approval within twenty eight (28) days of substantial completion.

5.18.2 The Contractor shall instruct the District's personnel in the operation and maintenance of the more complex equipment prior to final acceptance of the Project.

5.18.3 Receipt of complete instructions and manuals by the Architect is a condition precedent to release of payments by the District to the Contractor.

5.18.4 All manufacturers' application/installation instructions shall be given to the project inspector of record ("IOR") at least ten (10) days prior to first material application or installation of the item.

5.18.5 The Contractor shall maintain at the work site a separate complete set of contract drawings which will be used solely for the purpose of recording changes made in any portion of the work during the course of construction, regardless of the reason for the change. As changes occur, there will be included or marked on this **record set on a daily basis**. Actual locations to scale shall be identified on the drawings for all runs of mechanical and electrical work, including all site utilities, etc., installed underground, in walls, floors, and furred spaces, or otherwise concealed. Deviations from the drawings shall be shown in detail. All main runs, whether piping, conduit, ductwork, drain lines, etc., shall be located in addition by dimension and elevation. Progress payments shall be withheld until such time as the record set is brought up to date.

5.18.6 The Contractor shall not unnecessarily interfere with use of any roadway, walkway or other facility for vehicular or pedestrian traffic, by any party entitled to use it. Wherever such interference becomes necessary for the proper and convenient performance of the work and no satisfactory detour route exists, the Contractor shall, before beginning the interference, provide a satisfactory detour, temporary bridge, or other proper facility for traffic to pass around or over the interference, shall maintain it in satisfactory condition as long as the interference continues and shall coordinate and obtain the approval of the Authority having jurisdiction over the affected right of way or property all without extra payment unless otherwise expressly stipulated in the Contract Documents.

5.19 Project Completion.

5.19.1 When the work to be performed under this Contract is completed to the point that the District can take Beneficial Occupancy, the Contractor shall notify the Architect in writing. The Contractor, Architect, IOR and subcontractor representatives for fire protection, plumbing, HVAC and electrical (as applicable) shall thereafter inspect the work. As a result of this inspection, the Architect will prepare a list of items that are incomplete or not installed according to the Contract Documents (the "punch list"). Failure to include items on this list does not relieve the Contractor from fulfilling all requirements of the Contract.

5.19.2 After receipt of the "punch list" the Contractor shall have twenty eight (28) days to make good on all items. If it is not feasible to complete all items within the stipulated time the Contractor shall immediately submit in writing a request for time extension including an explanation for such request. Should the Contractor not complete all items within the allotted time the District reserves the right to perform the work per section Article 11 of the Agreement.

5.19.3 On completion of all items on the punch list, verified by a final inspection, and all other Contract requirements, the District will issue a Notice of Acceptance to the Contractor and file a Notice of Completion with the County Recorder.

5.19.4 If, through no fault of the District, more than one inspection is required to determine whether the punch list has been completed, the Contractor will be back charged for the costs of the District's representatives' time, at the rate of Seven Hundred Fifty Dollars ($750) per additional inspection.

5.19.5 Final cleaning, such as sweeping, dusting, vacuuming, dry and wet mopping, polishing, sealing, waxing and other finish operations normally required on newly installed work shall be taken to indicate the required finished conditions of the various new and existing surfaces at the time of acceptance. At the time of acceptance, all marks, stains, fingerprints, dust, dirt, splattered paint and blemishes resulting from the various operations shall be removed in all areas of the Project. Stair treads and risers shall be wet-mopped. Glass, new and existing, shall be left clean and polished both inside and outside. Plumbing fixtures and light fixtures shall be washed clean. Hardware and other unpainted metals shall be cleaned and all building papers and other temporary protections shall be removed throughout the building, or portion of the building where Contractor was involved. Finally, the exterior of the buildings shall be pressure-washed prior to Beneficial Occupancy and the play field, courts, streets and planting spaces shall be clean and in good order. Such measures shall be taken to the satisfaction of the Architect.

5.19.6 Prior to Final Completion of the Project, the Contractor shall submit one set of as-built drawings on a clean set of plans for the Architect review and approval. This information shall then be submitted to the Architect for approval within twenty eight (28) days of substantial completion.

5.20 The Contractor and subcontractors shall investigate and become aware of the amount of time required for the manufacture and delivery of all equipment and materials required to perform the work under this Contract. No extension of time or damages shall be granted due to failure to order said equipment and materials sufficiently before their incorporation into the work so as to avoid delay to the Project.

5.21 The Contractor and subcontractors shall provide and maintain sufficient labor, materials, and equipment to ensure a rate of construction progress that will complete the Project within the time specified and according to the schedule of work. If, in the District's opinion, the Contractor and/or its subcontractors are not prosecuting the work at a sufficient rate of progress to meet the Project schedule, the District may direct the Contractor to (1) provide additional labor, materials or equipment; (2) work additional hours, holidays or weekends; and/or (3) contract with a Subcontractor without additional cost to the District until the work is progressing in a manner satisfactory to the District. Failure to prosecute the work in a timely manner and according to the Project schedule is considered a breach of Contract and is cause for termination of the Contract pursuant to Article 10 of the Agreement between the parties.

5.22 If any person or subcontractor employed by the Contractor appears to the District to be incompetent, he shall be discharged immediately upon the request of the District, and such

subcontractor or person shall not again be employed on the Project.

5.23 Contractor shall pay all sales, consumer, use and other similar taxes required by law and shall secure and pay for all permits, fees and licenses necessary for the execution of the Project.

5.24 The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by Contractor's operations. At the completion of the Project, Contractor shall remove all Contractor's waste materials and rubbish from and about the Project as well as Contractor's tools, construction equipment, machinery and surplus materials. If the Contractor fails to clean up, the District may do so and charge the cost to the Contractor.

Article 6 SEPARATE CONTRACTS.

6.1 District's Right to Award Separate Contracts.

6.1.1 The District reserves the right to award other contracts in connection with other portions of the Project under these or similar conditions.

6.1.2 When separate contracts are awarded for different portions of the Project, "the Contractor" in the Contract Documents in each case shall be the contractor who signs each separate contract.

6.2 Mutual Responsibility of Contractors.

6.2.1 The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work and shall properly connect and coordinate Contractor's work with theirs.

6.2.2 If Contractor's work depends for proper execution or results upon the work of any other separate contractor, the Contractor shall inspect and promptly report to the Architect any patent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the Contractor to inspect and report such shall constitute acceptance of the other contractor's work as fit and proper to receive work.

6.2.3 If, through acts of negligence on the part of this Contractor, any other contractor or subcontractor shall suffer loss or damage to the work, this Contractor shall make a reasonable effort to settle with such other contractor and subcontractor. If such other contractor or subcontractor shall assert any claim against the District, or Architect, on account of any damage alleged to have been so sustained, the District, or Architect shall notify this Contractor which shall defend such proceedings at its own expense and indemnify and save harmless the District, or Architect from any such claim.

6.3 Cutting & Patching Under Separate Contracts.

6.3.1 The Contractor shall do all cutting, fitting, or patching of work that may be required to fit it to receive or be received by the work of other contractors shown upon, or reasonably implied by, the Contract Documents. The Contractor shall not endanger any work of any other contractors by cutting, excavating or otherwise altering any work and shall not cut or alter the work of any other contractor except with the written consent of the Architect.

6.3.2 Any costs caused by defective or ill-timed work shall be borne by the party responsible therefore.

Article 7 PERFORMANCE AND PAYMENT BONDS.

7.1 In order to ensure that any Change Order work will be as fully bonded as work envisioned under the original Contract Documents, the Contractor shall provide, within five (5) days of the Execution Date, written proof, satisfactory to the District, that (1) it has pre-reserved bonding capacity in the amount of One Hundred Fifteen Percent (115%) of the Contract amount; or (2) its bonding company will bond any Change Order work which may be added to the Contract.

7.2 During the period covered by the Contract, if any of the sureties upon the bonds shall become insolvent or unable, in the opinion of the District, to pay promptly the amount of such bonds to the extent to which surety might be liable, the Contractor, within ten (10) days after notice given by the District to the Contractor, shall provide supplemental bonds or otherwise substitute another and sufficient surety approved by the District in place of the surety becoming insolvent or unable to pay. If the Contractor fails within such ten (10) day period to substitute another and sufficient surety, the Contractor shall, if the District so elects, be deemed to be in default in the performance of its obligations hereunder and upon the payment bond, and the District, in addition to any and all other remedies, may terminate the Contract or bring any proper suit or other proceedings against the Contractor and the sureties or any of them, or may deduct from any monies then due or which thereafter may become due the Contractor under the Contract, the amount for which the surety, insolvent or unable to pay as aforesaid, shall have justified on the bonds, and the monies so deducted shall be held by the District as collateral security for the performance of the conditions of the bonds.

7.3 Corporate sureties on these bonds and on bonds accompanying bids must be admitted sureties as defined in California Code of Civil Procedure section 995.120(a), legally authorized to engage in the business of furnishing surety bonds in the State of California. All sureties and bond forms must be satisfactory to the District. Bond forms are furnished herewith.

Article 8 PAYMENTS AND COMPLETION.

8.1 Before the first application for payment, the Contractor shall submit to the Architect a schedule of values of the various portions of the Project, including quantities aggregating the total contract sum, divided so as to facilitate payments to subcontractors, prepared in such form as specified, supported by such substantiating data as the Architect may require. Each item in the schedule of values shall include its proper share of overhead and profit. The schedule, when approved by the Architect, shall be used as a basis for the Contractor's applications for payment under the terms of the Agreement. Should any scope of work be later deleted in its entirety by Change Order, the value of that work shall be as stated in the schedule of values.

8.2 Progress Schedules.

8.2.1 Contractor shall, prior to commencing construction and with each application for payment, submit to the Architect a CPM schedule for the remainder of the Project showing anticipated beginning and ending dates for all critical path activities and the logical connection between and among such activities. Any changes in logic on subsequent schedules must be noted.

8.2.2 If Contractor wishes to construct the Project in a shorter period of time than that stated in Article 4 of the Agreement, any difference between the Contractor's desired performance period and the stipulated performance period shall be incorporated into the schedule as float.

8.2.3 Either party responsible for an event or condition which delays the Project shall be entitled to take advantage of any remaining float in the Contractor's Progress Schedule.

8.2.4 Submission of schedules pursuant to this paragraph is a condition precedent to payment. Even if Contractor does not submit a Progress Payment Request, it must submit all other documents which are required to be submitted with the Request at the designated time.

8.3 Releases.

8.3.1 The Contractor shall submit the following with each specified application for payment.

8.3.1.1 Progress Payment. Contractor shall submit the following documents in support of all applications for a progress payment:

- Notarized Application for Payment (on the standard AIA Form)
- Each Application for Payment shall be consistent with previous applications and payments as certified by the Architect and shall include any other signatures as required by the District.
- A conditional waiver and release upon progress payment from the General Contractor
- An unconditional waiver and release upon progress payment from the General Contractor and, when requested, the General Contractor must supply an unconditional waiver and release for each subcontractor.
- Schedule of Values
- Certified Payroll for the General Contractor and all Subcontractors MUST be submitted as required under section 16461 of Title 8 of the California Code of Regulations and as may be required by any additional District and Project-specific requirements, which the District will inform Contractor of. Certified payroll records shall be submitted to the Department of Industrial Relations electronically at least monthly. The District and/or the Owner's Representative will detail in writing any additional submittal requirements and such additional requirements are incorporated herein by reference. Certified payroll cannot be more than two weeks in arrears for each payment application submitted. At the end of the Project ALL certified payroll must be submitted before Final Retention is released. Contractor will cooperate with any efforts by the DIR to confirm the accuracy of payroll records submitted by Contractor and will include in its contracts with subcontractors a requirement that such subcontractors will likewise cooperate.

Note: The Contractor understands and agrees that it is required to retain copies of all certified payroll records for this Project for a minimum of 3 years after project completion and the General Contractor will include in its contracts with all subcontractors a requirement that they retain certified payroll records for this project for a minimum of three years after project completion.

8.3.1.2. Final Progress Payment. Contractor will submit the following in support of an application for Final Progress Payment:

- All of the above documents listed as required under Section 8.3.1.1., above, for a "Progress Payment"
- A Conditional waiver and release upon FINAL progress payment from Contractor and each subcontractor.

8.3.1.3. Retention Payment. A Notice of Completion (NOC) will be filed after the District approves the project as complete. Retention may be released, at a minimum, 31 days after filing of the NOC with the County.

- All of the above documents listed above under Section 8.3.1.1. as required for a "Progress Payment." (Note: Payment application MUST note "Final Retention")
- If an Escrow Account has been set up, a letter to the Escrow holder, requesting release of funds, MUST accompany this application.
- An Unconditional waiver and release upon FINAL progress payment from the Contractor and release of liens evidenced by an Affidavit of Release of Liens (see below).

The following Notarized Affidavits MUST be submitted with the Final Retention Payment Request

- Contractor's Affidavit of Release of Liens.
- Contractor's Affidavit of Payment of Debts and Claims.
- Consent of Surety Company to Final Payment
- Affidavit from the General Contractor certifying that ALL certified payroll has been submitted to the District and to the DIR for the general and all subcontractors
- An Affidavit, signed by each subcontractor, under penalty of perjury, that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on this public works project and any amounts due pursuant to Section 1813 (LC1775 (b)(4))
- If the Contractor is unable to comply with paragraph 8.3 for an individual subcontractor due to a dispute about the subcontractor's quality of work or scope of work, the Contractor shall submit a statement to the Architect stating such, in lieu of that Waiver and Release.

8.4 Payments Withheld.

8.4.1 The Architect or District may also decline any applications for payment or, because of subsequently discovered evidence or subsequent inspections, may nullify the whole or any part of any certificate of payment previously issued to such extent as may be necessary, in its opinion to protect the District from loss because of, but not limited to:

1. defective work not remedied;
2. reasonable doubt that the Project can be completed for the unpaid balance of the contract sum;
3. reasonable indication that the Project will not be completed within the contract time;
4. unsatisfactory prosecution of the work by the Contractor;
5. Contractor's failure to pay subcontractors or material men;
6. damage to another contractor;
7. failure to provide waivers, schedules, labor compliance and other required documentation; or
8. breach of any provision of the Contract Documents.

8.4.2 When any of the factors listed in Article 8.4 of these General Conditions resulting in withholding of payment is satisfactorily addressed by the Contractor, payment shall be made for amounts withheld because of them.

8.4.3 The granting of any progress payment or payments by the District or the receipt thereof by the Contractor, shall not constitute acceptance of the work or of any portion thereof, and shall in no way lessen the liability of the Contractor to replace unsatisfactory work or material.

8.4.4 It is mutually understood and agreed that when under any provision of this Agreement the District shall charge any sums of money against the Contractor, the amount of such charge shall be deducted and retained by the District from the amount of the next succeeding progress estimate, or from any other monies due or that may become due the Contractor on account of the Agreement. If on completion or termination of the Agreement such monies due the Contractor are found insufficient to cover the District's charges against it, the District shall have the right to recover the balance from the Contractor or its sureties.

8.5 Completion and Final Payment. Upon receipt of written notice that the Project is ready for final inspection and acceptance, and upon receipt of a final application for payment, less retention, the District's Representative, IOR, and Architect will promptly make such inspection, and when they find the Project acceptable under the Contract Documents and the Agreement fully performed, the Architect will prepare a final certificate for payment stating that to the best of its knowledge, information, and belief, and on the basis of observations and inspections, the Project has been completed in accordance with the terms and conditions of the Contract Documents and that it recommends payment of the remainder of the Agreement balance.

Article 9 PROTECTION OF PERSONS AND PROPERTY.

9.1 Until Substantial Completion is achieved, the Contractor shall have the charge and care of all work, complete or incomplete, permanent or temporary, and of the materials to be used therein, including materials for which it has received partial payment.

9.2 The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury, or loss to the following until the work is accepted by the District:

1. all employees of the Contractor, subcontractors, sub-subcontractors and their agents, officers, employees or representatives on the Project and all other persons who may be affected thereby;

2. all the work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor, its subcontractors, sub-subcontractors or their officers, agents or employees; and

3. other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

9.3 If the Contractor encounters any facilities or utilities not shown on the drawing or reasonably inferable therefrom, it shall promptly notify the Architect, and it shall do no further work which may cause damage to same.

9.4 If it is determined that some action needs to be taken regarding facilities not shown, the Contractor will be given directives on what action to take, and any additional cost to the Contractor incurred thereby will be addressed through Change Order.

9.5 The Contractor shall obtain permits for, install and maintain in safe condition all barricades, walkways, fences, railings, and whatever other safeguards that may be necessary to protect persons and property from damage as a result of the construction under this Agreement.

9.6 Contractor shall not endanger any work by cutting, excavating, or otherwise altering the work and shall not cut or alter the work of any other Contractor except with the written consent of the Architect, nor overload any new or existing structures by the placing or

storage of materials, equipment, or other items thereon. If necessary, Contractor shall provide calculations proving the safety in so doing.

9.7 If it is necessary to work at night, or where daylight is obscured, the Contractor shall provide and maintain lighting of adequate level to properly prosecute the work and to permit thorough inspection of same.

9.8 Contractor shall take extraordinary care to prevent fires and keep all flammable materials and oily rags in tightly closed metal containers. Contractor shall exercise particular care when welding or cutting, and with regard to the disposition of waste materials, the nature and quantity of which might create or increase a fire hazard.

9.9 The Contractor and each subcontractor shall supply to their employees and, where site is occupied, to the District, copies of Material Safety Data Sheets for hazardous substances that may be used in the course of the work, together with notice of actual hazardous substances to which employees may be exposed while performing work and appropriate protective measures.

9.10 Contractor shall secure the site, as well as all doors and windows thereon, prior to leaving the site each work Day. If Contractor fails to do so, the District may secure the site, doors, and windows itself, and may back charge Contractor for its associated costs.

9.11 When the Contractor's superintendent is not on site, the District may take all necessary steps to affect required emergency work and may back charge Contractor for the costs of such work.

9.12 Unless caused by the District's willful act or sole negligence, the Contractor shall rebuild, repair, restore, and make good all injuries, losses, or damages to any portion of the work or the materials occasioned by any cause before its Final Completion and acceptance and shall bear the expense thereof. Should improper work of any trade be covered by another and damage or defects result, the whole work affected shall be made good to the satisfaction of the Architect and the District without expense to the District.

9.13 Upon commencement of work and until substantial completion, Contractor assumes all risk of loss or damage to the Project arising from any cause save the sole negligence of the District.

Article 10 CHANGE ORDERS.

10.1 In addition to any statement governing change orders elsewhere in the Contract Documents, the Contractor and the District agree that changes in the Agreement or in the Project to be done under the Agreement shall become effective only when written in the form of supplemental agreement or change order and approved and signed by the District, the Architect, and the Contractor and approved by the DSA, as applicable. DSA approval must be evidenced by an official approval stamp and appropriate signatures.

10.2 All Contractors are warned against acting on verbal instructions. If verbal instructions are necessary for expediting the work and are accepted by the Contractor, it shall then be the responsibility of the Contactor to obtain written instructions of the work involved conforming to the verbal instructions from the Architect issuing same. No work will be accepted by the District that differs from the Plans and Specifications that has not been approved pursuant to the required written approvals.

10.3 The Contractor shall not be entitled to any adjustment of the Contract Sum or Contract Time for extra work, without prior written approval or directive from the Architect. Failure

to agree on an adjustment of the Contract Sum or Contract Time shall not excuse the Contractor from proceeding with the execution of the work as changed. If there is no agreement on cost, a construction change directive may be issued approving or directing that the work be compensated on a Force Account basis.

10.4 It is specifically agreed that the District shall have the right to direct any alterations, deviations, reductions, or additions to the Contract Documents and the amount of the cost thereof shall be added to or deducted from the amount of contract sum by fair and reasonable valuations.

10.5 If the Contractor wishes to make a claim for an increase in the Contract Sum, it shall submit a complete itemized estimate to the District written within ten (10) days after the occurrence of the event giving rise to such claim. This Request for Change Order shall be given by the Contractor before proceeding to execute the work, except in an emergency endangering life or property. Failure to present such claim within the stipulated timeframe constitutes a waiver of such claim. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order.

10.6 In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be assumed by inspection, shall be accompanied by a complete itemization of costs including labor, materials and subcontracts. Labor and materials shall be itemized in a manner deemed acceptable by the Architect. Where major cost items are subcontracts, they shall be itemized also with backup documentation.

10.7 In determining the cost of any additive change order, Contractor agrees that the percentage markup for all overhead and profit shall be calculated as follows:

10.7.1 If the Contractor performs the work with its own forces, its percentage markup for overhead and profit shall not exceed fifteen percent (15%) of its hard costs.

10.7.2 If the Contractor performs the work through a subcontractor that is not owned or controlled by it, its percentage markup shall not exceed five percent (5%) of its subcontractor's hard costs for such work.

10.7.3 If the Contractor performs the work through a subcontractor that is not owned or controlled by it, subcontractor's percentage markup shall not exceed ten percent (10%) of its subcontractor's hard costs for such work.

10.7.4 The ***total*** percentage markup on any change order shall not exceed fifteen percent (15%) of the actual cost of such work.

10.7.5 The above percentage markups for overhead and profit (including that for work performed by subcontractors) are understood to include Contractor's and subcontractor's site supervision costs, home office overhead, profit margin, insurance, general conditions, small tools, consumables, and all other factors. The ***actual cost*** of additional bond capacity, not to exceed two percent (2%) of the increased value of the Contract, shall be added to change orders.

10.8 Direct Cost of Materials: For all materials purchased by the Contractor and used in this specific Work, it shall receive the actual cost of such materials including freight charges, as shown by original receipted invoices for materials and freight.

10.8.1 If the actual costs, in the opinion of the District and Architect, are excessive, or if the Contractor does not furnish satisfactory evidence of the cost of such materials from the actual supplier thereof, then the cost of such materials shall be deemed to be the lowest

current wholesale price at which such materials are available in the quantities concerned delivered to the job site.

10.9 Direct Labor Costs: For all craft labor and foremen engaged in the specific operation, the Contractor shall receive the wage prevailing and paid on the project for each and every hour that said labor and foremen are actually engaged in such work, an amount equal to the Contractor's cost of Workmen's Compensation Insurance, Social Security taxes, Public Liability and Property Damage Insurance, and any and all fringe benefit costs required by prevailing wage agreement.

10.10 Direct Equipment Costs: For any machine, apparatus, or equipment which shall be deemed necessary or desirable to use, the Contractor shall be allowed a reasonable rental price, which shall be approved in writing before commencing such work, for each and every hour that said machinery, apparatus, or equipment is in use on such work.

10.10.1 Rental rates shall be deemed to include the cost of fuel, oil, lubrication, supplies, brooms or brushes, small tools, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, bonds and all incidentals.

10.10.2 A reasonable rental price for non-rented equipment will be the rental rates listed for such equipment in the California Department of Transportation publication entitled Labor Surcharge and Equipment Rental Rates (hereinafter "State Rental Rates"), which is in effect on the date upon which the work is accomplished. If it is deemed necessary to use equipment not listed in said publication, a suitable rental rate for such equipment shall be established by the Architect. The Contractor may furnish any cost data which might assist the Architect in the establishment of such rental rate.

10.10.3 A reasonable rental price for rented equipment shall be based on the actual and reasonable hourly rate shown on the rental agency invoice or agreement for the time used on force account work. If a minimum equipment rental amount is required by the local equipment rental agency, the actual amount charged will be paid to the Contractor. Approval for payment of rental equipment will be based on Contractor's paid vouchers approved by the Architect. If the Contractor does not furnish satisfactory evidence of the cost of the use of such equipment, the cost then shall be determined by the Architect as the lesser of (a) the rental rates listed for the equipment in the State Rental Rates, or (b) the rental rates for such equipment prevailing in the locality from local equipment rental agencies.

10.10.4 Individual pieces of tools or equipment not listed in said publication and having a replacement value of $500.00 or less, whether or not consumed by use, shall be considered to be small tools and no payment will be made therefore.

10.10.5 Time for the rental period of equipment already on site shall be based on the time the equipment is in operation on the subject work being performed. Moving time, loading and transporting costs will not be paid for if the equipment is used at the site of the subject work for other than such subject work, unless in the determination of the Architect, the payment would cover costs that the Contractor would not otherwise have incurred.

10.10.6 Time for the rental period for equipment not already on the site shall begin at the time the equipment is unloaded at the site, shall include each day that the Contractor reasonably has the equipment at the site, excluding Saturdays, Sundays, and legal holidays unless the equipment is used to perform the subject work on such days, and shall terminate at the earlier of the end of the day on which the work for which the equipment is reasonably required to be present is completed and the end of the day on which the Architect directs the Contractor to discontinue the use of such equipment. When hourly rates are listed in the State Rental Rates, Contractor shall be paid a minimum of four (4) hours. When daily rates are listed in the State Rental Rates, Contractor shall be paid (i) 1/2 day if the

equipment is not used, and (ii) one day if the equipment is used.

10.10.7 Contractor shall be entitled to no payment for any cost associated with any temporary or permanent equipment breakdown, including without limitation costs of transportation for repair purposes or costs of repair and replacement parts. Contractor, however, shall be entitled to payment for time of actual use of any equipment substituted for equipment subject to breakdown, and for moving the substitute equipment. In computing the time to be paid for equipment, the Architect shall not count any period of delay caused by equipment breakdown, and to the extent feasible, shall merge into a single period the time of use before breakdown and the time of use thereafter of the repaired equipment or any substitute equipment.

10.11 The value of any work resulting from a change order shall be determined in one or more of the following ways:

10.11.1 By Contractor's estimate with a detailed breakdown showing labor, materials profit and overhead. Such estimates shall be promptly provided upon receipt of a change request and in no case mare that 10 days after the change is issued.

10.11.2 By unit price stated in the Contract or subsequently agreed upon;

10.11.3 By cost and the percentage allowed by this Contract or by cost and a fixed fee.

10.12 If none of the above methods mentioned in section 1.5 is agreed upon, the Contractor, provided it received a written order to proceed from the Architect, shall proceed with the work. The cost of such work shall then be determined by the District. In such case, the Contractor shall keep and present in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data as may be required by the District or Architect.

10.13 If the Contractor is in disagreement as to the amount to be paid for the work performed pursuant to the Change Order, the Contractor shall give to the District written notice of its disagreement, the basis therefore, and all supporting documentation within ten (10) days after delivery to the Contractor of the District's or Architect's determination of cost. Such notice of disagreement does not excuse performance by the Contractor of all obligations under the contract documents and the Contractor shall proceed with the work. Payments shall be made to the Contractor on the basis of the District's or Architect's determination of cost. Failure to present such notice of disagreement constitutes a waiver by the Contractor of any entitlement to additional cost above the amount determined by the Architect.

10.14 Force Account. If it is impossible, because of the nature of the work, or for any other reason, to fix an increase in price in advance, the Change Order may fix a maximum price and time extension period, which shall not under any circumstances be exceeded.

10.14.1 Subject to such limitation, such alteration, modification or extra shall be paid for at the actual necessary cost as determined by the sum of the following items 1 to 5, inclusive:

1. Labor, computed at prevailing wage rates, plus related tax(es);
2. Material, including sales taxes and other taxes pertaining to materials;
3. Necessary plant and equipment rental;
4. Overhead and profit computed as indicated under Article 10; and

5. The proportionate cost of premiums on bonds, computed as indicated under Article 10, of the total Items 1 to 4, inclusive.

10.14.2 At the end of each day, the Contractor and the Architect shall compare records of extra work which is compensated on a force account basis. Said reports shall become the basis of payment for the work performed, but shall not preclude subsequent adjustment based on a later audit by the District.

10.14.2.1 The daily force account work reports shall be on forms satisfactory to the Architect, and itemize the materials, state the direct cost of labor, state equipment used or on site and its direct cost. Separate daily force account work reports shall be submitted for Contractor and each subcontractor for each separate item of force account work.

10.14.2.2 The daily force account work reports shall show names or identifications, classifications or workers, the hourly rate of pay and hours worked, and the size, type and identification number of equipment, whether the equipment is rented, the time the equipment is on-site and hours the equipment was operated.

10.14.2.3 Material charges shall be substantiated by valid copies of vendor's invoices. Such invoices shall be submitted with the daily force account work reports, or if not available, they shall be submitted with subsequent daily force account work reports or as soon thereafter as may be practicable. Should said vendor's invoices not be submitted within 50 days after the date of delivery of the material or within 15 days after completion of the work of the contract, whichever occurs first, the District reserves the right to establish the cost of such materials at the lowest current wholesale prices at which said materials are available in the quantities concerned delivered to the work on the date of delivery.

10.14.2.4 Rented equipment charges shall be substantiated by valid copies of leaser's invoices. Such invoices shall be submitted with the daily force account work reports, or if not available, they shall be submitted with subsequent daily force account work reports or as soon thereafter as may be practicable Should a leaser's invoice not be submitted within 60 days after the last day of use on the job site of rented equipment which would be covered by such invoices, or within 15 days after completion of the work of the contract, whichever occurs first, the District reserves the right to establish the cost of use of the rented equipment as the lesser of (a) rental rates listed for the equipment in the State Rental Rates, and (b) the rental rates for such equipment prevailing in the locality.

10.14.3 The Contractor's cost records pertaining to work paid for on a force account basis shall be open to inspection and/or audit by representatives of the District during the life of the contract and for a period of three years after the date of acceptance thereof, and the Contractor shall retain such records for that period. Where payment for materials or labor is based on the cost thereof to forces other than the Contractor, the Contractor shall make every reasonable effort to ensure that the cost records of such other forces will be on the same terms and conditions as the cost records of the Contractor. If an audit is to be commenced more than 60 days after the acceptance date of the contract, the Contractor will be given a reasonable notice of time when such audit is to begin

10.15 Contractor shall provide the Architect with all information requested to substantiate the cost of the change order and to inform the Architect whether the work will be done by the Contractor or a subcontractor.

10.16 The Contractor shall submit with the proposed change order its request for time extension

(if any), and include sufficient information and dates to demonstrate whether and to what extent the change will delay the completion of the Project. In the event of an agreed upon extension of time, the Contractor shall not be subject to any claim for liquidated damages for this period of time, but the Contractor shall have no claim for any compensation for any such delay other than that set forth in the change order itself.

10.17 If the Contractor believes it is entitled to a change order for work it is being required to perform, or is entitled to an extension of time greater than that agreed to by the District, and the District refuses to issue a change order or include the requested extension of time in the change order, Contractor must, at least twenty-four (24) hours prior to commencing the disputed work, inform the District of the reason for the dispute and the amount of the requested change order. No change order will later be approved, or compensation made, for work performed without such prior notice to the District.

10.18 No change or modification by Change Order shall release or exonerate any surety upon any guarantee or bond given in connection with the Contract Documents.

10.19 All Change Orders must comply with the procedures and obtain the approvals required by Title 24 of the California Code of Regulations, section 4-338.

Article 11 DELAYS AND TIME EXTENSIONS.

11.1 The date of completion of Project or designated portion thereof is the date certified by the Architect when construction is complete and in accordance with the Contract Documents.

11.2 If the Contractor seeks an extension of time, it must present the request to the District within five (5) calendar days of the commencement of the act causing the delay. The Contractor's failure to provide notice of such a request within the stipulated timeframe constitutes a waiver of such claim.

11.3 Requests for extensions of time must:

11.3.1.1 include a revised schedule, as described in paragraph **8.2.1**, showing the effect of the delaying event; and

11.3.1.2 document all damages incurred or to be incurred by the Contractor as a result of such delay.

11.3.2 In order to document damages, the Contractor and its subcontractors must provide or make available all of its correspondence, bid-related documents, accounting records, superintendent's records, payroll documents, and other pertinent data relating to the Project.

11.4 The Contractor may be granted a time extension if it encounters an Excusable Delay of the work, which is defined as a delay which occurs due to causes completely beyond its control and which it could not have avoided by the exercise of reasonable care, prudence, foresight and diligence.

11.4.1 Excusable Delays: Excusable Delays are any acts of the public enemy, act of God, fire, strike, lockout or commandeering of materials, products, plants, or facilities by the Government, acts of another Contractor in the performance of another contract with the District, action or inaction on the part of the DSA, priority of a governmental agency for materials or equipment, flood, violent wind storm, epidemic, quarantine restriction, or freight embargo, or weather of an unusually severe nature. The financial inability of the

Contractor or any subcontractor and default of any subcontractor, without limitation, shall not be deemed conditions beyond the Contractor's control. The Contractor will not be granted time extensions for weather conditions which are normal for the location of the Project. Excusable Delays shall be grounds for an extension of time, measured in length by the amount of delay to the project actually suffered by Contractor as a result thereof, but shall not be grounds for any increase in compensation to the Contractor, whether for home, office, general or administrative expenses, field expenses, increased costs of materials or labor, or any other thing.

11.4.2 Compensable Delay: Compensable Delays are any delay of the completion of the work beyond the expiration date of the Contract Time caused by the gross negligence or willful acts of the District or Architect, and which delay is unreasonable under the circumstances involved, and not within the contemplation of the parties. A Compensable Delay may entitle the Contractor to an extension of the Contract Time and/or Contract Sum. Except as provided herein, the Contractor shall have no claim for damage or compensation for any delay, interruption, hindrance, or disruption.

11.4.3 Inexcusable Delay: Inexcusable Delays are any delay of the completion of the Project beyond the expiration of the Contract Time resulting from causes other than those listed above. An Inexcusable Delay shall not entitle the Contractor to an extension of the Contract Time or an adjustment of the Contract Sum.

11.5 The Contractor may make a Claim for an extension of the Contract Time, for an Excusable Delay or a Compensable Delay, subject to the following:

11.5.1 If an Excusable Delay and a Compensable Delay occur concurrently, the maximum extension of the Contract Time shall be the number of days from the commencement of the first delay to the cessation of the delay which ends last.

11.5.2 If an Inexcusable Delay occurs concurrently with either an Excusable Delay or a Compensable Delay, the maximum extension of the Contract Time shall be the number of days, if any, by which the Excusable Delay or the Compensable Delay exceeds the Inexcusable Delay.

11.5.3 If an Inexcusable Delay occurs concurrently with both an Excusable Delay and a Compensable Delay, the maximum extension in the Contract Time shall be the number of days determined pursuant to Subparagraph (a) exceeds the number of days of the Inexcusable Delay.

11.5.4 For a Compensable Delay, the Contractor shall only be entitled to an adjustment in the Contract Sum in an amount equal to the actual additional labor costs, material costs, and unavoidable equipment costs incurred by the Contractor as a result of the Compensable Delay, plus the actual additional wages or salary and fringe benefits and payroll taxes of supervisory and administrative personnel necessary and directly employed at the Project site for the supervision of the work during the period of Compensable Delay. Except as provided herein, the Contractor shall have no claim for damage or compensation for any delay, interruption, hindrance, or disruption. There shall be no Compensable Delay unless the event or occurrence giving rise to the Compensable Delay extends the actual completion of the Project past the Contract Time.

11.6 Regardless of the cause of a delay the Contractor may not maintain any claim or cause of action against the District for damages incurred or claimed to be incurred as a result of Contractor's failure or inability to complete its work on the Project in a shorter period than established in this Agreement, the parties stipulating to such period as a reasonable time within which to perform the work on the Project.

11.7 Compliance with this Article is a condition precedent to the District's duty to pay for damages incurred by the Contractor as a result of delays.

Article 12 DISPUTES.

12.1 If a dispute arises between the District and the Contractor as to an interpretation of any of the specifications or Contract Documents or as to the quality or sufficiency of materials or workmanship, the decision of the District shall for the time being prevail, and the Contractor, without delaying the job, shall proceed with all work to be performed under the Contract as directed by the District without prejudice to a final determination of the dispute.

12.2 All claims against the District must be filed by the Contractor in writing. The Contractor must include all documents necessary to substantiate that claim. "Claim" means a separate demand by the claimant for (1) a time extension, (2) payment of money or damages arising from work done by or on behalf of the claimant and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled, or (3) an amount the payment of which is disputed by the District.

12.3 The Contractor shall not be entitled to the payment of any additional compensation for any act or failure to act on the part of the District or its representatives, including failure or refusal to issue a change order, or for the happening of any event, thing, occurrence, or other cause, unless it shall have given the District due written notice of potential claim, in the manner described in paragraphs 11.2 and 12.4.

12.4 The written notice of potential claim shall set forth the reasons for which the Contractor believes additional compensation will or may be due, the nature of the costs involved, and, insofar as possible, and the amount of the potential claim. The said notice as above required must be given to the District prior to the time that the Contractor performs the work giving rise to the potential claim for additional compensation, if based on an act or failure to act by the District, and in all other cases, within five (5) days after the happening of the event, thing, occurrence, or other cause, giving rise to the potential claim. Notwithstanding this paragraph, if another provision of these General Conditions specifies that a notice of claim must be given to the District in a shorter period of time, that shorter time period shall prevail.

12.5 In resolving all claims, whatever the amount of the claim, the parties shall proceed pursuant to the terms of Public Contract Code section 9204 and then section 20104, *et seq.*

12.6 Upon receiving a claim sent by registered or certified mail, the District must review and provide a written response within forty-five (45) days that identifies the disputed and undisputed portions of the claim. The forty-five (45) day period to respond may be extended by mutual agreement. The claim is deemed rejected in its entirety if the District does not issue a response. Any payment due on an undisputed portion of the claim must be processed within sixty (60) days after the District's response. If a claimant disputes the District's response or lack thereof, the claimant may demand to meet and confer for settlement of the issues in dispute. Any portion of a claim that remains in dispute after a meet and confer conference will be subject to nonbinding mediation process, as described in Public Contract Code Section 9204. Undisputed and unpaid claims accrue interest at 7% per annum. A subcontractor or lower tier subcontractor may make a claim to the District through the Contractor, as specified in Public Contract Code Section 9204. However, the procedures in this section shall not supersede the requirements of the Contract Documents with respect to the Contractor's notification to the District of such claim or extend the time for the giving of such notice as provided in the Contract Documents.

Article 13 WARRANTY OF SUPPLIES, EQUIPMENT AND RELATED SERVICES.

13.1 In addition to warranties called for elsewhere in these specifications, Contractor shall warranty all work and materials, for a minimum period of at least one (1) year after recordation of Notice of Completion, against defective material or faulty workmanship that may arise within that period.

13.2 Additionally, the Contractor agrees to repair or replace, to the satisfaction of the District, any and all such work that may prove defective in workmanship or materials within that period, ordinary wear and tear and unusual abuse or neglect excepted, together with any other work which may be damaged or displaced in so doing. If the Contractor fails to comply with the above mentioned conditions within five (5) calendar days after being notified in writing, the District may have the defects repaired and made good at the Contractor's expense and the Contractor will pay the costs and charges incurred by the District as a result, including the costs for additional services of the District's architects, engineers, and other representatives, immediately upon demand. Any and all warranties and guarantees offered by manufacturers of equipment used or installed in the Project shall also be extended to the District.

13.3 Notwithstanding inspection and acceptance by the Architect of all supplies, equipment and related services furnished under the Agreement, the Contractor warrants that:

1. All supplies, equipment and related services under the Agreement will be free from defects in material or workmanship and will comply with the specifications of the Agreement; and

2. All aspects of the shipment of the supplies and equipment related to the Agreement will conform to the specifications of the Agreement.

13.4 Within a reasonable time the District may either:

1. By written notice, require the prompt correction or replacement of any supplies, equipment or related services that are defective, or that are not shipped in accordance with the specifications of the Agreement, or that otherwise do not conform to the Agreement; or

2. Retain such defective, improperly shipped, or otherwise nonconforming supplies, equipment and related services; whereupon the contract sum shall be reduced by an amount that is equitable under the circumstances and the Contractor shall promptly make appropriate repayment.

13.5 When correction or replacement is required, the District may return such supplies, equipment and related services. Transportation charges and risk of loss or damage for such quantities returned while in transit shall be borne by the Contractor.

13.6 If the Contractor fails to correct or replace the nonconforming supplies, equipment or related services within ten (10) days (or such longer period if so specified by the District in writing) after receipt of notice specifying such failure, the District may, by contract or otherwise, correct or replace them with supplies, equipment and related services of similar quality, at the expense of the Contractor. If the Contractor fails to furnish timely disposition instructions, the District may dispose of the defective, improperly shipped or otherwise nonconforming supplies, equipment and related services in a reasonable manner. In such case, the District is entitled to reimbursement for the costs related to disposition from the Contractor and/or from any proceeds generated by the disposition of such supplies, equipment and related expenses.

13.7 Any replacement supplies, equipment or related services furnished by the Contractor to remedy a defect or nonconformity under the warranty shall also be covered by the terms of the warranty.

13.8 The Contractor shall indicate the total period of the warranty after the supplies, equipment and related services are placed into service. Any defects shall be promptly corrected by the Contractor to the satisfaction of the District and without expense to the District.

13.9 Warranty of Title. The Contractor warrants that title to all work, materials or equipment included in a request for payment shall pass over to the District whether or not they are installed or incorporated in the Project, free from any claims, liens or encumbrances, when such payment is made to the Contractor. It further warrants that no such work, materials or equipment have been purchased for work under the Agreement subject to an agreement by which an interest therein or an encumbrance thereon is retained by the seller or supplier. Notwithstanding this provision, the Contractor retains the responsibility for full replacement of any portion of the Project which is damaged or destroyed prior to the Notice of Completion, as specified elsewhere in this Agreement.

13.10 The rights and remedies included in the warranty are in addition to and do not limit the District's rights under any other clause of the Contract Documents.

Article 14 TRENCHING.

14.1 The Contractor shall take reasonable precautions and make reasonable efforts to detect and protect electrical utilities and appurtenances, including hand digging and use of underground detection instruments and services. Contractor will be required to, at its own cost, promptly and satisfactorily repair damages, which could otherwise have been avoided.

14.2 The Contractor shall comply with Government Code section 4216, *et seq.*, relating to subsurface installations.

14.3 If the Agreement involves the excavation of any trench five (5) feet or more in depth, the Contractor shall submit in advance of such excavation, for approval of the Architect and 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 such trench.

14.4 Contractor shall promptly, and before the following conditions are disturbed, notify the Architect, 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; or

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 Agreement.

14.5 If any condition described in section 14.4 is discovered, the District shall promptly investigate the conditions, and if it finds that the conditions differ materially from the conditions described in the bid package, or do involve hazardous waste, and cause a material decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the Project, it may issue a change order to the Contractor or contract with another to perform work necessitated by such condition.

14.6 In the event that a dispute arises between the District and the Contractor regarding 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 Project, the Contractor shall not be excused from any scheduled completion date provided for in the Agreement, but shall proceed with all work to be performed under the Agreement. The Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between contracting parties.

Article 15 STORM WATER DISCHARGE PERMIT. – Applies if checked ☐

15.1 The Contractor shall comply with the terms of the general permit to discharge storm water associated with construction activity (Construction General Permit Order 2009-0009-DWQ, as amended by 2010-0014-DWQ), and/or any similar or successor permits applicable to the project and/or project site. The Contractor shall electronically file the Permit Registration Documents (PRDs) through the SMARTS database system, which will include a Notice of Intent, Storm Water Pollution Prevention Plan, and other documents required by this General Permit, and mail the appropriate permit fee to the State Water Board (warrant to be furnished by the District upon request by the Contractor; allow normal warrant processing time).

15.2 The PRDs shall be filed prior to the start of any construction activity. The Contractor shall also file a Notice of Termination with the Regional Water Board when construction is complete and final stabilization has been reached.

Article 16 TOXIC SUBSTANCES CONTROL ACT.

The Architect, in accordance with 40 CFR, Part 763, EPA Final Rule under Section 203 of Title II of the Toxic Substances Control Act (TSCA), 15, U.S.C. 2641 - 2654, must submit a statement to the District verifying that no asbestos containing building material (ACBM) was specified as a building(s) material, and to the best of its knowledge no ACBM was used as a building material in the building(s). The signed statement shall be submitted prior to Architect's making recommendation to the Board that the building(s) be accepted.

Article 17 INSPECTIONS.

17.1 The District will provide a full time Project Inspector of Record (IOR) to assist the Architect in providing competent and adequate inspection during all normal working periods. No work shall be performed except under the inspection of an IOR.

17.2 The IOR:

1. shall personally examine items used in the Project for compliance with the Contract Documents and technical instructions from the Architect;
2. shall report to the Architect any related work to be installed prior to final approval of shop drawings by the Architect.
3. shall inspect all materials to determine whether they comply with the Contract Documents and are in a good and acceptable condition;
4. shall monitor materials to determine whether those accepted are the materials that

are installed;

5. shall be responsible for monitoring time and material work, by accounting for materials used and logging actual time the Contractor worked on the task;

6. shall supervise on-site testing and ensure that all required tests are performed by a competent testing laboratory; and

7. shall ensure that the Contractor's payment requests accurately reflect progress on the Project and all work completed in compliance with plans and specifications.

17.3 The IOR shall recommend to the Architect to cause the removal and replacement of rejected material and to recommend deduction of the cost thereof from any monies due or to become due the Contractor.

17.4 The IOR shall not do any of the following: authorize any deviations from the Contract Documents; advise on, or issue directions relative to, any aspect of the building technique or sequence unless a specific technique or sequence is called for in the Contract Specifications; or approve shop drawings or samples.

17.5 Notwithstanding the foregoing, the Contractor may not rely upon the IOR to perform any function for which it would otherwise be responsible. For example, that the IOR is expected to attempt to anticipate unacceptable construction practices and to relay such concerns to the Contractor does not remove any responsibility from the Contractor to perform such functions itself.

17.6 When specific inspection is required, the Contractor shall inform the Architect and IOR of the schedule of such work.

17.7 Consistent with requirements of Title 21 and Title 24, Part 1 of the California Code of Regulations, test samples or specimens of material for testing shall be taken by the Architect, the IOR or a representative of the testing agency. In no case shall the Contractor or the Contractor's inspector take the sample. The Architect shall forward one copy of all test reports to the DSA, if required. Testing and inspection shall be paid by the District. Retesting and inspection costs shall be reimbursed to the District by the Contractor.

17.8 Uncovering of Work.

17.8.1 If any work is covered contrary to the request of the District or Architect, it must be uncovered for observation and replaced, at the Contractor's expense.

17.8.2 If any other work has been covered which the Architect has not specifically requested to observe prior to being covered, the Architect may request to see such work and it shall be uncovered by the Contractor. If such work was performed in accordance with the Contract Documents, the cost of uncovering the replacement shall, by appropriate change order, be charged to the District. If such work was not performed in accordance with the Contract Documents, the Contractor shall pay such costs.

17.9 Correction of Work.

17.9.1 The Contractor shall promptly correct all work rejected by the District/Architect as defective or as failing to conform to the Contract Documents whether observed before or after substantial completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected work, including the cost for additional services of the District's representatives thereby made necessary.

17.9.2 The Contractor shall bear the cost of making good all work of separate contractors that is destroyed or damaged by removal or correction.

17.10 Final Inspections. The Contractor will be allowed two (2) inspections by the District, the IOR or the District's representatives at the close of the Project to determine completion. The first inspection will be a pre-final inspection. The second inspection, if required, will be the final inspection. All items listed on the pre-final list and any other items required by the Contract Documents and brought to the attention of the Contractor a minimum of five (5) working days before the final inspection shall be completed prior to the final inspection. Any visits to the Project by the District or the District's representative to confirm the completeness of the Project after the final inspection will be charged to the Contractor at the District and the District's representative's normal hourly rates and deducted from the contract sum.

17.11 If work is performed on Saturdays, Sundays, holidays, or after regular work hours during the week, the Contractor shall reimburse the District for all inspection costs incurred during such hours.

Article 18 AUDITING PROCEDURES.

18.1 Upon written notice to Contractor, the District shall have the right to audit all records and documents of any nature whatsoever under the custody or control of the Contractor or Contractor's agents, subcontractors, or representatives, which relate to the Project. Upon the District's request, Contractor shall make these records available to the District, the District's auditors or other representatives appointed by the District.

18.2 The Contractor agrees to comply with the provisions of Sections 1776 and 1812 of the California Labor Code. The Contractor and each Subcontractor shall keep or cause to be kept an accurate record showing the names, addresses, social security numbers, work classifications, activity code for the work provided, straight time and overtime hours worked each day and week of all workmen employed by it in connection with the execution of this Contract or any subcontract thereunder and showing the actual wages paid to each of such workers. These records shall be certified and shall be (1) provided on a weekly basis to the District, and (2) made available for inspection by the Chief of the Division of Labor Standards Enforcement of the State Department of Industrial Law Enforcement of the State Department of Industrial Relations, his deputies and agents.

18.3 Contractor shall ensure that all subcontractors maintain appropriate records relating to the Project. Contractor agrees to furnish records of any subcontractors or other agents of Contractor to the District upon request. If the District requests records relating to a subcontractor or other agent's involvement in the Project, such requests shall be processed through the Contractor. A Contractor's failure to abide by the provisions of the Article shall be deemed a material breach of the contract and, upon the District's election, may be considered a default.

Article 19 MISCELLANEOUS.

19.1 All practices, materials, and workmanship shall conform to all provisions of law applicable to public works projects, including but not limited to: the California Code of Regulations, Titles 19, 21, and 24; regulations promulgated by the DSA; Public Contract Code Sections 4100-14; Government Code section 4215; Labor Code sections 1720-35, 1770-81, 1810-15, 1860, and 3700; Education Code sections 39140-59; the National Electric Code; the Uniform Plumbing Code; the Uniform Mechanical Code; and all other applicable laws and regulations, each of which are incorporated into this Agreement by reference. Further, all work and materials shall be in full accordance with the most current rules and regulations

of the Fire Marshal and the Division of Industrial Safety. Such laws and regulations shall be considered a part of theses specifications as if set forth herein in full and all work hereunder shall be executed in accordance therewith. Nothing in these plans or specifications is to be construed to permit work not conforming to all requirements of law. The Contractor shall keep a copy of Titles 19, 21, and 24 of the California Code of Regulations on the job at all times.

19.2 The Contractor may not assign or delegate all or any portion of this Contract without the written consent of the District and no such consent shall be given which would relieve the Contractor or its surety of their responsibilities under the Contract. The Contractor may assign monies due it under the Contract to banks, trust companies or other financial institutions provided written notice thereof is promptly delivered to the District. Assignment of monies earned by the Contractor shall be subject to the same retention as other payments made to it, and shall also be subject to any prior liens for labor, services, materials, equipment or other appliances supplied for the performance of Work under this Contract.

END OF SECTION

DOCUMENT 00630

GUARANTEE FORM

GUARANTEE FOR

_____

(WORK)

We hereby guarantee that the _____work performed for the construction

of_____ [Project] at _____[Site] has been performed in accordance with the Drawings and Specifications and that the work, as installed, will fulfill the requirements of the Guarantee included in the Specifications. We agree to repair or replace all of our work, together with adjacent work which may be displaced by so doing, that may proven to be defective in its workmanship or materials within a period of _____ (_____) year(s) from date of recordation of Notice of Acceptance for the above named project by the District, without any expense whatsoever to the said District, ordinary wear and tear and unusual abuse or neglect excepted.

In the event of our failure to comply with the above mentioned conditions within seven (7) days after being notified in writing by the District, we collectively or separately do hereby authorize the District to proceed to have said defects repaired and made good at our expense and we will honor and pay the costs and charges therefrom upon demand.

Date: _____ Signed:_____
(Subcontractor) (Supplier)

Date: _____ Signed:_____
(Contractor)

Date: _____ Signed:_____
(Trade Contractor Countersignature if applicable)

Local Representative to be contacted for services:

Name: _____ Phone No. _____

Address: _____

(SAMPLE FORM)

706-5/4386754.1