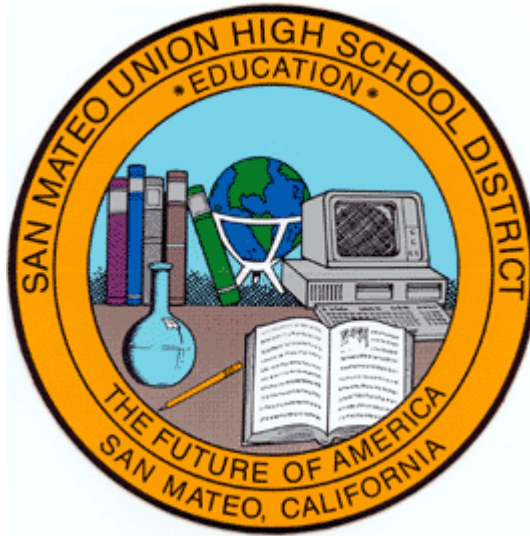


# **SAN MATEO UNION HIGH SCHOOL DISTRICT**



## **REQUEST FOR QUALIFICATIONS/PROPOSALS**

Design-Build Services Contract for

### **District Office Parking Lot Solar Array Project**

**October 3, 2019**

**San Mateo Union High School District  
650 N. Delaware Street  
San Mateo, CA 94401**

**NOTICE OF REQUEST FOR QUALIFICATIONS/PROPOSALS  
SAN MATEO UNION HIGH SCHOOL DISTRICT  
DESIGN-BUILD SERVICES CONTRACT FOR  
DISTRICT OFFICE PARKING LOT SOLAR ARRAY PROJECT**

San Mateo Union High School District  
650 N. Delaware  
San Mateo, CA 94401

October 3, 2019

The District, acting through its Board of Trustees, is seeking proposals from Design Build Entities (“Proposers”) to provide design, engineering and construction services for the **District Office Parking Lot Solar Array Project** (“Project”). The District will select a design-build entity based on qualifications and “best value criteria” as set forth in the Request for Qualifications/Proposals for the Project (“RFP”).

All proposals in response to the RFP are due October 25<sup>th</sup>, 2019 by no later than 1:00 p.m. as determined by time and date stamp clock at the District’s office. FAX OR EMAIL RESPONSES WILL NOT BE ACCEPTED. All Proposal envelopes will be time-stamped to reflect their submittal time. District will reject all Proposals received after the specified time and will return such Proposals to the Proposers. Proposers must submit Proposals in accordance with this RFP and addressed to:

**Elizabeth McManus  
Deputy Superintendent, Business Services  
San Mateo Union High School District  
650 N. Delaware  
San Mateo, CA 94401**

If you have questions regarding the RFP, submit in writing via email on or before 2:00 p.m., October 21, 2019 Greystone West Company, attention Damien Lee, [damien@greystonewest.com](mailto:damien@greystonewest.com), (707)-933-0624.

The RFP is not an offer by the District to contract with any modular design-build entity responding to the RFP. The District reserves the right to cancel or withdraw the RFP or to reject all Proposals and issue a new request for proposals.

Sincerely,

Elizabeth McManus  
Deputy Superintendent, Business Services  
San Mateo Union High School District

Publication Dates      1) October 10, 2019      2) October 17, 2019

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## 1. INTRODUCTION AND OBJECTIVE

The District is seeking a qualified design-build entity for design, engineering and construction services for the Project. The District owns property at 650 North Delaware Street, San Mateo, California (the “Site”) requiring the construction of a new solar array/ shade structure, and re-installation of District owned/supplied solar panels with associated electrical work to connect panel array to existing infrastructure. Contractor is required to complete a design matching existing installation on campus and submit drawings to Division of State Architect for approval. Construction is estimated to start in June 2020 and be completed by August 2020. Pursuant to Education Code Sections 17250.10 et seq., the Board has authorized the use of the “Design-Build Contracts” delivery method to design, engineer and construct the Project. The District is looking for the “Best Value” to the District in evaluating proposals pursuant to Education Code Section 17250.25(f). The “Best Value” criteria are described in detail in Section 5 and include price, features, functions and life-cycle costs, experience and overall thoroughness of the proposal and responsiveness to this RFP.

The District will select the prime contractor whose proposal is found to provide the “Best Value” to the District and enter into a Design-Build Contract with the selected prime contractor substantially in the form of Exhibit B, attached hereto and incorporated herein by this reference. The Design-Build Contract will include the General Conditions in Exhibit C, attached hereto and incorporated herein by this reference as well as the “Contract Documents” as described in the Design-Build Contract. The District will issue a Notice of Award to the selected prime contractor substantially in the form of Exhibit D attached hereto and incorporated herein by this reference. The Project will commence upon the District’s issuance of the Notice to Proceed substantially in the form of Exhibit E attached hereto and incorporated herein by this reference.

The Project has a total estimated price of \$375,000 and will be completed in two phases. The first phase (“Phase 1”) will consist of design, engineering and pre-construction services and has an estimated price of \$50,000 and the second phase (“Phase 2”) has an estimated price of \$325,000. The Project will be funded by Measure O, Fund 21.

## 2. PROJECT SCOPE, LIMITATIONS AND RESTRICTIONS

### 2.1 Scope of Services

The District seeks to retain the services of one (1) contractor to provide Phase 1 and Phase 2 services. The District will enter into a Design-Build Services Contract with the selected contractor that will be responsible for Phase 1 design, engineering and pre-construction services and Phase 2 construction services for the Project.

#### PHASE 1 Description of Work:

Prepare drawings consistent with the District’s standard design as required to achieve DSA Approval. Drawings should include, but not be limited to, the shade structure foundation, columns, beams, perkins, solar panel mounting, lighting as described in schematic drawing, associated appurtenances, incorporation of uplift ratings, etc. as required by DSA.

## PHASE 2 Description of Work:

Manufacture and installation of parking lot shade structure to match existing installations on campus. Testing of existing solar panels for proper operation shall be included in scope. Contractor shall supply and install all items needed for a complete and working design and installation per guidelines in schematic drawings and per DSA approved drawings.

There will be a separate Notice to Proceed (NTP) for each phase. Phase 1 will begin with contract award. Phase 2 will begin once the Design-Build Contract has been accepted by the District and approximately 30 days after DSA approval of the Project. District is not obligated to proceed with Phase 2, or with the selected DBE.

A copy of the proposed Design-Build Contract that the District contemplates issuing to the successful Design-Build Entity is attached hereto as Exhibit B. District reserves the right, exercised in its sole discretion, at any time prior to Award to unilaterally change, by addition, modification or deletion, any of the terms of the Design-Build Contract in accordance with the procedures therefore set forth in the RFP Documents.

### 2.2 Limitations

The District reserves the right to withdraw or cancel this RFP and the right to reject all proposals. The District makes no representation that participation in the RFP process will lead to an award of contract or any consideration whatsoever. The District shall in no event be responsible for the cost of preparing any proposal in response to this RFP.

### 2.3 Protest Rights and Procedures

No protest may be filed based on the District's cancellation or withdrawal of this RFP, or the District's rejection of all proposals. **Any protest must be in writing and received by the District Office before 5:00 p.m. no later than three (3) working days following announcement of the results of the evaluation and rating of proposals as provided in Section 5 below.** All protests must strictly comply with the following requirements:

- a. The protest must contain a complete statement of the basis for the protest, and all supporting documentation.
- b. The party filing the protest must have actually submitted a proposal for the Project. A Subcontractor of a Proposer submitting a proposal for the Project may not submit a protest. A Proposer may not rely on the protest submitted by another Proposer but must timely pursue its own protest.
- c. The protest must refer to the specific portion or portions of the Contract Documents upon which the protest is based.
- d. The protest must include the name, address and telephone number of the person representing the protesting Proposer if different from the protesting Proposer.
- e. The Proposer filing the protest must concurrently transmit a copy of the protest document and all supporting documentation, as required above, to all other Proposers with a direct financial interest which may be affected by the outcome of the protest,

including all other Proposers who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.

- f. The Proposer whose proposal has been protested may submit a written response to the protest. Such response shall be submitted to the District no later than 5 p.m., no later than two (2) working days after the deadline for submission of the protest or other receipt of the protest, whichever is sooner, and shall include all supporting documentation. Such response shall also be transmitted concurrently to the protesting Proposer and to all other Proposers who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.
- g. The procedure and time limits set forth in this section are mandatory and are the Proposer's sole and exclusive remedy in the event of protest. The Proposer's failure to comply with these procedures shall constitute a waiver of any right to further pursue the protest, including filing a Government Code Claim or legal proceedings. A Proposer may not rely on a protest submitted by another Proposer, but must timely pursue its own protest.
- h. If the District determines that a protest is frivolous, the protesting Proposer may be determined to be non-responsible and that Proposer may be determined to be ineligible for future contract awards by the District.
- i. A "working day" for purposes of this section means a weekday during which the District's office is open and conducting business, regardless of whether or not school is in session.

The District reserves the right to shorten the time period for submitting and responding to a protest, whenever the District or its designee determines it is in the District's best interest to do so. Prospective Proposers will be notified by addenda of any such change.

#### 2.4 Restriction on Lobbying and Contacts

From the period beginning on the date of the issuance of this RFP, and ending on the date of the award of the contract, no person, or entity submitting a response to this RFP, nor any officer, employee, representative, agent, or consultant representing such a person or entity shall contact any person within the District, Architect or Construction Manager companies to engage in discussion of the process of selection or award process except for the District designee for questions as provided in this RFP.

### 3. GUIDELINES FOR PROPOSAL SUBMITTAL

Each proposal submitted in response to this RFP must be submitted in accordance with the following instructions:

### 3.1 RFP Schedule and Milestones:

<u>Milestone</u>	<u>Date</u>
Request for Proposals (RFP) issued	October 10, 2019
Written questions due	October 21, 2019
Proposals due	October 25, 2019
Proposers notified of results	October 29, 2019
Debriefing of Successful Proposer	
Board Approval and Award of Contract	November 14, 2019
Notice of Award Issued	November 15, 2019
*Design-Build Contract Signed	November 29, 2019
*Notice to Proceed Issued	December 4, 2019
DSA Submittal	January 15, 2020
Anticipated DSA Backcheck	May 15, 2020
Anticipated Mobilization	June 1, 2020
Project Completion	August 14, 2020

\*Date may be extended

### 3.2 General Requirements:

1. Proposals in response to this RFP must be submitted in writing and signed by an authorized officer of the Proposer.
2. Proposals submitted in response to this RFP must be as specific as possible when responding to the identified areas enabling the District to understand the overall proposal. The District reserves the right to request clarification and/or additional information from any Proposer. The District reserves the right, at its sole discretion, to waive any proposal irregularity that is not prejudicial to the other proposers. The District reserves the right to change key dates and actions as the need arises and will issue addenda to this RFP concerning such changes.
3. Each Proposer must submit one (1) signed and bound copy and one electronic copy on flash drive of the proposals in response to this RFP and must be received in the offices of the District no later than 1:00 p.m. on October 25, 2019.

Proposals submitted after this date cannot be accepted and will be returned to the Proposer unopened.

### 3.3 Requests for Information

Any questions relative to this RFP must be in writing and directed to the Architect of Record at the address specified in the Notice of RFP.

### 3.4 Proposal Forms

Proposals must be in substantial compliance with the form provided by the District. A copy of the Proposal Form is attached hereto as Exhibit F. All items on the form should be typewritten.

Numbers should be stated in figures, and the signatures of all individuals must be in long hand. The completed form should be without interlineations, alterations, or erasures.

### 3.5 Execution of Forms

Each Proposal must give the full business address of the Proposer and must be signed by the Proposer or Proposer's authorized representative with his or her usual signature. Proposals by partnerships must furnish the full names of all partners and must be signed in the partnership name by a general partner with authority to bind the partnership in such matters. Proposals by corporations must be signed with the legal name of the corporation, followed by the signature and designation of the president, secretary, or other person authorized to bind the corporation in this 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 person signing on behalf of the Proposer shall be furnished. Failure to properly sign required forms may result in rejection of the proposal. All proposals must include the Proposer's license number(s) and expiration date(s).

### 3.6 Proposal Security

Proposals should be accompanied by a certified or cashier's check or bond for an amount not less than ten percent (10%) of the proposal amount, payable to the order of the District. A bond must be secured by an admitted surety company, licensed in the State of California, and satisfactory to the District. The proposal security shall be given as a guarantee that the Proposer will enter into the Design-Build Contract if awarded the Project, and in the case of refusal or failure to enter into the contract within ten (10) calendar days after notification of the award of the contract or failure to provide payment and performance bonds and proof of insurance as required by the Design-Build Contract, General Conditions, Construction Documents, Detailed Project Schedule Annual Usage Information ("Contract Documents,") the District shall have the right to award to another contractor and declare the proposal security forfeited. The District reserves the right to declare the bond forfeited and to pursue all other remedies in law or equity relating to such breach including, but not limited to, seeking recovery of damages for breach of contract. Failure to provide proposal security, or proposal security in the proper amount, will result in rejection of the proposal.

### 3.7 Withdrawal of Proposals

Proposals may be withdrawn by the Proposers prior to the time fixed for reviewing proposals, but may not be withdrawn for a period of sixty (60) days after the reviewing of proposals, except as permitted pursuant to Public Contract Code section 5103.

### 3.8 Addenda or Bulletins

Any addenda or bulletins issued prior to the deadline for submission of proposals shall form a part of the Construction Documents issued to Proposers for the preparation of their proposals and shall constitute a part of the Contract Documents. No addenda will be issued in response to Proposer requests received later than seven (7) days before the scheduled date for review of proposals, but the District reserves the right to issue addenda prior to proposal deadline submission subject to the limitations of Public Contract Code section 4104.5.

### 3.9 Bonds



The successful Proposer shall be required to submit payment and performance bonds as specified in the Contract Documents. All required bonds shall be calculated on the maximum total purchase price as awarded, including additive alternates, if applicable. A Proposer's failure to submit the bonds as requested shall result in rejection of the proposal.

### 3.10 Right to Hold Discussions or Negotiations With Proposers

It is not the intent of the District to hold discussions or negotiations with responsive Proposers. Proposals should contain the Proposers' best proposal in response to the RFP. Pursuant to Education Code section 17250.25(d)(4), the District does reserve the right to hold discussions and negotiations if holding such discussions or negotiations is deemed to be in the best interest of the District. The District may contact the Proposers whose proposals are within the "competitive range" to hold discussions and negotiations. **Competitive range is defined as the three (3) proposals receiving the highest "Best Value" evaluation scores under Section 5 below.** Following the discussions or negotiations, these Proposers will be given the opportunity to submit a Final Revised Proposal and the District will rescore any Final Revised Proposal for purposes of awarding the Project. During the process of discussions or negotiations, the District shall not disclose the contents of proposals to competing Proposers.

### 3.11 Rejection of Proposals and Award of Contract

The District reserves the right to waive any irregularities in a proposal, the right to accept or reject any and all proposals, or to accept or reject any portion or combination thereof, or to abandon the work entirely, when to do so is in its own best interest. The Board intends to award the Design-Build Contract at the November 14, 2019 Board meeting based on the District's determination of the proposal that is the Best Value to the District and in compliance with the requirements of the Contract Documents. The time for awarding the Design-Build Contract may be extended by the Board.

### 3.12 Execution of Design-Build Contract and Program Stabilization Agreement Letter of Assent

The successful contractor shall, within ten (10) calendar days of notice of award of the contract, sign and deliver to the District the executed contract along with the bonds and certificates of insurance required by the Contract Documents and a letter of assent substantially in the form attached as Addendum A to the Program Stabilization Agreement ("PSA"), which is attached hereto as Exhibit H. In the event the contractor to whom an award is made fails or refuses to execute the contract within ten (10) calendar days from the date of notification that the contract has been awarded to the contractor, or fails to provide the bonds and certificates as required, the District may declare the contractor's proposal deposit or bond forfeited as damages caused by the failure of the contractor to enter into the contract, and may award the work to the next lowest responsible responsive contractor, or may reject all proposals and, at its sole discretion, call for new proposals.

### 3.13 Taxes

Taxes shall be included in the proposal prices. The District will pay only the State sales and use taxes. Federal excise taxes are not applicable to school districts.

### 3.14 RFP Exceptions

All exceptions which are taken in response to this RFP must be stated clearly. The taking of RFP exceptions or providing false, incomplete or unresponsive statements may result in the disqualification of the Proposer. Allowance of exceptions will be determined by the Board, whose decisions shall be final. Any RFP exceptions or additional conditions requested after RFP closure, which are not detailed within the RFP response, may result in disqualification of the Proposer. No oral or telephonic modification of any proposal submitted will be considered and a sealed telegraphic modification may be considered only if received prior to opening of proposals. Faxed proposals or modifications will not be accepted.

### 3.15 Discounts

Any discounts which the Proposer desires to provide the District must be stated clearly on the proposal form itself so that the District can calculate properly the net price of the proposal. Offers of discounts or additional services not delineated on the proposal form will not be considered by the District in the determination of Best Value.

### 3.16 Quantities

The quantities shown are approximate. The District reserves the right to increase or decrease quantities as desired.

### 3.17 Prices

Contractors must quote prices F.O.B. unless otherwise noted. Prices should be stated in the units specified and contractors should quote each item separately.

### 3.18 Samples

On request, samples of the products being proposed shall be furnished to the District.

### 3.19 Special Brand Names/Substitutions

In describing any item, the use of a manufacturer or special brand does not restrict proposing to that manufacturer or special brand, but is intended only to indicate quality and type of item desired, except in those instances where the product is designated to match others in use on a particular public improvement either completed or in the course of completion or as otherwise provided in subdivision (b) of Section 3400 of the Public Contract Code, contractors may furnish any material, product, thing or service of comparable quality or utility. Substitute products will be considered either prior to or after the award of the contract in accordance with Section 3400 of the Public Contract Code and as set forth in the Contract Documents. All data substantiating the proposed substitute as an "equal" item must be submitted with the written request for substitution. The District reserves the right to make all decisions on product and vendor selection.

### 3.20 Container Costs and Delivery

All costs for containers shall be borne by the contractor. All products shall conform to the provisions set forth in the federal, county, state and city laws for their production, handling,

processing and labeling. Packages shall be so constructed in ensure safe transportation to point of delivery.

### 3.21 Prevailing Law

In the event of any conflict or ambiguity between these instructions and state or federal law or regulations, the latter shall prevail. Additionally, all equipment to be supplied or services to be performed under the proposal shall conform to all applicable requirements of local, state and federal law, including, but not limited to, California Labor Code Sections 1771, 1778 and 1779.

### 3.22 Governing Law and Venue

In the event of litigation, the Contract Documents and related matters shall be governed by and construed in accordance with the laws of the State of California, with venue in the state court within the county in which the Project is located.

### 3.23 Subcontractors

Pursuant to the Subletting and Subcontracting Fair Practices Act, Public Contract Code Sections 4100-4114, inclusive, every contractor shall, on the Subcontractor List Form attached to the Request for Proposal set forth:

- a. The name and location of the place of business of each Subcontractor who will perform work or labor or render service to the contractor in or about the work or fabricate and install work in an amount in excess of one-half (1/2) of the one percent (1%) of the contractor's total proposal.
- b. If the Proposer fails to specify a Subcontractor for any portion of the work to be performed under the contract in excess of one-half (1/2) of one percent (1%) of the contractor's total proposal, Proposer agrees that Proposer is fully qualified to and will perform that portion of the work. The successful Proposer shall not, without the consent of the District or compliance with Public Contract Code Sections 4100 - 4114, either:
  - 1) Substitute any person as Subcontractor in place of the Subcontractor designated in the original proposal;
  - 2) Permit any subcontract to be voluntarily assigned or transferred or allow the work to be performed by anyone other than the original Subcontractor listed in the proposal; or
  - 3) Sublet or subcontract any portion of the work in excess of one-half (1/2) of one percent (1%) of the total proposal as to which the contractor's original proposal did not designate a Subcontractor.
- c. Subcontractor pricing.

### 3.24 Examination of Contract Documents and Work Site

The following documents are made a part of this RFP:

a. **Schematic Design**

- 1) Drawing by Quattrocchi Kwok Architects “San Mateo Union High School District Office Parking Lot Solar Array”

b. **Reference Documents**

- 1) Geotechnical Investigation: New District Office Building and Parking Lot Project San Mateo Union High School District

c. **Exhibits:** RFP includes the exhibits listed in Section 7.

Before submitting a proposal, Proposers shall examine the RFP, including the Criterial Documents, the Reference Documents and Exhibits. Proposers shall visit the site of the proposed work and shall fully inform themselves of all conditions in and about the work site, the building or buildings, if any, and any work that may have been done thereon. However, no Proposer shall visit the site without prior authorization. All Proposers are requested to contact the District Deputy Superintendent Business Services or designee for coordination of site visits. Submission of a proposal constitutes acceptance of the terms of this provision.

3.25 Form of Contract

The Proposer selected by the District will be required to execute the Design-Build Contract substantially in form and substance as Exhibit B. The Design-Build Contract and related documents are subject to the approval of the Board.

3.26 Licenses

Each contractor, and their Subcontractors, if any, must possess all appropriate and required licenses or other permits to perform the work as identified in the Contract Documents. Upon request, each Proposer shall furnish the District with evidence demonstrating possession of the required licenses or permits. Failure to promptly submit such evidence to the District's satisfaction may result in rejection of the proposal.

3.27 Denial of Right to Submit Proposal

Proposers who have failed to complete the Proposer's Pre-Qualification Questionnaire and/or receive an acceptable score shall have proposals returned without District review of their proposal. Proposers or Subcontractors who have violated state law governing public works shall have proposals returned without district review on this public work contract pursuant to California Labor Code Section 1777.7.

### 3.28 Proposers Interested in More Than One Proposal

No person, firm, or corporation shall be allowed to make, or file, or be interested in more than one proposal unless alternate proposals are specifically called for. A person, firm, or corporation that has submitted a subproposal to a Proposer, or that has quoted prices of materials to a Proposer, is not thereby disqualified from submitting a sub-proposal or quoting prices to other Proposers or from submitting a prime proposal.

### 3.29 Contractor's State License Board

Proposers are required by law to be licensed and regulated by the Contractors' State License Board. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P. O. Box 26000, Sacramento, California 95826.

### 3.30 Fingerprinting

By law it is the District's responsibility to determine whether a Proposer must provide fingerprint certification. Pursuant to Education Code section 45125.2, the District considers the totality of the circumstances in order to determine if fingerprinting of employees of a contractor working on a school site is required. Factors to be considered include the length of time the Proposer's employees are on school grounds, whether students are in proximity with the location where the Proposer's employees are working, and whether the Proposer's employees are working alone or with others. A determination regarding whether fingerprint certification is required is contained in the General Conditions.

### 3.31 Disabled Veterans Participation Goals

In accordance with Education Code section 17076.11, this District has a participation goal for disabled veteran business enterprises ("DVBE") of at least 3 percent per year of the overall dollar amount of funds allocated to the District by the State Allocation Board pursuant to the Leroy F. Greene School Facilities Act of 1998 for construction or modernization and expended each year by the District. Prior to, and as a condition precedent for final payment under any contract for such project, the Proposer shall provide appropriate documentation to the District identifying the amount paid to disabled veteran business enterprises in conjunction with the contract, so that the District can assess its success at meeting this goal. The Office of Small Business and DVBE Certification (OSDC), (916) 375-4940, [www.osmb.dgs.ca.gov/BIS/bis\\_queries/bis\\_queries\\_menu.asp](http://www.osmb.dgs.ca.gov/BIS/bis_queries/bis_queries_menu.asp), is an information resource to assist contractors in locating Disabled Veteran Business Enterprises. (Please note: while the OSDC may be used as a resource, the DVBE Program administered by OSDC applies to state contracts, not local agency (school district) contracts.)

### 3.32 Labor Compliance Program

This contract is \_\_\_/ is not X subject to a labor compliance program, as described in subdivision (b) of Section 1771.5 of the Labor Code.

### 3.33 Additive and Deductive Items

Pursuant to Public Contract Code section 20103.8, this RFP solicitation may include additive and/or deductive items and the following method shall be used to determine the value of the proposal:

The value determination by the District includes all design-build services. This section can be deleted if there are no alternate bids, and there are currently no alternates contemplated.

Notwithstanding the method used by the District to determine the Proposer of Best Value to the District, the District retains the right to add to or deduct from the contract any of the additive or deductive items included in the RFP solicitation.

#### 4. PROPOSER QUALIFICATIONS

Proposers will be qualified and eligible to have their proposals to this RFP reviewed and evaluated **only if** they are pre-qualified as provided below. Proposer will first be evaluated for qualifications. Only responses by qualified Proposers will be considered by the District. RFP responses from qualified Proposers will be evaluated under a “Best Value” to the District standard. Proposer qualifications will be evaluated using the Qualifications Criteria in this Section 5 below. The Qualifications Criteria have a total point value of 100 points and a Proposer must receive a minimum score of 75 points to be found qualified and eligible to submit a proposal.

##### 4.1 Minimum Qualifications (No Points - Pass Or Fail)

Each Proposer must meet the required minimum qualifications as follows:

- Proposer must have a current DSA Pre-check approval for a shade structure meeting the requirements of schematic drawing with required uplift rating for solar panel mounting.
- The Proposer and sub-contractors in its team must have valid and current California licenses.
- The Proposer must have demonstrated project submittal experience with the California Division of the State Architect (DSA).
- The Proposer’s firm must have been in business in California under the present company or business name and license number for the last three years.
- The Proposer must meet or exceed minimum project bonding, insurance and labor requirements.

##### 4.2 Firm Information (No Points – For Information Only)

- The Proposer shall provide a brief history of its firm, identifying legal form, ownership and senior officials of company and state the number of years in business.
- The Proposer shall provide current and active California Contractors License(s).
- The Proposer shall list and briefly describe any debarment, disqualification, or removal from a federal, state or local government public works project.

- The Proposer shall list and briefly describe any instance where the Proposers, its owners, officers or managing employees defaulted on a construction contract.
- The Proposer shall list and briefly describe any instance where the Proposer, its owners, officers or managing employees submitted a proposal or bid on a public works project and were found by an awarding body not to be a responsible proposers or bidder.
- The Proposer and its owners, officers, or managing employees shall list all adverse claims, disputes, or lawsuits arising from any school, public or private project for which the Proposer provided work within the past 5 years and state and briefly describe the issues involved in the claims, disputes or lawsuits. For lawsuits, the Proposer must describe the status of the lawsuit and provides the names of parties and the outcome of the lawsuit if resolved.
- The Proposer shall provide information concerning any bankruptcy or receivership involving the Proposer or its owners, officers or managing employees, including information concerning any work completed by a surety.

#### 4.3 Financial Performance (Maximum 10 Points)

- If public, Proposers shall provide a website link to their audited annual investment reports. If private, Proposers shall attach audited financial statements for the last two (2) years.

#### 4.4 Building Center Design-Build Project Experience (Maximum 45 Points)

- Demonstrate technical experience and capability to construct and manage a project similar in size to the Project.
- Demonstrate experience and capabilities in design-build delivery.
- Identify and provide references for a minimum of three (3) K-14 projects within the last five (5) years, each in excess of \$50,000. At least two must be approved and certified by the DSA with design inclusive of solar panels.
- Name of project, size of project and District or Owner
- Contact person and telephone number

#### 4.5 Proposed Project Team (Maximum 20 Points)

The selected firm shall employ at its expense professionals properly licensed and skilled in the execution of the functions required for the execution of the Project.

Identify of Project team inclusive of a California licensed Structural Engineer. Provide resumes of all team members and engineers:

- Qualifications/certifications.
- List license numbers and dates

#### 4.6 Insurance And Bonding (Maximum 10 Points)

Provide the following regarding insurance coverage for the estimated value of the Project.

- Provide evidence from Insurance Carrier (i.e. letter, certificate)
- Professional Liability Insurance for Architect and Engineer of Record \$2 Million per occurrence, \$2 Million aggregate
- General Liability Insurance \$2 Million per occurrence, \$2 Million aggregate
- Payment and Performance Bonds for full value of approximately \$25M
- Workers Compensation
- Financially viable Insurance rating of VIII or better and licensed in the State of California

#### 4.7 Safety (OSHA) (Maximum 15 Points)

Compliance with California Occupational Safety and Health Act (“OSHA”) and with Other Labor Legislation Safety:

- Has OSHA cited and assessed penalties against your firm for any “serious,” “willful” or “repeat” violations of its safety or health regulations in the past five years?

**NOTE: If you have filed an appeal of a citation, and the Occupational Safety and Health Appeals Board has not yet ruled on your appeal, you need not include information about it.**

If “yes,” attached a separate signed page describing the citations, including information about the dates of the citations, the nature of the violation, the project on which the citation(s) was or were issued, the amount of penalty paid, if any. If the citation was appealed to the Occupational Safety and Health Appeals Board and a decision has been issued, state the case number and the date of the decision.

- Has the Federal Occupational Safety and Health Administration cited and assessed penalties against your firm in the past five years?

**NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.**

If “yes,” attach a separate signed page describing each citation.

- Has the EPA or any Air Quality Management District or any Regional Water Quality Control Board cited and assessed penalties against either your firm or the owner of a project on which your firm was the contractor, in the past five years?



**NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.**

If “yes,” attach a separate signed page describing each citation.

- How often do you require documented safety meetings to be held for construction employees and field supervisors during the course of a project?
- List your firm’s Experience Modification Rate (EMR) (California Workers’ Compensation Insurance) for each of the past three premium years:

**NOTE: An Experience Modification Rate is issued to your firm annually by your workers’ compensation insurance carrier.**

Current year

Previous year

Year prior to previous year

If your EMR for any of these three years is or was 1.00 or higher you may, if you wish, attach a letter of explanation.

- Within the last five years has there ever been a period when your firm had employees but was without Workers’ Compensation insurance state-approved self-insurance?

If “yes,” please explain the reason for the absence of Workers’ Compensation insurance on a separate signed page. If “No,” please provide a statement by your current Workers’ Compensation insurance carrier that verifies periods of Workers’ Compensation insurance coverage for the last five years. (If your firm has been in the construction business for less than five years, provide a statement by your Workers’ Compensation insurance carrier verifying continuous Workers’ Compensation insurance coverage for the period that your firm has been in the construction business.)

5. “BEST VALUE” EVALUATION CRITERIA (QUALIFIED PROPOSERS ONLY)

Proposers who are determined to be “Qualified” and eligible to submit proposals in response to this RFP will have their proposals reviewed, evaluated and scored. The District will use a “Best Value” to District standard in evaluating and scoring proposals. The maximum total scoring value of any proposal is 250 points. The District will award the Design-Build Contract to the Proposer whose proposal received the highest point value using the weighted point methodology described below.

5.1 Weighted Rating of “Best Value” Criteria

**With the exception of the price criterion as described below in Section 5.2 below**, the District will use a weighted approach in evaluating responses to each “Best Value” criteria using a qualitative assessment of the response and awarding point values, as follows:

Table 5.1.1

<u>“Best Value” Criteria Response Rating</u>	<u>Percent of Maximum Points Award</u>
Excellent	100% of maximum points
Very good	90% of maximum points
Good	80% of maximum points
Fair	70% of maximum points
Poor	50% of maximum points
No response	“0” points

For example, the maximum points for the criterion “Technical experience and expertise with like projects” is 30 points. Based on a qualitative assessment of the response to the criterion, points will be awarded using the following methodology:

Table 5.1.2

<u>“Best Value” Criterion</u>	<u>Response Rating</u>	<u>Percent of Maximum Points Award</u>	<u>Points Awarded</u>
Technical experience and expertise with like projects (30 Points Maximum)			
Proposer 1	Excellent	100%	30 points awarded
Proposer 2	Very good	90%	27 points awarded
Proposer 3	Good	80%	24 points awarded
Proposer 4	Fair	70%	21 points awarded
Proposer 5	Poor	50%	15 points awarded
Proposer 6	No response	“0” points	0 points awarded

The District will evaluate and score all proposals from qualified and eligible Proposers using the “Best Value” to District evaluation and scoring matrix that is attached hereto as “Exhibit I” and incorporated herein by reference. The District will announce to the Proposers the results of the scoring on **October 29, 2019**. The District will hold a conference at its offices to “debrief” the successful Proposers TBD.

## 5.2 “Best Value” Evaluation Criteria

### 1. Price (Maximum 50 points)

The price evaluation shall be objective and determined by assigning the Proposer with the lowest price the maximum price points; i.e., 100, and assigning proportionately lower price scores to higher prices using the following formula:

- $(\text{lowest price proposal} / \text{evaluated price proposal}) \times 100 = \text{assigned points.}$

For example, if the lowest price proposal is \$3,300,000, the Proposer shall receive 100 points. If the next lowest price is 3,400,000, the Proposer shall receive 97.01 points based on the following calculation:

$$\$3,300,000 / \$3,400,000 (x) 100 = 97.01 \text{ price points}$$

### 2. Technical experience and expertise with like projects (Maximum 30 points)

- Prior new classroom addition project experience
- References
- Price of prior new classroom addition project
- Budget and delivery dates met

### 3. Workforce and available skilled and qualified subcontractors (Maximum 35 points)

- Internal organization work experience with new classroom addition projects
- Available subcontractors with new classroom addition experience

### 4. Safety record (Maximum 20 points)

5. Life-cycle cost analysis (LCCA) (Maximum 10 points)
    - Alternative building or building systems costs related to performance, operation and maintenance
    - Prior life cycle cost analysis and validation
    - Ease of operation of building systems (related to LCCA)
    - Ease of maintenance of building systems (related to LCCA)
  6. Project schedule and delivery date (Maximum 20 points)
  7. Ability to meet District's Design Concept (Maximum 20 points)
  8. Ability to deliver Solar Array per Schedule (Maximum 30 points)
  9. Management and staffing approach (Maximum 20 points)
    - Organizational structure
    - Location of office
    - Approach to design-build management
  10. Ability to meet/incorporate Collaborative for High Performance Schools Standards (Maximum 5 points)
  11. Ability to meet energy savings goals (Maximum 5 points)
  12. Durability and warranty of building and building components, and materials (Maximum 5 points)
6. DESIGN-BUILD CONTRACT

The Proposer selected by the Board will be required to enter into the Design-Build Contract substantially in the form of Exhibit B, attached hereto, together with the General Conditions substantially in the form of Exhibit C, attached hereto. The successful Proposer will also be required to submit bond and insurance information to its insurance and bonding companies as described in Exhibit G, attached hereto. The Design-Build Contract will address the following issues, among others:

1. Liquidated damages
2. Insurance (including errors and omission as applicable)
3. Payment and Performance bonds
4. Termination rights for convenience

7. EXHIBITS

This section will list, attach and incorporate the exhibits applicable to the RFP, including the following:

Exhibit A – Design Intent Documents  
Exhibit B – Design Build Contract  
Exhibit C – General Conditions

Exhibit D – Notice of Award  
Exhibit E – Notice to Proceed  
Exhibit F – Proposal Form  
Exhibit G – Bond and Insurance Information  
Exhibit H – Program Stabilization Agreement  
Exhibit I – “Best Value” Evaluation and Scoring Matrix

EXHIBIT A

DESIGN INTENT DOCUMENTS

## EXHIBIT B

### DESIGN-BUILD CONTRACT

#### **Design-Build Contract for District Office Parking Lot Solar Array Project**

This Design-Build Contract (this “Contract”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2018 by and between SAN MATEO UNION HIGH SCHOOL DISTRICT (“District”) and [\_\_\_\_\_*INSERT NAME OF DESIGN BUILD ENTITY*] (the “Design-Build Entity”) for the purpose of designing and constructing the **District Office Parking Lot Solar Array Project** (the “Project”). The District and the Design-Build Entity are herein collectively referred to as the “Parties.”

#### **RECITALS**

- A. District desires to contract with a single entity for design and construction of the Project, as set forth in this Contract.
- B. District conducted a Request for Proposals (“RFP”) process in accordance with Education Code section 17250.10, *et seq.* to solicit qualified Design-Build Entities.
- C. The Design-Build Entity submitted a Proposal for the Project, which was selected as providing the best-value for the Project and is prepared to enter into this Contract.

In consideration of the above recitals and the mutual covenants and conditions set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby set forth their mutual covenants and understandings as follows:

#### **1. Description of Work**

The Contractor agrees to furnish all labor, materials, equipment, plant, tools, supervision, appurtenances, and services, including transportation and utilities, required to perform and satisfactorily complete all work required for the following project (“Project”) in full conformance with the Contract Documents: District Office Parking Lot Solar Array Project.

#### **2. Contract Documents**

The Contract Documents consist of the complete proposal documents, as submitted by Contractor, including the Contract, any Amendment thereto, Construction Documents, General Conditions, Request for Proposals, Disabled Veteran Business Enterprises Requirements (if applicable), Labor Compliance Program (if applicable), all addenda, required bond(s) and insurance certificates, completed Contractor Prequalification, all of which are incorporated herein by this reference. All Contract Documents are intended to coordinate so that any work called for in one document and not mentioned in another document is to be executed as if mentioned in all documents.

### 3. Compensation

As full compensation for Design-Build's complete and satisfactory performance of the Work, District agrees to pay Design-Build Entity, and Design-Build Entity agrees to accept the total fixed lump sum of [ ] (\$ ) ("Contract Price"). The Contract Price is allocated in Phase 1 and Phase 2 as follow:

- a. **Phase 1: Design, Engineering and Preconstruction:** Fixed lump sum for Phase 1: [ ] (\$ ) *insert amount of Phase 1 lump sum*].
- b. **Phase 2: Construction through Close Out:** Fixed lump sum for Phase 2: [ ] (\$ ) *insert amount of Phase 2 lump sum*].

### 4. Issuance of Notices to Proceed

- a. **Phase 1: Design, Engineering and Preconstruction:** Design, Engineering and Preconstruction Services will be performed during Phase 1 of the Project. This Contract authorizes all Phase 1 services, upon the Design-Build Entity delivering to District all applicable deliverables under the Contract Documents. Construction through Close Out will be performed during Phase 2 of the Project.
- b. **Phase 2: Construction through Close Out:** District will issue to the Design-Build Entity a written Notice to Proceed within ten (10) days of the date the Division of State Architect has approved the Construction Documents for the Project.

### 5. Prevailing Wages

This Project is subject to prevailing wage requirements, and contractor and its Subcontractors are required to pay all workers employed for the performance of this contract no less than the applicable prevailing wage rate for each such worker. As required by Labor Code Section 1773.2, the District has on file in its office copies of the general prevailing rate of per diem wages for workers employed on public works as determined by the Director of Industrial Relations. This document shall be available to any interested party on request and shall be posted at the job site by the Contractor.

### 6. Time for Completion

The starting date of the Contract shall be the day listed by the District in the Notice to Proceed and the Contractor shall fully complete all the work as detailed in the Milestone Schedule in section 01010 of the Construction Documents. Time is of the essence in the performance of this Contract.

### 7. Liquidated Damages



Liquidated damages for Contractor's failure to complete the Contract within the time fixed for completion inclusive of milestone dates are established in the amount of \$\_\_\_\_\_ per calendar day.

IN WITNESS WHEREOF, the parties agree to the terms of this Contract on the day and year written below.

\_\_\_\_\_  
District

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Resolution No.

\_\_\_\_\_  
Contractor License No.  
and Expiration Date

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Approved As to Form

By: \_\_\_\_\_  
Legal Counsel

\_\_\_\_\_  
Date

For: \_\_\_\_\_  
Corporation or Partnership

If Corporation, Seal Below.

EXHIBIT C

GENERAL CONDITIONS TO  
District Office Parking Lot Solar Array Project

General Conditions to  
Design-Build Contract for  
  
District Office Parking Lot  
Solar Array Project

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## 1. DEFINITIONS

**Addendum:** Written change or revision to the Contract Documents issued to the prospective contractors prior to the time of receiving proposals.

**Alternate:** The sum to be added to or deducted from the base Proposal if the change in scope of work as described in Alternates is accepted by the District.

**Approved:** Approved by the District or the District's authorized representative unless otherwise indicated in the Contract Documents.

**Architect:** The person or firm holding a valid license to practice architecture or engineering which has been designated (if any designated) to provide architectural or engineering design services on this Project. When Architect is referred to within the Contract Documents and no architect or engineer has in fact been designated, then the matter shall be referred to the District or its Construction Manager, if applicable.

**As Directed:** As directed by the District or its Architect, unless otherwise indicated in the Contract Documents.

**As Selected:** As selected by the District or its Architect, unless otherwise indicated in the Contract Documents.

**Proposal:** The properly completed and signed proposal to perform the construction work for the Project as described in the Contract Documents.

**Construction Manager:** The individual or entity named as such by the District. If no Construction Manager is designated for the project, all references to the Construction Manager in these Contract Documents shall mean the District and/or its designee or designees.

**Contract:** The legally binding agreement between the District and the Contractor wherein the Contractor agrees to furnish the labor, materials, equipment, plant and appurtenances required to perform the work described in the Contract Documents and the District agrees to pay the Contractor for such work.

**Contractor:** The person or entity holding a valid license in the State of California required for performing this Project and who has contracted with the District to perform the construction work described in the Contract Documents. The term Contractor shall be construed to mean all of the officers, employees, Subcontractors, suppliers, or other persons engaged by the Contractor upon the work of this Project.

**District and/or Owner:** The District, its governing board, authorized officers and employees, and authorized representatives.

**DSA:** The State of California Division of the State Architect which has the authority to review, approve and inspect the safety of design, alteration and construction of school buildings.

**Furnish:** Purchase and deliver to site of installation.

Governing Board: The governing board of the District.

Inspector: The person engaged by the District, pursuant to Section 17311 of the Education Code, to inspect the workmanship, materials, and manner of construction of buildings or portions of buildings to determine if such construction complies with the Contract Documents and applicable codes and regulations.

Indicated (or) As Shown: Shown on drawings and/or as specified.

Install: Fix in place, for materials; and fix in place and connect, for equipment.

Modification: An authorized change to the Contract Documents which may or may not include a change in contract price and/or time.

Project: The total construction work described in these Contract Documents.

Secure: Obtain.

Subcontractor: A person, firm, or corporation who has a contract with the Contractor to furnish labor, materials and equipment, and/or to install materials and equipment for work in this Contract.

## 2. ARCHITECT

### a. Role and Responsibilities

The Architect is responsible for the overall design of the Project and the final authority in judgments of aesthetic consideration. The working drawings, technical Specifications, sketches and other data necessary to define the work covered by these Contract Documents have been prepared by the Architect. The Architect shall visit, inspect and observe the construction to determine general compliance with the Contract Documents, and interpret the drawings and Specifications consistent with their intent. The Architect shall evaluate the shop drawings, samples and other submittals required in the technical Specifications, and maintain an up-to-date log of all such items processed. The Architect will consult with the District, Contractor, and any state, county or city agency having jurisdiction over the work whenever necessary to further the best interests of the Project.

### b. Disputes

Should any dispute arise respecting interpretation of the drawings and Specifications, the value of any work done or of any work omitted, or of any extra work which Contractor may be required to do, or respecting the size of any payment to Contractor during the performance of this Contract, the dispute shall be decided by the Architect, and the Architect's decision shall be final and conclusive.

## 3. CONTRACT DOCUMENTS

### a. Contents and Precedence

The Contract Documents consist of the executed Contract, the completed Proposal Form, the required Bonds and Insurance forms, Addenda, if any, the Request for Qualifications/Proposals, including documents referenced and incorporated by reference in the Request for Qualifications/Proposals ("RFP"), the Instructions to Contractors, change orders, if any, the Notice to Proceed, Construction Documents, the Supplementary General Conditions, the General Conditions, the Technical Specifications, the Drawings and the Contractor's Questionnaire. Any modification amending or changing the time for performing the work shall be as binding as if originally included in the Contract Documents. The Contract Documents are complimentary, and anything required by one shall be as binding as if required by all. In case of conflicts within the Contract Documents, the order of precedence of interpretation shall be as listed above, with the executed Contract and any change order thereto having priority, and subsequent Addenda having priority over prior Addenda only to the extent modified by the subsequent Addenda. In case of conflict within the drawings, larger scale drawings shall govern smaller scale drawings, and written dimensions shall govern over scaled dimensions.

b. Ambiguities, Errors, and Inconsistencies

Should any discrepancy appear or any misunderstanding arises as to the import of anything contained in the Specifications or plans, the matter shall be referred to the Architect. Suitable instructions will be given or corrections made when any such error or omission is discovered. 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, the Contractor is obligated to bring this information to the attention of the Architect for appropriate action before submittal of proposal. A contractor's failure to request clarification or interpretation of an apparent error or ambiguity waives that contractor's right to thereafter claim entitlement to additional compensation based upon an ambiguity, inconsistency, or error, which should have been discovered by a reasonably prudent Contractor, subject to the limitations of Public Contract Code section 1104.

c. Lines and Planes

All lines and planes appearing on contract drawings to be horizontal or vertical and not explicitly indicated otherwise shall be constructed true and plumb. All lines and planes appearing on contract drawings to intersect at right angles and not explicitly indicated otherwise shall be constructed at true right angles. Where details are indicated covering specific conditions, such details also apply to all similar conditions not specifically indicated.

d. Standards

The Specification Standards of the various sections of the Technical Specifications shall be the procedural, performance, and material standards of the applicable association publications identified and shall be the required minimum level of installation, materials, workmanship, and performance for the applicable work. Except where a specific date of issue is mentioned hereinafter, references to Specification Standards shall mean the edition, including amendments and supplements in effect on the date of the Notice Inviting Proposals. Where no standard is identified and a manufacturer is specified, the manufacturer's Specifications and product are the standards. All standards shall be subordinate to the requirements of the applicable codes and regulations.

e. Reference to the Singular

Wherever in the Technical Specifications an article, device or piece of equipment is referred to in the singular number; such reference shall include as many such items as are shown on Drawings or required to complete the installation.

4. INTENT OF DRAWINGS AND SPECIFICATIONS

a. Drawings and Specifications are to be read as an integrated document. The Contractor shall promptly report to the Architect any ambiguities, discrepancies, or errors which come to the Contractor's attention.

b. Figured dimensions shall be followed in preference to scaled dimensions, and the Contractor shall make all additional measurements necessary for the work and shall be responsible for their accuracy. Before ordering any material or doing any work, each Contractor shall verify all measurements at the Project site and shall be responsible for the correctness of same.

c. It is the intent of the drawings and Specifications to show and describe complete installations. Items shown but not specified, or specified but not shown, shall be included unless specifically omitted.

1) These 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.

5. TRADE DIVISIONS

Segregation of the Specifications into the designated trade divisions is only for the purpose of facilitating descriptions and shall not be considered as limiting the work of any subcontract or trade. Subject to other necessary provisions set forth in these Specifications, the terms and conditions of such limitations or inclusions shall lie solely between the Contractor and its Subcontractors. "Scope" as indicated in each section of the Specifications shall serve only as a general guide to what is included in that section. 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 proposal barriers to the various sub-contractors or suppliers.

a. The Contractor shall be responsible for the proper execution of all work required by the Contract Documents and for allocating such portions as the Contractor sees fit to the various Subcontractors. The Contractor is cautioned that the various individual sections may not contain all work that the Contractor may wish to allocate to a particular Subcontractor or everything bearing on the work of a particular trade, some of which may appear in other portions of the plans or Specifications.

b. 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 and legal requirements of the work and has included all materials and appurtenances in connection therewith.



c. It shall be the responsibility of the Contractor to notify each prospective Subcontractor at the time of request for proposals of all portions of the General Conditions, Supplementary Conditions and any parts of other sections of Specifications or plans that the Contractor intends to include as part of the subcontract.

## 6. MASTER MANDATORY PROVISIONS

a. Any material, item, or piece of equipment mentioned, listed or indicated without definition of quality, shall be consistent with the quality of adjacent or related materials, items, or pieces of equipment.

b. Any method of installation, finish, or workmanship of an operation called for, without definition of standard of workmanship, shall be followed or performed and finished in accordance with good practice and consistent with adjacent or related installations.

c. Any necessary material, item, piece of equipment or operation not called for but reasonably implied as necessary for proper completion of the work, shall be furnished, installed or performed and finished; and shall be consistent with adjacent or related materials, items, or pieces of equipment, and in accordance with good practice.

d. Names or numbered products are to be used according to the manufacturers' Specifications, directions, or recommendations unless otherwise specified.

## 7. CONTRACTOR

a. 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 to the District's satisfaction 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.

b. The Contractor shall employ a full-time competent superintendent and necessary assistants who shall have complete authority to act for the Contractor on all matters pertaining to the work. The superintendent shall be satisfactory to the Architect and District and, if not satisfactory, shall be replaced by the Contractor with one that is acceptable. Also, the superintendent shall not be changed without the consent of the Architect and District unless the superintendent ceases to be employed by the Contractor.

c. Contractor shall make the layout of lines and elevations and shall be responsible for the accuracy of both the Contractor's 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 promptly bring such discrepancies to the attention of the Architect for adjustment before proceeding with the work. 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.

d. Contractor shall do all cutting, fitting, or patching of Contractor's 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 Drawings and Specifications for the completed structure, and Contractor shall make good after that as the Architect may direct. Any cost caused by defective or ill-timed work shall be borne by the party responsible therefore.

## 8. RESPONSIBILITY OF CONTRACTOR

a. Contractor shall be held strictly responsible for the proper performance of all work covered by the Contract, including the work performed by the Contractor and Subcontractors.

b. Contractor shall submit Verified Reports as defined in Sections 4-336 and 4-343 (c), Group 1, Chapter 4, Part I, Title 24, California Code of Regulations ("CCR"). The duties of the Contractor are as defined in Section 4-343, Group 1, Chapter 4, Part I, Title 24, of the CCR. Contractor shall keep and make available a copy of Title 24 of the CCR at the job site at all times.

c. Where, because of short supply, any items of fabricated materials and/or equipment, indicated on drawings or specified, are unobtainable and it becomes necessary, with the consent of the Architect, to substitute equivalent items differing in details or design, the Contractor shall submit complete drawings and details indicating the necessary modifications of the work. This provision shall be governed by the terms of the General Conditions regarding Submittals: Shop Drawings, Cuts and Samples.

d. With respect to work performed at a school site, Contractor must at all times take all appropriate measures to ensure the security and safety of students and staff, including, but not limited to, ensuring that all of Contractor's employees, Subcontractors, and suppliers entering school property strictly adhere to all applicable District policies and procedures, e.g., sign-in requirements, visitor badges, and access limitations.

## 9. SUBCONTRACTORS

a. Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor and the District. The District shall be deemed to be the third party beneficiary of the contract between the Contractor and each Subcontractor. If the Contractor does not specify a Subcontractor for any portion of the work to be performed under this Contract, Contractor agrees to perform that portion of the work with its own forces. The Contractor shall not substitute any other person or firm as a Subcontractor for those listed in the proposal submitted by the Contractor, without the written approval of the District and in conformance with the requirements of the Public Contract Code. The District reserves the right of approval of all Subcontractors proposed for use on this Project, and to this end, may require financial, performance, and such additional information as is needed to secure this approval. If a Subcontractor is not approved, the Contractor shall promptly submit another of the same trade for approval.

b. The Contractor shall insert appropriate provisions in all subcontracts pertaining to work on this Project requiring the Subcontractors to be bound by all applicable terms of the Contract Documents. The Contractor shall be as fully responsible for the acts and omissions of the

Subcontractors, and of persons either directly or indirectly employed by them, as the Contractor is for the acts and omissions of persons directly employed by the Contractor.

#### 10. PERFORMANCE AND PAYMENT BONDS

a. At or before the time of execution of the Contract, the Contractor must file with the District the following bonds:

1) A corporate surety bond, in a sum not less than 100 percent of the amount of the Contract, to guarantee the faithful performance of the Contract, substantially in form of Attachment No. 1, attached hereto.

2) A corporate surety bond, in a sum not less than 100 percent of the amount of the Contract, to guarantee the payment of wages for services engaged and of bills contracted for materials, supplies, and equipment used in the performance of the Contract, substantially in the form of Attachment No.2, attached hereto.

b. Corporate sureties on these bonds and on bonds accompanying proposals 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.

c. The amount of the Contract, as used to determine the amounts of the bonds, shall be the total amount fixed in the Contractor's proposal for the performance of the required work (or the corrected total if errors are found).

d. 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 thirty (30) 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 thirty (30) 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 proposal security, 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, 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.

#### 11. INSURANCE

a. Contractor shall obtain insurance acceptable to District from a company or companies acceptable to District. All required insurance must be written by an admitted company licensed to do business in the State of California at the time the policy is issued. All required insurance shall be equal to or exceed an A VIII rating as listed in Best's Insurance Guides' latest edition. On a case-by-case basis, District may accept insurance written on a company listed on the State of California Department of Insurance List of Eligible Surplus Lines ("LESLI List") with a rating of A VIII or

above as listed in Best's Insurance Guides' latest edition. Required documentation of such insurance shall be furnished to the District at the time Contractor returns the executed Contract. Contractor shall not commence work nor shall it allow its employees or Subcontractors or anyone to commence work until all insurance required hereunder has been submitted and approved and a notice to proceed has been issued.

b. Contractor shall take out and maintain at all times during the life of this Contract, up to the date of acceptance of the work by the District, the following policies of insurance:

1) Public Liability Insurance: Personal injury and replacement value property damage insurance for all activities of the Contractor and its Subcontractors arising out of or in connection with this Contract, written on a comprehensive general liability form including contractor's protected coverage, blanket contractual, completed operations, vehicle coverage and employer's non-ownership liability coverage, in an amount no less than \$2,000,000 combined single limit personal injury and property damage for each occurrence.

2) Builders' Risk Insurance: Contractor shall procure and maintain builders' risk insurance (all-risk coverage) on a one hundred percent completed value basis on the insurable portion of the project for the benefit of the District, and the Contractor and Subcontractor as their interest may appear. In projects involving no structural change or building construction, this requirement may be waived at District's option.

c. Endorsements:

1) The Public Liability Policy specified above shall be endorsed with the following specific language:

"The District is named as additional insured for all liability arising out of the operations by or on behalf of the named insured, and this policy protects the additional insured, its officers, agents and employees against liability for bodily injuries, deaths or property damage or destruction arising in any respect directly or indirectly in the performance of the Contract."

2) The certificates must state that the insurance is under an occurrence based, and not a claims-made, policy (policies). Both the Public Liability Policy and the Builders' Risk Policy specified above shall be endorsed with the following specific language:

i. The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured and the coverages afforded shall apply as though separate policies have been issued to each insured.

ii. The insurance provided herein is primary and no insurance held or owned by the District shall be called upon to contribute to a loss.

iii. Coverage provided by this policy shall not be reduced or canceled without thirty (30) days written notice given to the Owner by certified mail.

iv. This policy does not exclude explosion, collapse, underground excavation hazard, or removal of lateral support.

d. Documentation:

Within ten (10) days following issuance of the Notice of Award of the Contract, the following documentation of insurance shall be submitted to District for approval prior to issuance of the Notice to Proceed. Certificates of insurance showing the limits of insurance provided, certified copies of all policies, and signed copies of the specified endorsements for each policy. At the time of making application for an extension of time, the Contractor shall submit evidence that the insurance policies will be in effect during the requested additional period of time.

e. If the Contractor fails to maintain such insurance, the District may take out such insurance to cover any damages of the above mentioned classes for which the District might be held liable on account of the Contractor's failure to pay such damages, and deduct and retain the amount of the premiums from any sums due the Contractor under the Contract.

f. Workers' Compensation Insurance:

1) Within ten (10) days following issuance of the Notice of Award of the Contract, the Contractor to whom it is awarded shall furnish to the District satisfactory proof that the Contractor and all Subcontractors it intends to employ, have procured, for the period covered by the proposed Contract, full Workers' Compensation insurance and employer's liability with limits of at least \$1,000,000 with an insurance carrier satisfactory to the District for all persons whom they may employ in carrying out the work contemplated under this Contract in accordance with the Workers' Compensation Insurance and Safety Act, approved May 26, 1913, and all acts amendatory or supplemental thereto (the "Act"). Such insurance shall be maintained in full force and effect during the period covered by the Contract. In the event the Contractor is self-insured, Contractor shall furnish a Certificate of Permission to Self-Insure, signed by the Department of Industrial Relations Administration of Self-Insurance, Sacramento, California.

2) If the Contractor fails to maintain such insurance, the District may take out compensation insurance to cover any compensation which the District might be liable to pay under the provisions of the Act, by reason of any employee of the Contractor being injured or killed, and deduct and retain the amount of the premiums for such insurance from any sums due the Contractor under the Contract.

3) If an injury occurs to any employee of the Contractor for which the employee, or the employee's dependents in the event of the employee's death, is entitled to compensation from the District under the provisions of the Act, or for which compensation is claimed from the District, the District may retain out of the sums due the Contractor under this Contract, an amount sufficient to cover such compensation, as fixed by the Act, until such compensation is paid, or until it is determined that no compensation is due, and if the District is compelled to pay such compensation, it will deduct and retain from such sums the amount so paid.

4) The policies represented by the certificates must contain the provision (and the certificates must so state) that the insurance cannot be canceled until thirty (30) days after written notice of intended revocation has been given to the District by certified mail.

## 12. CODES AND REGULATIONS

a. The Contractor shall be knowledgeable of and comply with applicable portions of California Code of Regulations Title 24, Uniform Building Code, and all other codes, ordinances, regulations or orders of properly constituted authority having jurisdiction over the work of this Project. The Contractor shall examine the Contract Documents for compliance with these codes and regulations, and shall promptly notify the Architect of any discrepancies. Contractor shall keep a current copy of California Code of Regulations Title 24 at the job site at all times.

b. All work and materials shall be in full accordance with the latest rules and regulations of the Safety Orders of the Division of Industrial Safety, the National Electric Code, the Uniform Plumbing Code published by the Western Plumbing Officials Association, and other applicable State laws or regulations. Nothing in the Project plans or Specifications is to be construed to permit work not conforming to these Codes. Buildings and/or all other construction covered by this Contract shall meet all the regulations for access by physically handicapped as administered by the Division of the State Architect, and as may be required by federal law.

c. If the work under this Contract is for the construction of a school building as defined under Education Code sections 17280, 17283, 17293, or 81050, then the following provisions shall apply to the Contract:

1) All work shall be executed in accordance with the current requirements of Sections 17280 et seq. or Sections 81130 of the Education Code and California Code of Regulations: Title 24 and Title 19. No deviations from the approved plans and Specifications will be permitted except upon a Change Order or Addenda, signed by the District and Architect and approved by the Division of the State Architect and the State Fire Marshal, if applicable.

2) Prior to the start of construction, District shall employ a Project Inspector, approved by the Division of the State Architect, to provide inspection services as defined in Title 24, California Code of Regulations and pursuant to Section 17311 of the Education Code. The Owner shall pay for the costs of the project inspection services, except as indicated in the General Conditions, Article 38 and the plans and Specifications. A copy of current California Code of Regulations Title 24, approved sets of plans and Specifications, addenda and change orders, shall be kept by the School District Job Inspector on the job at all times during construction. Division of the State Architect shall be notified 48 hours in advance of the first pour of concrete.

## 13. PERMITS AND TAXES

a. The Contractor shall obtain and pay for all permits, fees and licenses that are required in order to perform the work under this Contract. Building permits or plumbing or electrical permits for the permanent installation are not required for this Contract. The District shall pay connection charges and meter costs for new permanent utilities required by these Contract Documents. The Contractor shall notify District sufficiently in advance to submit requests for service to the appropriate utility companies so as to insure connections or installation of utility services in accordance with the Project schedule.

b. The Contractor shall pay for all taxes on materials and equipment. The District is exempt from Federal Excise Tax. Contractor shall not pay Federal Excise Tax on any item in this Contract.

#### 14. PATENTS AND ROYALTIES

All fees or claims for patents, royalties or licenses on materials, equipment or processes used in the performance of work on this Project shall be included in the amount of the Proposal. The Contractor shall indemnify, defend, and hold harmless the District, its Governing Board, the Architect, and their officers and employees, from all claims or liability, including costs and expenses, which may arise from the use on this Project of any patented or copyrighted materials, equipment, or processes.

#### 15. SAFETY AND FIRE PREVENTION

a. The Contractor, Subcontractors and all of their agents and employees shall fully comply with all of the provisions and requirements of CAL/OSHA, Title 8, California Code of Regulations, Industrial Relations, and all other safety codes having jurisdiction over the Project. The Contractor shall take thorough precautions at all times for the protection of persons and property, and shall be liable for all damages to persons or property, either on or off the site, which occur as a result of Contractor's prosecution of the work. The Contractor shall obtain permits for, install and maintain in safe condition 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 Contract.

b. Contractor is required to ensure Material Safety Data Sheets ("MSDS") are available in a readily accessible place at the work site for any material requiring an MSDS pursuant to the federal "Hazard Communication" standard or employee "right to know" laws. Contractor is also required to ensure proper labeling on materials brought on the job site such that any person working the material or within the general area of the material is informed of the hazards of the material and follows proper handling and protections procedures. Two additional copies of the MSDS shall also be submitted directly to the District.

c. 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 consent of the Architect, nor overload any new or existing structures by the placing or storage of materials, equipment, or other items thereon, and if necessary, provide calculations proving the safety in so doing.

d. 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.

e. 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.

## 16. HAZARDOUS MATERIALS

Unless otherwise specified, this Contract does not include the removal, handling, or disturbance of any hazardous substances or materials encountered in the new construction or on the Project grounds. If this Contract is specifically intended for the purpose of or to include handling, removal or abatement of asbestos or other hazardous substance(s), to the extent that any particular provision in this Article 16 is inconsistent with such specified purpose, that provision shall be inapplicable. If such substances or materials are encountered, work shall cease in that area and the District shall be notified to take appropriate action for removal or otherwise abating the condition in accordance with current regulations applicable to the District.

### a. General

1) No asbestos, asbestos-containing products or other hazardous materials shall be used in this construction or in any tools, devices, clothing or equipment used to affect this construction.

2) Asbestos and/or asbestos containing products shall be defined as all items containing but not limited to chrysotile, crocidolite, amosite, anthophyllite, tremo-lite and actinolite.

3) Any or all material containing greater than one tenth of one percent ( $>.1\%$ ) asbestos shall be defined as asbestos-containing material.

4) Any disputes involving the question of whether or not material contains asbestos shall be settled by electron microscopy; the costs of any such tests shall be paid by the Contractor.

5) All work or materials found to contain asbestos or work or material installed with asbestos containing equipment will be immediately rejected and this work will be removed at no additional cost to the District.

### b. Decontamination and Removal of hazardous material from prior work

1) Decontamination and removal of work found to contain asbestos or work installed with asbestos containing equipment shall be done only under the supervision of a qualified consultant, knowledgeable in the field of asbestos abatement and accredited by the Environmental Protection Agency ("EPA").

2) The asbestos removal contractor shall be an EPA-accredited contractor qualified in the removal of asbestos and shall be chosen and approved by the asbestos consultant who shall have sole discretion and final determination in this matter.

3) The asbestos consultant shall be chosen and approved by the District which shall have sole discretion and final determination in this matter.

4) The work will not be accepted until asbestos contamination is reduced to levels deemed acceptable by the asbestos consultant.



5) Cost of all asbestos removal from prior work, including but not necessarily limited to the cost of the asbestos removal contractor, the cost of the asbestos consultant, analytical and laboratory fees, time delays, and additional costs as may be incurred by the District and/or its agent(s) shall be borne entirely by the District.

c. Hold Harmless

1) Interface of work under this contract with work containing asbestos shall be executed by the Contractor at Contractor's risk and at Contractor's discretion with full knowledge of the currently accepted standards, hazards, risks and liabilities associated with asbestos work and asbestos containing products. By execution of this contract the Contractor acknowledges the above and agrees to hold harmless, as set forth in the indemnity provisions of this Contract, the Owner, its employees, agents and assigns for all asbestos liability which may be associated with this work and agrees to instruct Contractor's employees with respect to the above mentioned standards, hazards, risks and liabilities.

2) The Contractor shall, prior to commencement of this work, provide a duly signed and notarized affidavit that Contractor has instructed Contractor's employees with respect to the above mentioned standards, hazards, risks and liabilities and the contents and requirements of this portion of the contract documents.

d. Certification

The Contractor agrees that materials containing asbestos or other hazardous materials as defined in Federal and State law shall not be used in construction and will sign a certificate upon completion to that effect.

17. TEMPORARY FACILITIES

a. The Contractor shall obtain permits for, install and maintain in safe condition whatever scaffolds, hoisting equipment, barricades, walkways, or other temporary structures may be required to accomplish the work. 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 state and local codes and regulations.

b. 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.

c. The Contractor shall promptly remove all such temporary facilities when they are no longer needed for the work or on completion of the project. The Contractor shall repair any damage to premises or property which resulted from the construction, use, or removal of temporary facilities and shall restore said premises and property to their original condition.

d. See Supplementary General Conditions and/or specifications for requirements concerning temporary sanitary facilities and utilities.

## 18. SIGNS

No signs may be displayed on or about the District's property (except those which may be required by law) without the District's specific approval of size, content and location. Any signs required by the District will be designated in the Supplementary General Conditions.

## 19. TIME

a. It shall be understood that time is of the essence of the Contract, and the Contractor must prosecute the work diligently and regularly at such a rate of progress as to ensure completion of this Project within, or sooner than, the time specified. The Contractor shall commence the work on the date indicated in the Notice to Proceed, and Contractor agrees to complete all work described by the Contract Documents within, or sooner than, the number of calendar days required in the Contract.

b. The Contractors and Subcontractors shall investigate and become aware of the amount of time required for the delivery of all equipment and materials required to perform the work under this Contract, and no extension of time 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.

c. The Contractors and Subcontractors shall provide and maintain enough manpower, materials and equipment to ensure a rate of construction progress that will complete the Project within or sooner than the time specified and according to the schedule of work. If, in the District's opinion, the Contractor and/or Subcontractors are not prosecuting the work at a sufficient rate of progress to meet the Project schedule, the District may direct the Contractor to provide additional manpower, materials or equipment, or to work additional hours, holidays or weekends 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 according to the Article herein on "District's Right To Stop Work; Terminate Contract."

## 20. PRE CONSTRUCTION AND CONSTRUCTION SCHEDULE

a. Within fifteen (15) calendar days after the Award of Contract, the Contractor shall prepare and submit to the Architect and District a construction schedule showing in detail how the Contractor plans to prosecute the work within the time for completion. The schedule shall include the work of all trades necessary for construction of the Project, and shall be sufficiently complete and comprehensive to enable progress to be monitored on a day-by-day basis. The information for each activity shall include as a minimum the activity description, duration, start date and completion date.

b. The Contractor shall take care in the preparation of the schedule to ensure that it represents an accurate and efficient plan for accomplishing the work. If the Project is more than one week ahead of or behind schedule, it must be revised showing how the Contractor plans to complete the work, but in no case shall it show a completion date later than that required by the Contract, unless a time extension has been granted. The current schedule shall be kept posted in the Contractor's project office on site.

c. The Contractor shall be responsible for the coordination of all work necessary and pertaining to the construction whether actually a part of this Contract or attendant thereto. The Contractor shall notify the District and various utility companies, as far as possible in advance of their required work, in order that work schedules may be developed for all concerned, which will permit the most effective accomplishment of the entire project.

## 21. DELAYS AND TIME EXTENSIONS

a. The Contractor may be granted a time extension if the Contractor encounters an unavoidable delay of the work due to causes completely beyond the Contractor's control and which the Contractor could not have avoided by the exercise of more care, prudence, foresight and diligence. Causes for which a claim for extension of time may be made include: acts of the public enemy, acts of another Contractor in the performance of another contract with the District, priority of a governmental agency for materials or equipment, fire, flood, violent wind storm, epidemic, quarantine restriction, strike, freight embargo, or weather of an unusually severe nature. The Contractor will not be granted time extensions for weather conditions which are normal for the location of the Project, according to the U. S. Weather Bureau Records.

b. A request for extension of time shall be made in writing to the Architect and District within ten (10) calendar days of the date the delay is encountered and shall include a detailed description of the reasons for the delay and corrective measures by the Contractor. The request must be accompanied by evidence that the insurance policies required by the Contract shall be in effect during the requested additional period of time. In order for the Architect to consider a request for time extension, the Contractor must prove that the reasons stated for a delay actually caused a delay in portions of the work which will result in completion beyond the date specified in the Contract. The Contractor may be granted a time extension for a significant change in the scope of work which request for extension of time shall be included in a Contract Modifications Proposal.

c. No damages or compensation or any kind shall be paid to a Contractor because of delays in the progress of work, whether such delays be avoidable or unavoidable that are not the responsibility of District. District's liability to Contractor for delays for which District is responsible shall be limited to an extension of time for delays unless such delays were unreasonable under the circumstances involved and were not within the contemplation of the parties when the contract was awarded. The Architect shall determine the actual costs to Contractor for which the Contractor may claim damages from District. Such costs, if any, shall be directly related to the Project, and shall not include costs that would be borne by the Contractor in the regular course of business, including, but not limited to, office overhead and ongoing insurance costs. The District shall not be liable for any damages which the Contractor could have avoided by any reasonable means including, but not limited to, the judicious handling of forces, equipment or plant.

d. The granting of an extension of time because of unavoidable delays shall in no way operate as a waiver on the part of the District of the right to collect liquidated damages for other delays or of the right to collect other damages or of any other rights to which the District is entitled.

## 22. LIQUIDATED DAMAGES

a. It is agreed by District and Contractor that time is of the essence to the performance of the Contract by Contractor. Should the Contractor fail to complete this Contract within the time fixed for completion, together with extensions granted by the District for unavoidable delays, Contractor shall become liable to the District in the amount specified in the Contract per calendar day for each day said Contract remains uncompleted beyond the time for completion, as and for liquidated damages and not as a penalty. Contractor shall not be charged with liquidated damages when the delay in completion of the work beyond the time for completion is due to acts of the District. It is expressly stipulated and agreed by Contractor and District that it would be impractical and extremely difficult to fix the actual amount of damages.

b. Any money due or to become due the Contractor may be retained to cover said liquidated damages. Should such money not be sufficient to cover said liquidated damages, the District shall have the right to recover the balance from the Contractor or Contractor's sureties, who will pay said balance forthwith.

c. Should the District authorize suspension of the work for any cause, the time work is suspended will be added to the time for completion. Suspension of the work by the District shall not be a waiver of the right to claim liquidated damages as set forth in this section.

## 23. DISTRICT'S RIGHT TO STOP WORK; TERMINATE THE CONTRACT

### a. District's Right to Stop Work:

In addition to or as an alternative to any and all other remedies available to the District, if the Contractor fails to correct work which is not performed in accordance with the Contract Documents, or if the Contractor persistently fails to perform the work in accordance with the Contract Documents, the District may by written order direct the Contractor to stop the work, or any portion thereof, until the cause for such order has been eliminated to the satisfaction of the District. However, the right of the District to stop the work shall not give rise to a duty on the part of the District to exercise this right for the benefit of the Contractor or any other person or entity, and the failure of the District to do so shall not be raised as a defense to the Contractor's failure to perform the work in accordance with the Contract Documents.

### b. Termination for cause:

1) If the Contractor refuses or fails to furnish sufficient materials, work force, equipment, plant and appurtenances to properly prosecute the work in a timely manner, or if Contractor refuses or fails to comply with any provisions of the Contract Documents, or if Contractor should file a bankruptcy petition or make a general assignment for the benefit of Contractor's creditors or if a receiver should be appointed on account of Contractor's insolvency, then the District may give the Contractor and Contractor's surety written notice of intention to terminate the Contract. Unless within seven (7) calendar days after the serving of such notice upon the Contractor and Contractor's surety such violation shall cease and satisfactory arrangements for correction of such conditions be made, the Contract shall cease and terminate. In the event of such termination, the District shall immediately serve written notice thereof upon the Contractor and Contractor's surety.

2) In the event of termination for cause, in addition to all remedies available to the District, the Contractor's surety shall have the right to take over and perform the Contract; provided, however, that if the surety does not commence performance within five (5) calendar days from the date of sending such notice of termination, the District may take over the work and prosecute the same to completion by letting another Contract, or by any other method that the District deems advisable. The Contractor and Contractor's surety shall be liable for any excess cost occasioned the District thereby, and in any such event the District may take possession of such materials, equipment, plant and other property belonging to the Contractor as may be on the site and use same in completing the work.

c. Termination for Convenience:

The District reserves the right, in its sole discretion, to terminate all or part of the contract for convenience, following three (3) days written notice to the Contractor. In the event of termination for convenience, Contractor shall have no claims against the District, except:

1) The actual cost of labor, materials and services provided pursuant to the Contract, and which have not yet been paid for, as documented by timesheets, invoices, receipts and the like; and

2) Five percent (5%) of the total cost of the work performed as of the date of notice of termination or five percent (5%) of the value of the work yet to be completed, whichever is less. The parties agree that this amount shall constitute full and fair compensation for all Contractor's costs and lost profits resulting from the termination for convenience.

24. ASSIGNMENT OF CONTRACT

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 the Contractor 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 Contractor, 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.

25. COORDINATION WITH OTHER CONTRACTS

a. The District reserves the right to do other work or award other contracts in connection with this Project. If this is the case, the Contractor shall schedule and coordinate Contractor's work in such a manner as not to interfere with the work of others. If conflict arises as a result of other work on this project, the Contractor shall promptly notify the District and Architect. The District will issue such instructions as are necessary to correct the matter. The District shall not be liable for the failure of another Contractor to comply with such instructions.

b. If any part of this Contractor's work depends upon the work of a separate Contractor, this Contractor shall inspect such other work and promptly report in writing to the District and Architect any defects in such other work that render it unsuitable to receive the work of this

Contractor. Failure of this Contractor to so inspect and report shall constitute an acceptance of the other Contractor's work, except as to defects which may develop in other Contractor's work after execution of this Contractor's work.

c. 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 by agreement or arbitration. 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, who shall defend such proceedings at Contractor's own expense and save harmless the District and the Architect from any such claim.

## 26. SUBMITTALS: SHOP DRAWINGS, CUTS AND SAMPLES

a. Five (5) copies of shop drawings, brochures and catalog cuts and samples in quantities specified by Architect shall be submitted to the Architect for all items for which they are required by the Technical Specifications. Prior to transmitting, the Contractor shall examine all submittals for accuracy and completeness in order to verify their suitability for the work and compliance with the Contract Documents and shall sign and date each submittal. Submittals shall be made sufficiently before the items are required for the work so as to cause no delay and shall be in accordance with the project construction schedule.

b. In addition to information furnished as common practice, submittals shall contain the Project name and location, Contractor's name and address, Subcontractor's or supplier's name and address, date of submittal and any revisions, and reference to appropriate specification section, and/or drawing and detail numbers. The Contractor and/or the Subcontractors shall verify in the field all dimensions and relationships to adjacent work necessary to ensure the proper fit of the items submitted. The Architect shall review and evaluate submittals and return them within seven (7) working days after the Architect receives them. If necessary, the Contractor shall make any corrections required and resubmit with all due haste in the same number as initially. Review of submittals by the Architect shall not relieve the Contractor from complying with the requirements of the Contract Documents.

c. Any materials or equipment installed without approval shall be at the Contractor's own risk, and Contractor may be required to remove any such materials or equipment and install the specified items at Contractor's own cost, including repairs to adjacent work.

## 27. PAYMENTS

### a. Cost Breakdown:

Prior to submitting Contractor's first request for payment, the Contractor shall prepare and submit to the Architect and District a cost breakdown showing the major work items for each trade or operation required in construction of the Project. The work items shall be sufficiently detailed to enable the Architect to accurately evaluate the completion percentages requested by the Contractor. The cost for each work item shall include overhead and profit, and the total of all work item costs shall equal the amount of the Contract.

b. Scope of Payment:

Payment to the Contractor at the unit price or other price fixed in the Contract for performing the work required under any item or at the lump sum price fixed in the Contract for performing all the work required under the Contract, shall be full compensation for furnishing all labor, materials, equipment and tools necessary to the work, and for performing and completing, in accordance with the Specifications, all work required under the item or under the Contract, and for all expense incurred by the Contractor for any purpose in connection with the performance and completion of said work.

c. Progress Payments:

The Contractor will, on or about the last day of each month, make an estimate of the value of the work completed by Contractor in the performance of the Contract. These estimates shall be subject to the review and approval of the Architect. The first such estimate will be of the value of the work done after the Contractor commenced the performance of the Contract, and every subsequent estimate, except the final estimate, will be of the value of the work done after that included in the last preceding estimate. Such estimates will be based on labor, materials and equipment incorporated into the work, and items of materials and equipment delivered to the Project. The Contractor shall be responsible for the security and protection of such materials and equipment delivered to the Project and not incorporated in the work. Within thirty (30) calendar days after the approval of each estimate for progress payment, the District will pay to the Contractor an amount equal to ninety (90) percent of said approved estimate. Payments may at any time be withheld if in the judgment of the District the work is not proceeding in accordance with the Contract, or the Contractor is not complying with the requirements of the Contract.

d. Final Payment: Needs re-write.

As soon as practicable after all required work is completed in accordance with the Contract, the Contractor will make a final estimate of the total value of the work done in accordance with the Contract, which estimate will be subject to review and approval. Not less than thirty-five (35) days after Notice of Completion is recorded, District will pay Contractor the unpaid balance of the Contract price of the work, or the whole Contract price of the work if no progress payment has been made, determined in accordance with the terms of the Contract, less such sums as may be lawfully retained under any provisions of the Contract ("Final Payment"). Prior progress estimates and payments are subject to correction in the Final Payment. The Final Payment for the completed work will be the dollar amount of the Contract, as modified if appropriate, less progress payments previously made.

e. Payments Do Not Imply Acceptance of Work:

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, whether or not the unsatisfactory character of such work or material was apparent or detected at the time such payment was made.

f. Retention of Sums Charged Against Contractor:

It is mutually understood and agreed that when under any provision of this Contract 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 Contract. If on completion or termination of the Contract such monies due the Contractor are found insufficient to cover the District's charges against the Contractor, the District shall have the right to recover the balance from the Contractor or the Contractor's sureties. In no case shall the Contractor or Subcontractors or suppliers deduct or retain from any amount to be credited to the District, except as defined in the Article on "Modifications Contract."

g. Release:

The Contractor and each assignee under an assignment in effect at the time of Final Payment shall, if required by the District, execute and deliver at the time of Final Payment and as a condition precedent to Final Payment, a release in form and substance satisfactory to and containing such exemptions as may be found appropriate by the District, discharging the District, its officers, agents and employees of and from liabilities, obligations and claims arising under this Contract.

h. Payment to Subcontractors and Suppliers:

The Contractor shall pay each Subcontractor and supplier promptly on receipt of each progress payment from the District for the materials, labor and equipment delivered to the site or incorporated in the work by each Subcontractor during the period for which the progress payment is made, less any retention as provided above. In the event of a loss by a Subcontractor or supplier for which insurance monies are paid, the Contractor shall pay Subcontractor or supplier a just share thereof.

i. Stop Notice Costs:

District reserves the right to back charge Contractor or to withhold from release of retention all costs incurred by District, including attorney fees, for processing and handling stop notice claims.

28. MODIFICATIONS OF CONTRACT

a. Changes In The Work:

1) The District, before the date of acceptance of the work, may order changes in the work ("Modifications"), may order extra materials and extra work in connection with the performance of the Contract, and the Contractor shall promptly comply with such orders and any such orders shall be carried out by the Contractor in accordance with the intent of the original Contract drawings and Specifications. All Modifications must be approved by DSA, the State Fire Marshall, and Access Compliance, if applicable.

2) If changes ordered in design, workmanship or materials are of such a nature as to increase or decrease the cost of any part of the work, the price fixed in the Contract shall be increased or decreased by such amount as the Contractor and the District may agree upon as the



reasonable and proper allowance for the increase or decrease in the cost of the work. Such amount will include all costs claimed by Contractor, including any costs claimed pursuant to Section 20 of the General Conditions (Delays and Time Extensions) subject to the limits set forth therein. No order for any Modification which shall increase or decrease the cost of the work shall be valid unless the resulting increase or decrease in price shall have been agreed upon in writing and the order signed by the Contractor, and certified by the authorized officer representing the Governing Board. The cost of Modifications shall not exceed ten (10) percent of the original contract price.

b. Cost Breakdown:

When the Modification is proposed, the Contractor shall furnish a complete breakdown of costs of both credits and extras itemizing materials, labor, taxes, overhead and profit. Subcontract work shall be so indicated. The following limitations shall apply:

1) Limitations Where Contract Price Changes are Involved:

(a) Overhead and Profit for the Contractor. The Contractor's overhead and profit on the cost of subcontracts shall be a sum not exceeding ten percent (10%) of such costs. The Contractor's overhead and profit on the costs of work performed by the Contractor shall be a sum not exceeding fifteen percent (15%) of such costs. Overhead and profit shall not be applied to the cost of taxes and insurance by Contractor or Subcontractors or to credits.

(b) Bond Premiums. The actual rate of bond premiums as paid on the total cost (including taxes, etc.) will be allowed, but with no markup for profit and overhead.

(c) Taxes. State and city sales taxes should be indicated. Federal Excise tax shall not be included. (District will issue exemption on request.)

2) Change Order Certification:

All change orders and requests for proposed change orders must include the following certification by the Contractor:

"The undersigned Contractor approves the foregoing as to the changes in work, if any, and as to the contract price specified for each item and as to the extension of time allowed, if any, for completion of the project as stated herein, and agrees to furnish all labor, materials, and service and to perform all work necessary to complete any additional work specified for the consideration stated herein. Submission of claims which have no basis in fact or which Contractor knows are false are made at the sole risk of the Contractor and may be a violation of the False Claims Act, as set forth in Government Code Sections 12650 et seq. It is understood that the changes to the Contract Documents set forth herein shall only be effective upon approval by the Governing Board of the District.

"It is expressly understood that the value of the extra work or changes expressly includes any and all of the Contractor's costs and expenses, both direct and indirect, resulting from additional time required on the project or resulting from delay to the project. Any costs, expenses, damages, or time extensions not included herein are deemed waived."

c. Unit Prices:

Where Unit Prices are called for in the Specifications they shall govern in computing any additions to or deductions from the Contract price on account of any added or omitted work. Unit Prices listed in the original proposal include all costs and no addition of any description will be allowed.

d. Time and Materials:

If it is impossible, because of the nature of the work, or for any other reason, to fix an increase in price definitely in advance, the Change Order may fix a maximum price which shall not under any circumstances be exceeded, and 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, including premium on compensation insurance and charge for Social Security taxes, and other taxes pertaining to labor.

2) Material, including sales taxes and other taxes pertaining to materials.

3) Plant and equipment rental, to be agreed upon in writing before the work is begun. No charge for the cost of repairs to plant or equipment will be allowed.

4) Overhead and profit computed at fifteen percent (15%) of the total of Items (1) to (3) inclusive.

5) The proportionate cost of premiums on bonds required by these Specifications, computed at one and one-half percent (1-1/2%) of the total of items (1) to (4) inclusive.

If the Time and Materials work is done by a Subcontractor, the amount shall be determined as set forth above under items (1) to (5) inclusive. The Contractor's overhead and profit on the costs of subcontracts (exclusive of taxes and insurance) shall not exceed ten percent (10%) of such costs.

The District reserves the right to furnish such materials as it may deem expedient, and no allowance will be made for profit thereon. The above-described methods of determining the payment for work and materials shall not apply to the performance of any work or the furnishing of any material which, in the judgment of the District, may properly be classified under items for which prices are established in the Contract.

e. Oral Modifications:

No oral statements of any person whomsoever shall in any manner or degree modify or otherwise affect the terms of the Contract.

29. HOLD HARMLESS

Contractor shall indemnify, defend with counsel acceptable to District, and hold harmless to the full extent permitted by law, District and its Board of Trustees, officers, agents, architect, construction manager, employees and volunteers from and against any and all liability, loss, damage, claims, expenses and costs (including, without limitation, attorney fees and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with Contractor's performance of the project or its failure to comply with any of its obligations contained in these Contract Documents, except such Liability caused by the active negligence, sole negligence or willful misconduct of the District. Such indemnification shall extend to all claims, demands, or liabilities occurring after completion of the project as well as during the progress of the work. Pursuant to California Public Contract Code Section 9201, District shall timely notify Contractor of receipt of any third-party claim relating to this project.

30. WARRANTY OF TITLE

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. Contractor further warrants that no such work, materials or equipment have been purchased for work under the Contract subject to an agreement by which an interest therein or an encumbrance thereon is retained by the seller or supplier.

31. USE OF COMPLETED PARTS OF THE WORK BEFORE ACCEPTANCE

Whenever the work or any part thereof is in a condition suitable for use, 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 District's expense. 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, including, but not limited to, the right to assess liquidated damages as set forth herein. Such use shall neither relieve the Contractor of any of Contractor's responsibilities under the Contract nor act as a waiver by the District of any of the conditions thereof, including, but not limited to, the right to assess liquidated damages as set forth herein. Contractor shall continue to maintain all insurance, including Builder's Risk insurance, on the Project, and diligently pursue full completion of the work.

32. GENERAL GUARANTEE

a. The Contractor shall be responsible for and shall promptly replace any defects due to faulty materials or workmanship installed as work under this Contract and pay for any damage resulting therefrom which shall appear within twenty-four (24) months of completion of the Project and acceptance by the District or within such longer period as may be required in other sections of the Specifications. The Contractor and Subcontractors shall furnish the District with written guarantees in the following form on the company letterhead. Receipt of such guarantees by the District is a condition required before filing of Notice of Completion. The guarantee shall be established in the form below:

## GUARANTEE

We hereby guarantee the work which we have installed in the:  
**District Office Parking Lot Solar Array Project** Project)  
for a period of two (2) years from date of filing of the Notice of Completion.

We agree to repair or replace to the satisfaction of the District any or all such work that may prove defective in workmanship and/or materials within the specified 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. In the event of our failure to comply with above-mentioned conditions within the ten (10) calendar days, or sooner if required by emergency, we collectively and separately do hereby authorize the District to have the defects repaired and made good at our expense, and we will pay the costs and charges therefore immediately upon demand.

\_\_\_\_\_  
(Name of General Contractor or Subcontractor)

s/\_\_\_\_\_  
(Signature)

By:\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

b. Delivery of the Guarantees shall not relieve Contractor from any obligation assumed under any provision of the Contract.

c. All copies of Guarantees and Warranties shall be certified.

d. In addition to any special guarantees provided for with respect to the various sections of the work, the Subcontractors furnishing materials and equipment shall examine their work within 30 to 60 days after the completion and acceptance of same and make any necessary corrections and/or adjustments.

e. Contractor shall deliver additional copies of all guarantees to Architect upon completion of work.

### 33. PROTECTION OF WORK AND PROPERTY

a. The Contractor shall be responsible for each operation and all work, both permanent and temporary. Contractor shall protect the work and materials from damage due to building operations, the action of the elements, the carelessness of other contractors, vandalism, or any other cause whatever, until the completion and acceptance of the job. 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 District without expense to the District. The Contractor shall

take whatever care is necessary to avoid damage to existing facilities or utilities, whether on the Project or adjacent to it, and Contractor shall be liable for any damage thereto or interruption of service due to Contractor's operations. If the Contractor encounters any facilities or utilities not shown on the drawings or not reasonably inferable therefrom, Contractor shall promptly notify the Architect about them, and shall do no further work which may cause damage to same. 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 handled by Change Order.

b. The property limits of the area of the Project are indicated on the drawings. Except for subsurface utility work and any other work specifically shown or noted, Contractor shall confine Contractor's operations within the limits of work indicated. The Contractor shall provide, install, and maintain all shoring, bracing and underpinning, etc., necessary to support properly the ground of adjacent property, streets, buildings, etc., that may be affected by building operations for this work; shall serve or cause to be served all legal notices to adjoining property owners that may be necessary for their protection; and shall protect from damage all adjacent buildings, fences, landscaping, etc., and repair or replace any such property damaged in the course of work under the Contract.

#### 34. USE OF ROADWAYS AND WALKWAYS

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 and shall maintain it in satisfactory condition as long as the interference continues, all without extra payment unless otherwise expressly stipulated in the Specifications.

#### 35. MATERIALS

a. Unless explicitly stated otherwise, all specified equipment and material comprising the work of this Contract, as being provided or furnished or installed, shall imply the inclusion of all components, hardware and accessories, required for complete installation and satisfactory operation as intended by the manufacturer. Wherever the method installation of any material is not explicitly specified, the installation shall be as recommended by manufacturer.

b. Wherever in the Contract Documents it is provided that the Contractor shall furnish materials or equipment for which no detailed Specifications are set forth, such materials or equipment shall be new and of the best grade for the respective purpose for which they will be used when incorporated in the work. Materials specified by reference to a number or symbol of a specific standard, such as A.S.M., Federal Specification, State Standard, Trade Association, or similar standards, shall comply with requirements in the latest revision thereof and any amendment or supplement in effect on the date of proposal opening.

c. None of the materials to be provided furnished or installed on this project shall contain asbestos or any other "hazardous substance" as that term is defined by federal or state law.

### 36. SUBSTITUTIONS

a. Wherever in the drawings or Specifications a material or product is called for by trade or brand names or manufacturer and model number, alternative items of equal quality and purpose may be proposed for use by the Contractor. The burden of proof of equality is on the Contractor, and Contractor shall furnish all information and supplies necessary for the Architect to make a thorough evaluation of the proposed substitution. The Architect's decision about the equality of the proposed substitution is final, and if the proposed substitution is not approved, the Contractor shall install the item called for. Proposed substitutions and any changes in adjacent work caused by them shall be made by the Contractor at no additional cost to the District.

b. Proposed substitutions shall be submitted sufficiently before actual need to allow time for thorough evaluation. Substitutions shall not be proposed for the reason that submittals were not made early enough to avoid delay. Architect's review of substitutions shall not relieve the Contractor from complying with the requirements of the drawings and Specifications.

c. In the event Contractor makes substitutions in materials, equipment, or designs, with or without the District's approval, other than those authorized herein, the Contractor shall then assume full responsibility for the effects of such substitutions on the entire project, including the design, and shall reimburse the District for any charges resulting from such substitutions, including any charges for modifications in the work of other trades, and including any charges for additional design, plus reasonable and customary mark-ups.

### 37. TESTING

a. Materials, equipment, or other work requiring tests may be specified in the Contract Documents, and they shall be adequately identified and delivered to the site in ample time before intended use to allow for testing. If such materials, equipment or other work should be covered without required testing and approval, they shall be uncovered at the Contractor's expense, including any repairs or replacement resulting therefrom. The Contractor shall notify the District and Architect when and where such materials, equipment or other work are ready for testing, and Contractor shall bear the cost of making them available for testing. The Contractor shall notify the District and Architect sufficiently before the need for testing so as to cause no delay in the work and, in any case, at least forty-eight (48) hours prior to the need for testing.

b. The cost of initial tests called for will be paid by the District and will be performed by independent testing consultants retained by the District. All other tests and inspections specified or otherwise required to substantiate compliance with specified requirements for quality of material or performance of operation shall be paid for by the Contractor. If retesting or additional testing is necessary because of substandard initial test results, the costs thereof shall be paid by the Contractor, including any repairs or replacement resulting therefrom.

### 38. INSPECTION

a. All materials, equipment and workmanship used in the work of the Project shall be subject to inspection or testing at all times and locations during construction and/or manufacture. The District's and Architect's authorized representatives and representatives of other agencies having authority over the work shall have access to the work for the above purposes at all reasonable times

and locations. Any material or work found to be unsatisfactory or not according to the Contract Documents shall be replaced with the correct material or work and the defective items promptly removed, all at the Contractor's expense, when directed to do so by any of the above-named persons having authority over the work. Inspection shall not relieve the Contractor from complying with the requirements of the Contract Documents.

b. Whenever required by any of the above-named persons, the Contractor shall furnish all tools, labor and materials necessary to make an examination of work in place by uncovering the same. Should such work be found unsatisfactory, the cost of examination and reconstruction shall be paid by the Contractor. Should such work be found satisfactory, the cost of examination and reconstruction shall be paid by Change Order unless the Contractor improperly covered the work before it could be inspected or tested. If the Contractor considers it necessary or desirable to work on Saturday, Sunday or a holiday, Contractor shall so notify the District at least forty-eight (48) hours before the commencement of such work.

### 39. CLEANUP

a. The Contractor shall maintain the premises and area of the work in a neat and clean condition by removing rubbish and debris at intervals of at least once a week or more frequently if necessary or so directed by the District. Rubbish and debris shall be regularly removed from the Project area and disposed of in a neat and legal manner. No burning of rubbish shall be allowed. The Contractor shall control dust on the site by sprinkling at whatever intervals are necessary to keep it laid down, and shall take measures to prevent dust and debris from being accidentally transported outside the area of the work.

b. 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 throughout the building. Stair treads and risers shall be wet-mopped. Glass 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, all to the satisfaction of the Architect and District. The exterior of the buildings, playfields, exterior improvements, and planting spaces shall be similarly clean and in good order.

### 40. INSTRUCTIONS AND MANUALS

Three copies each of all maintenance instructions application/installation instructions and service manuals called for in the Specifications shall be provided by the Contractor. These shall be complete as to drawings, details, parts lists, performance data and other information that may be required for the District to easily maintain and service the materials and equipment installed under this Contract. All manufacturer's application/installation instructions shall be given to the Inspector at least ten (10) days prior to first material application or installation of the item. The maintenance instructions and manuals, along with any specified guarantees, shall be delivered to the Architect for review prior to submitting to District, and the Contractor or appropriate Subcontractors shall instruct

District's personnel in the operation and maintenance of the more complex equipment prior to final acceptance of the Project.

#### 41. AS-BUILT DRAWINGS

The Contractor and all his Subcontractors will maintain on 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 if necessary to keep them up to date at all times. 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, duct work, drain lines, etc., shall be located in addition by dimension and elevation. Progress payments may be delayed or withheld until such time as the record set is brought up to date to the satisfaction of the Architect. The Contractor shall verify that all changes in the work are included in the "AS-BUILT" drawings and deliver the complete set thereof to the Architect for review and approval within thirty (30) calendar days after District's Notice of Acceptance. District's acceptance and approval of the "AS-BUILT" drawings are a necessary condition precedent to the release of the final retention.

#### 42. SUBSTITUTION OF SECURITIES

a. Pursuant to Public Contract Code section 22300, Contractor may request in writing that it be allowed at its own expense to substitute securities for moneys withheld by District to ensure performance under this Contract. Only securities listed in Government Code Section 16430 and bank or savings and loan certificates of deposit, interest-bearing demand deposit accounts standby letters of credit, or any other security mutually agreed to by Contractor and District shall qualify under this Article. Securities equivalent to the amount withheld shall be deposited with the District or with a state or federally chartered bank in California as the escrow agent. Upon satisfactory completion of the Contract and on written authorization by District, said securities shall be returned to Contractor. Contractor shall be the beneficial owner of said securities and shall receive any interest thereon. The Contractor may alternatively request District to make payment of retentions earned directly to the escrow agent at the expense of the Contractor.

b. At the expense of the Contractor, the Contractor may direct the investment of the payments into securities and the Contractor shall receive the interest earned on the investments upon the same terms provided for above for securities deposited by Contractor. Upon satisfactory completion of the contract, Contractor shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from the District. The Contractor shall pay to each Subcontractor, not later than 20 days of receipt of payment, the respective amount of interest earned, net of costs attributed to retention withheld from each Subcontractor, on the amount of retention.

c. Any escrow agreement entered into pursuant to this Article shall comply with Public Contract Code section 22300 and shall be subject to approval by District's counsel.



#### 43. NO DISCRIMINATION

It is the policy of the District that in connection with all work performed under contracts, there will be no discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, ethnic group identification, religion, sex, sexual orientation, age, disability, or marital status. The Contractor agrees to comply with applicable Federal and California laws including, but not limited to, the California Fair Employment Practice Act, beginning with Government Code section 12900, Government Code section 11135, and Labor Code sections 1735, 1777.5, 1777.6 and 3077.5. In addition, the Contractor agrees to require like compliance by any Subcontractors employed on the work.

#### 44. LABOR STANDARDS

##### a. Work Hours:

In accordance with California Labor Code section 1810, eight (8) hours of labor shall constitute a legal day's work under this Contract. Contractor and any Subcontractor shall pay workers overtime pay as required by California Labor Code section 1815. The Contractor shall pay each worker, laborer, mechanic or persons performing work under this Contract at a rate not less than the prevailing wage for each craft or classification covering the work actually performed.

##### b. Penalty:

Contractor shall forfeit to District as a penalty the sum of twenty-five dollars (\$25.00) for each worker employed in the execution of this Contract by Contractor or any Subcontractor for each calendar day during which said worker is required or permitted to work more than eight (8) hours in any one (1) calendar day or more than forty (40) hours per calendar week in violation of Article 3, Division 2, Part 7, Chapter 1 of the California Labor Code.

##### c. Employment of Apprentices:

Contractor agrees to comply with Labor Code sections 1773.3, 1777.5 and 1777.6, and 3077 et. seq., each of which is incorporated by reference into this Contract. These Sections require that Contractors and Subcontractors employ apprentices in apprenticeable occupations in a ratio of not less than one (1) hour of apprentice work for every five (5) hours of labor performed by a journeyman, unless an exception is granted and that Contractors and Subcontractors shall not discriminate against otherwise qualified employees as apprentices on any public works solely on the ground of race, religion, color, national origin, ethnic group identification, sex, sexual orientation, age, or disability. Only apprentices who are in training under written apprenticeship occupations shall be employed. The responsibility for compliance with these provisions for all apprenticeable occupations rests with Contractor.

d. The Contractor shall be knowledgeable of and comply with California Labor Code sections 1727, 1773.5, 1775, 1777, 1777.5, 1810, 1813, 1860, including all amendments thereto; each of these sections is incorporated by reference into this Contract.

#### 45. GENERAL RATE OF PER DIEM WAGES

##### a. On File:

As required by Labor Code section 1773.2, the District has on file in its principal office copies of the general prevailing rate of per diem wages for workers employed on public work as determined by the Director of the Department of Industrial Relations, which shall be available to any interested party on request. Contractor shall post a copy of the document at each job site.

##### b. Prevailing Wage Rate:

The Contractor and each Subcontractor shall pay each worker performing work under this Contract at a rate not less than the prevailing wage as defined in Labor Code section 1771 and 1774 and Section 16000(a) of Title 8, California Code of Regulations.

##### c. Penalty:

In accordance with Section 1775 of the California Labor Code, the Contractor shall forfeit to the District as penalty, the sum of fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates, as determined by the Director of the California Department of Industrial Relations, for any work done under this Contract by Contractor or by any Subcontractor. Contractor shall also pay each worker the difference between the stipulated prevailing wages rates and the amount actually paid to such worker.

#### 46. RECORD KEEPING

a. 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, straight time and overtime hours worked each day and week of all workers employed by Contractor in connection with the execution of this Contract or any subcontract thereunder and showing the actual per diem wages paid to each of such workers. These records shall be certified and shall be open at all reasonable hours to the inspection of the District awarding the Contract, its officers and agents, and to the Chief of the Division of Labor Statistics and Law Enforcement of the State Department of Industrial Law Enforcement of the State Department of Industrial Relations, and his or her other deputies and agents.

##### b. In addition, copies of the above records shall be available as follows:

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

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

3) A certified copy of all payroll records shall be made available upon request by the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the District, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been previously provided, the requesting party shall, prior to being provided the records, reimburse the costs of the Contractor, Subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of the Contractor.

c. The Contractor shall file a certified copy of the records with the entity requesting the records within ten days after receipt of a written request. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the District, shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the Contractor awarded the Contract or performing the Contract shall not be marked or obliterated.

d. The Contractor shall inform the Owner of the location of the records, including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.

e. In the event of noncompliance with the requirements of this section, the Contractor shall have ten days in which to comply subsequent to receipt of written notice specifying in what respects the Contractor must comply with this section. Should noncompliance still be evident after the ten day period, the Contractor shall, as a penalty to the District, forfeit twenty-five dollars (\$25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due.

f. Responsibility for compliance with this provision shall be with the Contractor.

#### 47. PROJECT COMPLETION

a. When the work to be performed under this Contract is complete, the Contractor shall notify the Architect and District, in writing, setting a date for inspection. Included in this inspection will be the Contractor and Subcontractor representatives as applicable. As a result of this inspection, the Architect will prepare a list of items ("punch list") that are incomplete or not installed according to the Contract Documents. Failure to include items of this list does not relieve the Contractor from fulfilling all requirements of the Contract.

b. The Architect will promptly deliver the punch list to the Contractor and it will include a period of time by which the Contractor shall complete all items listed thereon. 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 Notice of Completion with the County Recorder. Payment of retention from the Contract shall not be made sooner than thirty-five (35) calendar days after the date of filing of Notice of Completion.

c. Upon issuance of the Notice of Acceptance, the contractor shall within three (3) calendar days notify PG&E with a request for commissioning.

#### 48. TRENCHING OR OTHER EXCAVATIONS

##### a. Excavations or Trenches Deeper than Four Feet:

If the project involves digging trenches or other excavations that extend deeper than four feet, the following provisions shall be a part of this Contract:

1) The Contractor shall promptly, and before the following conditions are disturbed, provide written notice to the District if the Contractor finds any of the following conditions:

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

(b) Subsurface or latent physical conditions at the site which are different from those indicated or expected.

(c) Unknown physical conditions at the site of any unusual nature or which are materially different from those ordinarily encountered and generally recognized as inherent in work which the Contractor generally performs.

2) In the event that the Contractor notifies the District that Contractor has found any of the conditions specified in subparagraphs (a), (b) or (c), above, the District shall promptly investigate the condition(s). If the District finds that the conditions are materially different or that a hazardous waste is present at the site which will affect the Contractor's cost of, or the time required for, performance of the Contract, the District shall issue a change order in accordance with the procedures set forth in this Contract.

3) In the event that a dispute arises between the District and the Contractor regarding any of the matters specified in Paragraph (2), above, the Contractor shall proceed with all work to be performed under the Contract and the Contractor shall not be excused from completing the Project as provided in the Contract. In performing the work pursuant to this Paragraph, the Contractor retains all rights provided by law which pertain to the resolution of disputes and protests between the contracting parties.

##### b. Regional Notification Center:

The Contractor, except in an emergency, shall contact the appropriate regional notification center at least two (2) days prior to commencing any excavation if the excavation will be conducted in an area or in a private easement that is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the District, and obtain an inquiry identification number from that notification center. No excavation shall be commenced and/or carried out by the Contractor unless an inquiry identification number has been assigned to the Contractor or any Subcontractor and the Contractor has given the District the identification number. Any damages arising from Contractor's failure to make appropriate notification shall be at the sole risk and expense of the Contractor. Any delays caused by failure to

make appropriate notification shall be at the sole risk of the Contractor and shall not be considered for an extension of the Contract time.

c. Existing Utility Lines:

1) Pursuant to Government Code section 4215, District assumes the responsibility for removal, relocation, and protection of main or trunk utility lines and facilities located on the construction site at the time of commencement of construction under this contract with respect to any such utility facilities that are not identified in the plans and Specifications. Contractor shall not be assessed for liquidated damages for delay in completion of the Project caused by failure of District or the owner of a utility to provide for removal or relocation of such utility facilities.

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

3) No provision herein shall be construed to preclude assessment against Contractor for any other delays in completion of the project. Nothing in this Section shall be deemed to require District to indicate the presence of existing service laterals, appurtenances, or other utility lines, with the exception of main or trunklines, whenever the presence of such utilities on the site of the construction Project can be inferred from the presence of other visible facilities, such as buildings, meter and junction boxes, on or adjacent to the site of the construction.

4) If Contractor, while performing work under this Contract, discovers utility facilities not identified by District in the project plans and Specifications, Contractor shall immediately notify the District and the utility in writing. The cost of repair for damage to above-mentioned visible facilities without prior written notification to the District shall be borne by the Contractor.

d. Prompt Notification:

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

e. Trenches Five Feet and Deeper:

Pursuant to Labor Code section 6705, if the contract price exceeds \$25,000 and involves the excavation of any trench or trenches five (5) feet or more in depth, the Contractor shall, in advance of excavation, promptly submit to the District and/or a registered civil or structural engineer employed

by the District or Architect, a detailed plan showing the design of shoring for protection from the hazard of caving ground during the excavation of such trench or trenches.

#### 49. RESOLUTION OF CONSTRUCTION CLAIMS

a. Public work claims of \$375,000 or less between Contractor and District are subject to the provisions of Article 1.5 (commencing with section 20104) of Chapter 1 of Part 2 of the Public Contract Code. For purposes of this section and Article 1.5, "public work" has the same meaning as set forth in sections 3100 and 3106 of the Civil Code; "claims" means a separate demand by Contractor for a time extension or payment of money or damages arising from work done by or on behalf of Contractor pursuant to the Contract and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to or the amount of the payment which is disputed by the District.

b. Each claim must be submitted on or before the date of the final payment and shall include all documents necessary to substantiate the claim. District shall respond in writing within 45 days of receipt of claim if the claim is less than or equal to \$50,000 ("\$50,000 claim") or within 60 days if the claim is over \$50,000 but less than or equal to \$375,000 ("\$50,000 - \$375,000 claim"). In either case, District may request in writing within 30 days of receipt of claim any additional documentation supporting the claim or relating to any defenses to the claim which the District may have against the Contractor. Any additional information shall be requested and provided upon mutual agreement of the District and the Contractor. District's written response to the claim shall be submitted to Contractor within 15 days after receipt of the further documentation for \$50,000 claims or within 30 days after receipt of the further documentation for \$50,000 - \$375,000 claims or within a period of time no greater than that taken by the Contractor in producing the additional information, whichever is greater.

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

d. Pursuant to Public Contract Code section 20104.2(f), this section does not apply to tort claims and does not change the period for filing tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.

e. If a civil action is filed, within 60 days, but no earlier than 30 days, following the filing of responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide that both parties select a disinterested third person mediator within 15 days, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days of the commencement of the mediation unless time

is extended upon a good cause showing to the court or by stipulation of the parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

f. If the matter remains in dispute, the case shall be submitted to judicial arbitration as set forth in Public Contract Code section 20104.4 (b)(1) through (b)(3).

#### 50. DISABLED VETERANS PARTICIPATION GOALS

In accordance with Education Code section 17076.11, this District has a participation goal for disabled veteran business enterprises (“DVBE”) of at least 3 percent (3%) per year of the overall dollar amount of funds allocated to the District by the State Allocation Board pursuant to the Leroy F. Greene School Facilities Act of 1998 for construction or modernization and expended each year by the District. Prior to, and as a condition precedent for final payment under any contract for such project, the Contractor shall provide appropriate documentation to the District identifying the amount paid to disabled veteran business enterprises in conjunction with the contract, so that the District can assess its success at meeting this goal.

#### 51. RETENTION OF DVBE RECORDS

The Contractor agrees that, for all contracts subject to DVBE participation goals, the State and the District have the right to review, obtain and copy all records pertaining to performance of the contract in accordance with DVBE requirements. The Contractor agrees to provide the State or the Owner with any relevant information requested and shall permit the State or Owner access to its premises upon reasonable notice for purposes of interviewing employees and inspecting records. The Contractor agrees to maintain such records for a period of three years after final payment under the contract.

#### 52. FINGERPRINTING

(Applies to K-12 districts only.)

##### District Determination of Fingerprinting Requirement Application

The District has considered the totality of the circumstances concerning the Project and has determined that the Contractor and Contractor's employees:

  X   are subject to the requirements of Education Code Section 45125.2 and Paragraph (a) below, is applicable.

           are not subject to the requirements of Education Code Section 45125.2 and Paragraph (b) below, is applicable.

a. Contracts for Construction, Reconstruction, Rehabilitation or Repair of a School Facility Involving More than Limited Contact with Students (Section 45125.2)

By execution of the Agreement/Contract, the Contractor further acknowledges that Contractor is entering into a contract for the construction, reconstruction, rehabilitation, or repair of a

school facility where the Contractor and/or Contractor's employees will have more than limited contact with students and the services to be provided do not constitute an emergency or exceptional situation. In accordance with Education Code Section 45125.2 the Contractor shall, at Contractor's own expense, (1) install a physical barrier to limit contact with students by Contractor and/or Contractor's employees, and/or (2) provide for the continuous supervision and monitoring of the Contractor and/or Contractor's employees by an employee of the Contractor who has received fingerprint clearance from the California Department of Justice, and/or (3) provide for the surveillance of the Contractor and Contractor's employees by a District employee.

b. Contracts for Construction, Reconstruction, Rehabilitation or Repair of a School Facility Involving Only Limited Contact With Students (Section 45125.2)

By execution of the Agreement/Contract, the Contractor further acknowledges that Contractor is entering into a contract for the construction, reconstruction, rehabilitation or repair of a school facility involving only limited contact with students. Accordingly, the parties agree that the following conditions apply to any work performed by the Contractor and Contractor's employees on a school site: (1) Contractor and Contractor's employees shall check in with the school office each day immediately upon arriving at the school site; (2) Contractor and Contractor's employees shall inform school office staff of their proposed activities and location at the school site; (3) Once at such location, Contractor and Contractor's employees shall not change locations without contacting the school office; (4) Contractor and Contractor's employees shall not use student restroom facilities; and (5) If Contractor and/or Contractor's employees find themselves alone with a student, Contractor and Contractor's employees shall immediately contact the school office and request that a member of the school staff be assigned to the work location.

53. LABOR COMPLIANCE PROGRAM

A labor compliance program is required if the project will be funded by either the Kindergarten-University Public Education Facilities Bond Act of 2002 or the Kindergarten-University Public Education Facilities Bond Act of 2004 and will commence on or after April 1, 2003, or other state bond act if made applicable thereto. A determination regarding whether a labor compliance program is required is contained in the Instructions to Contractors. If a labor compliance program is required, the following applies to this Contract:

a. This contract is subject to a labor compliance program, as described in subdivision (b) of Section 1771.5 of the Labor Code. The Labor Compliance Program ("LCP") is incorporated by reference into the Contract and it will be enforced as required by state law and regulations and the Director of the Department of Industrial Relations. The Contractor shall comply with all requirements identified in that LCP.

b. Contractor or Subcontractor agrees that submission of Certified Payroll Records as well as all related or subsequent requests for supporting document made by the District or its LCP shall be a condition precedent to receipt of a progress, final, or retention payment. The District shall withhold any portion of the progress payment up to and including the entire progress payment until the Certified Payroll Records requirement is met by the Contractor or Subcontractor. If the Contractor or Subcontractor is determined to have failed to pay workers in compliance with the applicable prevailing wage sections of the Labor Code, the District's LCP, the District shall continue



to withhold progress, final, or retention payments until sufficient funds have been withheld for payment of wages to workers and all applicable penalties imposed by the LCP.

c. The Contractor or Subcontractor shall have 10 days in which to comply subsequent to receipt of a written notice requesting Certified Payroll Records or supporting documents. In the event that the Contractor or Subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the District or its LCP, forfeit twenty-five dollars (\$25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A Contractor is not subject to a penalty assessment pursuant to this section due to the failure of a Subcontractor to comply with this section.

#### 54. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted, and this Contract shall be read and enforced as though it were included, and if through mistake or otherwise any provision is not inserted or is not correctly inserted, upon application of either party the Contract shall be amended to make the insertion or correction. All references to statutes and regulations shall include all amendments, replacements, and enactments on the subject which are in effect as of the date of this Contract, and any later changes which do not materially and substantially alter the positions of the parties.

#### 55. GENERAL PROVISIONS

a. Assignment and Successors:

Neither party may transfer or assign its rights or obligations under the Contract Documents, in part or in whole, without the other party's prior written consent. The Contract Documents are binding on the heirs, successors, and permitted assigns of the parties hereto.

b. Third Party Beneficiaries:

There are no intended third-party beneficiaries to the Contract.

c. Choice of Law and Venue

The Contract Documents shall be governed by California law, and venue shall be in the county in which the District's primary office is located, and no other place.

d. Severability

If any provision of the Contract Documents is determined to be illegal, invalid, or unenforceable, in part or in whole, the remaining provisions, or portions of the Contract Documents shall remain in full force and effect.

e. Entire Agreement

The Contract Documents constitute the final, complete, and exclusive statement of the terms of the agreement between the parties regarding the subject matter of the Contract documents and supersedes all prior written or oral understandings or agreements of the parties.

f. Waiver

No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of the Contract Documents shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

g. Headings

The headings in the Contract Documents are included for convenience only and shall neither affect the construction or interpretation of any provision in the Contract Documents nor affect any of the rights or obligations of the parties to the Contract.

ATTACHMENT 1

PERFORMANCE BOND

WHEREAS, the governing board of the San Mateo Union High School District (“District”), at a regular Business Meeting on \_\_\_\_\_, 20\_\_\_\_, have awarded to

\_\_\_\_\_,  
 (“Principal”), a contract (“Contract”) for performance of the following project (“Project”):  
***District Office Parking Lot Solar Array Project***

WHEREAS, said Principal is required under the terms of Contract to furnish a bond to the District as obligee for the faithful performance of the Contract, which is fully incorporated herein by this reference.

NOW, THEREFORE, we, the Principal and

\_\_\_\_\_, as Surety, hereby guarantee the  
Principal’s faithful and complete performance of the Contract in the penal sum of

\_\_\_\_\_ Dollars  
(\$ \_\_\_\_\_) for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents, to perform or have performed all the work required to complete the Project and to pay to District all damages the District incurs as a result of Principal’s failure to fully perform the Contract.

The condition of the obligation is such, that if Principal, its heirs, executors, administrators, successors or assigns, shall in all things stand to and a proposal by, and well and truly keep and perform the covenants, conditions and agreements in the Contract and any alteration thereof made as therein provided, on its or their parts to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless District, its officers and agents, as therein stipulated, then this obligation shall become null and void. Otherwise it shall be and remain in full force and effect.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the Specifications accompanying the same shall in any way affect its obligations on this bond, it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or Contract Documents or to the work or to the Specifications.

Principal and Surety further agree that to pay all costs incurred by District in connection with enforcement of this bond, including, but not limited to District’s reasonable attorney’s fees incurred, with or without suit, in addition to any other sum required by this bond. Surety further agrees that death, dissolution, or bankruptcy of the Principal shall not relieve the Surety of its obligations hereunder.

In witness whereof, five (5) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

*To be signed by  
Principal and Surety  
and acknowledgment  
and notarial seal to  
be attached.*

\_\_\_\_\_  
PRINCIPAL

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

TITLE \_\_\_\_\_

\_\_\_\_\_  
SURETY

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

TITLE \_\_\_\_\_

The above bond is accepted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
Authorized District Signature

ATTACHMENT 2

PAYMENT BOND

WHEREAS, the San Mateo Union High School District ("District") and

\_\_\_\_\_  
("Principal") have entered into a contract ("Contract") for the furnishing of all materials, labor services and transportation necessary, convenient, and proper for the **District Office Parking Lot Solar Array Project ("Project")** which Contract dated \_\_\_\_\_, 20\_\_\_\_, and all of the Contract Documents made part thereof are fully incorporated herein by this reference; and

WHEREAS, the Principal is required before entering upon the performance of the work, to file a good and sufficient bond with the body by whom the Contract is awarded, pursuant to Sections 3247 to 3252, inclusive, of the Civil Code of California.

NOW, therefore, Principal and the undersigned \_\_\_\_\_  
\_\_\_\_\_, as Surety, are held and firmly bound unto all laborers, materialmen, and other persons referred to in the above statutes in the sum of

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_), lawful money of the United States, by the terms of the Contract, for the payment of which sum will and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns, jointly and severally by these presents.

The condition of this obligation is that if the Principal or any of its Subcontractors, or the heirs, executors, administrators, successors, or assigns of any, all or either of them shall fail to pay for any materials, provision, provender or other supplies used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor hereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, or for any of the persons named in Section 3181 of the California Civil Code, or for any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the Principal or any of its Subcontractors pursuant to Section 18806 of the Revenue and Taxation Code with respect to such work or labor, that Surety will pay the same in amount not exceeding the amount hereinabove set forth, and also, in case suit is brought upon this bond, will pay reasonable attorneys' fees to be awarded and fixed by the court and to be taxed as costs and to be included in the judgment therein rendered.

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 under Section 3181 of the California Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond. Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, Contract Documents, or the Specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

In witness whereof, this instrument has been duly executed by the Principal and Surety this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

*To be signed by  
Principal and Surety  
and acknowledgment  
and notarial seal to  
be attached.*

\_\_\_\_\_  
PRINCIPAL

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

TITLE: \_\_\_\_\_

\_\_\_\_\_  
SURETY

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

TITLE \_\_\_\_\_

The above bond is accepted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By \_\_\_\_\_  
Authorized District Signature

EXHIBIT D  
NOTICE OF AWARD

To:

Project Description:

***District Office Parking Lot Solar Array Project***

The District has considered the proposal submitted by you for the above described work in response to the Request for Qualification and Proposals dated October 3, 2019.

You are hereby notified that your proposal has been accepted for items in the amount of:

(\$ \_\_\_\_\_).

You are required by the Information for Contractors to execute the Agreement and furnish the required Contractor's Performance Bond, Payment Bond and certificates of insurance within five (5) days from the date of receipt of this Notice.

If you fail to execute the Agreement and to furnish the bonds within five (5) days from the date of receipt of this Notice, District will be entitled to consider all your rights arising out of its acceptance of your proposal as abandoned and as a forfeiture of your Proposal Security. The District will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this Notice of Award to the District.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By \_\_\_\_\_  
Authorized District Signature

Receipt of this above Notice of Award is hereby acknowledged by:

\_\_\_\_\_, this is the \_\_\_\_\_

day of \_\_\_\_\_, 200\_\_.

By \_\_\_\_\_

Title \_\_\_\_\_

EXHIBIT E  
NOTICE TO PROCEED

To:

Date:

**PROJECT: District Office Parking Lot Solar Array Project**

You are hereby notified to commence work in accordance with the Design Build Contract dated, \_\_\_\_\_, 2019, on or before \_\_\_\_\_, 2019, and the Attachments hereto. You are to complete the work per the milestone schedule.

By: \_\_\_\_\_  
Authorized District Signature

Required Attachments:

1. Phase 1 Scope of Services and Work
2. Phase 2 Scope of Services and Work
3. Milestone Schedule



EXHIBIT F  
PROPOSAL FORM

Governing Board  
San Mateo Union High School District

Dear Members of the Governing Board:

The undersigned, doing business under the name of \_\_\_\_\_, having carefully examined the location of the New Continuation High School/Alternative High School Modular Building Project, the Request for Proposal and all exhibits attached thereto, including but not limited to: Construction Documents, Design Build Contract, accurately completed the Pre-Qualification Certification and proposes to perform the Contract, including all of its component parts, and to furnish any and all required labor, materials, equipment, transportation and services required for the construction of the Project in strict conformity with the Contract Documents, including all taxes as follows:

1. Response to Price Criteria

**BASE PRICE: District Office Parking Lot Solar Array Project**

The work complete as shown and specified, for the sum of

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_)

**PHASE 1: DESIGN AND PRECONSTRUCTION:** Fixed lump sum for Phase 1:  
[\_\_\_\_\_ (\$ \_\_\_\_\_) *insert amount of Phase 1 lump sum*].

**PHASE 2: CONSTRUCTION THROUGH CLOSE OUT:** Fixed lump sum for Phase 2:  
[\_\_\_\_\_ (\$ \_\_\_\_\_) *insert amount of Phase 2 lump sum*].

ADDITIVE/DEDUCTIVE ALTERNATES *[if applicable]*:

Additive Alternate #1

Add/Subtract \_\_\_\_\_ Dollars (\$ \_\_\_\_\_)

The undersigned has checked carefully all the above figures and understands that the District is not responsible for any errors or omissions on the part of the undersigned in making up this proposal.

If awarded the Design-Build Contract the undersigned hereby agrees to sign the Design-Build Contract and furnish the necessary bonds and certificates of insurance within ten (10) days after the Notice of the Award is issued and agrees to commence construction within ten (10) days after the Notice to Proceed is issued.

Enclosed find certified or cashier's check No. \_\_\_\_\_ of the  
\_\_\_\_\_ Bank for \_\_\_\_\_  
Dollars (\$ \_\_\_\_\_) or Proposer's Bond of the \_\_\_\_\_ surety

company in an amount of not less than ten percent (10%) of the entire bid. The undersigned further agrees, on the acceptance of this proposal, to enter into and execute the Contract with the necessary bonds and that in case of default in executing these documents within the time fixed by the Instructions to Proposers, the proceeds of the check or bond, accompanying this bid, shall become the property of the District.

It is understood that this proposal is based upon completing the work within the number of calendar days as specified in the Contract Documents.

**ADDENDA:**

Receipt of the following addenda is hereby acknowledged:

Addendum # _____	Dated: _____	Addendum # _____	Dated: _____
Addendum # _____	Dated: _____	Addendum # _____	Dated: _____
Addendum # _____	Dated: _____	Addendum # _____	Dated: _____

**2. Response to Other "Best Value" Criteria**

*[Proposer shall provide a typewritten narrative in response to each of the "Best Value" criteria described in Section 5.2 of the RFP]*

Submitted,  
Company: \_\_\_\_\_

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

By: \_\_\_\_\_  
*(Please Print Or Type)*

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

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

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

Phone: \_\_\_\_\_

Contractor's License No: \_\_\_\_\_ Expiration Date \_\_\_\_\_

Required Attachments:      Subcontractor List Form  
                                    Subcontractor Allocation of Work and Costs  
                                    Worker's Compensation Certificate  
                                    Non-Collusion Affidavit  
                                    Proposal Security Bond (or Cashier's or Certified Check)

## SUBCONTRACTOR LIST FORM

[illegible]

ATTACHMENT 2

SUBCONTRACTOR ALLOCATION OF WORK AND COSTS

ATTACHMENT 3

WORKER'S COMPENSATION CERTIFICATE

Labor Code Section 3700 in relevant part provides:

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

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

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

\_\_\_\_\_  
Contractor

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

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

ATTACHMENT 4

NONCOLLUSION AFFIDAVIT

*To be executed by contractor and submitted with proposal.*

State of California )  
County of \_\_\_\_\_) ss

\_\_\_\_\_, being first duly sworn, deposes and says that he or she is \_\_\_\_\_ of \_\_\_\_\_ the party making the foregoing proposal that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the contractor has not directly or indirectly induced or solicited any other contractor to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any contractor or anyone else to put in a sham proposal, or that anyone shall refrain from proposing; that the contractor has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the contractor or any other contractor, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other contractor, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the proposal are true; and, further, that the contractor has not, directly or indirectly, submitted his or her proposal 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, proposal depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

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

\_\_\_\_\_  
Signature

State of \_\_\_\_\_  
County of \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

## ATTACHMENT 5

### PROPOSAL SECURITY

Know all persons by these presents, that we \_\_\_\_\_ as principal ("Principal"), and \_\_\_\_\_, as surety ("Surety") are firmly bound unto the San Mateo Union High School District ("District"), in the penal sum of ten percent (10%) of the total amount of the proposal of the Principal submitted to the said District for the work described below for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of this obligation is such that whereas the Principal has submitted the accompanying proposal ("Proposal") dated \_\_\_\_\_, for the following project ("Project"): **District Office Parking Lot Solar Array Project**

Now, therefore, if the Principal does not withdraw its Proposal within the period specified or if no period be specified within sixty (60) days after Proposal opening; and if the Principal is awarded the Contract and within the period specified, or, if no period is specified, within ten (10) days after the prescribed forms are presented to him or her for signature, and fails to enter into a written contract with District, in accordance with the Proposal as accepted, or fails to provide the proof of required insurance, performance bond and the payment bond by an admitted surety within the time prescribed, or in the event of unauthorized withdrawal of the Proposal, if the Principal pays District the difference between the amount specified in the Proposal and the amount for which District may procure the required work and/or supplies, if the latter amount is in excess of the former, together with all costs incurred by District in again calling for proposals, then the above obligation shall be void and of no effect, otherwise to remain in full force.

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

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

In witness whereof the above-bounden Parties have executed this instrument under their several seals this \_\_\_\_\_ day of \_\_\_\_\_, the name and corporate seal of each corporate Party being hereunder affixed and these presents duly signed by its undersigned representative, pursuant to the authority of its governing body.

(Corporate Seal)

\_\_\_\_\_  
Principal

By \_\_\_\_\_

Title \_\_\_\_\_

(Corporate Seal)

Surety

\_\_\_\_\_

Attach Attorney-In-Fact  
Certificate

By \_\_\_\_\_

Title \_\_\_\_\_

*To be signed by Principal and Surety and Acknowledgment and Notary Seal to be attached.*



EXHIBIT G

BOND AND INSURANCE INFORMATION

(To be submitted to Insurance/Bonding  
Company by Successful Contractor)

Contractor

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District and Address

650 N. Delaware Street, San Mateo, CA 94401

Project Title and Location

District Office Parking Lot Solar Array Project

Date of Proposal \_\_\_\_\_ Amount \_\_\_\_\_

Performance Bond: 100% (See attached bond form/2 originals required)

Payment Bond: 100% (See attached bond form/2 originals required)

Time for Completion \_\_\_\_\_ Liquidated Damages \_\_\_\_\_

Number of executed contracts needed \_\_\_\_\_

Description of Work:

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Contract includes the following insurance requirements:

INSURANCE

a. Contractor shall obtain insurance acceptable to District from a company or companies acceptable to District. All required insurance must be written by an admitted company licensed to do business in the State of California at the time the policy is issued. All required insurance shall be equal to or exceed an A VIII rating as listed in Best's Insurance Guides' latest edition. District may in its sole discretion accept insurance written on a company listed on the State of California Department of Insurance List of Eligible Surplus Lines ("LESLI List") with a rating of A X or above as listed in Best's Insurance Guides' latest edition. Required documentation of such insurance shall be furnished to the District at the time Contractor returns the executed Contract. Contractor shall not commence work nor shall it allow its employees or Subcontractors or anyone to commence work until all

insurance required hereunder has been submitted and approved and a notice to proceed has been issued.

b. Contractor shall take out and maintain at all times during the life of this Contract, up to the date of acceptance of the work by the District, the following policies of insurance.

1) Public Liability Insurance: Personal injury and replacement value property damage insurance for all activities of the Contractor and its Subcontractors arising out of or in connection with this Contract, written on a comprehensive general liability form including contractor's protected coverage, blanket contractual, completed operations, vehicle coverage and employer's non-ownership liability coverage, in an amount no less than \$2,000,000 combined single limit personal injury and property damage for each occurrence.

2) Builders' Risk Insurance: Contractor shall procure and maintain builders' risk insurance (all-risk coverage) on a one hundred percent completed value basis on the insurable portion of the project for the benefit of the District, and the Contractor and Subcontractor as their interest may appear. In projects involving no structural change or building construction, this requirement may be waived at District's option.

c. Endorsements:

1) The Public Liability Policy specified above shall be endorsed with the following specific language:

“The District is named as additional insured for all liability arising out of the operations by or on behalf of the named insured, and this policy protects the additional insured, its officers, agents and employees against liability for bodily injuries, deaths or property damage or destruction arising in any respect directly or indirectly in the performance of the Contract.”

2) The certificates must state that the insurance is under an occurrence based, and not a claims-made, policy (policies). Both the Public Liability Policy and the Builders' Risk Policy specified above shall be endorsed with the following specific language:

i. The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured and the coverages afforded shall apply as though separate policies have been issued to each insured.

ii. The insurance provided herein is primary and no insurance held or owned by the District shall be called upon to contribute to a loss.

iii. Coverage provided by this policy shall not be reduced or canceled without thirty (30) days written notice given to the Owner by certified mail.

iv. This policy does not exclude explosion, collapse, underground excavation hazard, or removal of lateral support.

d. Documentation:

Within ten (10) days following issuance of the Notice of Award of the Contract, the following documentation of insurance shall be submitted to District for approval prior to issuance of the Notice to Proceed. Certificates of insurance showing the limits of insurance provided, certified copies of all policies, and signed copies of the specified endorsements for each policy. At the time of making application for an extension of time, the Contractor shall submit evidence that the insurance policies will be in effect during the requested additional period of time.

e. If the Contractor fails to maintain such insurance, the District may take out such insurance to cover any damages of the above mentioned classes for which the District might be held liable on account of the Contractor's failure to pay such damages, and deduct and retain the amount of the premiums from any sums due the Contractor under the Contract.

f. Workers' Compensation Insurance:

1) Within five (5) days following issuance of the Notice of Award of the Contract, the Contractor to whom it is awarded shall furnish to the District satisfactory proof that the Contractor and all Subcontractors it intends to employ, have procured, for the period covered by the proposed Contract, full workers' compensation insurance and employer's liability with limits of at least \$1,000,000 with an insurance carrier satisfactory to the District for all persons whom they may employ in carrying out the work contemplated under this Contract in accordance with the Workers' Compensation Insurance and Safety Act, approved May 26, 1913, and all acts amendatory or supplemental thereto (the "Act"). Such insurance shall be maintained in full force and effect during the period covered by the Contract. In the event the Contractor is self-insured, Contractor shall furnish a Certificate of Permission to Self-Insure, signed by the Department of Industrial Relations Administration of Self-Insurance, Sacramento, California.

2) If the Contractor fails to maintain such insurance, the District may take out compensation insurance to cover any compensation which the District might be liable to pay under the provisions of the Act, by reason of any employee of the Contractor being injured or killed, and deduct and retain the amount of the premiums for such insurance from any sums due the Contractor under the Contract.

3) If an injury occurs to any employee of the Contractor for which the employee, or the employee's dependents in the event of the employee's death, is entitled to compensation from the District under the provisions of the Act, or for which compensation is claimed from the District, the District may retain out of the sums due the Contractor under this Contract, an amount sufficient to cover such compensation, as fixed by the Act, until such compensation is paid, or until it is determined that no compensation is due, and if the District is compelled to pay such compensation, it will deduct and retain from such sums the amount so paid.

4) The policies represented by the certificates must contain the provision (and the certificates must so state) that the insurance cannot be canceled until thirty (30) days after written notice of intended revocation has been given to the District by certified mail.

The Contract includes the following hold harmless language:

Contractor shall indemnify, defend with counsel acceptable to District, and hold harmless to the full extent permitted by law, District and its Board of Trustees, officers, agents, architect, construction manager, employees and volunteers from and against any and all liability, loss, damage, claims, expenses and costs (including, without limitation, attorney fees and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with Contractor's performance of the project or its failure to comply with any of its obligations contained in these Contract Documents, except such Liability caused by the active negligence, sole negligence or willful misconduct of the District. Such indemnification shall extend to all claims, demands, or liabilities occurring after completion of the project as well as during the progress of the work. Pursuant to California Public Contract Code Section 9201, District shall timely notify Contractor of receipt of any third-party claim relating to this project.

Attachment 1: Performance Bond Form

Attachment 2: Payment Bond Form

ATTACHMENT 1

PERFORMANCE BOND

WHEREAS, the governing board of the San Mateo Union High School District (“District”), at a regular Business Meeting on \_\_\_\_\_, 20\_\_\_\_, have awarded to

\_\_\_\_\_, (“Principal”), a contract (“Contract”) for performance of the following project (“Project”):  
***District Office Parking Lot Solar Array Project***

WHEREAS, said Principal is required under the terms of Contract to furnish a bond to the District as obligee for the faithful performance of the Contract, which is fully incorporated herein by this reference.

NOW, THEREFORE, we, the Principal and

\_\_\_\_\_, as Surety, hereby guarantee the  
Principal’s faithful and complete performance of the Contract in the penal sum of

\_\_\_\_\_ Dollars  
(\$ \_\_\_\_\_) for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents, to perform or have performed all the work required to complete the Project and to pay to District all damages the District incurs as a result of Principal’s failure to fully perform the Contract.

The condition of the obligation is such, that if Principal, its heirs, executors, administrators, successors or assigns, shall in all things stand to and a proposal by, and well and truly keep and perform the covenants, conditions and agreements in the Contract and any alteration thereof made as therein provided, on its or their parts to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless District, its officers and agents, as therein stipulated, then this obligation shall become null and void. Otherwise it shall be and remain in full force and effect.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the Specifications accompanying the same shall in any way affect its obligations on this bond, it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or Contract Documents or to the work or to the Specifications.

Principal and Surety further agree that to pay all costs incurred by District in connection with enforcement of this bond, including, but not limited to District’s reasonable attorney’s fees incurred, with or without suit, in addition to any other sum required by this bond. Surety further agrees that death, dissolution, or bankruptcy of the Principal shall not relieve the Surety of its obligations hereunder.

In witness whereof, five (5) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

*To be signed by  
Principal and Surety  
and acknowledgment  
and notarial seal to  
be attached.*

\_\_\_\_\_  
PRINCIPAL

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

TITLE \_\_\_\_\_

\_\_\_\_\_  
SURETY

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

TITLE \_\_\_\_\_

The above bond is accepted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
Authorized District Signature

ATTACHMENT 2

PAYMENT BOND

WHEREAS, the San Mateo Union High School District ("District") and

\_\_\_\_\_  
("Principal") have entered into a contract ("Contract") for the furnishing of all materials, labor services and transportation necessary, convenient, and proper for the **District Office Parking Lot Solar Array Project** which Contract dated \_\_\_\_\_, 20\_\_\_\_, and all of the Contract Documents made part thereof are fully incorporated herein by this reference; and

WHEREAS, the Principal is required before entering upon the performance of the work, to file a good and sufficient bond with the body by whom the Contract is awarded, pursuant to Sections 3247 to 3252, inclusive, of the Civil Code of California.

NOW, therefore, Principal and the undersigned \_\_\_\_\_  
\_\_\_\_\_, as Surety, are held and firmly bound unto all laborers, materialmen, and other persons referred to in the above statutes in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), lawful money of the United States, by the terms of the Contract, for the payment of which sum will and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns, jointly and severally by these presents.

The condition of this obligation is that if the Principal or any of its Subcontractors, or the heirs, executors, administrators, successors, or assigns of any, all or either of them shall fail to pay for any materials, provision, provender or other supplies used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor hereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, or for any of the persons named in Section 3181 of the California Civil Code, or for any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the Principal or any of its Subcontractors pursuant to Section 18806 of the Revenue and Taxation Code with respect to such work or labor, that Surety will pay the same in amount not exceeding the amount hereinabove set forth, and also, in case suit is brought upon this bond, will pay reasonable attorneys' fees to be awarded and fixed by the court and to be taxed as costs and to be included in the judgment therein rendered.

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 under Section 3181 of the California Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond. Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, Contract Documents, or the Specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

In witness whereof, this instrument has been duly executed by the Principal and Surety this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

*To be signed by  
Principal and Surety  
and acknowledgment  
and notarial seal to  
be attached.*

\_\_\_\_\_  
PRINCIPAL

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

TITLE: \_\_\_\_\_

\_\_\_\_\_  
SURETY

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

TITLE \_\_\_\_\_

The above bond is accepted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By \_\_\_\_\_  
Authorized District Signature



EXHIBIT H

PROGRAM STABILIZATION AGREEMENT

[SEE ATTACHED]

# EXHIBIT I

## “BEST VALUE” EVALUATION AND SCORING MATRIX

Proposer No.	Price and Price Points Awarded* (50 max.)	Technical Experience with like Projects** (35 max.)	Workforce and available skilled and qualified subcontractors** (35 max.)	Safety Record** (20 max.)	Life-cycle cost analysis** (10 max.)	Project schedule and delivery date** (20 max.)	Ability to Meet District's Design Concept* (20 max.)	Ability to Deliver Building per Schedule** (30 max.)	Management and staffing approach** (20 max.)		Ability to meet energy savings goals** (5 max.)	Durability and warranty of building and building components, and materials** (5 max.)	Total Points (250 max.)
1. (example)	\$3,300,000 (lowest) 50	Excellent 35	Very good 31.5	Good 16	Fair 7	Poor 10	Excellent 20	Excellent 30	No response 0		Excellent 5	Good 4	208.5 0
2. (example)	\$3,400,000 48.52	Excellent 35	Excellent 35	Very Good 18	Good 8	Good 16	Very Good 18	Good 24	Excellent 20		Excellent 5	Excellent 5	232.0 2
3.													
4.													
5.													
6.													
7.													
8.													
9.													
10.													

\* Price Criterion Weighted (See RFP Section 5.2)

\*\* Criterion Weighted (See RFP Section 5.1)

Excellent = 100% of maximum points

Very Good = 90% of maximum points

Good = 80% of maximum points

Fair = 70% of maximum points

Poor – 50% of maximum points

No response = 0 points