

**PROJECT MANUAL**

**PROJECT/CONTRACT NUMBER: 19-02**

**ROOFING PROJECT AT MAMMOTH HIGH SCHOOL**

**MAMMOTH UNIFIED SCHOOL DISTRICT**

---

MAMMOTH UNIFIED SCHOOL DISTRICT

BID FORM

ROOFING PROJECT AT MAMMOTH HIGH SCHOOL

PROJECT: ROOFING PROJECT AT MAMMOTH HIGH SCHOOL (“Project” or “Contract”)

Contractor will perform the Work defined in the Contract Documents and fully understands the scope of Work required in this bid and accepts in full payment for that Work the following total lump sum amount, all taxes included:

<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> <p><b>TOTAL BID</b></p>	dollars	\$	<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div>
---	---------	----	---

Submission of Bidder’s Bid signifies careful examination of the Contract Documents and a complete understanding of the nature, extent, and location of Work to be performed.

1. **Work.** Contractor has reviewed the Work outlined in the Contract Documents and fully understands the scope of Work required in this bid, understands the construction and project management function(s) is described in the Contract Documents.
  
2. **Schedule.** Contractor agrees to commence work under this Contract on the date established in the Contract Documents and to complete all work within the time specified in the Contract Documents.
  
3. **Subcontractors.** Contractor shall identify the **name, location** of the place of business, California Contractor State License Number, DIR Registration Number, and kind of work of each subcontractor that will perform work or labor or render service in or about the construction of the Work or improvement in an amount in excess of one-half of 1 percent (0.5%) of the Contractor's total bid. Use extra sheets/extra space as needed.  
 [Name]: \_\_\_\_\_ [Location]: \_\_\_\_\_ [CSLB Lic. #] and [DIR Reg. #]: \_\_\_\_\_ [Kind of Work]: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
  
4. **Bid Bond.** Contractor shall provide with its bid a certified or cashier's check or bidder's bond for an amount not less than ten percent (10%) of the bid amount. The certified or cashier's check or bid bond shall be made payable to the order of the District. If a bid bond accompanies the bid/proposal, the bond shall be secured by an admitted surety company, licensed in the State of California, satisfactory to the District and in the form attached hereto. The certified or cashier's check or bond shall be given as a guarantee that Contractor will enter into the Contract if awarded the Work, and in the case of refusal or failure to enter into the Contract, the District shall have the right to award to another bidder. If Contractor fails or refuses to timely enter into the contract, the District reserves the right to declare the bid bond forfeited and to pursue all other remedies in law or equity relating to such breach including, but not limited to, seeking recovery of damages for breach of contract. Failure to provide bid security, or bid security in the proper amount, will result in rejection of the bid.
  
5. **Noncollusion Declaration.** Contractor shall provide with its bid the Noncollusion Declaration in the form attached hereto.
  
6. **Iran Contracting Act Certification.** Contractor shall provide with its bid the Iran Contracting Act Certification in the form attached hereto.
  
7. **License.** Contractor certifies that it is, at the time of bidding, and shall be throughout the period of the Contract, licensed by the State of California to do the type of Work required under the terms of the Contract Documents. Contractor further certifies that it is regularly engaged in the general class and type of work called for in the Contract Documents.

8. **Approved Installer.** Contractor shall submit with this Bid written certification from the manufacturer that Contractor is approved to install the proposed roof system and provide a warranty. By summiting this bid, Contractor certifies that it specializes in applying bituminous built-up roofing system and is approved by the manufacturer of the proposed roof system.
9. **Prevailing Wages.** Pursuant to sections 1770 et seq. of the California Labor Code, Bidder and all Subcontractors under the Bidder shall pay all workers on all work performed pursuant to the Contract not less than the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work as determined by the Director of the State of California Department of Industrial Relations (DIR) for the type of work performed and the locality in which the work is to be performed within the boundaries of the District. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by the DIR are available from the District or on the internet (<http://www.dir.ca.gov>). In addition, if awarded a contract, Contractor shall comply with Labor Code § 1777.5 pertaining to prevailing wage compensation to apprentices for preemployment activities.
10. **Contractor Registration.** Bidder shall ensure that it and its Subcontractors comply with the registration and compliance monitoring provisions of Labor Code section 1771.4, including furnishing its CPRs to the Labor Commissioner, and are registered pursuant to Labor Code section 1725.5. Bidder and its subcontractors shall comply with Labor Code section 1725.5 to be qualified to bid, be listed in a bid or proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of the Contract.
11. **Addenda.** Addenda may also be issued to modify parts of the Contract Documents as deemed advisable by the District. Bidder must acknowledge each Addendum. Receipt and acceptance of the following addenda is hereby acknowledged.

No.: _____	Date: _____
No.: _____	Date: _____

1. **Erasures.** Bids shall be clearly written without erasure or deletions. District reserves the right to reject any Bid containing erasures or deletions.
2. **Words / Numerals.** Discrepancies between written words and figures, or words and numerals, will be resolved in favor of written words.
12. **Substitution for Specified Items.** Bids shall be based on products and systems specified in Contract Documents or listed by name in Addenda. All requests must comply with the requirements specified in the Special Conditions.  
**Request for Substitution Prior to Bid:** District must receive any request for substitution a minimum of **FOURTEEN (14)** calendar days prior to the date of bid opening and in accordance with requirements specified in the Special Conditions.  
**Request for Substitution after Bid Award:** Not permitted for this Project.
13. **Bid Protests.** Any bid protest by any Contractor regarding any other bid on this Project must be submitted in writing to the District, **at Mammoth Unified School District, Via mail, PO Box 3509, Mammoth Lakes, CA. 93546 or in person 461 Sierra Park Road, Mammoth Lakes, CA 93546**, before 2:00p.m. of the **SECOND (2<sup>ND</sup>)** business day following the date of bid opening, or the Contractor waives its right to protest. The protest must contain a complete statement of any and all bases for the protest and the Contractor must concurrently transmit a copy of the protest to all other bidders that appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.
14. **Bidder Responsibility.** Prior to the award of Contract, District reserves the right to consider the responsibility of the Bidder. District may conduct investigations as District deems necessary to assist in the evaluation of any bid and to establish the responsibility, including, without limitation, qualifications and financial ability of Bidders, proposed subcontractors, suppliers, and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to District's satisfaction within the prescribed time.
15. **Sealed Bids.** District will receive sealed Bids from Bidders as indicated in the Notice to Bidders and each Bidder shall ensure that its Bid is sealed and marked with name and address of the Bidder, the Project name and number, the bid

number and bid package (if applicable), and the date for opening bids, all documents as required herein; and is submitted by date and time shown in the Notice to Bidders.

16. **Questions.** All questions about the meaning or intent of the Contract Documents are to be directed in writing to the District. Interpretations or clarifications considered necessary by the District in response to such questions will be issued in writing by Addenda faxed, mailed, or delivered to all parties recorded by the District as having received the Contract Documents. Questions received less than **SEVEN (7)** calendar days prior to the date for opening Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
17. **CONTRACT FORM. DISTRICT'S CONTRACT FORM IS PART OF THE CONTRACT DOCUMENTS. THE SCOPE OF THE PROJECT IS AS DESCRIBED IN EXHIBIT A TO THE CONTRACT. THE SUCCESSFUL CONTRACTOR SHALL, WITHIN SEVEN (7) CALENDAR DAYS OF NOTICE THAT IT HAS BEEN AWARDED THE CONTRACT, BE REQUIRED TO PROVIDE TO THE DISTRICT ALL CERTIFICATIONS, BONDS, INSURANCE DOCUMENTS, CONSTRUCTION SCHEDULE, SUBCONTRACTOR LIST AND ALL OTHER REQUIRED DOCUMENTATION AS INDICATED IN THE CONTRACT.**

Contractor hereby certifies to the District that all representations, certifications, and statements made by Contractor, as set forth in this bid form, are true and correct and are made under penalty of perjury.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

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

Signed by \_\_\_\_\_

Title of Signer \_\_\_\_\_

Address of Contractor \_\_\_\_\_

Contractor's Taxpayer's Identification No. \_\_\_\_\_

Department of Industrial Relations (DIR) Registration No. of Contractor \_\_\_\_\_

Telephone Number \_\_\_\_\_ E-mail \_\_\_\_\_

Web page \_\_\_\_\_

Contractor's License No(s): No.: \_\_\_\_\_ Class: \_\_ Expiration Date: \_\_\_\_\_

No.: \_\_\_\_\_ Class: \_\_ Expiration Date: \_\_\_\_\_

**BID BOND (SECURITY)**

**(Note: If Bidder is providing a bid bond as its bid security, Bidder must use this form, NOT a surety company form.)**

**Roofing Project at Mammoth High School ("Project" or "Contract")**

KNOW ALL PERSONS BY THESE PRESENTS:

That the undersigned, as \_\_\_\_\_ as Principal ("Principal"),

and \_\_\_\_\_ as Surety ("Surety"),

a corporation organized and existing under and by virtue of the laws of the State of \_\_\_\_\_ and authorized to do business as a surety in the State of California, are held and firmly bound unto the **Mammoth Unified School District** ("District"), State of California as Obligee, in the sum of

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

lawful money of the United States of America, for the payment of which sum well and truly to be made, we, and each of us, bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal has submitted a bid to the District for all Work specifically described in the accompanying bid;

NOW, THEREFORE, if the Principal is awarded the Contract and, within the time and manner required under the Contract Documents, after the prescribed forms are presented to Principal for signature, enters into a written contract, in the prescribed form in accordance with the bid, and files two bonds, one guaranteeing faithful performance and the other guaranteeing payment for labor and materials as required by law, and meets all other conditions to the contract between the Principal and the Obligee becoming effective, or if the Principal shall fully reimburse and save harmless the Obligee from any damage sustained by the Obligee through failure of the Principal to enter into the written contract and to file the required performance and labor and material bonds, and to meet all other conditions to the Contract between the Principal and the Obligee becoming effective, then this obligation shall be null and void; otherwise, it shall be and remain in full force and effect. The full payment of the sum stated above shall be due immediately if Principal fails to execute the Contract within seven (7) days of the date of the District's Notice of Award to Principal.

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

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

If the District awards the bid, the security of unsuccessful bidder(s) shall be returned within sixty (60) days from the time the award is made. Unless otherwise required by law, no bidder may withdraw its bid for ninety (90) days after the date of the bid opening.

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

\_\_\_\_\_  
Principal

\_\_\_\_\_  
By

\_\_\_\_\_  
Surety

\_\_\_\_\_  
By

\_\_\_\_\_  
Name of California Agent of Surety

\_\_\_\_\_  
Address of California Agent of Surety

\_\_\_\_\_  
Telephone Number of California Agent of Surety

**Bidder must attach Power of Attorney and Certificate of Authority for Surety and a Notarial Acknowledgment for all Surety's signatures. The California Department of Insurance must authorize the Surety to be an admitted Surety Insurer.**

END OF DOCUMENT

**NONCOLLUSION DECLARATION**  
**Public Contract Code Section 7106**

TO BE EXECUTED BY CONTRACTOR AND SUBMITTED WITH BID FORM

**Roofing Project at Mammoth High School (“Project” or “Contract”)**

The undersigned declares:

I am the \_\_\_\_\_ **[PRINT YOUR TITLE]**

of \_\_\_\_\_ **[PRINT FIRM NAME]**,

the party making the foregoing Contract.

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

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on the following date:

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

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

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

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

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

**IRAN CONTRACTING ACT CERTIFICATION (Public Contract Code § 2204)**

TO BE EXECUTED BY CONTRACTOR AND SUBMITTED WITH BID FORM

**Roofing Project at Mammoth High School** ("Project" or "Contract")

Pursuant to Public Contract Code (PCC) section 2204, an Iran Contracting Act certification is required for solicitations of goods or services of one million dollars (\$1,000,000) or more.

Bidder shall complete **ONLY ONE** of the following three paragraphs.

1. Bidder's Total Base Bid is less than one million dollars (\$1,000,000).

**OR**

2. Bidder's Total Base Bid is one million dollars (\$1,000,000) or more, but Bidder is **not** on the current list of persons engaged in investment activities in Iran created by the California Department of General Services ("DGS") pursuant to Public Contract Code § 2203(b), and Bidder is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS.

**OR**

3. Bidder's Total Base Bid is one million dollars (\$1,000,000) or more, but the District has given prior written permission to Bidder to submit a proposal pursuant to PCC 2203(c) or (d). **A copy of the written permission from the District is included with Bid.**

I certify that I am duly authorized to legally bind the Bidder to this certification, that the contents of this certification are true, and that this certification is made under the laws of the State of California.

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

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

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

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

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

END OF DOCUMENT



**CONTRACT FOR REPAIRS, MAINTENANCE OR CONSTRUCTION PROJECTS**

THIS CONTRACT is made and entered into on \_\_\_\_\_, 20\_\_\_\_ (“Contract”), by and between \_\_\_\_\_ (“Contractor”) and Mammoth Unified School District (“District”). Contractor and District may be referred to herein individually as a “Party” or collectively as the “Parties.”

1. **Contract Price & Services.** After the District has issued a Notice to Proceed, the Contractor shall furnish to the District for a total price of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) (“Contract Price”), all tools, equipment, apparatus, facilities, labor, and material necessary to perform and complete in a good and workmanlike manner the following repairs, maintenance or construction services (“Services” or “Work”):

**Performance of roof work at Mammoth High School** as further described in **Exhibit A** attached hereto and incorporated herein. (“Project” or “Contract”)

The Work shall be performed and completed as required in the Contract Documents as defined in the General Conditions including, without limitation, the Drawings and Specifications, under the direction and supervision of, and subject to, the approval of the District or its authorized representative.

2. **Payment.** Payment for the Work shall be made in accordance with the Terms and Conditions attached hereto. Upon the District’s monthly payment to the Contractor, the District shall be entitled to review the Contractor’s most current As-Built drawings.
3. **Site.** Contractor shall perform the Work at Mammoth High School, 365 Sierra Park Road, Mammoth Lakes, CA 93546 (“Premises” or “Site”). The Project is the scope of Work performed at the Site.
4. **Contract Time.** Work shall be completed by **August 2, 2019** (“Contract Time”).
5. **Liquidated Damages.** Time is of the essence for all Work to be performed. It is hereby understood and agreed that it is and will be difficult and/or impossible to ascertain and determine the actual damage that District will sustain in the event of and by reason of Contractor’s delay. Contractor agrees that if the Work is not completed within the Contract Time and/or pursuant to the completion schedule, construction schedule, or project milestones developed pursuant to provisions of the Contract then, pursuant to Government Code section 53069.85, Contractor shall pay to the District, as fixed and liquidated damages for these incalculable damages, the sum of **One Thousand Dollars (\$1,000)** per day for each and every calendar day of delay beyond the Contract Time or beyond any completion schedule, construction schedule, or Project milestones established pursuant to the Contract (“Liquidated Damages”). It is hereby understood and agreed that neither the total cumulative Liquidated Damages amount nor any portion of the Liquidated Damage amount are penalties. District may deduct Liquidated Damages from money due or that may become due Contractor under this Contract. Contractor’s forfeiture of Liquidated Damages to District, and District’s right to retain Liquidated Damages, are as indicated in Government Code section 53069.85 and as indicated herein.

6. **Bonds & Insurance.**

- 6.1. **Payment Bond & Performance Bond:** Contractor shall not commence the Work until it has provided to the District, a Payment (Labor and Material) Bond and a Performance Bond, in the forms attached hereto, each in an amount equivalent to one hundred percent (100%) of the Contract Price issued by a surety admitted to issue bonds in the State of California and otherwise acceptable to the District.
- 6.2. **Insurance:** Contractor shall have and maintain in force during the term of this Contract, with the minimum indicated limits, the following insurance:

<b>Commercial General Liability</b>	Includes: Personal & Advertising Injury, Product Liability and Completed Operations	\$1,000,000 each occurrence; \$2,000,000 general aggregate
<b>Automobile Liability – Any Auto</b>	Combined Single Limit	\$2,000,000 per occurrence

<b>Excess Liability (or Umbrella Policy)</b>		\$6,000,000 per occurrence; \$6,000,000 aggregate
<b>Workers Compensation</b>		Statutory limits pursuant to State law
<b>Employers' Liability</b>		\$2,000,000 each accident, each disease; \$2,000,000 policy limit
<b>Builder's Risk (Course of Construction)</b>		Issued for the value and scope of Work indicated herein.
<b>Property of Others</b>	Combined Single Limit General Aggregate	Issued for the value and scope of Work stored off-site.

Contractor shall provide to the District certificate(s) of insurance and endorsements satisfactory to the District. The policy(ies) shall not be amended or modified and the coverage amounts shall not be reduced without thirty (30) days written notice to the District prior to cancellation. Except for worker's compensation insurance, the District, the Architect, and the Project Manager shall be named as an additional insured on all policies. Contractor's policy(ies) shall be primary; any insurance carried by the District shall only be secondary and supplemental. Contractor shall not allow any subcontractor, employee, or agent to commence Work on this Contract or any subcontract until the insurance required of Contractor, subcontractor, or agent has been obtained.

**7. Project Oversight.**

- 7.1. Inspection and acceptance of the Work shall be performed by Gary Taylor, Director of the Maintenance, Operations & Transportation Department of the District.
- 7.2. The architect for the Project is [Not Applicable] ("Architect"), but, if necessary, an architect may be identified at a later date by the District. In the event the District identifies an Architect, the District shall provide notice to the Contractor.
- 7.3. The project manager on the Project is [Not Applicable] ("Project Manager")
- 7.4. The project inspector is Steve Nugent ("Project Inspector").

7. **Terms & Conditions.** The Contractor agrees to comply with the Terms and Conditions.

8. **Contract Documents.** The Contract Documents include only the following documents, as indicated:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Bid Form and Proposal                        | <input checked="" type="checkbox"/> Roofing Contract Financial Interest Certification |
| <input checked="" type="checkbox"/> Bid Bond                                     | <input checked="" type="checkbox"/> Insurance Certificates and Endorsements           |
| <input checked="" type="checkbox"/> Notice to Proceed                            | <input checked="" type="checkbox"/> Performance Bond                                  |
| <input checked="" type="checkbox"/> General Terms and Conditions to Contract     | <input checked="" type="checkbox"/> Payment Bond                                      |
| <input checked="" type="checkbox"/> Special Terms and Conditions to Contract     | <input checked="" type="checkbox"/> Exhibit A ("Scope of Work")                       |
| <input checked="" type="checkbox"/> Noncollusion Declaration                     | <input type="checkbox"/> Exhibit B ("Construction Schedule")                          |
| <input checked="" type="checkbox"/> Certifications to be Completed by Contractor | <input type="checkbox"/> _____ [Other]  |

9. **Notice.** Any notice required or permitted to be given under this Contract shall be deemed to have been given, served, and received if given in writing and either personally delivered or sent by overnight delivery service addressed as follows:

Mammoth Unified School District  
 PO Box 3509, 461 Sierra Park Road  
 Mammoth Lakes, CA 93546  
 ATTN: Brooke Bien, Chief Business & Financial Officer

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

Any notice personally given shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service.

ACCEPTED AND AGREED on the date indicated below. By signing this Contract, Contractor certifies, under penalty of perjury, that all the information provided in the Contract Documents is true, complete, and correct:

Dated: \_\_\_\_\_, 2019

Dated: \_\_\_\_\_, 2019

**Mammoth Unified School District**

\_\_\_\_\_ **Contractor**

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

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

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

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

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

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

## GENERAL TERMS AND CONDITIONS TO CONTRACT

1. **NOTICE TO PROCEED:** District shall provide a Notice to Proceed to Contractor pursuant to the Contract at which time Contractor shall proceed with the Work.
2. **SITE EXAMINATION:** Contractor has examined the Site and certifies that it accepts all measurements, specifications and conditions affecting the Work to be performed at the Site. By submitting its bid and/or entering into this Contract, Contractor warrants that it has made all Site examination(s) that it deems necessary as to the condition of the Site, its accessibility for materials, workers and utilities, and Contractor's ability to protect existing surface and subsurface improvements. No claim for allowance of time or money will be allowed as to any other undiscovered condition on the Site.
3. **CONDITIONS SHOWN ON THE CONTRACT DOCUMENTS:** Information as to underground conditions, as-built conditions, or other conditions or obstructions, indicated in the Contract Documents, e.g., on Drawings or in Specifications, has been obtained with reasonable care, and has been recorded in good faith. However, District only warrants, and Bidder may only rely, on the accuracy of limited types of information.
  - 3.1. As to above-ground conditions or as-built conditions shown or indicated in the Contract Documents, there is no warranty, express or implied, or any representation express or implied, that such information is correctly shown or indicated. This information is verifiable by independent investigation and Contractor is required to make such verification as a condition of this Contract. Contractor shall rely on the results of its own independent investigation. In Contractor shall not rely on District-supplied information regarding above-ground conditions or as-built conditions.
  - 3.2. As to any subsurface condition shown or indicated in the Contract Documents, Contractor may rely only upon the general accuracy of actual reported depths, actual reported character of materials, actual reported soil types, actual reported water conditions, or actual obstructions shown or indicated. District is not responsible for the completeness of such information for bidding or construction; nor is District responsible in any way for any conclusions or opinions of Contractor drawn from such information; nor is District responsible for subsurface conditions that are not specifically shown (for example, District is not responsible for soil conditions in areas contiguous to areas where a subsurface condition is shown).
4. **CONDITIONS SHOWN IN REPORTS AND DRAWINGS SUPPLIED FOR INFORMATIONAL PURPOSES:** Reference is made to the document entitled Existing Information and Documentation Regarding Project Site, or to any other document provided to the Contractor that contains reports or drawings which include information related to the Project Site, for identification of:
  - 4.1. Subsurface Conditions: Those reports of explorations and tests of subsurface conditions at or contiguous to the Project Site that have been utilized by Architect in preparing the Contract Documents; and
  - 4.2. Physical Conditions: Those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Project Site that has been utilized by Architect in preparing the Contract Documents.
5. These reports and drawings are **not** Contract Documents and, except for any "technical" data regarding subsurface conditions specifically identified in Existing Information and Documentation Regarding Project Site, and underground facilities data, Contractor may not in any manner rely on the information in these reports and drawings. Subject to the foregoing, Contractor must make its own independent investigation of all conditions affecting the Work and must not rely on information provided by District.
6. **EQUIPMENT AND LABOR:** The Contractor shall furnish all tools, equipment, apparatus, facilities, transportation, labor, and material necessary to furnish the Services, the Services to be performed at such times and places as directed by and subject to the approval of the authorized District representative indicated in the Work specifications attached hereto.
7. **SUBCONTRACTORS:** Contractor shall comply with the Subletting and Subcontracting Fair Practices Act (Public Contract Code, section 4100 et. seq.). Contractor shall identify by name and location of the place of business of each subcontractor who will perform work or labor or render service in or about the construction of the Project in an amount in excess of one-half of 1 percent of the Contractor's contract price or ten thousand dollars (\$10,000) whichever is greater. Subcontractors, if any, engaged by the Contractor for any Service or Work under this Contract shall be subject to the approval of the District. Contractor agrees to bind every subcontractor by the terms of the Contract as far as such terms are applicable to subcontractor's work, including, without limitation, all indemnification, insurance, bond, and warranty requirements. If Contractor subcontracts any part of this Contract, Contractor shall be fully responsible to the District for acts and omissions of its subcontractor and of persons either directly or indirectly employed by itself. Nothing contained in the Contract Documents shall create any contractual relationship between any subcontractor and the District.
8. **TERMINATION:** If Contractor fails to perform the Services and Contractor's duties to the satisfaction of the District, or if Contractor fails to fulfill in a timely and professional manner Contractor's obligations under this Contract, or if Contractor violates any of the Terms or provisions of this Contract, the District shall have the right

to terminate this Contract effective immediately upon the District giving written notice thereof to the Contractor. District shall also have the right in its sole discretion to terminate the Contract for its own convenience. Termination shall have no effect upon any of the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of termination. Upon termination, Contractor shall provide the District with all documents produced maintained or collected by Contractor pursuant to this Contract, whether or not such documents are final or draft documents.

**9. SAFETY AND SECURITY:** Contractor is responsible for maintaining safety in the performance of this Contract. Contractor shall be responsible for complying with the District's the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.

**10. CHANGE IN SCOPE OF WORK:** Any change in the scope of the Work, method of performance, nature of materials or price thereof, or any other matter materially affecting the performance or nature of the Work shall not be paid for or accepted by District unless such change, addition, or deletion is approved in advance and in writing by a valid change order executed by the District. Contractor specifically understands, acknowledges, and agrees that the District shall have the right to request any alterations, deviations, reductions, or additions to the Project or Work, and the cost thereof shall be added to or deducted from the amount of the Contract Price by fair and reasonable valuations. Contractor also agrees to provide the District with all information requested to substantiate the cost of any change order and to inform the District whether the Work will be done by the Contractor or a subcontractor. In addition to any other information requested, Contractor shall submit, prior to approval of any change order, its request for a time extension (if any), as well as all information necessary to substantiate Contractor's belief that such change will delay the completion of the Work. If Contractor fails to submit its request for a time extension or the necessary supporting information, it shall be deemed to have waived its right to request such extension.

**10.1. Unilateral Change Order:** A Unilateral Change Order is a written order prepared and issued by the District, and signed by the District, directing a change in the Work. The District may as provided by law, by Unilateral Change Order and without invalidating the Contract, order changes in the Work consisting of additions, deletions, or other revisions. Any dispute as to the sum of the Unilateral Change Order or timing of payment shall be resolved pursuant to the Payment provisions and the Claims and Disputes provisions herein.

**11. TRENCH SHORING:** If this Contract is in excess of \$25,000 and is for the excavation of any trench deeper than five (5) feet, Contractor must submit and obtain District's approval and acceptance, in advance of excavation, of a detailed plan showing the design of shoring, bracing,

sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If the plan varies from the shoring system standards, the plan shall be prepared by a registered civil or structural engineer.

**12. EXCAVATIONS OVER FOUR FEET:** If this Contract includes excavations over four (4) feet, Contractor shall promptly, and before the following conditions are disturbed, notify the District, in writing, of any: (1) Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law; (2) Subsurface or latent physical conditions at the Site differing from those indicated; or (3) Unknown physical conditions at the Site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract. The District shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the Work shall issue a change order under the procedures described in the Contract. In the event that a dispute arises between the District and the Contractor regarding whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the work, the Contractor shall not be excused from any scheduled completion date provided for by the Contract, but shall proceed with all Work. Contractor shall retain any and all rights provided either by Contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

**13. LEAD-BASED PAINT:** Pursuant to the Lead-Safe Schools Protection Act (Education Code Section 32240 et seq.) and other applicable law, no lead-based paint, lead plumbing and solders, or other potential sources of lead contamination shall be utilized on this Project, and only trained and state-certified contractors, inspectors and workers shall undertake any action to abate existing risk factors for lead. Contractor must execute the Lead-Based Paint Certification, if applicable.

**14. DRUG-FREE / TOBACCO FREE / SMOKE FREE POLICY:** No drugs, alcohol, tobacco, and/or smoking are allowed at any time in any buildings and/or grounds on District property. No students, staff, visitors, consultants or contractors are to use drugs on these sites.

**15. FINGERPRINTING:** Contractor shall comply at all times with the provisions of Education Code section 45125.2 regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees, its subcontractor(s), and its subcontractors' employees. Contractor shall not permit any employee to have any contact with District pupils until such time as Contractor has

verified in writing to the governing board of the District, that such employee has not been convicted of a felony, as defined in Education Code section 45122.1. Contractor at all times shall fully complete and perform all tasks required pursuant to the Criminal Background Investigation/ Fingerprinting Certification.

**16. CORRECTION OF ERRORS:** Contractor shall perform, at its own cost and expense and without reimbursement from the District, any work necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care required herein.

**17. FAILURE TO PERFORM.** If the District at any time believes that the Contractor is behind schedule, is failing to construct the Project pursuant to the Contract Documents, including any deviation or non-conformity with the Contract Documents, or is otherwise failing to perform any provisions of this Contract, the District, after FORTY-EIGHT (48) hours written notice to the Contractor, may take any action necessary or beneficial to the District to complete the Project, takeover the Work of the Contract, terminate or suspend the Contract as indicated herein, or any combination or portion of those actions. The Contractor and the Surety shall be liable to the District for any cost incurred by the District in those actions and the District has the right to deduct the cost thereof from any payment then or thereafter due the Contractor.

**18. SUBSTITUTIONS:** No substitutions of material from those specified in the Work Specifications shall be made without the prior written approval of the District and pursuant to the provisions of the Special Conditions.

**19. SUBMITTALS AND REQUESTS FOR INFORMATION:**

19.1. All submittals, including requests for information ("RFI") shall be submitted through the District's designated project management system.

19.2. Any RFI shall reference all applicable Contract Document(s), including Specification section(s), detail(s), page number(s), drawing number(s), and sheet number(s), etc. Contractor shall make suggestions and interpretations of the issue raised by each RFI. An RFI cannot modify the Contract Price, Contract Time, or the Contract Documents.

19.3. Contractor shall be liable to the District for all costs incurred by the District associated with the processing, reviewing, evaluating and responding to any RFI, including without limitation, fees of any Architect and any other design consultant to any Architect or the District, that District reasonably determines:

19.3.1. Does not reflect adequate or competent supervision or coordination by the Contractor or any Subcontractor; or

19.3.2. Does not reflect the Contractor's adequate or competent knowledge of the requirements of the Work or the Contract; or

19.3.3. Requests an interpretation or decision of a matter where the information sought is equally available to the Contractor; or

19.3.4. Is not justified for any other reason.

19.4. Prior to submitting the RFI, Contractor shall diligently review the Contract Documents for information responsive to the RFI, including information incorporated by reference. Contractor should not issue an RFI regarding information contained in or inferable from the Contract Documents, including information incorporated by reference. An RFI is invalid if the RFI response is contained in or inferable from the Contract Documents.

19.5. Contractor shall be responsible for preparing and submitting each RFI so as to not cause delay to the progress of the Work nor to cause any impact to the Contractor's labor productivity. An RFI may be considered untimely if not submitted within **Forty Eight (48) hours** of receipt from a Contractor's subcontractor. Untimely submission of any RFI will preclude Contractor from asserting any claims for delay or for labor impact against the District.

19.6. If the Contractor fails to timely notify the District in writing of any Conditions encountered and the Contractor proceeds to perform any portion of the Work containing or affected by such Conditions the Contractor shall bear all costs associated with or required to correct, remove, or otherwise remedy any portion of the Work affected thereby without adjustment of the Contract Time or the Contract Price. In requesting information of the District to address and resolve any conditions, the Contractor shall act with promptness in submitting any written request so as to allow the District a reasonable period of time to review, evaluate and respond to any request, taking into account the then current status of the progress and completion of the Work and the actual or potential impact of any conditions upon the completion of the Work within the Contract Time. The Contract Time shall not be subject to adjustment in the event that the Contractor shall fail to timely request information from the District.

**20. CONTRACTOR SUPERVISION:** Contractor shall provide competent supervision of personnel employed on the job Site, use of equipment, and quality of workmanship including but not limited to the following:

20.1. During progress of the Work, Contractor shall keep on the Premises, and at all other locations where any Work related to the Contract is being performed, a competent project manager and construction superintendent who are employees of the Contractor, to whom the District does not object and at least one of whom shall be fluent in English, written and verbal.

20.2. Before commencing the Work, Contractor shall give written notice to District of the name of its project manager and construction superintendent. Neither the Contractor's project manager nor construction superintendent shall be changed except with prior written notice to District, unless the

Contractor's project manager and/or construction superintendent proves to be unsatisfactory to Contractor, District, any of the District's employees, agents, any District Construction Manager or Architect, in which case, Contractor shall notify District in writing. District retains the right to reasonably refuse Contractor's replacement personnel. The Contractor's project manager and construction superintendent shall each represent Contractor, and all directions given to Contractor's project manager and/or construction superintendent shall be as binding as if given to Contractor.

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

20.4. All persons working for Contractor and Subcontractor(s) shall refrain from using profane or vulgar language, or any other language that is inappropriate on the job site.

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

**21. DUTY TO PROVIDE FIT WORKERS:**

21.1. Contractor and subcontractor(s) shall at all times enforce strict discipline and good order among their employees and shall not employ or work any unfit person or anyone not skilled in work assigned to that person. It shall be the responsibility of Contractor to ensure compliance with this requirement. District may require Contractor to permanently remove unfit persons from Project Site. Any person in the employ of Contractor or subcontractor(s) whom District may deem incompetent or unfit shall be excluded from working on the Project and shall not again be employed on the Project except with the prior written consent of District. The Contractor shall furnish labor that can work in harmony with all other elements of labor employed or to be employed in the Work. If Contractor intends to make any change in the name or legal nature of the Contractor's entity, Contractor must first notify the District. The District shall determine if Contractor's intended change is permissible while performing the Contract.

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

**22. PERSONNEL:** The Contractor shall employ a full-time superintendent and necessary assistants who shall have complete authority to represent and act on behalf of the Contractor on all matters pertaining to the Work. The superintendent shall be competent and have a minimum of five (5) years' experience in construction supervision on projects of similar scale and complexity. The superintendent shall be satisfactory to the District and, if not satisfactory, shall be replaced by the Contractor with one that is acceptable to the District. The superintendent shall not be changed without the written consent of the District unless the superintendent ceases to be employed by the Contractor.

**23. CLEAN UP:** Debris shall be removed from the Premises. The Site shall be in order at all times when work is not actually being performed and shall be maintained in a reasonably clean condition. Should the Contractor fail to perform the required clean-up, or should the clean-up be deemed unsatisfactory by the District, the District will then perform the clean-up. All cost associated with the clean-up work will be deducted from the Contract Price, or District may withhold those amounts from payment(s) to Contractor.

**24. NOISE AND DUST CONTROL:**

24.1. Contractor shall comply with the requirements of the city and county having jurisdiction with regard to noise ordinances governing construction sites and activities. Construction equipment noise at the Site shall be limited as required by applicable law, rule or regulation. If classes are in session at any point during the progress of the Work, and the noise from any Work disrupts or disturbs the students or faculty or the normal operation of the school at the Site, in the District's reasonable discretion and at the District's request, the Contractor shall schedule the performance of that Work around normal school hours or make other arrangements so that the Work does not cause disruption or disturbance. In no event shall those arrangements result in adjustment of the Contract Price or the Contract Time.

24.2. The Contractor shall be fully and solely responsible for maintaining and upkeeping all areas of the Site and adjoining areas, outdoors and indoors, free from flying debris, grinding powder, sawdust, dirt and dust as well as any other product, product waste or work waste, that by becoming airborne may cause respiratory inconveniences to persons, particularly to students and District personnel. Additionally, the Contractor shall take specific care to avoid deposits of airborne dust or airborne elements. Those protection devices, systems or methods shall be in accordance with the regulations set forth by the EPA and OSHA, and other applicable law, rule or regulation. Additionally, the Contractor shall be responsible to regularly and routinely clean up and remove any and all deposits of dust and other elements. Damage and/or any liability derived from the Contractor's failure to comply with

these requirements shall be exclusively at the cost of the Contractor, including, without limitation, any and all penalties that may be incurred for violations of applicable law, rule or regulation, and any amounts expended by the District to pay such damages shall be due and payable to the District on demand. Contractor shall replace any damages property or part thereof and professionally clean any and all items that become covered or partially covered to any degree by dust or other airborne elements. If classes are in session at any point during the progress of Work, and flying debris, grinding powder, sawdust, dirt or dust from any Work disrupts or disturbs the students or faculty or the normal operation of the school, in the District's reasonable discretion and at the District's request, the Contractor shall schedule the performance of all that Work around normal school hours and make other arrangements so that the Work does not cause disruption or disturbance. In no event shall those arrangements result in adjustment of the Contract Price or the Contract Time.

24.3. If the Contractor fails to comply with the requirements for dust control, noise control, or any other maintenance or clean up requirement of the Contract Documents, the District, Project Inspector, or Construction Manager, if any, shall notify the Contractor in writing and the Contractor shall take immediate action. Should the Contractor fail to respond with immediate and responsive action and not later than twenty-four (24) hours from that notification, the District shall have the absolute right to proceed as it may deem necessary to remedy such matter. Any and all costs incurred by the District in connection with those actions shall be the sole responsibility of, and be borne by, the Contractor; the District may deduct those amounts from the Contract Price then or thereafter due the Contractor or withhold those amounts from payment(s) to Contractor.

**25. ACCESS TO WORK:** District representatives shall at all time have access to the Work wherever it is in preparation or in progress. Contractor shall provide safe and proper facilities for such access.

**26. EVENINGS AND WEEKENDS:** Contractor may be required to work evenings and/or weekends at no additional cost to the District. Contractor shall give the District seventy-two (72) hours' notice prior to performing any evening and/or weekend work. Contractor shall perform all evening and/or weekend work only upon District's written approval and in compliance with all applicable rules, regulations, laws, and local ordinances including, without limitation, all noise and light limitations. Contractor shall reimburse the District for any Inspector charges necessitated by the Contractor's evening and/or weekend work.

**27. PROTECTION OF WORK AND PROPERTY:** Contractor shall erect and properly maintain at all times, as required by conditions and progress of the Work, all

necessary safeguards, signs, barriers, lights, and security persons for protection of workers and the public, and shall post danger signs warning against hazards created by the Work. In an emergency affecting life and safety of life or of Work or of adjoining property, Contractor, without special instruction or authorization from District, is permitted to act at his discretion to prevent such threatened loss or injury.

**28. ASSIGNMENT OF CONTRACT:** Contractor shall not assign or transfer in any way any or all of its rights, burdens, duties, or obligations under this Contract without the prior written consent of the District.

**29. TIME IS OF THE ESSENCE:** Time is of the essence in the performance of and compliance with each of the provisions and conditions of this Contract.

**30. OCCUPANCY:** District reserves the right to occupy buildings at any time before formal Contract completion and such occupancy shall not constitute final acceptance or approval of any part of the Work covered by this Contract, nor shall such occupancy extend the date specified for completion of the Work.

**31. FORCE MAJEURE CLAUSE:** Contractor shall be excused from performance hereunder during the time and to the extent that it is prevented from obtaining delivery, or performing by act of God, fire, strike, loss, or shortage of transportation facilities, lock-out, commandeering of materials, product, plant, or facilities by the government, when satisfactory evidence thereof is presented to the District, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of Contractor.

**32. INDEMNIFICATION / HOLD HARMLESS CLAUSE:** To the furthest extent permitted by California law, Contractor shall defend, indemnify, and hold free and harmless the District, its agents, representatives, officers, Contractors, employees, trustees, and volunteers ("the indemnified parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, including without limitation the payment of all consequential damages, arising out of, pertaining to or relating to, in whole or in part, the negligence, recklessness, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, Contractors, or agents directly or indirectly arising out of, connected with, or resulting from the performance of the Services or from any activity, work, or thing done, permitted, or suffered by the Contractor in conjunction with this Contract, unless the claims are caused wholly by the sole negligence or willful misconduct of the indemnified parties. The District shall have the right to accept or reject any legal representation that Contractor proposes to defend the indemnified parties.

**33. PAYMENT:** On a monthly basis, Contractor shall submit an application for payment based upon the estimated value for materials delivered or services performed under the Contract as of the date of submission ("**Application for Payment**"). Within thirty (30) days after



District's approval of the Application for Payment, Contractor shall be paid a sum equal to ninety-five percent (95%) of the value of the Work performed (as verified by Architect, if any, and Inspector and certified by Contractor) up to the last day of the previous month, less the aggregate of previous payments and amount to be withheld. The District may deduct from any payment an amount necessary to protect the District from loss because of: (1) liquidated damages which have accrued as of the date of the application for payment; (2) any sums expended by the District in performing any of Contractor's obligations under the Contract which Contractor has failed to perform or has performed inadequately; (3) defective Work not remedied; (4) stop notices as allowed by state law; (5) reasonable doubt that the Work can be completed for the unpaid balance of the Total Contract price or by the scheduled completion date; (6) unsatisfactory prosecution of the Work by Contractor; (7) unauthorized deviations from the Contract; (8) failure of the Contractor to maintain or submit on a timely basis proper and sufficient documentation as required by the Contract or by District during the prosecution of the Work; (9) erroneous or false estimates by the Contractor of the value of the Work performed; (10) any sums representing expenses, losses, or damages, as determined by the District, incurred by the District for which Contractor is liable under the Contract; and (11) any other sums which the District is entitled to recover from Contractor under the terms of the Contract or pursuant to state law, including section 1727 of the California Labor Code. The failure by the District to deduct any of these sums from a progress payment shall not constitute a waiver of the District's right to such sums. The District shall retain five percent (5%) from all amounts owing as retention. Retention shall be paid pursuant to Public Contract Code sections 7107 and 7200.

**34. PERMITS AND LICENSES:** Contractor and all of its employees, agents, and subcontractors shall secure and maintain in force, at Contractor's sole cost and expense, all licenses and permits as are required by law, in connection with the furnishing of materials, supplies, or Services herein listed.

**35. INDEPENDENT CONTRACTOR STATUS:** While engaged in carrying out the Services of this Contract, the Contractor is an independent contractor, and not an officer, employee, agent, partner, or joint venture of the District. Contractor shall be solely responsible for its own Worker's Compensation insurance, taxes, and other similar charges or obligations. Contractor shall be liable for its own actions, including its negligence or gross negligence, and shall be liable for the acts, omissions, or errors of its agents or employees.

**36. ANTI-DISCRIMINATION:** It is the policy of the District that in connection with all work performed under contracts there be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, or religious creed, and therefore the Contractor agrees to comply with applicable Federal and

California laws including, but not limited to the California Fair Employment Practice Act beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, the Contractor agrees to require like compliance by all its subcontractor(s).

**37. WARRANTY/QUALITY:** Unless a longer warranty is called for elsewhere in the Contract, Contractor, manufacturer, or their assigned agents shall guarantee the workmanship, product or Services performed against defective workmanship, defects or failures of materials for a minimum period of one (1) year from District's written approval of the Work. All workmanship and merchandise must be warranted to be in compliance with applicable California energy, conservation, environmental, and educational standards.

**38. CONFIDENTIALITY:** Contractor shall maintain the confidentiality of all information, documents, programs, procedures, and all other items that Contractor encounters while performing the Contractor's Services to the extent allowed by law. This requirement shall be ongoing and shall survive the expiration or termination of this Contract and specifically includes all student, parent, and disciplinary information.

**39. COMPLIANCE WITH LAWS:** Contractor shall give all notices and comply with all laws, ordinance, rules and regulations bearing on conduct of the Work as indicated or specified. If Contractor observes that any of the Work required by this Contract is at variance with any such laws, ordinance, rules or regulations, Contractor shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be terminated effective upon Contractor's receipt of a written termination notice from the District. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Contractor shall bear all costs arising therefrom.

**40. DISPUTES/CLAIMS:** Public Contract Code § 9204. Claims between the District and the Contractor shall be resolved in accordance with the procedures established in Public Contract Code § 9204.

40.1. Claim. The term "Claim" means a written demand by the Contractor sent by registered mail or certified mail with return receipt requested for:

40.1.1. An extension of the Contract Time, including relief from damages or penalties assessed by the District for delay;

40.1.2. Payment of money or damages arising from work done by, or on behalf of, the Contractor pursuant to the Contract and payment that is not otherwise expressly provided for in the Contract Documents or to which the Contractor is not otherwise entitled; or

40.1.3. Payment of an amount that is disputed by the District.

40.2. Submission of Claim. A Claim arises upon

the District's rejection of a request by the Contractor for a Change Order. The Contractor shall submit the Claim by registered mail or certified mail with return receipt requested to the District's Director of construction and Modernization, with a copy to the Project Manager/Construction Manager. The Contractor shall submit its Claim in writing, together with all Supporting Documentation no later than the earlier of either: (1) thirty (30) days after the date the Claim arises; or (2) sixty (60) days after the date of Completion. It is the intent of the District to evaluate and resolve Claims with the Contractor as close to the events giving rise to such Claims as possible and to avoid stale or late Claims, including late notice and documenting of Claims, and to timely mitigate the issue, event, condition, circumstance and/or cause of the Claim and any adverse impacts or damages related thereto. Should the Contractor fail to submit a Claim by the deadline set forth in this Article, Contractor waives and releases such Claim, including all rights and remedies in connection therewith.

40.3. Contents of Claim. A Claim must include all Supporting Documentation and a statement identifying it as a Claim signed by an authorized agent or officer of the Contractor under penalty of perjury and including the following language immediately above or before the Contractor's signature: "I declare under penalty of perjury under the laws of the State of California that the information provided and statements made in this Claim are true and correct, substantiated and of merit." The Contractor recognizes and acknowledges that this requirement is not a mere formality but is intended to ensure that the Contractor only submits Claims that it believes are true and correct, substantiated and have merit. Should Contractor fail to submit the foregoing written statement signed under penalty of perjury, Contractor waives and releases its Claim, including all rights and remedies in connection thereto.

40.4. Subcontractor Claims. Pursuant to Public Contract Code § 9204(d)(5), a Subcontractor may request in writing, either on its own behalf or on behalf of a lower tier subcontractor, that the Contractor submit to the District a claim for work which was performed by the Subcontractor or by a lower tier Subcontractor on behalf of the subcontractor. The Subcontractor requesting that the claim be submitted to the District shall furnish reasonable documentation to support the claim. Regardless of whether or not the Contractor decides to submit the Subcontractor's claim to the District, Contractor shall provide a copy of the Subcontractor's written request, including all supporting documentation, to the Project Manager/Construction Manager within ten (10) days of Contractor's receipt of the request. In the event the Contractor agrees to submit a Subcontractor's claim to the District, the Contractor shall submit such claim as a request for a Change Order, unless such claim was previously

submitted to the District as a request for a Change Order. Within forty-five (45) days of receipt of the Subcontractor's written request, the Contractor shall notify the subcontractor in writing as to whether the Contractor submitted the claim to the District and, if the Contractor did not submit the claim, the Contractor shall provide the subcontractor with a written statement of the reasons for not having done so and shall concurrently provide a copy of such written statement to the Project Manager/Construction Manager. In the event the Contractor includes supporting documentation with such written statement, the Contractor shall concurrently provide a copy of such supporting documentation to the Project Manager/Construction Manager. If the Contractor submits a Claim on behalf of a subcontractor, the Claim shall include a statement in writing and signed by an authorized agent or officer of the Contractor under penalty of perjury that includes the following language immediately above or before the Contractor's signature: "I declare under penalty of perjury under the laws of the State of California that [insert name of Contractor] has thoroughly evaluated the claim of [insert name of Subcontractor] and determined that the information provided and statements made in the claim are true and correct, substantiated and of merit."

40.5. District Review of Claim. Upon receipt of a Claim, the District shall review the Claim and, within a period not to exceed forty-five (45) days, shall provide Contractor a written statement identifying what portion of the Claim is disputed and what portion is undisputed. Upon receipt of a Claim, the District and the Contractor may, by mutual written agreement, extend the forty-five (45) day time period. The District shall process and make payment of any undisputed portion of a Claim within sixty (60) days after the District issues its written statement. Failure by the District to provide a written statement in response to a Claim from the Contractor within the forty-five (45) day time period, or within an agreed upon extended time period, shall result in the Claim being deemed rejected in its entirety. A Claim that is rejected by reason of the District's failure to respond, or failure to timely respond, to the Claim shall not constitute an adverse finding regarding the merits of the Claim or the claimant's responsibility or qualifications.

40.6. Meet and Confer Meeting. If the Contractor disputes the District's written response, or if the District fails to respond within the time frame prescribed above, the Contractor, within fifteen (15) days of the District's written response or, if the District fails to respond, within fifteen (15) days after the District's response was due, may demand, in a writing sent to the District's Superintendent by registered mail or certified mail, return receipt requested, with a copy to the District's Director of Construction and Modernization, and Project Manager/Construction Manager, an informal conference to meet and confer

for settlement of the issues in dispute. The District shall schedule a meet and confer conference within thirty (30) days of its receipt of the Contractor's written demand.

40.7. **Mediation.** Within ten (10) business days following the conclusion of the meet and confer conference, if the Claim or any portion of the Claim remains in dispute, the District shall provide the Contractor a written statement identifying the portion of the Claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the Claim shall be processed and made within sixty (60) days after the District issues its written statement. Any disputed portion of the Claim, as identified by the Contractor in writing, shall be submitted to nonbinding mediation. The expenses and fees of the mediator and the administrative fees shall be divided among the parties equally. Each party shall pay its own legal fees, witness fees, and other expenses. The District and the Contractor shall mutually agree to a mediator within ten (10) business days after the disputed portion of the Claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the Claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. The foregoing notwithstanding, pursuant to Public Contract Code § 9204(f), the parties may mutually agree in writing to waive mediation.

40.8. Pending resolution of the dispute, Contractor agrees it will neither rescind the Contract nor stop the progress of the Work, but will allow determination by the court of the State of California, in the county in which the District's administration office is located, having competent jurisdiction of the dispute.

40.9. Nothing in this Article shall prevent the Parties from resolving any disputes or claims pursuant to Public Contract Code section 20104, et seq., if applicable.

40.10. Nothing in this Contract, waives, modifies or tolls the Contractor's obligation to present a timely claim under Government Code § 910, et seq. Therefore, in addition to complying with the contractual Claims procedures, the Contractor is required to present claims to the District pursuant to Government Code § 910, et seq.

**41. LABOR CODE REQUIREMENTS:** Provided that the Contract Price is more than \$1,000, and the Work is a "public works" under the Labor Code, the parties agree as follows:

41.1. The Work is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

41.2. District hereby provides notice of the requirements described in Labor Code § 1771.1(a) that a

contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, or engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to Labor Code § 1725.5.

41.3. Contractor acknowledges that all or a portion of the Services under this Contract are a public work, and that it and its subcontractors have complied with Labor Code § 1725.5, including, without limitation, the registration requirements thereof.

41.4. Contractor shall post all required job site notices and shall comply with all applicable requirements prescribed thereby, including but not limited to Labor Code § 1771.4.

41.5. Contractor shall comply with all applicable provisions of the Labor Code, Division 3, Part 7, Chapter 1, Articles 1-5, including, without limitation, the payment of the general prevailing per diem wage rates for public work projects of more than one thousand dollars (\$1,000).

41.6. Copies of the prevailing rate of per diem wages are on file with the District.

41.7. Contractor and each subcontractor shall comply with Chapter 1 of Division 2, Part 7 of the Labor Code, beginning with § 1720, and including §§ 1735, 1777.5 and 1777.6, forbidding discrimination, and §§ 1776, 1777.5 and 1777.6 concerning the employment of apprentices by Contractor or subcontractors. Willful failure to comply may result in penalties, including loss of the right to bid on or receive public works contracts. Contractor shall comply with Labor Code § 1777.5 pertaining to prevailing wage compensation to apprentices for preemployment activities.

**42. PAYROLL RECORDS:** Contractor and its subcontractor(s) shall keep accurate certified payroll records of employees and make them available to the District immediately upon request.

**43. AUDIT:** Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Contractor transacted under this Contract. Contractor shall retain these books, records, and systems of account during the Term of this Contract. Contractor shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Contract. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.

**44. ANTI-TRUST CLAIM:** Contractor and its subcontractor(s) agree to assign to the District all rights, title, and interest in and to all causes of action they may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15)

or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Contract or a subcontract. This assignment shall be made and become effective at the time the District tenders final payment to the Contractor, without further acknowledgment by the Parties.

**45. GOVERNING LAW:** This Contract shall be governed by and construed in accordance with the laws of the State of California with venue of any action in a in the county in which the District's administration office is located.

**46. PROVISIONS REQUIRED BY LAW DEEMED INSERTED:** Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and this Contract shall be read and enforced as though it were included therein.

**47. BINDING CONTRACT:** This Contract shall be binding upon the Parties hereto and upon their successors and assigns, and shall inure to the benefit of the Parties and their successors and assigns.

**48. DISTRICT WAIVER:** District's waiver of any term, condition, covenant or waiver of a breach of any term, condition or covenant shall not constitute the waiver of any other term, condition or covenant or the waiver of a breach of any other term, condition or covenant.

**49. INVALID TERM:** If any provision of this Contract is declared or determined by any court of competent jurisdiction to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining parts, terms and provisions shall not be affected thereby, and said illegal, unenforceable or invalid part, term or provision will be deemed not to be a part of this Contract.

**50. ENTIRE CONTRACT:** This Contract sets forth the entire Contract between the Parties hereto and fully supersedes any and all prior agreements, understanding, written or oral, between the Parties hereto pertaining to the subject matter thereof. This Contract may be modified only by a writing evidencing the Parties' mutual consent.

#### **51. CLOSEOUT PROCEDURES**

51.1. Punch List. Contractor shall notify the District when Contractor considers the Work complete. Upon notification, District will prepare a list of minor items to be completed or corrected ("**Punch List**"). Contractor and/or its subcontractors shall proceed promptly to complete and correct items on the Punch List. Failure to include an item on Punch List does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

51.2. Upon receipt of Contractor's written notice that all of the Punch List items have been fully completed and the Work is ready for final inspection and acceptance, District and Project Inspector will inspect the Work and shall submit to Contractor and District a final inspection report noting the Work, if any, required in order to complete in accordance with the Contract Documents. Absent unusual circumstances,

this report shall consist of the Punch List items not yet satisfactorily completed.

51.3. Upon Contractor's completion of all items on the Punch List and any other uncompleted portions of the Work, the Contractor shall notify the District, who shall again inspect such Work. If the District finds the Work complete and acceptable under the Contract Documents, the District will notify Contractor, who shall then submit to the District its final Application for Payment.

51.4. More than two (2) requests of the District to make a final inspection shall be considered an additional service of District, Construction Manager, and/or Project Inspector, and all subsequent costs will be invoiced to Contractor and/or, if funds are available, withheld from remaining payments.

51.5. Utility Connections. Buildings shall be connected to water, gas, sewer, and electric services, complete and ready for use. Service connections shall be made and existing services reconnected.

#### 51.6. As-Built Drawings.

51.6.1. In addition to its requirement to provide the District the opportunity to review the Contractor's monthly As-Built Drawings the Contractor shall provide a final set of As-Built Drawings, sometimes referred to as "Record Drawings," showing all of the Work as actually constructed upon Completion of the Project as indicated in the Specifications.

51.6.2. Contractor is liable and responsible for any and all inaccuracies in the As-Built Drawings, even if inaccuracies become evident at a future date.

51.6.3. Upon Completion of the Work and as a condition precedent to approval of final payment, Contractor shall obtain the Inspector's approval of the final set of As-Built Drawings.

51.7. Operations & Maintenance Manuals: Contractor shall prepare all operation and maintenance manuals and date as indicated in the Specifications.

51.8. Closeout Documentation: Contractor shall provide all Closeout Documentation, which shall include the following, without limitation:

51.8.1. A full set of final As-Built Drawings, as further defined herein.

51.8.2. All Operations & Maintenance Manuals and information, as further defined herein.

51.8.3. All Warranties, as further defined herein.

51.8.4. Verified report(s) for all scope(s) of work (DSA 6-C, Rev 03/22/13, or more recent revision if available).

**52. RETENTION OF ESCROW:** Pursuant to section 22300, et seq. of the California Public Contract Code, the Contractor may request of the District that retention payments be made to an escrow agent. Contractor is required request in writing that the District make such

retention payments to an escrow agent, and the District will provide the Contractor with the District's

form.

**SPECIAL TERMS AND CONDITIONS TO CONTRACT**

**1. Restrictions on Hours of Work** (check ONE):

1.1. The Project will have no restrictions on hours of Work:

1.2. Contractor shall not work the following hours:

1.2.1. Monday through Friday: \_\_\_\_\_

1.2.2. Saturdays/Sundays: \_\_\_\_\_

Contractor shall not be entitled to any additional compensation for performing Work outside these hours. The Total Project Price includes all costs associated with limiting the work hours for the Project as set forth herein.

**2. Contractor’s Key Personnel:**

2.1. The Contractor agrees that the following key personnel in Contractor’s firm shall be associated with the Project in the following capacities:

2.1.1. Contractor’s Project Manager: \_\_\_\_\_

2.1.2. Contractor’s Project Superintendent: \_\_\_\_\_

2.1.3. Other: \_\_\_\_\_

2.1.4. Other: \_\_\_\_\_

2.1.5. Other: \_\_\_\_\_

2.2. All proposed key personnel are subject to review and acceptance by the District prior to commencing work on the Project. The District reserves the right to replace any individual or consultant in the best interest of the Project. The Contractor shall not change any of the key personnel listed above without prior written approval by District. The District shall be allowed to interview and approve replacement personnel.

**3. Subcontractors:** Contractor will use the following Subcontractors for the Project **(Use extra sheets/extra space as needed—fill in all the requested information)**

Subcontractor Name	Location	CSLB Lic. #	DIR Reg. #	Type of Work

**4. Substitution for Specified Items**

4.1. Requests for substitutions prior to award of the Contract shall be done within the time period indicated in the Bid Form. Approved substitutions shall be listed in Addenda.

4.2. NOT PERMITTED FOR THIS PROJECT: ~~Requests for substitutions after award of the Contract shall be within THIRTY FIVE (35) days of the date of the Notice of Award. This time period can be extended by the District only, in its sole discretion.~~

- 4.3. Whenever in the Specifications any materials, process, or article is indicated or specified by grade, patent, or proprietary name, or by name of manufacturer, that Specification shall be deemed to be followed by the words "or equal." Contractor may, unless otherwise stated, offer any material, process, or article that shall be substantially equal or better in every respect to that so indicated or specified.
    - 4.3.1. If the material, process, or article offered by Contractor is not, in the opinion of the District, substantially equal or better in every respect to that specified, then Contractor shall furnish the material, process, or article specified in the Specifications without any additional compensation or change order.
    - 4.3.2. This provision shall not be applicable with respect to any material, product, thing or service for which District made findings and gave notice in accordance with Public Contract Code section 3400(b); therefore, Contractor shall not be entitled to request a substitution with respect to those materials, products or services.
  - 4.4. A request for a substitution shall be in writing and shall include:
    - 4.4.1. All variations of the proposed substitute from the material specified including, but not limited to, principles of operation, materials, or construction finish, thickness or gauge of materials, dimensions, weight, and tolerances;
    - 4.4.2. Available maintenance, repair or replacement services;
    - 4.4.3. Increases or decreases in operating, maintenance, repair, replacement, and spare parts costs;
    - 4.4.4. Whether or not acceptance of the substitute will require other changes in the Work (or in work performed by the District or others under Contract with the District); and
    - 4.4.5. The time impact on any part of the Work resulting directly or indirectly from acceptance of the proposed substitute.
  - 4.5. No substitutions shall be made until approved, in writing, by the District. The burden of proof as to equality of any material, process, or article shall rest with Contractor. The Contractor warrants that if substitutes are approved:
    - 4.5.1. The proposed substitute is equal or superior in all respects to that specified, and that such proposed substitute is suitable and fit for the intended purpose and will perform adequately the function and achieve the results called for by the general design and the Contract Documents;
    - 4.5.2. The Contractor provides the same warranties and guarantees for the substitute that would be provided for that specified;
    - 4.5.3. The Contractor shall be fully responsible for the installation of the substitute and any changes in the Work required, either directly or indirectly, because of the acceptance of such substitute, with no increase in Contract Price or Contract Time. Incidental changes or extra component parts required to accommodate the substitute will be made by the Contractor without a change in the Contract Price or Contract Time;
    - 4.5.4. The Contractor shall be responsible for any re-design costs occasioned by District's acceptance and/or approval of any substitute; and
    - 4.5.5. The Contractor shall, in the event that a substitute is less costly than that specified, credit the District with one hundred percent (100%) of the net difference between the substitute and the originally specified material. In this event, the Contractor agrees to execute a deductive Change Order to reflect that credit.
  - 4.6. In the event Contractor furnishes a material, process, or article more expensive than that specified, the difference in the cost of that material, process, or article so furnished shall be borne by Contractor.
  - 4.7. In no event shall the District be liable for any increase in Contract Price or Contract Time due to any claimed delay in the evaluation of any proposed substitute or in the acceptance or rejection of any proposed substitute.
  - 4.8. If the District approves a substitution after the award of the Contract, the District shall memorialize that approval in a Change Order or other applicable Contract modification process.
5. **Conferences and Meetings.** Contractor's supervisory personnel for the Work and the Contractor's management personnel shall attend all required meetings as required by the Contract Documents or as requested by the District. The Contractor's personnel participating in conferences and meetings relating to the Work shall be authorized to act on

behalf of the Contractor and to bind the Contractor. The Contractor is solely responsible for arranging for the attendance by Subcontractors and Material Suppliers at meetings and conferences relating to the Work as necessary, appropriate or as requested by the District.

- 5.1. **Preconstruction Conference.** The Contractor’s representatives (and representatives of Subcontractors as requested by the District) shall attend a preconstruction conference at such time and place as designated by the District. The preconstruction conference will generally address the requirements of the Work and Contract Documents, and to establish construction procedures. Subject matters of the preconstruction conference will include as appropriate: (a) administrative matters, including an overview of the respective responsibilities of the District, Architect, Construction Manager, Contractor, Subcontractors, Project Inspector, and others performing any part of the Work or services relating to the Work; (b) Submittals; (c) Changes; (d) employment practices, including Certified Payroll preparation and submission and prevailing wage rate responsibilities of the Contractor and Subcontractors; (e) Progress Schedule development and maintenance; (f) development of Schedule of Values and payment procedures; (g) implementation of BIM, if applicable; (h) communication procedures, including the handling of Requests for Information; (i) emergency and safety procedures; (j) Site visitor policies; (k) conduct of Contractor/Subcontractor personnel at the Site; and (l) Completion, Punchlist and closeout procedures.]
- 5.2. **Progress Meetings.** Progress meetings will be conducted according to the schedule set forth below. The Contractor’s representatives and representatives of Subcontractors (as requested by the District) shall attend progress meetings. Progress Meetings will be chaired by the District or the Construction Manager and will generally include as agenda items: Site safety, field issues, coordination of Work, construction progress and impacts to timely Completion, if any. The purposes of the progress meetings include: a formal and regular forum for discussion of the status and progress of the Work by all Project participants, a review of progress or resolution of previously raised issues and action items assigned to the Project participants, and reviews of the Progress schedule and submittals.
- 5.3. **Special Meetings.** As deemed necessary or appropriate by the District, special meetings will be conducted with the participation of the Contractor, Subcontractors and other Project participants as requested by the District.

<b>MEETING SCHEDULE</b>	
<b>Preconstruction</b>	<b>One week prior to commencement of work</b>
<b>Progress</b>	<b>Once per week with a minimum of 1 and maximum of 3</b>
<b>Special</b>	<b>When requested by District</b>

6. **Schedule of Work.** Contractor shall provide a preliminary schedule of construction indicating the starting and completion dates of the various stages of the Work, including any information and following any form as may be specified in the Specifications. Once approved by District, this shall be attached as Exhibit B and incorporated herein as the Construction Schedule. This schedule shall include and identify all tasks that are on the Project’s critical path with a specific determination of the start and completion of each critical path task, all contract milestones and each milestone’s completion date(s) as may be required by the District, and the date of Project Completion.

**Form for Project Schedule**

<i>Event / Milestone</i>	<i>Date</i>
<b>Notice to Proceed</b>	_____, 20__
<b>Construction Begins</b>	_____, 20__
<b>Milestone</b> _____	_____, 20__
<b>Milestone</b> _____	_____, 20__
<b>Completion</b>	_____, 20__

Contractor acknowledges the District’s Instructional Calendar that has already been provided and shall coordinate its work to not disrupt, in any way, District activities, including testing, at the construction site.

7. **Final Inspection**



- 7.1. Contractor shall comply with Punch List procedures as provided herein, and maintain the presence of a Project Superintendent and Project Manager until the Punch List is complete to ensure proper and timely completion of the Punch List. Under no circumstances shall Contractor demobilize its forces prior to completion of the Punch List. Upon receipt of Contractor's written notice that all of the Punch List items have been fully completed and the Work is ready for final inspection and acceptance, Architect (if any) and Project Inspector will inspect the Work and shall submit to Contractor and District a final inspection report noting the Work, if any, required in order to complete in accordance with the Contract Documents. Absent unusual circumstances, this report shall consist of the Punch List items not yet satisfactorily completed.
- 7.2. Upon Contractor's completion of all items on the Punch List and any other uncompleted portions of the Work, the Contractor shall notify the District and Architect (if any), who shall again inspect such Work. If the Architect (if any) and/or the District finds the Work complete and acceptable under the Contract Documents, the Architect (if any) and/or the District will notify Contractor, who shall then jointly submit to the Architect (if any) and the District its final Application for Payment.
- 7.3. Final Inspection Requirements
  - 7.3.1. Before calling for final inspection, Contractor shall determine that the following have been performed:
  - 7.3.2. The Work has been completed.
  - 7.3.3. All life safety items are completed and in working order.
  - 7.3.4. Mechanical and electrical Work are complete and tested, fixtures are in place, connected, and ready for tryout.
  - 7.3.5. Electrical circuits scheduled in panels and disconnect switches labeled.
  - 7.3.6. Painting and special finishes complete.
  - 7.3.7. Doors complete with hardware, cleaned of protective film, relieved of sticking or binding, and in working order.
  - 7.3.8. Tops and bottoms of doors sealed.
  - 7.3.9. Floors waxed and polished as specified.
  - 7.3.10. Broken glass replaced and glass cleaned.
  - 7.3.11. Grounds cleared of Contractor's equipment, raked clean of debris, and trash removed from Site.
  - 7.3.12. Work cleaned, free of stains, scratches, and other foreign matter, of damaged and broken material replaced.
  - 7.3.13. Finished and decorative work shall have marks, dirt, and superfluous labels removed.
  - 7.3.14. Final cleanup, as provided herein.
8. **DISABLED VETERANS BUSINESS ENTERPRISES:** Section 17076.11 of the Education Code requires school districts using funds allocated pursuant to the State of California School Facility Program for the construction or modernization of a school building (SFP Funds) to have a participation of at least three percent (3%), per year, of the overall dollar amount expended each year by the school district, for disabled veteran business enterprises (DVBE). If this Contract uses School Facilities Program Funds, Contractor must submit, with its executed Contract, appropriate documentation to the District identifying the steps Contractor has taken to solicit DVBE participation in conjunction with this Contract.

**CERTIFICATIONS TO BE COMPLETED BY CONTRACTOR**

**THE UNDERSIGNED MUST CHECK EACH BOX AND EXECUTE THIS FORM AND HEREBY CERTIFIES TO THE GOVERNING BOARD OF THE DISTRICT THAT:**

- He/she is a representative of the Contractor,
- He/she is familiar with the facts herein certified and acknowledged,
- He/she is authorized and qualified to execute this Agreement and these certifications on behalf of Contractor and that by executing this Agreement he/she is certifying the following items.

**Labor Code Sections 1860-1861 (Workers' Compensation).** In accordance with Labor Code section 3700, every contractor will be required to secure the payment of compensation to his or her employees. I certify that I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

**Government Code Sections 8355-8357 (Drug-Free Workplace).** I certify that I will provide a drug-free workplace by doing all of the following:

- (1) 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 the actions that will be taken against employees for violations of the prohibition.
- (2) Establishing a drug-free awareness program to inform employees about all of the following:
  - (A) The dangers of drug abuse in the workplace.
  - (B) The person's or organization's policy of maintaining a drug-free workplace.
  - (C) Any available drug counseling, rehabilitation, and employee assistance programs.
  - (D) The penalties that may be imposed upon employees for drug abuse violations.
- (3) 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 also acknowledge that this Contract may be subject to suspension of payments under the contract or grant or termination of the contract or grant, or both, and the contractor or grantee thereunder may be subject to debarment, in accordance with the requirements of the above-referenced statute, if the contracting or granting agency determines that any of the following has occurred:

- (1) The contractor or grantee has made a false certification under Section 8355.
- (2) The contractor or grantee violates the certification by failing to carry out the requirements of subdivisions (a) to (c), inclusive, of Section 8355.

I also acknowledge that the Department of General Services shall establish and maintain a list of individuals and organizations whose contracts or grants have been canceled due to failure to comply with the above-referenced statute. This list shall be updated monthly and published each month. No state agency shall award a contract or grant to a person or organization on the published list until that person or organization has complied with the above-referenced statute.

**Tobacco-Free Environment.** Pursuant to, without limitation, 20 U.S.C. section 6083, Labor Code section 6400 et seq., Health & Safety Code section 104350 et seq. and District Board Policies, all District sites, including the Project site, are tobacco-free environments. Smoking and the use of tobacco products by all persons is prohibited on or in District property. District property includes school buildings, school grounds, school owned vehicles and vehicles owned by others while on District property. I acknowledge that I am aware of the District's policy regarding tobacco-free environments at District sites, including the Project site and certify that I will adhere to the requirements of that policy and not permit any of my firm's employees, agents, subcontractors, or my firm's subcontractors' employees or agents to use tobacco and/or smoke on the Project site.

**No Hazardous Materials.** I certify that no Asbestos, or Asbestos-Containing Materials, polychlorinated biphenyl (PCB), or any material listed by the federal or state Environmental Protection Agency or federal or state health agencies as a hazardous material, or any other material defined as being hazardous under federal or state laws, rules, or regulations (“New Hazardous Material”), shall be furnished, installed, or incorporated in any way into the Project or in any tools, devices, clothing, or equipment used to affect any portion of Contractor's work on the Project for District. I have instructed our employees with respect to the above-mentioned standards, hazards, risks, and liabilities.

- (i) Asbestos and/or asbestos-containing material shall be defined as all items containing but not limited to chrysotile, crocidolite, 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. Any disputes involving the question of whether or not material is New Hazardous Material shall be settled by electron microscopy or other appropriate and recognized testing procedure, at the District’s determination. The costs of any such tests shall be paid by Contractor if the material is found to be New Hazardous Material.
- (ii) All Work or materials found to be New Hazardous Material or Work or material installed with equipment containing “New Hazardous Material,” will be immediately rejected and this Work will be removed at Contractor's expense at no additional cost to the District.

**Lead-Based Materials.** I acknowledge and certify that the Work may disturb lead-containing building materials and that I must notify the District if any work may result in the disturbance of lead-containing building materials.

Because it is assumed by the District that all painted surfaces (interior as well as exterior) within the District contain some level of lead, it is imperative that the Contractor, its workers and subcontractors fully and adequately comply with all applicable laws, rules and regulations governing lead-based materials (including title 8, California Code of Regulations, section 1532. 1).

The Contractor hereby acknowledges, under penalty of perjury, that it has received notification of potential lead-based materials on the District’s property and is knowledgeable regarding and will comply with all applicable laws, rules, and regulations governing work with, and disposal of, lead.

**Imported Materials.** All soils, aggregate, or related materials (“Fill”) that Contractor, a Subcontractor, agent or supplier, in any way, provides or delivers and/or supplies to the Project Site shall be free of any and all hazardous material as defined in section 25260 of the Health and Safety Code, shall satisfy the requirements of any environmental review of the Project performed pursuant to the statutes and guidelines of the California Environmental Quality Act, sections 21000 et seq. of the Public Resources Code (“CEQA”), and shall comply with the requirements of sections 17210 et seq. of the Education Code, including requirements for a Phase I environmental assessment acceptable to the State of California Department of Education and Department of Toxic Substances Control. I acknowledge that, to the furthest extent permitted by California law, the indemnification provisions in the Contract Documents apply to, without limitation, any claim(s) connected with providing, delivering, and/or supplying Fill.

I certify that I am duly authorized to legally bind the Contractor to this certification, that the contents of this certification are true, and that this certification is made under the laws of the State of California.

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

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

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

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

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

**CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION:** The undersigned does hereby certify to the governing board of the District that (1) he/she is a representative of the Contractor, (2) he/she is familiar with the facts herein certified, (3) he/she is authorized and qualified to execute this certificate on behalf of Contractor; and (4) that the following is true and correct:

1. **Education Code.** Contractor has taken at least one of the following actions with respect to the Project (check all that apply):

\_\_\_\_\_ The Contractor has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Contractor's employees and all of its subcontractors' employees who may have contact with District pupils in the course of providing services pursuant to the Contract, and the California Department of Justice has determined that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of Contractor's employees and of all of its subcontractors' employees who may come in contact with District pupils during the course and scope of the Contract is attached hereto; and/or

\_\_\_\_\_ Pursuant to Education Code section 45125.2, Contractor has installed or will install, prior to commencement of work, a physical barrier at the Project site, that will limit contact between Contractor's employees and District pupils at all times; and/or

\_\_\_\_\_ Pursuant to Education Code section 45125.2, Contractor certifies that all employees will be under the continual supervision of, and monitored by, an employee of the Contractor who the California Department of Justice has ascertained has not been convicted of a violent or serious felony. The name and title of the employee who will be supervising Contractor's employees and its subcontractors' employees is:

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

\_\_\_\_\_ The Work on the Contract is at an unoccupied school site and no employee and/or subcontractor or supplier of any tier of Contract shall come in contact with the District pupils.

2. **Megan's Law (Sex Offenders).** I have verified and will continue to verify that the employees of Contractor that will be on the Project site and the employees of the Subcontractor(s) that will be on the Project site are **not** listed on California's "Megan's Law" Website (<http://www.meganslaw.ca.gov/>).

Contractor's responsibility for background clearance extends to all of its employees, subcontractors, and employees of subcontractors coming into contact with District pupils regardless of whether they are designated as employees or acting as independent contractors of the Contractor.

I certify that I am duly authorized to legally bind the Contractor to this certification, that the contents of this certification are true, and that this certification is made under the laws of the State of California.

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

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

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

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

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

**ROOFING CONTRACT FINANCIAL INTEREST CERTIFICATION (Public Contract Code § 3006)**

I \_\_\_\_\_ **[Your Name]**, \_\_\_\_\_ **[Firm Name]**  
certify that I have not offered, given, or agreed to give, received, accepted, or agreed to accept, any gift, contribution, or any financial incentive whatsoever to or from any person in connection with a roof project contract or subcontract on the Project. As used in this certification, "person" means any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

I \_\_\_\_\_ **[Your Name]**, \_\_\_\_\_ **[Firm Name]**  
certify that I do not have, and throughout the duration of the Contract, I will not have, any financial relationship in connection with the performance of the Contract with any architect, engineer, roofing consultant, materials manufacturer, distributor, or vendor that is not disclosed below.

I \_\_\_\_\_ **[Your Name]**, \_\_\_\_\_ **[Firm Name]**  
have the following financial relationships with an architect, engineer, roofing consultant, materials manufacturer, distributor, or vendor, or other person in connection with the following roof project contract:

Name of firm ("Firm"): \_\_\_\_\_

Mailing address: \_\_\_\_\_

Address of branch office used for this Project: \_\_\_\_\_

If subsidiary, name and address of parent company: \_\_\_\_\_

For Projects without substantive roofing components, check the following box and execute this certification:

- The Work on the Contract (1) does not include the replacement or repair of a roof or (2) is a repair of twenty five percent (25%) or less of the roof, (3) or is a repair project that has a total cost of twenty one thousand dollars (\$21,000) or less.

**I CERTIFY UNDER PENALTY OF PERJURY THAT TO THE BEST OF MY KNOWLEDGE, THE CONTENTS OF ALL CERTIFICATIONS, DISCLOSURES AND DECLARATIONS ARE TRUE.**

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

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

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

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

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

**EXHIBIT A ("SCOPE OF WORK")**

The Project involves the removal and replacement of 22,716 square foot of existing roofing in the area of the Site as indicated in the picture below.



Contractor shall:

- Remove and dispose of existing roofing system.
- Replace with built-up roofing system.

**SPECIFICATIONS**

New roofing system shall be a five "5" Ply built up system 90# composite asphalt cap sheet, GAF Liberty, or equal, white.

Contractor shall install the roof and perform the Work pursuant manufacturer's standards and requirements, and must be in compliance with the National Roofing Contractors Association standards, conform to UL Roof Building Materials Directory for roof assembly fire hazard requirements for a minimum UL Class A, and meet all current applicable building codes.

**PERFORMANCE BOND**

**PERFORMANCE BOND (100% of Contract Price)**

**(Note: Contractors must use this form, NOT a surety company form.)**

**KNOW ALL PERSONS BY THESE PRESENTS:**

**WHEREAS**, the governing board ("Board") of the **Mammoth Unified School District** ("District") and \_\_\_\_\_  
\_\_\_\_\_, ("Principal") have entered into a contract for the furnishing of all materials and labor, services and transportation, necessary, convenient, and proper to perform the following project:

\_\_\_\_\_  
("Project" or "Contract") \_\_\_\_\_ (Project Name)

which Contract dated \_\_\_\_\_, 2019, and all of the Contract Documents attached to or forming a part of the Contract, are hereby referred to and made a part hereof, and

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

**NOW, THEREFORE**, the Principal and \_\_\_\_\_ ("Surety") are held and firmly bound unto the Board of the District in the penal sum of:

\_\_\_\_\_ DOLLARS

(\$ \_\_\_\_\_), lawful money of the United States, for the payment of which sum well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally, firmly by these presents, to:

- Perform all the work required to complete the Project; and
- Pay to the District all damages the District incurs as a result of the Principal's failure to perform all the Work required to complete the Project.

The condition of the obligation is such that, if the above bounden Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, and agreements in the Contract and any alteration thereof made as therein provided, on his or its part to be kept and performed at the time and in the intent and meaning, including all contractual guarantees and warranties of materials and workmanship, and shall indemnify and save harmless the District, its trustees, officers and agents, as therein stipulated, then this obligation shall become null and void, otherwise it shall be and remain in full force and virtue.

As a condition precedent to the satisfactory completion of the Contract, the above obligation shall hold good for a period equal to the warranty and/or guarantee period of the Contract, during which time Surety's obligation shall continue if Contractor shall fail to make full, complete, and satisfactory repair, replace, and totally protect the District from loss or damage resulting from or caused by defective materials or faulty workmanship. The obligations of Surety hereunder shall continue so long as any obligation of Contractor remains. Nothing herein shall limit the District's rights or the Contractor's or Surety's obligations under the Contract, law or equity, including, but not limited to, California Code of Civil Procedure section 337.15.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract or to the Work to be performed thereunder shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the Contract Documents or to the Work.

Any claims under this bond may be addressed to the Surety at the following address. This cannot be the Contractor's broker for this bond, but must be an employee of the Surety or the Surety's legal counsel:

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

Attention: \_\_\_\_\_

Telephone No.: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Fax No.: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

E-mail Address: \_\_\_\_\_

IN WITNESS WHEREOF, two (2) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the \_\_\_\_ day of \_\_\_\_\_, 2019.

**Principal**

**Surety**

\_\_\_\_\_  
(Name of Principal)

\_\_\_\_\_  
(Name of Surety)

\_\_\_\_\_  
(Signature of Person with Authority)

\_\_\_\_\_  
(Signature of Person with Authority)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Name of California Agent of Surety)

\_\_\_\_\_  
(Address of California Agent of Surety)

\_\_\_\_\_  
(Telephone Number of California Agent of Surety)

Contractor must attach a Notarial Acknowledgment for all Surety's signatures and a Power of Attorney and Certificate of Authority for Surety. The California Department of Insurance must authorize the Surety to be an admitted surety insurer.



**PAYMENT BOND**

**PAYMENT BOND -- Contractor's Labor & Material Bond (100% of Contract Price)**

**(Note: Contractors must use this form, NOT a surety company form.)**

**KNOW ALL PERSONS BY THESE PRESENTS:**

**WHEREAS**, the governing board ("Board") of the **Mammoth Unified School District** ("District") and \_\_\_\_\_  
\_\_\_\_\_, ("Principal") have entered into a contract for the furnishing of all materials and labor, services and transportation, necessary, convenient, and proper to

\_\_\_\_\_ (Project Name)  
("Project" or "Contract")

which Contract dated \_\_\_\_\_, 2019, and all of the Contract Documents attached to or forming a part of the Contract, are hereby referred to and made a part hereof, and

**WHEREAS**, pursuant to law and the Contract, the Principal is required, before entering upon the performance of the work, to file a good and sufficient bond with the body by which the Contract is awarded in an amount equal to 100 percent (100%) of the Contract price, to secure the claims to which reference is made in the Civil Code of California, including section 9100, and the Labor Code of California, including section 1741.

**NOW, THEREFORE**, the Principal and \_\_\_\_\_ ("Surety") are held and firmly bound unto the Board of the District in the penal sum of:

\_\_\_\_\_ DOLLARS

(\$ \_\_\_\_\_), lawful money of the United States, being a sum not less than the total amount payable by the terms of Contract, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns, jointly and severally, by these presents.

The condition of this obligation is that if the Principal or any of his or its subcontractors, of the heirs, executors, administrators, successors, or assigns of any, all, or either of them shall fail to pay for any labor, materials, provisions, provender, or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that the Surety will pay the same in an amount not exceeding the amount herein above set forth, and also in case suit is brought upon this bond, will pay a reasonable attorney's fee to be awarded and fixed by the Court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under sections 9000 through 9566 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void; otherwise it shall be and remain in full force and affect.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract or to the Work to be performed thereunder shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the Contract Documents or to the Work.

IN WITNESS WHEREOF, two (2) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the \_\_\_\_ day of \_\_\_\_\_, 2019.

**Principal**

**Surety**

\_\_\_\_\_  
(Name of Principal)

\_\_\_\_\_  
(Name of Surety)

\_\_\_\_\_  
(Signature of Person with Authority)

\_\_\_\_\_  
(Signature of Person with Authority)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Name of California Agent of Surety)

\_\_\_\_\_  
(Address of California Agent of Surety)

\_\_\_\_\_  
(Telephone Number of California Agent of Surety)

**Contractor must attach a Notarial Acknowledgment for all Surety's signatures and a Power of Attorney and Certificate of Authority for Surety. The California Department of Insurance must authorize the Surety to be an admitted surety insurer.**