



**McCabe Union Elementary School District**

**Bid No. 19-20-01**

**McCabe Building 400**

**Summer 2020 Roofing Project**

**Bid Due: April 15, 2020 - no later than 12:00 PM**

**Location: McCabe Union Elementary School District  
Purchasing Department  
701 West McCabe Road  
El Centro, CA 92243-9507**

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**\*\*** Indicates required documents that must be submitted before bid for Pre-Qualification purposes

**\*** Indicates required documents that must be included and submitted with bid

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## **Schedule**

Job Walk: **March 25, 2020 – 10:00 AM**  
**Starting at McCabe Union Elementary School**

Request for Information: **April 2, 2020 by 12:00 PM**

Final Addendum: **April 3, 2020 by 12:00 PM**

Presented to MUESD Board: **April 15, 2020**

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**NOTICE INVITING BIDS**  
MCCABE UNION ELEMENTARY SCHOOL DISTRICT  
**Bid No. 19-20-01**  
**Building 400**  
**Summer 2020 Roofing Project**

Bids will be received at: **12:00 p.m. on April 15, 2020**  
McCabe Union Elementary School District  
Purchasing Department  
701 West McCabe Road  
El Centro, CA 92243-9507

After which time the bids will be opened and publicly read aloud. All bids shall be made and presented only on the forms presented by the school district. It is each bidder's sole responsibility to ensure its bid is timely delivered and received at the location designated as specified above. Any bids received after the time specified above or after any extensions due to material changes shall be returned unopened.

Project Description: **Re-Roofing at Building 400**

Place Plans are on file for viewing: <https://www.muesd.net/>

Contractor's License Classification Required: **C-39**

There will be a (**Mandatory**) pre bid job walk on **March 25, 2020 at 10:00 a.m.** starting at **McCabe Union Elementary School District, 701 West McCabe Road, El Centro, CA 92243-9507**. Bidders are to meet at the **front of the School's Administration Building**.

NOTICE IS HEREBY GIVEN that the Governing Board of the McCabe Union Elementary School District, hereinafter referred to as "District", is calling for and will receive sealed bids for the award of a contract for the above project up to, but not later than, the above-stated date and time.

**Department of Industrial Relations Information**

Bidders are advised that this contract is a public work for purposes of the California Labor Code, which requires payment of prevailing wages. These per diem rates, including holiday and overtime work, as well as employer payments for health and welfare, pension, vacation, and similar purposes, are available from the Director of the Department of Industrial Relations. Wage rates can be obtained from the Director of the Department of Industrial Relations at <http://www.dir.ca.gov/OPRL/dprevagedetermination.htm>. Pursuant to California Labor Code Sections 1720 et seq., it shall be mandatory upon the Contractor to whom the Contract is awarded, and upon any subcontractor under such Contractor, to pay not less than the said specified rates to all workers employed by them in the execution of the Contract.

**As of March 1, 2015 all contractors bidding on a public works project must be registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. <http://www.dir.ca.gov/Public-Works/PublicWorks.html>**

**Miscellaneous Information**

Bid Documents are available through link: <https://muesd.net/>

Each bidder shall be a licensed contractor pursuant to the California Business and Professions Code, and be licensed to perform the work called for in the contract documents. The successful bidder must possess a valid and active Contractor's California State License Class as previously indicated at time of bid receipt and throughout the duration of the project. The Contractor's California State License number shall be clearly stated on the bidder's proposal.

The District reserves the right to reject any or all bids or to waive any irregularities or informalities in any bids or in the bidding.

Separate Payment and Performance Bonds, each in an amount equal to 100% of the total contract amount, are required, and shall be provided to the District prior to execution of the contract and shall be in the form set forth in the contract documents.

All bonds (Bid, Performance, and Payment) must be issued by a California admitted surety as defined in California Code of Civil Procedure Section 995.120.

Each bid must strictly conform with and be responsive to the contract documents as defined in the General Conditions.

Dated this 2nd day of April, 2020  
Facilities Planning  
McCabe Union Elementary School District  
El Centro, CA 92243-9507



## INSTRUCTIONS TO BIDDERS

1. **DEPARTMENT OF INDUSTRIAL RELATIONS REGISTRATION** – As of March 1, 2015 all contractors bidding on a public works project must be registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. <http://www.dir.ca.gov/Public-Works/PublicWorks.html>

2. **Preparation of Bid Form.** Proposals under these specifications shall be submitted on the blank forms furnished herewith at the time and place stated in the Notice Inviting Bids. All blanks in the bid form must be appropriately filled in, and all proposed prices must be stated clearly and legibly in both words and numerals. All bids must be signed by the bidder in permanent ink and submitted in sealed envelopes, bearing on the outside Bid name and number for which the bid is submitted. The District reserves the right to reject any bid if all of the above information is not furnished. Any bid received after the scheduled closing time for receipt of bids will be returned to the bidder unopened. It is each bidder's sole responsibility to ensure its bid is timely delivered and received at the location designated as specified above. Any bid received at the designated location after the scheduled closing time for receipt of bids shall be returned to the bidder unopened. **Each bid must strictly conform with and be responsive to the contract documents as defined in the General Conditions.**

3. **Bid Security.** Each bid must be accompanied by one of the following forms of bidder's security: (1) cash; (2) a cashier's check made payable to the District; (3) a certified check made payable to the District; or (4) a bidder's bond executed by a California admitted surety as defined in Code of Civil Procedure Section 995.120, made payable to the District, in the form set forth in the contract documents. Such bidder's security must be in an amount not less than ten percent (10%) of the maximum amount of such bidder's bid as a guarantee that the bidder will enter into the proposed contract, if the same is awarded to such bidder, and will provide the required Performance and Payment Bonds and insurance certificates. In the event that a bidder is awarded the contract and such bidder fails to enter into said contract or provide the necessary documents within five (5) calendar days after notification of the award of the contract to bidder, said security will be forfeited.

4. **Signature.** The bid form, all bonds, the Agreement, and all Guarantees must be signed in permanent ink in the name of the bidder and must bear the signature of the person or persons duly authorized to sign the bid.

If bidder is a corporation, the legal name of the corporation shall first be set forth, together the person's or person's signature who is duly authorized by the bylaws of the corporation. Such documents shall include the title of such signatories below the signature and shall bear the corporate seal.

If bidder is a partnership, the true name of the firm shall first be set forth, together with the names of all persons comprising the partnership or co-partnership. The bid must be signed by all partners comprising the partnership unless proof in the form of a certified copy of a statement of

partnership acknowledging the signer to be a general partner is presented to the District, in which case the general partner may sign.

Bids submitted as joint venturers must so state and be signed by each joint venturer.

Bids submitted by individuals must be signed by the bidder unless an up to date power-of-attorney is on file in the District office, in which case, said person may sign for the individual.

The above rules also apply in the case of the use of a fictitious firm name. In addition, however, where a fictitious name is used, it must be so indicated in the signature.

5. Modifications. Changes in or additions to the bid form, recapitulations of the work bid upon, alternative proposals, or any other modification of the bid form which is not specifically called for in the contract documents may result in the District's rejection of the bid as not being responsive to the Notice Inviting Bids. **No oral or telephonic modification of any bid submitted will be considered.**

6. Erasures, Inconsistent or Illegible Bids. The bid submitted must not contain any erasures, interlineations, or other corrections unless each such correction creates no inconsistency and is suitably authenticated by affixing in the margin immediately opposite the correction the signature or signatures of the person or persons signing the bid. In the event of inconsistency between words and figures in the bid price, words shall control figures. In the event that the District determines that any bid is unintelligible, inconsistent, or ambiguous, the District may reject such bid as not being responsive to the Notice Inviting Bids.

7. Examination of Site and Contract Documents. Each bidder shall visit the site of the proposed work and become fully acquainted with the conditions relating to the construction and labor so that the facilities, difficulties, and restrictions attending the execution of the work under the contract are fully understood. Bidders shall thoroughly examine and be familiar with the drawings and specifications. The failure or omission of any bidder to receive or examine any contract documents, form, instrument, addendum, or other document or to visit the site and become acquainted with conditions there existing shall not relieve any bidder from obligations with respect to the bid or to the contract. The submission of a bid shall be taken as prima facie evidence of compliance with this section. Bidders shall not, at any time after submission of the bid, dispute, complain, or assert that there were any misunderstandings with regard to the nature or amount of work to be done.

8. Withdrawal of Bids. Any bid may be withdrawn, either personally or by written request, at any time prior to the scheduled closing time for receipt of bids. The bid security for bids withdrawn prior to the scheduled closing time for receipt of bids, in accordance with this paragraph, shall be returned upon demand therefore.

**No bidder may withdraw any bid for a period of ninety (90) calendar days after the date set for the opening of bids.**

9. Agreements, Insurance, and Bonds. The Agreement form which the successful bidder, as CONTRACTOR, will be required to execute, and the form of the bonds and insurance endorsements which such CONTRACTOR will be required to furnish, are included in the

contract documents and should be carefully examined by the bidder. Payment bond and performance bonds in the amount of one hundred percent (100%) of the amount of the contract and insurance endorsements must be furnished as required in the contract, all prior to execution of the contract.

10. Interpretation of Plans and Documents. If any prospective bidder is in doubt as to the true meaning of any part of the contract documents, or finds discrepancies in, or omissions from the drawings and specifications, a written Request for Clarification (RFC) for an interpretation or correction thereof may be submitted to the Architect. The bidder submitting the request shall be responsible for its prompt delivery.

11. All RFC's (Request for Clarification) regarding the bid shall be addressed to **McCabe Union Elementary School District Facilities Planning Department** to the attention of **Nick Curry**. Each request shall be submitted in writing via email only to **nick.curry@muesd.net** with the Bid Number and Bid Title referenced in the RFC. RFC's will be accepted up to **April 15, 2020 at 12:00 p.m.**

**Any interpretation or correction of the contract documents will only be made by addendum duly issued, and a copy of such addendum will be mailed or delivered to each contractor confirmed as attending the mandatory Pre-bid conference. All addenda will be duly issued by the District through the Dropbox Link provided in the Notice Inviting Bidders. Bidders are primarily and ultimately responsible for ensuring that they have received any and all addenda. Each bidder must acknowledge receipt of each addendum in the appropriate section of the bid form before the bid is submitted to the District.** No person is authorized to make any oral interpretation of any provision in the contract documents, nor shall any oral interpretation be binding on the District. If discrepancies on drawings, or in specifications, or conflicts between drawings and specifications are not covered by addenda, bidder shall include in the bid methods of construction and materials resulting in the higher bid.

12. Bidders Interested in More Than One Bid. No person, firm, or corporation shall be allowed to make, or file, or be interested in more than one prime bid for the same work unless alternate bids are specifically called for. A person, firm, or corporation that has submitted a proposal to a bidder, or that has quoted prices of materials to a bidder, is not thereby disqualified from submitting a proposal or quoting prices to other bidders or making a prime proposal.

13. Award of Contract. The District reserves the right to reject any or all bids, or to waive any irregularities or informalities in any bids or in the bidding. The award of the contract, if made by the District, will be by action of the governing board and to the lowest responsible and responsive bidder therefore from among those bidders responsive to the call for bids. In the event an award is made to bidder, and such bidder fails or refuses to execute the contract and provide the required documents within five (5) calendar days after notification of the award of the contract to bidder, the District may award the contract to the next lowest responsible and responsive bidder or release all bidders. **Each bid must conform and be responsive to the contract documents as defined in the General Conditions.**

14. Alternates. If alternate bids are called for, the contract may be awarded at the election of the governing board to the lowest responsible and responsive bidder using the method and procedures outlined in the Notice Inviting Bids.

15. Evidence of Responsibility. Upon the request of the District, a bidder whose bid is under consideration for the award of the contract shall submit promptly to the District satisfactory evidence showing the bidder's financial resources, surety and insurance claims experience, construction experience, completion ability, workload, organization available for the performance of the contract, and other factors pertinent to a project of the scope involved.

16. Listing Subcontractors. Each bidder shall submit with his bid, on the form furnished with the contract documents, a list of the names, license numbers and locations of the places of business of each subcontractor who will perform work or labor or render service to the bidder in or about the project, or a subcontractor who under subcontract to the bidder, specially fabricates and installs a portion of the work, in an amount in excess of one-half of 1 percent of the bidder's total bid as required by the Subletting and Subcontracting Fair Practices Act (Public Contract Code Section 4100, et. seq.). If alternate bids are called for and the bidder intends to use different or additional subcontractors, a separate list of subcontractors must be submitted for each such alternate. **At the time of bid opening, subcontractors shall be licensed pursuant to California law for the trades necessary to perform the work called for in the contract documents.**

17. Workers' Compensation. In accordance with the provisions of Labor Code Section 3700, the successful bidder as the CONTRACTOR shall secure payment of compensation to all employees. The CONTRACTOR shall sign and file with the District the following certificate prior to performing the work under this contract: "I am aware of the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract." The form of such certificate is included as a part of the contract documents.

18. Contractor's License. To perform the work required by this notice, the CONTRACTOR must possess a valid Contractor's License at the time of bid opening as noted in the Notice Inviting Bids, and the CONTRACTOR must maintain the license throughout the duration of the contract. If, at the time the bids are opened, bidder is not licensed to perform the project in accordance with Division 3, Chapter 9, of the Business and Professions Code for the State of California and the Notice to Contractors calling for bids, such bid will not be considered and the CONTRACTOR will forfeit its bid security to the District.

19. Anti-Discrimination. It is the policy of the District that in connection with all work performed under contracts, there be no discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, religious creed, sex, age, or marital status. The CONTRACTOR agrees to comply with applicable federal and California laws, including, but not limited to, the California Fair Employment and Housing Act, beginning with Government Code section 12900 and Labor Code section 1735. In addition, the CONTRACTOR agrees to require like compliance by any subcontractors employed on the work by such CONTRACTOR.

20. Hold Harmless. CONTRACTOR shall defend, indemnify and hold harmless District, Architect, Inspector, the State of California and their officers, employees, agents and independent contractors from all liabilities, claims, actions, liens, judgments, demands, damages,

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

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

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

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

(c) Any dispute between CONTRACTOR and CONTRACTOR's subcontractors/supplies/sureties, including, but not limited to, any failure or alleged failure of the Contractor (or any person hired or employed directly or indirectly by the Contractor) to pay any Subcontractor or Materialman of any tier or any other person employed in connection with the Work and/or filing of any stop notice or mechanic's lien claims.

CONTRACTOR, at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings that may be brought or instituted against the District, its officers, agents or employees, on any such claim or liability, and shall pay or satisfy any judgment that may be rendered against the District, its officers, agents or employees in any action, suit or other proceedings as a result thereof.

## 21. Preference for Materials and Substitutions.

(a) One Product Specified. Unless the plans and specifications state that no substitution is permitted, whenever the contract documents indicate any specific article, device, equipment, product, material, fixture, patented process, form, method,

construction, or any specific name, make, trade name, or catalog number, with or without the words, "or equal," such specification shall be read as if the language "or equal" is incorporated.

(b) Request for Substitution. Any request for substitutions pursuant to Public Contracts Code Section 3400 must be made on the form set forth in the contract documents and included with the bid.

Bidder may, unless otherwise stated, offer any material, process, article, etc., which is materially equal or better in every respect to that so indicated or specified ("Specified Item") and will completely accomplish the purpose of the contract document. If bidder desires to offer a substitution for a Specified Item, such bidder must make a request in writing on the District's Substitution Request form ("Request Form") and submit the completed Request Form with the bidder's bid. The Request Form must be accompanied by evidence as to whether the proposed substitution:

1. Is equal in quality, service, and ability to the Specified Item;
2. Will entail no changes in detail, construction and scheduling of related work;
3. Will be acceptable in consideration of the required design and artistic effect;
4. Will provide no cost disadvantage to the District;
5. Will require no excessive or more expensive maintenance, including adequacy and availability of replacement parts; and
6. Will require no change in the construction schedule.

In completing the Request Form, bidder must state with respect to each requested substitution whether bidder will agree to provide the Specified Item in the event that the District denies bidder's request for substitution of a Specified Item. In the event that bidder does not agree in the Request Form to provide the Specified Item and the District denies the requested substitution, the bidder's bid shall be considered non-responsive and the District may award the contract to the next lowest bidder or in its sole discretion, release all bidders. In the event that bidder has agreed in the Request Form to provide the Specified Item and the District denies bidder's requested substitution for a Specified Item, bidder shall execute the Agreement and provide the Specified Item without any additional cost or charge to the District, and if bidder fails to execute the Agreement with the Specified Item(s), bidder's bid bond will be forfeited.

After the bids are opened, the apparent lowest bidder shall provide, within five (5) calendar days of opening such bids, any and all drawings, specification, samples, performance data, calculations, and other information as may be required to assist the Architect and the District in determining whether the proposed substitution is acceptable. The burden of establishing these facts shall be upon the bidder.

After the District's receipt of such evidence by bidder, the District will make its final decision as to whether the bidder's request for substitution for any Specified Items will be granted. The District shall have sole discretion in deciding as to whether a proposed request for substitution is equal to or better than a Specified Item. Any request for substitution which is granted by the District shall be documented and processed through a Change Order'. The

District may condition its approval of any substitution upon delivery to the District of an extended warranty or other assurances of adequate performance of the substitution. Any and all risks of delay due to DSA, or any other governmental agency having jurisdiction shall be on the bidder.

22. Disqualification of Bidders and Proposals. More than one proposal for the same work from any individual, firm, partnership, corporation, or association under the same or different names will not be accepted; and reasonable grounds for believing that any bidder is interested in more than one proposal for the work will be cause for rejecting all proposals in which such bidder is interested and the bidder will forfeit their bid security to the District.

23. Unbalanced or Altered Bids. Proposals in which the prices are obviously unbalanced, and those which are incomplete or show any alteration of form, or contain any additions or conditional or alternate bids that are not called for or otherwise permitted, may be rejected. A proposal on which the signature of the bidder has been omitted may be rejected.

24. Employment of Apprentices. The CONTRACTOR and all Subcontractors shall comply with the District's Labor Compliance Program and provisions of California Labor Code including, but not limited to sections 1777.5, 1777.6, and 1777.7 concerning the employment of apprentices. The CONTRACTOR and any Subcontractor under him shall comply with the requirements of said sections, including applicable portions of all subsequent amendments in the employment of apprentices; however, the CONTRACTOR shall have full responsibility for compliance with said Labor Code sections, for all apprenticeable occupations, regardless of any other contractual or employment relationships alleged to exist.

25. Non-Collusion Affidavit. Public Contract Code Section 7106 requires bidders to submit an affidavit of non-collusion with their bids. This form is included with the bid package and must be signed and dated by the bidder under penalty of perjury. Non-collusion Affidavits for each subcontractor are to be submitted upon request by the District.

26. Wage Rates, Travel and Subsistence.

(a) Pursuant to Labor Code Sections 1770 et. seq., the District has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which this work is to be performed for each craft, classification or type of worker needed to execute the contract. Copies are available from the District to any interested party on request and are also available from the Director of the Department of Industrial Relations. The CONTRACTOR shall obtain copies of the above-referenced prevailing wage sheets and post a copy of such wage rates at appropriate, conspicuous, weatherproof points at the Site.

(b) Any worker employed to perform work on the Project and such work is not covered by any classification listed in the published general prevailing wage rate determinations or per diem wages determined by the Director of the Department of Industrial Relations, shall be paid not less than the minimum rate of wages specified therein for the classification which most nearly corresponds to the employment of such person in such classification.

(c) Holiday and overtime work, when permitted by law, shall be paid for at the rate set forth in the prevailing wage rate determinations issued by the Director of the Department of Industrial Relations or at least one and one-half (1½) times the specified basic rate of per diem wages, plus employer payments, unless otherwise specified in the contract documents or authorized by law.

(d) The CONTRACTOR shall post, at appropriate, conspicuous, weatherproof points at the site, a schedule showing all determined minimum wages actually earned.

(e) These per diem rates, including holiday and overtime work, and employer payments for health and welfare, pension, vacation, and similar purposes, are on file at the administrative office of the District, located as noted above and are also available from the Director of the Department of Industrial Relations. It is the CONTRACTOR's responsibility to ensure the appropriate prevailing rates of per diem wages are paid for each classification. It shall be mandatory upon the CONTRACTOR to whom the contract is awarded, and upon any subcontractor under such CONTRACTOR, to pay not less than the said specified rates to all workers employed by them in the execution of the contract.

27. No Telephone or Facsimile Availability. No telephone or facsimile machine will be available to bidders on the District premises at any time.

28. Protest Process. Any bid protest by any Bidder regarding any other bid must be submitted in writing to the District, before 5:00 p.m. of the fifth (5<sup>th</sup>) business day following the bid opening. The protest must contain a complete statement of any and all bases for the protest. The protest must refer to the specific portions of all documents that form the bases for the protest. The protest must include the name, address and telephone number of the person representing the protesting party. The party filing the protest must concurrently transmit a copy of the protest and any attached documentation to all other parties with a direct financial interest that may be adversely affected by the outcome of the protest. Such parties shall include all other bidders or proposers who appear to have a reasonable prospect of receiving an award of the contract depending upon the outcome of the protest. The procedure and time limits set forth in this paragraph are mandatory and are each bidder's sole and exclusive remedy in the event of bid protest. Failure to comply with these procedures shall constitute a waiver of any right to further pursue the bid protest, including filing a Government Code claim or legal proceedings. The District will respond to any written protest that meets the requirements of this paragraph within five (5) days of receipt of such protest.

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## DESIGNATION OF SUBCONTRACTORS

In compliance with the Subletting and Subcontracting Fair Practices Act (California Public Contract Code Sections 4100 et. seq.,) and any amendments thereof, each bidder shall set forth below: (a) the name, license number, and location of the place of business of each subcontractor who will perform work or labor or render service to the prime contractor, who will perform work or labor or work or improvement to be performed under this contract, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvements according to detailed drawings contained in the plans and specifications in an amount in excess of one-half of one percent of the prime contractor's total bid; and (b) the portion and description of the work which will be done by each subcontractor under this Act. The prime contractor shall list only one subcontractor for each such portion as is defined by the prime contractor in this bid. All subcontractors shall be properly licensed by the California State Licensing Board at the time the bid opens.

If a prime contractor fails to specify a subcontractor, or if a prime contractor specifies more than one subcontractor for the same portion of work to be performed under the contract in excess of one-half of one percent of the prime contractor's total bid, the CONTRACTOR shall be deemed to have agreed that the CONTRACTOR is fully qualified to perform that portion, and that the CONTRACTOR alone shall perform that portion.

No prime contractor whose bid is accepted shall (a) substitute any subcontractor, (b) permit any subcontractor to be voluntarily assigned or transferred or allow the relevant portion of the work to be performed by anyone other than the original subcontractor listed in the original bid, or (c) sublet or subcontract any portion of the work in excess of one-half of one percent of the prime contractor's total bid where the original bid did not designate a subcontractor, except as authorized in the Subletting and Subcontracting Fair Practices Act.

Subletting or subcontracting of any portion of the work in excess of one-half of one percent of the prime contractor's total bid where no subcontractor was designated in the original bid shall only be permitted in cases of public emergency or necessity, and then only after a finding, reduced to writing as a public record, of the authority awarding this contract setting forth the facts constituting the emergency or necessity.

**NOTE:** If alternate bids are called for and bidder intends to use different or additional subcontractors on the alternates, a separate list of subcontractors must be provided for each such alternate.

**\* DESIGNATION OF SUBCONTRACTORS FORM**

Description & Portion of Work	Name of Subcontractor	Location & Place of Business	License Number

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

\_\_\_\_\_ Proper Name of Bidder

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

\_\_\_\_\_

(Signature of Bidder)

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

\_\_\_\_\_

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

**\* NONCOLLUSION AFFIDAVIT**  
**(Prime Bidder)**

STATE OF CALIFORNIA

County of \_\_\_\_\_ being first duly sworn, deposes and says that  
he/she

is \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_  
(Title) (Name of Bidder)

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

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed Name)

SUBSCRIBED BEFORE ME on this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Notary Public)

My Commission Expires:

\_\_\_\_\_  
(Expiration Date)

**\* BID BOND**

KNOW ALL MEN BY THESE PRESENTS that we, the undersigned, (hereafter called "Principal"), and \_\_\_\_\_ (hereafter called "Surety"), are hereby held and firmly bound unto the McCabe Union Elementary School District (hereafter called "Owner") in the sum of \_\_\_\_\_ (\$ \_\_\_\_\_) for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors, and assigns.

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

The condition of the above obligation is such that whereas the Principal has submitted to the Owner a certain Bid, attached hereto and hereby made a part hereof, to enter into a contract in writing for **McCabe Building 400 Summer 2020 Roofing Project**.

**NOW, THEREFORE,**

- a. If said Bid is rejected, or
- b. If said Bid is accepted and the Principal executes and delivers a contract or the attached Agreement form within five (5) calendar days after acceptance (properly completed in accordance with said Bid), and furnishes bonds for his faithful performance of said Contract and for payment of all persons performing labor or furnishing materials in connection therewith,

Then this obligation shall be void; otherwise, the same shall remain in 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, or the call for bids, or the work to be performed thereunder, or the specifications accompanying the same, shall in anyway affect its obligation under this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of said contract, or the call for bids, or the work, or to the specifications.

In the event suit is brought upon this bond by the District and judgment is recovered, the Surety shall pay all costs incurred by the District in such suit, including without limitation, attorneys' fees to be fixed by the court.

**IN WITNESS WHEREOF**, Principal and Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, on the day and year first set forth above.

PRINCIPAL: \_\_\_\_\_  
\_\_\_\_\_

ATTEST: (if individual, two witnesses are required)

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

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

ATTEST: (if corporation)

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

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

(Corporate Seal)

SURETY: \_\_\_\_\_  
\_\_\_\_\_

ATTEST: (if individual, two witnesses are required)

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

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

ATTEST: (if corporation)

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

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

(Corporate Seal)

IMPORTANT:

Surety companies executing bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in California Insurance Code Section 105, and if the work or project is financed, in whole or in part, with federal, grant, or loan funds, it must also appear on the Treasury Department's most current list (Circular 570 as amended).

THIS IS A REQUIRED FORM.

Any claims under this bond may be addressed to:

(Name and Address of Surety)

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(Name and Address of agent or representative for service of process in California if different from above)

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(Telephone Number of Surety and agent or representative for service of process in California).

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**\* BID FORM**

TO: McCabe Union Elementary School District, acting by and through its Governing Board, herein called "District."

FROM:

\_\_\_\_\_  
(Bidder's Name)

1. Pursuant to and in compliance with your Notice Inviting Bids and other documents relating thereto, the undersigned bidder, having familiarized himself with the terms of the contract, the local conditions affecting the performance of the contract and the cost of the work at the place where the work is to be done, hereby proposes and agrees to perform within the time stipulated, the contract, including all of its component parts, and everything required to be performed, including its acceptance by the District, and to provide and furnish any and all labor, materials, tools, expendable equipment, and utility and transportation services necessary to perform the contract and complete all of the work in a workmanlike manner required in connection with the construction of **McCabe Building 400 Summer 2020 Roofing Project, Bid No. 19-20-01**, in the District described above, all in strict conformance with the drawings and other contract documents on file at the Purchasing Office of said District for amounts set forth herein.
  
2. ADDENDA: The undersigned has thoroughly examined any and all Addenda (if any) issued during the bid period and is thoroughly familiar with all contents thereof and acknowledges receipt of the following Addenda: (Bidder to list all addenda).

ADDENDUM NO. _____	DATE RECEIVED _____
ADDENDUM NO. _____	DATE RECEIVED _____
ADDENDUM NO. _____	DATE RECEIVED _____
ADDENDUM NO. _____	DATE RECEIVED _____

3. BASE BID

**McCabe Union Elementary School District**

- Building 400

MCCABE UNION ELEMENTARY SCHOOL DISTRICT TOTAL CASH PURCHASE PRICE IN WORDS & NUMBERS:

\_\_\_\_\_ DOLLARS

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

1. In The event of a conflict between the written and numeric version of the quote, the written will prevail.
2. It is understood that the District reserves the right to reject any bid or remove any site from the project without need for re-bid of the other sites.
3. The District holds the right to award to the low, accepted contractor for each site. District may award to at most three contractors (one for each site) or to as little as one contractor (one for all three sites).
4. TIME FOR COMPLETION: The District may give a notice to proceed within ninety (90) days of the award of the bid by the District. Once the CONTRACTOR has received the notice to proceed, the CONTRACTOR shall complete the work in the time specified in the Agreement.

In the event that the District desires to postpone giving the notice to proceed beyond this ninety (90) day period, it is expressly understood that with reasonable notice to the CONTRACTOR, giving the notice to proceed may be postponed by the District. It is further expressly understood by the CONTRACTOR, that the CONTRACTOR shall not be entitled to any claim of additional compensation as a result of the postponement of giving the notice to proceed.

If the CONTRACTOR believes that a postponement will cause a hardship to it, the CONTRACTOR may terminate the contract with written notice to the District within ten (10) days after receipt by the CONTRACTOR of the District's notice of postponement. It is further understood by the CONTRACTOR that in the event that the CONTRACTOR terminates the Contract as a result of postponement by the District, the District shall only be obligated to pay the CONTRACTOR for work performed by the CONTRACTOR at the time of notification of postponement. Should the CONTRACTOR terminate the contract as a result of a notice of postponement, the District shall have the authority to award the contract to the next lowest responsible bidder.

5. It is understood that the District reserves the right to reject any or all bids and/or waive any irregularities or informalities in this bid or in the bid process. The CONTRACTOR understands that it may not withdraw this bid for a period of ninety (90) days after the date set for the opening of bids.
6. Attached is bid security in the amount of not less than ten percent (10%) of the bid:  
\$ \_\_\_\_\_. Bid bond, certified check, cashier's check, or cash. (circle one)
7. The required List of designated subcontractors is attached hereto.
8. The required notarized Non-collusion Affidavit for the CONTRACTOR is attached hereto.



9. The Substitution Request Form, if applicable, is attached hereto.
10. It is understood and agreed that if written notice of the acceptance of this bid is mailed, telegraphed, or delivered to the undersigned after the opening of the bid, and within the time this bid is required to remain open, or at any time thereafter before this bid is withdrawn, the undersigned will execute and deliver to the District a contract in the form attached hereto in accordance with the bid as accepted, and that he will also furnish and deliver to the District the Performance Bond and Payment Bond, all within five (5) calendar days after receipt of notification of award, and that the work under the contract shall be commenced by the undersigned bidder, if awarded the contract, by the start date provided in the District's Notice to Proceed, and shall be completed by the CONTRACTOR in the time specified in the contract documents.
11. Notice of Intent to Award Contract or other correspondence should be addressed to the undersigned at the address stated below.
12. The names of all persons interested in the foregoing proposal as principals are as follows:

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

13. The undersigned bidder shall be licensed and shall provide the following information:

Bidder's California Contractor's

License Number: \_\_\_\_\_

License expiration date: \_\_\_\_\_

Name on License: \_\_\_\_\_

Type of License: \_\_\_\_\_

Department of Industrial Relations

Registration Number: \_\_\_\_\_

If the bidder is a joint venture, each member of the joint venture must include the above information.

14. Time is of the essence regarding this contract, therefore, in the event the bidder to whom the Notice of Intent to Award Contract is given fails or refuses to post the required bonds

and return executed copies of the Agreement form within five (5) calendar days from the date of receiving the Notice of Intent to Award Contract, the District may declare the bidder's bid deposit or bond forfeited as damages.

15. Pursuant to Government Code Section 4552, in submitting a bid to the District, the bidder offers and agrees that if the bid is accepted, it will assign to the District all rights, title, and interest in, and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act (Business and Professions Code Sections 16700, et. seq.), arising from the purchase of goods, materials, or services by the bidder for sale to the District pursuant to the bid. Such assignment shall be made and become effective at the time the District tenders final payment to the bidder.
16. The bidder declares that he/she has carefully examined the location of the proposed work, that he/she has examined the Plans, General Conditions of the contract, Special Conditions of the contract, and Specifications, and read the accompanying instructions to bidders, and hereby proposes and agrees, if this proposal is accepted, to furnish all materials and do all work required to complete the said work in accordance with the Plans, General Conditions of the contract, Special Conditions of the contract, and Specifications, in the time and manner therein prescribed for the unit cost and lump sum amounts set forth in this Bid Form.
17. The bidder is familiar with Government Code Sections 12650, et. seq., and Penal Code Section 72 and understands that false claims can lead to imprisonment.

I, the below-indicated bidder, declare under penalty of perjury that the information provided and representations made in this bid are true and correct.

Firm (circle one):    Corporation    /    Partnership    /    Proprietorship

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Proper Name of Bidder

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Address, including City, State, Zip Code

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E-Mail Address

---

Telephone No.

---

Fax No.

By: \_\_\_\_\_  
Signature of Bidder

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

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

By: \_\_\_\_\_  
Signature of Bidder

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

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

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

**(Corporate Seal)**

**\* CONTRACTOR’S CERTIFICATE REGARDING WORKERS’ COMPENSATION**

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:

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

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

\_\_\_\_\_  
Proper Name of Bidder

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.

**\* ACKNOWLEDGMENT OF BIDDING PRACTICES REGARDING INDEMNITY**

TO: McCabe Union Elementary School District

RE: **McCabe Building 400 Summer 2020 Roofing Project, Bid No. 19-20-01**

Please be advised that with respect to the above-referenced PROJECT the undersigned CONTRACTOR on behalf of itself and all subcontractors hereby waives the benefits and protection of Labor Code Section 3864, which provides:

“If an action as provided in this chapter is prosecuted by the employee, the employer, or both jointly against the third person results in judgment against such third person, the employer shall have no liability to reimburse or hold such third person harmless on such judgment or settlement in the absence of a written agreement to do so executed prior to the injury.”

This Agreement has been signed by an authorized representative of the contracting party and shall be binding upon its successors and assignees. The undersigned further agrees to promptly notify the District of any changes of ownership of the contracting party or any subcontractor while this Agreement is in force.

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Signature

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Name of Agent/Title

**\*BID GUARANTEE FORM (In Lieu of Bid Bond)**

(This form is only required with your bid submittal if a Bid Bond is not submitted)

Accompanying this proposal is cash, a cashier's check or a certified check payable to the order of the McCabe Union Elementary School District in an amount equal to ten percent (10%) of the base bid and alternates (\$\_\_\_\_\_).

This cash or the proceeds of this check shall become the property of said MUESD, if, this proposal shall be accepted by MUESD through MUESD's GOVERNING BOARD, and the undersigned fails to execute a contract with and furnish the sureties required by MUESD within the required time; otherwise, said cash or check is to be returned to the undersigned.

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Bidder

**\*\* PROJECT INFORMATION FORM (PWC-100)**

**McCabe Union Elementary School District  
(DIR) Department of Industrial Relations Compliance Form**

**THIS FORM MUST BE COMPLETED & SUBMITTED WITH THE PROJECT SPECIFIC PRE-QUALIFICATION QUESTIONNAIRE BEFORE EACH BID, PROPOSAL OR QUOTE THAT INCLUDES LABOR COSTS OF \$1,000 OR MORE.**

**VENDOR/CONTRACTOR INFORMATION:**

**DIR Registration No.:** \_\_\_\_\_ **Contractor's License #:** \_\_\_\_\_

Business Name \_\_\_\_\_

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

Project Mngr/Rep Name: \_\_\_\_\_ Title: \_\_\_\_\_

Email Address: \_\_\_\_\_ Telephone Number \_\_\_\_\_

Project Site and Description: \_\_\_\_\_

Est. Start Date \_\_\_\_\_ Est. Completion Date \_\_\_\_\_

**CLASSIFICATIONS (please select one)**

- Asbestos       Boilermaker       Bricklayers       Carpenters       Carpet/Linoleum  
 Cement Masons    Drywall Finisher    Drywall/Lathers    Electricians       Elevator Mech.  
 Glaziers             Iron Workers       Laborers             Mill Wrights       Operating Eng  
 Painters             Pile Drivers         Pipe Trades         Plasterers         Roofers  
 Sheet Metal         Sound/Comm        Surveyors           Teamster           Tile Workers

**\*\*\* FOR MCCABE UNION ELEMENTARY SCHOOL DISTRICT USE ONLY \*\*\***

Project Award Date:	Awarding Body: <b>McCabe UESD</b>
Project Name:	Project #:
Brief Description:	Contract #:
Contract Amount:	Total Project Cost:
Number of Prime V/C: <b>1</b>	Alternative Model: <b>None apply</b>
<u>Physical Address (School or Site):</u>	<u>Billing Address:</u> Fiscal Services 701 West McCabe Road El Centro, CA 92243-9507
First Advertised Bid Date:	Est. Start & Completed Date:

**SAMPLE AGREEMENT No. C000XXXX**

**THIS AGREEMENT**, entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_ in the County of Imperial of the State of California, by and between the McCabe Union Elementary School District, (hereinafter called the “District”); and \_\_\_\_\_, (hereinafter called the “CONTRACTOR”).

**WITNESSETH** that the District and the CONTRACTOR for the consideration stated herein agree as follows:

**ARTICLE I - SCOPE OF WORK:** The CONTRACTOR shall furnish all labor, miscellaneous materials, equipment, tools, and utility and transportation services, and perform and complete all work required in connection with **McCabe Building 400 Summer 2020 Roofing Project, Bid No. 19-20-01** in strict accordance with the contract documents enumerated in Article 7 below. The CONTRACTOR shall be liable to the District for any damages arising as a result of a failure to comply with that obligation, and the CONTRACTOR shall not be excused with respect to any failure to so comply by an act or omission of the Architect, Engineer, Inspector, Division of the State Architect (DSA), or representative of any of them, unless such act or omission actually prevents the CONTRACTOR from fully complying with the contract documents and the CONTRACTOR protests, in accordance with the contract documents, that the act or omission is preventing the CONTRACTOR from fully complying with the contract documents. Such protest shall not be effective unless reduced to writing and filed with the District office within seven (7) days of the date of occurrence of such act or omission preventing the CONTRACTOR from fully complying with the Contract Documents.

**ARTICLE 2 - TIME OF COMPLETION:** The District may give notice to proceed within ninety (90) days of the award of the bid by the District. Once the CONTRACTOR has received a notice to proceed, the CONTRACTOR shall complete the work within **Sixty One (61)** calendar days from receipt of the notice to proceed. It is expressly understood that time is of the essence.

In the event that the District desires to postpone giving the notice to proceed beyond this ninety (90) day period, it is expressly understood that with reasonable notice to the CONTRACTOR, giving the notice to proceed may be postponed by the District. It is further expressly understood by the CONTRACTOR, that the CONTRACTOR shall not be entitled to any claim of additional compensation as a result of the District’s postponement of giving the notice to proceed.

If the CONTRACTOR believes that a postponement will cause hardship to it, the CONTRACTOR may terminate the contract with written notice to the District within ten (10) days after receipt by the CONTRACTOR of the District’s notice of postponement. It is further understood by the CONTRACTOR that in the event that the CONTRACTOR terminates the contract as a result of postponement by the District, the District shall only be obligated to pay the CONTRACTOR for the work performed by the CONTRACTOR at the time of notification of postponement. Should the CONTRACTOR terminate the contract as a result of a notice of postponement, the District shall have the authority to award the contract to the next lowest responsible bidder.



**ARTICLE 3 - LIQUIDATED DAMAGES:** It being impracticable and infeasible to determine the amount of actual damage, it is agreed that the CONTRACTOR will pay the District the sum of One Thousand Dollars (\$1,000.00) per calendar day for each and every day of delay beyond the time set forth in Article 2 of this Agreement for completing said work as liquidated damages and not as a penalty or forfeiture. In the event the same is not paid, the CONTRACTOR further agrees that the District may deduct such amount thereof from any money due or that may become due the CONTRACTOR under the contract. This Article shall not be construed as preventing the District from the recovery of damages under provisions of the contract documents.

**ARTICLE 4 - CONTRACT PRICE:** The District shall pay to the CONTRACTOR as full consideration for the faithful performance of the contract, subject to any additions or deductions as provided in the contract documents, the sum of \_\_\_\_\_ DOLLARS and 00/100 (\$\_\_\_\_\_), said sum being the total amount stipulated in the proposal. Payment shall be made as set forth in the General Conditions.

Should any Change Order result in an increase in the contract price, the cost of such Change Order shall be agreed to in advance by the CONTRACTOR and the District, subject to the monetary limitations set forth in Public Contract Code Section 20118.4. In the event that the CONTRACTOR proceeds with a change in work without an agreement between the District and CONTRACTOR regarding the cost of a Change Order, the CONTRACTOR waives any claim of additional compensation for such additional work.

**ARTICLE 5 - HOLD HARMLESS AGREEMENT:** CONTRACTOR shall defend, indemnify and hold harmless District, Architect, Inspector, the State of California and their officers, employees, agents and independent contractors from all liabilities, claims, actions, liens, judgments, demands, damages, losses, costs or expenses of any kind arising from death, personal injury, property damage or other cause based or asserted upon any act, omission, or breach connected with or arising from the progress of Work or performance of service under this Agreement or the Contract Documents. As part of this indemnity, CONTRACTOR shall protect and defend, at its own expense, District, Architect, Inspector, the State of California and their officers, employees, agents and independent contractors from any legal action including attorneys fees or other proceeding based upon such act, omission, or breach.

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

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

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

(c) Any dispute between CONTRACTOR and CONTRACTOR's subcontractors/supplies/sureties, including, but not limited to, any failure or alleged failure of the Contractor (or any person hired or employed directly or indirectly by the Contractor) to pay any Subcontractor or Materialman of any tier or any other person employed in connection with the Work and/or filing of any stop notice or mechanic's lien claims.

CONTRACTOR, at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings that may be brought or instituted against the District, its officers, agents or employees, on any such claim or liability, and shall pay or satisfy any judgment that may be rendered against the District, its officers, agents or employees in any action, suit or other proceedings as a result thereof.

**ARTICLE 6 - PROVISIONS REQUIRED BY LAW:** Each and every provision of law and clause required to be inserted in this contract shall be deemed to be inserted herein, and this Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or is not inserted correctly, then upon application of either party the contract shall forthwith be physically amended to make such insertion or correction.

**ARTICLE 7 - COMPONENT PARTS OF THE CONTRACT:** The Contract entered into by this Agreement consists of the following Contract Documents, all of which are component parts of the Contract as if herein set out in full or attached hereto:

- Notice Inviting Bids
- Instructions to Bidders
- Designation of Subcontractors
- Non-Collusion Affidavit
- Bid Bond
- Bid Form
- Request for Substitution Form
- Contractor's Certificate Regarding Worker's Compensation
- Acknowledgment of Bidding Practices Regarding Indemnity
- Bid Guarantee Form (as applicable)
- Agreement Form
- Payment Bond
- Performance Bond
- Disabled Veteran Business Enterprise Participation Certification

Guarantee  
Escrow Agreement for Security Deposit In Lieu of Retention  
Insurance Documents and Endorsement  
Contractor's Certificate Regarding Drug-Free Workplace  
Contractor's Certificate Regarding Alcohol and Tobacco  
Contractor's Certificate Regarding Workers' Compensation  
General Conditions  
Supplementary and Special Conditions  
Specifications  
All Addenda as Issued  
Drawings (if applicable)  
Labor Compliance Program

All of the above named Contract Documents are intended to be complementary. Work required by one of the above named Contract Documents and not by others shall be done as if required by all.

**ARTICLE 8 - PREVAILING WAGES:** Wage rates for this Project shall be in accordance with the general prevailing rate of holiday and overtime work in the locality in which the work is to be performed for each craft, classification, or type of work needed to execute the contract as determined by the Director of the Department of Industrial Relations. Copies of schedules of rates so determined by the Director of the Department of Industrial Relations are on file at the administrative office of the District and are also available from the Director of the Department of Industrial Relations.

The following are hereby referenced and made a part of this Agreement and CONTRACTOR stipulates to the provisions contained therein.

1. Chapter 1 of Part 7 of Division 2 of the Labor Code (Section 1720 et seq.)
2. California Code of Regulations, Title 8, Chapter 8, Subchapters 3 & 4 (Section 16000 et seq.)
3. The District's Labor Compliance Program

**ARTICLE 9 - RECORD AUDIT:** In accordance with Government Code Section 8546.7, records of both the District and the CONTRACTOR shall be subject to examination and audit by the Auditor General for a period of three (3) years after final payment.

**ARTICLE 10 - CONTRACTOR'S LICENSE:** The CONTRACTOR must possess at bid opening and throughout the Project a Class "C-39" Contractor's License, issued by the State of California, which must be current and in good standing.

**IN WITNESS WHEREOF**, this Agreement has been duly executed by the above named parties, on the day and year first above written.

McCabe Union Elementary School District

CONTRACTOR:

Liz Goff

Typed or Printed Name

\_\_\_\_\_  
Typed or Printed Name

Director of Administration & Fiscal Services

Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Type or Printed Name

\_\_\_\_\_  
Title (Authorized Officers or Agents)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**BIDDER'S CORPORATE SEAL**

Address \_\_\_\_\_

Phone \_\_\_\_\_

Fax \_\_\_\_\_

E-mail \_\_\_\_\_

**PAYMENT BOND**  
**(CALIFORNIA PUBLIC WORK)**

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, the McCabe Union Elementary School District (sometimes referred to hereinafter as “Obligee”) has awarded to \_\_\_\_\_ (hereinafter designated as the “CONTRACTOR”); an agreement for the work described as follows: **McCabe Building 400 Summer 2020 Roofing Project** (hereinafter referred to as the “Public Work”); and

WHEREAS, said CONTRACTOR is required to furnish a bond in connection with said Contract, and pursuant to California Civil Code Section 3247;

NOW, THEREFORE, We, \_\_\_\_\_, the undersigned CONTRACTOR, as Principal; and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the McCabe Union Elementary School District and to any and all persons, companies, or corporations entitled by law to file stop notices under California Civil Code Section 3181, or any person, company, or corporation entitled to make a claim on this bond, in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), said sum being not less than one hundred percent (100%) of the total amount payable by said Obligee under the terms of said Contract, for which payment will and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, its heirs, executors, administrators, successors, or assigns, or subcontractor, shall fail to pay any person or persons named in Civil Code Section 3181; or fail to pay for any materials, provisions, or other supplies, used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code, with respect to work or labor thereon of any kind; or shall fail to deduct, withhold, and pay over to the Employment Development Department, any amounts required to be deducted, withheld, and paid over by Unemployment Insurance Code Section 13020 with respect to work and labor thereon of any kind, then said Surety will pay for the same, in an amount not exceeding the amount herein above set forth, and in the event suit is brought upon this bond, also will pay such reasonable attorneys’ fees as shall be fixed by the court, awarded and taxed as provided in California Civil Code Sections 3247 et. seq.

This bond shall inure to the benefit of any person named in Civil Code Section 3181 giving such person or his/her assigns a right of action in any suit brought upon this bond.

It is further stipulated and agreed that the Surety of this bond shall not be exonerated or released from the obligation of the bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, or specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described; or

pertaining or relating to the furnishing of labor, materials, or equipment therefor; nor by any change or modification of any terms of payment or extension of time for payment pertaining or relating to any scheme or work of improvement herein above described; nor by any rescission or attempted rescission of the contract, agreement or bond; nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond; nor by any fraud practiced by any person other than the claimant seeking to recover on the bond; and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given; and under no circumstances shall the Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the District and the CONTRACTOR or on the part of any obligee named in such bond; that the sole condition of recovery shall be that the claimant is a person described in California Civil Code Sections 3110 and 3112, and who has not been paid the full amount of his or her claim; and that the Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned.

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

PRINCIPAL/CONTRACTOR:

\_\_\_\_\_

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

SURETY:

\_\_\_\_\_

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

Attorney-in-Fact

IMPORTANT:        THIS IS A REQUIRED FORM.

Surety companies executing bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in California Insurance Code Section 105, and if the work or project is financed, in whole or in part, with federal, grant or loan funds, Surety’s name must also appear on the Treasury Department’s most current list (Circular 570 as amended).

Any claims under this bond may be addressed to:

(Name and Address of Surety)

(Name and Address of agent or representative  
for service for service of process in California)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

STATE OF CALIFORNIA        )

) ss.

COUNTY OF                      )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public in and for said State, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed within the instrument as the Attorney-in-Fact of the \_\_\_\_\_ (Surety) and acknowledged to me that he subscribed the name of the \_\_\_\_\_ (Surety) thereto and his own name as Attorney-in-Fact.

\_\_\_\_\_  
Notary Public in and for said State

(SEAL)

Commission expires: \_\_\_\_\_

NOTE: A copy of the power-of-attorney to local representatives of the bonding company must be attached hereto.

**CONTRACT PERFORMANCE BOND**  
**(CALIFORNIA PUBLIC WORK)**

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, the McCabe Union Elementary School District (sometimes referred to hereinafter as “Obligee”) has awarded to \_\_\_\_\_ (hereinafter designated as the “CONTRACTOR”); an agreement for the work described as follows: **McCabe Building 400 Summer 2020 Roofing Project** (hereinafter referred to as the “Public Work”); and

WHEREAS, the work to be performed by the CONTRACTOR is more particularly set forth in that certain contract for said Public Work dated \_\_\_\_\_, (hereinafter referred to as the “Contract”), which Contract is incorporated herein by this reference; and

WHEREAS, the CONTRACTOR is required by said Contract to perform the terms thereof and to provide a bond both for the performance and guaranty thereof.

NOW, THEREFORE, we, \_\_\_\_\_, the undersigned CONTRACTOR, as Principal, and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the McCabe Union Elementary School District in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), said sum being not less than one hundred percent (100%) of the total amount payable by said Obligee under the terms of said Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the bounded CONTRACTOR, his or her heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, and agreements in said Contract and any alteration thereof made as therein provided, on his or her part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill guarantees of all materials and workmanship; and indemnify, defend and save harmless the Obligee, its officers and agents, as stipulated in said Contract, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

For value received, the Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract, or to the work to be performed thereunder, or the Specifications accompanying the same shall in any way affect its obligations on 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 to the work, or to the Specifications.



No final settlement between the Obligee and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

CONTRACTOR and Surety agree that if the Obligee is required to engage the services of an attorney in connection with enforcement of the bond, CONTRACTOR and Surety shall pay Obligee's reasonable attorneys' fees incurred, with or without suit, in addition to the above sum.

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

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

PRINCIPAL/CONTRACTOR:

\_\_\_\_\_

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

SURETY:

\_\_\_\_\_

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

Attorney-in-Fact

The rate of premium on this bond is \_\_\_\_\_ per thousand.

The total amount of premium charged: \$ \_\_\_\_\_ (This must be filled in by a corporate surety).

IMPORTANT:        THIS IS A REQUIRED FORM.

Surety companies executing bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in California Insurance Code Section 105, and if the work or project is financed, in whole or in part, with federal, grant or loan funds, Surety's name must also appear on the Treasury Department's most current list (Circular 570 as amended).

Any claims under this bond may be addressed to:

(Name and Address of Surety)

(Name and Address of agent or representative  
for service for service of process in California)

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

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

Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

STATE OF CALIFORNIA        )

) ss.

COUNTY OF                    )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public in and for said State, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed within the instrument as the Attorney-in-Fact of the (Surety) and acknowledged to me that he subscribed the name of the (Surety) thereto and his own name as Attorney-in-Fact.

\_\_\_\_\_  
Notary Public in and for said State

(SEAL)

Commission expires: \_\_\_\_\_

NOTE:        A copy of the power-of-attorney to local representatives of the bonding company must be attached hereto.

**DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION CERTIFICATION**

PROJECT/CONTRACT NO.: **McCabe Building 400 Summer 2020 Roofing Project**  
 between **McCabe Union Elementary School District** ("District") and \_\_\_\_\_  
 \_\_\_\_\_ ("Contractor" or "Bidder") ("Contract" or "Project").

**GENERAL INSTRUCTIONS**

Section 71028 of the Education Code and Public Contract Code section 10115 require community college districts using funds allocated by the State Allocation Board pursuant to the Leroy F. Greene School Facilities Act ("Act") to have a participation of at least three percent (3%), per year, of the overall dollar amount expended each year by the district, for disabled veteran business enterprises ("DVBE"). Therefore, lowest responsive responsible bidder awarded the Contract must submit this document to the District with its executed Agreement, identifying the steps contractor took to solicit DVBE participation in conjunction with this Contract. Do not submit this form with your bids.

**Part I – Method of Compliance With DVBE Participation Goals.** Check the appropriate box to indicate your method of committing the contract dollar amount.

<b>YOUR BUSINESS ENTERPRISE IS:</b>	<b>AND YOU WILL</b>	<b>AND YOU WILL</b>
<b>A.</b> <input type="checkbox"/> Disabled veteran owned and your forces will perform at least 3% of this Contract	Include a copy of your DVBE letter from Office of Small Business and Disabled Veterans Business Enterprise Services ("OSB")*	Complete Part 1 of this form and the Certification
<b>B.</b> <input type="checkbox"/> Disabled veteran owned but is unable to perform 3% of this Contract with your forces	Use DVBE subcontractors /suppliers to bring the Contract participation to at least 3%	Include a copy of each DVBE's letter from OSB (including yours, if applicable), and complete Part 1 of this form and the certification
<b>C.</b> <input type="checkbox"/> <b>NOT</b> disabled veteran owned	Use DVBE subcontractors /suppliers for at least 3% of this Contract	
<b>D.</b> <input type="checkbox"/> Unable to meet the required participation goals	Complete all of this Certification form	

\* A DVBE letter from OSB is obtained from the participating DVBE.

**You must complete the following table to show the dollar amount of DVBE participation:**

	<b>TOTAL CONTRACT PRICE</b>
<b>A.</b> Prime Bidder, if DVBE (own participation)	<b>\$</b>
<b>B.</b> DVBE Subcontractor or Supplier	
<b>1.</b>	
<b>2.</b>	
<b>3.</b>	
<b>4.</b>	
<b>C.</b> Subtotal (A & B)	
<b>D.</b> Non-DVBE	
<b>E.</b> Total Bid	

**Part II – Contacts.** To identify DVBE subcontractors/suppliers for participation in your contract, you must contact each of the following categories. You should contact several DVBE organizations.

<b>CATEGORY</b>	<b>TELEPHONE NUMBER</b>	<b>DATE CONTACTED</b>	<b>PERSON CONTACTED</b>
<b>1.</b> The District			*
<b>2.</b> OSB, which publishes a list of DVBE's; Internet Address: <a href="http://www.dgs.ca.gov/osbcr">http://www.dgs.ca.gov/osbcr</a>	(916) 323-5478 (916) 322-5060		*
<b>3.</b> DVBE Organization (List)			*

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

**Part III – Advertisement.** You must advertise for DVBE participation in both a trade and focus paper. List the advertisement you place to solicit DVBE participation. Advertisements should be published at least fourteen (14) days prior to bid/proposal opening; if you cannot advertise fourteen (14) days prior, advertisements should be published as soon as possible. Advertisements must include that your firm is seeking DVBE participation, the project name and location, and your firm's name, your contact person, and telephone number. Attach copies of advertisements to this form.

<b>FOCUS/TRADE PAPER NAME</b>	<b>CHECK ONE</b>		<b>DATE OF ADVERTISEMENT</b>
	<b>TRADE</b>	<b>FOCUS</b>	

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

<b>IF THE DVBE.....</b>	<b>THEN.....</b>	<b>AND.....</b>		
was selected to participate	Check "yes" in the "SELECTED" column	include a copy of their DVBE letter(s) from OSB		
was <b>NOT</b> selected to participate	Check "NO" in the "SELECTED" column	state why in the "REASON NOT SELECTED" column		
did not respond to your solicitation	Check the "NO RESPONSE" column.			
<b>DISABLED VETERANS BUSINESS ENTERPRISES CONTACTED</b>	<b>SELECTED</b>		REASON NOT SELECTED	NO RESPONSE
	<b>YES</b>	<b>NO</b>		

A copy of this form must be retained by you and may be subject to a future audit.

**CERTIFICATION**

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

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

Proper Name of Contractor: \_\_\_\_\_

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

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

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

END OF DOCUMENT

**GUARANTEE**

Guarantee for **McCabe Building 400 Summer 2020 Roofing Project** (hereinafter referred to as the "PROJECT"). We hereby guarantee that the work completed and any equipment installed in connection with the PROJECT has been done in accordance with the Contract Documents, including without limitation, the drawings and specifications, and that the work as installed will fulfill the requirements included in the bid documents. The undersigned agrees to repair or replace any or all such work, together with any other adjacent work, which may be displaced in connection with such replacement, that may prove to be defective in workmanship or material within a period of \_\_\_\_\_ (\_\_\_\_\_) years from the date of the Notice of Completion of the above-mentioned structure by the McCabe Union Elementary School District, ordinary wear and tear and unusual abuse or neglect excepted.

In the event the undersigned fails to comply with the above-mentioned conditions within a reasonable period of time, as determined by the District, but not later than ten (10) days after being notified in writing by the District, the undersigned authorizes the District to proceed to have said defects repaired and made good at the expense of the undersigned, who will pay the costs and charges therefor upon demand.

Countersigned

\_\_\_\_\_  
(Proper Name)

\_\_\_\_\_  
(Proper Name)

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

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

\_\_\_\_\_  
(Signature of Subcontract or Contractor)

\_\_\_\_\_  
(Signature of General Contractor if for Subcontractor)

Representatives to be contacted for service:

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

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

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

**ESCROW AGREEMENT FOR SECURITY DEPOSITS IN LIEU OF RETENTION**

This Escrow Agreement is made and entered into by and between the McCabe Union Elementary School District, 701 West McCabe Road, El Centro, CA 92243-9507, (hereinafter called "OWNER"); and \_\_\_\_\_ whose \_\_\_\_\_ address \_\_\_\_\_ is \_\_\_\_\_, (hereinafter called "CONTRACTOR"); and \_\_\_\_\_ whose \_\_\_\_\_ address \_\_\_\_\_ is \_\_\_\_\_, (hereinafter called "Escrow Agent").

For the consideration hereinafter set forth, the OWNER, CONTRACTOR and Escrow Agent agree as follows:

(1) Pursuant to section 22300 of the Public Contract Code of the State of California, CONTRACTOR has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by OWNER pursuant to the Construction Contract entered into between the OWNER and CONTRACTOR for **McCabe Building 400 Summer 2020 Roofing Project** in the amount of \_\_\_\_\_ dated \_\_\_\_\_ (hereinafter referred to as the "Contract"). Alternatively, on written request of the contractor, the OWNER shall make payments of the retention earnings directly to the escrow agent. When CONTRACTOR deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify the OWNER within ten (10) days of deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Contract between the OWNER and CONTRACTOR. Securities shall be held in the name of the OWNER, and shall designate the CONTRACTOR as beneficial owner.

(2) The OWNER shall make progress payments to the CONTRACTOR for such funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.

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

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

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

(6) CONTRACTOR shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from the OWNER to the Escrow Agent that OWNER consents to the withdrawal of the amount sought to be withdrawn by CONTRACTOR.

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

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

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

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

On behalf of Owner:

Director of Administrative & Fiscal Services

Title

Liz Goff

Name

Signature

701 West McCabe Road, El Centro, CA 92243

Address



On behalf of Contractor:

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

On behalf of Agent:

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

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

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

OWNER

CONTRACTOR

Assistant Superintendent, Business Services  
Title

\_\_\_\_\_  
Title

Brian Murray  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

**INSURANCE DOCUMENTS & ENDORSEMENTS**

The following insurance endorsements and documents must be provided to the District within five (5) calendar days after receipt of notification of award. If the apparent low bidder fails to provide the documents required below, the District may award the contract to the next lowest responsible and responsive bidder or release all bidders, and the bidder's bid security will be forfeited. All insurance provided by the bidder shall fully comply with the requirements set forth in Article 18 of the General Conditions.

1. **General Liability Insurance:** Certificate of Insurance with all specific insurance coverages set forth in Article 18 of the General Conditions, proper Project description, designation of the District as the Certificate Holder, a statement that the insurance provided is primary to any insurance obtained by the District and minimum of 30 days' cancellation notice. Bidder shall also provide required additional named insured endorsement(s) designating all parties required in Article 18 of the General Conditions. The additional named insured endorsement shall be an ISO CG 20 10 (11/85) or ISO CG 20 10 (10/93) or their equivalent as determined by the District.

Incidents and claims are to be reported to the insurer at:

Attn: \_\_\_\_\_  
(Title) (Department)

\_\_\_\_\_  
(Company)

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City) (State) (Zip Code)

(\_\_\_\_\_) \_\_\_\_\_  
(Telephone Number)

2. **Workers' Compensation/ Employer's Liability Insurance:** Certificate of Workers' Compensation Insurance meeting the coverages and requirements set forth in Article 18 of the General Conditions, minimum of 30 days' cancellation notice, proper Project description, waiver of subrogation and any applicable endorsements.

3. Automobile Liability Insurance: Certificate of Automobile Insurance meeting the coverages and requirements set forth in Article 18 or the General Conditions, minimum 30 days' cancellation notice, any applicable endorsements and a statement that the insurance provided is primary to any insurance obtained by the District.

Incidents and claims are to be reported to the insurer at:

Attn: \_\_\_\_\_  
(Title) (Department)  
\_\_\_\_\_  
(Company)  
\_\_\_\_\_  
(Street Address)  
\_\_\_\_\_  
(City) (State) (Zip Code)  
(\_\_\_\_\_) \_\_\_\_\_  
(Telephone Number)

DATE: \_\_\_\_\_

\_\_\_\_\_  
CONTRACTOR

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

## **CONTRACTOR'S CERTIFICATE REGARDING DRUG-FREE WORKPLACE**

This Drug-Free Workplace Certification form is required from all successful bidders pursuant to the requirements mandated by Government Code Sections 8350 et. seq., the Drug-Free Workplace Act of 1990. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract or grant for the procurement of any property or service from any State agency must certify that it will provide a drug-free workplace by performing certain specified acts. In addition, the Act provides that each contract or grant awarded by a State agency may be subject to suspension of payments or termination of the contract or grant, and the CONTRACTOR or grantee may be subject to debarment from future contracting, if the contracting agency determines that specified acts have occurred.

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

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

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

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

I acknowledge that I am aware of the provisions of Government Code Sections 8350 et. seq. and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

DATE: \_\_\_\_\_

\_\_\_\_\_  
CONTRACTOR

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

**CONTRACTOR’S CERTIFICATE REGARDING ALCOHOLIC BEVERAGE and  
TOBACCO-FREE CAMPUS POLICY**

The CONTRACTOR agrees that it will abide by and implement the District’s Alcoholic Beverage and Tobacco-Free Campus Policy, which prohibits the use of alcoholic beverages and tobacco products, at any time, on District-owned or leased buildings, on District property and in District vehicles. The CONTRACTOR shall procure signs stating “ALCOHOLIC BEVERAGE AND TOBACCO USE IS PROHIBITED” and shall ensure that these signs are prominently displayed in all entrances to school property at all times.

DATE: \_\_\_\_\_

\_\_\_\_\_

CONTRACTOR

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

Signature

**CONTRACTOR CERTIFICATION REGARDING BACKGROUND CHECKS**

\_\_\_\_\_ certifies that it has performed one of the following:

(Name of Contractor)

**(Mark the corresponding box next to the option you have selected)**

- Pursuant to Education Code Section 45125.1, Contractor has conducted criminal background checks, through the California Department of Justice, of all employees providing services to the McCabe Union Elementary School District, pursuant to the contract/purchase order dated \_\_\_\_\_, and that none have been convicted of serious or violent felonies, as specified in Penal Code Sections 1192.7(c) and 667.5(c), respectively.

As further required by Education Code Section 45125.1, attached hereto as Attachment "A" is a list of the names of the employees of the undersigned who may come in contact with pupils.

OR

- Pursuant to Education Code Section 45125.2, Contractor will ensure the safety of pupils by one or more of the following methods:
  - 1) The installation of a physical barrier at the worksite to limit contact with pupils.
  - (2) Continual supervision and monitoring of all employees of the entity by an employee of the entity whom the Department of Justice has ascertained has not been convicted of a violent or serious felony.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Date \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
[Name of Contractor/Consultant]

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

**ATTACHMENT "A"**

*(INSERT NAMES OF EMPLOYEES WHO MAY COME IN CONTACT WITH PUPILS)*



## GENERAL CONDITIONS

### ARTICLE 1 DEFINITIONS

1. Action of the Governing Board is a vote of a majority of the District's governing board.
2. Approval means written authorization through action of the governing board unless specific delegation of approval authority is delegated to a District representative.
3. As shown, as indicated, as detailed refers to drawings accompanying this specification.
4. Contract, Contract Documents includes all contract documents to wit: Notice inviting Bids, Instructions to Bidders, Bid Form, Designation of Subcontractors, Performance Bond, Payment Bond, Certificates of Insurance, Insurance Policies, General Conditions, Special Conditions, if any, Drawings, Plans, Specifications, the Agreement and all modifications, addenda, and amendments thereto.
5. Contractor, District and Architect are those mentioned as such in the Agreement. They are treated throughout the contract as if they are of singular number and neuter gender.
6. Locality in which the work is performed means the county in which the public work is done.
7. Project is the planned undertaking as provided for in the contract documents by District and Contractor.
8. Provide shall include "provide complete in place", that is, "furnish & install".
9. Safety Orders are those issued by the Division of Industrial Safety an OSHA Safety and Health Standards for construction.
10. Standards, Rules and Regulations referred to are recognized printed standards and shall be considered as one and a part of these specifications within limits specified.
11. Subcontractor, as used herein, includes those having direct contract with Contractor and one who furnishes material worked to a special design according to plans, drawings, and specifications for this work, but does not include one who merely furnishes material not so worked.
12. Surety is the person, firm, or corporation that executes as surety the Contractor's Performance Bond and Payment Bond.
13. Work of the Contractor or subcontractor includes labor or materials (including, without installation, equipment and appliances) or both, incorporated in, or to be incorporated in the construction covered by the complete Contract.
14. Workers include laborer, worker or mechanic.

### ARTICLE 2 LAWS CONCERNING THE DISTRICT A PART HEREOF

Contract is subject to all provision of the Constitution of Laws of California governing, controlling or effecting District, or the property, funds operations, or powers of District, and such provisions are by his reference made a part hereof and of Contract.

### ARTICLE 3 SITE INVESTIGATION

Before bidding on this work, Contractor shall make a careful investigation of the site and thoroughly familiarize himself with the requirement of the Contract. By the act of submitting a bid for the work included in this Contract, Contractor shall be deemed to have made such study and investigation and that Contractor is familiar with and accepts the conditions of the site.

### ARTICLE 4 STATUS OF CONTRACTOR

Contractor is and shall at all times be deemed to be an independent Contractor and shall be wholly responsible for the manner in which it performs the services required of it by the terms of this contract.

Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between the District, or any of the District's employees or agents, and Contractor or any of Contractor's agents or employees. Contractor assumes exclusively the responsibility for the acts of its employees as they relate to the services to be provided during the course and scope of their employment. Contractor, its agents and employees shall not be entitled to any rights or privileges of District employees. District shall be permitted to monitor the activities to determine compliance with the terms of this Contract. Contractor and subcontractors are required by law to be licensed and regulated by the Contractors State License Board.

## **ARTICLE 5 CONTRACTOR'S SUPERVISION**

A. During progress of the work, Contractor shall keep on the premises (including both the site and the plant) a superintendent satisfactory to District and, if applicable, Architect. Before commencing the work herein, Contractor shall give written notice to District and Architect of the name and a Statement of Qualifications of such superintendent. Superintendent shall not be changed except with written consent of District, unless a superintendent proves to be unsatisfactory to Contractor and ceases to be in its employ, in which case, Contractor shall notify District in writing. Superintendent shall represent Contractor and all directions given to Superintendent shall be as binding as if given to Contractor.

B. The Contractor shall verify all indicated dimensions before ordering materials or equipment, or before performing work. The Contractor shall take field measurements, verify field conditions, and shall carefully compare such field measurements and conditions and other information known to the Contractor with the contract documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Architect at once. Upon commencement of any item of work, the Contractor shall be responsible for dimensions related to such item of work and shall make any corrections necessary to make work properly fit at no additional cost to District. This responsibility for verification of dimensions is a non-delegable duty and may not be delegated to subcontractors or agents.

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

## **ARTICLE 6 SUBCONTRACTORS**

A. Contractor agrees to bind every subcontractor by terms of Contract as far as such terms are applicable to subcontractor's work. If Contractor shall subcontract any part of this Contract, Contractor shall be as fully responsible to District for acts and omissions of any subcontractor and of persons either directly or indirectly employed by any subcontractor, as it is for acts and omissions of persons directly employed by Contractor. Nothing contained in the contract documents shall create any contractual relation between any subcontractor and District, nor shall this Contract be construed to be for the benefit of any subcontractor. The Contractor shall be responsible for the coordination of the trades, subcontractors and materialmen engaged upon his work.

## **ARTICLE 7 DISTRICT'S INSPECTOR**

If applicable, one or more Inspector(s), including special Inspectors, as required, will be employed by District in accordance with requirements of Title 24 of the California Code of Regulations

and will be assigned to the work. Duties of an Inspector are specifically defined in Section 4-342 of Title 24. No work shall be carried on except with the knowledge and under the inspection of said Inspector(s). He shall have free access to any or all parts of work at any time. The District will provide inspection and testing at its cost during the normal eight (8) hour day Monday through Friday (except holidays). Work by the Contractor outside of the normal eight (8) hour day shall constitute an authorization from the Contractor to the District to provide inspection and testing as required outside of the normal eight (8) hour day. Contractor shall reimburse District for inspection and testing outside the normal eight-hour day or for any retests caused by the Contractor.

## **ARTICLE 8 ARCHITECT'S STATUS**

A. The Architect shall be the District's representative during construction period and shall observe the progress and quality of the work on behalf of the District. Architect shall have the authority to act on behalf of District only to the extent expressly provided in the contract documents. Architect shall have authority to stop work whenever such stoppage may be necessary in Architect's reasonable opinion to insure the proper execution of Contract.

B. The Architect shall be, in the first instance, the judge of the performance of this Contract. Architect shall side neither with District nor with Contractor, but shall exercise authority under Contract to enforce its faithful performance by both. Nothing herein authorizes Architect to act as arbitrator for the parties.

C. The Architect shall have all authority and responsibility established by law, including Title 24 of the California Code of Regulations.

D. The Architect shall be the final authority in determining the amount of work satisfactorily completed and the amount of money due during the progress of construction.

## **ARTICLE 9 ASSIGNMENT OF ANTITRUST ACTIONS**

A. Pursuant to Government Code ' 4551, in entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the Contractor or Subcontractor offers and agrees to assign to the District all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act, (15 U.S.C. ' 15) or under the Cartwright Act (Chapter 2 [commencing with ' 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from the purchase of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the Contractor, without further acknowledgment by the parties. If the District receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under Chapter 11 (commencing with ' 4550) of Division 5 of Title 1 of the Government Code, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the District any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the District as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.

B. Upon demand in writing by the assignor, the District shall, within one (1) year from such demand, reassign the cause of action assigned pursuant to this Article if the assignor has been or may have been injured by the violation of law for which the cause of action arose and the District has not been injured thereby or the District declines to file a court action for the cause of action.

## ARTICLE 10 OTHER CONTRACTS

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

B. Nothing herein contained shall be interpreted as granting to Contractor exclusive occupancy at the Project site. Contractor shall not cause any unnecessary hindrance or delay to any other contractor working on Project. If simultaneous execution of any Contract for Project is likely to cause interference with performance of some other contract or contracts, District shall decide which contractor shall cease work temporarily and which contractor shall continue or whether work can be coordinated so that contractors may proceed simultaneously.

## ARTICLE 11 OCCUPANCY

District reserves the right to occupy portions of the Project at any time before completion, and such occupancy shall constitute final acceptance of that portion only to the extent that the Contractor will not be subject to performing work or repairs caused by the District's use of the occupied areas. Such occupancy shall not extend the date specified for completion of the work. The Contractor will be required to complete punch list items documented by District, Architect, Inspector and Contractor prior to final payment.

## ARTICLE 12 DISTRICT'S RIGHT TO DO WORK

Should the Contractor, at any time during the process of construction, fail or refuse to furnish enough materials or workmen to properly execute the work, unless prohibited from so doing through the action of District, Architect, or other authorized official agencies, District, after giving ten (10) days written notice to Contractor may, without prejudice to any other rights he may have, proceed to furnish the materials and/or workmen necessary to proceed with or complete the work, and may deduct the cost thereof, together with reasonable expenses arising from such procedure, from any amounts then due or which may thereafter become due to Contractor.

## ARTICLE 13 DISTRICT'S RIGHT TO TERMINATE CONTRACT

A. **Grounds for Termination.** The Contractor may terminate the Contract if the Work is stopped for a period of thirty (30) consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons performing portions of the Work for whom the Contractor is contractually responsible, for only the following reasons:

- (1) Issuance of an order of a court or other public authority having jurisdiction; or
- (2) An act of government, such as a declaration of national emergency.

B. **Notice of Termination.** If one of the above reasons exists, the Contractor may, upon written notice of seven (7) additional days to the District, terminate the Contract and recover from the District payment for Work executed and for reasonable costs verified by the Architect with respect to materials, equipment, tools, construction equipment, and machinery, including reasonable overhead, profit, and damages.

## ARTICLE 14 TERMINATION BY THE DISTRICT FOR CAUSE

A. **Grounds for Termination.** The District may terminate the Contractor and/or this Contract for the following reasons:

- (1) Persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- (2) Persistently or repeatedly is absent, without excuse, from the job site;
- (3) Fails to make payment to subcontractors, suppliers, materialmen, etc;
- (4) Persistently disregards laws, ordinances, rules, regulations, or orders of a public authority having jurisdiction; or
- (5) Otherwise is in substantial breach of a provision of the Contract Documents.

B. **Notification of Termination.** When any of the above reasons exist, the District may, without prejudice to any other rights or remedies of the District and after giving the Contractor and the Contractor's surety, if any, written notice of seven (7) days, terminate the Contract and may, subject to any prior rights of the surety:

- (1) Take possession of the Project and of all material, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- (2) Accept assignment of Subcontracts. Contractor acknowledges and agrees that if the District (in its sole and absolute discretion) decides to takeover completion of the Project, the Contractor agrees to immediately assign all subcontracts to the District which the District has chosen to accept; and
- (3) Complete the Work by any reasonable method the District may deem expedient, including contracting with a replacement contractor or contractors.

C. **Payments Withheld.** If the District terminates the Contract for one of the reasons stated in Paragraph 14.A, the Contractor shall not be entitled to receive further payment until the Work is complete. All costs associated with the termination and completion of the Project shall be the responsibility of the Contractor and/or its surety.

D. **Payments Upon Completion.** If the unpaid balance of the Contract Sum exceeds costs of completing the Work, including compensation for professional services and expenses made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the District. The amount to be paid to the Contractor, or District, as the case may be, shall be certified by the Architect upon application. This payment obligation shall survive completion of the Contract.

E. **Remedies Other Than Termination.** If a default occurs, the District may, without prejudice to any other right or remedy, including, without limitation, its right to terminate the Contract pursuant to Article 14, do any of the following:

- (1) Permit the Contractor to continue under this Contract, but make good such deficiencies or complete the Contract by whatever method the District may deem expedient, and the cost and expense thereof shall be deducted from the Contract Price or paid by the Contractor to the District on demand;
- (2) If the workmanship performed by the Contractor is faulty or defective materials are provided, erected or installed, then the District may order the Contractor to remove the faulty workmanship or defective materials and to replace the same

with work or materials that conform to the Contract Documents, in which event the Contractor, at its sole costs and expense, shall proceed in accordance with the District's order and complete the same within the time period given by the District in its notice to the Contractor; or

- (3) Initiate procedures to declare the Contractor a non-responsible bidder for a period of two to five years thereafter.

All amounts expended by the District in connection with the exercise of its rights hereunder shall accrue interest from the date expended until paid to the District at the maximum legal rate. The District may retain or withhold any such amounts from the Contract Price. If the Contractor is ordered to replace any faulty workmanship or defective materials pursuant to Paragraph (b) above, the Contractor shall replace the same with new work or materials approved by the Architect and the District, and, at its own cost, shall repair or replace, in a manner and to the extent the Architect and the District shall direct, all work or material that is damaged, injured or destroyed by the removal of said faulty workmanship or defective material, or by the replacement of the same with acceptable work or materials. In no event shall anything in this Paragraph be deemed to constitute a waiver by the District of any other rights or remedies that it may have at law or in equity, it being acknowledged and agreed by the Contractor that the remedies set forth in this Paragraph are in addition to, and not in lieu of, any other rights or remedies that the District may have at law or in equity.

#### **ARTICLE 15 TERMINATION OF CONTRACT BY DISTRICT (CONTRACTOR NOT AT FAULT)**

**A. Termination for Convenience.** District may terminate the Contract upon fifteen (15) calendar days of written notice to the Contractor and use any reasonable method the District deems expedient to complete the project, including contracting with replacement contractor or contractors, if it is found that reasons beyond the control of either the District or Contractor make it impossible or against the District's interest to complete the work. In such a case, the Contractor shall have no claims against the District except: (1) the actual cost for labor, materials, and services performed which may be documented through timesheets, invoices, receipts, or otherwise, and (2) ten percent (10%) profit and overhead, and (3) five percent (5%) termination cost of the total of items (1) and (2). Contractor acknowledges and agrees that if the District (in its sole and absolute discretion) decides to takeover completion of the Project, the Contractor agrees to immediately assign all subcontracts to the District which the District has chosen to accept.

**B. Non-Appropriation of Funds/ Insufficient Funds.** In the event that sufficient funds are not appropriated to complete the Project or the District determines that sufficient funds are not available to complete the Project, District may terminate or suspend the completion of the Project at any time by giving written notice to the Contractor. In the event that the District exercises this option, the District shall pay for any and all work and materials completed or delivered onto the site for which value is received, and the value of any and all work then in progress and orders actually placed which cannot be canceled up to the date of notice of termination. The value of work and materials paid for shall include a factor of fifteen percent (15%) for the Contractor's overhead and profit and there shall be no other costs or expenses paid to Contractor. All work, materials and orders paid for pursuant to this provision shall become the property of the District. District may, without cause, order Contractor in writing to suspend, delay or interrupt the Project in whole or in part for such period of time as District may determine. Adjustment shall be made for increases in the cost of performance of the Agreement caused by suspense, delay or interruption.

## **ARTICLE 16 CONTRACT SECURITY - BONDS**

Contractor shall furnish a surety bond in an amount equal to one hundred percent (100 %) of Contract price as security for faithful performance of this Contract and shall furnish a separate bond in an amount at least equal to one hundred percent (100%) of the Contract price as security for payment of persons performing labor and furnishing materials in connection with this Contract. Aforementioned bonds shall be in the form set forth in these contract documents.

## **ARTICLE 17 SUBSTITUTION OF SECURITIES**

Pursuant to the requirements of Public Contract Code Section 22300, upon Contractor's request, District will make payment to Contractor of any funds withheld from payments under this Contract if Contractor deposits with the District or in escrow with a California or federally chartered bank acceptable to District, securities eligible for the investment of State Funds under Government Code Section 16430 or 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 the Contractor and the public agency.

## **ARTICLE 18 INSURANCE REQUIREMENTS**

A. Before the commencement of the Work, the Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in California as admitted carriers with a financial rating of at least A status as rated in the most recent edition of Best's Insurance Reports or as amended by the Supplementary General Conditions, such insurance as will protect the District from claims set forth below, which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations are by the Contractor, by a Subcontractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- (1) Claims for damages because of bodily injury, sickness, disease, or death of any person District would require indemnification and coverage for employee claim;
- (2) Claims for damages insured by usual personal injury liability coverage, which are sustained by a person as a result of an offense directly or indirectly related to employment of such person by the Contractor or by another person;
- (3) Claims for damages because of injury or destruction of tangible property, including loss of use resulting therefrom, arising from operations under the Contract Documents;
- (4) Claims for damages because of bodily injury, death of a person, or property damage arising out of the ownership, maintenance, or use of a motor vehicle, all mobile equipment, and vehicles moving under their own power and engaged in the Work;
- (5) Claims involving contractual liability applicable to the Contractor's obligations under the Contract Documents, including liability assumed by and the indemnity and defense obligations of the Contractor and the Subcontractors; and
- (6) Claims involving Completed Operations, Independent Contractors' coverage, and Broad Form property damage, without any exclusions for collapse, explosion, demolition, underground coverage, and excavating. (XCU)

- (7) Claims involving sudden or accidental discharge of contaminants or pollutants.

**B. Subcontractor Insurance Requirements.** The Contractor shall require its Subcontractors to take out and maintain similar public liability insurance and property damage insurance required under Article 18.A in like amounts. A “claims made” or modified “occurrence” policy shall not satisfy the requirements of Article 18.A without prior written approval of the District.

**C. Additional Named Insured Endorsement Requirements.** The Contractor shall name, on any policy of insurance required under Article 18.A, the District, Architect, Inspector, the State of California, their officers, employees, agents and independent contractors as additional named insureds. Subcontractors shall name the Contractor, the District, Architect, Inspector, the State of California, their officers, employees, agents and independent contractors as additional named insureds. The Additional named Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional named insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional named insureds have other insurance which is applicable to the loss, such other insurance shall be on an excess or contingent basis. The insurance provided by the Contractor pursuant to 18.A must be designated in the policy as primary to any insurance obtained by the District. The amount of the insurer’s liability shall not be reduced by the existence of such other insurance.

**D. Specific Insurance Requirements.** Contractor shall take out and maintain and shall require all subcontractors, if any, whether primary or secondary, to take out and maintain:

- (1) Comprehensive General Liability Insurance with a combined single limit per occurrence of not less than \$2,000,000.00 or Commercial General Liability Insurance (including automobile insurance) which provides limits of not less than:

(a) Per occurrence (combined single limit)	\$1,000,000.00
(b) Project Specific Aggregate (for this project only)	\$1,000,000.00
(c) Products and Completed Operations	\$1,000,000.00
(d) Personal and Advertising Injury Limit	\$1,000,000.00

- (2) Insurance Covering Special Hazards

The following Special hazards shall be covered by riders or riders to above mentioned public liability insurance or property damage insurance policy or policies of insurance, in amounts as follows:

(a) Automotive and truck where operated in amounts	\$1,000,000.00
(b) Material Hoist where used in amounts	\$1,000,000.00
(c) Explosion, Collapse and Underground (XCU) coverage	\$1,000,000.00

**E. Workers’ Compensation Insurance.** During the term of this Contract, the Contractor shall provide workers’ compensation insurance for all of the Contractor’s employees engaged in Work under this Contract on or at the Site of the Project and, in case any of the Contractor’s Work is subcontracted, the Contractor shall require the Subcontractor to provide workers’ compensation insurance for all the Subcontractor’s employees engaged in Work under the subcontract. Any class of employee or employees not covered by a Subcontractor’s insurance shall be covered by the Contractor’s insurance. In case any class of employees engaged in Work under this Contract on or at the Site of the Project is not protected under the Workers’ Compensation laws, the Contractor shall provide or cause a Subcontractor



to provide adequate insurance coverage for the protection of those employees not otherwise protected. The Contractor shall file with the District certificates of insurance as required under Article 18.I and in compliance with Labor Code ' 3700.

F. **Builder's Risk/ "All Risk" Insurance.** The Contractor, during the progress of the Work and until final acceptance of the Work by District upon completion of the entire Contract, shall maintain Builder's Risk, Course of Construction or similar first party property coverage issued on a replacement cost value basis consistent with the total replacement cost of all insurable Work and the Project included within the Contract Documents. Coverage is to insure against all risks of accidental direct physical loss, and must include, by the basic grant of coverage or by endorsement, the perils of vandalism, malicious mischief (both without any limitation regarding vacancy or occupancy), fire, sprinkler leakage, civil authority, sonic boom, earthquake, flood, collapse, wind, lightning, smoke and riot. The coverage must include debris removal, demolition, increased costs due to enforcement of building ordinance and law in the repair and replacement of damage and undamaged portions of the property, and reasonable costs for the Architect's and engineering services and expenses required as a result of any insured loss upon the Work and Project which is the subject of the Contract Documents, including completed Work and Work in progress, to the full insurable value thereof. Such insurance shall include the District and the Architect as additional named insureds, and any other person with an insurable interest as designated by the District.

The Contractor shall submit to the District for its approval all items deemed to be uninsurable. The risk of the damage to the Work due to the perils covered by the ABuilder's Risk/All Risk" Insurance, as well as any other hazard which might result in damage to the Work, is that of the Contractor and the surety, and no claims for such loss or damage shall be recognized by the District nor will such loss or damage excuse the complete and satisfactory performance of the Contract by the Contractor.

G. **Fire Insurance.** Before the commencement of the Work, the Contractor shall procure, maintain, and cause to be maintained at the Contractor's expense, fire insurance on all Work subject to loss or damage by fire. The amount of fire insurance shall be sufficient to protect the Project against loss or damage in full until the Work is accepted by the District.

H. **Other Insurance.** The Contractor shall provide all other insurance required to be maintained under applicable laws, ordinances, rules, and regulations.

I. **Proof of Insurance.** The Contractor shall not commence Work nor shall it allow any Subcontractor to commence Work under this Contract until all required insurance and certificates have been obtained and delivered in duplicate to the District for approval subject to the following requirements:

- (1) Certificates and insurance policies shall include the following clause:

AThis policy shall not be non-renewed, canceled, or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District. Date of cancellation or reduction may not be less than thirty (30) days after the date of mailing notice."

- (2) Certificates of insurance shall state in particular those insured, the extent of insurance, location and operation to which the insurance applies, the expiration date, and cancellation and reduction notices.

(3) Certificates of insurance shall clearly state that the District and the Architect are named as additional named insured's under the policy described and that such insurance policy shall be primary to any insurance or self-insurance maintained by District.

(4) The Contractor and its Subcontractors shall produce a certified copy of any insurance policy required under this Section upon written request of the District.

J. **Compliance.** In the event of the failure of any contractor to furnish and maintain any insurance required by this Article, the Contractor shall be in default under the Contract. Compliance by Contractor with the requirement to carry insurance and furnish certificates or policies evidencing the same shall not relieve the Contractor from liability assumed under any provision of the Contract Documents, including, without limitation, the obligation to defend and indemnify the District and the Architect.

K. **Waiver of Subrogation.** Contractor waives (to the extent permitted by law) any right to recover against the District for damages to the Work, any part thereof, or any and all claims arising by reason of any of the foregoing, but only to the extent that such damages and/or claims are covered by property insurance and only to the extent of such coverage (which shall exclude deductible amounts) by insurance actually carried by the District.

The provisions of this Section are intended to restrict each party to recovery against insurance carriers only to the extent of such coverage and waive fully and for the benefit of each, any rights and/or claims which might give rise to a right of subrogation in any insurance carrier. The District and the Contractor shall each obtain in all policies of insurance carried by either of them, a waiver by the insurance companies thereunder of all rights of recovery by way of subrogation for any damages or claims covered by the insurance.

## ARTICLE 19 PERFORMANCE AND PAYMENT BONDS

A. **Bond Requirements.** Prior to commencing any portion of the Work, the Contractor shall furnish separate payment and performance bonds for its portion of the Work which shall cover 100% faithful performance of and payment of all obligations arising under the Contract Documents and/or guaranteeing the payment in full of all claims for labor performed and materials supplied for the Work. All bonds shall be provided by a corporate surety authorized and admitted to transact business in California as sureties.

To the extent, if any, that the Contract Price is increased in accordance with the Contract Documents, the Contractor shall, upon request of the District, cause the amount of the bonds to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the District. To the extent available, the bonds shall further provide that no change or alteration of the Contract Documents (including, without limitation, an increase in the Contract Price, as referred to above), extensions of time, or modifications of the time, terms, or conditions of payment to the Contractor will release the surety. If the Contractor fails to furnish the required bonds, the District may terminate the Contract for cause.

B. **Surety Qualifications.** Only bonds executed by admitted Surety insurers as defined in Code of Civil Procedure ' 995.120 shall be accepted. Surety must be a California-admitted surety and listed by the U.S. Treasury with a bonding capacity in excess of the Project cost.

C. **Alternate Surety Qualifications.** If a California-admitted surety insurer issuing bonds does not meet these requirements, the insurer will be considered qualified if it is in conformance with ' 995.660 of the California Code of Civil Procedure and proof of such is provided to the District.

## **ARTICLE 20 DRAWINGS AND SPECIFICATIONS**

A. Contract Documents are complementary, and what is called for by one shall be as binding as if called for by all.

B. Materials or work described in words which so applied has a well known technical or trade meaning shall be deemed to refer to such recognized standards.

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

D. The naming of any material and/or equipment shall mean furnishing and installing of same, including all incidentals and accessory items thereto and/or labor therefor, as per best practices of the trade(s) involved, unless specifically noted otherwise.

E. Figured dimensions on drawings shall govern, but work not dimensioned shall be as directed. Work not particularly shown or specified shall be the same as similar parts that are shown or specified. Large scale details shall take precedence over smaller scale drawings as to shape and details of construction. Specifications shall govern as to materials, workmanship, and installations procedures. Drawings and specifications are intended to be fully cooperative and to agree. However, if Contractor observes that drawings and specifications are in conflict, Contractor shall promptly notify the District in writing, and any necessary changes shall be adjusted as provided in Article 46 entitled "Changes and Extra Work." The specification calling for the higher quality material or workmanship shall prevail.

F. Specifications and accompanying drawings are intended to delineate and describe the Project and its component parts to such a degree as to enable skilled and competent contractors to intelligently bid upon the work, and to carry said work to a successful conclusion.

G. Drawings and specifications are intended to comply with all laws, ordinances, rules, and regulations of constituted authorities having jurisdiction, and where referred to in the contract documents, said laws, ordinances, rules, and regulations shall be considered as a part of said Contract within the limits specified. The Contractor shall bear all expenses of correcting work done contrary to said laws, ordinances, rules, and regulations if the Contractor knew or should have known that the work as performed is contrary to said laws, ordinances, rules, and regulations and if the Contractor performed same (1) without first consulting the Architect for further instructions regarding said work or (2) disregarded the Architect's instructions regarding said work.

H. Questions regarding interpretation of drawings and specifications shall be clarified by the Architect. Should the Contractor commence work or any part thereof without seeking clarification, Contractor waives any claim for extra work or damages as a result of any ambiguity, conflict, or lack of information.

I. Contractor will be furnished, free of charge, bid sets of permitted documents and specifications. Contractor is to provide reproducible drawings and all additional copies which he requires for his operations at his own expense. He shall maintain an accurate record of all copies made and shall return or otherwise account for all copies at the end of the Project.

## **ARTICLE 21 OWNERSHIP OF DRAWINGS**

Pursuant to Education Code section 17316, all plans, drawings, designs, specifications, and other incidental architectural and engineering work or materials and other contract documents and copies thereof furnished by District are its property. They are not to be used in other work and, with the exception of signed sets of the Contract, are to be returned to the District on request at completion of work.

## **ARTICLE 22 DETAIL DRAWINGS AND INSTRUCTIONS**

A. In case of ambiguity, conflict, or lack of information, Architect shall furnish, with reasonable promptness, additional instructions by means of drawings or otherwise, necessary for proper execution of work. All such drawings and instructions shall be consistent with contract documents, true developments thereof, and reasonably inferable therefrom.

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

C. The Architect will furnish necessary details to more fully explain the work, which details shall be considered as part of the contract documents.

D. Should any details require work and costs beyond those which reasonably should have been included in the contract, Contractor shall give written notice thereof to the District within ten (10) working days of the receipt of same. In case no notice is given to the District within ten (10) working days, it will be assumed the details are reasonable development of the scale drawings. In case notice is given, then the claim will be considered and, if found justified, the District or Architect will either modify the drawings or shall recommend to District a change order for the extra work involved.

E. All parts of the described and shown construction shall be of the quality of their respective kinds shown in the Plans or as specified, and the Contractor is hereby advised to use all diligence to become fully informed as to the required construction and finish, and in no case to proceed with the different parts of the work without first obtaining from the Architect some directions and/or drawings as may be necessary for the proper performance of the work.

F. If it is found at any time, before or after completion of the work, that the Contractor has varied from the drawings and/or specifications, in materials, quality, form, or finish, or in the amount or value of the materials and labor used, the District shall issue an order to Contractor: (1) that all such improper work should be removed, remade, and replaced, and all work disturbed by these changes be made good at the Contractor's expense; or (2) that the District deduct from any amount due Contractor, the sum of money equivalent to the difference in value between the work performed and that called for by the drawings and specifications. District shall in its sole discretion determine such difference in value. The District, at its option, may pursue either course.

## **ARTICLE 23 TESTS AND INSPECTIONS**

A. Tests and inspections will comply with California Code of Regulations Title 21, Chapter 4 and Section 42, and Title 24, Chapter 4, Part I.

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

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

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

D. Contractor shall notify District, a sufficient time in advance, of manufacture of materials to be supplied by him under contract, which must by terms of contract be tested, in order that District may arrange for testing of same at source of supply. Any materials shipped by Contractor from source of supply prior to having satisfactorily passed such testing and inspection, or prior to receipt of notice from said representative that such testing and inspection will not be required, shall not be incorporated in work without prior approval of District and subsequent testing and inspection.

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

F. The District will pay costs for all tests and inspections and shall be reimbursed by the Contractor for such costs under the following conditions:

- (1) When such costs are stipulated in the provisions of the Contract documents to be borne by the Contractor;
- (2) When a material is tested or inspected and fails to meet the requirements of the specifications and/or drawings;
- (3) When the source of the material is changed after the original test or inspection has been made and approved.

G. If, in the opinion of the District, subsequent delivery of a tested material seems inferior to, or differs from, the original, said material shall be retested upon written order from the District and, should the material fail to meet the requirements of the specifications and/or drawings, the Contractor shall pay all costs of such tests, but where the material does pass the requirements, the District will pay the cost.

H. All tests and inspections specified for each material shall be made in accordance with the detailed specifications for tests or inspections of the material as specified.

I. If a material is not required to be tested, the District may require the Contractor to furnish a certificate bearing the official and legal signature of the supplier, with each delivery of such material, stating that the material complies with the specifications.

## **ARTICLE 24 STATE AUDIT**

Pursuant to and in accordance with the provisions of Government Section 10532, or any amendments thereto, all books, records, and files of District, Contractor, or any subcontractor connected

with the performance of this Contract involving the expenditure of state funds in excess of ten thousand dollars (\$10,000.00), including, but not limited to, the administration thereof, shall be subject to the examination and audit of the Office of the Auditor General of the State of California for a period of three (3) years after final payment is made under this Contract. Contractor shall preserve and cause to be preserved such books, records and files for the audit period.

## **ARTICLE 25 PREFERENCE FOR MATERIALS AND SUBSTITUTIONS**

A. **One Product Specified.** Unless the plans and specifications state that no substitution is permitted, whenever the Contract Documents indicate any specific article, device, equipment, product, material, fixture, patented process, form, method, construction or any specific name, make, trade name, or catalog number, with or without the words Aor equal,@ such specification shall be deemed to be used for the purpose of facilitating the description of the material, process, or article desired shall be deemed to be followed by the words Aor equal.@

B. **Request for Substitution.** Bidder may, unless otherwise stated, offer any material, process, article, etc., which shall be materially equal or better in every respect to that so indicated or specified (ASpecified Item@) and will completely accomplish the purpose of the Contract Document. If bidder desires to offer a substitution for a Specified Item, such bidder must make a request in writing on District's Substitution Request form (ARequest Form@) and submit the completed Request Form with their bid. The Request Form must be accompanied by evidence as to whether the proposed substitution:

- (1) Is equal in quality service ability to the Specified Item;
- (2) Will entail no changes in detail, construction and scheduling of related work;
- (3) Will be acceptable in consideration of the required design and artistic effect;
- (4) Will provide no cost disadvantage to District;
- (5) Will require no excessive or more expensive maintenance, including adequacy and availability of replacement parts; and
- (6) Will require no change of the construction schedule.

In completing the Request Form, bidder must state with respect to each requested substitution whether bidder will agree to provide the Specified Item in the event that District denies bidder's request for substitution of a Specified Item. In the event that bidder does not agree in the Request Form to provide the Specified Item and the District denies the requested substitution, the bidder's bid shall be considered non-responsive and the District may award the contract to the next lowest bidder or in its sole discretion release all bidders. In the event that bidder has agreed in the Request Form to provide the Specified Item and the District denies bidder's requested substitution for a Specified Item, bidder shall execute the Agreement and provide the Specified Item without any additional cost or charges to the District, and if bidder fails to execute the Agreement with the Specified Item(s), bidder's bid bond will be a forfeited.

After the bids are opened, the apparent lowest bidder shall provide within five days of opening such bids, any and all drawings, specification, samples, performance data, calculations, and other information as may be required to assist the Architect and the District in determining whether the proposed substitution is acceptable. The burden of establishing these facts shall be upon the bidder.

After the District's receipt of such evidence by bidder, District will make its final decision as to whether the bidder's request for substitution for any Specified Items will be granted. The decision as to whether a proposed request for substitution is equal to a Specified Item shall be the sole discretion of District. Any request for substitution which is granted by the District shall be documented and processed through a Change Order. The District may condition its approval of any substitution upon delivery to

District of an extended warranty or other assurances of adequate performance of the substitution. Any and all risks of delay due to DSA, or any other governmental agency having jurisdiction shall be on the bidder.

## **ARTICLE 26 SAMPLES**

A. Contractor shall furnish for approval, within thirty-five (35) days following award of Contract, all samples as required in specifications together with catalogs and supporting data required by District. This provision shall not authorize any extension of time for performance of this Contract. District shall review such samples, as to conformance with design concept of work and for compliance with information given in contract documents and approve or disapprove same within ten (10) working days from receipt of same.

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

C. Samples of materials and/or articles shall, upon demand of District, be submitted for tests or examinations and consideration before incorporation of same in work is started. Contractor shall be solely responsible for delays due to samples not being submitted in time to allow for tests. Acceptance or rejection will be expressed in writing. Work shall be equal to approved samples in every respect. Samples which are of value after testing will remain the property of Contractor.

## **ARTICLE 27 PROGRESS SCHEDULE**

A.

If applicable or requested by the District, within ten (10) calendar days after being awarded the contract, Contractor shall submit a progress schedule for District's approval. The schedule should indicate the beginning and completion of all phases of construction and shall use the "critical path method" (commonly called CPM) for the value reporting, planning and scheduling, of all work required under the contract documents. The scheduling is necessary for the District's adequate monitoring of the progress of the work and should be prepared in accordance with the time frame described in the Agreement. The District may disapprove such a schedule and require modification to it if, in the opinion of the District, adherence to the progress schedule will not cause the work to be completed in accordance with the Agreement.

B. The Contractor, if requested by the District, shall provide revised schedules within ten (10) day if, at any time, District, considers the completion date to be in jeopardy because of "activities behind schedule." The additional schedule shall include a new arrow or precedence diagram and schedule reports conforming to the requirements above, designed to show how the Contractor intends to accomplish the work to meet the completion date. The form and method employed by the Contractor shall be the same as for the original initial schedule. The Contractor shall modify any portions of the schedule that become infeasible because of "activities behind schedule" or for any other valid reason. An activity that cannot be completed by its original latest completion date shall be deemed to be behind schedule.

## **ARTICLE 28 MATERIALS AND WORK**

A. Except as otherwise specifically stated in this Contract, Contractor shall provide and pay for all materials, labor, tools, equipment, transportation, superintendence, temporary constructions of

every nature, and all other services and facilities of every nature whatsoever necessary to execute and complete this Contract within specified time.

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

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

D. Contractor shall, after award of Contract by District, place orders for materials and/or equipment as specified so that delivery of same may be made without delays to the work. Contractor shall, upon demand from the District, furnish to the District documentary evidence showing that orders have been placed.

E. No material, supplies, or equipment for work under this Contract shall be purchased subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or in any part thereof is retained by seller or supplier. Contractor warrants good title to all material, supplies, and equipment installed or incorporated in work and agrees upon completion of all work to deliver premises, together with all improvements and appurtenances constructed or placed thereon by it, to District free from any claims, liens, or charges. Contractor further agrees that neither it nor any person, firm, or corporation furnishing any materials or labor for any work covered by this Contract shall have any right to place a lien upon the premises or any improvement or appurtenance thereof, except that Contractor may install metering devices or other equipment of a utility company or political subdivision, title to which is commonly retained by the utility company or political subdivision. In event of installation of any such metering device or equipment, Contractor shall advise District as to its owner.

F. For all material and equipment specified or indicated in the Drawings, the Contractor shall provide all labor, materials, equipment, and services necessary for complete assemblies and complete working systems. Incidental items not indicated on the Drawings, nor mentioned in the Specifications, that can legitimately and reasonably be inferred to belong to the work described, or be necessary in good practice to provide a complete assembly or system, shall be furnished as though itemized here in every detail. In all instances, material and equipment shall be installed in strict accordance with each manufacturer's most recent published recommendations and specifications.

## **ARTICLE 29 OBTAINING OF PERMITS, LICENSES AND EASEMENTS**

Permits, licenses, and certificates necessary for prosecution of work shall be secured and paid for by Contractor, unless otherwise specified. All such permits, licenses, and certificates shall be delivered to Architect before demand is made for the certificates of final payment. Contractor shall, and shall require subcontractors to, maintain Contractor's licenses in effect as required by law.

## **ARTICLE 30 ACCESS TO WORK**

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



## **ARTICLE 31 SANITARY FACILITIES**

If applicable, Contractor shall provide sanitary temporary facilities in no fewer numbers than required by law.

## **ARTICLE 32 CLEANING UP**

Contractor at all times shall keep premises free from debris such as waste, rubbish, and excess materials and equipment caused by the work. Contractor shall not leave debris under, in, or about the premises, but shall promptly remove same from the premises. Upon completion of work, Contractor shall clean interior and exterior of building, including fixtures, equipment, walls, floors, ceilings, roofs, window sills and ledges, horizontal projections, and any areas where debris has collected so surfaces are free from foreign material or discoloration; Contractor shall clean and polish all glass, plumbing fixtures, and finish hardware and similar finish surfaces and equipment and remove temporary fencing, barricades, planking, sanitary facilities and similar temporary facilities from site. If Contractor fails to clean up, District may do so and the cost thereof shall be charged to Contractor.

## **ARTICLE 33 GUARANTEE**

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

B. Contractor Warrants that the WORK (which includes any equipment furnished by Contractor as a part of the materials) shall: (a) Be free from defects in workmanship and material; (b) Be free from defects in any design performed by Contractor; (c) Be new, and conform and perform to the requirements stated in the Specifications, and where detail requirements are not so stated, shall conform to applicable industry standards; and (d) Be suitable for the use stated in the Specifications.

C. The warranty period for discovery of DEFECTIVE WORK shall commence on the date stamped on the Notice of Completion verifying County registration and continue for the period set forth in the Specifications or for one year if not so specified. If, during the warranty period, the WORK is not available for use due to DEFECTIVE WORK, such time of unavailability shall not be counted as part of the warranty period. The warranty period for corrected DEFECTIVE WORK shall continue for a duration equivalent to the original warranty period.

## **ARTICLE 34 DUTY TO PROVIDE FIT WORKERS**

A. Contractor and Subcontractors shall at all times enforce strict discipline and good order among their employees and shall not employ on any person not skilled in the work assigned to such person. It shall be the responsibility of Contractor to ensure compliance with this Article.

B. Any person in the employ of the Contractor or subcontractors whom District may deem unfit shall be excluded from the work site and shall not again be employed on it except with written consent of District. As used in this Article, "unfit" means any person who the District concludes is either not, or improperly, skilled for the task assigned to that person, who fails to comply with the requirements of this Article, or who creates safety hazards which jeopardize other persons and/or property.

C. Contractor shall take all reasonable steps necessary to insure that any employees of Contractor or any of its subcontractors' employees do not use, consume, or work under the influence of any alcohol or illegal drugs while on the Project. Contractor shall further prevent any of its employees or its subcontractors' employees from playing any recorded music devices or radios or wearing any radio headphone devices for entertainment while working on the Project. Likewise, Contractor shall preclude any of its employees or subcontractor's employees from bringing any animal onto the Project.

## **ARTICLE 35 FINGERPRINTING**

If applicable, Contractor shall comply with all provisions of either Education Code Section 45125.1 or 45125.2. Pursuant to Education Code 45125.1, Contractor shall conduct criminal background checks of all employees of Contractor assigned to the District, and shall certify that no employees who have been convicted of serious or violent felonies, as specified in Education Code Section 45125.1, will have contact with pupils, by utilizing the certification set forth in the bid documents. As part of such certification, Contractor must provide the District with a list of all employees providing services pursuant to this Agreement, and designate which sites such employees will be assigned. In performing the services set forth in this Agreement, Contractor shall not utilize any employees who are not included on the above-referenced list. At District's sole discretion, District may make a finding, as authorized under Education Code Section 45125.1, that Contractor's employees will have only "limited contact" with pupils. Contractor's failure to comply with this law shall be considered a material breach of this Agreement upon where this Agreement may be terminated, at District's sole discretion, without any further compensation to Contractor.

Pursuant to Section 45125.2 Contractor shall ensure the safety of pupils by the installation of a physical barrier at the worksite and by continual supervision and monitoring of all these employees by an employee of Contractor whom the Department of Justice has ascertained has not been convicted of a serious or violent felony, as defined in Education Code Section 45125.2 (c).

## **ARTICLE 36 WAGE RATES, TRAVEL AND SUBSISTENCE**

A. **Wage Rates.** Pursuant to the provisions of Article 2 (commencing at § 1720), Chapter 1, Part 7, Division 2, of the Labor Code, the District has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which this public Work is to be performed for each craft, classification, or type of worker needed for this Project from the Director of the Department of Industrial Relations ("Director"). These rates are on file at the administrative office of the District and are also available from the Director of the Department of Industrial Relations. Copies will be made available to any interested party on request. The Contractor shall post a copy of such wage rates at appropriate, conspicuous, weatherproof points at the Site.

Any worker employed to perform work on the Project and such work is not covered by any classification listed in the published general prevailing wage rate determinations or per diem wages determined by the Director of the Department of Industrial Relations, shall be paid not less than the minimum rate of wages specified therein for the classification which most nearly corresponds to the employment of such person in such classification.

B. **Holiday and Overtime Pay.** Holiday and overtime work, when permitted by law, shall be paid for at the rate set forth in the prevailing wage rate determinations issued by the Director of the Department of Industrial Relations or at least one and one-half (1½) times the specified basic rate of per diem wages, plus employer payments, unless otherwise specified in the contract documents or authorized by law.

C. **Wage Rates Not Affected by Subcontracts.** The Contractor shall pay and shall cause to be paid each worker engaged in the execution of the Work on the Project not less than the general prevailing rate of per diem wages determined by the Director, regardless of any contractual relationship which may be alleged to exist between the Contractor or any Subcontractor and such workers.

D. **Per Diem Wages.** The Contractor shall pay and shall cause to be paid to each worker needed to execute the Work on the Project per diem wages including employer payments for health and welfare, pensions, vacation, travel time and subsistence pay as provided for in Labor Code §1773.1.

E. **Forfeiture and Payments.** Pursuant to Labor Code §1775 and the District's Labor Compliance Program, the Contractor shall forfeit to the District, not more than Fifty Dollars (\$50.00) for each calendar day, or portion thereof, for each worker paid less than the prevailing wages rates as determined by the Director of the Department of Industrial Relations, for the work or craft in which the worker is employed for any Work done under the Agreement by the Contractor or by any Subcontractor under it. The amount of the penalty shall be determined by the Labor Commissioner and shall be based on consideration of: (1) whether the Contractor or Subcontractor's failure to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily correct upon being brought to the attention of the Contractor or Subcontractor; and (2) whether the Contractor or Subcontractor has a prior record of failing to meet its prevailing wage obligations. Further details regarding the enforcement of paying prevailing wage rates, reporting violations, withholding contract payments, forfeitures and hearing to review withholding of contract payments are set forth in the District's Labor Compliance Program.

#### **ARTICLE 37 PAYROLL RECORDS**

A. Pursuant to §1776 of the Labor Code, each Contractor and Subcontractor shall keep an accurate payroll record showing the name, address, social security number, work classification and straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by him or her in connection with the Project.

B. All payroll records shall be certified and submitted to the District with each application for payment, but shall not be submitted less than once per month. All payroll records shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to 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 a representative of District, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations.

(3) A certified copy of all payroll records shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through the District, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to Paragraph (2) above, the requesting party shall, prior to being provided the records, reimburse the costs of the preparation by the Contractor, Subcontractors, and the

entity through which the request was made. The public shall not be given access to such records at the principal office of the Contractor.

C. The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the Division.

D. The Contractor or Subcontractor(s) shall file a certified copy of all payroll records with the entity that requested such records within 10 days after receipt of a written request.

E. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the District, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor awarded the Contract or the Subcontractor(s) performing the Contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (Section 175a of Title 29 of the United States Code) shall be marked or obliterated only to prevent disclosure of an individual's name and social security number.

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

G. The Contractor or Subcontractor(s) shall have 10 days in which to comply subsequent to receipt of a written notice requesting payroll records. In the event that the Contractor or Subcontractor(s) fails to comply within the 10-day period, the Contractor or Subcontractor(s) shall, as a penalty to the District, forfeit Twenty-Five Dollars (\$25.00) 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. The Contractor is not subject to a penalty due to the failure of a Subcontractor to comply with this section.

The responsibility for compliance with this Article and the District's Labor Compliance Program shall rest upon the Contractor.

### **ARTICLE 38 WITHHOLDING OF CONTRACT PAYMENTS & PENALTIES**

The District may withhold or delay contract payments to the Contractor and/or any Subcontractor if:

- (1) The required prevailing rate of per diem wages determined by the Director of the Department of Industrial Relations is not paid to all workers employed on the Project; or
- (2) The Contractor or Subcontractor(s) fail to submit all required certified payroll records with each application for payment, but not less than once per month; or
- (3) The Contractor or Subcontractor(s) submit incomplete or inadequate payroll records; or
- (4) The Contractor or Subcontractor(s) fail to comply with the Labor Code requirements concerning apprentices; or

- (5) The Contractor or Subcontractor(s) fail to comply with the District's Labor Compliance Program; or
- (6) The Contractor or Subcontractor(s) fail to comply with any applicable state laws governing labor on public works projects.

Any withholding of contract payments and penalties are set forth in the District's Labor Compliance Program.

## **ARTICLE 39 APPRENTICES**

**A. Apprentice Wages and Definitions.** All apprentices employed by the Contractor to perform services under the Contract shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he or she is employed, and as determined by the Director of the Department of Industrial Relations, and shall be employed only at the Work of the craft or trade to which he or she is registered. Only apprentices, as defined in §3077 of the Labor Code, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprenticeship agreements under Chapter 4 (commencing with §3070) of Division 3, are eligible to be employed under this Contract. The employment and training of each apprentice shall be in accordance with the apprenticeship standards and apprentice agreements under which he or she is training or in accordance with the rules and regulations of the California Apprenticeship Council.

**B. Employment of Apprentices.** Contractor agrees to comply with the requirements of Labor Code §1777.5. The Contractor awarded the Project, or any Subcontractor under him or her, in performing any of the Work under the Contract or subcontract, employs workers in any apprenticeable craft or trade, the Contractor and Subcontractor shall employ apprentices in the ratio set forth in Labor Code §1777.5 and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the Project site for a certificate approving the Contractor or Subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the Contractor or Subcontractor, shall arrange for the dispatch of apprentices to the Contractor or Subcontractor. The Contractor or Subcontractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program. "Apprenticeable craft or trade" as used in this Article means a craft or trade determined as an apprenticeable occupation in accordance with the rules and regulations prescribed by the California Apprenticeship Council. The ratio of work performed by apprentices to journeyman employed in a particular craft or trade on the Project shall be in accordance with Labor Code §1777.5.

**C. Submission of Contract Information.** Prior to commencing work on the Project, the Contractor and Subcontractors shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the Project and make the request for the dispatch of apprentices in accordance with the Labor Code. The information submitted shall include an estimate of journeyman hours to be performed under the Contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the District if requested. Within 60 days after concluding work on the Project, the Contractor and Subcontractors shall submit to the District, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the Project.

D. **Apprentice Fund.** The Contractor or any Subcontractor under him or her, who, in performing any of the Work under the Contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the Project. The Contractor and Subcontractors may take as a credit for payments to the Council any amounts paid by the Contractor or Subcontractor to an approved apprenticeship program that can supply apprentices to the Project. The Contractor and Subcontractors may add the amount of the contributions in computing his or her bid for the Contract.

E. **Prime Contractor Compliance.** The responsibility of compliance with Article 13 and §1777.5 of the Labor Code for all apprenticeable occupations is with the Prime Contractor. Any Contractor or Subcontractor that knowingly violates the provisions of this Article or Labor Code §1777.5 shall be subject to the penalties set forth in Labor Code §1777.7 and the District's Labor Compliance Program.

#### **ARTICLE 40 PROTECTION OF PERSONS AND PROPERTY**

A. The Contractor shall be responsible for all damages to persons or property that occur as a result of its fault or negligence in connection with the prosecution of this Contract and shall take all necessary measures and be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance by the District. All work shall be solely at the Contractor's risk, with the exception of damage to the work caused by "acts of God" as defined in Government Code Section 4151(b). Contractor's liability for any injury or damage proximately caused by any "act of God" shall be limited to five percent (5%) of the Contract price pursuant to Government Code Section 4150.

B. Contractor shall take, and require subcontractor to take, all necessary precautions for safety of workers on the work and shall comply with all applicable federal, state, local and other safety laws, standards, orders, rules, regulations, and building codes to prevent accidents or injury to persons on, about, or adjacent to premises where work is being performed and to provide a safe and healthful place of employment. In addition to meeting all requirements of OSHA, Cal-OSHA, state, and local codes, Contractor shall furnish, erect and properly maintain at all times, as directed by District or Architect or required by conditions and progress of work, all necessary safety devices, safeguards, construction canopies, signs, audible devices for protection of the blind, safety rails, belts and nets, barriers, lights, and watchmen for protection of workers and the public and shall post danger signs warning against hazards created by such features in the course of construction. Contractor shall designate a responsible member of its organization on the work, whose duty shall be to post information regarding protection and obligations of workers and other notices required under occupational safety and health laws, to comply with reporting and other occupational safety requirements, and to protect the life, safety and health of workers. Name and position of person so designated shall be reported to District by Contractor. Contractor shall correct any violations of safety laws, rules, orders, standards, or regulations. Upon the issuance of a citation or notice of violation by the Division of Occupational Safety and Health, such violation shall be corrected promptly.

C. In an emergency affecting safety of life, of work, or of adjoining property, Contractor, without special instruction or authorization from Architect or District, is hereby permitted to act, at its discretion, to prevent such threatened loss or injury; and Contractor shall so act if so authorized or instructed by Architect or District. District will not hold Contractor liable for damages proximately caused by Contractor's actions if such actions were reasonably necessary to prevent loss of life or injury to person or damage to work or adjoining property. Any compensation claimed by Contractor on account of emergency work shall be determined by agreement.

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

E. Contractor shall take adequate precautions to protect existing roads, sidewalks, curbs, pavements, utilities, adjoining property and structures (including, without limitation, protection from settlement or loss of lateral support), and to avoid damage thereto, and repair any damage thereto caused by construction operations. All permits, licenses, or inspection fees required for such repair work shall be obtained and paid for by Contractor.

F. Contractor shall (unless waived by the District in writing):

(1) When performing new construction on existing sites, become informed and take into specific account the maturity of the students on the site; and perform work which may interfere with school routine before or after school hours, enclose working area with a substantial barricade, and arrange work to cause a minimum amount of inconvenience and danger to students and faculty in their regular school activities. The Contractor shall comply with specifications and directives of the District regarding the timing of certain construction activities in order to avoid unnecessary interference with school functioning.

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

(3) Deliver materials to building area over route designated by Architect of District.

(4) Take preventive measures to eliminate objectionable dust.

(5) Confine apparatus, the storage of materials, and the operations of workers to limits indicated by law, ordinances, permits or directions of Architect; and shall not interfere with the work or unreasonably encumber premises or overload any structure with materials; and enforce all instructions of District and Architect regarding signs, advertising, fires, and smoking and require that all workers comply with all regulations while on construction site.

(6) Take care to prevent disturbing or covering any survey markers, monuments, or other devices marking property boundaries or corners. If such markers are disturbed by accident, they shall be replaced by an approved land surveyor or civil engineer and all maps and records required therefrom shall be filed with county and local authorities, at no cost to the District. All filing and plan check fees shall be paid by Contractor.

#### **ARTICLE 41 NON-DISCRIMINATION**

In the performance of the terms of this Contract, Contractor agrees that it will not engage in nor permit such subcontractor as it may employ to engage in unlawful discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of such persons.

#### **ARTICLE 42 COST BREAKDOWN AND PERIODICAL ESTIMATES**

A. If applicable, Contractor shall furnish on forms approved by District:

(1) Within ten (10) days of award of Contract a detailed estimate giving complete breakdown of Contract price for each Project or site; and (2) A periodical itemized estimate of work done for purpose of making partial payments thereon. (3) Within ten (10) days of request of District, a schedule of estimated monthly payments which shall be due Contractor under Contract.

B. Values employed in making up any of these schedules will be used only for determining basis of partial payments and will not be considered as fixing a basis for additions to or deductions from Contract price.

C. Contractor shall include in any breakdown or estimate the cost of final Project record documents, guarantees, warranties, O & M Manuals, photographs, etc.

## **ARTICLE 43 CONTRACTOR CLAIMS & DISPUTES**

A. **Decision of Architect.** Disputes between District and Contractor involving money or time, including those alleging an error or omission by the Architect shall be referred initially to the Architect for action as provided in Article 43.E. A decision by the Architect, as provided in Article 43.E, shall be required as a condition precedent to proceeding with remedies set forth in Article 43.F as to all such matters arising prior to the date final payment is due, regardless of whether such matters relate to execution and progress of the Work, or the extent to which the Work has been completed. The decision by the Architect in response to a Claim shall not be a condition precedent to the remedies under Articles 43.B through 43.E in the event: (1) the position of Architect is vacant; (2) the Architect has not received evidence or has failed to render a decision within agreed time limit; (3) the Architect has failed to take action required under Article 43.D within thirty (30) days after the Claim is made, forty-five (45) days have passed after the Claim has been referred to the Architect; or (4) the Claim relates to a Stop Notice Claim not arising from any extra change or Construction Change Directive for which approval has not been provided.

B. **Architect's Review.** The Architect will review claims and take one or more of the following preliminary actions within ten (10) days of receipt of a claim: (1) request additional supporting data from the claimant; (2) submit a schedule to the parties indicating when the Architect expects to take action; (3) reject the claim in whole or in part, stating reasons for rejection; (4) recommend approval of the claim; or (5) suggest a compromise. The Architect may also, but is not obligated to, notify the surety, if any, of the nature and amount of the claim.

C. **Documentation if Resolved.** If a claim has been resolved, the Architect will prepare or obtain appropriate documentation.

D. **Actions if Not Resolved.** If a claim has not been resolved and all documentation requested pursuant to Article 43.B has been provided, the party making the claim shall, within ten (10) days after the Architect's preliminary response, take one or more of the following actions: (1) modify the initial claim; (2) notify the Architect that the initial claim stands; or (3) supplement with additional supporting data.

E. **Architect's Written Decision.** If a claim has not been resolved after consideration of the foregoing and of other evidence presented by the parties or requested by the Architect, the Architect will notify the parties in writing that the Architect's decision will be made within twenty (20) days. Upon expiration of such time period, the Architect will render to the parties its written decision relative to the claim, including any change in the Contract Sum or Contract Time or both. The Architect may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.



F. **Continuing Contract Performance.** Pending final resolution of a Claim, including, negotiation, mediation, arbitration, or litigation, the Contractor shall proceed diligently with performance of the Contract, and the District shall continue to make any undisputed payments in accordance with the Contract. If the dispute is not resolved, Contractor agrees it will neither rescind the contract nor stop the progress of the work, but Contractor's sole remedy shall be to submit such controversy to determination by a court of competent jurisdiction in the county where the project is located, after the project has been completed, and not before. At the District's sole option, the District may submit individual disputes for binding arbitration and Contractor agrees to the resolution determined for each individual dispute by Arbitrator, including resolution of time and delays. If binding arbitration is utilized for individual disputes, such resolution is full and final as to that particular claim.

G. **Claims for Extension of Time.** Subject to the requirements set forth in Article 50, if Contractor and District cannot agree upon an extension of time, whether compensable or not, the Contractor must comply with the requirements in this Article including those set forth under Article 44.

## ARTICLE 44 CLAIMS PROCEDURES & REQUIREMENTS

### A. **Procedures and Requirements Applicable to all claims.**

(1) Definition of Claim: A "Claim" means a separate demand by the Contractor for (1) time extension, (2) payment of money or damages arising from Work done by or on behalf of the Contractor pursuant to the Contract and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or (3) and amount the payment of which is disputed by the District.

(2) Filing Claim is Not Basis To Discontinue Work: The Contractor shall promptly comply with Work under the Contract or Work requested by the District even though a written claim has been filed. The Contractor and the District shall make good faith efforts to resolve any and all claims that may arise during the performance of the Work covered by this contract.

(3) Claim Notification: The Contractor shall within seven (7) calendar days after the claim arises, submit a notification, in writing, with the District stating clearly the basis for the claim. If the notification is not submitted within seven (7) days after the claim arises, the Contractor shall be deemed to have waived all right to assert the claim and the claim shall be denied. Claims submitted after the final payment date shall also be considered null and void by the District. All claims shall be reviewed pursuant to Article 43.

(4) Formal Claim Submission: If the Contractor does not concur with the District's decision regarding the Claim Notification, the Contractor will issue a formal Claim Appeal within fourteen (14) days of receipt of the District's decision and all detailed information in support of the Claim Appeal within thirty (30) days. All appeals shall be submitted before final payment. If the Claim Appeal is not submitted within fourteen (14) calendar days and detailed information within thirty (30) days, the Contractor shall be deemed to have waived its right to assert the Claim and the Claim shall be denied. Contractor's failure to submit any detailed information which is in the possession of Contractor shall render such information inadmissible by Contractor at trial or arbitration.

(5) Appeal Claim Format: The Contractor shall provide all written detailed documentation which supports the claim, including but not limited to: arguments,

justifications, cost, estimates, schedule analysis and detailed documentation. The format of the Claim Appeal shall be as follows:

- a. Cover letter.
- b. Summary of factual basis of claim and amount of claim.
- c. Summary of the basis of the claim, including the specific clause and section under the Contract under which the claim is made.
- d. Documents relating to the claim, including:
  - (i) Specifications
  - (ii) Drawings
  - (iii) Clarifications (RFI's)
  - (iv) Other relevant information
  - (v) Analysis of claim merit.
  - (vi) Analysis of claim cost.
  - (vii) For claims relating to time extensions, an analysis and supporting documentation evidencing any effect upon the critical path.
  - (viii) Certification.
  - (ix) Chronology of events and related correspondence.
  - (x) Daily reports and logs.

(6) Certification: The Contractor (and subcontractors, if applicable) shall submit with the claim a certification under penalty of perjury:

- a. That the Contractor has reviewed the claim and that such claim is made in good faith;
- b. Supporting data are accurate and complete to the best of the Contractor's knowledge and belief;
- c. The amount requested accurately reflects the amount of compensation for which the Contractor believes the District is liable.
- d. That the Contractor is familiar with Government Code Sections 12650 et seq. and Penal Code Section 72 and that false claims can lead to substantial fines and/or imprisonment.

(7) Signature of Certification: If the Contractor is not an individual, the certification shall be executed by an officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.

(8) Mandatory Claim Appeal Procedure: The Contractor's Claim Appeal shall be denied if it fails to provide the written basis of the claim and certification as set forth herein.

(9) District May Request Additional Information: Within thirty (30) days of receipt of the Claim Appeal and the information under this Article, the District may request in writing any additional documentation supporting the claim or documentation relating to defenses to the claim which the District may assert.

**B. Binding Arbitration of Individual Claim Issues.** At the District's sole option, the District may submit individual disputes, or claims, to binding arbitration and Contractor agrees to the resolution determined for each individual dispute by Arbitrator, including resolution of time and delays.

If binding arbitration is utilized, such resolution is a full and final resolution of the particular claim or dispute. Under no circumstances may the Contractor stop work, rescind its contract or otherwise slow the progress of Work during resolution of individual claims in binding Arbitration.

C. **Resolution of Disputes in Court of Competent Jurisdiction.** If claims are not resolved under the procedure set forth and pursuant to Article 44.B, such claim or controversy shall be submitted to a court in the county of competent jurisdiction after the Project has been completed, and not before.

D. **Warranties, Guarantees and Obligations.** The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon Contractor by the General Conditions and amendments thereto; and all of the rights and remedies available to District and Architect thereunder, are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by laws or regulations by special warranty or guarantee or by other provisions of the Contract Documents, and the provisions of this Article will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right and remedy to which they apply.

## **ARTICLE 45 PAYMENTS TO CONTRACTOR**

A. Unless otherwise specified, each month within thirty (30) days after receipt of approved periodic estimate for partial payment, there shall be paid to Contractor a sum equal to ninety percent (90%) of value of work performed and of materials delivered on the ground or stock subject to or under the control of District and unused up to the last day of the previous month, less aggregate previous payments. Monthly payments shall be made only on the basis of monthly estimates which shall be prepared by Contractor on a form approved by District and filed before the fifth (5th) day of the month during which payment is to be made. Work completed as estimated shall be an estimate only and no inaccuracy or error in said estimate shall operate to release Contractor or surety from any damages arising from such work or from enforcing each and every provision of this Contract, and District shall have the right subsequently to correct any error made in any estimate for payment. Contractor shall not be entitled to have any payment estimates processed or be entitled to have any payment for work performed so long as any lawful or proper direction concerning work, or any portion thereof, given by District or Architect has not been complied with by Contractor.

B. Before payment is made hereunder, the District will review the request for progress payment with District and Inspector for verification that the work for which payment is requested has been performed in accordance with the Terms of the Contract.

C. District and Inspector shall sign the request for payment as verification that the work has been performed. It is understood more over, that signature of the Inspector and Architect shall not be conclusive upon District, but merely advisory.

D. Upon request by the District, Contractor shall provide lien releases or partial lien releases for payments previously made. Contractor shall not be entitled to any payment for WORK performed if Contractor has not complied with any lawful direction from the District or has failed to provide lien releases as requested.

E. Prior to final payment, Contractor and each Subcontractor shall certify that the Project does not contain any asbestos containing materials.

F. After completion of the WORK, Contractor shall make a demand for final payment. The demand for final payment shall identify all disputed and undisputed amounts due under the CONTACT and, all claims for compensation under or arising out of this CONTRACT. The Contractor's negotiation of the payment of the final amount shall constitute a waiver of all amounts due under the CONTRACT and all claims against District under or arising out of this CONTRACT except those identified by Contractor in writing, and unsettled before Contractor's negotiation of final payment. The final payment, if unencumbered, shall be made no sooner than thirty-five (35) calendar days after recordation of the Notice of Completion by the County Registrar. Acceptance will be made only by ACTION OF THE GOVERNING BOARD.

G. No payment by District hereunder shall be interpreted so as to imply that District has inspected, approved, or accepted any part of the WORK.

**ARTICLE 46 CHANGES AND EXTRA WORK**

A. District may, as provided by law and without affecting the validity of this Contract, order changes, modifications, deletions and extra work by issuance of written change orders from time to time during the progress of the Project, Contract sum being adjusted accordingly. All such work shall be executed under conditions of original Contract except that any claim for an extension of time caused thereby shall be adjusted at time of ordering such change.

B. In giving instructions, Architect shall have authority to make minor changes in work, not involving change in cost, and not inconsistent with purposes of the building. Otherwise, except in an emergency endangering life or property, no extra work or change shall be made unless in pursuance of a written order from District, authorized by action of the Governing Board and no claim for addition to Contract sum shall be valid unless so ordered.

C. The following format shall be used as applicable by the District and the Contractor to communicate proposed additions and deductions to the Contract:

	<u>EXTRA</u>	<u>CREDIT</u>
(a) Material (attach itemized quantity and unit cost plus sales tax)	_____	_____
(b) Labor (attach itemized hours and rates)	_____	_____
(c) Equipment (attach invoices)	_____	_____
(d) Subtotal	_____	_____
(e) If Subcontractor performed Work, add Subcontractor's overhead and profit to portions performed by Sub-contractor, not to exceed fifteen percent (15%) of item (d).	_____	_____
(f) Liability and Property Damage Insurance, Worker's, Compensation Insurance,		

	<u>EXTRA</u>	<u>CREDIT</u>
<p>Social Security, and Unemployment Taxes, not to exceed as follows: FICA @ 6.2%- with a wage ceiling of \$84,900; Medicare @ 1.45%- no wage ceiling; FUTA @ .8%- with a wage ceiling of \$7,000; ETT and SUI @ 2.3%- with a wage ceiling of \$7,000; Workers' Compensation @ 5.94%; Liability and Property Damage @ 2.5%. Total not-to-exceed is 19.19%. <i>(Note: Modifications to these percentages will be evaluated and possibly modified only on a case-by-case basis and only after proper proof of alternate percentages are documented and approved in advance. In addition, as wage ceilings are met, those corresponding percentages must drop from the "burden" calculations).</i></p>	_____	_____
(g) Subtotal	_____	_____
(h) General Contractor's Overhead and Profit, not to exceed fifteen percent (15%) of Item (g). No more than five percent (5%) of Item (g) if work was performed by Subcontractor.	_____	_____
(i) Subtotal	_____	_____
(j) Bond not to exceed two percent (2%) of Item (g)	_____	_____
(k) TOTAL		_____
(l) Time	_____	

D. If the Contractor should claim that any instruction, request, drawing, specification, action, condition, omission, default, or other situation obligates the District to pay additional compensation to the Contractor or to grant an extension of time for the compensation of the Contract, or constitutes a waiver of any provision in the Contract, Contractor shall notify the District, in writing, of such claim within ten (10) calendar days from the date Contractor has actual or constructive notice of the factual basis supporting the claim. The Contractor's failure to notify the District within such ten (10) calendar day period shall be deemed a waiver and relinquishment of such a claim against the District. If such notice be given within the specified time, the procedure for its consideration shall be as stated above in this Article.

E. If Contractor does not remove such work within a reasonable time, fixed by written notice, District may remove it and may store the material at Contractor's expense. If Contractor does not pay expenses of such removal within ten (10) calendar days time thereafter, District may, upon ten (10)

calendar days written notice, sell such materials at auction or at private sale and shall account for net proceeds thereof, after deducting all costs and expenses that should have been borne by Contractor.

#### **ARTICLE 47 COMPLETION**

The work may only be accepted as complete by action of the Governing Board.

#### **ARTICLE 48 ADJUSTMENTS TO CONTRACT PRICE**

A. If Contractor defaults or neglects to carry out the work in accordance with the contract documents or fails to perform any provision thereof, District may, after ten (10) days written notice to Contractor and without prejudice to any other remedy it may have, make good such deficiencies.

B. District shall adjust the total Contract price by reducing the amount thereof by the cost of making good such deficiencies. If District deems it inexpedient to correct work injured or not done in accordance with Contract provisions, an equitable reduction in Contract price shall be made therefore.

#### **ARTICLE 49 CORRECTION OF WORK**

A. Should it be considered necessary or advisable by the Owner at any time before final acceptance of the entire work to make an examination of work already completed by removing or tearing out the same, the Contractor shall on request promptly furnish all necessary facilities, labor and materials. If such work is found to be defective in any respect due to fault of the Contractor or his subcontractor, he shall defray all expenses of such examinations and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the Contract, the additional cost of labor and material necessarily involved in the examination and replacement shall be allowed the Contractor.

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

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

#### **ARTICLE 50 EXTENSION OF TIME - LIQUIDATED DAMAGES**

A. The Contractor and District hereby agree that the exact amount of damages for failure to complete the work within the time specified is extremely difficult or impossible to determine. It is expressly understood that time is of the essence and that the Contractor must complete the Project within the time specified in the Agreement. Contractor shall be assessed the sum of Five Hundred Dollars (\$1,000.00) per calendar day as liquidated damages for each and every day the work required under this contract remains unfinished past the time for completion, as set forth in the Agreement, and any extensions of time granted by the District to the Contractor under the terms of the contract documents and pursuant to Section 53069.85 of the Government Code. For purposes of this Article, the work shall be considered "complete" in accordance with the provisions of Article 47, "COMPLETION", except that the

work may be considered complete without formal acceptance by the Governing Board so long as the board, at its next regularly scheduled meeting, accepts the work.

B. Contractor shall not be charged for liquidated damages, as set forth above, because of any delays in completion of work which are not the fault or negligence of Contractor, including but not restricted to: acts of God, acts of public enemy, acts of Government, fires, floods, epidemics and quarantine restrictions. Contractor shall, within ten (10) calendar days of beginning of any such delay (unless District grants in writing a further period of time to file such notice prior to date of final settlement of the Contract), notify District in writing of causes of delay; thereupon District shall ascertain the facts and extent of delay and grant extension of time for completing work when, in its judgment, the findings of fact justify such an extension. The District's finding of fact thereon shall be final and conclusive on the parties hereto. Extensions of time shall apply only to that portion of work affected by delay, and shall not apply to other portions of work not so affected.

## **ARTICLE 51 PAYMENTS WITHHELD**

A. In addition to amount which District may retain under Article 47 entitled "COMPLETION" and Article 45 entitled "PAYMENTS TO CONTRACTOR", District may withhold a sufficient amount or amounts of any payment or payments otherwise due to Contractor, as in its judgment may be necessary to cover:

- (1) Payments which may be past due and payable for just claims against Contractor or any subcontractors, or against and about the performance of work on the Project under this Contract, including, without limitation, payments made pursuant to the Article 45 entitled "PAYMENTS BY CONTRACTOR";
- (2) The cost of defective work which Contractor has not remedied;
- (3) Liquidated damages assessed against Contractor;
- (4) Penalties for violation of labor laws;
- (5) The cost of materials ordered by the District pursuant to the Article 28 entitled "MATERIALS AND WORK";
- (6) The cost of completion of this Contract if there is reasonable doubt that this Contract can be completed for the balance then unpaid to Contractor;
- (7) Site clean-up as provided in Article 32 entitled "CLEANING UP";
- (8) Amount necessary to satisfy any and all liens against District. Contractor shall provide release of all liens prior to final payment.
- (9) Damages to another Contractor.
- (10) Payments to indemnify, defend, or hold harmless the District.
- (11) Any payments due to the District including but not limited to payments for failed tests, utilities or imperfections.

B. If the Contractor, at its own expense, removes the reason for withholding, then payment shall be made for amount withheld.

C. District may apply such withheld amount or amounts to payment of such claims or obligations at its discretion. In so doing, District shall make such payments on behalf of Contractor. If any payment is so made by District, then such amount shall be considered as a payment made under Contract by District to Contractor and District shall not be liable to Contractor for such payments made in good faith. Such payments may be made without prior judicial determination of claim or obligation. District will render Contractor an accounting of such funds disbursed on behalf of Contractor.

D. As an alternative to payment of such claims or obligations, District, in its sole discretion, may reduce the total Contract price as provided in Article 48 entitled "ADJUSTMENTS TO CONTRACT PRICE."

E. Payment by the District shall be without prejudice to any other action by the District to recover damages.

## **ARTICLE 52 EXCISE TAXES**

If under Federal Excise Tax Law any transaction hereunder constitutes a sale on which a Federal Excise Tax is imposed and the sale is exempt from such Federal Excise Tax because it is a sale to a State or Local Government for its exclusive use, District, upon request, will execute documents necessary to show (1) that District is a political subdivision of the State for the purposes of such exemption and (2) that the sale is for the exclusive use of District. No Federal Excise Tax for such materials shall be included in any bid price.

## **ARTICLE 53 TAXES**

Bid price is to include any and all applicable sales taxes or other taxes that may be due in accordance with Section 7051 of the Revenue and Taxation Code; Regulation 1521 of the State Board of Equalization or any other tax codes that may be applicable.

## **ARTICLE 54 NO ASSIGNMENT**

Contractor shall not assign this Contract or any part thereof.

## **ARTICLE 55 NOTICE AND SERVICE THEREOF**

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

(1) If notice is given to District, by personal delivery thereof to District or by depositing same in United States mail, enclosed in a sealed envelope addressed to District, and sent by registered or certified mail with postage prepaid; (2) If notice is given to Contractor by personal delivery thereof to said Contractor or to Contractor's superintendent at site of Project, or by depositing same in United States mail, enclosed in a sealed envelope addressed to said Contractor at its regular place of business or at such address as may have been established for the conduct of work under this Contract, and sent by registered or certified mail with postage prepaid; (3) If notice is given to surety or other person by personal delivery to such surety or other person or by depositing same in United States mail, enclosed in a sealed envelope, addressed to such surety or person at the address of such surety or person last communicated by surety or other person to party giving notice, and sent by registered or certified mail with postage prepaid.

## **ARTICLE 56 NO WAIVER**

The failure of District in any one or more instances to insist upon strict performance of any of the terms of this Contract or to exercise any option herein conferred shall not be construed as a waiver or



relinquishment to any extent of the right to assert or rely upon any such terms or option on any future occasion.

#### **ARTICLE 57 HAZARDOUS MATERIALS**

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

#### **ARTICLE 58 DISTRICT'S RIGHT TO CARRY OUT THE WORK**

If Contractor defaults or neglects to carry out the work in accordance with the contract documents or fails to perform any provision of this Contract, the owner may, after ten (10) calendar days' written notice to Contractor and without prejudice to any other remedy he may have, made good such deficiencies. In such case an appropriate Change Order shall be issued deducting from the payments then or thereafter due Contractor the cost of correcting such deficiencies, including the cost of the Architect's additional service made necessary by such default, neglect or failure. If the payments then or thereafter due Contractor are not sufficient to cover such amount, then Contractor shall pay the difference to the Owner within ten (10) calendar days.

#### **ARTICLE 59 INDEMNIFICATION**

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

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

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

(c) Any dispute between Contractor and Contractor's subcontractors/supplies/sureties, including, but not limited to, any failure or alleged failure of the Contractor (or any person hired or employed directly or indirectly by the

Contractor) to pay any Subcontractor or Materialman of any tier or any other person employed in connection with the Work and/or filing of any stop notice or mechanic's lien claims.

B. Contractor, at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings that may be brought or instituted against the District, its officers, agents or employees, on any such claim or liability, and shall pay or satisfy any judgment that may be rendered against the District, its officers, agents or employees in any action, suit or other proceedings as a result thereof.

## **ARTICLE 60 NON-UTILIZATION OF ASBESTOS MATERIAL**

### **NO ASBESTOS OR ASBESTOS-CONTAINING PRODUCTS SHALL BE USED IN THIS CONSTRUCTION OR IN ANY TOOLS, DEVICES, CLOTHING, OR EQUIPMENT USED TO EFFECT THIS CONSTRUCTION.**

Asbestos and/or asbestos-containing products shall be defined as all items containing, but not limited to, chrysolite, amosite, anthophyllite, tremolite, and actinolite. Any or all material containing greater than one-tenth of one percent (1%) asbestos shall be defined as asbestos-containing material. 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.

## **ARTICLE 61 LIEN RELEASES**

Contractor shall, at its own cost, defend, indemnify and hold harmless the District, its officers, agents, employees, assigns, and successors in interest, from and against any and all liability, damages, losses, claims, demands, actions, causes of action, and costs including attorney's fees and expenses, or any of them, arising from or attributable to a lien or stop notice filed and/or severed in connection with the work.

## **ARTICLE 62 ALLOCATION OF COSTS**

Contractor acknowledges that the projected cost of construction is potentially subject to change due to unanticipated increases in construction costs. In the event of an increase in costs, Contractor may be subject to an increase of up to ten percent (10%). In the event of any decrease in costs, the District shall allocate a fair and reasonable portion of the savings for purposes of reducing the Contractor's costs. In considering such costs, the District shall utilize the Engineering-News Record Building Cost Index history ("BCI") applicable as of the date bids are awarded. As a result, it is agreed that the Contractor shall be liable for its share of cost increases that exceed the BCI applicable the date bids are awarded which is presently contemplated by the District in the Allocation of Costs set forth in Section 13.13 of the General Conditions. For example, if the Project is built in 2005 and awarded in 2004, then the total accumulated differential between the 2004 BCI and the 2005 BCI percentage will be factored into the estimated cost per square foot of the Project. [i.e.  $((BCI \text{ applicable at the time of construction} - 4102) / 4102) * \text{Per Square Foot Cost} = \text{Adjustment to Square Foot Cost}$ . Note that this number can be a negative number which adjusts price either up or down.] Notwithstanding any of the foregoing the District shall not be liable to the extent any increased costs are the result of any unreasonable failure by the Contractor to anticipate costs of labor, materials and supplies or timing in which materials are ordered.

**Technical Specifications**  
**McCabe Building 400**  
**Summer 2020 Roofing Project**

**Section 07560**

**McCabe Building 400 Roof Replacement**

**MUESD**

PART 1 – GENERAL

1.1 SUMMARY

- A. Provide all labor, equipment, and miscellaneous materials to install District furnished and purchased modified bitumen roof system over the properly prepared substrate for McCabe Union Elementary School District.

*\*All products in bold italics will be furnished by the District. All products not in bold shall be furnished by the contractor. All products in bold italics will be manufactured by The Garland Company and purchased by MUESD using its authority under the CMAS schedule.*

*Contract #: 4-20-56-0006B*

B. SCOPE OF WORK: Existing Shingle Section

1. District is coordinating removal of all HVAC units/curbs and reinstallation of units with a 3<sup>rd</sup> party vendor. Contractor to coordinate tear-off of roof and HVAC removal with District. Contractor to provide new jacks for the power and thermostat wires.
2. Remove existing roof system to the structural roof system.
3. Perform any deck repair as needed. Contractor to include 5% deck replacement in the base bid. If the replacement amount exceeds 5%, the contractor will be issued a change order based on the sq ft amount over 5% by the unit price amount. If the replacement amount is less than 5%, the contractor is to issue a credit to the District based on the sq ft amount under 5% by the unit price amount.
4. Apply primer – ***SA Primer*** – at ½ gal per sq to the wood deck.
5. Apply self adhering, high temp, non-slip base sheet to deck – ***HPR SA FR Base Sheet***.
6. Apply second layer of self adhering base sheet – ***HPR Aquashield***.
7. At all flashings, apply ***HPR SA FR Base Sheet and HPR Aquashield*** and terminate with a termination bar set in butyl tape and fastened every 6” o.c. Caulk above the termination bar. Install 22 gauge, galvanized skirt metal flashing to existing counterflashing metal or new 22 gauge, galvanized counterflashing metal. Extend flashing plies 6” and 9” respectively onto the roof field.

8. Mechanical Curbs: Mechanically fasten 1/4" Densdeckprime insulation board to the metal. Apply **HPR SA FR Base Sheet** and **Stressply SA FR Mineral**. Terminate flashing plies with a termination bar set in butyl tape and fastened every 6" o.c. Caulk above the term bar. Extend flashing plies onto the roof field 6" and 9" respectively — set the overlapping plies in mastic to ensure bond to existing field underpayment. Install new 22 gauge, metal pan under the existing units. All joints to be soldered.
9. Apply Legacy Malarkey Shingle with enhanced wind warranty. Shingle color to be determined by District.
10. All sheet metal to be ANSI – SPR ES-1 compliant.
11. Install new, 22 gauge, galvanized edge metal on perimeter.
12. Install new, 22 gauge, galvanized gutters on the perimeter. Install 5"x5"x5" box design.
13. No pitch pockets. Only lead flashings to be installed.

## 1.2 REFERENCES

- A. American Society of Civil Engineers (ASCE):
  1. ASCE 7-05, Minimum Design Loads for Buildings and Other Structures.
- B. American Society for Testing and Materials (ASTM):
  1. ASTM D451 Standard Test Method for Sieve Analysis of Granular Mineral Surfacing for Bitumen Roofing Products.
  2. ASTM D1079 Standard Terminology Relating to Roofing, Waterproofing and Bituminous Materials.
  3. ASTM D1227 Standard Specification for Emulsified Bitumen Used as a Protective Coating for Roofing.
  4. ASTM D1863 Standard Specification for Mineral Aggregate Used as a Protective Coating for Roofing.
  5. ASTM D4586 Standard Specification for Bitumen Roof Cement.
  6. ASTM D5147 Standard Test Method for Sampling and Testing Modified Bituminous Sheet Materials.
  7. ASTM D6162 Standard Specification for Styrene Butadiene Styrene (SBS) Modified Bituminous Sheet Materials Using a Combination of Polyester and Glass Fiber Reinforcements.
  8. ASTM D6163 Standard Specification for Styrene Butadiene Styrene (SBS) Modified Bituminous Sheet Materials Using Glass Fiber Reinforcements.
  9. ASTM E108 Standard Test Methods for Fire Test of Roof Coverings.
  10. ASTM B69-98a Standard Specification for Zinc Sheet.
- C. Underwriters Laboratories, Inc. (UL):
  1. Fire Hazard Classifications.
- D. Warnock Hersey (WH):
  1. Fire Hazard Classifications.
  2. American Society for Testing and Materials (ASTM).

## 1.3 SUBMITTALS

- A. Product Data for each type of product specified including manufacturer's technical product data, installation instructions and recommendations for each type of roofing product required. Include data substantiating that materials comply with specified requirements.
- B. For all modified bituminous sheet roofing, include independent test data according to ASTM designation D-5147-91 "Standard Test Methods for Sampling and Testing Modified Bituminous Sheet Material", substantiating that materials comply with specified requirements.
- C. Show evidence that the Installer specializes in modified bituminous roof application with
  - a minimum 5 years experience and who is certified by the roofing system manufacturer
  - as qualified to install manufacturer's roofing materials.
- D. Unexecuted Manufacturer's warranty.
- E. Certified copy of ISO 9001 compliance.
- F. Contractor responsible for submitting submittal package.

#### 1.4 QUALITY ASSURANCE

- A. Manufacturer Qualifications: Roofing system manufacturer shall have a minimum of 30 years experience in manufacturing bitumen roofing products in the United States and be ISO 9001 certified.
- B. Installer Qualifications: Installer (Roofer) shall be specializing in modified bituminous roof application with minimum 10 years experience and who is certified by the roofing system manufacturer as qualified to install manufacturer's roofing materials.
- C. Installer's Field Supervision: Require Installer to maintain a full-time Supervisor/Foreman on job site during all phases of bituminous sheet roofing work and at any time roofing work is in progress, proper supervision of workmen shall be maintained. A copy of the specification shall be in the possession of the Supervisor/Foremen and on the roof at all times.
- D. It shall be the Contractor's responsibility to respond immediately to correction of roof leakage during construction. If the contractor does not respond within 24 hours, MUESD has the right to hire a qualified contractor and backcharge the original contractor.

E. Insurance Certification: Assist MUESD in preparation and submittal of roof installation acceptance certification as may be necessary in connection with fire and extended coverage insurance on roofing and associated work.

F. Pre-application Roofing Conference: Before scheduled commencement of modified bitumen roof system installation and associated work meet at project site with installer of each component of associated work, installers of deck or substrate construction to receive roofing work, installers of rooftop units and other work in the around roofing must precede or follow roofing work (including mechanical work if any), MUESD, roofing system manufacturer's representative, and other representatives directly concerned with performance of the Work, including (where applicable) MUESD's insurers, test agencies and governing authorities.

Objectives to include:

1. Review foreseeable methods and procedures related to roofing work.
2. Tour representative areas of roofing substrates (decks), inspect and discuss condition of substrate, roof drains, curbs, penetrations and other preparatory work performed by other trades.
3. Review structural loading limitations of deck and inspect deck for loss of flatness and for required attachment.
4. Review roofing system requirements (drawings, specifications and other contract documents).
5. Review required submittals both completed and yet to be completed.
6. Review and finalize construction schedule related to roofing work and verify availability of materials, Installer's personnel, equipment and facilities needed to make progress and avoid delays.
7. Review required inspection, testing, certifying and material usage accounting procedures.
8. Review weather and forecasted weather conditions and procedures for coping with unfavorable conditions, including possibility of temporary roofing (if not mandatory requirement).
9. Record (contractor) discussion of conference including decisions and agreements (or disagreements) reached and furnish copy of record to each party attending. If substantial disagreements exist at conclusion of conference, determine how disagreements will be resolved and set date for reconvening conference.
10. Review notification procedures for weather or non-working days.

## 1.5 DELIVERY, STORAGE AND HANDLING

- A. Deliver products to site with seals and labels intact, in manufacturer's original containers, dry and undamaged.
- B. Store and handle roofing sheets in a dry, well-ventilated, weather-tight place to ensure no possibility of significant moisture exposure. Store rolls of felt and other

sheet materials on pallets or other raised surface. Stand all roll materials on end. Cover roll goods with a canvas tarpaulin or other breathable material (not polyethylene).

- C. Do not leave unused materials on the roof overnight or when roofing work is not in progress unless protected from weather and other moisture sources.
- D. It is the responsibility of the contractor to secure all material and equipment on the job site. If any material or equipment is stored on the roof, the contractor must make sure that the integrity of the deck is not compromised at any time. Damage to the deck caused by the contractor will be the sole responsibility of the contractor and will be repaired or replaced at his expense.
- E. Store all roofing adhesive in a heated area keeping the product above 50 degrees min. If the product falls below the recommended temperature the adhesive will see increased viscosities.
- G. All materials are the responsibility of the contractor once delivered. Any lost or stolen material will be replaced by the Contractor.

#### 1.6 MANUFACTURER'S INSPECTIONS

- A. When the project is in progress, the Roofing System Manufacturer will provide the following:
  - 1. Keep MUESD informed as to the progress and quality of the work as observed.
  - 2. Provide job site inspections a minimum of four days a week.
  - 3. Report to MUESD in writing any failure or refusal of the Contractor to correct unacceptable practices called to the Contractor's attention.
  - 4. Confirm after completion of the project and based on manufacturer's observation and tests that manufacturer has observed no applications procedures in conflict with the specifications other than those that may have been previously reported and corrected.

#### 1.7 PROJECT CONDITIONS

- A. Weather Condition Limitations: Do not apply roofing membrane during inclement weather or when a 40% change of precipitation is expected.
- B. Do not apply roofing insulation or membrane to damp deck surface.
- C. Do not expose materials vulnerable to water or sun damage in quantities greater than can be weatherproofed during same day.



- D. Proceed with roofing work only when existing and forecasted weather conditions will permit unit of work to be installed in accordance with manufacturer's recommendations and warranty requirements.
- E. All slopes greater than 2:12 require back-nailing to prevent slippage of the ply sheets. Use ring or spiral-shank one (1) inch cap nails, or screws and plates at a rate of one (1) fastener per ply (including the membrane) at each insulation stop. When slope exceeds 2:12, install all plies parallel to the slope (strapping) to facilitate backnailing. Install four (4) additional fasteners at the upper edge of the membrane when strapping the plies.

## 1.8 SEQUENCING AND SCHEDULING

- A. Sequence installation of modified bituminous sheet roofing with related units of work specified in other sections to ensure that roof assemblies including roof accessories, flashing, trim and joint sealers are protected against damage from effects of weather, corrosion and adjacent construction activity.
- B. All work must be fully completed on each day. **Phased construction will not be accepted. Phase construction to be defined as when the plies and cap sheet are not installed within the same 12 hr period.** If any area is phased, it will be removed or primed over and given another specified cap sheet.

## 1.9 WARRANTY

- A. Upon completion of installation, and acceptance by MUESD, the manufacturer will supply to MUESD a 20 year warranty.
- B. Contractor will submit a minimum of a five year warranty to the membrane manufacturer with a copy directly to MUESD.
- C. Membrane manufacturer will provide an annual inspection for the life of the warranty.

## PART 2 - PRODUCTS

### 2.1 GENERAL

- A. The design is based upon roofing systems engineered and manufactured by The Garland Company:

The Garland Company  
3800 East 91st Street  
Cleveland, Ohio 44105  
Luke Foster

- B. Contractor to be responsible for all Garland materials in excess of District purchased (CMAS) and furnished amount. Any additional Garland materials required to complete the project is the responsibility of the contractor to purchase. Contractor responsible for any lost or stolen materials. For any additional material purchases, the contractor is responsible for freight and shipping. Any material overages will be returned to the District. Contractor must take delivery of materials, properly cover, and store at either jobsite or contractor yard (MUESD to determine).
  
- C. MUESD Provided Materials. Quantities Not to exceed below amounts:

<b>Material</b>	<b>Amount</b>	<b>Unit Size</b>
HPR SA FR Base Sheet	101	Roll
HPR Aqua Shield	75	Roll
Flashing Bond	8	5 Gal
Tuff Stuff Caulking	48	Tube
SA Primer	15	5 Gal
Garla Prime VOC	1	5 Gal

2.2 DESCRIPTION

- A. Modified bituminous roofing work including but not limited to:
  
- B. Shingle Roof System
  - 1. System:
    - a Self adhering base sheets – HPR SA FR Base Sheet & HPR Aquashield.
    - b Malarkey Legacy Shingle

2.3 INSULATION

- 1. Install taper roof system to ensure positive drainage on flat roof system.

2.4 CANTS AND NAILERS

- A. Cant Strips: Perlite composition, 4 inches x 4 inches minimum.
- B. Wood nailers: Coordinate with Work of Section 06100 to provide wood nailers at cant strips, at perimeter of openings through insulation, and where indicated or required. Wood shall be treated with water base preservative as specified in Section 06100: Rough Carpentry.

2.5 SHEET MATERIALS – PERFORMANCE CHARACTERISTICS

**A. HPR SA FR Base Sheet -- “Supplied by District”**

**B. HPR Aquashield -- “Supplied by District”**

ASTM D 5147

**Tensile Strength (ASTM D-5147)**

2 in/min. @ 73.4 ± 3.6°F

MD 32 lbf/in

50 mm/min. @ 23 ± 3°C

**2.8 RELATED MATERIALS**

- A. Nails and Fasteners: Non-ferrous metal or galvanized steel, except that hard copper nails shall be used with copper; aluminum or stainless steel nails shall be used with aluminum; and stainless steel nails shall be used with stainless steel, I addition plates should be used. Fasteners shall be self-clinching type of penetrating type as recommended by the manufacturer of the deck material. Nails and fasteners shall be flush-driven through flat metal discs of not less than one (1) inch diameter. Omit metal discs when one-piece composite nails or fasteners with heads not less than one (1) inch diameter are used.
- B. Walkway Pads: As recommended and furnished by the membrane manufacturer set in approved adhesive to control foot traffic on roof top surface and give a durable system compliant non-slip walkway.
- C. Walkway Pad Adhesive: Adhesive used to adhere approved walk way pads as recommended and furnished by the membrane manufacturer.
- D. Urethane Sealant: One part, non-sag sealant as approved and furnished by the membrane manufacturer for moving joints. Tuff Stuff Caulking
  - 1. Tensile Strength (ASTM D412): 250 psi
  - 2. Elongation (ASM D412): 950%
  - 3. Hardness, Shore A (ASTM C920): 35
  - 4. Adhesion-in-Peel (ASTM C920): 30 pli
- E. Structural Adhesive: Single component, 100% solids structural adhesive as furnished and recommended by the membrane manufacturer for items that need adhered to the roof surface. Flashing Bond
  - 1. Elongation (ASTM D412) 300%
  - 2. Hardness, Shore A (ASTM C920) 50

3. Shear Strength (ASTM D1002) 300 psi
- F. Butyl Tape – 100% solids, asbestos free and compressive tape designed to seal as recommended and furnished by the membrane manufacturer.
- G. Mastic -- *Flashing Bond* – “*Supplied by District*”
- H. Caulking – *Tuff Stuff Natural Stone* – “*Supplied by District*”
- I. Primer – *SA Primer* – “*Supplied by District*”

## PART 3 - EXECUTION

### 3.1 GENERAL INSTALLATION REQUIREMENTS

- A. Cooperate with manufacturer, inspection and test agencies engaged or required to perform services in connection with installing the roof system.
- B. Insurance/Code Compliance: Where required, install and test the roofing system to comply with governing regulation and specified insurance requirements.
- C. Protect other work from spillage of roofing materials and prevent materials from entering or clogging drains and conductors. Replace or restore other work damaged by installations of the modified bituminous roofing system work.
- D. Coordinate installing roofing system components so that insulation and roofing plies are not exposed to precipitation or left exposed overnight. Provide cut-offs at end of each day's work to cover exposed ply sheets and insulation with two (2) plies of #15 organic roofing felt with joints and edges sealed with roofing cement and other jointly agreed upon tie-in detail. Remove cut-offs immediately before resuming work.
- E. Substrate Joint Penetrations: Prevent bitumen from penetrating substrate joints, entering building, or damaging roofing system components 01' adjacent building construction.
- F. Apply roofing materials as specified herein unless recommended otherwise by manufacturer's instructions. Keep roofing materials dry before and during application. Do not permit phased construction. Complete application of roofing plies, modified sheet and flashing in a continuous operation. Begin and apply only as much roofing in one day as can be completed that same day.
- G. Cut-Offs: At end of each day's roofing installation, protect exposed edge of incomplete work, including ply sheets and insulation. Provide temporary covering of two (2) plies of #15 organic roofing felt set in full moppings of bitumen with joints and edges sealed or other jointly agreed upon tie-in detail.
- H. A minimum two-hour fire watch is required for each day that torch-applied membranes are installed.

- I. Keep an ABC rated tire extinguisher in a central location where all workers know, where it is and how to operate in properly.

## PART 4 - APPLICATION PROCEDURE

### 4.1 UNDERLAYMENT INSTALLATION

#### A. Shingle System:

- a. Install two layers of SA Base Sheet to a properly prepared substrate. Shingle in proper direction to shed water on each area of roofing.
- b. Beginning at the low point of the roof, install one ply of Base Sheet with the white release film facing upwards.
- c. Start with an appropriate roll width (1/3 or 1/2 roll width) to accommodate offsetting of sidelaps of subsequent layers of Base Sheet. Install so that no sidelaps are against the flow of water.
- d. Fasten Base Sheet with a minimum fastening pattern of every 9" (230mm) o.c. on sidelaps and every 18"(457mm) o.c. in two staggered rows in the field of the sheet.
- e. Overlap base sheet sidelaps 4"(100mm) and end laps 8"(200mm). Offset end laps a minimum of 3 feet.
- f. Prior to installing additional plies sheets remove the white release film

### 4.2 2 FLASHING MEMBRANE INSTALLATION (GENERAL)

#### A. Self Adhering System:

1. All curb, wall and parapet flashings shall be sealed on a daily basis. No condition should exist that will permit moisture entering behind, around or under the roof or flashing membrane.
2. Prepare all walls, penetrations and expansion joints to be flashed with asphalt primer at the rate of 100 square feet per gallon. Allow primer to dry tack free.
3. All flashing plies will be adhered with a roofer's torch. The modified membrane will be used as the flashing and will be nailed off 8" o.c. at all vertical surfaces.
4. The entire sheet of flashing membrane must be solidly adhered to the substrate.
5. Seal all vertical laps of flashing membrane with a three-course application of Flashing Bond and fiberglass mesh.
6. Counter flashing, cap flashings, expansion joints, and similar work to be coordinated with modified bitumen roofing work are specified in other sections.

7. Roof accessories, miscellaneous sheet metal accessory items, including piping vents and other devices to be coordinated with the roofing system work are in other sections.

#### 4.3 SHINGLE APPLICATION

- A. Install per Malarkey manufacturer instructions.

#### PART 5 - CLEANING

- A. Remove drippage of bitumen from all walls, windows, floors, ladders and finished surfaces.
- B. In areas where finished surfaces are soiled by bitumen or any other sources of soiling caused by work of this section, consult manufacturer of surfaces for cleaning advice and conform to their instructions.

#### PART 6 - FINAL INSPECTION

- A. At completion of roofing installation and associated work, meet with Installer, installer of associated work, roofing system manufacturer's representative, and other representatives directly concerned with performance of roofing system.
- B. Walk roof surface areas of the building, inspect perimeter building edges as well as flashing of roof penetrations, walls, curbs and other equipment. List all items requiring correction or completion and furnish copy of list to each party attending.
- C. The Roofing System Manufacturer reserves the right to request a thermographic scan of the roof during final inspection to determine if any damp or wet materials have been installed. The thermographic scan shall be provided by the Roofing Contractor at a negotiated price.
- D. If core cuts verify the presence of damp or wet materials, the Roofing Contractor shall be required to replace the damaged areas at his own expense.
- E. Repair or replace (as required) deteriorated or defective work found at time above inspection to a condition free of damage and deterioration at time of Substantial Completion and according to warranty requirements.
- F. The Contractor is to notify District upon completion of corrections.
- G. Following the final inspection, acceptance will be made in writing by the material manufacturer.

END OF SECTION