

Board Office Use: Legislative File Info.	
File ID Number	26-0682
Introduction Date	04-22-2026
Enactment Number	
Enactment Date	



**OAKLAND UNIFIED
SCHOOL DISTRICT**
Community Schools, Thriving Students

Memo

To Board of Education
From Denise Gail Saddler, Ed.D., Interim Superintendent
Preston Thomas, Chief Systems & Services Officer
Carmelita Reyes, Sr. Operations Director Strategic Initiatives

Board Meeting Date April 22, 2026

Subject Change Order No. 1, Agreement Between Owner and Contractor – Nicholas Guterrez doing Business as N G Builder Company – Highland Child Development Center Play Yard Site Improvement Project – Division of Facilities Planning and Management

Action Requested Approval by the Board of Education of Change Order No. 1, Agreement Between Owner and Contractor by and between the **District and Nicholas Guterrez doing business as N G Builder Company**, Santa Clara, CA, to provide an extension to the term of the Agreement from December 11, 2025, through February 25, 2026, to April 30, 2026, (an additional 64 calendar days), as identified in the PCO No. 1 for the **Highland Child Development Center Play Yard Site Improvement Project**. All other terms and conditions of the Agreement remain in full force and effect.

Discussion This Change Order is for a sixty-four calendar days' time extension. Extended time is needed due to procurement of play structure and rain delay.

LBP (Local Business Participation Percentage) 00.00%

Recommendation Approval by the Board of Education of Change Order No. 1, Agreement Between Owner and Contractor by and between the District and Nicholas Guterrez doing business as N G Builder Company, Santa Clara, CA, to provide an extension to the term of the Agreement from December 11, 2025, through February 25, 2026, to April 30, 2026, (an additional 64 calendar days), as identified in the PCO No. 1 for the Highland Child Development Center Play Yard Site Improvement Project. All other terms and conditions of the Agreement remain in full force and effect.

Fiscal Impact OCI Oakland Children Initiative

Attachments

- Change Order No. 1 and Other Documents
- Routing Form
- File ID: 25-2675



CHANGE ORDER

Owner: Oakland Unified School District
Project: Highland CDC Play Yard Site Improvement
School: Highland CDC
Contractor: NG Builders

Change Order No.: 1

Date: March 3, 2026

DSA File No.: N/A
DSA Application No.: N/A
OUSD Project: 25093
Project Manager: April Clement

IF NOT PREVIOUSLY DIRECTED, THE CONTRACTOR IS HEREBY DIRECTED TO PERFORM THE WORK REQUIRED BY THIS CHANGE ORDER AND ITS ATTACHMENTS, INCLUDING BUT NOT LIMITED TO THE SUMMARY, THE RELEVANT CORs OR PCOs, AND THE BACKUP DOCUMENTATION FOR THE CORs AND PCOs.

DESCRIPTION OF AGREED CHANGES IN WORK OR CONTRACT (refer to attached pages or incorporated documents, if necessary): This change order is issued to extend the contract time. Although the contract commencement date was 12-15-25. Due to delay with the play equipment procurement. Play structure was later delivered on 2-25-26. The contract extended to 4-30-26 at no additional cost. All contract terms remain the same.

TOTAL ADJUSTMENT TO CONTRACT TIME BY THIS CHANGE ORDER: 64 calendar days

Director Initials _____

SUMMARY OF ADJUSTMENTS TO CONTRACT PRICE:



NOTE: Any unspent allowance amounts (including any contingency allowance) shall be retained by the Owner at the end of the Contract. To process an allowance expenditure, use the Allowance Expenditure Directive form, which requires signatures of Contractor and Owner, but does not require Board approval.

[NOTE TO OWNER: Use one of the two following "Summary of Adjustments to Time for Completion" tables depending on whether the contract requires completion (a) within a specified number of days, or (b) by a specific date.]

SUMMARY OF ADJUSTMENTS TO TIME FOR COMPLETION:

Original contract time:	<u>75</u> Calendar Days
Prior change order adjustments to contract time:	+ <u>0</u> Calendar Days
This change order's adjustment to contract time:	+ <u>64</u> Calendar Days
Adjusted contract time:	= <u>139</u> Calendar Days

Start Date per Notice to Proceed: December 15, 2025

Completion Deadline Based on Adjusted Contract Time: April 30, 2026



The compensation (time and cost) set forth in this change order comprises the total compensation due the Contractor for the change defined in the change order, including extra work and impact on unchanged work. Acceptance of this change order by Contractor constitutes a full and complete accord and satisfaction of any and all claims by Contractor arising out of or relating to the work and issues covered by the change order, including but not limited to claims for the following: Costs to perform the work; contract balance; contract retention; time; extended field, home office, and other overhead; acceleration, impact, disruption, and delay damages; any and all direct and indirect costs; claims by subcontractors and suppliers; and any and all other requests to the Owner for time or money, from any source and under any legal theory whatsoever, as to the subject of this change order. No signature under protest or accompanied by reservation of rights or protest language, or any other attempts to avoid such waiver shall be of any force or effect whatsoever. No additions or deletions to this change order shall be allowed, except with the written and signed approval of the Owner. No language contained in backup material to any change order shall constitute a waiver of anything in this paragraph or the next paragraph, and such backup material shall be interpreted as though such language does not exist.

This Change Order is hereby agreed to, accepted, and approved, and will be binding and enforceable upon signature by Contractor and approval by the Owner's governing body.

Approved: Architect of Record Print Name: N/A Signature: Date:	Approved and Agreed: General Contractor Print Name: Nicholas Gutierrez Signature: [Signature] Date: 3/12/26	Approved and Agreed: Chief of Systems & Services Officer [Signature] Date: 3/12/26
Approved as to Form: [Signature: James Traber] OUSD Facilities Counsel Date: 3/13/2026		

319-661/7106499.1



April Clement <april.clement@ousd.org>

Highland CDC -Play Structure Delivery Update

2 messages

April Clement <april.clement@ousd.org>

Fri, Jan 23, 2026 at 4:12 PM

To: Nicholas Gutierrez <nick@ngbuilders.llc>

Cc: Josie Marrufo <josie@ngbuilders.llc>, "Muhanad Amous (Consultant)" <muhanad.amous@ousd.org>

Hi Nick,

This is an update on the delivery schedule for the play structures.

It has been confirmed that Highland CDC will ship on Friday, January 30th with delivery expected during the week of February 2nd.

Harriet Tubman is scheduled to ship no later than Thursday, February 26th, with delivery anticipated during the week of March 2nd.

I've attached the LSI shipping guidelines for your reference. Please note that the trucking company will not offload the shipment, so arrangements will need to be made to offload the equipment upon delivery.

Thank you,

April ClementProject Manager, Facilities
Oakland Unified School District*Every Student Thrives!*www.OUSD.org

P) 510-534-7754

f) 510-535-7042

955 High Street

Oakland, CA 94601

april.clement@ousd.org

2 attachments

Ross Recreation Guidelines.pdf
61K **LSI Guidelines.pdf**
1148K

Nicholas Gutierrez <nick@ngbuilders.llc>

Fri, Jan 23, 2026 at 4:19 PM

To: April Clement <april.clement@ousd.org>

Cc: Josie Marrufo <josie@ngbuilders.llc>, "Muhanad Amous (Consultant)" <muhanad.amous@ousd.org>

Hey April,

It has been confirmed that Highland CDC will ship on Friday, January 30th with delivery expected during the week of February 2nd.

Thanks for this update!

Harriet Tubman is scheduled to ship no later than Thursday, February 26th, with delivery anticipated during the week of March 2nd.

Thanks for this update! I will prepare a schedule!

I've attached the LSI shipping guidelines for your reference. Please note that the trucking company will not offload the shipment, so arrangements will need to be made to offload the equipment upon delivery

Yes, I remember you updating me you guys will need assistance offloading everything. I did inform Muhanad if we had equipment on site doing our work we would help unload but unfortunately since the delay took place we no longer will have equipment on site so we will need to rent one. Just to confirm we can submit this on small T&M tag? Please advise.

Nicholas Gutierrez

Senior Project Manager

Cell: 707-890-2836

Office: 707-852-5046

Email: Nick@ngbuilders.llc

BUILDING TOWARDS THE FUTURE



Next Generation Of Builders

[Quoted text hidden]

CHANGE ORDER REQUEST (Proposed Change Order)

No. 1

[The District may elect to pay a requested expenditure with a Board-approved change order, or with an approved allowance expenditure. However, any request for a time extension must be included in a Board-approved change order – an approved allowance expenditure cannot include a time extension.]

PROJECT: Highland CDC Play Yard Site Improvement Project **DATE:** MARCH 3, 2026
1322 86th- Ave Oakland Ca. 94621

OWNER: OAKLAND UNIFIED SCHOOL DISTRICT
CONTRACTOR: NG BUILDERS COMPANY
3100 Dutton Ave. Suite # 223
Santa Rosa, CA 95407

DSA FILE NO.: N/A
DSA APP NO.: N/A
OUSD PROJECT: 25093
PROJECT MANAGER: April Clement

Contractor hereby submits this Change Order Request ("COR") pursuant to the contract documents.

DESCRIPTION OF PROPOSED CHANGES IN WORK (specifically refer to attached pages or incorporated documents): The change order is issued to extend the contract time. Although the contract commencement date was 12-15-25. Due to delay with the play equipment procurement. Play structure was later delivered on 2-25-26. The contract extended to 4-30-26 at no additional cost. All contract terms remain the same.

OTHER PROPOSED CHANGES TO THE CONTRACT:

PROPOSED ADJUSTMENT TO CONTRACT TIME: 64 calendar days

REASON FOR REQUEST (check one or more):

- ☐ Unforeseen Conditions
- ☐ Direction by Government Agency
- ☐ Owner Requested
- ☐ Design Omission
- ☐ Design Error
- ☒ Other: Equipment Delay

CERTIFICATION

I, Nicholas Gutierrez [name of declarant], declare the following:

NG Builders Company [Contractor company name] has contracted with Oakland Unified School District [public entity name] for the Highland CDC Play Yard Site Improvement Contract ("Contract"). NG Builders Company [Contractor company name] authorized me to prepare the attached Change Order Request ("COR") or Allowance Expenditure Request ("AER") for money and/or time extension for Oakland Unified School District [public entity name] regarding this Contract (such COR or AER being dated December 15, 2025, and entitled Change Order 1, and requesting \$ 0 and/or 64 additional days), and I prepared the attached COR or AER. I am the most knowledgeable person at NG Builders Company [Contractor company name] regarding this COR or AER.

The attached COR or AER complies with all laws applicable to submission of a COR or AER, including but not limited to California Penal Code section 72, Government Code sections 12650 et seq. (False Claims Act), and Business and Professions Code sections 17200 et seq. (Unfair Business Practices Act). I am aware that submission or certification of false claims, or other claims that violate law or the Contract, may lead to fines, imprisonment, and/or other serious legal consequences for myself or NG Builders Company [Contractor company name].

The attached COR or AER does not breach the Contract, is not a false claim, does not violate any applicable law, satisfies all provisions of the Contract applicable to submission of the COR or AER, only contains truthful and accurate supporting data, and only requests money and/or time extensions that accurately reflect the adjustments to money and time for which I believe that Oakland Unified School District [public entity name] is responsible under its Contract with NG Builders Company [Contractor company name].

While preparing this declaration and COR or AER, I consulted with others (including attorneys, consultants, or others who work for NG Builders Company [Contractor company name]) when necessary to ensure that the statements were true and correct.

Contractor understands and agrees that any COR or AER submitted without this certification does not meet the terms of the Contract Documents; that Owner, or Owner's representatives, may reject the COR or AER on that basis; and that unless Contractor properly and timely files the COR or AER with the certification, Contractor cannot further pursue the COR or AER in any forum and all rights to additional money or time for the issues covered by the COR or AER are waived due to a condition precedent not having been satisfied.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed 3/12, 2025 at Oakland, California.

 [signature]
Nicholas Gutierrez [name of declarant]

319-661/7106498.1

DIVISION OF FACILITIES PLANNING AND MANAGEMENT ROUTING FORM

Project Information

Project Name	Highland CDC Site Improvements	Site	815
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Basic Directions

Services cannot be provided until the contract is awarded by the Board or is entered by the Superintendent pursuant to authority delegated by the Board.

Attachment Checklist	☒ Proof of general liability insurance, including certificates and endorsements, if contract is over \$15,000 ☒ Workers compensation insurance certification, unless vendor is a sole provider
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Contractor Information

Contractor Name	N G Builder Company	Agency's Contact	Josie Marrufo				
OUSD Vendor ID #	009085	Title					
Street Address	3100 Dutton Avenue, Suite 223	City	Santa Rosa	State	CA	Zip	95407
Telephone	707-890-2896	Policy Expires					
Contractor History	Previously been an OUSD contractor? ☒ Yes ☐ No		Worked as an OUSD employee? ☐ Yes ☒ No				
OUSD Project #	25093						

Term of Original/Amended Contract

Date Work Will Begin (i.e., effective date of contract)	12-11-2025	Date Work Will End By (not more than 5 years from start date; for construction contracts, enter planned completion date)	
		New Date of Contract End (If Any)	04-30-2026

Compensation/Revised Compensation

If New Contract, Total Contract Price (Lump Sum)	\$	If New Contract, Total Contract Price (Not To Exceed)	\$
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Change in Price	\$ 0
Other Expenses		Requisition Number	

Budget Information

If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.

Resource #	Funding Source	Org Key	Object Code	Amount
9186/8500	COI	120-9186-0-8500-8500-6274-815-9180-8500-9999-99999	6274	\$0

Approval and Routing (in order of approval steps)

Services cannot be provided before the contract is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.

	Division Head	Phone	510-535-7038	Fax	510-535-7082
1.	Sr. Executive Director, Early Learning				
	Signature <u>Jessica Cannon</u> Jessica Cannon (Mar 17, 2026 16:05:08 PDT)	Date Approved	Mar 17, 2026		
2.	OUSD Legal Counsel, Facilities				
	Signature <u>James Traber</u>	Date Approved	3/13/2026		
3.	Chief Systems & Services Officer				
	Signature <u>Preston Thomas</u> Preston Thomas (Mar 20, 2026 13:07:03 PDT)	Date Approved	Mar 20, 2026		
4.	Chief Financial Officer				
	Signature	Date Approved			
5.	President, Board of Education				
	Signature	Date Approved			

Board Office Use: Legislative File Info.	
File ID Number	25-2675
Introduction Date	12-10-2025
Enactment Number	25-1975
Enactment Date	12/10/2025 CJH



Memo (Bid Award)

To Board of Education

From Denise Gail Saddler, Ed.D., Interim Superintendent
Preston Thomas, Chief Systems & Services Officer

Board Meeting Date December 10, 2025

Subject Agreement Between Owner and Contractor – N G Builder Company – Highland Child Development Center Play Yard Site Improvement Project – Division of Facilities Planning and Management

Action Requested Approval by the Board of Education of the Agreement Between Owner and Contractor by and between the **District** and **N G Builder Company**, Santa Clara, CA, for the latter to provide demolition and disposal of the existing play structure, safety surfacing, and asphalt layer within the designated play area. The work includes installing a new play structure, PIP (Poured-in-Place) safety surfacing, and a new drainage system to serve the play area. Apply a double layer of seal coating. Additional scope includes furnishing and installing new trees with complete irrigation and drainage systems, preparing the nature space, and installing nature play elements such as logs, stumps, and similar features as part of the **Highland Child Development Center Play Yard Site Improvement Project**, in the amount of **\$279,333.00**, which includes a contingency fee of **\$37,000.00**, as the lowest responsive bidder, with the work anticipated to commence on **December 11, 2025**, and required to be completed within seventy-five days (75), with an anticipated ending of **February 25, 2026**.

Discussion Contractor was selected through competitive bidding. (Public Contract Code § 22037).

LBP (Local Business Participation Percentage) 00.0%

Recommendation Approval by the Board of Education of the Agreement Between Owner and Contractor by and between the District and N G Builder Company, Santa Clara, CA, for the latter to provide demolition and disposal of the existing play structure, safety surfacing, and asphalt layer within the designated play area. The work includes installing a new play structure, PIP (Poured-in-Place) safety surfacing, and a new drainage system to serve the play area. Apply a double layer of seal coating. Additional scope includes furnishing and installing new trees with complete irrigation and drainage systems, preparing the nature space, and installing nature play elements such as logs, stumps, and similar features as part of the Highland Child Development Center Play Yard Site Improvement Project, in the amount of \$279,333.00, which includes a contingency fee of \$37,000.00, as the lowest responsive bidder, with the work anticipated to commence on December 11, 2025, and required to be completed within seventy-five days (75), with an anticipated ending of February 25, 2026.

Fiscal Impact OCI Oakland Children Initiative

Attachments

- Contract Justification
- Agreement, Bonds, and Other Contract Documents
- Certificate of Insurance
- Routing Form



CONTRACT JUSTIFICATION FORM

This Form Shall Be Submitted to the Board Office With Every
Agenda Contract.

Legislative File ID No. 25-2675

Department: Facilities Planning and Management

Vendor Name: N G Builder Company

Project Name: Highland CDC Play Yard Site Improvements

Project No.: 25093

Contract Term: Intended Start: December 11, 2025

Intended End: February 25, 2026

Total Cost Over Contract Term: \$279,333.00

Approved by: Preston Thomas

Is Vendor a local Oakland Business or has it met the requirements of the

Local Business Policy? ☐ Yes (No if Unchecked)

How was this contractor or vendor selected?

N G Builder Company was selected by the District as the lowest responsible and responsive bid.

Summarize the services or supplies this contractor or vendor will be providing.

N G Builder Company will provide demolition and disposal of the existing play structure, safety surfacing, and asphalt layer within the designated play area. The work includes installing a new play structure, PIP (Poured-in-Place) safety surfacing, and a new drainage system to serve the play area. Apply a double layer of seal coating. Additional scope includes furnishing and installing new trees with complete irrigation and drainage systems, preparing the nature space, and installing nature play elements such as logs, stumps, and similar features as part of the Highland Child Development Center Play Yard Site Improvement Project.

Was this contract competitively bid? ☒ Check box for "Yes" (If "No," leave box unchecked)

If "No," please answer the following questions:

1) How did you determine the price is competitive?

2) Please check the competitive bidding exception relied upon:

Construction Contract:

- ☐ Price is at or under UPCCAA threshold of \$75,000 (as of 1/1/25)
- ☐ CMAS contract [may only include “incidental work or service”] (Public Contract Code §§10101(a) and 10298(a)) – *contact legal counsel to discuss if applicable*
- ☐ Emergency contract (Public Contract Code §§22035 and 22050) – *contact legal counsel to discuss if applicable*
- ☐ No advantage to bidding (including sole source) – *contact legal counsel to discuss if applicable*
- ☐ Completion contract – *contact legal counsel to discuss if applicable*
- ☐ Lease-leaseback contract RFP process – *contact legal counsel to discuss if applicable*
- ☐ Design-build contract RFQ/RFP process – *contact legal counsel to discuss if applicable*
- ☐ Energy service contract – *contact legal counsel to discuss if applicable*
- ☐ Other: _____ – *contact legal counsel to discuss if applicable*

Consultant Contract:

- ☐ Architect, engineer, construction project manager, land surveyor, or environmental services – selected (a) based on demonstrated competence and professional qualifications (Government Code §4526), **and** (b) using a fair, competitive RFP selection process (Government Code §§4529.10 et seq.)
- ☐ Architect or engineer *when state funds being used* – selected (a) based on demonstrated competence and professional qualifications (Government Code §4526), (b) using a fair, competitive RFP selection process (Government Code §§4529.10 et seq.), **and** (c) using a competitive process consistent with Government Code §§4526-4528 (Education Code §17070.50)
- ☐ Other professional or specially trained services or advice – no bidding or RFP required (Public Contract Code §20111(d) and Government Code §53060) – *contact legal counsel to discuss if applicable*
- ☐ For services other than above, the cost of services is \$114,800 or less (as of 1/1/25)
- ☐ No advantage to bidding (including sole source) – *contact legal counsel to discuss if applicable*

Purchasing Contract:

- ☐ Price is at or under bid threshold of \$114,800 (as of 1/1/25)
- ☐ Certain instructional materials (Public Contract Code §20118.3)
- ☐ Data processing systems and supporting software – choose one of three lowest bidders (Public Contract Code §20118.1)

- ☐ Electronic equipment – competitive negotiation (Public Contract Code §20118.2) – *contact legal counsel to discuss if applicable*
- ☐ CMAS contract [may only include “incidental work or service”] (Public Contract Code §§10101(a) and 10298(a)) – *contact legal counsel to discuss if applicable*
- ☐ Piggyback contract for purchase of personal property (Public Contract Code §20118) – *contact legal counsel to discuss if applicable*
- ☐ Supplies for emergency construction contract (Public Contract Code §§22035 and 22050) – *contact legal counsel to discuss if applicable*
- ☐ No advantage to bidding (including sole source) – *contact legal counsel to discuss if applicable*
- ☐ Other: _____

Maintenance Contract:

- ☐ Price is at or under bid threshold of \$114,800 (as of 1/1/25)
- ☐ No advantage to bidding (including sole source) – *contact legal counsel to discuss*
- ☐ Other: _____

3) Explain in detail the facts that support the applicability of the exception marked above:

AGREEMENT BETWEEN OWNER AND CONTRACTOR

This Agreement, effective **December 11, 2025**, is by and between the **Oakland Unified School District**, in Alameda County, California, hereinafter called the “Owner,” and **N G BUILDER COMPANY**, hereinafter called the “Contractor.”

WITNESSETH: That the Contractor and the Owner for the consideration hereinafter named agree as follows: Highland Child Development Center Play Yard Site Improvement Bid No. 25093 (“Project”).

ARTICLE I. SCOPE OF WORK.

The Contractor shall perform within the time stipulated the contract as herein defined, and shall provide all labor, materials, tools, utility services, and transportation to complete in a workmanlike manner all of the work required in connection with the following titled Project: Highland Child Development Center Play Yard Site Improvement Project, located at 1322 86th Avenue, Oakland, CA.

The Project includes Demolish and dispose of the existing play structure, safety surfacing, and asphalt layer within the designated play area. Work includes installing new play structure, PIP (Poured-in-Place) safety surfacing, and a new drainage system to serve the play area, Apply double layer of seal coating. Additional scope includes furnishing and installing new trees with complete irrigation and drainage systems, as well as preparing the nature space and installing nature play elements such as logs, stumps, and similar features. All work shall comply with standard safety requirements and be coordinated with OUSD. Further details are provided in the specifications all in strict compliance with Exhibit A and other contract documents related,

Contractor has been selected as the lowest responsible and responsive bidder to perform the work as follows: Demolish and dispose of the existing play structure, safety surfacing, and asphalt layer within the designated play area. Work includes installing new play structure, PIP (Poured-in-Place) safety surfacing, and a new drainage system to serve the play area, Apply double layer of seal coating. Additional scope includes furnishing and installing new trees with complete irrigation and drainage systems, as well as preparing the nature space and installing nature play elements such as logs, stumps, and similar features. All work shall comply with standard safety requirements and be coordinated with OUSD. Further details are provided in the specifications,

and other Contract Documents relating thereto.

This contract is not subject to the District’s Project Labor Agreement, dated June 30, 2021, which is available to upload found by going to the OUSD home page: ousd.org > Offices and Departs > Facilities Planning & Management Department > Click Opportunities drop-down > Project Labor Agreement(PLA) is at the bottom.

ARTICLE II. CONTRACT DOCUMENTS.

The Contractor and the Owner agree that all of the documents listed in Article 1.1.1 of the General Conditions form the “Contract Documents” which form the “Contract.” The Contractor and

its subcontractors must use the Owner's program software KAHUA, INC. for projects.

ARTICLE III. TIME TO COMPLETE AND LIQUIDATED DAMAGES.

Time is of the essence in this Contract, and the time of Completion for the Work ("the Contract Time") shall be seventy-five (75) calendar days which shall start to run on (a) the date of commencement of the Work as established in the Owner's Notice to Proceed, or (b) if no date of commencement is established in a Notice to Proceed from Owner, the date of Contractor's actual commencement of the Work (including mobilization). The Owner anticipates that the Contract Time will start to run on **December 11, 2025**, in which case the deadline for Completion would be **February 25, 2026**.

The site for the Contract will not be available to the Contractor for construction on the following dates: N/A. The Contractor shall not be entitled to time extensions for lack of access to the site on these dates.

Failure to Complete the Work within the Contract Time and in the manner provided for by the Contract Documents, or failure to complete any specified portion of the Work by a milestone deadline, shall subject the Contractor to liquidated damages. The actual occurrence of damages and the actual amount of the damages which the Owner would suffer if the Work were not Completed within the Contract Time, or if any specified portion of the Work were not completed by a milestone deadline, are dependent upon many circumstances and conditions which could prevail in various combinations and, from the nature of the case, it is impracticable and extremely difficult to fix the actual damages. Damages which the Owner would suffer in the event of such delay include, but are not limited to, loss of the use of the Work, disruption of activities, costs of administration and supervision, third party claims, and the incalculable inconvenience and loss suffered by the public.

Accordingly, the parties agree that \$1,000.00 per calendar day of delay shall be the damages which the Owner shall directly incur upon failure of the Contractor to Complete the Work within the Contract Time or Complete any specified portion of the Work by a milestone deadline, as described above. Liquidated damages will accrue for failure to meet milestone deadlines even if the Contractor Completes the Work within the Contract Time.

In addition, Contractor shall be subject to liquidated damages, or actual damages if liquidated damages are not recoverable under law, for causing another contractor on the Project to fail to timely complete its work under its contract or for causing delayed *completion* of the Project. The actual occurrence of damages and the actual amount of the damages which the Owner would suffer if another contractor on the Project were to fail to timely complete its work under its contract or delay *completion* of the Project are dependent upon many circumstances and conditions which could prevail in various combinations and, from the nature of the case, it is impracticable and extremely difficult to fix the actual damages. Damages which the Owner would suffer in the event of such delay include, but are not limited to, loss of the use of the Work, loss of use of the other contractor's work, loss of use of the Project, disruption of activities, costs of administration and supervision, third party claims, the incalculable inconvenience and loss suffered by the public, and an Owner's inability to recover its delay damages from the contractors whose work was delayed by Contractor.

Accordingly, the parties agree that \$1,000.00 for each calendar day of delay shall be the amount of damages which the Owner shall directly incur upon Contractor causing another contractor on the Project to fail to timely complete its work under its contract or causing delayed *completion* of the Project.

For Contractor's obligations regarding claims against Owner from other contractors on the Project alleging that Contractor caused delays to their work, see General Conditions sections 3.7.4, 3.16 and 6.2.3.

If liquidated damages accrue as described above, the Owner, in addition to all other remedies provided by law, shall have the right to assess the liquidated damages at any time, and to withhold liquidated damages (and any interest thereon) at any time from any and all retention or progress payments, which would otherwise be or become due the Contractor. In addition, if it is reasonably apparent to the Owner before liquidated damages begin to accrue that they will accrue, Owner may assess and withhold, from retention or progress payments, the estimated amount of liquidated damages that will accrue in the future. If the retained percentage or withheld progress payments are not sufficient to discharge all liabilities of the Contractor incurred under this Article, the Contractor and its sureties shall continue to remain liable to the Owner until all such liabilities are satisfied in full.

If Owner accepts any work or makes any payment under the Contract Documents after a default by reason of delays, the payment or payments shall in no respect constitute a waiver or modification of any provision in the Contract Documents regarding time of Completion, milestone deadlines, or liquidated damages.

ARTICLE IV. PAYMENT AND RETENTION.

The Owner agrees to pay the Contractor in current funds **TWO HUNDRED SEVENTY-NINE THOUSAND THREE HUNDRED THIRTY-THREE DOLLARS NO/100 (\$279,333.00)** for work satisfactorily performed after receipt of properly documented and submitted Applications for Payment and to make payments on account thereof, as provided in the General Conditions.

The above contract price does not include any special allowances. The above contract price includes a general contingency allowance of **THIRTY-SEVEN THOUSAND DOLLARS NO/100 (\$37,000.00)** to pay any additional amounts to which the Contractor may be entitled under the Contract Documents other than special allowances.

Any payment from a special allowance or general contingency allowance ("Allowance") is entirely at the discretion, and only with the advanced written approval, of the Owner. To request payment from an Allowance, the Contractor must fully comply with the Contract Documents' requirements related to Notice to Potential Changes, Change Order Requests, and Claims, including but not limited to Articles 4 and 7 of the General Conditions and its provisions regarding waiver of rights for failure to comply. If the Owner approves in writing a payment from an Allowance, no change order approved by Owner's governing body shall be required, but Contractor must sign an Allowance expenditure form, after which the Contractor may include a request for such payment in its next progress payment application. Contractor's inclusion of a request for such payment in a progress payment application, or Contractor's acceptance of a progress payment that includes such

payment, shall act as a full and complete waiver by Contractor of all rights to recover additional money related to the underlying basis of such payment; and such waiver shall be in addition to any other waiver that applies under the Contract Documents (including Article 4 of the General Conditions). If Contractor requests a time extension or other consideration in connection with or related to a requested payment from an Allowance, Contractor must comply with the Contract Documents' requirements related to Notice to Potential Changes, Change Order Requests, and Claims, including but not limited to Articles 4, 7, and 8 of the General Conditions and their provisions regarding waiver of rights for failure to comply, and no such time extension or other consideration may be issued until a change order is approved by the Owner's governing body pursuant to the Contract Documents. The amount of an Allowance may only be increased by a change order approved by Owner's governing body. Once an Allowance is fully spent, the Contractor must request any additional compensation pursuant to the procedures in the Contract Documents for Notices of Potential Claim, Change Order Requests, and Claims, and payment must be made by a change order approved by the Owner's governing body pursuant to the General Conditions. Upon Completion of the Work, all amounts in an Allowance that remain unspent and unencumbered shall remain the property of the Owner, Contractor shall have no claim to such funds, the Owner shall be entitled to a credit for such unused amounts against the above contract price, and the Owner may withhold such credit from any progress payment or release of retention.

ARTICLE V. CHANGES.

Changes in this Agreement or in the Work to be done under this Agreement shall be made as provided in the General Conditions.

ARTICLE VI. TERMINATION.

The Owner or Contractor may terminate the Contract as provided in the General Conditions.

ARTICLE VII. PREVAILING WAGES.

The Project is a public work, the Work shall be performed as a public work and pursuant to the provisions of Section 1770 et seq. of the Labor Code of the State of California, which are hereby incorporated by reference and made a part hereof, the Director of Industrial Relations has determined the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which the Work is to be performed, for each craft, classification or type of worker needed to execute this Contract. Per diem wages shall be deemed to include employer payments for health and welfare, pension, vacation, apprenticeship or other training programs, and similar purposes. Copies of the rates are on file at the Owner's principal office. The rate of prevailing wage for any craft, classification or type of workmanship to be employed on this Project is the rate established by the applicable collective bargaining agreement which rate so provided is hereby adopted by reference and shall be effective for the life of this Agreement or until the Director of the Department of Industrial Relations determines that another rate be adopted. It shall be mandatory upon the Contractor and on any subcontractor to pay not less than the said specified rates to all workers employed in the execution of this Agreement.

The Contractor and any subcontractor under the Contractor as a penalty to the Owner shall

forfeit not more than Two Hundred Dollars (\$200.00) for each calendar day or portion thereof for each worker paid less than the stipulated prevailing rates for such work or craft in which such worker is employed. The difference between such stipulated prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Contractor.

The Contractor and each Subcontractor shall keep or cause to be kept an accurate record for Work on this Contract and Project showing the names, addresses, social security numbers, work classification, straight time and overtime hours worked and occupations of all laborers, workers and mechanics employed by them in connection with the performance of this Contract or any subcontract thereunder, and showing also the actual per diem wage paid to each of such workers, which records shall be open at all reasonable hours to inspection by the Owner, its officers and agents and to the representatives of the Division of Labor Standards Enforcement of the State Department of Industrial Relations. The Contractor and each subcontractor shall furnish a certified copy of all payroll records directly to the Labor Commissioner.

Public works projects shall be subject to compliance monitoring and enforcement by the Department of Industrial Relations. For all projects over Twenty-Five Thousand Dollars (\$25,000), a contractor or subcontractor shall not be qualified to submit a bid or to be listed in a bid proposal subject to the requirements of Public Contract Code section 4104 unless currently registered and qualified under Labor Code section 1725.5 to perform public work as defined by Division 2, Part 7, Chapter 1 (§§1720 et seq.) of the Labor Code. For all projects over Twenty-Five Thousand Dollars (\$25,000), a contractor or subcontractor shall not be qualified to enter into, or engage in the performance of, any contract of public work (as defined by Division 2, Part 7, Chapter 1 (§§1720 et seq.) of the Labor Code) unless currently registered and qualified under Labor Code section 1725.5 to perform public work.

ARTICLE VIII. WORKING HOURS.

In accordance with the provisions of Sections 1810 to 1815, inclusive, of the Labor Code of the State of California, which are hereby incorporated and made a part hereof, the time of service of any worker employed by the Contractor or a Subcontractor doing or contracting to do any part of the Work contemplated by this Agreement is limited and restricted to eight hours during any one calendar day and forty hours during any one calendar week, provided, that work may be performed by such employee in excess of said eight hours per day or forty hours per week provided that compensation for all hours worked in excess of eight hours per day, and forty hours per week, is paid at a rate not less than one and one-half (1½) times the basic rate of pay. The Contractor and every Subcontractor shall keep an accurate record showing the name of and the actual hours worked each calendar day and each calendar week by each worker employed by them in connection with the Work. The records shall be kept open at all reasonable hours to inspection by representatives of the Owner and the Division of Labor Law Enforcement. The Contractor shall as a penalty to the Owner forfeit Twenty-five Dollars (\$25.00) for each worker employed in the execution of this Agreement by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day, and forty hours in any one calendar week, except as herein provided.

ARTICLE IX. APPRENTICES.

The Contractor agrees to comply with Chapter 1, Part 7, Division 2, Sections 1777.5 and 1777.6 of the California Labor Code, which are hereby incorporated and made a part hereof. These sections require that contractors and subcontractors employ apprentices in apprenticeable occupations in a ratio of not less than one hour of apprentice's work for each five hours of work performed by a journeyman (unless an exemption is granted in accordance with Section 1777.5) and that contractors and subcontractors shall not discriminate among otherwise qualified employees as indentured apprentices on any public works solely on the ground of sex, race, religious creed, national origin, ancestry or color. Only apprentices as defined in Labor Code Section 3077, who are in training under apprenticeship standards and who have signed written apprentice agreements, will be employed on public works in apprenticeable occupations. The responsibility for compliance with these provisions is fixed with the Contractor for all apprenticeable occupations.

ARTICLE X. DSA OVERSIGHT PROCESS.

The Contractor must comply with the applicable requirements of the Division of State Architect ("DSA") Construction Oversight Process ("DSA Oversight Process"), including but not limited to (a) notifying the Owner's Inspector of Record/Project Inspector ("IOR") upon commencement and completion of each aspect of the Work as required under DSA Form 156; (b) coordinating the Work with the IOR's inspection duties and requirements; (c) submitting verified reports under DSA Form 6-C; and (d) coordinating with the Owner, Owner's Architect, any Construction Manager, any laboratories, and the IOR to meet the DSA Oversight Process requirements without delay or added costs to the Work or Project.

Contractor shall be responsible for any additional DSA fees related to review of proposed changes to the DSA-approved construction documents, to the extent the proposed changes were caused by Contractor's wrongful act or omissions. If inspected Work is found to be in non-compliance with the DSA-approved construction documents or the DSA-approved testing and inspection program, then it must be removed and corrected. Any construction that covers unapproved or uninspected Work is subject to removal and correction, at Contractor's expense, in order to permit inspection and approval of the covered work in accordance with the DSA Oversight Process.

ARTICLE XI. INDEMNIFICATION AND INSURANCE.

The Contractor will defend, indemnify and hold harmless the Owner, its governing board, officers, agents, trustees, employees and others as provided in the General Conditions.

By this statement the Contractor represents that it has secured the payment of Workers' Compensation in compliance with the provisions of the Labor Code of the State of California and during the performance of the work contemplated herein will continue so to comply with said provisions of said Code. The Contractor shall supply the Owner with certificates of insurance evidencing that Workers' Compensation Insurance is in effect and providing that the Owner will receive thirty (30) days' notice of cancellation.

Contractor shall provide the insurance set forth in the General Conditions. The amount of

general liability insurance shall be \$2,000,000 per occurrence for bodily injury, personal injury and property damage and the amount of automobile liability insurance shall be \$1,000,000 per accident for bodily injury and property damage combined single limit.

ARTICLE XII. ENTIRE AGREEMENT.

The Contract constitutes the entire agreement between the parties relating to the Work, and supersedes any prior or contemporaneous agreement between the parties, oral or written, including the Owner's award of the Contract to Contractor, unless such agreement is expressly incorporated herein. The Owner makes no representations or warranties, express or implied, not specified in the Contract. The Contract is intended as the complete and exclusive statement of the parties' agreement pursuant to Code of Civil Procedure section 1856.

ARTICLE XIII. EXECUTION OF OTHER DOCUMENTS.

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

ARTICLE XIV. EXECUTION IN COUNTERPARTS.

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

ARTICLE XV. BINDING EFFECT.

Contractor, by execution of this Agreement, acknowledges that Contractor has read this Agreement and the other Contract Documents, understands them, and agrees to be bound by their terms and conditions. The Contract shall inure to the benefit of and shall be binding upon the Contractor and the Owner and their respective successors and assigns.

ARTICLE XVI. SEVERABILITY; GOVERNING LAW; CHOICE OF FORUM.

If any provision of the Contract shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. The Contract shall be governed by the laws of the State of California. Any action or proceeding seeking any relief under or with respect to this Agreement shall be brought solely in the Superior Court of the State of California for the County of Alameda, subject to transfer of venue under applicable State law, provided that nothing in this Agreement shall constitute a waiver of immunity to suit by Owner.

ARTICLE XVII. AMENDMENTS.

The terms of the Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement, including a change order, signed by the parties and approved or ratified by the Governing Board.

ARTICLE XVIII. ASSIGNMENT OF CONTRACT.

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

ARTICLE XIX. WRITTEN NOTICE.

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

ARTICLE XX. SANCTIONS IN RESPONSE TO RUSSIAN AGGRESSION.

The Owner is using State of California funds for this Contract, and therefore Contractor must comply with the Governor's March 4, 2022, Executive Order N-6-22 ("Order") relating to any existing sanctions imposed by the United States government and the State of California in response to Russia's actions in Ukraine, including additional requirements for contracts of \$5 million or more. Failure to comply may result in the termination of the Contract.

CONTRACTOR:

NG BUILDER COMPANY

Signature: _____

Name: _____

Date: _____

(Chairman, Pres., or Vice Pres.) _____

Signature _____

Name: _____

Date: _____

(Secretary, Asst. Secretary, CFO, or Asst. Treasure) _____

OAKLAND UNIFIED SCHOOL DISTRICT

Jennifer Brouhard
Jennifer Brouhard, President, Board of Education

12/11/2025

Date

Denise Gail Saddle
**Denise Gail, Ed.D., Interim Superintendent
and Interim Secretary, Board of Education**

12/11/2025

Date

Agreement Between Owner and Contractor • Val: \$75,000 ~ NG Builder Company. Highland Child Development Center Play Yard
Site Improvement Project - \$279,333.00
FSR799633



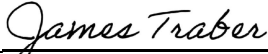
Preston Thomas (Nov 9, 2025 15:44:36 PST)

Preston Thomas, Chief Systems & Services Officer,

11/09/2025

Date

Approved As To Form:



11/7/2025

OUSDFacilities Legal Counsel

Date

1078311

CALIFORNIA CONTRACTOR'S
LICENSE NO.

07/31/2027

LICENSE EXPIRATION DATE

NOTE:

Contractor must give the full business address of the Contractor and sign with Contractor's usual signature. Partnerships must furnish the full name of all partners and the Agreement must be signed in the partnership name by a general partner with authority to bind the partnership in such matters, followed by the signature and designation of the person signing. The name of the person signing shall also be typed or printed below the signature. Corporations must sign with the legal name of the corporation, followed by the name of the state of incorporation and by the signature and designation of the chairman of the board, president or any vice president, and then followed by a second signature by the secretary, assistant secretary, the chief financial officer or assistant treasurer. All persons signing must be authorized to bind the corporation in the matter. The name of each person signing shall also be typed or printed below the signature. Satisfactory evidence of the authority of the officer signing on behalf of a corporation shall be furnished.

Oakland Unified School District
Division of Facilities Planning and Management

BID OPENING TABULATION SHEET

School: Highland Child Development Center
Project: PlayYard Site Improvement
Project #: 25093
Estimate: \$ 370,000.00

Date: Monday, October 20, 2025
Time: 2:00 p.m.
Project Mgr: April Clement
Architect: N/A

Signature of Witness to Bid

Company: Redwood Engineering Construction
Address: 416 D Street
City/State: Redwood City, CA 94063
Phone: 925-819-2960
Fax: 650-369-5258

Signature of Bid Opener

Base Bid: \$ 299,000.00
Allowance: \$ 37,000.00
TOTAL: \$ 336,000.00
Alternates

Time Submitted **Date Submitted**
12:09 PM 10/20/2025

Time Opened **Date Opened**
2:03 p.m. 10/20/2025

Required Day of Bid:

Signed Bid Form	X
Addendum Acknow.	X
Bid Bond	X
Non-Collusion	X
Iran Contracting Certification	NA
Site Visit Certification	X
Contractor's Sub List	X
Debarment Suspension & Schd Z	
Local Business Participation Form	WA
DVBE Forms	WA

Company: NG Builders Company
Address: 3100 Dutton Avenue, Suite #223
City/State: Santa Rosa, CA 95407
Phone: 707-852-5046
Fax:

Base Bid: \$ 242,333.00
Allowance: \$ 37,000.00
TOTAL: \$ 279,333.00
Alternates

Time Submitted **Date Submitted**
12:58 p.m. 10/20/2025

Time Opened **Date Opened**
2:08 p.m. 10/20/2025

Required Day of Bid:

Signed Bid Form	X
Addendum Acknow.	X
Bid Bond	X
Non-Collusion	X
Iran Contracting Certification	NA
Site Visit Certification	X
Contractor's Sub List	X
Debarment Suspension & Schd Z	X
Local Business Participation Form	WA
DVBE Forms	WA

Company: Native Soil, Inc.
Address: 1721 Broadway, Suite #201
City/State: Oakland, CA 94612
Phone: 510-590-1361
Fax:

Base Bid: \$ 471,706.00
Allowance: \$ 37,000.00
TOTAL: \$ 508,706.00
Alternates

Time Submitted **Date Submitted**
1:50 p.m. 10/20/2025

Time Opened **Date Opened**
2:14 p.m. 10/20/2025

Required Day of Bid:

Signed Bid Form	X
Addendum Acknow.	X
Bid Bond	X
Non-Collusion	X
Iran Contracting Certification	NA
Site Visit Certification	X
Contractor's Sub List	X
Debarment Suspension & Schd Z	X
Local Business Participation Form	WA
DVBE Forms	WA

Company: MOKA Engineering and Construction LLC
Address: 3315 Montgomery Drive, Unit 312
City/State: Santa Clara, CA 95054
Phone: 646-342-0620
Fax:

Base Bid: \$ 295,000.00
Allowance: \$ 37,000.00
TOTAL: \$ 332,000.00
Alternates

Time Submitted **Date Submitted**
1:43 p.m. 10/20/2025

Time Opened **Date Opened**
2:22 p.m. 10/20/2025

Required Day of Bid:

Signed Bid Form	X
Addendum Acknow.	X
Bid Bond	X
Non-Collusion	X
Iran Contracting Certification	NA
Site Visit Certification	X
Contractor's Sub List	X
Debarment Suspension & Schd Z	X
Local Business Participation Form	WA
DVBE Forms	WA

BID OPENING TABULATION SHEET

3

00 42 00
BID FORM AND PROPOSAL

To: Governing Board of Trustees of the Oakland Unified School District ("District")

From: U G Builder Company
(Insert Proper Name of Bidder)

The undersigned declares that the Contract Documents including, without limitation, the Notice to Bidders and the Instructions to Bidders have been read and agrees and proposes to furnish all necessary labor, materials, and equipment to perform and furnish all work in accordance with the terms and conditions of the Contract Documents, including, without limitation, the Drawings and Specifications of the **Highland CDC Play Yard Site Improvement Project, Bid No. 25093** ("Project") and will accept in full payment for that Work the following total lump sum amount, all taxes included:

A. Two hundred forty two Dollars \$ 242,333.00
Base Bid thousand three hundred thirty three

B. Thirty-Seven Thousand Dollars \$ 37,000.00
10% Owner's Contingency

The Owner's Contingency of ten percent (10%) shall only be allocated for items relating to the Work that could not reasonably have been foreseen at the time of bid. Contractor shall not bill for or be due any portion of this allowance unless the District has identified specific work, Contractor has submitted a price for that work or the District has proposed a price for that work, the District has accepted the cost for that work, and the District has authorized Contractor's use of the Owner's Contingency. Contractor hereby authorizes the District to execute a unilateral deductive change order at or near the end of the Project for all or any portion of the allowance not allocated.

C. N/A Dollars \$ N/A
Allowance 1 - [Insert detailed description]

D. Two hundred seventy nine thousand three hundred thirty three Dollars \$ 279,333.00
TOTAL BID * (Assumes Alternates Not Included in Method of Determining Low Bid)

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

Enclosed find certified or cashier's check no. Bid Bond Attached of the
Bank for _____

Dollars (\$) or Bidder's Bond of the _____ surety company
in an amount of not less than ten percent (10%) of the entire bid. The undersigned further agrees, on the acceptance of this proposal, to execute the Contract, provide the required bonds and insurance, and that, in case of default in executing these documents within the time fixed by the Contract Documents, the proceeds of the check or bond accompanying this bid shall be forfeited and shall become the property of the District.

Descriptions of alternates are primarily scope definitions and do not necessarily detail the full range of materials and processes needed to complete the construction.

1. Contractor agrees to commence and complete the work within the time specified in the Notice to Proceed. It is understood that this bid is based upon completing the work within the number of calendar days specified in the Contract Documents.
2. The liquidated damages clause of the General Conditions and Special Conditions is hereby acknowledged.
3. The following documents are attached hereto:

Bid Bond on the District's form or other security
Designated Subcontractors List
Non-Collusion Affidavit
Project Warranty

4. Receipt and acceptance of the following Addenda is hereby acknowledged:

Addendum No. 1 1 Dated: Sept 29, 2025

Addendum No. 2 2 Dated: Oct 6, 2025

Addendum No. 3 _____ Dated: _____

Addendum No. 4 _____ Dated: _____

Addendum No. 5 _____ Dated: _____

5. Bidder expressly acknowledges that it is aware that if a false claim is knowingly submitted (as the terms "claim" and "knowingly" are defined in the California False Claims Act, Cal. Gov. Code, §12650 et seq.), the District will be entitled to civil remedies set forth in the California False Claim Act. It may also be considered fraud and the Contractor may be subject to criminal prosecution.
6. The undersigned Bidder 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. Bidder further certifies that it is regularly engaged in the general class and type of work called for in the Contract Documents.

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

Dated this 10 day of Oct., 2025

Name of Bidder N G Builder company

Type of Organization Sole prop

Signature [Signature]

Signed by Nicholas Gutierrez

Title of Signer Owner

Address of Bidder 3100 Dutton Ave Suite 223 Santa Rosa CA

Bidder's Taxpayer Identification No. 86-3315944

Telephone Number 707-852-5046

Fax Number N/A

E-mail josie@ngbuilders.com Website N/A

Contractor's License No(s): No.: 1075311 Class: A&B Expiration Date: 7/31/27

No.: _____ Class: _____ Expiration Date: _____

No.: _____ Class: _____ Expiration Date: _____

If Bidder is a corporation, affix corporate seal.

Name of Corporation: N/A

President: N/A

Secretary: N/A

Treasurer: N/A

Manager: N/A

00 61 10
BID BOND

WHEREAS, N G Builder Company, as Principal, and Capitol Indemnity Corporation, as Surety, a corporation organized and existing under and by virtue of the laws of the State of Wisconsin and authorized to do business as a surety in the State of California, are held and firmly bound unto the Oakland Unified School District ("District"), as Oblige, in the sum of Twenty Nine Thousand Five Hundred Sixty Nine & 00/100*** DOLLARS (\$ \$29,569.00), being not less than ten percent (10%) of the Total Bid Price; for the payment of which sum will and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, said Principal has submitted a bid to the District to perform all Work required for the **Highland CDC Play Yard Site Improvement**, Bid No. 25093 as set forth in the Notice to Bidders and accompanying Contract Documents.

NOW, THEREFORE, if said Principal is awarded a Contract for the Work by the District and, within the time and in the manner required by the above-referenced Contract Documents, enters into the written form of Contract bound with said Contract Documents, furnishes the required bonds (one to guarantee faithful performance and the other to guarantee payment for labor and materials), furnishes the required insurance certificates and endorsements, and furnishes any other certifications as may be required by the Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or the notice inviting 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 of the notice inviting bids, or to the work, or to the specifications.

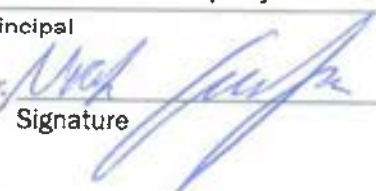
The bid security will be held by the District for ten (10) days after the period for which bids must be held open or until posting by the successful bidder(s) of the bonds, certificates of insurance required and return of executed copies of the Agreement, whichever first occurs, at which time the bid security will be returned.

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

SIGNED AND SEALED, this 16th day of October, 2025.

N G Builder Company

Principal

By: 

Signature

(SEAL)

Capitol Indemnity Corporation

Surety

By: 

Signature

Michael D. Lapre, Attorney-In-Fact

(SEAL)



ALL-PURPOSE ACKNOWLEDGEMENT

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

STATE OF Arizona)SS
COUNTY OF Maricopa)

On 10/16/2025 before me, Michelle Lee Eldridge, Notary Public, personally appeared Michael D. Lapre

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

I certify under PENALTY OF PERJURY under the laws of the State of Arizona that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



This area for official notarial seal.

OPTIONAL SECTION - NOT PART OF NOTARY ACKNOWLEDGEMENT CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the documents.

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER(S) TITLE(S)
☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
☒ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER

SIGNER IS REPRESENTING:

Name of Person or Entity

Name of Person or Entity

OPTIONAL SECTION - NOT PART OF NOTARY ACKNOWLEDGEMENT

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW

TITLE OR TYPE OF DOCUMENT: _____

NUMBER OF PAGES _____

DATE OF DOCUMENT _____

SIGNER(S) OTHER THAN NAMED ABOVE _____

**CAPITOL INDEMNITY CORPORATION
POWER OF ATTORNEY**

CIC1963995

Bond Number

KNOW ALL MEN BY THESE PRESENTS, That the **CAPITOL INDEMNITY CORPORATION**, a corporation of the State of Wisconsin, having its principal offices in the City of Middleton, Wisconsin, does make, constitute and appoint

-----MICHAEL D LAPRE; ESTEBAN FLORES; R.M. FRIEDIK; PHILIP SIMONS; ARTYCE JOHSON; TARYN CHESTER-----
-----BELENDIA JOHNSON; MICHAEL SIMONS; MICHELLE L. ELDRIDGE; J.C. SHIVELY; LAUREN CASEY ALEXANDER-----

its true and lawful Attorney(s)-in-fact, to make, execute, seal and deliver for and on its behalf, as surety, and as its act and deed, any and all bonds, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

----- ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEED: \$20,000,000.00-----

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of **CAPITOL INDEMNITY CORPORATION** at a meeting duly called and held on the 15th day of May, 2002.

"RESOLVED, that the President, Executive Vice President, Vice President, Secretary or Treasurer, acting individually or otherwise, be and they hereby are granted the power and authorization to appoint by a Power of Attorney for the purposes only of executing and attesting bonds and undertakings, and other writings obligatory in the nature thereof, one or more resident vice-presidents, assistant secretaries and attorney(s)-in-fact, each appointee to have the powers and duties usual to such offices to the business of this company; the signature of such officers and seal of the Company may be affixed to any such power of attorney or to any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company, and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking or other writing obligatory in the nature thereof to which it is attached. Any such appointment may be revoked, for cause, or without cause, by any of said officers, at any time."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner - Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

IN WITNESS WHEREOF, the **CAPITOL INDEMNITY CORPORATION** has caused these presents to be signed by its officer undersigned and its corporate seal to be hereto affixed duly attested, this 1st day of September, 2022.

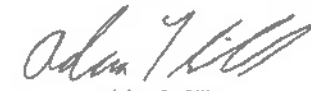
Attest:


Ryan J. Byrnes
Senior Vice President,
Chief Financial Officer and Treasurer


Todd Burick
Chief Underwriting Officer



CAPITOL INDEMNITY CORPORATION


Adam L. Sills
Chief Executive Officer and President

STATE OF WISCONSIN } S.S.
COUNTY OF DANE

On the 1st day of September, 2022 before me personally came Adam L. Sills, to me known, who being by me duly sworn, did depose and say: that he resides in the County of New York, State of New York; that he is Chief Executive Officer and President of **CAPITOL INDEMNITY CORPORATION**, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.



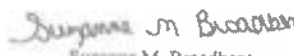

David J. Regele
Notary Public, Dane Co., WI
My Commission Is Permanent

STATE OF WISCONSIN } S.S.
COUNTY OF DANE

I, the undersigned, duly elected to the office stated below, now the incumbent in **CAPITOL INDEMNITY CORPORATION**, a Wisconsin Corporation, authorized to make this certificate, **DO HEREBY CERTIFY** that the foregoing attached Power of Attorney remains in full force and has not been revoked, and furthermore, that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force.

Signed and sealed at the City of Middleton, State of Wisconsin this 16th day of October 2025.




Suzanne M. Broadbent
Secretary

00 43 36
DESIGNATED SUBCONTRACTORS LIST

In compliance with the "Subletting and Subcontracting Fair Practices Act," California Public Contract Code sections 4100 to 4114, and any amendments thereto, each Bidder shall provide the information requested below for each subcontractor who will perform work, labor or render service to Bidder in or about the construction of the Work in an amount in excess of one-half of one percent (greater than 0.5 %) of the Bidder's Total Bid Price and shall further set forth the portion of the Work which will be done by each subcontractor. Bidder shall list only one subcontractor for any one portion of the Work.

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

Subletting or subcontracting of any portion of the Work in excess of one half of one percent (greater than 0.5%) of the Total Bid Price for which no subcontractor was designated in the original bid shall only be permitted in cases of public emergency or necessity, and then only after District approval.

Pursuant to California Labor Code § 1725.5, for any project exceeding Twenty-Five Thousand Dollars (\$25,000), each listed subcontractor must be registered as a Public Works Contractor with the California Department of Industrial Relations (DIR) at the time of bid submission. Each Bidder shall provide the DIR Public Works Contractor Registration Number for each subcontractor listed. Failure to comply with this requirement may result in bid rejection.

An inadvertent error in listing a California contractor's license number shall not be grounds for filing a bid protest or for considering the bid nonresponsive if the Bidder submits the corrected contractor's license number to the District within 24 hours after the bid opening, or any continuation thereof, so long as the corrected contractor's license number corresponds to the submitted name and location for that subcontractor.

If the Contractor fails to specify a subcontractor for any portion of the Work to be performed under the Contract in excess of one-half of 1 percent (0.5%) of the Contractor's total bid, the Contractor shall be deemed to have agreed to perform such portion itself, and shall not be permitted to subcontract that portion of the Work except under the conditions hereinafter set forth.

Subletting or subcontracting of any portion of the Work as to which no subcontractor was designated in the original bid shall only be permitted in cases of public emergency or necessity, and then only after a finding reduced to writing as a public record of the legislative body of the District.

For all projects over Twenty-Five Thousand Dollars (\$25,000): For any bid proposal submitted, and for any contract for public work entered into, an inadvertent error in listing a subcontractor who is not registered under Labor Code section 1725.5 shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that either: the subcontractor is registered prior to the bid opening; or the subcontractor is registered and has paid the penalty registration fee specified in Labor Code section 1725.5(a)(2)(E), if applicable, within 24 hours after the bid opening; or the subcontractor is replaced by another registered subcontractor under Public Contract Code section 4107. Failure of a listed subcontractor to be registered shall be grounds under Public Contract Code section 4107 for the Contractor, with the District's consent, to substitute a registered subcontractor for the unregistered subcontractor.

Failure to provide this information in a legible manner may result in the rejection of an otherwise acceptable bid.

Project: Highland Child Development Center Play Yard Site Improvement Bid No. 25093

Name of Bidder: N G Builder Company

Bid Forms
Design-Bid-Build
Highland CDC Play Yard Site Improvement
Project No. 25093

Bidder's
Authorized Signature:
Name and Location
of Subcontractor

[Signature]

Description of Work
to be Subcontracted

*Nicholas Gutierrez owner
NG Builder Company*

Name: *Robertson Recreational*

PEP

Address: *3440 Eccles St Tempe AZ*

Ph: *800-888-0514*

Fax: *602-840-0402*

License No. *667261*

Name and Location
of Subcontractor

Description of Work
to be Subcontracted

Name: *G&C Builder Inc*

Playground Install

Address: *4547 Contractors Place
Livermore CA 94551*

Ph: *925-846-9023*

Fax:

License No. *750789*

Name and Location
of Subcontractor

Description of Work
to be Subcontracted

Name:

Address:

Ph:

Fax:

License No.

Name and Location
of Subcontractor

Description of Work
to be Subcontracted

Name:

Address:

Ph:

Fax:

License No.

Name and Location
of Subcontractor

Description of Work
to be Subcontracted

Name:

Address:

Ph:

Fax:

License No.

Name and Location
of Subcontractor

Description of Work
to be Subcontracted

Name:

Address: _____

Ph: _____ Fax: _____ License No. _____

Name and Location
of Subcontractor

Description of Work
to be Subcontracted

Name: _____

Address: _____

Ph: _____ Fax: _____ License No. _____

Name and Location
of Subcontractor

Description of Work
to be Subcontracted

Name: _____

Address: _____

Ph: _____ Fax: _____ License No. _____

Name and Location
of Subcontractor

Description of Work
to be Subcontracted

Name: _____

Address: _____

Ph: _____ Fax: _____ License No. _____

I am the authorized representative of the Bidder submitting this Designated Subcontractors List and I declare that each subcontractor listed holds a valid and current contractor license in good standing in California to perform the portion of work for which the subcontractor is listed.

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 Oct 10, 2025, at Santa Rosa (city), CA [state].

Signature: Nicholas Gutierrez

Print Name: Nicholas Gutierrez

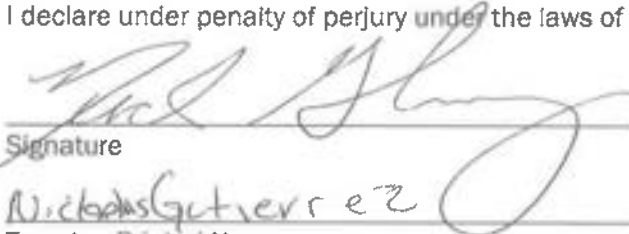
Title: Owner

00 45 10
NON-COLLUSION AFFIDAVIT

In accordance with Public Contract Code section 7106, the undersigned declares that he or she holds the position listed below with the bidder, the party making the foregoing bid, that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid, 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.


Signature

Nicholas Gutierrez
Typed or Printed Name

Owner
Title

Bidder

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

Subscribed and sworn before me

[Seal]

This ____ day of _____, 20____

Notary Public in and for
the State of California

PLEASE SEE
ATTACHMENT

Bid Forms
Design-Bid-Build
Highland CDC Play Yard Site Improvement
Project No. 25093

CALIFORNIA JURAT

GOVERNMENT CODE § 8202

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

State of California

County of Sonoma

Subscribed and sworn to (or affirmed) before me on

this 20th day of October, 2025, by
Date Month Year(1) Nicholas Gutierrez(and (2) N/A),
Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Place Notary Seal and/or Stamp Above

Signature

Signature of Notary Public**OPTIONAL**

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached DocumentTitle or Type of Document: Non-Collusion AffidavitDocument Date: 10/20/2025 Number of Pages: 1

Signer(s) Other Than Named Above: _____

SUFFICIENT FUNDS DECLARATION
DOCUMENT 00 41 06
(Labor Code section 2810)

To Be Executed by Bidder and Submitted with Bid

Owner: Oakland Unified School District

Contract: N G Builder Company / Highland Bid NO: 25093

I, Nicholas Gutierrez, declare that I am the owner [insert title] of N G Builder Company, the entity making and submitting the bid for the above Project that accompanies this Declaration, and that such bid includes sufficient funds to permit N G Builder Company [insert name of entity] to comply with all local, state or federal labor laws or regulations during the Project, including payment of prevailing wage, and that N G Builder Company [insert name of entity] will comply with the provisions of Labor Code section 2810(d) if awarded the Contract.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and executed on Oct 20 2015 at Santa Rosa [city], CA [state].

Date: 10/20/25


Signature
Print Name: Nicholas Gutierrez
Print Title: owner

FINGERPRINTING AND CRIMINAL BACKGROUND CHECK CERTIFICATION

One of the boxes below must be checked, and an executed copy of this form must be provided to the District:

- ☒ Contractor's employees will have no contact or interaction with District pupils outside of the immediate supervision and control of the pupil's parent or guardian or a school employee. Accordingly, the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 shall not apply to Contractor's services under this Agreement.
- ☐ Contractor's employees will have contact or interaction with District pupils outside of the immediate supervision and control of the pupil's parent or guardian or a school employee. Accordingly, the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to Contractor's services under this Agreement, and Contractor certifies its compliance with these provisions as follows: *"Contractor certifies that it has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all Contractor's employees, subconsultants, agents, and subconsultants' employees or agents ("Employees") regardless of whether those Employees are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Contractor, who may have contact with District pupils, outside of the immediate supervision and control of the pupil's parent or guardian or a school employee, in the course of providing services pursuant to the Agreement, 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 all Employees who may come in contact with District pupils during the course and scope of the Agreement is attached hereto."*
- ☐ Contractor's services under this Agreement shall be limited to the construction, reconstruction, rehabilitation, or repair of a school facility, and Contractor's employees shall have only limited contact with students. Accordingly, the requirements of Education Code section 45125.2 shall not apply to Contractor's services under this Agreement.
- ☐ Contractor's services under this Agreement shall be limited to the construction, reconstruction, rehabilitation, or repair of a school facility, and Contractor's employees will have contact, other than limited contact, with District pupils. Pursuant to Education Code section 45125.2, District shall ensure the safety of the pupils by at least one of the following as marked:
- ☒ The installation of a physical barrier at the worksite to limit contact with pupils.
- ☐ Continual supervision and monitoring of all Contractor's on-site employees of Contractor by an employee of Contractor, _____, whom the Department of Justice has ascertained has not been convicted of a violent or serious felony.
- ☐ Surveillance of Employees by District personnel.

MEGAN'S LAW (SEX OFFENDERS). CONTRACTOR SHALL VERIFY AND CONTINUE TO VERIFY THAT THE EMPLOYEES OF CONTRACTOR THAT WILL BE ON THE PROJECT SITE AND THE EMPLOYEES OF THE SUBCONSULTANT(S) THAT WILL BE ON THE PROJECT SITE ARE NOT LISTED ON CALIFORNIA'S "MEGAN'S LAW" WEBSITE ([HTTP://WWW.MEGANSLAW.CA.GOV/](http://www.meganslaw.ca.gov/)).

MUST BE COMPLETED BY CONTRACTOR'S AUTHORIZED REPRESENTATIVE:

I am a representative of the Contractor entering into this Agreement with the District and I am familiar with the facts herein certified and am authorized and qualified to execute this certificate on behalf of Contractor.

CONTRACTOR

BY: U G Builder Company

NAME: Nicholas Latierre *ML Latierre*

TITLE: Owner

DATE: 10/10/25

MUST BE COMPLETED BY DISTRICT'S AUTHORIZED REPRESENTATIVE:

As an authorized District official, I am familiar with the facts herein certified and am authorized to execute this certificate on behalf of the District.

DISTRICT

BY: _____

NAME: _____

TITLE: _____

DATE: _____

00 45 27.08

IRAN CONTRACTING ACT CERTIFICATION

[required if over \$1,000,000 project]

As required by California Public Contract Code Section 2204, the Bidder certifies subject to penalty for perjury that the option checked below relating to the Bidder's status in regard to the Iran Contracting Act of 2010 (Public Contract Code Section 2200 et seq.) is true and correct:

- ☐ The Bidder is not:
- (i) identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203; or
 - (ii) a financial institution that extends, for 45 days or more, credit in the amount of \$20,000,000 or more to any other person or entity identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203, if that person or entity uses or will use the credit to provide goods or services in the energy sector in Iran.
- ☐ The District has exempted the Contractor from the requirements of the Iran Contracting Act of 2010 after making a public finding that, absent the exemption, Agency will be unable to obtain the goods and/or services to be provided pursuant to the Contract.
- ☒ The amount of the Contract payable to the Contractor for the Project does not exceed \$1,000,000.

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

Signature

Date

Name

Title

Name of Firm

00 45 27.07
SCHEDULE Z

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

I am aware of and hereby certify that neither N G Builder Company nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. I further agree that I will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the bidder/offeror/ contractor or any lower participant is unable to certify this statement, it shall attach an explanation to this solicitation proposal.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal of the above named bidder on the 20 day of Oct, 2025 for the purposes of submission of this bid.

(Corporate Seal)

By

Signature

Nicholas Gutierrez

Typed or Printed Name

owner

Title

10/20/25

Date

As the awardee under this Bid, I hereby certify that the above certification remains valid as of the date of contract award, specifically, as of the 20 day of Oct, 2025, for the purposes of award of this contract.

(Corporate Seal)

By

Signature

Nicholas Gutierrez

Typed or Printed Name

owner

Title

10/20/25

Date

00 40 02
SITE VISIT CERTIFICATION

TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID
IF SITE VISIT WAS MANDATORY

PROJECT: Highland Child Development Center Play Yard Site Improvement

Check option that applies:

☒ I certify that I visited the Site of the proposed Work and became fully acquainted with the conditions relating to construction and labor. I fully understand the facilities, difficulties, and restrictions attending the execution of the Work under contract.

☐ I certify that _____ (Bidder's representative) visited the Site of the proposed Work and became fully acquainted with the conditions relating to construction and labor. The Bidder's representative fully understood the facilities, difficulties, and restrictions attending the execution of the Work under contract.

Bidder fully indemnifies the Oakland Unified School District, its Architect, its Engineer, its Construction Manager, and all of their respective officers, agents, employees, and consultants from any damage, or omissions, related to conditions that could have been identified during my visit and/or the Bidder's representative's visit to the Site.

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

Date:

Proper Name of Bidder:

Signature:

Print Name:

Title:

10/10/25
N.G. Builder Company
[Signature]
Nicholas Gutierrez
owner

00 65 36
PROJECT WARRANTY

We, the undersigned, do hereby warrant and guarantee all products and services described within which we have provided for:

Highland Child Development Center Play Yard Site Improvement
Bid No. 25093

are in accordance with the Contract Documents and that all such Work as installed will fulfill or exceed all minimum warranty requirements. We agree to repair or replace Work installed by us for a period of at least two years after the date of recording the Notice of Completion, together with any adjacent Work which is displaced or damaged by so doing, that proves to be defective in workmanship, material, or function at no expense to the [insert school district name] School District, ordinary wear and tear and unusual abuse or neglect excepted. Manufacturers' and suppliers' warranties may be longer than the two year period described above, but not shorter.

In the event of our failure to comply with the above-mentioned conditions within seven (7) business days, after notification in writing, we, the undersigned, all collectively and separately, hereby authorize the District to have said defective Work, repaired or replaced to be made good, and agree to pay to the District upon demand all moneys that the District may expend in making good said defective Work, including but not limited to all collection costs and reasonable attorneys' fees.

Company Name: N G Builder Company

Signed: [Signature]
(Contractor's signature)

Name: Nicholas Gutierrez
(printed)

Date: 10/10/25

DEPARTMENT OF CONSUMER AFFAIRS
CONTRACTORS
STATE LICENSE BOARD

Consumers



Licenses



Applicants

0

[Home](#) | [Online Services](#) | [License Details](#)

▶ Contractor's License Detail for License # 1078311

DISCLAIMER: A license status check provides information taken from the CSLB license database. Before relying on this information, you should be aware of the following limitations.

- ▶ CSLB complaint disclosure is restricted by law (B&P 7124.6) If this entity is subject to public complaint disclosure click on link that will appear below for more information. Click [here](#) for a definition of disclosable actions.
- ▶ Only construction related civil judgments reported to CSLB are disclosed (B&P 7071.17).
- ▶ Arbitrations are not listed unless the contractor fails to comply with the terms.
- ▶ Due to workload, there may be relevant information that has not yet been entered into the board's license database.

Business Information

N G BUILDER COMPANY
3100 DUTTON AVE SUITE 223
SANTA ROSA, CA 95407
Business Phone Number:(707) 852-5046

Entity Sole Ownership

Issue Date 07/17/2021

Expire Date 07/31/2027

License Status

NG Builder Company 1000874885

Unlink From Business

DIR Approved

Manage Contractor Employees
Manage Contractor Information

Manage Contractor Users

Current registration valid from
July 1, 2025 to June 30, 2026
Future registration valid from
July 1, 2026 to June 30, 2027

Request Addition to a Project Team

My Approvals

No records in Approval using that filter

My Projects

Search My Projects

All

Name	Project Number	State	Stage	Awarding Body	Submit new ECPR	View
------	----------------	-------	-------	---------------	-----------------	------



[Public Works Support](#)

[Log in](#)

[eCPR Search](#)

[Knowledge](#)

[Contractor Registration Search](#)

[Project Registration Search](#)

[Register](#)

[Home](#) > [Customer Account Lookup](#) > 1000002700 - ROBERTSON INDUSTRIES, INC.

1000002700 - ROBERTSON INDUSTRIES, INC.

Customer Account Lookup

PWCR

1000002700

Contractor Status

DIR Approved

CSLB

667261



CONTRACTORS STATE LICENSE BOARD

Contractor's License Detail for License # 667261

DISCLAIMER: A license status check provides information taken from the CSLB license database. Before relying on this information, you should be aware of the following limitations.

- CSLB complaint disclosure is restricted by law ([B&P 7124.6](#)) if this entity is subject to public complaint disclosure click on link that will appear below for more information. Click [here](#) for a definition of disclosable actions.
- Only construction related civil judgments reported to CSLB are disclosed ([B&P 7124.6](#)).
- Arbitrations are not listed unless the contractor fails to comply with the terms.
- Due to workload, there may be relevant information that has not yet been entered into the board's license database.

Data current as of 10/20/2025 8:56:51 AM

Business Information

ROBERTSON INDUSTRIES INC
2140 E CEDAR ST
TEMPE, AZ 85281
Business Phone Number:(602) 707-6884

Entity Corporation
Issue Date 03/17/1993
Expire Date 03/31/2027

License Status

This license is current and active.

All information below should be reviewed.

Classifications

[C-61 / D12 - SYNTHETIC PRODUCTS](#)

Bonding Information

Contractor's Bond

This license filed a Contractor's Bond with [TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA](#).

Bond Number: 105209757

Bond Amount: \$25,000

Effective Date: 01/01/2023

[Contractor's Bond History](#)

Bond of Qualifying Individual

This license filed Bond of Qualifying Individual number [0254405](#) for WILLIAM JOHN STAFFORD in the amount of \$25,000 with [BERKLEY INSURANCE COMPANY](#).

Effective Date: 06/08/2023



[Public Works Support](#)

[Log in](#)

[eCPR Search](#)

[Knowledge](#)

[Contractor Registration Search](#)

[Project Registration Search](#)

[Register](#)

[Home](#) > [Customer Account Lookup](#) > 1000013987 - G&G BUILDERS, INC.

1000013987 - G&G BUILDERS, INC.

Customer Account Lookup

PWCR

1000013987

Contractor Status

DIR Approved

CSLB

750759



CONTRACTORS STATE LICENSE BOARD

Contractor's License Detail for License # 750759

DISCLAIMER: A license status check provides information taken from the CSLB license database. Before relying on this information, you should be aware of the following limitations.

- CSLB complaint disclosure is restricted by law ([B&P 7124.6](#)). If this entity is subject to public complaint disclosure click on link that will appear below for more information. Click [here](#) for a definition of disclosable actions.
- Only construction related civil judgments reported to CSLB are disclosed ([B&P 7071.17](#)).
- Arbitrations are not listed unless the contractor fails to comply with the terms.
- Due to workload, there may be relevant information that has not yet been entered into the board's license database.

Data current as of 10/20/2025 11:01:03 AM

Business Information

G & G BUILDERS INC
4542 CONTRACTORS PLACE
LIVERMORE, CA 94551
Business Phone Number: (925) 846-9023

Entity Corporation
Issue Date 06/17/1998
Expire Date 06/30/2026

License Status

This license is current and active.

All information below should be reviewed.

Classifications

- [B - GENERAL BUILDING](#)
- [A - GENERAL ENGINEERING](#)

Bonding Information

Contractor's Bond

This license filed a Contractor's Bond with [AMERICAN CONTRACTORS INDEMNITY COMPANY](#).

Bond Number: 100411007

Bond Amount: \$25,000

Effective Date: 01/01/2023

[Contractor's Bond History](#)

Bond of Qualifying Individual

The qualifying individual GERARD PETER CALLAHAN certified that he/she owns 10 percent or more of the voting stock/membership interest of this company; therefore, the Bond of Qualifying Individual is not required.

Effective Date: 06/05/2004

[BQI's Bond History](#)

Workers' Compensation

An employee service group holds the workers compensation insurance.

Policy Number: C7386110A

Effective Date: 10/01/2025

Expire Date: 10/01/2026

[Workers' Compensation History](#)

ADDENDUM NO. 1

September 29, 2025

**Highland CDC Play Yard Site Improvements Project
OAKLAND UNIFIED SCHOOL DISTRICT**

OUSD PROJECT NUMBER 25093

Oakland Unified School District
Facilities Planning & Management
955 High Street, Oakland, CA 94601

The following changes, additions, modifications and corrections hereinafter set forth shall apply to the Bid Documents for the project and shall be made a part thereof and subject to all the requirements thereof, as if originally specified and/or shown.

Addendum No. 1

**Item# 1: The Bid Due date is being changed to:
Wednesday, October 15, 2025, at 2:00 pm**

**Item# 2: Prequalification is not required for this project. However, the
District prefers that bidders be included on the District's certified prequalification list.**

**Item# 3: We will be sending a separate addendum to address the questions
that were asked during and after the bid walk."**

RECEIPT OF THIS ADDENDUM MUST BE ACKNOWLEDGED ON
THE FORM OF PROPOSAL

End of Addendum No. 1

NWA [Signature] *Nicholas Gutierrez Owner 10/10/2025*

ADDENDUM NO. 2

October 6, 2025

Highland CDC Play Yard Site Improvements Project OAKLAND UNIFIED SCHOOL DISTRICT

OUSD PROJECT NUMBER 25093

Oakland Unified School District
Facilities Planning & Management
955 High Street, Oakland, CA 94601

The following changes, additions, modifications and corrections hereinafter set forth shall apply to the Bid Documents for the project and shall be made a part thereof and subject to all the requirements thereof, as if originally specified and/or shown.

Addendum No 2

**Item: 1: The Bid Due date is being changed to:
Monday, October 20, 2025, at 2:00 pm**

Item 2 Revised Scope of Work:

1. Remove existing play structures and their footings, along with the safety surfacing. Include patching back. Ensure the restored surface blends seamlessly with the existing surroundings.
2. Sand Pit Removal and Asphalt Patching. Approx. 300 sqft
 - a. Removal of all sand fill material.
 - b. Demolish and dispose of the curved retaining wall.
 - c. For asphalt patching, Contractor is to compact and grade the exposed area. Ensure the restored surface blends seamlessly with the existing surroundings.
3. Prep surface for new play structures
 - a. Demolish existing asphalt layer within the designated play area. Total demolition area is approximately 1,500 square feet.
 - b. Footprint of the new play structure is 37 x 40.
 - c. Install 4" x 6" Curb/band w/1 #4 bar continuous along the perimeter of the safety surfacing.
 - d. Include a 4 inch base rock layer. Compacted to 95% compaction. Contractor to provide special inspector.
 - e. Include any prep required and draining needs. Follow safety surface and play structure vendors recommendations.
 - f. Drainage requirements:
 - i. Excavate a trench approximately 2 feet deep by 16 inches wide along the inside perimeter of the new curb.
 - ii. Install a new 4-inch perforated drain pipe.
 - iii. Wrap the perforated drain pipe with fabric.
 - iv. Backfill the trench with 3/4-inch drain rock, extending a minimum of 6 inches above the drain pipe.
 - v. Connect the new drain pipe for the play structure to the nearest existing drain.

- vi. Ensure the new drain pipe slopes from the highest point to the lowest point for optimal drainage.
4. New Play Structure Installation
 - a. Vendor name: Landscape Structures Inc. (LSI). Reference play structure design drawing and installation manual.
 - b. Sub surface must not be more than 2% slope in all directions.
 - c. OUSD to furnish the play equipment. Contractor to install.
 - i. Contractor is responsible to offload equipment, staging and securing the materials onsite.
 - ii. Contractor must be Certified Playground Safety Inspector (CPSI) and must have a minimum of 3 years of experience installing play structures.
5. Poured-In-Place (PIP) Play Matting Surface for new Play Structure
 - a. Furnish and install new poured-in-place (PIP) matting for new play structure. Total 1,500 sqft
 - b. Product: TotTurf Standard EPDM or equivalent, 3.5" total thickness. Prep surface based on vendors recommendation.
 - c. PIP must contain 50% color with (2) color selection as part of the design. Color choices and design must be coordinated with OUSD.
 - d. Poured in place surfacing to include a cushion layer of rubber and polyurethane binder, capped with a wear course of TPV or equivalent granules mixed with aliphatic polyurethane for color topcoats.
 - e. Contractor must have a minimum of 3 years of experience installing PIP surfacing.
6. Apply a double layer of seal coating throughout the schoolyard. Approx. 1000 sqft. Include any prep work required (clean cracks at the existing asphalt surface of debris, pressure wash, and crack seal).
7. Furnish and install trees
 - a. Install (10) new trees, each 10ft in height, with a box size of 36 inches. Each tree must be securely staked to ensure stability. Install a wooden header board edging in a 5-foot diameter around each tree.
 - b. Furnish and install new irrigation and drainage systems for trees. Include trenching and re-pavement.
 - c. Place mulch around trees as needed.
 - d. Tree types:
 - i. Marina (Arbutus 'Marina' Standard 36" box)
8. Nature Areas
 - a. Remove existing 4" asphalt layer. Approx. 1000 sqft.
 - b. Excavate and dispose 6" of soil beneath the adjacent surface (grade level) allow for Engineering Wood Fiber (EWF). Contractor to furnish and install EWF.
 - c. Furnish and install new ½" irrigation & 3" french drainage systems to meet the needs for the space.
 - d. Furnish and install stripped wood logs and log seats. The size of log seats and logs varies. Natural wood smooth.
Manufacturer / Vendor: WWW.BAYAREAREDWOOD.COM or equivalent.
 - i. (12) Stripped Wood Logs (6' in length and 12" - 18" in diameter). Backless, surface mounted, non-movable.
 - ii. (40) Stumps varies sizes (12" - 24" in diameter). Surfaces mounted, non-movable.
 - iii. (4) Large Redwood Stump (5' - 7' in diameter)

9. Garden Area Enhancements

- a. Remove existing 8'x4'x4' planter beds.
- b. Remove grass, weeds and dirt. Approx. 2,000 sqft. Excavate to 4 inches below the adjacent asphalt surface to allow for Engineering Wood Fiber (EWF). Contractor to furnish and install EWF.
- c. Remove existing drip system lateral pipes and submain line.
- d. Install new drip irrigation system for new (6) planter boxes 8'x4'x2'. Reference OUSD Standard for irrigation and planter beds material and build requirements.

Note: Excavate a hole measuring 4 feet wide by 4 feet long by 4 feet deep for each tree. Remove and properly dispose of the excavated soil. After planting each tree, backfill the hole with a mixture of soil and compost to promote healthy growth. This is typical for all tree planting locations.

Add Alternates:

- a. N/A.

Inclusions:

1. Area of work must be fenced off to ensure a safe working environment on site. Materials should also be staged within a fenced area.
2. Materials and debris generated during construction must be hauled off site after the work is completed.
3. Must provide your own dumpster.
4. Site must be scrubbed, and pressure washed after the completion of contractor's work. Newly installed play structure(s) must be wiped down.
5. Post-work inspections will be coordinated with a firm provided by OUSD.
6. Deliveries must be coordinated with OUSD.
7. Include furnishing and installation of (2) root watering systems (RWS) for each tree. Reference: https://store.rainbird.com/rwsb1401-rain-bird-rws-root-watering-system-36-in-tube-0-25-gpm-bubbler-4-in-grate.html?utm_source=google&utm_medium=cpc&utm_campaign=RainBirdPLA&utm_term=%7Bkeyword%7D.

Reference documents:

1. Update School Yard Diagram.
2. Update Project Schedule.
3. OUSD planter beds and irrigation standards
4. Soil Characterization Report.
5. Site underground utilities scanning and topographic survey.
6. LSI's Play Structure Design Drawing
7. LSI's Play Structure Installation Manual

RECEIPT OF THIS ADDENDUM MUST BE ACKNOWLEDGED ON
THE FORM OF PROPOSAL

End of Addendum No. 2

Nick [Signature] Nicholas Gutierrez Owner 10/10/2025

- ~~a.~~ Bid cover sheet. *ok*
- ~~b.~~ Bid form, including proof of signers' authority. *ok*
- ~~c.~~ Bid security. *ok*
- ~~d.~~ Designation of Subcontractors. *ok*
- ~~e.~~ Noncollusion Declaration.
- ~~f.~~ Sufficient Funds Declaration.
- ~~g.~~ Fingerprinting Notice and Acknowledgement. *ok*
- ~~h.~~ Iran Contracting Act Certification (if required; see the form). *ok*
- ~~i.~~ Local Business Participation Form. [Not required] - *N/A*
- ~~j.~~ Schedule Z Debarment Certification.
- ~~k.~~ Site Visit Certification (if required; see above). *ok*
- ~~l.~~ DVBE Certification (if DVBE is required; see above). - *N/A*
- ~~m.~~ DVBE Worksheet (if DVBE is required; see above). - *N/A*
- ~~n.~~ Proof of Registration per Labor Code §1725.5. *ok*

44. TIME OF COMPLETION AND LIQUIDATED DAMAGES:

The Contract Time shall be seventy-five (75) calendar days. See Article III of the Agreement for details about the Contract Time and any milestone deadlines.

Liquidated damages for delay in Completion of the Work within the Contract Time, or for delay in completion of a specified portion of the Work by a milestone deadline, will accrue and may be assessed as provided in the Contract Documents, including Article III of the Agreement and Article 19 of the General Conditions.

[END OF INSTRUCTIONS TO BIDDERS]

OAKLAND UNIFIED SCHOOL DISTRICT

Highland Child Development Center Play Yard Site Improvement

BID No. 25093

**SECTION 7
GENERAL CONDITIONS**

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GENERAL CONDITIONS

Article 1. DEFINITIONS

Addendum: A written change or revision to the Contract Documents issued to the prospective bidders prior to the time of receiving bids.

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

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

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

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

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

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

Board of Trustees: The Board of Trustees of the District.

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

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

Contract Documents: The Contract Documents are described in the Contract for this Project.

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

Day: As used herein shall mean calendar day unless otherwise specifically designated.

District and/or Owner: The District, its Board of Trustees, authorized officers and employees, and authorized representatives.

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

Final Completion: Final Completion is achieved when the Contractor has fully completed all Contract Document requirements, including, but not limited to, all final punch list items, to the District's satisfaction.

Furnish: Purchase and deliver to the site of installation.

Improvements: The buildings, structures and/or sites that will be constructed, renovated and/or remodeled as part of the Project.

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

Inspector: The person engaged by the District to conduct the inspections required by the Education Code and Title 24.

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

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

Perform: The Contractor, at Contractor's expense, shall perform all operations necessary to complete the Work, including furnishing of necessary labor, tools, and equipment, and further including the furnishing and installing of materials that are indicated, specified, or required to complete such performance.

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

Secure: Obtain.

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

Substantial Completion: Substantial Completion is achieved when the District has the occupation, beneficial use, and enjoyment of the improvement, excluding any final punch list items to be performed by the Contractor at District's direction.

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

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

Miscellaneous terms and phrases:

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

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

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

Article 2. ARCHITECT

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

Article 3. DRAWINGS AND SPECIFICATIONS

- a. **Contract Documents.** The Contract Documents consist of the executed Contract and all Addenda, all approved change orders, the completed Bid Form, the required Bonds and the Insurance forms, the Notice to Bidders, the Instructions to Bidders, the Notice of Intent to Award, the Notice to Proceed, the General Conditions, the Special Conditions, the drawings and Specifications. Contract Documents are complementary, and what is called for by one shall be as binding as if called for by all. The intention of documents is to include all labor and materials, equipment, and transportation necessary for the proper execution of the work. Materials or work described in words which as applied have a well-known technical or trade meaning shall be deemed to refer to such recognized standards.
- b. **Interpretations.** Drawings and specifications are intended to be fully cooperative and to agree. However, if Contractor observes that drawings and specifications are in conflict, he or she shall promptly notify the District in writing and any necessary changes shall be adjusted as provided in the Contract for changes in work. If such conflict arises, the following order of precedence shall generally apply, provided, however, that the order of precedence shall not be so rigidly interpreted as to affect an absurd or costly result:
 1. Special Conditions shall take precedence over General Conditions.
 2. Technical Specifications implement, in additional detail, the requirements of the General Conditions. In the event of conflict between the Technical Specifications and the General Conditions, the General Conditions shall take precedence.
 3. In the event of a conflict between the Technical Specifications and the drawings, the higher quality, higher quantity and most stringent requirements shall be deemed to apply and shall govern as to materials, workmanship, and installation procedures.
 4. With regard to drawings:
 - (a) Figures govern over scaled dimensions;
 - (b) Larger details govern over general drawings;
 - (c) Addenda/change order drawings govern over contract drawings;
 - (d) Contract drawings govern over standard drawings.
 5. Work not particularly shown or specified shall be the same as similar parts that are shown or specified.
- c. **Ambiguities, Errors and Inconsistencies.** If, in the opinion of the Contractor, the construction details indicated on the drawings or otherwise specified are in conflict with accepted industry standards for quality construction and therefore might interfere with its full guarantee of the work involved, the Contractor shall promptly bring this information to the attention of the Architect for appropriate action

before submittal of the bid. Contractor's failure to request clarification or interpretation of an apparent ambiguity, error or inconsistency waives that Contractor's right to thereafter claim any entitlement to additional compensation based upon an ambiguity, inconsistency, or error, which should have been discovered by a reasonably prudent Contractor, subject only to the limitations of Public Contract Code §1104. During the Project, should any discrepancy appear or any misunderstanding arise as to the import of anything contained in the Contract Documents, the matter shall be promptly referred to the Architect (with written notice to the District's Construction Manager), who will issue instructions or corrections. Misunderstanding of drawings and specifications shall be clarified by the District, whose decisions shall be final.

- d. **Lines and Planes.** All lines and planes appearing on Contract drawings to be horizontal or vertical and not explicitly indicated otherwise shall be constructed true and plumb. All lines and planes appearing on Contract drawings to intersect at right angles and not explicitly indicated otherwise shall be constructed at true right angles. Where details are indicated covering specific conditions, such details also apply to all similar conditions not specifically indicated.
- e. **Standards.** Standards, Rules, and Regulations referred to are recognized printed standards and shall be considered as one and a part of these specifications within limits specified. The specification standards of the various sections of the Specifications shall be the procedural, performance, and material standards of the applicable association publications identified and shall be the required level of installation, materials, workmanship, and performance for the applicable work. Except where a specific date of issue is mentioned hereinafter, references to specification standards shall mean the edition, including amendments and supplements, in effect on the date of the Notice to Bidders. Where no standard is identified and a manufacturer is specified, the manufacturer's specifications are the standards. All standards shall be subordinate to the requirements of the applicable codes and regulations.
- f. **Reference to the Singular.** Wherever in the Specifications an article, device or piece of equipment is referred to in the singular number, such reference shall include as many such items as are shown on drawings or required to complete the installation.
- g. **Intent of Drawings and Specifications.** It is the intent of the drawings and Specifications to show and describe complete installations. Items shown but not specified, or specified but not shown, shall be included unless specifically omitted.
 - 1. The Specifications shall be deemed to include and require everything necessary and reasonably incidental to the completion of all work described and indicated on the drawings, whether particularly mentioned or shown, or not.
 - 2. Figured dimensions shall be followed in preference to scaled dimensions, and the Contractor shall make all additional measurements necessary for the work and shall be responsible for their accuracy. Before ordering any material or doing any work, the Contractor shall verify all measurements at the Project site and shall be responsible for the correctness of same.

Article 4. TRADE DIVISIONS

Segregation of the Specifications into the designated trade divisions is only for the purpose of facilitating descriptions and shall not be considered as limiting the work of any subcontract or trade. Subject to other necessary provisions set forth in the Specifications, the terms and conditions of such limitations or inclusions shall lie solely between the Contractor and its Subcontractors. "Scope" as indicated in each section of the Specifications shall serve only as a general guide to what is included in that section. Neither the stated description nor the division of the plans and Specifications to various sections, which is done solely for convenience, shall be deemed to limit the work required,

divide or indicate it by labor jurisdiction or trade practice, or set up any bidding barriers to the various sub-contractors or suppliers.

- a. The Contractor shall be responsible for the proper execution of all work required by the Contract Documents and for allocating such portions as the Contractor sees fit to the various Subcontractors, subject to applicable law. The Contractor is cautioned that the various individual sections may not contain all work that the Contractor may wish to allocate to a particular Subcontractor or everything bearing on the work of a particular trade, some of which may appear in other portions of the plans or Specifications.
- b. If the Contractor elects to enter into any subcontract for any section of the work the Contractor assumes all responsibility for ascertaining that the Subcontractor for the work is competent, licensed, solvent, thoroughly acquainted with all conditions and legal requirements of the work, has included all materials and appurtenances in connection therewith in the subcontract, and has performed its work in strict compliance with the Contract Documents.
- c. It shall be the responsibility of the Contractor to notify each prospective Subcontractor at the time of request for bids of all portions of the Contract Documents, including the General Conditions, special conditions and any parts of sections of Specifications or plans that the Contractor intends to include as part of the subcontract.

Article 5. MASTER MANDATORY PROVISIONS

- a. Any material, item, or piece of equipment mentioned, listed or indicated without definition of quality, shall be consistent with the quality of adjacent or related materials, items, or pieces of equipment on the Project.
- b. Any method of installation, finish, or workmanship of an operation called for, without definition of standard of workmanship, shall be followed or performed and finished in accordance with best practices and consistent with adjacent or related installations on the Project.
- c. Any necessary material, item, piece of equipment or operation not called for but reasonably implied as necessary for proper completion of the work shall be furnished, installed or performed and finished; and shall be consistent with adjacent or related materials, items, or pieces of equipment on the Project, and in accordance with best practices.
- d. Names or numbered products are to be used according to the manufacturers' directions or recommendations unless otherwise specified.

Article 6. COPIES FURNISHED

Contractor will be furnished, free of charge, copies of drawings and specifications as set forth in Special Conditions. Additional copies may be obtained at cost of reproduction.

Article 7. OWNERSHIP OF DRAWINGS

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

Article 8. DETAIL DRAWINGS AND INSTRUCTIONS

- a. **Examination of Contract Documents.** Before commencing any portion of the Work, Contractor shall again carefully examine all applicable Contract Documents, the Project site and other information given to Contractor as to materials and methods of construction and other Project requirements. Contractor shall immediately notify the District Representative of any potential error, inconsistency, ambiguity, conflict or lack of detail or explanation. If Contractor performs, permits, or causes the performance of any Work which is in error, inconsistent or ambiguous, or not sufficiently detailed or explained, Contractor shall bear any and all resulting costs, including, without limitation, the cost of correction. In no case shall the Contractor or any subcontractor proceed with Work if uncertain as to the applicable requirements.
- b. **Additional Instructions.** After notification of any error, inconsistency, ambiguity, conflict or lack of detail or explanation, the District Representative will provide any required additional instructions, by means of drawings or other written direction, necessary for proper execution of the Work.
- c. **Quality of Parts, Construction and Finish.** All parts of the Work shall be of the best quality of their respective kinds and the Contractor must use all diligence to inform itself fully as to the required construction and finish. In no case shall Contractor proceed with the Work without obtaining first from the District Representative such approval as may be necessary for the proper performance of Work.
- d. **Contractor's Variation from Contract Document Requirements.** If it is found that the Contractor has varied from the requirements of the Contract Documents including the requirement to comply with all applicable laws, ordinances, rules and regulations, including all rules, policies, and regulations of the [insert school district name] School District Board of Trustees, including any rules and regulations related to COVID-19 or other global pandemics, and all federal, state, and local laws, ordinances and regulations, are to be observed strictly by Contractor during the performance of Services pursuant to this Agreement. the District Representative may at any time, before or after completion of the Work, order the improper Work removed, remade or replaced by the Contractor at the Contractor's expense.

Article 9. CONTRACTOR

- a. Quality of Work: The Contractor shall perform all the work and activities required by the Contract Documents and furnish all labor, materials, equipment, tools and appurtenances necessary to perform the work and complete it to the District's satisfaction within the time specified. The Contractor shall at all times perform the work of this Contract in a competent and workmanlike manner and, if not specifically stated, accomplish the work according to the best standards of construction practice. The Contractor in no way is relieved of any responsibility by the activities of the architect, engineer, inspector or DSA in the performance of such duties.
- b. Full-Time Superintendent: The Contractor shall employ a full-time competent superintendent and necessary assistants who shall have complete authority to act for the Contractor on all matters pertaining to the work. The superintendent shall be satisfactory to the District and, if not satisfactory, shall be replaced by the Contractor with one that is acceptable. Also, the superintendent shall not be changed without the written consent of the District unless the superintendent ceases to be employed by the Contractor.
- c. Field Measurements: Contractor shall make the layout of lines and elevations and shall be responsible for the accuracy of both the Contractor's and the Subcontractors' work resulting therefrom. All dimensions affecting proper fabrication and installation of all Contract work must be verified by the Contractor prior to fabrication and installation by taking field measurements of the true conditions. The Contractor shall take, and assist Subcontractors in taking, all field dimensions

required in performance of the work, and shall verify all dimensions and conditions on the site. If there are any discrepancies between dimensions in drawings and existing conditions which will affect the work, the Contractor shall promptly bring such discrepancies to the attention of the Architect for adjustment before proceeding with the work. Contractor shall be responsible for the proper fitting of all work and for the coordination of all trades, Subcontractors and persons engaged upon this Contract.

- d. Contractor shall do all cutting, fitting, or patching of Contractor's work that may be required to make its several parts come together properly and fit it to receive or be received by work of other contractors as shown, or reasonably implied by, the drawings and Specifications for the completed work. Any cost incurred by the District due to defective or ill-timed work shall be borne by the Contractor.

Article 10. RESPONSIBILITY OF CONTRACTOR

- a. Contractor shall be held strictly responsible for the proper performance of all work covered by the Contract Documents, including all work performed by Subcontractors. All work performed under this Contract shall comply in every respect to the rules and regulations of all agencies having jurisdiction over the Project or any part thereof.
- b. Contractor shall submit Verified Reports as defined in 24 California Code of Regulations ("CCR") §§ 4-336 and 4-343(c). The duties of the Contractor are as defined in 24 CCR § 4-343. Contractor shall keep and make available a copy of Title 24 of the CCR at the job site at all times.
- c. Where any item of fabricated materials and/or equipment, indicated on drawings or specified is unobtainable and it becomes necessary, with the consent of the Architect and District, to substitute equivalent items differing in details or design, the Contractor shall promptly submit complete drawings and details indicating the necessary modifications of the work. To the extent the items represent a lower cost to contractor than what was originally specified, District shall be entitled to a corresponding decrease in the contract price. This provision shall be governed by the terms of the General Conditions regarding Submittals, Shop Drawings, Cuts and Samples.
- d. With respect to work performed at or near a school site, Contractor shall at all times take all appropriate measures to ensure the security and safety of students and staff, including, but not limited to, ensuring that all of Contractor's employees, Subcontractors, and suppliers entering school property strictly adhere to all applicable District policies and procedures, e.g., sign-in requirements, visitor badges, and access limitations.

Article 11. SUBCONTRACTORS & SUBCONTRACTING

- a. Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor and the District. The District shall be deemed to be the third party beneficiary of the contract between the Contractor and each Subcontractor. If the Contractor does not specify a Subcontractor for any portion of the work to be performed under this Contract, as required by law, Contractor shall perform that portion of the work with its own forces. The Contractor shall not substitute any other person or firm as a Subcontractor for those listed in the bid submitted by the Contractor, without the written approval of the District and in conformance with the requirements of the Public Contract Code, including but not limited to sections 4100, et seq.. The District reserves the right of approval of all Subcontractors proposed for use on this Project, and to this end, may require financial, performance, and such additional information as is needed to secure this approval. If a Subcontractor is not approved, the Contractor shall promptly submit another firm of the same trade for approval.

- b. The Contractor shall insert appropriate provisions in all subcontracts pertaining to work on this Project requiring the Subcontractors to be bound by all applicable terms of the Contract Documents. The Contractor shall be as fully responsible for the acts and omissions of the Subcontractors, and of persons either directly or indirectly employed by them, as the Contractor is for the acts and omissions of persons directly employed by the Contractor
- c. Substitution or addition of subcontractors shall be permitted only as authorized in California Public Contract Code Sections 4100 et seq.

Article 12. CONFERENCES AND MEETINGS

- a. A material obligation of the Contractor under the Contract Documents is the attendance at required meetings by the Contractor's supervisory personnel for the Work. 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.
- b. Pre-Construction Conference: The Contractor's representatives and those representatives of the subcontractors as requested by the District, shall attend a Pre-Construction Conference at such time and place as designated by the District. The Pre-Construction Conference will generally address the requirements of the Work and Contract Documents, and to establish construction procedures.
- c. Progress Meetings: Progress Meetings will be conducted on regular intervals (weekly unless otherwise agreed to by the Parties). The Contractor's representatives will attend the meeting, which shall be chaired by the Construction Manager or Architect, as designated. Contractor shall submit all Change Order Requests for initial review by the District at the Progress Meeting.
- d. Meeting Minutes: The Architect or Construction Manager will prepare and distribute minutes reflecting the items addressed and actions taken at a meeting or conference.

Article 13. REQUESTS FOR INFORMATION

- a. Contents of RFI: Any Requests for Information ("RFI") shall reference all applicable Contract Document(s), including Specification Section, detail(s), page number(s), drawing numbers(s) and sheet number(s), etc. The Contractor shall make suggestions and interpretations of the issues raised by each Request for Information. By itself, an RFI cannot modify Project price, scheduled completion date or the Contract Documents.
- b. Unnecessary RFIs: The Contractor may be responsible for any costs incurred for professional services the District may deduct from any amounts owing to the Contractor, if any RFI requests an interpretation or decision of a matter where the information is equally available to the party making the request.

Article 14. SAFETY/PROTECTION OF PERSONS AND PROPERTY

- a. Contractor will be solely and completely responsible for conditions of the Work Site, including safety of all persons and property during the performance of the Work. This will apply continuously and not be limited to normal working hours. The wearing of hard hats will be mandatory at all times for all personnel on Site. Contractor shall supply sufficient hard hats to properly equip all employees and visitors.
- b. The Contractor shall furnish to the District a copy of the Contractor's safety plan within thirty (30) after the issuance of the Notice to Proceed. Contractor shall designate a responsible member of the

company to post information regarding protection and obligations of workers, to comply with reporting and other occupational safety requirements. Contractor shall correct any violations of safety laws, rules, orders, standards, or regulations. Upon the issuance of a citation or notice of violation by the Division of Occupational Safety and Health Administration, Contractor shall correct such violation promptly. Upon notice from the District of a safety or health complaint from the surrounding community, Contractor shall work with the District to address the complaint, including where applicable, modifying the schedule and/or the manner of work to avoid undue disruption or safety risks to the community.

Article 15. PERFORMANCE AND PAYMENT BONDS

- a. Contractor shall file with the District the following bonds, using the bond forms provided with these Contract Documents:
 - 1) A corporate surety bond, in a sum not less than 100 percent of the amount of the Contract, to guarantee the faithful performance of the Contract.
 - 2) A corporate surety bond, in a sum not less than 100 percent of the amount of the Contract, to guarantee the payment of wages for services engaged and of bills contracted for materials, supplies, and equipment used in the performance of the Contract.
- b. Corporate sureties on these bonds and on bonds accompanying bids must be admitted sureties as defined by law, legally authorized to engage in the business of furnishing surety bonds in the State of California. All sureties and bond forms must be satisfactory to the District. Failure to submit the required bonds within the time specified by the Notice of Intent to Award, using the forms provided by the District, may result in cancellation of the award of Contract and forfeiture of the Bid Bond.
- c. The amount of the Contract, as used to determine the amounts of the bonds, shall be the total amount fixed in the Contractor's proposal for the performance of the required work.
- d. During the period covered by the Contract, if any of the sureties upon the bonds shall become insolvent or unable, in the opinion of the District, to pay promptly the amount of such bonds to the extent to which surety might be liable, the Contractor, within thirty (30) days after notice given by the District to the Contractor, shall provide supplemental bonds or otherwise substitute another and sufficient surety approved by the District in place of the surety becoming insolvent or unable to pay. If the Contractor fails within such thirty (30) day period to substitute another and sufficient surety, the Contractor shall, if the District so elects, be deemed to be in default in the performance of its obligations hereunder and upon the bid bond, and the District, in addition to any and all other remedies, may terminate the Contract or bring any proper suit or other proceedings against the Contractor and the sureties or any of them, or may deduct from any monies then due or which thereafter may become due to the Contractor under the Contract, the amount for which the surety, insolvent or unable to pay, shall have been liable on the bonds, and the monies so deducted shall be held by the District as collateral security for the performance of the conditions of the bonds.

Article 16. TIME

- a. The Contractor shall commence the work on the date indicated in the Notice to Proceed. Time is of the essence regarding the Contract work, and the Contractor shall prosecute the work diligently and regularly at such a rate of progress as to ensure completion of this Project within, or sooner than, the time specified.
- b. The Contractor and Subcontractors shall investigate and become aware of the amount of time required

for the delivery of all equipment and materials required to perform the work under this Contract, and no extension of time shall be granted due to failure to order the equipment and materials sufficiently before their incorporation into the work so as to avoid delay to the Project.

- c. The Contractor and Subcontractors shall provide and maintain enough manpower, materials and equipment to ensure a rate of construction progress that will complete the Project within or sooner than the time specified and according to the schedule of work. If, in the District's opinion, the Contractor and/or Subcontractors are not prosecuting the work at a sufficient rate of progress to meet the Project schedule, the District may direct the Contractor to provide additional manpower, materials or equipment, or to work additional hours, holidays or weekends without additional cost to the District until the work is progressing in a manner satisfactory to the District. Failure to prosecute the work in a timely manner according to the Project schedule is considered a breach of Contract and shall be cause for termination of the Contract.

Article 17. CONSTRUCTION SCHEDULE

- a. Within fifteen (15) calendar days after the award of the Contract, the Contractor shall prepare and submit to the Architect and District an as-planned construction schedule showing in detail how the Contractor plans to prosecute the work within the time set for Final Completion. The schedule shall include the work of all trades necessary for construction of the Project, and shall be sufficiently complete and comprehensive to enable progress to be monitored on a day-by-day basis. The information for each activity shall include at a minimum the activity description, duration, start date and completion date. The first payment will not be made unless the District has been provided and has accepted the project schedule.
- b. The Contractor shall take care in the preparation of the schedule to ensure that it represents an accurate and efficient plan for accomplishing the work. If the Project is more than one week behind schedule, it must be promptly revised showing how the Contractor plans to complete the work, but in no case shall it show a completion date later than that required by the Contract, unless a time extension has been granted. The current schedule shall be kept posted in the Contractor's project office on site. All required schedules shall be periodically updated to reflect changes in the status of the job, including weather delays. At a minimum, the Contractor shall be required to provide and keep updated a monthly schedule in order to prevent delay claims. Contractor shall, at the request of the District, prepare a recovery schedule when Contractor's Work has fallen behind schedule.
- c. The Contractor shall be responsible for the coordination of all work necessary and pertaining to the construction whether actually a part of this Contract or attendant thereto. The Contractor shall notify the District and various utility companies, as far as possible in advance of their required work, in order that work schedules may be developed for all concerned, which will permit the most effective and timely accomplishment of the entire Project.

Article 18. DELAYS AND TIME EXTENSIONS

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

- b. **A request for extension of time and compensation related thereto shall be made in writing to the Architect and District within ten (10) calendar days of the date the delay is encountered, or shall be deemed waived.** The request shall include a detailed description of the reasons for the delay and corrective measures by the Contractor. The request shall be accompanied by evidence that the insurance policies required by the Contract shall be in effect during the requested additional period of time. In order for the Architect to consider a request for time extension, the Contractor must prove that the reasons stated for the delay actually caused a delay in portions of the work which will result in completion beyond the date specified in the Contract. The Contractor may also be granted a time extension for a significant change in the scope of work which request for extension of time shall be included in a Contract modification proposal.
- c. No damages or compensation or any kind shall be paid to a Contractor because of delays in the progress of work, whether such delays be avoidable or unavoidable, that are not the responsibility of District. District's liability to Contractor for delays for which District is responsible shall be limited to an extension of time unless such delays were unreasonable under the circumstances involved and were not within the contemplation of the Parties when the Contract was awarded. The Contractor shall provide to the District the actual, substantiated costs to Contractor for which the Contractor may claim damages from District. Such costs, if any, shall be directly related to the Project, and shall not include costs that would be borne by the Contractor in the regular course of business, including, but not limited to, home office overhead and ongoing insurance costs. Delay damages shall not include Contractor or Subcontractor markup for overhead and profit, but only actual, documented, and direct actual costs. The District shall not be liable for any damages which the Contractor could have avoided by any reasonable means including, but not limited to, the more judicious handling of forces or equipment.
- d. The granting of an extension of time because of unavoidable delays shall in no way operate as a waiver on the part of the District of the right to collect liquidated damages for other delays or of any other rights to which the District is entitled.

Article 19. LIQUIDATED DAMAGES

- a. The Parties understand and agree that the goodwill, educational process, and other business of District will be damaged if the Project is not completed and the Improvements cannot be occupied by the date of the stated Project completion. The Parties have further agreed that the exact amount of damages for failure to complete the Work within the time specified is, in some cases, extremely difficult, impractical, or impossible to determine. As to those damages that are difficult, impractical, or impossible to determine, should the Contractor fail to achieve Substantial Completion of this Contract within the time fixed for Substantial Completion, together with extensions granted by the District for unavoidable delays, Contractor shall become liable to the District in the amount specified in the Contract per calendar day for each day the Contract remains incomplete beyond the time for Substantial Completion, as liquidated damages and not as a penalty. Contractor shall not be charged with liquidated damages when the delay in completion of the work beyond the time for Substantial Completion is due to acts of the District. These liquidated damages will compensate the District only for its loss of use and the inability to occupy or otherwise utilize the Improvements. The costs and fees, including attorneys' fees, incurred by the District and its consultants and suppliers for extended performance as the result of any delays shall be added in Article 19.b., as set forth below.
- b. In addition to any liquidated damages which may be assessed, if Contractor fails to achieve Substantial Completion of this Contract within the time fixed for Substantial Completion, together with extensions granted by the District for unavoidable delays, and if as a result District finds it necessary to incur any costs and/or expenses, or if District receives any claims by other contractors, subcontractors, or third parties claiming time or other compensation by reason of Contractor's failure to complete work on time, Contractor shall pay all those costs and expenses incurred by District. These costs and expenses

may include but are not limited to such items as rental payments, extended performance by the architect, construction manager and Project Inspector, increased insurance costs, equipment rentals and allocable administrative salaries, whether related to the acquisition of facilities or caused by the delay in completion. The District may, without waiving any of its rights, assess liquidated damages after Substantial Completion of the Project.

- c. Any money due or to become due to the Contractor may be retained to cover liquidated and other delay damages. Should such money not be sufficient to cover those damages, the District shall have the right to recover the balance from the Contractor or Contractor's sureties.
- d. Should the District authorize suspension of the work for any cause, the time work is suspended will be added to the time for completion. Suspension of the work by the District shall not be a waiver of the right to claim liquidated or other delay damages as set forth in this section.

Article 20. ASSIGNMENT

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

Article 21. PROHIBITED INTERESTS

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

Article 22. SEPARATE CONTRACTS

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

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

To ensure proper execution of his subsequent work, Contractor shall measure and inspect work already in place and shall at once report to the District any discrepancy between executed work and the Contract Documents.

Contractor shall ascertain to his own satisfaction the scope of the Project and nature of any other contracts that have been or may be awarded by District in prosecution of the Project to the end that Contractor may perform this Contract in the light of such other contracts, if any. Nothing herein contained shall be interpreted as granting to Contractor exclusive occupancy at the Project site. Contractor shall not cause any unnecessary hindrance or delay to any other

contractor working on project. If simultaneous execution of any contract for the Project is likely to cause interference with performance of some other contract or contracts, District shall decide which contractor shall cease work temporarily and which contractor shall continue or whether work can be coordinated so that contractors may proceed simultaneously. District shall not be responsible for any damages suffered or for extra costs incurred by Contractor resulting directly or indirectly from award, performance, or attempted performance of any other contract or contracts on the Project, or caused by any decision or omission of District respecting the order of precedence in performance of contracts.

Article 23. COORDINATION WITH OTHER CONTRACTS

- a. The District reserves the right to do other work or award other contracts in connection with this Project. By entering into this Contract, Contractor acknowledges that there may be other contractors on or adjacent to the Project site whose work must be coordinated with that of its own. Contractor expressly warrants and agrees that it will cooperate with other contractors and will do nothing to delay, hinder, or interfere with the work of other contractors, or that of the District, its Architect and Construction Manager. Contractor also expressly agrees that in the event its work is hindered, delayed, interfered with, or otherwise affected by a separate contractor, its sole remedy will be a direct action against the separate contractor. To the extent allowed by law, the Contractor expressly waives any remedy against the District, its Architect and Construction Manager on account of delay, hindrance, interference or other such events caused by a separate contractor.
- b. If any part of Contractor's work depends upon the work of a separate contractor, Contractor shall inspect such other work and promptly report in writing to the District and Architect any defects in such other work that render it unsuitable to receive the work of Contractor. Failure of the Contractor to so inspect and report shall constitute an acceptance of the other contractor's work, except as to defects which the Contractor could not have detected through the reasonable inspection of the other contractor's work prior to the execution of Contractor's work.
- c. If Contractor is aware of a current or potential conflict between Contractor's work and the work of another contractor on the site, and is unable to informally resolve the conflict directly with the other contractor, Contractor shall promptly provide written notice to the District, with a copy to the Architect and the other contractor, specifying the nature of the conflict, the date upon which the conflict arose, and the steps taken to attempt to resolve the conflict. The District may issue written instructions to address the conflict.

If, through Contractor's negligence, any other contractor or subcontractor shall suffer loss or damage to the work, Contractor shall make a reasonable effort to settle with such other contractor and subcontractor by agreement. If such other contractor or subcontractor shall assert any claim against the District or Architect, on account of any damage alleged to have been so sustained, the District or Architect shall notify the Contractor, who shall defend such proceedings at Contractor's own expense without counsel approved by District, and save harmless and indemnify the District and the Architect from any such claim.

Article 24. DISTRICT'S RIGHT TO STOP WORK; TERMINATION OR SUSPENSION OF THE CONTRACT

- a. District's Right to Stop Work:

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

the benefit of the Contractor or any other person or entity, and the failure of the District to do so shall not be raised as a defense to the Contractor's failure to perform the work in accordance with the Contract Documents.

b. Termination for Cause:

- 1) If the Contractor refuses or fails to furnish sufficient materials, work force, equipment, and appurtenances to properly prosecute the work in a timely manner, or if Contractor refuses or fails to comply with any provisions of the Contract Documents, or if Contractor should file a bankruptcy petition or make a general assignment for the benefit of Contractor's creditors or if a receiver should be appointed on account of Contractor's insolvency, then the District may give the Contractor and Contractor's Surety written notice of intention to terminate the Contract. Unless within seven (7) calendar days after the serving of such notice upon the Contractor and Contractor's Surety such violation shall cease and arrangements for correction of such conditions shall be made satisfactory to the District, the Contract shall cease and terminate. In the event of such termination, the District shall immediately serve written notice thereof upon the Contractor and Contractor's Surety.
- 2) In the event of termination for cause, in addition to all remedies available to the District, the Contractor's Surety shall have the right to take over and perform the Contract; provided, however, that if the Surety does not commence performance within five (5) calendar days from the date of the issuance of such notice of termination, the District may take over the work and prosecute the same to completion by letting another Contract, or by any other method that the District deems advisable. The Contractor and Contractor's Surety shall be liable for any excess cost incurred by the District thereby, and in any such event the District may take possession of such materials, equipment, and other property belonging to the Contractor as may be on the site and use same in completing the work.

c. Termination or Suspension for Convenience:

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

- 1) The actual cost of labor, materials and services provided pursuant to the Contract, and which have not yet been paid for, as documented by timesheets, invoices, receipts and the like; and
- 2) Five percent (5%) of the total cost of the work performed as of the date of notice of termination or suspension or five percent (5%) of the value of the work yet to be completed, whichever is less. The Parties agree that this amount shall constitute full and fair compensation for all Contractor's lost profits and other damages resulting from the termination or suspension for convenience.

Article 25. GUARANTEE

Contractor warrants to the District that material and equipment furnished under the Contract will be of the highest quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty does not cover damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the District, the Contractor shall furnish satisfactory evidence

as to the kind and quality of materials and equipment. So long as District forwards written notification of any warranty item to Contractor within the warranty period, Contractor's obligation to correct the warranty item continues until the correction is made. As stated in the Project Warranty form, the warranty period is at least **two years**. In the event of failure of the Contractor to repair a defect within seven (7) days after being notified in writing, the District is hereby authorized to proceed to have defects repaired and made good at expense of the Contractor who shall pay costs and charges therefore immediately on demand.

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

This Article does not in any way limit the guarantee on any items for which a longer guarantee is specified or on any items for which a manufacturer gives a guarantee for a longer period. Contractor shall furnish District with all appropriate guarantee or warranty certificates, in a form acceptable to District, prior to the final payment made to Contractor.

Article 26. NOTICE AND SERVICE THEREOF

- a. Any notice from one Party to the other under the Contract shall be in writing and shall be dated and signed by the Party giving such notice or by the duly authorized representative of such Party. Any such notice shall not be effective for any purpose whatsoever unless served in one of the following manners:
 - 1) If notice is given to District, by personal delivery thereof to District's representative or by depositing same in United States mail, enclosed in a sealed envelope addressed to District for attention of said representative or District, postage prepaid and registered;
 - 2) If notice is given to Contractor, by personal delivery thereof to said Contractor or to his foreman at site of the Project, or by depositing same in United States mail, enclosed in a sealed envelope addressed to said Contractor at his regular place of business or at such other address as may have been established for the conduct of work under this contract, postage prepaid and registered;
 - 3) If notice is given to surety or other person, by personal delivery to such surety or other person or by depositing same in United States mail, enclosed in a sealed envelope addressed to such surety or person at the address of such surety or person last communicated by him to Party giving notice, postage prepaid and registered.
 - 4) If notice is served by mail, it shall be deemed received and all time periods associated with the giving of notice shall run from the third day after mailing.

Article 27. WORKERS

- a. Contractor shall at all times enforce strict discipline and good order among his employees. Contractor shall not employ on work any unfit person or anyone not skilled in work assigned to him.
- b. Any person in the employ of the Contractor whom the District may deem incompetent or unfit shall be dismissed from work and shall not again be employed on it except with the written consent of District.

- c. The District reserves the right to request that the Project Supervisor be replaced immediately.

Article 28. WAGE RATES, PAYROLL RECORDS AND DEBARMENT

- a. The Contractor is aware of the requirements of California Labor Code sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Since this Project involves an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and since the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. The Contractor shall obtain a copy of the prevailing rates of per diem wages at the commencement of this Agreement from the website of the Division of Labor Statistics and Research of the Department of Industrial Relations located at www.dir.ca.gov/dlsr/. In the alternative, the Contractor may view a copy of the prevailing rates of per diem wages at the District's Facilities Department. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to perform work on the Project available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the Project site. Contractor shall defend, indemnify and hold the District, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or allege failure to comply with the Prevailing Wage Laws.
- b. The Contractor and each subcontractor shall forfeit as a penalty to the District not more than Two Hundred Dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the stipulated prevailing wage rate for any work done by him, or by any subcontract under him, in violation of the provisions of the California Labor Code. The difference between such stipulated prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Contractor.
- c. As a further material part of this Contract, Contractor agrees to hold harmless and indemnify the District, its Board members, and its officers, employees and agents from any and all claims, liability, loss, costs, damages, expenses, fines and penalties, of whatever kind or nature, including all costs of defense and attorneys' fees, arising from any alleged failure of Contractor or its subcontractors to comply with the Prevailing Wage Laws of the State of California. If the District or any of the indemnified parties are named as a party in any dispute arising from the failure of Contractor or its subcontractors to pay prevailing wages, Contractor agrees that the District and the other indemnified parties may appoint their own independent counsel, and Contractor agrees to pay all attorneys' fees and defense costs of the District and the other indemnified parties as billed, in addition to all other damages, fines, penalties and losses incurred by the District and the other indemnified parties as a result of the action.
- d. Accurate payroll records shall be kept by the Contractor and each subcontractor, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the Work.
- e. It shall be the responsibility of Contractor to comply with Labor Code section 1776 as it may be amended by the Legislature from time to time with respect to each payroll record. Labor Code section 1776 provides in relevant part,

(a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice,

worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

- (1) The information contained in the payroll record is true and correct.
 - (2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.
- (b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:
- (1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.
 - (2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.
 - (3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of the contractor.
- (c) Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in (a) above.
- (d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.
- (e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(5)) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full

social security number, but shall provide the last four digits of the social security number. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.

(f) (1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided non-redacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.

(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor shall have 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit One Hundred Dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(i) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section."

f. Debarment. The Contractor or any subcontractor working under the Contractor may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Section 1777.1 or Section 1777.7 of the California Labor Code. Any contract on a public works project entered into between the Contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid, or may have been paid to a debarred subcontractor by the Contractor on the project shall be returned to the District. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the project.

Article 29. APPRENTICES

Contractor's attention is directed to the provisions of Sections 1777.5, 1777.6, and 1777.7 of the California Labor Code concerning employment of apprentices by the Contractor or any subcontractor under him. The Contractor shall be knowledgeable of and comply with all California Labor Code sections including 1727, 1773.5, 1775, 1777,

1777.5, 1810, 1813, 1860, including all amendments; each of these sections is incorporated by reference into this Contract. The responsibility for compliance with these provisions for all apprenticeable occupations rests with the Contractor. Knowing violations of Section 1777.5 will result in forfeiture not to exceed \$100 for each calendar day of non-compliance pursuant to Section 1777.7.

Article 30. HOURS OF WORK

- a. As provided in article 3 (commencing at section 1810), chapter 1, part 7, division 2 of the Labor Code, eight (8) hours of labor shall constitute a legal day's work. The time of service of any worker employed at any time by the Contractor or by any subcontractor on any subcontract under this Contract upon the Work or upon any part of the Work contemplated by this Contract is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as hereinafter provided. Notwithstanding the provisions herein above set forth, work performed by employees of Contractor in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon this public work upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half times the basic rate of pay.
- b. The Contractor and every subcontractor shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by him in connection with the Work or any part of the Work contemplated by this Contract. The record shall be kept open at all reasonable hours to the inspection of the District and to the Division of Labor Law Enforcement, Department of Industrial Relations of the State of California.
- c. The Contractor shall pay to the District a penalty of twenty-five dollars (\$25) for each worker employed in the execution of this Contract by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week in violation of the provisions of article 3 (commencing at section 1810), chapter 1, part 7, division 2 of the Labor Code.
- d. Any work necessary to be performed after regular working hours or on Sundays or other holidays shall be performed without additional expense to District. Refer to Special Conditions for information on specific time-of-day and weekend hour restrictions which apply to this Contract.
- e. For projects occurring on or adjacent to an operating school site, Contractor shall schedule activities to ensure education operations will not be unduly disrupted by significant noise, dust or other impacts reasonably expected to be disruptive to any educational or District programs.

Article 31. INSURANCE

- a. Contractor shall obtain insurance from a company or companies acceptable to District. All required insurance must be written by an admitted company licensed to do business in the State of California at the time the policy is issued. All required insurance shall be equal to or exceed an A VIII rating as listed in Best's Insurance Guide's latest edition. On a case-by-case basis, the District may accept insurance written by a company listed on the State of California Department of Insurance List of Eligible Surplus Lines ("LESLI List") with a rating of A:VIII or above as listed in Best's Insurance Guides' latest edition. Required documentation of such insurance shall be furnished to the District within the time stated in the Notice of Intent to Award. Contractor shall not commence work nor shall it allow its employees or Subcontractors or anyone to commence work until all insurance required hereunder has been submitted and approved by the District and a notice to proceed has been issued.
- b. Company or companies providing insurance coverage shall be acceptable to the District and authorized to conduct business in the State of California.

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

1) **General Liability Insurance:** Personal injury and replacement value property damage insurance for all activities of the Contractor and its Subcontractors arising out of or in connection with this Contract, written on a comprehensive general liability form including contractor's protected coverage, blanket contractual, completed operations, vehicle coverage and employer's non-ownership liability coverage, in an amount no less than either:

- (a) \$2,000,000.00 combined single limit personal injury and property damage for each occurrence and \$4,000,000.00 annual aggregate with a \$4,000,000.00 umbrella/excess; or
- (b) \$4,000,000.00 annual combined single limit.

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

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

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

All general liability policies shall be written to apply to all bodily injury, including death, property damage, personal injury and other covered loss, however occasioned, occurring during the policy term, and shall specifically insure the performance by Contractor of that part of the indemnification contained in Article 33 hereof, relating to liability for injury to or death of persons and damage to property. If the coverage contains one or more aggregate limits, a minimum of 50% of any such aggregate limit must remain available at all times; if over 50% of any aggregate limit has been paid or reserved, District may require additional coverage to be purchased by Contractor to restore the required limits. Contractor may combine primary, umbrella, and as broad as possible excess liability coverage to achieve the total limits indicated above. Any umbrella or excess liability policy shall include the additional insured

endorsement, products and completed operations coverage and broad form property damage described in paragraphs (d) and (e), above. To the extent that the umbrella insurer requires notice of changes to the primary policy, notice will be considered to be given and not prejudice the District's rights to recover under the umbrella policy.

Contractor and District release each other, and their respective authorized representatives, from any Claims (as further defined in Article 33), but only to the extent that the proceeds received from any policy of liability insurance carried by District or Contractor, other than any self-insurance, covers any such Claim or damage. Included in any policy or policies of liability insurance provided by Contractor hereunder shall be a standard waiver of rights of subrogation against District by the insurance company issuing said policy or policies.

2) **Builders Risk Insurance:**

_____ Contractor is not required to procure and maintain builders' risk insurance (all-risk coverage).

 X Contractor shall procure and maintain builders' risk insurance (all-risk coverage) on a one hundred percent completed value basis on the insurable portion of the project for the benefit of the District, and the Contractor and subcontractor as their interest may appear.

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

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

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

3) **Automobile Liability Insurance:** Covering bodily injury and property damage in an amount no less than \$1,000,000 combined single limit personal injury and property damage for each occurrence. Such insurance shall include coverage for owned, hired, and non-owned vehicles and be included on the umbrella/excess policy.

- d. The certificate(s) for the General Liability Policy(ies) and the Automobile Liability Policy specified above must state that the insurance is under an occurrence based, and not claims made, policy(ies) and shall be endorsed with the following specific language:

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

- e. The certificate(s) for the both the General Liability Policy and the Automobile Liability Policy, as well the Builders' Risk Policy if required above, shall be endorsed with the following specific language:
- 1) The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured and the coverages afforded shall apply as though separate policies have been issued to each insured.
 - 2) The insurance provided herein is primary and no insurance held or owned by the District shall be called upon to contribute to a loss.
 - 3) Coverage provided by this policy shall not be reduced or canceled without thirty (30) days written notice given to the Owner by certified mail.
 - 4) This policy does not exclude explosion, collapse, underground excavation hazard, or removal of lateral support.
 - 5) The certificates must state that the insurance is under an occurrence based, and not a claims-made, or "modified occurrence," policy (policies).
- f. Within ten (10) days following issuance of the Notice of Intent to Award of the Contract, the following documentation of insurance shall be submitted to District for approval prior to issuance of the Notice to Proceed: Certificates of insurance showing the limits of insurance provided, certified copies of all policies, and signed copies of the specified endorsements for each policy. At the time of making application for an extension of time, the Contractor shall submit evidence that the insurance policies will be in effect during the requested additional period of time.
- g. If the Contractor fails to maintain such insurance, the District may take out such insurance to cover any damages of the above mentioned classes for which the District might be held liable on account of the Contractor's failure to pay such damages, and deduct and retain the amount of the premiums from any sums due the Contractor under the Contract.
- h. **Workers' Compensation Insurance:**
- 1) Within ten (10) calendar days following issuance of the Notice of Intent to Award of the Contract, the Contractor shall furnish to the District satisfactory proof that the Contractor and all Subcontractors it intends to employ have procured, for the period covered by the Contract, full Workers' Compensation insurance and employer's liability with limits of at least \$1,000,000 with an insurance carrier satisfactory to the District for all persons whom the Contractor may employ in carrying out the work contemplated under this Contract in accordance with the Workers' Compensation Insurance and Safety Act, approved May 26, 1913, and all acts amendatory or supplemental thereto (the "Act"). Such insurance shall be maintained in full force and effect during the period covered by the Contract. In the event the Contractor is self-insured, Contractor shall furnish a Certificate of Permission to Self-Insure, signed by the Department of Industrial Relations Administration of Self-Insurance, Sacramento, California.
 - 2) If the Contractor fails to maintain such insurance, the District may take out worker's compensation insurance to cover any compensation which the District might be liable to pay under the provisions of the Act, by reason of any employee of the Contractor being injured or killed, and deduct and retain the amount of the premiums for such insurance from any sums due the Contractor under the Contract, or otherwise recover that amount from the Contractor or the Surety.

- 3) If an injury occurs to any employee of the Contractor for which the employee, or the employee's dependents in the event of the employee's death, is entitled to compensation under the provisions of the Act, or for which compensation is claimed from the District, the District may retain from the sums due the Contractor under this Contract an amount sufficient to cover such compensation, as fixed by the Act, until such compensation is paid, or until it is determined that no compensation is due, and if the District is compelled to pay such compensation, it will deduct and retain from such sums the amount so paid, or otherwise recover this sum from the Contractor or its Surety.
 - 4) The policies represented by the certificates shall be endorsed with a Waiver of Subrogation and must contain the provision (and the certificates must so state) that the insurance cannot be canceled until thirty (30) days after written notice of intended cancellation has been given to the District by certified mail.
- i. Contractor's failure to procure the insurance specified herein, or failure to deliver certified copies or appropriate certificates of such insurance, or failure to make the premium payments required by such insurance, shall constitute a material breach of the Contract, and District may, at its option, terminate the Contract for any such default by Contractor.
 - j. The requirements as to the types and limits of insurance coverage set forth herein and in the Special Conditions to be maintained by the Contractor, and any approval of said insurance by the District or its insurance advisor(s), are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to the Agreement, including, but not limited to, the provisions concerning indemnification.
 - k. District shall retain the right at any time to review the coverage, form, and amount of insurance required herein and may require Contractor to obtain insurance reasonably sufficient in coverage, form and amount to provide adequate protection against the kind and extent of risk which exists at the time a change in insurance is required.
 - l. All deviations from the contractual insurance requirements stated herein must be approved in writing by District's risk manager.

Article 32. PROOF OF CARRIAGE OF INSURANCE

- a. Any insurance carrier providing insurance coverage required by the Contract Documents shall be admitted to and authorized to do business in the State of California unless waived, in writing, by the District Risk Manager. Carrier(s) shall have an A.M. Best rating of not less than an A:VIII. Insurance deductibles or self-insured retentions must be declared by the Contractor, and such deductibles and retentions shall have the prior written consent from the District. At the election of the District, the Contractor shall either 1) reduce or eliminate such deductibles or self-insured retentions, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.
- b. Contractor shall cause its insurance carrier(s) to furnish the District with either 1) a properly executed original Certificates(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, or 2) if requested to do so in writing by the District Risk Manager, provide original certified copies of policies including all endorsements and all attachments thereto, showing such insurance is in full force and effect. The District, its directors and officers, employees, agents or representatives shall be named as additional insureds and a waiver of subrogation shall be provided in favor of those parties. Further, said Certificates(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that shall provide no less than thirty (30) days written notice be

given to the District prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation of coverage, the District may terminate or stop the Work pursuant to the Contract Documents, unless the District receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing the coverage set forth herein and the insurance required herein is in full force and effect. Contractor shall not take possession, or use the Project site, or commence operations under this Contract until the District has been furnished original Certificate(s) of Insurance and certified original copies of endorsements or policies of insurance, including all endorsements and any and all other attachments as required in this Section. The original Endorsements for each policy and the Certificate of Insurance shall be signed by an individual authorized by the insurance carrier to do so on its behalf.

- c. It is understood and agreed to by the Parties hereto and the insurance company(ies), that the Certificate(s) of Insurance and policies shall so covenant and shall be construed as primary, and the District's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.
- d. The District reserves the right to adjust the monetary limits of insurance coverage during the term of this Contract, including any extension thereof, if in the District's reasonable judgment the amount or type of insurance carried by the Contractor becomes inadequate.
- e. Contractor shall pass down the insurance obligations contained herein to all tiers of sub-contractors working under this Contract.

Article 33. INDEMNIFICATION

Contractor shall defend (with counsel of District's choosing), indemnify and hold the District, its officials, officers, agents, employees, and representatives free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries, in law or equity, regardless of whether the allegations are false, fraudulent, or groundless, to property or persons, including wrongful death, to the extent arising out of or incident to any act, omission, breach, or willful misconduct of Contractor, its officials, officers, employees, agents, consultants and contractors arising out of or in connection with the performance of the Work or this Contract, including claims made by subcontractors for nonpayment, including without limitation the payment of all consequential damages and attorneys' fees and other related costs and expenses. Contractor shall defend, at Contractor's own cost, expense and risk, with counsel of District's choosing, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the District, its officials, officers, agents, employees and representatives. To the extent of its liability, Contractor shall pay and satisfy any judgment, award or decree that may be rendered against District, its officials, officers, employees, agents, employees and representatives, in any such suit, action or other legal proceeding. Contractor shall reimburse District, its officials, officers, agents, employees and representatives for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. The only limitations on this provision shall be those imposed by Civil Code Section 2782. Such indemnification shall extend to all claims, demands, or liabilities occurring after completion of the project as well as during the progress of the work. Pursuant to Public Contract Code § 9201, District shall timely notify Contractor of receipt of any third-party claim relating to this Project.

Article 34. LAWS AND REGULATIONS

- a. Contractor shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on conduct of the Work as indicated and specified. If Contractor observes that drawings and specifications are at variance therewith, he shall promptly notify the District in writing and any necessary changes shall be adjusted as provided in contract for changes in the Work. If Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and

without such notice to District, he shall bear all costs arising therefrom.

- b. The Contractor shall be knowledgeable regarding and shall comply with applicable portions of California Code of Regulations Title 24, the applicable Building Code, and all other codes, ordinances, regulations or orders of properly constituted authority having jurisdiction over the work of this Project. The Contractor shall examine the Contract Documents for compliance with these codes and regulations and shall promptly notify the Architect of any discrepancies.
- c. All work and materials shall be in full accordance with the latest rules and regulations of the Safety Orders of the Division of Industrial Safety and the applicable State laws and/or regulations. Nothing in the Project plans or Specifications is to be construed to permit work not conforming to the applicable Codes. Buildings and/or all other construction covered by this Contract shall meet all the regulations for access by the physically handicapped as administered by the Division of the State Architect and as may be required by federal or state law. Contractor shall be responsible for familiarity with the Americans with Disabilities Act (ADA) (42 USC 12101 et seq.). Installations of equipment and other devices shall be in compliance with ADA regulations.
- d. If the work under this Contract is for the construction of a school building as defined by the Education Code, then the following provisions shall apply to the Contract:
 - 1) All work shall be executed in accordance with the current requirements of the Education Code and California Code of Regulations: Title 24 and Title 19. No deviations from the DSA approved plans and Specifications will be permitted except upon a Change Order or Addenda, signed by the District and Architect and approved by the Division of the State Architect and the State Fire Marshal, if applicable.
 - 2) The Division of the State Architect shall be notified 48 hours in advance of the first pour of concrete.

Article 35. PERMITS AND LICENSES

Permits and licenses necessary for prosecution of the Work shall be secured and paid for by Contractor, unless otherwise specified in the Contract Documents.

- a. Contractor shall obtain and pay for all other permits and licenses required for the Work, including excavation permit and for plumbing, mechanical and electrical work and for operations in or over public streets or right of way under the jurisdiction of public agencies other than the District.
- b. The Contractor shall arrange and pay for all off-site inspection of the Work related to permits and licenses, including certification, required by the specifications, drawings, or by governing authorities, except for such off-site inspections delineated as the District's responsibility pursuant to the Contract Documents.
- c. Before acceptance of the Project, the Contractor shall submit all licenses, permits, certificates of inspection and required approvals to the District.

Article 36. INSPECTION FEES FOR PERMANENT UTILITIES AND EASEMENTS

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

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

Article 37. SURVEYS

Surveys to determine location of property lines and corners will be supplied by the District. Surveys to determine locations of construction, grading, and site work shall be provided by the Contractor.

Article 38. EXCISE TAXES

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

Article 39. PATENTS, ROYALTIES, AND INDEMNITIES

The Contractor shall hold and save the District and its officers, agents, and employees harmless from liability of any nature or kind, including cost and expense, for or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of this contract, including its use by the District, unless otherwise specifically stipulated in the contract documents.

Article 40. MATERIALS

- a. Except as otherwise specifically stated in this contract, Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendency, temporary constructions of every nature, and all other services and facilities of every nature whatsoever necessary to execute and complete this Contract within specified time.
- b. Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of good quality.
- c. Materials shall be furnished in ample quantities and at such times as to insure uninterrupted progress of work and shall be stored properly and protected as required. Contractor shall be entirely responsible for damage or loss by weather or other causes to materials or work under this contract.
- d. No materials, supplies, or equipment for Work under this Contract shall be purchased subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or in any part thereof is retained by seller or supplier. Contractor warrants good title to all material, supplies, and equipment installed or incorporated in work and agrees upon completion of all Work to deliver premises, together with all improvements and appurtenances constructed or placed thereon by him, to District free from any claims, liens, or charges. Contractor further agrees that neither he nor any person, firm, or corporation furnishing any materials or labor for any Work covered by this Contract shall have any right to a lien upon premises or any improvement or appurtenance thereon, except that Contractor may install metering devices or other equipment of utility companies or of political subdivisions, title to which is commonly retained by the utility company or political subdivision. In event of installation of any such metering device or equipment, Contractor shall advise District as to owner thereof. Nothing contained in this article, however, shall defeat or impair right of persons furnishing material or labor under any bond given by Contractor for their protection or any rights under any law permitting such persons to look to funds due to Contractor in the hands of the District, and this provision shall be inserted in all subcontracts and material contracts and notice of its provisions

shall be given to all persons furnishing material for work when no formal contract is entered into for such material.

- e. Materials shall be stored on the Project site in such manner so as not to interfere with any operations of the District or any independent contractor.

Article 41. SUBSTITUTIONS

- a. Wherever in the drawings or Specifications a material or product is called for by trade or brand names or manufacturer and model number, alternative items of equal quality and purpose may be proposed for use by the Contractor, as specified in the Instructions to Bidders. The burden of proof of equality is on the Contractor, and Contractor shall furnish all information and supplies necessary for the Architect and District to make a thorough evaluation of the proposed substitution. The decision about the equality of the proposed substitution is final, and if the proposed substitution is not approved, the Contractor shall install the item called for. Proposed substitutions and any changes in adjacent work caused by them shall be made by the Contractor at no additional cost to the District.
- b. Proposed substitutions shall be submitted sufficiently before actual need to allow time for thorough evaluation. Substitutions shall not be proposed for the reason that submittals were not made early enough to avoid delay. The review of substitutions shall not relieve the Contractor from complying with the requirements of the drawings and Specifications.
- c. In the event Contractor makes substitutions in materials, equipment, or designs, with or without the District's approval, other than those authorized herein, the Contractor shall then assume full responsibility for the effects of such substitutions on the entire Project, including the design, and shall reimburse the District for any charges resulting from such substitutions, including any charges for modifications in the work of other trades, and including any charges for additional design and review, plus reasonable and customary mark-ups.

Article 42. SUBMITTALS, SHOP DRAWINGS, CUTS AND SAMPLES

- a. Five (5) copies of shop drawings, brochures and cuts and samples in quantities specified by the Architect shall be submitted to the Architect for all items for which they are required by the plans and Specifications. Prior to transmittal, the Contractor shall examine all submittals for accuracy and completeness in order to verify their suitability for the work and compliance with the Contract Documents and shall sign and date each submittal. Submittals shall be made sufficiently before the items are required for the work so as to cause no delay and shall be in accordance with the Project construction schedule.
- b. In addition to information furnished as common practice, submittals shall contain the Project name and location, Contractor's name and address, Subcontractor's or supplier's name and address, date of submittal and any revisions, and reference to appropriate specification section, and/or drawing and detail numbers. The Contractor and/or the Subcontractors shall verify in the field all dimensions and relationships to adjacent work necessary to ensure the proper fit of the items submitted. If necessary, the Contractor shall make any corrections required and resubmit with all due haste in the same number as initially required.
- c. Review of submittals, shop drawings, cuts or samples by the District or Architect shall not relieve the Contractor from complying with the requirements of the Contract Documents.
- d. Any materials or equipment installed without approval shall be at the Contractor's own risk, and

Contractor may be required to remove any such materials or equipment and install the specified items at Contractor's own cost, including repairs to adjacent work.

Article 43. INSTRUCTIONS AND MANUALS

Three (3) copies of the maintenance instructions, application/installation instructions and service manuals called for in the Specifications shall be provided by the Contractor. These shall be complete as to drawings, details, parts lists, performance data and other information that may be required for the District to easily maintain and service the materials and equipment installed under this Contract. All manufacturer's application/installation instructions shall be given to the Architect at least ten (10) days prior to first material application or installation of the item. The maintenance instructions and manuals, along with any specified guarantees, shall be delivered to the Architect for review prior to submitting to District, and the Contractor or appropriate Subcontractors shall instruct District's personnel in the operation and maintenance of the equipment prior to final acceptance of the Project.

Article 44. CLOSEOUT SUBMITTALS

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

Article 45. PROGRESS PAYMENTS, ALLOWANCE AND RETENTION

a. Cost Breakdown:

Prior to submitting Contractor's first request for payment, the Contractor shall prepare and submit to the Architect and District a cost breakdown (schedule of values) showing the major work items for each trade or operation required in construction of the Project and all allowances, including any general contingency allowance, stated in the Contract Documents. Items covered by specific allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities against whom the Contractor makes reasonable and timely objection. The work items shall be sufficiently detailed to enable the Architect to accurately evaluate the completion percentages requested by the Contractor. The cost for each work item shall include overhead and profit. The total of all work item costs shall equal the amount of the Contract.

b. Scope of Payment:

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

c. Allowance:

Allowances shall cover all costs of labor materials and equipment necessary to pay for the work contemplated by the allowance to be completed.

Whenever Contractor seeks payment from an allowance and the requested costs are approved by the District as compliant with the Contract Documents, the District may elect to pay the approved costs from the allowance, or pay the costs via change order. Any such allowance payment shall conform to

the requirements of the Agreement and other Contract Documents

d. Progress Payments:

The Contractor will, on or about the last day of each month, make an estimate of the value of the work completed by Contractor in the performance of the Contract. These estimates shall be subject to the review and approval of the Architect. The first such estimate will be of the value of the work completed after the Contractor commenced the performance of the Contract, and every subsequent estimate, except the final estimate, will be of the value of the work completed since the immediately preceding estimate. Such estimates will be based on labor, materials and equipment incorporated into the work, and items of materials and equipment delivered to the Project. The Contractor shall be responsible for the security and protection of such materials and equipment delivered to the Project and not incorporated in the work. Within thirty (30) calendar days after the approval of each estimate for progress payment, the District will pay to the Contractor an amount equal to ninety five (95) percent of the approved estimate, unless a different retention percentage is stated in the Notice to Bidders, in which case that percentage applies. Payments may at any time be withheld if in the judgment of the District the work is not proceeding in accordance with the Contract Documents, the Contractor is not complying with the requirements of the Contract, stop notices have been timely filed, the estimate contains an error, or the District has incurred costs or requests reasonable financial assurances regarding defective work by the Contractor.

e. Final Payment:

Within thirty (30) days after all required work is fully completed in accordance with the Contract Documents, the Contractor shall submit a final invoice for the total value of the work completed in accordance with the Contract, which shall be subject to review and approval by the District. As required by law, District shall pay Contractor the unpaid balance of the Contract price of the work, or the whole Contract price of the work if no progress payment has been made, determined in accordance with the terms of the Contract, less such sums as may be lawfully retained under any provision of the Contract, including, but not limited to, amounts retained as liquidated damages, for stop notices, for third-party claims for which the Contractor is required to indemnify the District, for defective work and costs incurred by the District in connection therewith, or for other such claims and damages attributable to the Contractor ("Final Payment"). Prior progress estimates and payments are subject to correction in the Final Payment. Tender of the Final Payment shall constitute denial by the District of any unresolved claim. Contractor's acceptance of the Final Payment shall operate as a full and final release to the District and its agents from any and all unasserted claims Contractor has, or may have, related to this Contract. Pursuant to California Public Contract Code §7107, if there is any dispute between the District and the Contractor at the time that disbursement of the Final Payment is due, the District may withhold from disbursement of the Final Payment an amount not to exceed one hundred fifty percent (150%) of the amount in dispute.

f. Payments Do Not Imply Acceptance of Work:

The granting of any progress payment or payments by the District or the receipt thereof by the Contractor shall not constitute acceptance of the work or of any portion thereof, and shall in no way lessen the liability of the Contractor to replace unsatisfactory work or material, whether or not the unsatisfactory character of such work or material was apparent or detected at the time such payment was made.

g. Retention of Sums Charged Against Contractor:

It is mutually understood and agreed that when under any provision of this Contract, the District shall

charge any sums of money against the Contractor, the amount of such charge shall be deducted and retained by the District from the amount of the next succeeding progress estimate, or from any other monies due or that may become due the Contractor on account of the Contract. If on completion or termination of the Contract such monies due the Contractor are found insufficient to cover the District's charges against the Contractor, the District shall have the right to recover the balance from the Contractor or the Contractor's Sureties.

h. Release:

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

i. Payment to Subcontractors and Suppliers:

The Contractor shall pay each Subcontractor and supplier promptly on receipt of each progress payment from the District for the materials, labor and equipment delivered to the site or incorporated in the work by each Subcontractor during the period for which the progress payment is made, less any retention as provided above.

j. Stop Notice Costs:

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

k. Whenever any part of the Work is in a condition suitable for use, and the best interest of the District requires such use, the District may take possession of, connect to, open for public use, or use a part thereof. When so used, maintenance and repairs due to ordinary wear and tear or vandalism will be made at District's expense. The use by the District as contemplated in this section shall in no case be construed as constituting acceptance of the Work or any part thereof. Such use shall neither relieve the Contractor of any of his responsibilities under the Contract nor act as a waiver by the District of any of the conditions thereof. Contractor shall continue to maintain all insurance, including Builder's Risk insurance, on the Project.

Article 46. PAYMENTS WITHHELD

In addition to amounts which the District may retain under other provisions of the Contract Documents, the District may withhold payments due to Contractor as may be necessary to cover:

- a. Stop Payment Notice Claims.
- b. Defective work not remedied.
- c. Failure of Contractor to make proper payments to its subcontractors or suppliers.
- d. Completion of the Contract if there exists a reasonable doubt that the Work can be completed for balance then unpaid.
- e. Damage to another contractor or third party.

- f. Amounts which may be due the District for claims against Contractor.
- g. Failure of Contractor to keep the record ("as-built") drawings up to date.
- h. Failure to provide updates on the construction schedule.
- i. Site clean-up.
- j. Failure of the Contractor to comply with requirements of the Contract Documents.
- k. Liquidated damages.
- l. Legally permitted penalties.
- m. Damage arising from failure to comply with terms of the Contract Documents.

Upon completion of the Contract, the District will reduce the final Contract amount to reflect costs charged to the Contractor, back charges or payments withheld pursuant to the Contract Documents.

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

Article 47. CHANGES AND EXTRA WORK

a. Changes in the Work:

- 1) The District, before the date of acceptance of the work, may, without notice to the Sureties, order changes in the work ("Modifications"), may order extra materials and extra work in connection with the performance of the Contract, and the Contractor shall promptly comply with such orders. All Modifications must be approved by DSA and the State Fire Marshall, if applicable, as required by law.
- 2) If changes ordered in design, workmanship or materials are of such a nature as to increase or decrease the cost of any part of the work, the price fixed in the Contract shall be increased or decreased by such amount as represents the reasonable and proper allowance for the increase or decrease in the cost of the work in accordance with the provisions of this Article, and any other applicable terms of the Contract, including, but not limited to, the Contractor's schedule of values and the price for allowances, if any. Except as provided by law, the total cost of all Modifications shall not exceed ten (10) percent of the original Contract price.
- 3) In the case of a disputed work item, the District may direct the Contractor to perform the disputed work at no additional cost to the District on the grounds that the work is adequately indicated in the Contract Documents, and therefore already included in the Contract price. If the Contractor maintains that the disputed work represents a modification to the Contract, Contractor may submit a claim in accordance with Article 78, Dispute Resolution. Notwithstanding any dispute regarding the requirements of the Contract Documents, Contractor shall promptly and fully comply with the District's directive. Contractor's failure to do so shall be deemed a material breach of this Contract, and in addition to all other remedies, District may, at its sole discretion, hire another contractor and/or use its own forces to

complete the disputed work at Contractor's sole expense, and may deduct the cost of such work from the Contract price.

b. Cost Breakdown:

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

1) Limitations Where Contract Price Changes are Involved:

- (a) Overhead and Profit for the Contractor. The Contractor's overhead and profit on the cost of subcontracts shall be a sum not exceeding ten percent (10%) of such costs. The Contractor's overhead and profit on the costs of work performed by the Contractor shall be a sum not exceeding fifteen percent (15%) of such costs. Overhead and profit shall not be applied to the cost of taxes and insurance by Contractor or Subcontractors or to credits. No processing or similar fees may be charged by the Contractor in connection with the Modification. "Overhead and profit" shall include all plant, equipment rental and repair, project management, field coordination, job site project supervision and indirect labor and materials.
- (b) Bond Premiums. The actual rate of bond premiums as paid on the total cost (including taxes) will be allowed, but with no markup for profit and overhead.
- (c) Taxes. State and city sales taxes should be indicated. Federal excise tax shall not be included. (District will issue an exemption on request.)

2) Change Order Certification:

All change orders and requests for proposed change orders shall be deemed to include the following certification by the Contractor:

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

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

c. Unit Prices, Schedule of Values, or Allowances:

Where Unit Prices, a Schedule of Values, and/or Allowances are required by the Contract Documents, that pricing shall govern in computing any additions to or deductions from the Contract price on account of any added or omitted work. Unit Prices listed in the original bid include all costs and no

addition of any description will be allowed.

d. Time and Materials:

If it is impractical, because of the nature of the work, or for any other reason, to fix an increase in price in advance, the Change Order may fix a maximum price which shall not under any circumstances be exceeded, and subject to such limitation, such alteration, modification or extra shall be paid for at the actual necessary cost as determined by the sum of the following items (1) to (5) inclusive:

- 1) Labor, including premium on compensation insurance and charge for Social Security taxes, and other taxes pertaining to labor.
- 2) Material, including sales taxes and other taxes pertaining to materials.
- 3) Plant and equipment rental, to be agreed upon in writing before the work is begun. No charge for the cost of repairs to plant or equipment will be allowed.
- 4) Overhead and profit computed at fifteen percent (15%) of the total of Items (1) to (3) inclusive.
- 5) The proportionate cost of premiums on bonds computed at one and one-half percent (1-1/2%) of the total of items (1) to (4) inclusive.

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

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

e. Oral Modifications:

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

- f. No dispute, disagreement or failure of the Parties to reach agreement on the terms of the change order shall relieve the Contractor from the obligation to proceed with performance of the Work, including extra work, promptly and expeditiously.
- g. Any alterations, extensions of time, extra work or any other changes may be made without securing consent of the Contractor's surety or sureties.

Article 48. DEDUCTIONS FOR UNCORRECTED WORK

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

Article 49. WARRANTY OF TITLE

Contractor warrants that title to all work, materials or equipment included in a request for payment shall pass and transfer to the District whether or not they are installed or incorporated in the Project, free from any claims, liens or

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

Article 50. CONTRACTOR'S SUPERVISION

- a. Unless personally present on the premises where the Work is being done, Contractor shall keep on the Work, during its progress, a competent full-time job (project) superintendent satisfactory to District. The job superintendent shall not be changed except with the written consent of the District unless the job superintendent proves to be unsatisfactory to Contractor and ceases to be in his employ. The job superintendent shall represent Contractor in his absence and all directions given to him shall be as binding as if given to Contractor. Other directions shall be so confirmed on written request in each case.
- b. Contractor shall give efficient supervision to the Work, using his best skill and attention to control safety and job coordination. He shall carefully study and compare all drawings, specifications, and other instructions and shall at once report to District any error, inconsistency or omission which he may discover.

Article 51. DOCUMENTS ON WORK

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

Article 52. RECORD ("AS BUILT") DRAWINGS

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

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

Article 53. UTILITY USAGE

- a. All temporary utilities, including but not limited to electricity, water, gas, and telephone used on work shall be furnished and paid for by Contractor. Contractor shall furnish and install necessary temporary distribution systems, including meters, if necessary, from distribution points to points on site where utility is necessary to carry on the Work. Upon completion of the Work, Contractor shall remove all temporary distribution systems.
- b. Contractor shall provide necessary and adequate utilities and pay all costs for water, electricity, gas, oil, and sewer charges required for completion of the Project.
- c. All permanent meters installed shall be listed in the Contractor's name until completion occurs, as defined in Article 1 hereof, at which time further pro-rating will be determined if necessary. When the District begins using the Project, charges over and above power actually used for construction will be the responsibility of the District.
- d. If the Contract is for construction in existing facilities, Contractor may, with written permission of the District, use the District's existing utilities at no charge.

Article 54. TRENCHING OR OTHER EXCAVATIONS

- a. Excavations or Trenches Deeper than Four Feet:

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

- 1) The Contractor shall promptly, and before the following conditions are disturbed, provide written notice to the District if the Contractor finds any of the following conditions:
 - (a) Material that the Contractor believes may be a hazardous waste, as defined in §25117 of the Health and Safety Code, which is required to be removed to a Class I, Class II, or Class III disposal site in accordance with the provisions of existing law.
 - (b) Subsurface or latent physical conditions at the site which are different from those indicated or expected.
 - (c) Unknown physical conditions at the site of any unusual nature or which are materially different from those ordinarily encountered and generally recognized as inherent in work which the Contractor generally performs.
- 2) In the event that the Contractor notifies the District that Contractor has found any of the conditions specified in subparagraphs (a), (b) or (c), above, the District shall promptly investigate the condition(s). If the District finds that the conditions are materially different or

that a hazardous waste is present at the site which will affect the Contractor's cost of, or the time required for, performance of the Contract, the District shall issue a change order in accordance with the procedures set forth in this Contract.

- 3) In the event that a dispute arises between the District and the Contractor regarding any of the matters specified in Paragraph (2), above, the Contractor shall proceed with all work to be performed under the Contract and the Contractor shall not be excused from completing the Project as provided in the Contract. In performing the work pursuant to this Paragraph, the Contractor retains all rights provided by Article 78 which pertains to the resolution of disputes between the contracting Parties.

b. Regional Notification Center:

The Contractor, except in an emergency, shall contact the appropriate regional notification center at least two (2) days prior to commencing any excavation if the excavation will be conducted in an area that is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the District, and obtain an inquiry identification number from that notification center. No excavation shall be commenced and/or carried out by the Contractor unless an inquiry identification number has been assigned to the Contractor or any Subcontractor and the Contractor has given the District the identification number. Any damages or delays arising from Contractor's failure to make appropriate notification shall be at the sole risk and expense of the Contractor and shall not be considered for an extension of the Contract time.

c. Existing Utility Lines:

- 1) Pursuant to Government Code §4215, the District assumes the responsibility for removal, relocation, and protection of main or trunk utility lines and facilities located on the construction site at the time of commencement of construction under this Contract with respect to any such utility facilities that are not identified in the plans and Specifications. Contractor shall not be assessed liquidated damages for delay in completion of the Project caused by the failure of the District or the owner of a utility to provide for removal or relocation of such utility facilities.
- 2) Locations of existing utilities provided by the District shall not be considered exact, but approximate within reasonable margin and shall not relieve Contractor of responsibilities to exercise reasonable care nor costs of repair due to Contractor's failure to do so. The District shall compensate Contractor for the costs of locating and repairing damage not due to the failure of Contractor to exercise reasonable care, and removing or relocating such utility facilities not indicated in the plans and Specifications with reasonable accuracy.
- 3) No provision herein shall be construed to preclude assessment against Contractor for any other delays in completion of the Project. Nothing in this section shall be deemed to require the District to indicate the presence of existing service laterals, appurtenances, or other utility lines, with the exception of main or trunk lines, whenever the presence of such utilities on the site of the construction Project can be inferred from the presence of other visible facilities, such as buildings, meter and junction boxes, on or adjacent to the site of the construction.
- 4) If Contractor, while performing work under this Contract, discovers utility facilities not identified by the District in the Project plans and Specifications, Contractor shall immediately notify the District and the utility in writing. The cost of repair for damage to above-mentioned visible facilities without prior written notification to the District shall be borne by the Contractor.

d. Prompt Notification:

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

e. Trenches Five Feet and Deeper:

Pursuant to Labor Code §6705, if the Contract price exceeds \$25,000 and involves the excavation of any trench or trenches five (5) feet or more in depth, the Contractor shall, in advance of excavation, promptly submit to the District and/or a registered civil or structural engineer employed by the District or Architect, a detailed plan showing the design of shoring for protection from the hazard of caving ground during the excavation of such trench or trenches.

Article 55. PROTECTION OF WORK AND PROPERTY

- a. The Contractor shall be responsible for all damages to persons or property that occur as a result of his fault or negligence arising from or in connection with the prosecution of this Contract. Contractor shall be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance by the District. All work shall be solely at the Contractor's risk. Contractor shall adequately protect adjacent property from settlement or loss of lateral support as provided by law and the Contract Documents. Contractor shall take all necessary precautions for the safety of employees on the project and shall comply with all applicable safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to premises where work is being performed. Contractor shall erect and properly maintain at all times, as required by conditions and progress of work, all necessary safeguards, signs, barriers, lights, and watchmen for protection of workers and the public and shall post danger signs warning against hazards created by such features in the course of construction. Contractor shall designate a responsible member of his organization on the Work, whose duty shall be prevention of accidents. The name and position of the person so designated shall be reported to the District by Contractor.
- b. In an emergency affecting safety of life or of work or of adjoining property, Contractor, without special instruction or authorization from the District, is hereby permitted to act, at his discretion, to prevent such threatened loss or injury, and he shall so act, without appeal, if so authorized or instructed by the District. Any compensation claimed by Contractor on account of emergency work shall be determined by agreement.
- c. Contractor shall provide such heat, covering, and enclosures as are necessary to protect all work, materials, equipment, appliances, and tools against damage by weather conditions.
- d. Contractor shall take adequate precautions to protect existing sidewalks, curbs, pavements, utilities, adjoining property, and structures, and to avoid damage thereto, and repair any damage thereto caused by construction operations. Contractor shall:
 1. Enclose the working area with a substantial barricade, arrange work to cause minimum amount of inconvenience and danger to students and faculty in their regular school activities, and perform work which so as to not interfere with school routine before or after school hours. (This subsection applies to new construction on existing sites.)
 2. Provide substantial barricades around any shrubs or trees indicated to be preserved.

3. Deliver materials to the building area over a route designated by the District.
4. When directed by the District, take preventive measures to eliminate objectionable dust.
5. Confine Contractor's apparatus, the storage of materials, and the operations of his workers to limits indicated by law, ordinances, permits, or directions of District. Contractor shall not unreasonably encumber the premises with his materials. Contractor shall enforce all instructions of the District regarding signs, advertising, fires, danger signals, barricades, and smoking and require that all persons employed on work comply with all regulations while on the construction site.
6. Take care to prevent disturbing or covering any survey markers, monuments, or other devices marking property boundaries or corners. If such markers are disturbed by accident, they shall be replaced by an approved civil engineer or land surveyor, licensed in the State of California, at no cost to the District.

Article 56. LAYOUT AND FIELD ENGINEERING

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

Article 57. HAZARDOUS MATERIALS

Unless otherwise specified, this Contract does not include the removal, handling, or disturbance of any hazardous substances or materials encountered in the new construction or on the Project grounds. If such substances or materials are encountered, work shall cease in that area and the District shall be promptly notified to take appropriate action for removal or otherwise abating the condition in accordance with current regulations applicable to the District.

a. General:

- 1) No asbestos, asbestos-containing products or other hazardous materials shall be used in this construction or in any tools, devices, clothing or equipment used to further this construction.
- 2) Asbestos and/or asbestos containing products shall be defined as all items containing but not limited to chrysotile, crocidolite, amosite, anthophyllite, tremo-lite or actinolite.
- 3) Any or all material containing greater than one tenth of one percent (>.1%) asbestos shall be defined as asbestos-containing material.
- 4) Any disputes involving the question of whether or not material contains asbestos shall be settled by electron microscopy; the cost of any such tests shall be paid by the Contractor.
- 5) All work or materials found to contain asbestos or work or material installed with asbestos containing equipment will be immediately rejected and this work shall be removed by the Contractor at no additional cost to the District.

b. Decontamination and Removal of Hazardous Material from Prior Work:

- 1) Decontamination and removal of work found to contain asbestos or work installed with asbestos containing equipment shall be done only under the supervision of a qualified

consultant, knowledgeable in the field of asbestos abatement and accredited by the Environmental Protection Agency ("EPA").

- 2) The asbestos removal contractor shall be an EPA-accredited contractor qualified in the removal of asbestos subject to the approval of the District.
- 3) The asbestos consultant shall be chosen and approved by the District which shall have sole discretion and final determination in this matter.
- 4) The work will not be accepted until asbestos contamination is reduced to levels deemed acceptable by the asbestos consultant.

c. Hold Harmless:

- 1) Interface of work under this Contract with work containing asbestos shall be executed by the Contractor at Contractor's risk and at Contractor's discretion with full knowledge of the currently accepted standards, hazards, risks and liabilities associated with asbestos work and asbestos containing products. By execution of this Contract the Contractor acknowledges the above and agrees to hold harmless, as set forth in the indemnity provisions of this Contract, the Owner, its employees, agents and assigns for all asbestos liability which may be associated with this work and agrees to instruct Contractor's employees and agents with respect to the above-mentioned standards, hazards, risks and liabilities.
- 2) The Contractor shall, prior to commencement of this work, provide a duly signed and notarized affidavit that Contractor has instructed Contractor's employees and agents with respect to the above mentioned standards, hazards, risks and liabilities and the contents and requirements of this portion of the Contract Documents.

d. Certification:

The Contractor agrees that materials containing asbestos or other hazardous materials as defined in Federal and State law shall not be used in construction.

Article 58. TEMPORARY FACILITIES

- a. The Contractor shall obtain permits for, install and maintain in safe condition all scaffolds, hoisting equipment, barricades, walkways, or other temporary structures that may be required to accomplish the work. Such structures shall be adequate for the intended use and capable of safely accepting all loads that may be imposed upon them. They shall be installed and maintained in accordance with all applicable codes and regulations.
- b. The Contractor shall provide and maintain temporary heat from an approved source whenever in the course of the work it may become necessary for curing, drying or warming spaces as may be required for the proper installation of materials or finishes. The Contractor shall provide and maintain any and all facilities that may be required for dewatering in order that work may proceed on the Project. If it is necessary for dewatering to occur continually, the Contractor shall have on hand whatever spare parts or equipment that may be required to avoid interruption of service or work.
- c. The Contractor shall promptly remove all such temporary facilities when they are no longer needed for the work or on completion of the Project. The Contractor shall repair any damage to premises or property which resulted from the construction, use, or removal of temporary facilities

Article 59. SANITARY FACILITIES

Contractor shall provide sanitary temporary toilet buildings for the use of all workers. All toilets shall comply with local codes and ordinances. Toilets shall be kept supplied with toilet paper and shall have workable door fasteners. Toilets shall be serviced no less than once weekly and shall be present in a quantity of not less than 1 per 20 workers as required by CAL-OSHA regulation. The toilets shall be maintained in a sanitary condition at all times. Use of toilet facilities in The Work under construction shall not be permitted. Any other sanitary facilities required by CAL-OSHA shall be the responsibility of the Contractor.

Article 60. USE OF ROADWAYS AND WALKWAYS

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

Article 61. SIGNS

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

Article 62. CUTTING AND PATCHING

- a. Contractor shall do all cutting, fitting, or patching of work as required to make its several parts come together properly and fit it to receive or be received by work of other contractors showing upon, or reasonably implied by, the drawings and specifications for the completed structure. Contractor shall make good after them as District may direct.
- b. All cost caused by defective or ill-timed work shall be borne by Party responsible therefore.
- c. Contractor shall not endanger any work by cutting, excavating, or otherwise altering work and shall not cut or alter work of any other contractor save with consent or at the direction of the District.

Article 63. CLEANING UP

- a. Contractor at all times shall keep premises free from debris such as waste, rubbish, and excess materials and equipment caused by this Work. Contractor shall not leave debris under, in, or about the premises. Upon completion of the Work, Contractor shall clean the interior and exterior of the building or improvement including fixtures, equipment, walls, floors, ceilings, roofs, window sills and ledges, horizontal projections, and any areas where debris has collected so surfaces are free from foreign material or discoloration. Contractor shall clean and polish all glass, plumbing fixtures, and finish hardware and similar finish surfaces and equipment and contractor shall also remove temporary fencing, barricades, planking and construction toilet and similar temporary facilities from the site.
- b. Final cleaning, such as sweeping, dusting, vacuuming, dry and wet mopping, polishing, sealing, waxing and other finish operations normally required on newly installed work shall be taken to indicate the finished conditions of the various new and existing surfaces at the time of acceptance. Prior to the time of acceptance, all marks, stains, fingerprints, dust, dirt, splattered paint and blemishes resulting from the various operations shall be removed throughout the Project. Stair treads and risers shall be

wet-mopped. Glass shall be left clean and polished both inside and outside. Plumbing fixtures and light fixtures shall be washed clean. Hardware and other unpainted metals shall be cleaned and all building papers and other temporary protections shall be removed throughout the building, or portion of the building where Contractor was involved, all to the satisfaction of the Architect and District. The exterior of the buildings, playfields, exterior improvements, and planting spaces and other work areas shall be similarly clean and in good order. See Special Conditions for additional requirements and instructions.

Article 64. CORRECTION OF WORK BEFORE FINAL PAYMENT

- a. Contractor shall promptly remove from the premises all Work condemned by District as failing to conform to the Contract Documents, whether incorporated or not. Contractor shall promptly replace and re-execute his own Work to comply with contract documents without additional expense to the District and shall bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement.
- b. If Contractor does not remove such condemned Work within a reasonable time, fixed by written notice, District may remove it and may store the material at Contractor's expense. If Contractor does not pay expenses of such removal within ten (10) days' time thereafter, District may, upon ten (10) days' written notice, sell such materials at auction or at private sale and shall account for net proceeds thereof, after deducting all costs and expenses that should have been borne by Contractor.

Article 65. ACCESS TO WORK

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

Article 66. OCCUPANCY

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

Article 67. DISTRICT'S INSPECTOR

- a. If applicable, an inspector will be employed by District in accordance with requirements of Title 24 of the California Code of Regulations and will be assigned to the work. The inspector's duties are specifically defined in Part 1, Title 24, Section 4-342 of the California Code of Regulations.
- b. All work shall be under the observation of said inspector. The inspector shall have free access to any or all parts of work at any time. Contractor shall furnish inspector reasonable facilities for obtaining such information as may be necessary to keep the inspector fully informed respecting progress and manner of Work and character of materials, including assisting with Inspector's monthly reports. Inspection of Work shall not relieve Contractor from any obligation to fulfill this contract. Inspector or District shall have authority to stop Work whenever the provisions of the Contract Documents are not being complied with and Contractor shall instruct the Contractor's employees accordingly.

Article 68. TESTS AND INSPECTIONS

- a. If the Contract Documents, the District Representative, or any instructions, laws, ordinances, or public authority require any part of the Work to be tested or approved, Contractor shall provide the District Representative at least two (2) working days' notice of its readiness for observation or inspection. If

inspection is by a public authority other than the District, Contractor shall promptly inform the District of the date fixed for such inspection. Required certificates of inspection (or similar) shall be secured by Contractor. Costs for District testing and District inspection shall be paid by the District. Costs of tests for Work found not to be in compliance shall be paid by the Contractor.

- b. If any Work is done or covered up without the required testing or approval, the Contractor shall uncover or deconstruct the Work, and the Work shall be redone after completion of the testing at the Contractor's cost in compliance with the Contract Documents.
- c. Where inspection and testing are to be conducted by an independent laboratory or agency, materials or samples of materials to be inspected or tested shall be selected by such laboratory or agency, or by the District, and not by Contractor. All tests or inspections of materials shall be made in accordance with the commonly recognized standards of national organizations.
- d. In advance of the manufacturing of materials to be supplied by Contractor which must be tested or inspected, Contractor shall notify the District so that the District may arrange for testing at the source of supply. Any materials which have not satisfactorily passed such testing and inspection shall not be incorporated into the Work.
- e. If the manufacturing of materials to be inspected or tested will occur in a plant or location outside the geographic limits of District, the Contractor shall pay for any excessive or unusual costs associated with such testing or inspection, including but not limited to excessive travel time, standby time and required lodging.
- f. Reexamination of the Work may be ordered by the District. If so ordered, the Work must be uncovered or deconstructed by Contractor. If the Work is found to be in accordance with the Contract Documents, the District shall pay the costs of reexamination and reconstruction. If such Work is found not to be in accordance with the Contract Documents, Contractor shall pay all costs.
- g. Inspection and testing by the District or its representatives shall not relieve the Contractor from complying with the requirements of the Contract Documents. The Contractor is responsible for its own quality control.

Article 69. SOILS INVESTIGATION REPORT

- a. Soil Report: Unless otherwise specifically provided, when a soils investigation report obtained from test holes at the site is available, such report shall not be a part of this Contract. Nevertheless, with respect to any such soils investigation and/or geotechnical report regarding the site, it shall be the responsibility of the Contractor to review and be familiar with such report. Any information obtained from such report or any information given on drawings as to subsurface soil condition or to elevations of existing grades or elevations of underlying rock is approximate only, is not guaranteed, and does not form a part of the Contract, unless otherwise specifically provided.
- b. Underground Investigation: Contractor is required to make a visual examination of site and must make whatever tests he deems appropriate to determine the underground condition of the soil. Limited soil tests and subsurface investigations, if any, are available for review and consideration by Contractor and were conducted for the purpose of design only. Subsurface investigation information is made available by District solely as a matter of convenience and general information for Contractor and Contractor is expected to review and be familiar with such information. No representation is made by the District or its representatives that information provided is completely representative of all conditions and materials which may be encountered. If such a report is referenced in the Contract

Documents for performance of the Work, such reference shall be to establish minimum requirements only.

- c. **No Representations:** No representation or warranty is made by the District or its representatives that any reports, surveys, data or other information provided by the District or its representative is adequate, accurate or thorough for purposes of construction. District disclaims responsibility for interpretations by Contractor of soil and subsurface investigation information, such as in protecting soil-bearing values, rock profiles, presence and scope of boulders and cobbles, soil stability and the presence, level and extent of underground water. Contractor shall and was allowed the opportunity to perform its own independent investigations to verify the conditions of the site(s) and shall determine the means, methods, techniques and sequences necessary to achieve required characteristics of completed Work. Conditions found after execution of the Agreement to be materially different from those reported and which are not customarily encountered in the geographic area of the Work shall be governed by provisions of the General Conditions of the Contract for unforeseen conditions.

Article 70. DISTRICT'S STATUS

- a. In general and where appropriate and applicable, the District's Project Manager, shall be the District's representative during the construction period and shall observe the progress and quality of the Work on behalf of the District. He or she shall have the authority to act on behalf of District only to the extent expressly provided in the Contract Documents. After consultation with the Inspector and after using his best efforts to consult with the District, the District shall have authority to stop work whenever such stoppage may be necessary in his reasonable opinion to insure the proper execution of the Contract Documents.
- b. Contractor further acknowledges that the District shall be, in the first instance, the judge of the performance of this Contract.

Article 71. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

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

Article 72. LABOR/EMPLOYMENT SAFETY

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

Article 73. ASSIGNMENT OF ANTITRUST ACTIONS

Pursuant to Public Contract Code Section 7103.5, in entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the Contractor or subcontractor offers and agrees to assign to the District all rights, title, and interest in and to all causes of action it may have under section 4 of the Clayton Act (15 USC, section 15) or under the Cartwright Act (chapter 2 (commencing with section 16700) of part 2 of division 7 of the Business and Professions Code), arising from the purchase of goods, services, or materials pursuant to this Contract or any subcontract. This assignment shall be made and become effective at the time the District tenders final payment to the Contractor, without further acknowledgment by the Parties.

Article 74. SUBSTITUTION OF SECURITY

- a. Upon the Contractor's request, the District will make payment of funds withheld from progress payments to ensure performance under the Contract pursuant to the requirements of Public Contract Code section 22300 if the Contractor deposits in escrow with the District or with a bank acceptable to the District, securities eligible for investment under Government Code section 16430, bank or savings and loan certificates of deposit, or other security mutually agreed to by the Contractor and the District, subject to the following conditions:
 1. The Contractor shall bear the expense of the District and the escrow agent, either the District or the bank, in connection with the escrow deposit made.
 2. Securities or certificates of deposit to be placed in escrow shall be of a value at least equivalent to the amounts of retention to be paid to the Contractor pursuant to this section.
 3. The Contractor shall enter into an escrow agreement satisfactory to the District, which agreement shall include provisions governing inter alia:
 - (a) The amount of securities to be deposited,
 - (b) The providing of powers of attorney or other documents necessary for the transfer of the securities to be deposited,
 - (c) Conversion to cash to provide funds to meet defaults by the Contractor, including, but not limited to, termination of the Contractor's control over the work, stop payment notices filed pursuant to law, assessment of liquidated damages or other amounts to be kept or retained under the provisions of the contract,
 - (d) Decrease in value of securities on deposit,
 - (e) The termination of the escrow upon completion of the contract.
 4. The Contractor shall obtain the written consent of the surety to such agreement.
 5. As an alternative to Contractor depositing into escrow securities of a value equivalent to the amounts of retention to be paid to the Contractor, upon Contractor's request, District will make payment of retentions earned directly to the escrow agent at the expense of Contractor pursuant to and in accordance with Public Contract Code section 22300.

Article 75. COMPLIANCE WITH STATE STORM WATER PERMIT FOR CONSTRUCTION

- a. The Contractor shall be required to comply with all conditions of the State Water Resources Control Board (State Water Board) National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity (Permit) for all construction activity which results in the disturbance of in excess of one acre of total land area or which is part of a larger common area of development or sale. The Contractor shall be responsible for filing the Notice of Intent and for obtaining the Permit. The Contractor shall be solely responsible for preparing and implementing a Storm Water Pollution Prevention Plan (SWPPP) prior to initiating Work. It shall be Contractor's responsibility to evaluate the cost of compliance with the SWPPP in bidding on this Contract. Contractor shall comply with all requirements of the State Water Resources Control Board. Contractor shall include all costs of compliance with specified requirements in the Contract amount.

- b. Contractor shall be responsible for implementing and complying with the provisions of the Permit and the SWPPP, including the standard provisions, monitoring and reporting requirements as required by the Permit. Contractor shall provide copies of all reports and monitoring information to the District.
- c. Contractor shall comply with the lawful requirements of any applicable municipality, the County, drainage district, and other local agencies regarding discharges of storm water to separate storm drain system or other watercourses under their jurisdiction, including applicable requirements in municipal storm water management programs.
- d. Failure to comply with the Permit is a violation of federal and state law. Contractor hereby agrees to indemnify and hold harmless the District, its Board members, officers, agents, employees and authorized volunteers from and against any and all claims, demands, losses or liabilities of any kind or nature which District, its Board members, officers, agents, employees and authorized volunteers may sustain or incur for noncompliance with the Permit arising out of or in connection with the Project, except for liability resulting from the negligence or willful misconduct of the District, its Board members, officers, agents, employees or authorized volunteers. District may seek damages from Contractor for delay in completing the Contract caused by Contractor's failure to comply with the Permit.

Article 76. RECORD KEEPING

- a. The Contractor agrees to comply with Labor Code §§ 1776 and 1812. The Contractor and each Subcontractor shall keep or cause to be kept an accurate record showing the names, addresses, social security numbers, work classifications, straight time and overtime hours worked each day and week of all workers employed by Contractor in connection with the execution of this Contract or any subcontract thereunder and showing the actual per diem wages paid to each of such workers. These records shall be certified; shall be submitted electronically at least monthly to the Chief of the Division of Labor Standards Enforcement of the Department of Industrial Relations; and shall be open at all reasonable hours to the inspection of the District awarding the Contract, its officers and agents, and to the Chief of the Division of Labor Standards Enforcement of the Department of Industrial Relations, and his or her other deputies and agents.
- b. In addition, copies of the above records shall be available as follows:
 - 1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request;
 - 2) A certified copy of all payroll records shall be made available for inspection or furnished upon request to the District, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations;
 - 3) A certified copy of all payroll records shall be made available upon request by the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the District, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been previously provided, the requesting party shall, prior to being provided the records, reimburse the costs of the Contractor, Subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of the Contractor.
- c. The Contractor shall file a certified copy of the records with the entity requesting the records within ten days after receipt of a written request. Any copy of records made available for inspection as copies

and furnished upon request to the public or any public agency by the District, shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the Contractor awarded the Contract or performing the Contract shall not be marked or obliterated.

- d. The Contractor shall inform the District of the location of the records, including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.
- e. In the event of noncompliance with the requirements of this section, the Contractor shall have ten days in which to comply subsequent to receipt of written notice specifying in what respects the Contractor must comply with this section. Should noncompliance still be evident after the ten day period, the Contractor shall, as a penalty to the District, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due.
- f. Responsibility for compliance with this provision shall be with the Contractor.

Article 77. PROJECT COMPLETION

- a. When all of the work to be performed under this Contract has been fully completed, the Contractor shall notify the Architect and District, in writing, setting a date for inspection. The Contractor and Subcontractor representatives shall attend the inspection. As a result of this inspection, the Architect will prepare a list of items ("punch list") that are incomplete or not installed according to the Contract Documents. Failure to include items on this list does not relieve the Contractor from fulfilling all requirements of the Contract Documents.
- b. The Architect will promptly deliver the punch list to the Contractor and it will include a period of time by which the Contractor shall complete all items listed thereon. On completion of all items on the punch list, verified by a final inspection, and all other Contract requirements, so that Final Completion has been achieved to the District's satisfaction, the District will file a Notice of Completion with the County Recorder. Payment of retention from the Contract, less any sums withheld pursuant to the terms of this Contract or applicable law, shall not be made sooner than thirty-five (35) calendar days after the date of filing of Notice of Completion. Contractor shall perform all tasks necessary to obtain Project certification from the authority having jurisdiction over the Project. Final Completion shall not occur until Contractor has delivered evidence of final Project certification to the District.
- c. District reserves the right to occupy buildings and/or portions of the site at any time before Final Completion, and occupancy shall not constitute final acceptance of any part of the Work covered by the Contract Documents, nor shall such occupancy extend the date specified for completion of the Work. Beneficial occupancy of building(s) does not commence any warranty period or entitle Contractor to any additional compensation due to such occupancy, or affect in any way or amount Contractor's obligation to pay liquidated damages for failure to complete the Project on time.

Article 78. DISPUTE RESOLUTION

- a. Disputes; Continuation of Work. Notwithstanding any claim, dispute or other disagreement between the District and the Contractor regarding performance under the Contract Documents, the scope of Work thereunder, or any other matter arising out of or related to, in any manner, the Contract Documents, the Contractor shall proceed diligently with performance of the Work in accordance with the District's written direction, pending any final determination or decision regarding any such claim, dispute or disagreement.

b. Dispute/Claims Resolution.

1. Contractor Continuation of Work. Notwithstanding any claim, dispute, disagreement or other matter in controversy between the District and the Contractor relating to the Contract Documents and/or the Work, the Contractor shall continue to diligently prosecute and perform the Work in accordance with requirements of the Contract Documents, pending any final determination or decision regarding any such claim, dispute, disagreement or matter in controversy.

2. Public Contract Code § 9204 Claims Resolution Procedures. Claims of the Contractor are subject to the non-binding dispute resolution procedures set forth in Public Contract Code § 9204 ("Section 9204") provided, however, that the Contractor's initiation of Section 9204 procedures is expressly subject to the Contractor's prior full and timely compliance with requirements and procedures of the Contract Documents relating to procedures for resolution of claims, change orders, disputes and other matters in controversy under the Contract Documents.

3. Claim Defined. The term "Claim" shall be as defined in Section 9204.

4. Claim Documentation. The Contractor shall furnish reasonable documentation to support each Claim. "Reasonable documentation" includes, without limitation: (i) contractual and legal basis establishing Claim entitlement or merit; (ii) factual basis establishing District liability for the Claim; (iii) detailed breakdown of labor, materials, equipment and other costs included in the Claim; and (iv) detailed basis, including Construction Schedule analysis and fragnets supporting any Contract Time adjustment or Liquidated Damages relief included in the scope of a Claim.

5. District Claim Review Statement. Within forty-five (45) days (or such other time mutually agreed to by the District and the Contractor) after receipt of a properly submitted and properly documented Claim, the District will conduct a reasonable review of the Claim and provide the Contractor with a written statement identifying the disputed and undisputed portions of the Claim ("Claim Review Statement"). If the District does not provide the Contractor with the Claim Review Statement for any Claim within forty-five (45) days (or other time mutually agreed to by the District and the Contractor) after receipt of a properly submitted and properly documented Claim, the Claim is deemed rejected in its entirety and thereupon, the Contractor may initiate the Meet and Confer process described below. A Claim deemed rejected pursuant to the foregoing does not constitute an adverse finding of Claim merit or the Contractor's responsibility or qualifications. If the Claim Review Statement identifies any undisputed portion of a Claim ("Undisputed Claim") and payment is due from the District on the Undisputed Claim, the District shall process and make payment on the Undisputed Claim within sixty (60) days after the issuance date of the Claim Review Statement.

6. Meet and Confer.

(a) Meet and Confer Demand. If the Contractor disputes any portion of the Claim Review Statement, or if a Claim is deemed rejected by the District not providing the Contractor with the Claim Review Statement within the time permitted under Section 9204, the Contractor may demand an informal conference to meet and confer with the District for settlement of the issues in dispute ("Meet and Confer"). The Contractor's Meet and Confer request must be submitted to the District: (i) in writing; (ii) by registered mail or certified mail, return receipt requested; and (iii) within ten (10) days after the Claim Review Statement is submitted to the Contractor or within ten (10) days after the date the Claim is deemed rejected, as applicable. Failure of the Contractor to strictly comply with the foregoing is deemed a waiver of the Contractor's right to

request the Meet and Confer and the Non-Binding Mediation procedures under Section 9204. If the Contractor strictly complies with the foregoing, the District will schedule the Meet and Confer conference within thirty (30) days of the Contractor's Meet and Confer request for settlement of disputed portions of the Claim Review Statement.

(b) Meet and Confer Statement. Within ten (10) business days after conclusion of the Meet and Confer conference, if any portion of a Claim remains disputed, the District shall provide the Contractor a written statement identifying the disputed and undisputed portions of the Claim ("Meet and Confer Statement"). If the Meet and Confer Statement identifies any Undisputed Claim and payment is due from the District on the Undisputed Claim, the District shall process and make payment on the Undisputed Claim within sixty (60) days after date the Meet and Confer Statement is issued.

7. Non-Binding Mediation.

(a) Contractor Initiation. The Contractor may request nonbinding mediation ("Mediation") of disputed portions of a Claim identified in the Meet and Confer Statement. The Contractor's Mediation demand must be submitted to the District: (i) in writing; (ii) by registered mail or certified mail, return receipt requested; (iii) within ten (10) days after the Meet and Confer Statement is submitted to the Contractor; and (iv) with specific identification of the disputed Claims issues subject to Mediation. Failure of the Contractor to strictly comply with the foregoing is deemed a waiver of the Contractor's right to demand Mediation procedures under Section 9204.

(b) Mediator Selection. The District and Contractor shall mutually agree to a mediator within ten (10) business days after the date of the Contractor's demand for Mediation. If the District and Contractor do not mutually agree to a mediator, the District and Contractor shall each select a mediator and the District/Contractor selected mediators shall select a qualified neutral third party to mediate the disputed portion of the Claim.

(c) Mediation Procedures. Mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the District and Contractor in dispute resolution through negotiation or by issuance of an evaluation.

(d) Mediation Costs. All costs, fees and expenses of the mediator(s) and mediation administration shall be shared equally by the District and Contractor. The foregoing notwithstanding, the Contractor and District shall each bear the costs, fees and expenses of their own attorneys, experts and consultants.

(e) Post-Mediation Disputed Claims. Any Claims or issues in dispute after Mediation shall be resolved in accordance with the applicable provisions of the Contract Documents.

(f) Waiver. The District and Contractor may mutually agree to waive, in writing, Mediation under Section 9204 and, subject to the Contractor's compliance with Government Code Claim requirements, proceed directly to commencement of a civil action or binding arbitration.

8) Payments of Undisputed Claims. If a payment due from the District for Undisputed Claims identified in the Claim Review Statement or the Meet and Confer Statement issued for a Claim is not made within the time established under Section

9204 the overdue portion of such payment shall bear interest at the rate of seven percent (7%) per annum from the date due. The District's credit application of any amount due for an Undisputed Claim against amounts due from the Contractor under the Contract Documents shall be deemed payment of the Undisputed Claim.

9) Subcontractor Claims.

(a) Subcontractor Claim Submittal. If a Subcontractor, of any tier (collectively referred to as "Subcontractor" in this Article) lacks legal standing to assert a Claim against the District because privity of contract does not exist, the Contractor may present the District a Claim on behalf of the Subcontractor ("Subcontractor Claim"). Each Subcontractor requesting submittal of a Subcontractor Claim to the District shall furnish reasonable documentation to support the Subcontractor Claim. Within forty-five (45) days of receipt of a Subcontractor's written request to submit a Subcontractor Claim, the Contractor shall notify the Subcontractor in writing as to whether the Contractor presented the Subcontractor Claim to the District. If the Contractor did not present the Subcontractor Claim, the Contractor shall provide the Subcontractor with a statement of the reasons for not having done so.

(b) Contractor Certification of Subcontractor Claim. The District's review of Subcontractor Claims is expressly subject to the Contractor's submittal of a duly completed and executed form of Contractor Certification of Subcontractor Claim certifying that the Contractor has thoroughly reviewed the Subcontractor Claim and based on the Contractor's review, certify that: (i) the Subcontractor Claim is made by the Subcontractor in good faith; (ii) the Subcontractor Claim is supported by reasonable documentation establishing entitlement to the relief requested and District liability therefor; and (iii) the Subcontractor Claim does not incorporate any request constituting a False Claim under applicable law, including the California False Claim Act (Government Code § 12650 et seq). The form of Contractor Certification of Subcontractor Claim is included in the Contract Documents.

c. District Review of Subcontractor Claim. Subcontractor Claims presented by the Contractor to the District are subject to the Section 9204 non-binding dispute resolution procedures set forth above, as modified herein. Requests for the District to conduct Meet and Confer and/or non-binding mediation procedures must be submitted jointly by the Contractor and the Subcontractor submitting the Subcontractor Claim. If Mediation proceedings are initiated in connection with a Subcontractor Claim, mediator and mediation administration fees and costs shall be borne equally by the District, Contractor and Subcontractor.

d. Disputed Subcontractor Claims. Subcontractor Claims which are not fully resolved by the Section 9204 non-binding dispute resolution procedures shall be resolved by Public Contract Code Section 20104.4 Dispute Resolution Procedures or binding arbitration, as applicable. Commencement of Section 20104.4 Dispute Resolution Procedures or binding arbitration proceedings in connection with any Subcontractor Claim is subject to compliance with Government Code Claims requirements.

10) Government Code Claim Requirements. Pursuant to Government Code § 930.6, any claim, demand, dispute, disagreement or other matter in controversy asserted by the Contractor, whether on behalf of itself or a Subcontractor, against the District for money or damages, including without limitation Claims or portions thereof remaining in dispute after

completion of the Section 9204 non-binding dispute resolution procedures described above are deemed a "suit for money or damages" and shall be subject to the provisions of Government Code §§ 945.4, 945.6 and 946 ("Government Code Claims Process"). An express condition precedent to the Contractor's initiation of Section 20104.4 Dispute Resolution Procedures or binding arbitration proceedings pursuant to the following is the Contractor's compliance with the Government Code Claims Process, including without limitation, presentation of the claim, demand, dispute, disagreement or other matter in controversy between the Contractor and the District seeking money or damages to the District and acted upon or deemed rejected by the District in accordance with Government Code § 900 et seq.

Article 79. FORCE MAJEURE. Neither Party will be liable to the other for unanticipated delays or failures in performance resulting from causes beyond the reasonable control of that Party, including but not limited to, acts of God, labor disputes or disturbances, material shortages or rationing, riots, acts of war, governmental regulations, communications or utility failures, casualties, pandemics, epidemics, or quarantines; provided that the delayed Party: (i) gives the other Party prompt written notice of such cause, (ii) uses its reasonable efforts to correct such failure or delay in its performance, and (iii) resumes performance as soon as reasonably practicable. Any and all delays resulting from a force majeure event, as specified herein, will only be classified as excusable, non-compensable delays.

Article 80. COMPLIANCE WITH DTSC GUIDELINES – IMPORTED SOILS

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

Article 81. FINGERPRINTING

District Determination of Fingerprinting Requirement Application

The District has considered the totality of the circumstances concerning the Project and has determined that the Contractor and Contractor's employees (which includes Subcontractor employees):

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

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

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

By execution of the Contract, the Contractor acknowledges that Contractor is entering into a contract for the construction, reconstruction, rehabilitation, or repair of a school facility where the Contractor and/or Contractor's employees will have more than limited contact with students and the services to be provided do not constitute an emergency or exceptional situation. In accordance with Education Code § 45125.2 the Contractor shall, at Contractor's own expense, (1) install a physical barrier to limit contact with students by Contractor and/or Contractor's employees, and/or (2) provide for the

continuous supervision and monitoring of the Contractor and/or Contractor's employees by an employee of the Contractor who has received fingerprint clearance from the California Department of Justice, and/or (3) provide for the surveillance of the Contractor and Contractor's employees by a District employee.

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

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

Article 82. LABOR COMPLIANCE MONITORING

The Project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations. In accordance with Labor Code § 1771.1, all bidders, contractors and subcontractors working at the site shall be duly registered with the Department of Industrial Relations at time of bid opening and at all relevant times. Proof of registration shall be provided as to all such contractors prior to the commencement of any work. Contractor shall coordinate with the Architect to ensure the Department of Industrial Relations is advised of the award of the construction contract in a timely manner by filing form PWC-100 with the Department of Industrial Relations after award of the contract.

Article 83. DRUGS, TOBACCO, ALCOHOL, ANIMALS

The Contractor shall prohibit and take all steps necessary to ensure that its and its subcontractors' employees do not possess, consume, or work under the influence of any alcohol, tobacco or illegal drugs while on the Project site. The Contractor shall take all necessary steps to ensure that its and its subcontractor's employees comply with all applicable District policies and directives relating to appearance and behavior on school sites and/or District property. The Contractor shall prohibit and prevent its employees and subcontractor's employees from bringing any animal onto the Project.

Article 84. NO DISCRIMINATION

It is the policy of the District that, in connection with all work performed under this public works contract, there shall be no discrimination against any prospective or active employee or any other person engaged in the work because of actual or perceived race, color, ancestry, national origin, ethnic group identification, religion, sex, gender, sexual orientation, age, physical or mental disability, or marital status. The Contractor agrees to comply with applicable Federal and California laws including, but not limited to, the California Fair Employment Practice Act, beginning with Government Code § 12900, Government Code § 11135, and Labor Code §§ 1735, 1777.5, 1777.6 and 3077.5. In addition, the Contractor agrees to require like compliance by all Subcontractors and suppliers.

Article 85. GENERAL PROVISIONS

a. Assignment and Successors:

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

b. Third Party Beneficiaries:

There are no intended third party beneficiaries to the Contract.

c. Choice of Law and Venue:

The Contract Documents shall be governed by California law, and venue shall be in the Superior Court of the county in which the Project is located, and no other place.

d. Severability:

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

e. Entire Agreement

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

f. Waiver:

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

g. Headings

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

Article 86. RUSSIAN SANCTIONS

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (EO) regarding sanctions in response to Russian aggression in Ukraine. The EO is located at <https://www.gov.ca.gov/wp-content/uploads/2022/03/3.4.22-Russia-Ukraine-ExecutiveOrder.pdf>

The District requires the Contractor, as a vendor with the District, to comply with the economic sanctions imposed

in response to Russia's actions in Ukraine, including the orders and sanctions identified on the U.S. Department of the Treasury website (<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-andcountry-information/ukraine-russia-related-sanctions>).

By executing this agreement, your firm certifies that:

- (1) that your Firm is in compliance with the required economic sanctions of the Federal and State Orders; and
- (2) your firm has not made new investments in, or engaged in financial transactions with, Russian entities, not transferred technology to Russia or Russian entities.

[IF A STATE FUNDED PROJECT, ADD FOLLOWING PROVISIONS]

Article 87. DISABLED VETERANS PARTICIPATION GOALS [NOT USED]

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

Article 88. RETENTION OF DVBE RECORDS [NOT USED]

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

[END OF GENERAL CONDITIONS DOCUMENT]

PAYMENT BOND
DOCUMENT 00 61 01
(Labor and Material)

Bond Number: CIC1964010

KNOW ALL MEN BY THESE PRESENTS:

That WHEREAS, the Oakland Unified School District (the "Owner" of the public works contract described below) and Capitol Indemnity Corporation, hereinafter designated as the "Principal," have entered into a Contract for the furnishing of all materials and labor, services and transportation, necessary, convenient, and proper to construct

the Highland Child Development Center Play Yard Site Improvement Bid No. 25093, located at 1322 86th Avenue, Oakland, CA. (the "Contract"), The scope of work consists of Demolish and dispose of the existing play structure, safety surfacing, and asphalt layer within the designated play area. Work includes installing new play structure, PIP (Poured-in-Place) safety surfacing, and a new drainage system to serve the play area, Apply double layer of seal coating. Additional scope includes furnishing and installing new trees with complete irrigation and drainage systems, as well as preparing the nature space and installing nature play elements such as logs, stumps, and similar features. All work shall comply with standard safety requirements and be coordinated with OUSD. Further details are provided in the specifications.

which said agreement dated **December 11, 2025** and all of the Contract Documents are hereby referred to and made a part hereof;

and

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

NOW, THEREFORE, THESE PRESENTS WITNESSETH:

That the said Principal and the undersigned Capitol Indemnity Corporation ("Surety") are held and firmly bound unto all laborers, material men, and other persons, and bound for all amounts due, referred to in Civil Code section 9554, subdivision (b), in the sum of Two Hundred Seventy Nine Thousand Three Hundred Thirty Three & 00/100 Dollars (\$279,333.00) which sum well and truly 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 said Principal or any of its subcontractors, or the heirs, executors, administrators, successors, or assigns of any, all, or either of them, shall fail to pay any of the persons named in Civil Code section 9100, or any of the amounts due, as specified in Civil Code section 9554, subdivision (b), that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay costs and reasonable attorney's fees to be

{SR798938} I

OAKLAND UNIFIED SCHOOL DISTRICT
HIGHLAND CDC
PLAY YARD SITE IMPROVEMENT
PROJECT NO. 25093

PAYMENT BOND
DOCUMENT 00 61 01

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 so as to give a right of action to them or their assigns in any suit brought upon this bond.

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

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

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety this 7th day of November, 2025.

(To be signed by)
(Principal and Surety.)
(and acknowledged and)
(Notarial Seal attached)

N G Builder Company

Principal

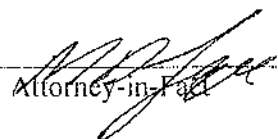


Capitol Indemnity Corporation

Surety

1600 Aspen Commons, Ste. 300,
Middleton, WI 53562



By: 

Attorney-in-Fact

Michael D. Lapre, Attorney-In-Fact

The above bond is accepted and approved this _____ day of _____.

{SR798938}2

OAKLAND UNIFIED SCHOOL DISTRICT
HIGHLAND CDC
PLAY YARD SITE IMPROVEMENT
PROJECT NO. 25093

PAYMENT BOND
DOCUMENT 00 61 01

ALL-PURPOSE ACKNOWLEDGEMENT

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

STATE OF Arizona)SS
COUNTY OF Maricopa)

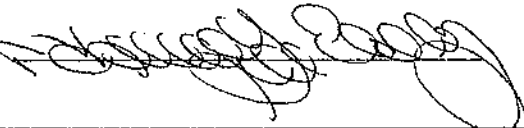
On 11/7/2025 before me, Michelle Lee Eldridge, Notary Public, personally appeared
Michael D. Lapra

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

I certify under PENALTY OF PERJURY under the laws of the State of Arizona that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



This area for official notarial seal.

OPTIONAL SECTION - NOT PART OF NOTARY ACKNOWLEDGEMENT CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the documents.

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER(S) TITLE(S)
☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
☒ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER

SIGNER IS REPRESENTING:

Name of Person or Entity

Name of Person or Entity

OPTIONAL SECTION - NOT PART OF NOTARY ACKNOWLEDGEMENT

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW

TITLE OR TYPE OF DOCUMENT: _____

NUMBER OF PAGES _____ DATE OF DOCUMENT _____

SIGNER(S) OTHER THAN NAMED ABOVE _____

**CAPITOL INDEMNITY CORPORATION
POWER OF ATTORNEY**

CIC1964010

Bond Number

KNOW ALL MEN BY THESE PRESENTS, That the CAPITOL INDEMNITY CORPORATION, a corporation of the State of Wisconsin, having its principal offices in the City of Middleton, Wisconsin, does make, constitute and appoint

-----MICHAEL D LAPRE; ESTEBAN FLORES; R.M. FRIEDIK; PHILLIP SIMONS; ARTYCE JOHNSON-----
-----BELINDA JOHNSON; MICHAEL SIMONS; MICHELLE L. ELDRIDGE; J.C. SHIVELY; LAUREN CASEY ALEXANDER; JOHN WILLIAMS-----

its true and lawful Attorney(s)-in-fact, to make, execute, seal and deliver for and on its behalf, as surety, and as its act and deed, any and all bonds, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

----- ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEED: \$20,000,000.00-----

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of CAPITOL INDEMNITY CORPORATION at a meeting duly called and held on the 15th day of May, 2002.

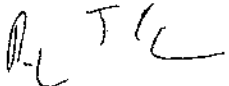
"RESOLVED, that the President, Executive Vice President, Vice President, Secretary or Treasurer, acting individually or otherwise, be and they hereby are granted the power and authorization to appoint by a Power of Attorney for the purposes only of executing and attesting bonds and undertakings, and other writings obligatory in the nature thereof, one or more resident vice-presidents, assistant secretaries and attorney(s)-in fact, each appointee to have the powers and duties usual to such offices to the business of this company; the signature of such officers and seal of the Company may be affixed to any such power of attorney or to any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company, and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking or other writing obligatory in the nature thereof to which it is attached. Any such appointment may be revoked, for cause, or without cause, by any of said officers, at any time."

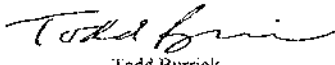
In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner -- Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

IN WITNESS WHEREOF, the CAPITOL INDEMNITY CORPORATION has caused these presents to be signed by its officer undersigned and its corporate seal to be hereto affixed duly attested, this 1st day of September, 2022.

Attest:


Ryan J. Byrnes
Senior Vice President,
Chief Financial Officer and Treasurer

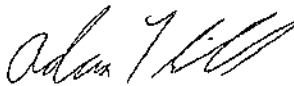

Todd Burrick
Chief Underwriting Officer

STATE OF WISCONSIN } S.S.:
COUNTY OF DANE

On the 1st day of September, 2022 before me personally came Adam L. Sills, to me known, who being by me duly sworn, did depose and say: that he resides in the County of New York, State of New York; that he is Chief Executive Officer and President of CAPITOL INDEMNITY CORPORATION, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.



CAPITOL INDEMNITY CORPORATION

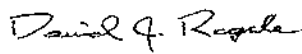

Adam L. Sills
Chief Executive Officer and President

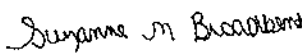
STATE OF WISCONSIN } S.S.:
COUNTY OF DANE

I, the undersigned, duly elected to the office stated below, now the incumbent in CAPITOL INDEMNITY CORPORATION, a Wisconsin Corporation, authorized to make this certificate, DO HEREBY CERTIFY that the foregoing attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force.

Signed and sealed at the City of Middleton, State of Wisconsin this 7th day of November, 2025




David J. Regele
Notary Public, Dane Co., WI
My Commission Is Permanent


Suzanne M. Broadbent
Secretary

PERFORMANCE BOND
DOCUMENT 00 61 00

Bond Number: CIC1964010

KNOW ALL MEN BY THESE PRESENTS that we, N G Builder Company, as Principal, and Capitol Indemnity Corporation, as Surety, are held and firmly bound unto the Oakland Unified School District, in the County of Alameda, State of California, hereinafter called the "Owner," in the sum of Two Hundred Seventy Nine Thousand Three Hundred Thirty Three & 00/100 Dollars (\$ 279,333.00) for the payment of which sum well and truly made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, to the Owner for the full performance of a certain contract with the Owner, the terms of which are incorporated herein by reference, dated December 11, 2025, for construction of

the Highland Child Development Center Play Yard Site Improvement Bid No. 25093, located at 1322 86th Avenue, Oakland, CA. (the "Contract"), The scope of work consists of Demolish and dispose of the existing play structure, safety surfacing, and asphalt layer within the designated play area. Work includes installing new play structure, PIP (Poured-in-Place) safety surfacing, and a new drainage system to serve the play area, Apply double layer of seal coating. Additional scope includes furnishing and installing new trees with complete irrigation and drainage systems, as well as preparing the nature space and installing nature play elements such as logs, stumps, and similar features. All work shall comply with standard safety requirements and be coordinated with OUSD. Further details are provided in the specifications.

The condition of this obligation is such that, if the Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said Contract during the original term of said Contract and any extensions thereof that may be granted by the Owner, with or without notice to the Surety, and for the period of time specified in the Contract after completion for correction of faulty or improper materials and workmanship and during the life of any guaranty or warranty required under the Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreement of any and all duly authorized modifications of said Contract that may hereafter be made, then this obligation is to be void, otherwise to remain in full force and virtue.

And the said 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 or the specifications accompanying the same, 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 terms of the Contract, or to the Work, or to the specifications.

No further agreement between Surety and Owner shall be required as a prerequisite to the Surety performing its obligations under this bond. In the event that the Surety elects to complete the Work of the Contract after termination of the Contract by

{SR798942} I

OAKLAND UNIFIED SCHOOL DISTRICT
HIGHLAND CDC
PLAY YARD SITE IMPROVMENT
PROJECT NO. 25093

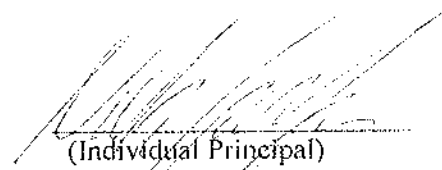
PERFORMANCE BOND
DOCUMENT 00 61 00

Owner, the Surety may not hire Principal, or any of Principal's owners, employees, or subcontractors, to perform the Work without the written consent of Owner, and the Owner may grant or withhold such consent within its sole discretion.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals this 7th day of November, 2025, hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(To be signed by _____)
(Principal and Surety, _____)
(and acknowledged and _____)
(Notarial Seal attached _____)

(Affix Corporate Seal)


(Individual Principal)
3100 Dutton Ave Suite 223
(Business Address) Santa Rosa, CA

(Affix Corporate Seal)

N G Builder Company

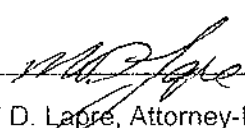
(Corporate Principal)

3100 Dutton Ave, Ste. 223
Santa Rosa, CA 95407
(Business Address)

(Affix Corporate Seal)

Capitol Indemnity Corporation
(Corporate Surety)
1600 Aspen Commons, Ste. 300,
Middleton, WI 53562
(Business Address)



By: 
Michael D. Lapre, Attorney-In-Fact

The rate of premium on this bond is 3% per thousand.

The total amount of premium charged is \$8380.00.

The above must be filled in by Corporate Surety.

{SR798942}2

OAKLAND UNIFIED SCHOOL DISTRICT
HIGHLAND CDC
PLAY YARD SITE IMPROVEMENT
PROJECT NO. 25093

PERFORMANCE BOND
DOCUMENT 00 61 00

ALL-PURPOSE ACKNOWLEDGEMENT

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

STATE OF Arizona)SS
COUNTY OF Maricopa)

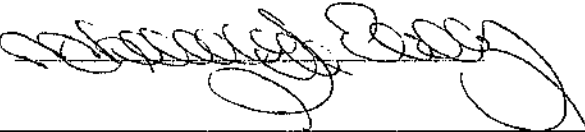
On 11/7/2025 before me, Michelle Lee Eldridge, Notary Public, personally appeared
Michael D. Lapre

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

I certify under PENALTY OF PERJURY under the laws of the State of Arizona that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



This area for official notarial seal.

OPTIONAL SECTION - NOT PART OF NOTARY ACKNOWLEDGEMENT CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the documents.

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER(S) TITLE(S)
☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
☒ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER

SIGNER IS REPRESENTING:

Name of Person or Entity

Name of Person or Entity

OPTIONAL SECTION - NOT PART OF NOTARY ACKNOWLEDGEMENT

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW

TITLE OR TYPE OF DOCUMENT: _____

NUMBER OF PAGES _____ DATE OF DOCUMENT _____

SIGNER(S) OTHER THAN NAMED ABOVE _____

**CAPITOL INDEMNITY CORPORATION
POWER OF ATTORNEY**

CIC1964010

Bond Number

KNOW ALL MEN BY THESE PRESENTS, That the CAPITOL INDEMNITY CORPORATION, a corporation of the State of Wisconsin, having its principal offices in the City of Middleton, Wisconsin, does make, constitute and appoint

-----MICHAEL D LAPRE; ESTEBAN FLORES; R.M. FRIEDIK; PHILLIP SIMONS; ARTYCE JOHNSON-----
-----BELINDA JOHNSON; MICHAEL SIMONS; MICHELLE L. ELDRIDGE; J.C. SHIVELY; LAUREN CASEY ALEXANDER; JOHN WILLIAMS-----

its true and lawful Attorney(s)-in-fact, to make, execute, seal and deliver for and on its behalf, as surety, and as its act and deed, any and all bonds, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

----- ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEED: \$20,000,000.00-----

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of CAPITOL INDEMNITY CORPORATION at a meeting duly called and held on the 15th day of May, 2002

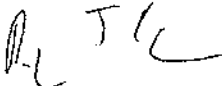
"RESOLVED, that the President, Executive Vice President, Vice President, Secretary or Treasurer, acting individually or otherwise, be and they hereby are granted the power and authorization to appoint by a Power of Attorney for the purposes only of executing and attesting bonds and undertakings, and other writings obligatory in the nature thereof, one or more resident vice-presidents, assistant secretaries and attorney(s)-in-fact, each appointee to have the powers and duties usual to such offices to the business of this company; the signature of such officers and seal of the Company may be affixed to any such power of attorney or to any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company, and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking or other writing obligatory in the nature thereof to which it is attached. Any such appointment may be revoked, for cause, or without cause, by any of said officers, at any time."

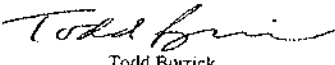
In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner - Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

IN WITNESS WHEREOF, the CAPITOL INDEMNITY CORPORATION has caused these presents to be signed by its officer undersigned and its corporate seal to be hereto affixed duly attested, this 1st day of September, 2022.

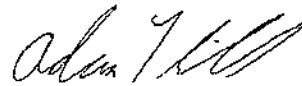
Attest:


Ryan J. Byrnes
Senior Vice President,
Chief Financial Officer and Treasurer


Todd Burrick
Chief Underwriting Officer



CAPITOL INDEMNITY CORPORATION

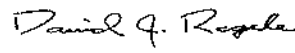

Adam L. Sills
Chief Executive Officer and President

STATE OF WISCONSIN }
COUNTY OF DANE } S.S.:

On the 1st day of September, 2022 before me personally came Adam L. Sills, to me known, who being by me duly sworn, did depose and say: that he resides in the County of New York, State of New York; that he is Chief Executive Officer and President of CAPITOL INDEMNITY CORPORATION, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.



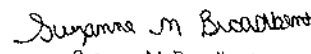
STATE OF WISCONSIN }
COUNTY OF DANE } S.S.:


David J. Regele
Notary Public, Dane Co., WI
My Commission Is Permanent

I, the undersigned, duly elected to the office stated below, now the incumbent in CAPITOL INDEMNITY CORPORATION, a Wisconsin Corporation, authorized to make this certificate, DO HEREBY CERTIFY that the foregoing attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force.

Signed and sealed at the City of Middleton, State of Wisconsin this 7th day of November, 2025




Suzanne M. Broadbent
Secretary

THIS DOCUMENT HAS BEEN GENERATED FOR A SPECIFIC BOND IF YOU HAVE ANY QUESTIONS CONCERNING THE AUTHENTICITY OF THIS DOCUMENT CALL 800-475-4450.

CIC-ePOA-M (Rev. 09-2022)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/7/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Inszone Insurance Services, LLC 2721 Citrus Road, Suite A Rancho Cordova, CA 95742		CONTACT NAME: Certificate Team PHONE (A/C, No, Ext): 877-308-9663 E-MAIL: certs@inszoneins.com ADDRESS:		FAX (A/C, No): 916-400-2625														
INSURED Nicholas Gutierrez DBA: N G Builders 3100 Dutton Avenue, Suite 223 Santa Rosa, CA 95407		License#: 0F82764 NGBUILD-01	<table border="1"><thead><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A: State National Insurance Company</td><td>12831</td></tr><tr><td>INSURER B: California Automobile Insurance Co</td><td>38342</td></tr><tr><td>INSURER C: Kinsale Insurance Company</td><td>38920</td></tr><tr><td>INSURER D: Clear Spring Property and Casualty Company</td><td>15563</td></tr><tr><td>INSURER E: Navigators Insurance Company</td><td>42307</td></tr><tr><td>INSURER F: Evanston Insurance Company</td><td>35378</td></tr></tbody></table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: State National Insurance Company	12831	INSURER B: California Automobile Insurance Co	38342	INSURER C: Kinsale Insurance Company	38920	INSURER D: Clear Spring Property and Casualty Company	15563	INSURER E: Navigators Insurance Company	42307	INSURER F: Evanston Insurance Company	35378
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COVERAGES**CERTIFICATE NUMBER:** 582083588**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER:	Y Y	NXTGICJ4P-04-GL	7/6/2025	7/6/2026	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000 \$
B	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY	Y Y	BA040000083490	9/5/2025	9/5/2026	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	UMBRELLA LIAB ☒ EXCESS LIAB ☐ DED ☐ RETENTIONS ☒ OCCUR ☐ CLAIMS-MADE	Y	0100323160-1	7/6/2025	7/6/2026	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000 \$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y N/A	CWC00036804	7/3/2025	7/3/2026	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
MM	Equipment Floater Equipment Floater Pollution Liability		04-IM060580 04-IM060580 CPLMOL133804	10/24/2025 10/24/2025 8/19/2025	10/24/2026 10/24/2026 8/19/2026	Scheduled Equipment Deductible \$93,268 Aggregate/Occurrence \$2,500 \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Oakland Unified School District- Highland CDC - 1322 86th Avenue Oakland CA 94621

Additional Insured on the General Liability and Auto Liability. Primary and Non-Contributory on the General Liability. Waiver of Subrogation on the General Liability, Auto Liability and Workers Compensation. Excess follows form, subject to the terms and conditions of the policy.

The aforementioned coverage is provided to the extent in the attached forms for: Oakland Unified School District its officers, elected officials, employees, agents and volunteers.

CERTIFICATE HOLDER**CANCELLATION**

Oakland Unified School District
955 High St,
Oakland, CA 94601

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

CALIFORNIA NEWSPAPER SERVICE BUREAU

DAILY JOURNAL CORPORATION

Mailing Address : 915 E 1ST ST, LOS ANGELES, CA 90012
Telephone (800) 788-7840 / Fax (800) 464-2839
Visit us @ www.LegalAdstore.com

Juanita Hunter
OAKLAND USD/FACILITIES PLANNING & MGMT
955 HIGH ST
OAKLAND, CA 94601

COPY OF NOTICE

Notice Type: BID NOTICE INVITING BIDS

Ad Description
HIGHLAND CDC PLAY YARD SITE IMPROVEMENT PROJECT

To the right is a copy of the notice you sent to us for publication in the OAKLAND POST. Please read this notice carefully and call us with any corrections. The Proof of Publication will be filed with the County Clerk, if required, and mailed to you after the last date below. Publication date(s) for this notice is (are):

09/17/2025

The charge(s) for this order is as follows. An invoice will be sent after the last date of publication. If you prepaid this order in full, you will not receive an invoice.

Publication	\$638.13
Total	\$638.13

CNS# 3967854

00 11 33

NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN that the Oakland Unified School District ("District") will receive bids up to, but not later than **02:00 p.m. on October 2, 2025**, sealed bids for the award of a contract for:

BID NO. 25093
Highland Child Development Center Play Yard Site Improvement

1322 86th Avenue, Oakland, CA 94621

Bids shall be received at **Front Desk**

Facilities Planning & Management, 955 High Street, Oakland, CA, 94601

and shall be opened and publicly read aloud at the above state time and place. Responses must be sealed and clearly marked **"Highland Child Development Center Play Yard Site Improvement, BID NO. 25093"**.

Facsimile or electronic copies of the bid will not be accepted. Bids received after the above-specified time may be rejected. The Project includes Demolish and dispose of the existing play structure, safety surfacing, and asphalt layer within the designated play area. Work includes installing new play structure, PIP (Poured-in-Place) safety surfacing, and a new drainage system to serve the play area. Apply double layer of seal coating. Additional scope includes furnishing and installing new trees with complete irrigation and drainage systems, as well as preparing the nature space and installing nature play elements such as logs, stumps, and similar features. All work shall comply with standard safety requirements and be coordinated with OUSD. Further details are provided in the specifications.

There will be a **mandatory** Pre-Bid Conference at the **Front Entrance, Highland CDC, 1322 86th Avenue, Oakland, on September 25, 2025, at 10:00 a.m.** for the purpose of acquainting all prospective bidders with the bid documents and the work site. Please notify the **Project Manager**, April Clement, email address: April.clement@ousd.org / Ph# 510-879-2721. Failure to attend this mandatory pre-bid conference may disqualify the non-attending bidder from the bid.

Engineer's Estimate: \$370,000
Each bid must conform and be responsive to this notice and all other documents comprising the contract documents. All interested parties may obtain additional information by contacting **Project Manager**, April Clement, email: April.clement@ousd.org. All forms must be completed, signed, and returned with the bid. No bidder may withdraw its bid for a period of sixty (60) calendar

days after the date set for the receipt of bids. The successful bidder shall file a payment bond issued by an admitted Surety authorized to conduct business in the State of California approved by the District. Pursuant to the Contract Documents, the successful binder will be required to furnish a Payment and Performance Bond in the amount of one hundred percent (100%) of the Contract Sum.

This Project is a public works project and is subject to the payment of prevailing wages. The Director of Industrial Relations has determined the general prevailing rate of per diem wages in the locality in which this work is to be performed for each craft or type of worker needed to execute the contract that will be awarded to the successful bidder. Copies of which are available to the public on the internet at <http://www.dir.ca.gov/DLSR/> or from the District Purchasing Department, upon request.

This Project is not subject to the District's Project Labor Agreement. The Full version of the OUSD's latest Project Labor Agreement can be found by going to the OUSD home page: <https://www.ousd.org/facilities-planning-management-department/opportunities>

This Contract is not subject to prequalification pursuant to Public Contract Code section 20111.6. The contractor must be listed on the current OUSD certification list.

This bid is not subject to Disabled Veteran Business Enterprise requirements.

Contract Plans & Specifications Documents will be available for review on or after **September 17, 2025**, at East Bay Blue Print, located at 1745 14th Avenue, Oakland, CA, 94606. All requests should be addressed Attention: Sandy Petty. Plans can be ordered by: Phone: 510-261-2990 Fax: 510-261-6077 Email: ebbp@eastbayblueprint.com, Attn: Sandy. Online using the Plan Command System at www.eastbayblueprint.com or plans can be delivered to a place of business, at requester's own expense. Payment for plan sets must be made with East Bay Blue Print and are **NON-REFUNDABLE**.

In addition, Contract Documents are available for bidders' review at the following builders' exchanges:

Builder's Exchange of Alameda County
Reed Construction Market Data
McGraw Hill Construction Data
Contra Costa Builder's Exchange
San Francisco Builder's Exchange

Marin Builder's Exchange
The successful bidder and all subcontractor(s) shall comply with all applicable Labor Code provisions, which include, but are not limited to, the payment of not



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less than the required prevailing rates to all workers employed by them in the execution of the Contract, the employment of apprentices, the hours of labor and the debarment of contractors and subcontractors.

Each Bidder submitting a bid must be a Department of Industrial Relations registered contractor pursuant to Labor Code section 1725.5 ("DIR Registered Contractor"), unless an exception expressly provided in the Labor Code applies. This project is subject to compliance monitoring and enforcement by the DIR. If awarded the Contract, at all times during performance of the work, the Bidder and all Subcontractors of any tier shall be DIR Registered Contractors and continue to comply with all DIR requirements.

Each bidder shall be a licensed contractor pursuant to the Business and Professions Code and shall be licensed in the following classifications: **A-**

General Engineering and/or B-General Building Contractor.

No bid will be accepted from a contractor who has not been licensed in accordance with the California Business and Profession Code at the time the bid is submitted.

The Contract Time shall be Seventy-Five (75) calendar days, and liquidated damages for delay shall accrue.

The District reserves the right to reject any or all bids, to accept or reject any one or more items of a bid, or to waive any irregularities or informalities in the bid or in the bidding process.

9/17/25

CNS-3967854#

OAKLAND POST

TRADE JOURNALS - NOTICE TO BIDDERS - HIGHLAND CDC PLAY YARD SITE PROJECT

TRADE JOURNALS



Juanita Hunter <juanita.hunter@ousd.org>

Thu, Sep
18,
11:51 AM

to Support@bidamerica.com, doug, sbe, cacgoodfaith, candspublishing, sarah, info, info, support, info,

Hello Trade Journals,

I am providing the attached Notice to Bidders for your reference.

Best Regards,

*Juanita Hunter, Specialist, Facilities Contracts & Bids
Facilities Planning & Management
955 High Street, Oakland, CA 94601
P 510-535-7044, F 510-535-7040
OUSD "Education Matters"*
One attachment • Scanned by Gmail



Mail Delivery Subsystem <mailer-daemon@googlemail.com>

DIVISION OF FACILITIES PLANNING AND MANAGEMENT ROUTING FORM

Project Information

Project Name	Highland CDC Site Improvements	Site	815
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Basic Directions

Services cannot be provided until the contract is awarded by the Board or is entered by the Superintendent pursuant to authority delegated by the Board.

Attachment Checklist	☒ Proof of general liability insurance, including certificates and endorsements, if contract is over \$15,000 ☒ Workers compensation insurance certification, unless vendor is a sole provider
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Contractor Information

Contractor Name	N G Builder Company	Agency's Contact	Josie Marrufo				
OUSD Vendor ID #	009085	Title					
Street Address	3100 Dutton Avenue, Suite 223	City	Santa Rosa	State	CA	Zip	95407
Telephone	707-890-2896	Policy Expires					
Contractor History	Previously been an OUSD contractor? ☒ Yes ☐ No		Worked as an OUSD employee? ☐ Yes ☒ No				
OUSD Project #	25093						

Term of Original/Amended Contract

Date Work Will Begin (i.e., effective date of contract)	12-11-2025	Date Work Will End By (not more than 5 years from start date; for construction contracts, enter planned completion date)	02-25-2026
		New Date of Contract End (If Any)	

Compensation/Revised Compensation

If New Contract, Total Contract Price (Lump Sum)	\$279,333.00	If New Contract, Total Contract Price (Not To Exceed)	\$
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Change in Price	\$
Other Expenses		Requisition Number	

Budget Information

If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.

Resource #	Funding Source	Org Key	Object Code	Amount
9186/8500	COI	120-9186-0-8500-8500-6274-815-9180-8500-9999-99999	6274	\$279,333.00

Approval and Routing (in order of approval steps)

Services cannot be provided before the contract is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.

1.	Division Head	Phone	510-535-7038	Fax	510-535-7082
	Executive Director, Facilities				
	Signature	Date Approved			
2.	OUSD Legal Counsel, Facilities				
	Signature <i>James Traber</i>	Date Approved	11/7/2025		
3.	Chief Systems & Services Officer				
	Signature <i>[Signature]</i>	Date Approved	11/09/2025		
4.	Chief Financial Officer				
	Signature	Date Approved			
5.	President, Board of Education				
	Signature	Date Approved			