

**DROPS East
at
Bidwell Junior High, McManus Elementary,
Neal Dow Elementary and Parkview Elementary**

**For
Chico Unified School District**

Chico, Butte County, California

**Date Issued: January 27, 2017
Informal Bid Due: February 14, 2017**



Greg Melton, Architect
309 Wall Street Chico, CA 95928
Greg@meltondg.com 530.899.1616
www.meltondg.com

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NOTICE TO CONTRACTORS

Pursuant to California Uniform Public Construction Cost Accounting Act, Chico Unified School District is requesting informal bids for **DROPS (Drought Response Outreach Program for Schools) East at Bidwell Junior High School, McManus Elementary, Neal Dow Elementary and Parkview Elementary**, Chico, CA for the Chico Unified School District. Your company is on the list of qualified contractors (C-27) for the category of work involved in this project.

A Mandatory Pre-Bid Walk is scheduled for **February 2, 2017 at 12:30 p.m.** Meet in front of the administration office at Bidwell Junior High School. The other sites will immediately follow.

Informal bids will be received at the CUSD Facilities & Construction Department, 2455 Carmichael Drive, Chico, CA until **2:00 p.m., on Tuesday, February 14, 2017**. Informal bids will not be opened at bid time.

DETERMINATION OF LOW BIDDER: In order to conform with Public Contract Code Section 20103.8, the following procedure will be used to determine the low bidder.

1. Lowest base bid.

In accordance with the provisions of Section 1773 of the Labor Code, the Director of Industrial Relations has determined the general prevailing rate of wages applicable to the work to be done. These rates are set forth in a schedule located at the State Department of Industrial Relations, Director of Industrial Relations, (415) 703-5070, Website: www.dir.ca.gov. The Contractor shall post a copy thereof at each job site.

Attention is directed to the provisions of Section 1777.5 and 1777.6 of the labor Code of the State of California concerning employment of apprentices by the contractor or any subcontractor under him. The prime contractor is responsible for compliance with the requirements of Section 1777.5 and the prime contractor and any subcontractor under him shall comply with the requirements of Section 1777.6.

No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].

Bidder must be properly licensed (C-27) to perform the work of this project with an active license in good standing as of the date of receipt of bids. Each bid must conform to the requirements of the Drawings and other documents comprising the Contract Documents, all of which may be examined at the CUSD District Facilities Offices, 2455 Carmichael Drive, Chico CA. Interested parties may obtain electronic copies of the Drawings by emailing Kayci Tiner at ktiner@chicousd.org.

No bid will be considered unless it is made up on a form provided and accompanied by Cashier's Check or Bidder's Bond from a surety company registered with the State of California Insurance Commissioner, for 10% of the amount of the bid, made payable to the Owner. The above mentioned checks or bid bond shall be given as a guarantee that the bidder shall execute the Contract, if it be awarded to him, in conformity with the Contract Documents.

After the scheduled closing time set for receipt of bids, bids may not then be withdrawn for a period of time as stated on 00 41 01 – BID FORM days from and after said closing time, except as otherwise provided for in the California Public Contract Code.

Lowest Responsive Bidder will be notified within forty-eight hours of bid time. Within 10 days after notification of the award of the Contract, the successful bidder/or bidders will be required to furnish a Labor and Material Bond in an amount equal to one hundred percent (100%) of the Contract price and a Faithful Performance Bond in an amount equal to one hundred percent (100%) of the Contract price. Said bonds shall be secured from a Surety Company satisfactory to the Owner, and authorized to do business in the State of California.

Pursuant to California Public Contract Code Section 22300 of the State of California, the contract will contain provisions permitting the successful bidder to substitute securities for any moneys withheld by the Owner to ensure performance under the contract.

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

PART 1 - GENERAL

1.01 PROPOSALS

- A. Proposals to receive consideration should be made in accordance with the following instructions:
1. Proposals shall be made on a form provided by the District. All items on the form should be filled out; numbers should be stated both in writing and in figures and the signature of individuals must be in longhand. The completed form should be without interlineations, alterations, or erasures.
 2. Proposals should not contain recapitulation of the work to be done, and alternative proposals will not be considered, unless called for.
 3. Should a bidder find discrepancies in or omissions from the Drawings or Documents, or should he be in doubt as to their meaning, he or she should at once notify the Owner, who will send written instructions to all bidders. Neither Owner nor Engineer will be responsible for any oral instructions. No interpretations will be issued later than three (3) days prior to the date set for the opening of bids so that all inquiries can be answered in writing and distributed to all bidders in the form of addenda to the contract documents in ample time before the bid opening date.
 4. All addenda or bulletins issued during the bidding period are to be included in the proposal, and they will become a part of the contract for the project.
 5. Pursuant to the provisions of Sections 4100 to 4114, of the California Public Contracts Code, every bidder shall in his bid set forth:
 - a. The name and location of the place of business of each subcontractor who will perform work or labor or render service to the bidder in or about the work in an amount in excess of one half (1/2) of one percent (1%) of the bidder's total bid.
 - b. The portion of the work that will be done by each subcontractor. If the bidder fails to specify a subcontractor for any portion of the work to be performed under the Contract in excess of one half (1/2) of one percent (1%) of the bidder's total bid, he agrees to perform that portion himself. The successful bidder shall not, without the consent of the Owner, either:
 - 1) Substitute any person as subcontractor in place of the subcontractor designated in the original bid.
 - 2) Permit any subcontract to be assigned or transferred or allow it to be performed by anyone other than the original subcontractor listed in the bid.
 - 3) Sublet or subcontract any portion of the work in excess of one half (1/2) of one percent (1%) of the total bid as to which his original bid did not designate a subcontractor.

6. A bid guarantee in the amount of 10% of the bid must accompany the bid. Failure to furnish a required bid guarantee in the proper form and amount, by the time set for opening the bids, may be cause for rejection of the bids. A bid guarantee shall be in the form of a firm commitment, such as a bid bond from a surety company admitted and registered with the State of California Insurance Commissioner, personal money order, or cashier's check. Bid guarantees, other than bid bonds, will be returned (a) to unsuccessful bidders as soon as practicable after the opening of the bids, (b) to the successful bidder upon the execution of such further contractual document and bonds as may be required by the bid as accepted. If the successful bidder withdraws his bid within the period specified therein for acceptance, or upon acceptance thereof by the Owner, fails to enter into the Contract and give bond within the time specified after the forms are presented to him, he shall be liable for any difference by which the cost of securing the supplies or services exceeds the amount of bid, and the bid guarantee shall be available toward offsetting such difference.
7. Every bidder shall include, as part of his bid documents, an executed statement of noncollusion, as indicated in Section 00 45 19 - NON COLLUSION AFFIDAVIT.
8. Proposal shall be addressed to the Owner, and shall be delivered to the Owner enclosed in a sealed envelope addressed to Owner marked "Proposal" and bearing the title of the work and the **name of the bidder**. No telephone or telegraphic bids or amendments to bids shall be effective.

1.02 WITHDRAWAL OF PROPOSALS

- A. Proposals may be withdrawn by the bidder prior to but not after the time fixed for opening of proposals.

1.03 OPENING OF PROPOSALS

- A. Informal Bids are not publically read. The bid results will be distributed electronically within two days.

1.04 EXAMINATION OF CONTRACT DOCUMENTS AND SITE OF WORK

- A. Before submitting a proposal, bidders should examine the Drawings and read the Project Documents. They should visit the site of the proposed work, fully inform themselves of all conditions on, in, at, and about the site; examine the building or buildings, if any, and any work that may have been done thereon.

1.05 COSTS FOR SPECIAL INSPECTIONS

- A. Certain sections of the Project Documents contain requirements for special inspections. The Owner and Contractor share responsibility for the cost of these inspections. Refer to Section 01 60 00 – ADDITIONAL PROJECT DOCUMENTS, for the basis of responsibility and to the Project Documents for the details of the inspections.

1.06 REQUESTS FOR INFORMATION

- A. Contractors may submit questions by email to ktiner@chicousd.org on or before 12:00 p.m. on February 6, 2017. All District responses will be shared with prospective bidders, as well as posted on the District website.

- B. Requests for Information will not be considered if submitted without Contractor's Cost Effective Proposed Solution.

1.07 PRODUCT OPTIONS

- A. Substitutions will only be considered where Owner will receive benefit or because specified materials are no longer available due to no fault of Contractor.

1.08 FORM OF CONTRACT

- A. The form of Contract that the successful bidder will be required to execute: see Section 00 52 01.

1.09 CONTRACTORS INSURANCE

- A. Minimum Limits of Insurance

Contractor shall maintain limits no less than:

- | | | |
|-------------------------------|---|--|
| 1. General Liability: | \$2,000,000 | General Aggregate (Per Project) |
| | \$2,000,000 | Products/Completed Operations Aggregate |
| | \$1,000,000 | Personal & Advertising Injury |
| | \$1,000,000 | Each Occurrence |
| 2. Umbrella/Excess Liability: | \$1,000,000 | Per Occurrence |
| 3. Automobile Liability: | \$1,000,000 | Per Accident for Bodily Injury & Property Dmg. |
| 4. Workers' Compensation: | As required by the State of California | |
| 5. Employer's Liability: | \$1,000,000 | Per Accident for Bodily Injury or Disease |
| 6. Builder's Risk: | Completed Value of the Project with no Coinsurance Penalty. | |

- B. See General Conditions for complete insurance requirements.

1.10 WAGES

- A. The attention of the bidder is directed to the fact that the schedule of prevailing rates of pay for each craft or type of worker needed to execute the work, as indicated in the attached Section 00 11 17 - NOTICE TO CONTRACTORS, contains the minimum rate of pay as established by the State Director of Industrial Relations in pursuance of the provisions of the Labor Code of the State of California, which Code requires the establishing of such rates for the locality in which the work is to be performed. Section 1770 of the Labor Code reads: "Nothing ...shall prohibit the payment of more than the general prevailing rate of wages to any worker employed on public work.".
- B. All bidders shall check the available source of labor supply and obtain information with reference to the length of the working day of various crafts and actual rates of wages being paid in the immediate vicinity of the place where work contemplated by these Specifications is to be performed, particularly with reference to rates of pay that may be in

excess of those general prevailing rates established by the Owner indicated in the above-mentioned Section 00 11 17 - NOTICE TO CONTRACTORS.

1.11 CONTRACTORS LICENSE

- A. Bidder must be properly licensed to perform the work of this project with an active license in good standing as of the date of receipt of bids. License must be issued by the Contractors State License Board of California and must be maintained in good standing throughout the term of the contract.
- B. Bidding Addenda: All addenda issued by the Owner will be issued electronically via email in PDF format. All bidders are required to provide a valid email address at which addenda may be received.

END OF SECTION

PART 1 - GENERAL

1.01 BID FORM

Bids will be received until 2:00 pm on Tuesday, February 14, 2017, in the Facilities & Construction Department, 2455 Carmichael Drive, Chico, CA 95928.

TO THE HONORABLE:

Governing Board of Chico Unified School District (Sometimes hereinafter called "Owner".)

Ladies/Gentlemen:

The undersigned hereby proposes and agrees to furnish any and all required labor, material, equipment, transportation and services for the **DROPS East Project (Bidwell Junior, McManus Elementary, Neal Dow Elementary and Parkview Elementary)**, for the Chico Unified School District in strict conformity with the Drawings and Contract Documents.

BASE BID:

_____ DOLLARS
(\$ _____)

SCHEDULE FOR COMPLETION:

Construction Completion by: 90 DAYS FROM NOTICE TO PROCEED

The undersigned, upon notice of the acceptance of the bid within seventeen (17) days after the date of opening of the bids, hereby agrees to sign said Contract and furnish the necessary bonds within ten (10) days after Notice of Award of said Contract.

The undersigned has examined the location of the proposed work and is familiar with the Drawings, Contract Documents and the local conditions at the place where the work is to be done.

The undersigned has checked carefully all of the above figures and understands that the Governing Board of the Chico Unified School District will not be responsible for any errors or omissions on the part of the undersigned in making up this bid.

The undersigned acknowledges that the Governing Board of the Chico Unified School District reserves the right to reject any and all bids and/or waive any irregularities or informalities in the bidding.

Enclosed find Bidder's Bond, from a surety company registered with the State of California Insurance Commissioner, or Cashier's Check in the amount of 10% of the bid; Cashier's Check No. _____ of the _____ Bank for _____.

Receipt of Addenda is acknowledged as follows:

No. 1 _____ No. 2 _____ No. 3 _____ No. 4 _____

CONTRACTOR _____

By _____

ADDRESS (Street) _____

(P.O.) _____

PHONE () _____

FAX () _____

CONTRACTORS LICENSE BOARD NO. _____

CLASSIFICATION _____

DIR Registration Number _____

Dated this _____ day of _____ 2017.

PART 1 - GENERAL

1.01 DESCRIPTION

A. GENERAL: This Noncollusion Affidavit shall be executed by the Bidder and shall be submitted with his Bid Form.

1.02 NONCOLLUSION AFFIDAVIT FORM

STATE OF CALIFORNIA)
) ss.
County of _____)

_____, being first duly sworn, deposes and says that he or she is _____ of _____ 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.

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

Date Signature of Bidder

END OF SECTION

State of California
County of _____

Subscribed and sworn to (or affirmed) before me this _____ day of _____ 20____.
by _____, proved to me on the basis of satisfactory evidence, to be the person(s) who appeared before me.

(Seal) Signature _____

Certification Pursuant to Education Code Section 45125.1

Send To (School Dist./Office of Education): _____

Contract Description: _____

Certification Pursuant to Education Code Section 45125.1

I, _____ am an officer and agent for
(please print or type)

_____, ("contractor"), an entity as defined in Education Code section 41302.5, with the above School District/Department of Education, and have express authority to make the following statements and representations.

Pursuant to this contract, the following persons, employees of contractor ("employees"), may have contact with pupils.

LAST NAME	FIRST NAME	MIDDLE INITIAL

(Attach additional sheets as necessary.)

I certify as follows:

1. The employees have been fingerprinted and have submitted their fingerprints to the Department of Justice for review.
2. The Department of Justice has ascertained that none of the employees have either a pending criminal proceeding for a felony as defined in Education Code section 45122.1 or have been convicted of a felony as defined in Education Code section 45122.1. I understand that Education Code section 45122.1 incorporates portions of Penal Code sections 667.5 and 1192.7.
3. Attached to this Certification are true and correct copies of the fingerprint analyses prepared and provided by the Department of Justice with respect to each of the employees listed above.
4. None of the employees listed above has been convicted of a felony as defined in Education Code section 45122.1.
5. Upon receipt of notification from the Department of Justice that a previously cleared employee has committed a felony as defined in Education Code section 45122.1, said employee will immediately be removed from the job site and School District/Department of Education will be notified of same.

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

Executed at California on _____.

(Signature of Contracting Agency Representative)

Education Code Section 44237 (g) which references Penal Code Section 667.5 (c): A "violent felony" for these purposes includes:

1. Murder or voluntary manslaughter;
2. Mayhem;
3. Rape or spousal rape by force, violence, duress, or fear of bodily injury or by threat to retaliate;
4. Sodomy by force violence, duress, menace or fear of bodily injury;
5. Oral copulation by force, violence, duress, menace or fear of bodily injury;
6. Lewd acts on a child under age fourteen;
7. Any felony punished by death or by life imprisonment;
8. Any felony in which great bodily injury is inflicted or in which the defendant personally uses a firearm;
9. Robbery in an inhabited dwelling where the defendant personally uses a dangerous weapon;
10. Arson when willful and malicious;
11. Rape with a foreign object by force, violence, duress, menace or fear of bodily injury;
12. Attempted murder;
13. Exploding or attempting to explode a destructive device with intent to murder;
14. Kidnap of a child under age fourteen for the purpose of child molestation;
15. Forcible rape of a child under age fourteen;
16. Continuous sexual abuse of a child;
17. Carjacking when the defendant personally uses a dangerous deadly weapon.

Education Code Section 44237 (g) which references Penal Code Section 1192.7 (c): A "serious felony" for these purposes includes:

1. Non-forcible rape;
2. Assault with intent to commit rape or robbery;
3. Assault with a deadly weapon on a peace officer;
4. Assault by a life prisoner on a non-inmate;
5. Assault with a deadly weapon by an inmate;
6. Arson, when not willful or malicious;
7. Exploding a destructive device or explosive with intent to injury;
8. Explosion causing great bodily injury or mayhem;
9. Burglary of inhabited dwelling;
10. Robbery, except of an inhabited dwelling and except with personal use of a dangerous or deadly weapon;
11. Kidnapping a person fourteen years or older;
12. Prison inmate taking a hostage;
13. Attempt to commit any felony punishable by death or life imprisonment;
14. Any felony in which the defendant personally uses a dangerous or deadly weapon, except robbery or carjacking;
15. Sale or furnishing heroin, cocaine, PCP, or methamphetamine to a minor;
16. Grand theft involving a firearm;
17. Carjacking, except with personal use of a dangerous or deadly weapon;
18. Conspiracy to sell specified quantities of heroin, cocaine, PCP, or methamphetamine to a minor;
19. An attempt to commit any violent or serious offenses, except assault.

PART 1 - GENERAL

1.01 AGREEMENT

This Agreement made and entered into this _____ day of _____, 2017 by and between **Chico Unified School District** of Butte County, California, First Party, sometimes hereinafter called the Owner, and _____ Second Party, sometimes hereinafter called the Contractor,

WITNESSETH: That the parties hereto mutually covenanted and agreed, and by these present do covenant and agree with each other, as follows:

1. The NOTICE TO CONTRACTORS, ACCEPTED PROPOSAL LIST OF SUBCONTRACTORS, INSTRUCTIONS TO BIDDERS, WORKER'S COMPENSATION INSURANCE CERTIFICATE, GENERAL CONDITIONS, SUPPLEMENTARY CONDITIONS, LABOR AND MATERIAL PAYMENT BOND and PERFORMANCE BOND are attached to and are a part of this Agreement. The complete Contract also includes the Drawings, Specifications, all items listed in the Project Manual and all modifications and amendments thereto. All Contract Documents are intended to cooperate so that any work called for in one and not mentioned in the other, or vice versa, is to be executed the same as if mentioned in all Contract Documents.
 2. The said Contractor agrees to furnish all tools, equipment, apparatus, facilities, transportation, labor, and material, other than material, if any, agreed to be furnished by the District hereunder, necessary to perform and complete, and to perform and complete in a good and workmanlike manner, the work of _____, **Chico, Butte County, California**, as called for, and in the manner designated in, and in strict conformity with this Agreement, and with the Drawings and Project Manual adopted by the Board of Trustees, which said Drawings and Project Manual are entitled respectively _____, **Chico, Butte County**, and are hereby specifically referred to and made a part of this Agreement with like effect as if fully set forth herein.
 3. It is understood and agreed that said tools, equipment, apparatus, facilities, transportation, labor, and material shall be furnished and said work performed and completed as required in said Drawings and Project Manual under the direction, and subject to the approval of, the Architect and Owner. The Architect shall have the right to accept or reject materials or workmanship, and to determine when the Contractor has complied with the conditions of the Contract. The Project Inspector employed by the District shall represent the Architect and the Owner on the project.
 4. The District agrees to pay and the Contractor agrees to accept, in full payment for the work above agreed to be done, the sum of _____ DOLLARS

 (\$ _____)
- which sum is to be paid according to the provisions of the General Conditions.
6. Copies of the prevailing rate of per diem wages as determined by the Director of the Department of Industrial Relations in accordance with Labor Code Section 1773 are available as stated in the Notice to Contractors.
 7. The Contractor agrees to comply with Labor Code Section 1775 (Payment of Prevailing Wage Rates) and Labor Code Section 1776 (Keeping Accurate Payroll Records) and Labor Code Section 1777.5, placing the responsibility for compliance with the statutory requirements for all apprenticeable occupations on the prime contractor. The Contractor shall comply with the requirements imposed by California Labor Code Sections 1720 through 1815 regarding public works projects and prevailing wage law. In particular, Labor Code sections 1725.5 (contractor

registration requirements and criteria), 1771.1 (requirement to register with the Department of Industrial Relations as a condition to bid work on any public works), and 1771.4 (project compliance monitoring).

IN WITNESS WHEREOF, the said Board of Trustees has caused this Agreement to be subscribed by its duly authorized officer in its behalf, and the said Party of the Second Part has signed this Agreement the day and year first above written.

Chico Unified School District
of Butte County, a Political
Subdivision of the State of California

By _____

ASSISTANT-SUPERINTENDENT

By _____
Authorized Official

Contractor

* End Document 00 52 01*

GENERAL CONDITIONS:

1. PROJECT SCOPE: Except as otherwise stated in these Contract Documents, the scope of this contract consists of all labor, materials, tools, equipment, transportation, utilities, superintendence, temporary construction and any other service and facility required to execute and deliver the entire Work complete as shown on the drawings and as specified, all according to the Conditions stated therein, within the time stated in the Agreement.
2. DEFINITIONS: The following words, or variations thereof, as used in these documents, shall have meanings as defined below:
 - A. Owner: Chico Unified School District
 - B. Architect: Architect, furnishing architectural services by or under supervision of licensed Architects. Use of the term "Architect" when referring to Architect is for convenience of reference, and shall not be construed as meaning that the Corporation is itself a licensed Architect.
 - C. Licensed Architect: A person duly authorized and licensed to practice architecture in the State in which this project is located.
 - D. Contract Documents: The Notice to Contractors, Proposal Form, List of Subcontractors, Instructions to Bidders, General Conditions, Supplementary General Conditions, and Special Conditions, Labor and Material and Faithful Performance Bonds, attached hereto, and the Drawings and Specifications and all modifications and amendments thereof, Addenda and the Agreement.
 - E. Contractor: A person, persons, entity, joint venture, co-partner-ship, or corporation, as named in the Agreement.
 - F. Subcontractor: Person, persons, entity, joint venture, co-partner-ship, or corporation having direct contract with the Contractor.
 - G. Work: Labor or materials, or both, including equipment, tools, services, and incidentals.
 - H. Furnish, provide, include, install, place, apply, locate or similar words used individually shall each include the meaning of the others.
 - I. Called for, noted, shown, indicated, detailed, or similar words refer to applicable portions of the Contract Documents.
 - J. Approved, proper, equal, required, satisfactory, suitable, necessary, reviewed, permitted, directed, accepted, etc. refer to matters solely within the province of the Architect's decision.
 - K. Notice: Written demands, instructions, warnings, claims, approvals and disapprovals required to obtain compliance with Contract requirements. Any written notice by either party to the Contract shall be sufficiently given if delivered to or at the last known business address of the person, firm, or corporation constituting the other party to the Contract, or to his, their or its duly authorized agent, representative, or officer, who is authorized to receive such notice, or when enclosed in a registered postage prepaid envelope addressed to such last known business address and deposited with the United States mail.
 - L. Notice to Proceed: Written notice to commence the Work, issued by the Owner, or, on his instructions, by the Architect.

3. FUNCTION OF CONTRACT DOCUMENTS:

- A. Correlation: The Contract Documents are complementary and anything called for by one part shall have the same impact as if called for by all. In case of a discrepancy, an item of higher quality or quantity shall take precedent.
- B. Conditions: The GENERAL CONDITIONS and the SUPPLEMENTARY GENERAL CONDITIONS apply with equal force to all Work including work of subcontractors and approved extra Work.
- C. The Contractor admits and agrees that the Contract Documents exhibit the intent and purpose of the Owner in regard to the Work, and that they are not complete in every detail and are to be considered as showing the purpose and intent only; and the Contractor further agrees to furnish all labor or material for any detail that is necessary to carry out said intent and purpose of the Contract Documents without extra charge to the Owner.
- D. Function of Drawings: To determine general character of the work and its details. Parts not detailed shall be subject to the Architect's approval. When reasonably inferable that a drawing illustrates only part of a given work or of a number of items, the remainder shall be deemed repetitious and so construed. In general, drawings illustrate locations, arrangements, dimensions and details. Any part of the work or any detail pertaining thereto which is not specifically shown on the Drawing, but which is necessary for the proper completion of the Work, shall be furnished and installed without extra cost to the Owner.
- E. Function of Specifications: For convenience, specifications are separated into topical divisions of Work, each of which is further broken down into sections describing portions of Work related to the topical division under which it occurs. Such separation shall not be construed as an attempt by the Architect to establish limits of any agreements between Contractor and subcontractors. In general, specifications describe minimum qualities and performances required for materials and execution. Any part of the Work or any article pertaining thereto which is not specifications, but which is necessary for the completion of the Work, shall be furnished and installed without extra cost to the Owner.
- F. The misplacement, addition or omission of any word, letter, numerous punctuation marks shall in no way change the intent, purpose or meaning of the Plans and Specifications.

4. SIGNING OF CONTRACT:

- A. The Contract Documents, including specifications and drawings, will be completely identified and shall be signed in 4 counterparts by the Contractor and by the Owner before the work is started. One set of documents will be retained by the Owner, one set by the Architect, and one set by the Contractor.
- B. Addenda: All additions, deductions and special interpretations pertaining to the Contract, whether arranged by specific addenda prior to bid, by letters of instructions, or by other written explanations, shall be properly listed and described in the Contract Documents. Changes or alterations of the approved plans or specifications prior to letting a construction contract shall be made by addenda signed by the Architect and Owner.
- C. Identification: If any Contract Document other than the Agreement be found to lack any or all signatures of the Owner or the Contractor, identification by the Architect is

deemed sufficient and conclusive.

5. TIME FOR PERFORMANCE:

- A. After Notice of Award, Contractor shall submit executable Contract, including Bonds and Insurance documents, within ten working days. The Owner may deem Bidder non-responsive for failure to execute within five working days.
- B. Notice to Proceed: The Owner will issue, or will authorize the Architect to issue to the Contractor, a Notice to Proceed with the work.
- C. Time is of the essence of the contract. All work shall be completed and this contract shall be fully performed within the time set forth in the Agreement. Time for performance shall be calculated to commence on the date of the Notice to Proceed.
- D. Liquidated Damages: The Owner reserves the right to claim liquidated damages for delays in completion of the work attributable to the Contractor.
- E. Substantial Completion: The work will be deemed complete for purposes of this Paragraph hereof at such time as the entire project is sufficiently complete, in accordance with the Contract Documents, so that the Owner can occupy and utilize the entire project for its intended purpose.

6. TIME EXTENSIONS:

- A. Delays in Completion: The time for completion of the work shall be extended by the number of whole days which the contractor is unable to perform any work on the project for reasons which are beyond his control and are not his responsibility nor that of his subcontractors, provided that a claim for extension be made and granted as set forth herein. These reasons may include the following:
 - 1. Unusual or unexpected Acts of God.
 - 2. Acts of foreign, domestic, Federal or State Governments.
 - 3. Federal Government orders or contracts required by law to have priority over this contract.
 - 4. Strikes.
 - 5. Unusual failure of interstate transportation.
 - 6. War and the inability to obtain materials due to war.
 - 7. Perils of the sea.
 - 8. Insurrection or riot.
- B. The number of days allowed for completion as referred to in the Agreement takes into consideration a time loss up to and including twenty (20) working days within the contract time period for time lost due to adverse weather and weather caused conditions such as rain, mud and wind, which in the Architect's opinion actually delays the work or a portion of the work. Up to and including twenty (20) working days shall not be regarded as unavoidable delays in this sense, as the Contractor should understand that such conditions are to be expected within the average climatic range, and shall so be considered for purposes of this contract.
- C. Delay in Furnishing Drawings: No claim for extension of time for performance will be considered for Architect's failure to act or furnish drawings unless the Architect fails to act or furnish drawings within a reasonable time from the date of written notice requesting such act or drawings.
- D. Any and all claims for Extensions must be submitted in writing to the Owner within 7 days of the beginning of the delay.

- E. The Owner will, in his sole discretion, decide whether the cause for claim for extension does in fact exist, and will grant only such claims as are supported by good cause.
- F. Approved extension of contract time will be issued by written change order signed by the Owner and by the Architect. No order will authorize a time extension unless it is specifically stated therein. No extension of time granted by the Owner shall be deemed to allow the contractor any basis for additional compensation for overhead or any other expenses.

7. CONTRACTOR'S RESPONSIBILITIES:

- A. Existing Conditions: Detailed knowledge of existing conditions is required of the Contractor. Lack of such knowledge and understanding shall not be the basis of any claim for change in the contract amount or operate to release the Contractor from any requirement for the complete performance of the contract. If conditions arise which are not predictable or inferable from the Contract Documents or site inspection, and which are the cause for additional work, the amount of additional cost will be considered as a basis for claims for adjustment to the contract price.
- B. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters.
- C. Checking Contract Documents: Contractor shall compare and check all Contract Documents prior to commencing work. He shall immediately report any discrepancy to the Architect for clarification and he shall not proceed with any work affected by the discrepancy until such clarification has been received in writing.

- 1. General Contractor must thoroughly review all Contract Documents prior to start of construction to minimize the quantity of RFI's during construction.

All Requests for Information (RFI's) must come from the General Contractor and must be typed or legibly hand printed with clear, concise information. They must be first submitted to the Inspector and must bear the Inspector's signature and comments prior to being submitted to the Architect. Any RFI's not meeting these requirements may be rejected and returned to the General Contractor for revisions. All RFI's must be submitted in a time frame that allows a minimum of 10 working days for review and response. However, RFI's regarding unforeseeable conditions (as determined by the Architect) will receive priority attention and an expedient response.

General Contractor will not be entitled to additional compensation for his expenses incurred in the processing of RFI's. No extensions in time or overhead cost increases will be permitted for any work as a direct result of any RFI's responded to in the time frame outlined above.

General Contractor may be responsible for Architect's expenses incurred in responding to frivolous RFI's at the current rate for architectural services.

- 2. If the Contractor proceeds in error or omits required work, and if corrective documents are provided by the Architect in order that the Project can proceed without the Contractor having to remove all of the incorrect work, the Contractor shall pay the Architect and his engineers for their professional services analyzing the defect(s) at their current hourly rate schedule.

- D. Drawings and Specifications: At all times until completion of the contract, Contractor shall make available to the Architect at the job site one complete and up-to-date set of drawings and specifications, and upon request, all standards referred to therein.
 - E. Coordination of Work: Contractor shall coordinate efficiently all work of his subcontractors and of all trades involved and shall make available to each subcontractor copies of Contract Documents and shall relay all information affecting each trade in ample time so that progress of the Work is not delayed. Any extra work or material, caused by failure or delay of Contractor to so comply, shall be furnished without expense to the Owner.
 - F. Superintendence: Contractor shall efficiently oversee and direct the work at all times and watch progress of the work to determine when and where materials and labor will next be needed. He shall continuously employ on the project an efficient and competent general superintendent and his necessary assistants, all satisfactory to the Architect. Contractor's general superintendent shall have full authority as the Contractor's agent to answer questions and to receive and carry out Architect instructions. Such instructions shall be as binding as if given directly to the Contractor. The approved superintendent, once on site, shall only provide supervision related directly and/or indirectly to the Project. He/she shall not be assigned other job responsibilities that involve non-supervision and non-leadership duties. Other tradesmen shall execute these services as needed to ensure that the contractor's superintendent devotes his/her full time only to superintendence.
 - G. Incompetent Superintendents If, in the Architect's opinion, any general superintendent is deemed incompetent or unfaithful in execution of the work, the Contractor shall, on written notice, dismiss such person forthwith and shall not employ him thereafter on work of any part of this contract.
 - H. Engineering Services: Contractor shall provide efficient surveying and engineering services to lay out the work in accordance with lines and elevations shown.
 - I. Bench Marks & References: Established bench marks, monuments or reference points shall be protected and preserved, and no changes in location shall be made without Owner's written approval. Should any mark, monument or point be lost or destroyed or require relocating because of changes in grades, etc., Contractor shall, subject to Owner's approval, replace and accurately locate it without additional contract cost.
 - J. Access to all parts of the work shall be afforded at all times to all governing agencies and representatives of the Owner having jurisdiction over the work. The Contractor shall provide all facilities for such access and inspection.
8. REGULATIONS, PERMITS AND LICENSES:
- A. The Owner will pay all building permit fees required by the local building department having jurisdiction.
 - B. The Contractor shall obtain all other permits and all licenses that are required for the performing of his work by all laws, ordinances, rules, regulations, or orders of any officer and/or body lawfully empowered to make or issue the same and having jurisdiction, and shall give all notices and all costs and expenses incurred on account thereof, and deliver certificates of same to the Owner, except when otherwise provided herein. Contractor shall obtain permits and pay cost for all connection fees to Public Utilities. Owner shall reimburse Contractor for actual connection fee cost charged by Utility, (gas, water, sewer, electricity, telephone and cable TV) Co.
 - C. The Contractor shall conform to all Federal and State laws, ordinances and regulations covering this work.

- D. All fees associated with actual fees at project site and as listed above shall not be part of the contractor's bid. Contractor shall pay for and be reimbursed as an additional expense and shall bill the owner directly as an independent billing and shall not be part of the payment requests.
9. LAWS & REGULATIONS:
- A. The entire Contract Documents and the performance of Work described by them are subject to applicable governmental statutes, codes, regulations, ordinances, among which are the UBC, UPC, UMC, and NEC, now in effect or which shall be in effect during the term of the contract in the locale of the project. Nothing in these Contract Documents shall be construed to permit violation.
- B. Contractor shall utilize only materials and methods on the work which conform with these governmental provisions. Contractor shall promptly inform the Architect of any violations of governmental provisions which he may find in the Contract Documents.
- C. Contractor shall waive "common practice" and "common usage" as construction criteria wherever details and specifications or codes, ordinances, etc. require greater quantity or better quality than common practice or common usage would allow.
10. MATERIALS & WORKMANSHIP:
- A. Specific Standards: Materials and workmanship specified by reference to number, symbol, or title of a specific standard such as Commercial Standard, a Federal Specification, a trade association standard, or other similar standard, shall comply with requirements in latest revision thereof and with any amendment or supplement thereto in effect on the date heading these specifications. Such standard, except as modified herein, shall have full force and effect as though printed in the specifications.
- B. Clear Title: No materials or supplies for the work shall be purchased by the Contractor or by any subcontractor subject to any chattel mortgage or under conditional sale or under any other agreement by which an interest is retained by the seller. Contractor warrants that he has clear title to materials and supplies for which he accepts any payment.
11. ARCHITECT'S FUNCTION:
- A. Architect will periodically observe and review the work for conformance with Contract Documents and will interpret and clarify points of question. All decisions concerning color, texture, design, and aesthetic appearances shall be made by the Architect, whose decision shall be final and are not subject to arbitration; but this does not include direction of persons selection or direction of methods and construction equipment or placing in operation any mechanical or electrical facilities.
- B. Architect will review all shop drawings, samples, and materials.
- C. Architect will recommend approval or rejection of changes in contract amount and/or time and issue change orders accordingly for Owner's written approval.
- D. Architect will review amounts of all applications for partial payments from the Contractor as they become due and recommend certificates of payments for the Owner's written approval.
- E. Architect may order the Project work stopped if the Contract Documents are not being followed.

- F. Architect's orders will be in writing only, properly signed. Oral orders from Architect or from anyone acting for him shall not be considered binding in case of dispute.
- G. Architect will make written decisions regarding all claims of the Contractor and will interpret the Contract Documents on all questions arising in connection with execution and progress of the work, except as otherwise specified.
- H. Architect will appoint representatives to assist him in conduct of the Work; these persons shall be entitled to same free access to all parts of Work. All written instructions issued by Architect's representatives are final and binding as if issued by the Architect himself. Contractor shall act upon verbal instructions entirely at his own risk.
- I. All communications relating to the Work shall be submitted through the Architect, except the required notice of arbitration.

12. NON-PERFORMANCE OF CONTRACT:

- A. Owner's Right to Terminate Contract: The Owner, without prejudice to any other rights or remedy he may have, may terminate Agreement with the Contractor and Contractor's right to proceed, either with the entire Work or any portion thereof to which delay or default shall have occurred in any of the following circumstances:
 - 1. If Contractor be adjudged bankrupt or make an assignment for the benefit of creditors.
 - 2. If receiver or liquidator be appointed for the Contractor or for any of his property and not be dismissed within 20 days after such appointment, or if proceedings in connection therewith are not stayed on appeal within said 20 days.
 - 3. If Contractor shall refuse or fail to supply enough properly skilled workmen or proper materials after notice or warning from Architect.
 - 4. If Contractor shall refuse or fail to execute the Work or any part thereof with such diligence as will insure its completion within the time specified or shall fail to complete the Work within said time. Architect shall be the sole judge of contractor's progress hereunder.
 - 5. If Contractor fails to make payments as specified herein to persons supplying labor or materials for the work.
 - 6. If Contractor fails or refuses to regard laws, ordinances or instructions of the Architect or otherwise be guilty of substantial violation of any provision of this contract.
- B. Procedure for Owner's Termination of Contract: Owner will give written notice of termination to Contractor and to Contractor's sureties. If contractor's sureties do not commence performance of the project within 5 days of such notice of intention, Owner may take over the work and prosecute it to completion by contract or by any other method deemed expedient. In such event, work shall be at the expense of the Contractor and of his sureties who shall be liable to the Owner for any excess cost or damage occasioned thereby, Owner may also, without any further liability, take possession of and utilize in completing the work, such materials, equipment, plant and other property of the Contractor as may be on the site of the Work.

- C. Termination Payment to Contractor: Contractor shall not be entitled to receive any further payment on the work until the work is finished. If the unpaid balance of compensation to be paid the Contractor for complete performance of the contract exceeds the expense of so completing the work, including compensation for additional managerial, administrative and inspection services and any liquidated damages for delay, such excess will be paid to the Contractor. If such expense exceeds such unpaid balance, the Contractor and his sureties shall be liable to Owner for such excess.
- D. Right to Stop Work: Authority to stop the work in whole or part is vested in the Architect and may be invoked whenever he deems such action necessary to insure proper execution of the contract; work may not be resumed until the Architect has given written consent.
- E. Rejection of Materials and Workmanship: The Owner and the Architect have the right to reject defective material and workmanship and to require its replacement or correction without additional cost to Owner. Contractor shall promptly segregate and remove rejected work from the premises. All adjacent work disturbed by removal of such work shall be replaced in accordance with this contract and without expense to the Owner including Work of any other contractors disturbed by such removals and replacements.
1. If Contractor fails to proceed at once with replacement of rejected Work, Owner may, by contract or otherwise, replace such material and correct such workmanship and charge the cost to the Contractor, or Owner may terminate right of the Contract to proceed. Contractor and his surety shall be liable for any damage to same extent as provided for by terminations hereunder.
 2. If rejected materials are not removed from premises within reasonable time, Owner may cause them to be removed and stored at Contractor's expense 3 days after issuing written notice to so remove them. If Contractor does not pay for such removal and storage within 6 days after such notice, Owner may, 6 days after further written notice, sell the materials and credit Contractor with net proceeds after all costs of removal and sale are deducted. If materials so removed are valueless or sale does not meet cost of removal, Contractor shall bear all resultant loss.
- F. Neglected Work: Owner may perform or employ others to undertake portions of the work persistently neglected by the Contractor if work is still proceeding unsatisfactorily 3 days after written notice to the Contractor. In such case work will be done according to the Contract Documents and shall in no way affect the status of either party under this contract, nor be held as the basis of any claim by the Contractor for damages or for extension of time.
- G. Right to Withhold Payment: Part or whole of any payment or any certificate may be withheld by Owner if such course be deemed necessary to protect Owner from loss on account of Contractor's failure to meet his obligations or if balances unpaid to Contractor are insufficient to complete the Work. This right may also be exercised if in Owner's opinion the work will not be completed within the time specified for performance of the contract.
13. CONTRACTOR'S RIGHT TO STOP WORK:
- A. If any of the following circumstances exist and are not the fault of the Contractor, the Contractor may stop work or terminate the contract 30 days after written notice to Owner and to Architect. In such event the Owner will be liable to the Contractor for all expenses incurred in the work to date of termination, including obligations to subcontractors and for supplies and for Contractor's prescribed profit on the work performed and such other actual and reasonable damages as may be shown.

1. If work is stopped by order of any court or governmental authority for more than 30 days.
2. If Architect without just cause fails to issue any certificate for payment to the Owner within 15 days after it is received.
3. If Owner fails to pay Contractor any sum certified by Architect within 30 days after its presentation; or any sum awarded by arbitrators, if arbitrated.

14. CHANGES TO CONTRACT:

A. Owner may, through the Architect, issue revision orders at any time without notice to the sureties, changing the specifications and drawings of this contract but the Contractor shall not make any change which increases the aggregate total contract price without written authorization. All Addenda and Change Orders shall be signed by the Owner, Architect and Contractor.

B. Change Orders: Contractor shall submit for the Architect's review in itemized form his estimate of cost of all changes to the work prior to commencing any such work. Architect will either reject the estimate for further study or recommend approval of all or portions of the estimate and will prepare a written revision order stating description of work and its cost change for the Owner's approval. Contractor shall commence for the work upon receipt of written authorization by the Owner and Architect.

C. Cost of Change Orders:

1. **DETERMINATION OF COST**

The amount for a CO, if any, shall be determined in one or more of the following ways as applicable to a specific situation:

- a. Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- b. Unit prices stated on the Contractor's Bid Form, the Contract Documents, or subsequently agreed upon between the Owner and the Contractor;
- c. Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- d. By cost of material and labor and percentage of overhead and profit. If the value is determined by this method the following requirements shall apply:

1) **Daily Reports by Contractor.**

a. General: At the close of each working day, the Contractor shall submit a daily report to the Inspector, on forms approved by the Owner, together with applicable delivery tickets, listing all labor, materials, and equipment involved for that day, the location of the Work, and other services and expenditures when authorized concerning extra work items. An attempt shall be made to reconcile the report daily, and it shall be signed by the Inspector and the Contractor. In the event of disagreement, pertinent notes shall be entered by each party to explain points which cannot be resolved immediately. Each party shall retain a signed copy of the report. Reports by Subcontractors or others shall be submitted through the Contractor.

b. Labor: List names of workers, classifications, and hours worked.

c. Materials: Describe and list quantities of materials used.

d. Equipment: List type of equipment, size, identification number, and hours of operation, including, if applicable, loading and transportation.

e. Other Services and Expenditures: Describe in such detail as the Owner may require.

2) Basis for Establishing Costs.

a. Labor will be the actual cost for wages prevailing locally for each craft or type of workers at the time the extra work is done, plus employer payments of payroll taxes and insurance, health and welfare, pension, vacation, apprenticeship funds, and other direct costs resulting from Federal, State, or local laws, as well as assessments or benefits required by lawful collective bargaining agreements. The use of a labor classification, which would increase the extra work cost, will not be permitted unless the Contractor establishes the necessity for such additional costs. Labor costs for equipment operators and helpers shall be reported only when such costs are not included in the invoice for equipment rental.

b. Materials shall be at invoice or lowest current price at which such materials are locally available and delivered to the Site in the quantities involved, plus sales tax, freight, and delivery.

The Owner reserves the right to approve materials and sources of supply or to supply materials to the Contractor if necessary for the progress of the Work. No markup shall be applied to any material provided by the Owner.

c. Tool and Equipment Rental. No payment will be made for the use of tools which have a replacement value of \$100 or less.

Regardless of ownership, the rates to be used in determining equipment rental costs shall not exceed listed rates prevailing locally at equipment rental agencies or distributors at the time the work is performed.

The rental rates paid shall include the cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, and all incidentals.

Necessary loading and transportation costs for equipment used on the extra work shall be included. If equipment is used intermittently and, when not in use, could be returned to its rental source at less expense to the Owner than holding it at the work Site, it shall be returned unless the Contractor elects to keep it at the work Site at no expense to the Owner.

All equipment shall be acceptable to the Inspector, in good working condition, and suitable for the purpose for which it is to be used. Manufacturer's ratings and modifications shall be used to classify equipment, and equipment shall be powered by a unit of at least the minimum rating recommended by the manufacturer.

d. Other Items. The Owner may authorize other items which may be required for the extra work. Such items include labor, services, material, and equipment which are different in their nature from those required by the Work, and which are of a type not ordinarily available from the Contractor or any of the Subcontractors. Invoices covering all such items in detail shall be submitted with the request for payment.

e. Invoices. Vendors' invoices for material, equipment rental, and other expenditures shall be submitted with the COR. If the request for payment is not substantiated by invoices or other documentation, the Owner may establish the cost of the item involved at the lowest price which was current at the time of the Daily Report.

f. Overhead. Overhead, including direct and indirect costs, shall be submitted with the COR and include: home office overhead, off-Site supervision, CO preparation/negotiation/research, time delays, project interference and disruption, additional guaranty and warranty durations, on-Site supervision, additional temporary protection, additional temporary utilities, additional material handling costs, and additional safety equipment costs.

2. **FORMAT FOR PROPOSED COST CHANGE**

The following format shall be used as applicable by the Owner and the Contractor to communicate proposed additions and deductions to the Contract. Any additions or deductions that affect the Guaranteed Maximum Price and the Construction Contingency shall be subject to the provisions of the agreement and these General Conditions.

	<u>EXTRA</u>	<u>CREDIT</u>
A. Material (attach itemized quantity and unit cost plus sales tax)	_____	_____
B. Labor (attach itemized hours and rates)	_____	_____
C. Equipment (attach invoices)	_____	_____
D. Subtotal	_____	_____
E. If Subcontractor performed Work, add Subcontractor's overhead and profit to portions performed by Subcontractor, not to exceed ten percent (10%) of item D.	_____	_____
F. Liability and Property Damage Insurance, Worker's, Compensation Insurance, Social Security, and Unemployment Taxes, not to exceed twenty-five percent (25%) of Item B.	_____	_____
G. Subtotal	_____	_____
H. General Contractor's Overhead and Profit, not to exceed ten percent (10%) of Item G.	_____	_____
I. Subtotal	_____	_____
J. Bond not to exceed two percent (2%) of Item I.	_____	_____
K. TOTAL		

It is expressly understood that the value of such extra work or changes, as determined by any of the aforementioned methods, 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 or expenses not included are deemed waived.

3. **DISCOUNTS, REBATES, AND REFUNDS**
For purposes of determining the cost, if any, of any change, addition, or omission to the Work hereunder, all trade discounts, rebates, refunds, and all returns from the sale of surplus materials and equipment shall accrue and be credited to the Owner, and the Contractor shall make provisions so that such discounts, rebates, refunds, and returns may be secured, and the amount thereof shall be allowed as a credit to the actual cost of construction for purposes of any change, addition, or omissions in the Work as provided herein.
 4. **ACCOUNTING RECORDS**
With respect to portions of the Work performed by COs and CCDs on a time-and-materials, unit-cost, or similar basis, the Contractor shall keep and maintain cost-accounting records satisfactory to the Owner, which shall be available to the Owner on the same terms as any other books and records the Contractor is required to maintain under the Contract Documents.
 5. **NOTICE REQUIRED**
If the Contractor desires to make any extension in the Contract Time for completion, it shall give the Owner and the Architect written notice thereof within ten (10) days after the occurrence of the event giving rise to the claim, together with detailed estimates of the impact on the Contract Time. This notice shall be given by the Contractor before proceeding to execute the Work, except in an emergency endangering life or property, in which case the Contractor shall proceed in accordance with paragraph 10.4 hereof. No claim shall be considered unless made in accordance with this Subparagraph; however, the mere presentation of such claim shall not establish the validity of the cause giving rise to such claim, or of the extension of the Contract Time. Contractor shall proceed to execute the Work even though the adjustment has not been agreed upon. Any effect on the extensions of the Contract Time resulting from such claim shall be authorized by a CO, and paid subject to the Agreement and these General Conditions.
 6. **APPLICABILITY TO SUBCONTRACTORS**
Any requirements under this Article 7 shall be equally applicable to COs or CCDs issued to Subcontractors by the Contractor to the same extent required of the Contractor.
15. NOTICE OF COMPLETION:
- A. Final Observation and Re-observation:
 1. Request for Final Observation: When the work is completed, Contractor shall notify Architect and Owner in writing that the work will be ready for final observation on a definite date which shall be stated in such notice. The notice shall be given at least ten (10) days in advance of such date. Contractor shall arrange for the presence at this observation of all subcontractors dealing with electrical work, plumbing, heating, ventilating, refrigeration, and such other subcontractors as Architect may designate.
 2. Except for minor touch-up work, ALL work of the contract shall be completed and all mechanical and electrical systems operating and checked by Contractor and manufacturer's representatives BEFORE a final observation is requested by Contractor.

- B. Architect and Contractor will make joint final observation to determine if work is (1) entirely complete, or (2) substantially complete, or (3) neither entirely or substantially complete. Substantial completion implies completion except for minor adjustments, correction of finishes, etc. which minor items will not limit Owner's use or occupancy of the entire work. Architect will be sole judge in determining specifically what constitutes any minor item in this instance.
1. If the Architect arrives at the site for the Final Observation at the request of the Contractor and the Project is not deemed to be substantially complete by the architect, the Final Observation shall be rescheduled. The Contractor shall be financially responsible to the Owner for paying the owner's architect based on the amounts in B.4 below.
 2. Within ten (10) days after the final observation, a written list of any deficiencies consisting of items to be completed or corrected before acceptance of the building, shall be furnished to Contractor. Such completion or correction shall be done within fourteen (14) days after the final observation or such other time limit as may be established by Architect or Owner.
 3. A Follow-Up Observation will be made by Architect, Architect's consulting engineers, and Owner within thirty (30) days after the final observation or such other time limit as may be established by Architect or Owner. Contractor shall arrange for the presence of subcontractors whose work was on the list of deficiencies.
 4. Re-observation(s) Should it be determined during the follow-up observation that all items on the list of deficiencies have not been completed or corrected and that additional observations would be required to observe those items not completed or corrected. Contractor shall be charged in accordance with the following schedule. Determination of necessity for such re-observations shall be made by Architect.
 - a. Each additional observation by Architect will be at current hourly rate (4 hours minimum), including travel time and reimbursement for mileage.
 - b. Each additional observation by the Consultant(s) will be at current hourly rate (4 hours minimum), including travel time and reimbursement for mileage.
 5. When Work is accepted, Architect shall give Contractor written notice of the date on which a legal notice of completion is recorded. These charges shall be withheld from the Contractor's remaining partial payments by the Owner and paid by the Owner to the Architect for these additional site visits.
- C. Notice of Completion: If Architect determines project to be either entirely complete or substantially complete as a result of final observation, he may advise the Owner to record a notice of completion with the Clerk of the County in which the project is located.
1. Date of filing such notice shall determine start of lien period and guarantee period on items that have been approved as substantially completed.
 2. Recording notice of completion, issuing any certificate for payment, making any payment other than final payment, and partial or entire use or occupancy of the work by the Owner shall not be construed as an acceptance of any work or material not in accord with the Contract Documents.

- D. Pre-Final Certificate of Payment: Architect, upon advising the Owner to file notice of completion, will file a written certificate with the Owner and Contractor for the entire amount of work performed and compensation earned by the Contractor, including approved extra work and compensation, the Contractor shall be entitled to full payment of this amount, less retention.

16. ACCEPTANCE OF WORK:

- A. Final Payment: 35 days after recording the notice of completion, the Contractor shall be entitled to payment of all remaining monies on following conditions:
1. Receipt of all Guarantee/Warranties, Release of Liens, and O&M Manuals.
 2. No stop notices or claims have been filed.
 3. Any such notices or claims which have been filed have been satisfied.
 4. All Work is completed satisfactorily according to the terms of the Contract.
 5. Acceptance of As-Built Drawings.
- B. Release of Claims: Final payment shall not become due until Contractor delivers to the Owner through the Architect a complete release of all claims against the Owner arising under and by virtue of this contract, including claims of all subcontractors and suppliers of other materials or labor. Should said release not be delivered before final payment is made by the Owner, acceptance of final payment shall operate to release Owner from all claims the same as if said release had in fact been delivered.
- C. Performance Bond: No payment, final or otherwise, shall operate to release the Contractor or his sureties from any obligations under any performance bond.
- D. Final Acceptance of Work: Receipt of final payment by the Contractor shall operate as the act of delivery to and final acceptance by the Owner of the completed project; but receipt shall not relieve the Contractor of his responsibilities for any deviation, defect or omission of work, nor limit or waive any obligation due the Owner under guarantees and warranties required by the Contract.

17. OCCUPANCY:

- A. Owner may occupy certain portions of the work prior to Contractor's completion of the total project. The Owner's right to such occupancy is understood to be part of the Contract and Contractor shall proceed with completion of the total project in such manner as to cause least possible interference with the Owner, his employees, or others having business on the premises.
- B. Partial occupancy shall not be deemed acceptance or completion of work in whole or in part, and shall in no manner diminish any provision for liquidated damages for delay in completion of Contract, nor extend the time for completion of Contract.

18. GUARANTEES:

- A. General Guarantee: All Work shall be guaranteed by the Contractor and the surety of his performance bond against defects of materials or workmanship for two years from the date of recording notice of completion.
- B. Special Guarantees: Certain parts of the work, where specifically noted, may require guarantee periods of greater duration than the General Guarantee period of one year, or may require other starting dates for guarantee period than date of filing notice of completion, or may require both of these exceptions to the general guarantees.

- C. Guarantee Requirements: If corrections are required within any guarantee period, without expense to the Owner, the Contractor shall promptly comply with the following:
 - 1. Place in condition satisfactory to Owner all such guaranteed work.
 - 2. Make good all damage to buildings, to Owner's furnishings and personal property, or to site which is the result of said defects.
 - 3. Make good any work, materials, equipment and contents of buildings or site disturbed by repairs and changes in fulfilling any such guarantee.
 - D. Failure to Comply: Owner may have defects corrected if Contractor, after notice, fails to proceed promptly to comply with terms of the guarantee and Contractor and his surety shall be liable for all expenses incurred.
 - E. Special Equipment: Owner may, at his sole discretion, exercise his option to repair or replace damaged special equipment if such repair or replacement is included in provisions of any guarantee. Cost of such remedy shall be recoverable from the Contractor in the amount of exact cost to the Owner.
 - F. Certain items of work or equipment shall be excluded from the provision for commencement of guarantee if, at time of final acceptance of the work, these items are incomplete or unacceptable. The guarantee period for these items shall commence only upon written acceptance by the Owner.
19. ASSIGNMENT: The Contractor shall not assign the contract nor sublet it as a whole without written consent of the Owner, nor shall the Contractor assign any monies due or to become due to him hereunder without written consent of the Owner. Such assignment or sub-letting by the Contractor will not be binding upon the Owner without such consent.
20. SUBCONTRACTS:
- A. Agreements between Contractor and subcontractors shall be made available upon Architect's request.
 - B. Contractor shall bind each subcontractor to the terms of the Contract Documents; but no act of the Architect nor anything contained in any Contract Documents shall be construed as creating any contractual relation between the Owner and any subcontractor.
 - C. Disputes: Neither Architect nor Owner will undertake to settle any disputes between the contractor and his subcontractors or between subcontractors.
21. SEPARATE CONTRACTS:
- A. Owner, at his discretion, may let separate contracts related to the project which may be carried on simultaneously with this contract. Scope and technical details of separate contracts will be made available to Contractor for his examination. Contractor shall cooperate with separate contractors to ensure uninterrupted progress of all work including delivery and storage of materials necessary for work of separate contractors.
 - B. Contractor shall notify Architect of potential interference with this Work by any separate Contractor's work before Work of either contract is disturbed, and shall secure Architect's decision as to procedure or change in design or construction before

proceeding.

- C. Where results or proper execution of this work depend upon work by separate contractor, Contractors shall inspect separate contractor's work and promptly report to Architect any defects that render it unsuitable for such results or execution.

Failure to so report shall constitute acceptance of separate contractor's work as proper for reception of Contractor's work.

- D. If Contractor damages any separate contractor's work, or vice versa, or if any dispute arises, Contractor agrees to settle by mutual consent, or upon due notice, to settle by arbitration in the manner provided in these GENERAL CONDITIONS or by agreement with the Owner.

22. SAFETY:

- A. Contractor shall be solely and completely responsible for conditions of the premises on which the work is performed and for safety of all persons and property on the site during performance of the contract. This requirement shall not be limited to normal working hours, but shall apply continuously.
- B. Contractor shall conform with all governing safety regulations. The Architect is not responsible for monitoring the Contractor's compliance with safety regulations.
- C. Contractor shall hold the Owner, Architect and their representative free and harmless from any claim or judgment including litigation costs and counsel fees deriving from or related to performance of the work as regards safety to property or persons, including injury or death, irrespective of whose conduct including conduct of the Owner, the Architect, or of their representatives, may have given rise to the claim or loss.

23. INSURANCE & BONDS:

Prior to commencement of Work, Contractor shall maintain the following insurance coverages and minimum limits until the earlier of final completion of the Work or Termination of this Contract except for Products and Completed Operations coverage as described in the sections below. The minimum limits of coverage required by this Agreement may be satisfied by a combination of primary and Excess/Umbrella insurance policies provided that the form of the Excess/Umbrella coverage follows the form of the primary liability insurance. Contractor shall bear all cost for payment of insurance premiums and any and all deductibles or self-insurance retentions under its policies and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Commercial General Liability on an occurrence form (no sunset clauses). Liability deductible or Self-Insured Retention not to exceed \$5,000. Claims Made or Modified Occurrence Liability coverage will not be accepted. Coverage shall be at least as broad as ISO form CG0001. Products and Completed Operations coverage shall continue for three (3) years after the earlier of Final Completion of the Work, or Termination of this Agreement.
2. Umbrella/Excess Liability insurance following form of the primary General Liability, Auto Liability and Employer's Liability insurance.

3. Business Automobile Liability insurance including coverage for owned, non-owned, hired vehicles and trailers. Such insurance shall cover occurrences both at and away from the Project Site.
4. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
5. Builder's Risk (Course of Construction). Deductible not to exceed \$2,500.
6. Performance & Payment Bonds.

Minimum Limits of Insurance

Contractor shall maintain limits no less than:

- | | | |
|-------------------------------|---|--|
| 1. General Liability: | \$2,000,000
\$2,000,000
\$1,000,000
\$1,000,000 | General Aggregate (Per Project)
Products/Completed Operations Aggregate
Personal & Advertising Injury
Each Occurrence |
| 2. Umbrella/Excess Liability: | \$1,000,000 | Per Occurrence |
| 3. Automobile Liability: | \$1,000,000 | Per Accident for Bodily Injury & Property Dmg. |
| 4. Workers' Compensation: | As required by the State of California | |
| 5. Employer's Liability: | \$1,000,000 | Per Accident for Bodily Injury or Disease |
| 6. Builder's Risk: | Completed Value of the Project with no Coinsurance Penalty. | |

Insurance Provisions

The general liability policy is to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured:** The **Owner**, its elected or appointed officials, employees, agents and volunteers are to be covered as Additional Insured's (utilizing Form CG2010 11/85 edition or an acceptable equivalent) by an endorsement to the general liability policy. A CG2010 11/85 acceptable equivalent is an additional insured endorsement that includes the named insured's "ongoing" operations and completed operations.
2. **Primary Insurance:** For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the **Owner**, its elected or appointed officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the **Owner**, its elected or appointed officials, employees, agents and volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
3. **Cancellation Provision:** Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) day's prior written notice has been provided to the **Owner**.

Waiver of Subrogation

The Contractor's General Liability and Workers' Compensation insurance policies shall provide a Waiver of Subrogation in favor of the **Owner**.

Builder's Risk (Course of Construction) Insurance

If and only if the Contract Sum exceeds \$250,000 at the time of award, Contractor shall procure and maintain Builder's Risk insurance (all-risk, special form with valuation on a replacement cost basis) on a one hundred percent completed value of the project for the benefit of the **Owner**, and the Contractor and Subcontractor, as their interest may appear. The policy shall contain a clause which provides coverage until the building is accepted by the **Owner**. If the Builder's Risk policy contains an occupancy provision, permission for early occupancy must be obtained from the insurance company. The Policy should include debris removal, collapse, theft, and transit coverage with no coinsurance penalty provisions. The Builders' Risk Policy is primary and no insurance held or owned by the **Owner** shall be called upon to contribute to a loss.

Contractor's Property

Contractor shall be responsible for and shall bear the risk of loss and damage to any property including but not limited to (1) tools and equipment of Contractor (owned or rented) and (2) any property for which it is responsible or that is in its care, custody and control, wherever located.

Transit Insurance

Where Contractor has responsibility to coordinate transportation of construction materials (whether ocean, air or inland transit), Contractor shall bear responsibly for providing transit coverage on an all-risk basis, including lightering operations, loading and unloading at each point of delivery, including final destination, unless total risk of loss in transit is borne by the shipper or supplier, or Owner provides notification that it will carry such coverage. Such coverage shall provide a limit of full replacement value of each conveyance. Any marine inspections and/or survey fees under this coverage shall be for the account of Contractor.

Workers' Compensation

Before the Contract is entered into, the Bidder to whom it is awarded shall furnish to the **Owner** satisfactory proof that he and all Subcontractors he intends to employ have taken out, for the period covered by the proposed Contract, full compensation insurance and Employer's Liability with limits of at least \$1,000,000 with an insurance carrier satisfactory to the **Owner** for all persons whom they may employ in carrying out the work contemplated under this Contract in accordance with the Act of the Legislature of the State of California, known as the "Workers' Compensation Insurance and Safety Act" approved May 26, 1913, and all Acts amendatory or supplemental thereto. 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, he shall furnish a Certificate of Permission to Self-Insure, signed by the Department of Industrial Relations Administration of Self-Insurance, Sacramento, California.

If the Contractor fails to maintain such insurance, the **Owner** may take out compensation insurance to cover any compensation which the **Owner** might be liable to pay under the provisions of said Act as amended, 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.

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

The policies represented by the certificates must contain the provision (and the certificates must so state) that the insurance cannot be cancelled until thirty (30) days after written notice of intended revocation has been given to the **Owner** by Certified Mail.

Indemnity

Contractor shall indemnify, hold harmless and defend **Owner** and its elected or appointed officials, agents and employees from and against all claims, damages, losses and expenses, including reasonable costs and attorneys' fees, arising out of or resulting from Contractor's performance of the Work, or work performed by Contractor's agents or employees, or subcontractors employed on the project, their agents or employees, or products installed on the project by Contractor or subcontractors, excepting only such injury or harm as may be caused solely and exclusively by **Owner's** fault or negligence. Such indemnification shall extend to all claims, demands, or liabilities occurring after completion of the project as well as during the progress of work.

Subcontractors

Contractor shall require all Subcontractors of any tier that may work on or in connection with the Agreement to maintain the coverages required in this Contract; provided however, that Contractor may vary the limits of such coverage of subcontractors depending on the services provided, but such limits shall be comparable to those customarily provided by others within similar size and scope of business. In no event shall the insurance requirements be deemed to limit the liability or responsibility of Contractor or any of its Subcontractors to Owner.

Contractor shall require all tiers of Subcontractors to waive the rights of recovery against Owner, its elected or appointed officials, employees, agents and volunteers. Contractor shall be responsible for any loss resulting from the failure of any Subcontractor to maintain sufficient insurance.

Subcontractor shall be responsible for and shall bear the risk of loss and damage to any property including but not limited to (1) tools and equipment of subcontractor (owned or rented) and (2) any property for which it is responsible or that is in its care, custody and control, wherever located.

Acceptability of Insurers

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 as set forth in this Contract shall be underwritten by a company with a balance sheet strength, operating performance and business profile that are equal to or exceed an A VIII rating as listed in the A.M. Best Insurance Guide's latest edition. On a case-by-case basis, the **Owner** may accept insurance written on a company listed on the State of California Department of Insurance List of Eligible Surplus Lines ("LESLI List") with a rating of A VIII or above as listed in Best's Insurance Guide's latest edition. Exception may be made for Workers' Compensation Insurance provided by the State Compensation Insurance Fund when not specifically rated.

Proof of Insurance

Contractor shall furnish the **Owner** with original certificates and amendatory endorsements effecting coverage required by this contract. All certificates and endorsements are to be received and approved by the **Owner** before work commences. However, failure to do so shall not operate as a waiver of these insurance requirements. If the Contractor fails to maintain such insurance as specified by this Contract, the **Owner** may take out such insurance to cover any damages of the above mentioned classes for which the **Owner** might be held liable on account of the Contractor's failure to pay such damages, and deduct and retain the amount of the premium from any sums due the Contractor under the Contract.

The **Owner** reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

Mail all certificates and endorsements to:

Chico Unified School District

Attn: Kayci Tiner

2455 Carmichael Drive

Chico, CA 95928

Performance Bond & Payment Bond

Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds may be obtained through the Contractor's usual source and the cost thereof shall be included in the Contract Sum. The amount of each bond shall be equal to 100 percent of the Contract Sum. The surety must be an admitted surety insurer in the State of California. These bonds shall be maintained for the life of the Contract and one year after the date of filing the Notice of Completion.

The Contractor shall deliver the required bonds to the **Owner** not later than ten days following the date of the Agreement is entered into. If the Work is to be commenced prior thereto in response to a letter of intent, the Contractor shall, prior to commencement of Work, submit evidence satisfactory to the **Owner** that such bonds will be furnished.

The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney, and to have the signature acknowledged by a notary public.

24. TIME OF WORK:

- A. The Architect shall designate the starting date of the work, on which date the Contractor shall begin work forthwith.
- B. The Contractor shall, within ten (10) days from the execution of the Contract, furnish to the Architect a detailed estimate of the contract price (contract breakdown) and present a contemplated time schedule showing the time necessary to complete each portion of the building and to complete the entire project.
- C. The Contractor "breakdown" showing percentage of work completed shall be verified by the Inspector and presented each pay period to accompany the Architect's certificate of payment.
- D. The Contractor obligates himself to make the whole work complete and satisfactory on, or before, such date as shall be determined by the elapsed number of calendar days set forth in the Proposal, plus any extension approved by the Owner.

25. PAYMENTS:

- A. Payments to the Contractor on account of the Contract shall be made according to the following schedule, and subject to additions and deductions, if any, as hereinafter provided. No payment will be made without the completion and verification of the certificate referred to in General Conditions 25-C. **Pay Request format shall be approved by Architect.**
- B. On or about the first day of the month following the commencement of the Work there shall be paid to the Contractor after certification by the architect, a sum equal to Ninety-five Percent (95%) of the value of the work completed since the commencement of the work. Thereafter, on or about the twentieth day of each successive

month as the work progresses, similar payments may be requested by the Contractor equal to Ninety-five Percent (95%) of the value of the work completed since the commencement of the work less all previous payments. Payment for additional Work or extras, if any, under this Contract shall be made in like manner. Said payment shall be made by demands drawn in the manner required by law, accompanied by a certificate signed by the Architect, stating that the Work for which payment is to the best of Architect's knowledge, demanded has been performed in accordance with the terms of the Contract, and that the amount stated in the certificate is due under the terms of the Contract. Partial payment on the contract price shall not be considered as an acceptance of any part of the work.

- C. After the completion of the Work required by this Contract, the Contractor shall file with the Owner, his affidavit, sworn to before a Notary Public, stating that all workmen and persons employed, all firms supplying the materials, and all subcontractors upon the project have been paid in full, and that there are no disputed claims or stop notices. The filing of such affidavit by the Contractor shall be a prerequisite to the making, by the Owner, of the final payment of the Contract. Final payment shall be made thirty-five (35) days after completion of the work and its acceptance by Owner.
- D. Payment hereunder may, at any time, be reduced or withheld by the Owner, if, in the opinion of the Architect or the Owner, the Contractor is not diligently and efficiently endeavoring to comply with the intent of this Contract, or if the Contractor shall fail to pay for labor and material used on the project when such payments become due.
- E. The acceptance by the Contractor of the payment of the final certificate shall constitute a waiver of all claims against the Owner under or arising out of this Contract.
- F. The Owner, at any time during the progress of the Work, shall have the right to order alterations in, additions to, or deviations or omissions from the work contemplated by this Contract, and the same shall in no way make void the Contract. Changes involving an increase or decrease in the contract amount shall be processed as per Paragraph 14.
- G. **CLAIMS FOR EXTRA COSTS.** It is hereby mutually agreed that the Contractor shall not be entitled to payment of additional compensation for any occurrence, unless he shall have given the Architect and Owner due written notice of potential extra cost.

The written notice of potential extra cost shall set forth the reasons the Contractor believes additional compensation will or may be due, the nature of the costs involved, and, insofar as possible an estimate of the total cost. The required notice must have been given to the Architect and Owner prior to the time the contractor performed the work, or in all other cases within seven (7) days after the start of work, giving rise to the potential extra cost.

It is the intention of this Article that differences between the parties arising under and by virtue of the Contract be brought to the attention of the Architect at the earliest possible time so that such matters may be settled, if possible, or other appropriate action promptly taken. The Contractor hereby agrees that he shall have no right to additional compensation for any claim that may be based on any act, failure to act, event, thing or occurrence for which no written notice of potential claim was filed within the time constraints stated above. In the event of an emergency endangering life or property, the Contractor shall act as stated below, and after execution of the emergency work, shall present an accounting of labor, materials, and equipment in connection therewith. The procedure for any payment that may be due for emergency work will be as specified in Paragraph 14.

The Architect shall, within a reasonable time after their presentation to him, state his decisions in writing on all claims for extra compensation. All such decisions of the Architect shall be final.

- H. In an emergency affecting the safety of life or of the work or of adjoining property, the Contractor, without special instruction or authorization from the Architect or Owner, is hereby permitted to act at his discretion to prevent such threatened loss or injury, and he shall so act without appeal if so instructed or authorized. Any compensation claimed by the Contractor for emergency work shall be determined as specified under Paragraph 14.
- I. Payment for additional work or extras, if any, under this Contract shall be made in accordance with the provisions of Paragraph 14. The value of omissions, if any, from the Contract, shall be deducted from the amount of the contract price, and the deductions shall be made by the Owner from the payment first following the authorization for said deductions.

26. TESTS AND INSPECTIONS:

- A. The cost of all tests, sampling, tagging and shipping inspection called for in the specifications shall be paid for by the Owner. Should the result of any tests show that the materials and/or workmanship fails to meet the requirements of the specifications, then the contractor shall provide new materials and/or workmanship, and additional tests shall be made until the requirements of the specifications are satisfied. The Owner shall deduct from the final payment sufficient money to pay for all the testing costs from and after the first tests required by specifications. If the results of any tests on imported material show that it is not suitable, the contractor shall provide new material and additional tests shall be made. The Owner shall deduct from the final payment the cost of testing from and after the first tests should the material fail to meet the tests. The testing laboratory shall be employed by the owner.

27. RESOLUTION OF CONSTRUCTION CLAIMS:

- A. The parties hereto shall adhere to and be bound by each and all of the provisions of Public Contract code Section 20104 through 20104.8, a copy of which is attached as "EXHIBIT A" and is incorporated herein by this reference.

28. ARBITRATION OF PUBLIC WORKS CONTRACT CLAIMS:

- A. The parties hereto shall adhere to and be bound by each and all of the provisions of Public Works Contract, Section 22200 through 22201, a copy of which is attached as "EXHIBIT B" and is incorporated herein by this reference.

"EXHIBIT A" (General Conditions Item 27)

**PUBLIC CONTRACT
CODE SECTION
20104-20104.4**

20104. (a) (1) This article applies to all public works claims of three hundred seventy-five thousand dollars (\$375,000) or less which arise between a contractor and a local agency.
(2) This article shall not apply to any claims resulting from a contract between a contractor and a public agency when the public agency has elected to resolve any disputes pursuant to Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2.
(b) (1) "Public work" has the same meaning as in Sections 3100 and 3106 of the Civil Code, except that "public work" does not include any work or improvement contracted for by the state or the Regents of the University of California.
(2) "Claim" means a separate demand by the contractor for (A) a time extension, (B) payment of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public work and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or (C) an amount the payment of which is disputed by the local agency.
(c) The provisions of this article or a summary thereof shall be set forth in the plans or specifications for any work which may give rise to a claim under this article.
(d) This article applies only to contracts entered into on or after January 1, 1991.

20104.2. For any claim subject to this article, the following requirements apply:

- (a) The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims.
(b) (1) For claims of less than fifty thousand dollars (\$50,000), the local agency shall respond in writing to any written claim within 45 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant.
(2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.
(3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 15 days after receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.
(c) (1) For claims of over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000), the local agency shall respond in writing to all written claims within 60 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant.
(2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.
(3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by the claimant in producing the additional information or requested documentation, whichever is greater.
(d) If the claimant disputes the local agency's written response, or the local agency fails to respond within the time prescribed, the claimant may so notify the local agency, in writing, either within 15 days of receipt of the local agency's response or within 15 days of the local agency's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon demand, the local agency shall schedule a meet and confer conference with 30 days for settlement of the dispute.
(e) Following the meet and confer conference, if the claim or any portion remains in dispute, the

GENERAL CONDITIONS: SECTION 00 70 00

claimant may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the claimant submits his or her written claim pursuant to subdivision (a) until the time that claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer process.

(f) This article does not apply to tort claims and nothing in this article is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.

20104.4. The following procedures are established for all civil actions filed to resolve claims subject to this article:

(a) Within 60 days, but no earlier than 30 days, following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

(b) (1) If the matter remains in dispute, the case shall be submitted to judicial arbitration Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act of 1986 (Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.

(2) Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law, and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.

(3) In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorney's fees of the other party arising out of the trial de novo.

(c) The court may, upon request by any party, order any witnesses to participate in the mediation or arbitration process.

"EXHIBIT B" (General Conditions Item 28)

PUBLIC CONTRACT CODE
SECTION 22200-22201

22200. As used in this part:

(a) "Public works contract" means, except for a contract awarded pursuant to the State Contract Act (Part 2 (commencing with Section 10100)), a contract awarded through competitive bids or otherwise by the state, any of its political subdivisions or public agencies for the erection, construction, alteration, repair, or improvement of any kind upon real property.

(b) "Claim" means a demand for monetary compensation or damages, arising under or relating to the performance of any public works contract.

22201. Unless otherwise prohibited by law, the terms of any public works contract may include at the time of bidding and of award a provision for arbitration of any claim pursuant to Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2.

END OF SECTION

SUPPLEMENTARY GENERAL CONDITIONS:

1. DOCUMENTS CONSTITUTING CONTRACT:
 - A. NOTICE TO CONTRACTORS
 - B. INSTRUCTIONS TO BIDDERS
 - C. BID FORM
 - D. AGREEMENT
 - E. PERFORMANCE BOND
 - F. LABOR AND MATERIAL BOND
 - G. GENERAL CONDITIONS
 - H. SUPPLEMENTARY GENERAL CONDITIONS
 - I. All addenda instructions, modifications and clarifications to these documents issued prior to signing an agreement.
 - J. SPECIFICATIONS: As listed in the table of contents.
 - K. DRAWINGS

2. ISSUE OF DRAWINGS AND SPECIFICATIONS:
 - A. Contractor will be issued without any cost to him 5 sets of drawings and specifications including copies already issued for bidding purposes. Cost of reproduction of any additional sets of drawings and specifications will be charged to the Contractor.

 - B. Architect retains ownership of all copies of drawings and specifications. These documents shall not be used for work other than for the specific project identified by the Architect's project number.

3. INSPECTION:
 - A. Project Inspector: Owner will employ an Inspector, to observe progress of the work and report to the Architect any non-conformance with drawings and specifications.

4. PLAN CHECK & BUILDING PERMIT FEE: (Reference GENERAL CONDITIONS, Para. 8): No Charge - Paid by Owner.

5. PARTIAL PAYMENTS:
 - A. Prior to Contractor's submitting his first request for payment, he shall submit for Architect's approval a breakdown of costs of all labor and material according to trade classification. Breakdown, when approved, shall form basis for all payments.

 - B. Requests for payment shall be written, submitted monthly not later than date established at pre-construction conference.

 - C. Amount of payment will be certified by Architect according to the value of the work and materials installed during period covered by request. Materials delivered to site and preparatory work may be included in request for payment subject to paragraph re: Stockpiled Material.

 - D. Partial payment shall be withheld by 35% of the total amount required if the project inspector and architect determine adequate and timely record documents are not being kept.

 - E. Stockpiled Material is material either delivered to site or stored at Contractor's expense in a public warehouse within reasonable proximity of site. Owner may honor requests for payment for stockpiled material, allowing for percentage

SUPPLEMENTARY GENERAL CONDITIONS: SECTION 00 73 00

retentions, upon following conditions:

- (1) Prior written approval by Architect or Owner shall be obtained for each delivery to site or to off-site warehouse.
- (2) Title to stockpiled material shall be vested in Owner at time of delivery to site or warehouse.
- (3) Contractor shall obtain a negotiable warehouse receipt, endorsed over to Owner, for all material stored in warehouse. No payment will be made until endorsed receipt is delivered to Owner.
- (4) Stockpiled material shall be available for inspection by Owner's authorized agents.
- (5) If, after delivery of material, any inherent or acquired defects are discovered therein, material shall be removed and replaced with suitable material at Contractor's expense.
- (6) Contractor shall keep and maintain the material safe and secure from damage or loss by the elements, theft, or other cause, and shall, at his expense, insure material against theft and fire and deliver policy or certificate of such insurance to Owner, naming Owner as assured. Insurance shall not be cancelable for at least 10 days and shall not be effective until certificate thereof is given to Owner.

F. Owner will make partial payments to Contractor not later than the day established at pre-construction conferences on basis of amount duly certified and approved by Architect.

G. Percentage retention on determined amount of partial payments:

- (1) For all work up to substantial completion of the project: 5%
- (2) All monies retained by Owner after substantial completion of project will be released to Contractor according to Para. 16 of GENERAL CONDITIONS.

6. EXTENDED GUARANTEE PERIODS (Reference GENERAL CONDITIONS, Para. 18):

Certain portions of work shall have guarantee period extended beyond one year where noted in individual sections of the specifications or as noted below. In each instance Contractor shall furnish a written guarantee to Owner noting work concerned and duration of period specified.

- A. Exterior openings of any nature, whether doors, windows, window wall, louvers, grilled openings, etc. in their entirety including each component, are to be guaranteed watertight, securely installed without audible vibration, to retain finish textures and colors within limits approved from sample submittals, and to be free from cracking, shattering, or breaking of any glazing caused by failure of fabrication or method of installation of systems or by exposure to design strength including reasonably expected weather conditions, for a period of 5 years. Components include framing members, reinforcing, attachments, caulking, glazing, structural gaskets, sealants flashings, hardware and weather-stripping. Exceptions to guarantee: Wind driven rain through louvers and grilles but not through their framing members; defects caused by Owner's negligence.
- B. Roofing, flashings, membranes, and waterproof coatings are to be guaranteed for a period of 3 years to be in accordance with manufacturer's specifications, to be watertight, without defects in labor or materials, and Contractor shall so maintain them by repairing any leakage occasioned by ordinary wear and tear during that period including repair of damage caused by leaks or by repair of them.
- C. Turf system shall include a minimum eight (8) year manufacture warranty. Provide manufacturers standard five (5) year warranty for track surface. A written two (2) year warranty on installation of all products is required by General Contractor and Subcontractors.

7. WORKMANSHIP AND LABOR:

- A. All employees shall be especially skilled for the kind of work for which they are employed, and shall work under the direction of a competent foreman.
- B. Should the Architect, and/or the Owner deem anyone employed on the work incompetent or unfit for his duties, the Contractor shall dismiss him, and he shall not again, without the permission of the Architect and/or Owner, be employed on the work.

8. WAGES:

- A. Pursuant to the provisions of Articles I and 2 of Chapter I, Part 7, Division II of the Labor Code of the State of California, Contractor and all sub-contractors shall pay their workmen on all work included in this contract not less than the general prevailing rate of per diem wages, and not less than the general prevailing rate of per diem wages for legal holidays and overtime work, for each craft or type of workman needed to execute the work contemplated under this Agreement, as ascertained by the Owners, and as set forth in the schedule of such wages located at the Office of the County Administrator on said work by the Contractor, or by any subcontractor doing or contracting to do any part of said work. Current prevailing wage rates may also be found online at <http://www.dir.ca.gov/>.

SUPPLEMENTARY GENERAL CONDITIONS: SECTION 00 73 00

- (1) The Contractor shall forfeit as a penalty to the Owner, the sum of One Hundred Dollars (\$100.00) for each calendar day or portion thereof, for each workmen paid less than said stipulated rates for any work done under this Agreement by him or by any subcontractor under him and shall pay each such workmen the difference between said prevailing wage rate, and the amount paid to each workman, and shall otherwise comply with Section 1775 of the Labor Code. The Contractor and each Subcontractor shall keep an accurate record showing the name, occupation, and actual per diem wages paid to each workmen employed on the work contemplated by this Agreement, which record shall be kept open at all reasonable hours to the inspection of the Owner and the Division of Labor Law Enforcement.
- (2) Contractor shall be responsible for complying with Labor Code Section 1777.5 pertaining to the employment of the registered apprentices and Section 1771 of the Labor Code requires that for all public works projects, not less than the general prevailing rate of per diem wages must be paid to all workmen employed on public work.

(3) APPLICATION OF LABOR CODE

Pursuant to § 1776 of the Labor Code, as reproduced in part below:

“(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:

“(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 may not be given access to the records at the principal office of the contractor.

“(c) The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division...”

“(d) 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...”

“(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 has 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 (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due...”

Notwithstanding monitoring by the Owner and the DIR, the responsibility for compliance with this Article shall rest upon the Contractor.

(4) ELECTRONIC SUBMISSION OF PAYROLL RECORDS

DIR has adopted a new system to streamline the process for submitting certified payroll records (CPRs) to the Public Works Unit. This new system allows contractors to submit CPRs online in PDF format. Registration at <https://apps.dir.ca.gov/eCPR/DAS/altlogin> is required to use the system. The Contractor shall comply with the requirements imposed by California Labor Code Sections 1720 through 1815 regarding public works projects and prevailing wage law. In particular, Labor Code sections 1725.5 (contractor registration requirements and criteria), **1771.1 (requirement to register with the Department of Industrial Relations as a condition to bid work on any public works)**, and 1771.4 (project compliance monitoring).

(5) INSPECTION OF PAYROLL RECORDS AND INVESTIGATION BY DIR

Certified payroll records are on the DIR's on-line system for review and inspection by the Owner, the DIR, and the Division of Labor Standards Enforcement. The Owner and the Contractor and any subcontractors performing any portion of the Work under the Contract shall cooperate with the DIR and the Division of Labor Standards Enforcement in any investigation of suspected violations of prevailing wage requirements, including permitting interviews of tradesworkers during working hours on the project site and withholding of payments upon determination of a violation of prevailing wage requirements.

9. LEGAL DAY'S WORK:
- A. In accordance with the provisions of Article 1 and 3 of Chapter 1, Part 7, Division II, of the Labor Code of the State of California, eight (8) hours labor shall constitute a regular day's work, and no workman in the employ of the Contractor or any Subcontractor doing or contracting to do any part of the work contemplated by this Agreement, shall be required or permitted to work more than eight (8) hours in any one calendar day or forty (40) hours during any calendar week, except as provided in Section 1810 to Section 1815 thereof, inclusive, of the Labor Code; and the Contractor and each Subcontractor shall keep an accurate record showing the name of and actual hours worked by each workman employed on the work contemplated by this Agreement, which record shall be kept open at all reasonable hours to the inspection of the Owner and to the Division of Labor Law Enforcement; and that said Contractor shall forfeit as a penalty to the Owner the sum of Fifty Dollars (\$ 50.00) for each workman employed in the execution of this contract, by him or by any Sub-contractor, for each calendar day during which said workman is required or permitted to labor more than eight (8) hours in violation of the provisions of said Article 3, as modified by Section 1815 of the Labor Code.
10. MATERIALS:
- A. The Contractor shall furnish and use new materials of quality required by the provisions of the Contract for every part of his work, unless otherwise specified. CONTRACTOR SHALL SUBMIT SAFETY DATA SHEETS FOR ALL CONSTRUCTION MATERIALS USED ON THE PROJECT. CONTRACTOR SHALL COLLECT AND KEEP ALL SAFETY DATA SHEETS (MSDS) ON THE JOB SITE IN A READILY ACCESSIBLE THREE RING BINDER. THIS BINDER SHALL BE SUBMITTED AT THE END OF THE PROJECT WITH THE OTHER CLOSE-OUT DOCUMENTATION.
- B. Whenever, in the specifications, any material or process is indicated or specified by patent or proprietary name and/or by name of manufacturer, such specifications shall be deemed to be used for the purpose of facilitating description of the material and/or process desired, and shall be deemed to be followed by the words, "or approved equal", and the Contractor may offer any material or process which shall be equal in every respect to that so indicated or specified, provided however, that if the material, process, or article offered by the Contractor is not, in the opinion of the Architect, equal in every respect to that specified, then the Contractor must furnish the material, process, or article specified or one that in the opinion of the Architect is the equal thereof in every respect. Request for substitution shall be made in writing to the Architect within thirty-five (35) days after signing of Contract. Time used by Architect in making decisions on substitute materials will not be allowed as a claim for extension of working time.
- C. If after the Architect has made a review of materials or equipment it is found that the materials or equipment presented and approved for use are not justifiably equal in quality and performance to the product originally specified, the Architect retains the right to revoke said approval, and to reject the materials or equipment prior to the installation without any additional cost.
- D. All materials, samples, tests, and inspection shall be in accordance with the requirements of the specifications.
- E. Any material may be submitted to the architect prior to the bid opening for consideration as an approved equal to the proprietary material. Requests for

such shall be in writing and be made not less than seven (7) working days prior to the bid opening. The request will be accompanied by manufacturer literature, details, test data and samples in a format which shows direct item by item comparison between the proprietary and proposed materials. Approval lies solely within the province of the architect.

11. LIQUIDATED DAMAGES (Reference GENERAL CONDITIONS, Para. 5 D):

As of this date of this contract, it is impossible to determine precisely the damages which Owner would sustain, should Contractor fail to complete the work by the date of completion set forth in the Agreement. Under the circumstances existing at the current time, the parties hereto have exercised a good faith attempt to estimate the amount of such damages, and agree that said amount is **\$500.00** per day. If Contractor fails to complete the work by the date of completion set forth in the Agreement, Contractor shall pay to Owner or Owner shall withhold from funds otherwise due and payable to Contractor (at Owner's option) the sum of **\$500.00** per day for each day after the date of completion set forth in the Agreement until the project is completed. These damages are in addition to any other rights and remedies of Owner as set forth herein. Contractor acknowledges that the aforesaid sum is not intended to compensate Owner for and shall not affect its rights to collect from Contractor costs and expenses incurred by Owner to complete the work after the date of completion.

12. SUBCONTRACTS:

- A. The Owner will deal only through the Contractor, who shall be responsible for the proper execution of the whole work. Subletting the whole or any part of the Contract shall be made only in accordance with the provisions of Section 4100 to 4108 inclusive, of the Public Contracts Code of the State of California.
- B. Pursuant to the provisions of Section 4100 to 4108, inclusive, of the Public Contracts Code of the State of California, the Contractor shall not without the consent of the Owner, either:
 - 1. Substitute any persons as subcontractor in place of the subcontractor designated in his original bid.
 - 2. Permit any subcontract to be assigned or transferred or allow it to be performed by anyone other than the original subcontractor listed in the bid.
 - 3. Sublet or subcontract any portion of the work in excess of one-half (1/2) of one percent (1%) of his bid as to which his original bid did not designate a subcontractor.
- C. Should the Contractor violate any of the provisions of said Section 4100 to 4108, inclusive, of the Public Contracts Code, his so doing shall be deemed a violation of this Contract, and the Owner may cancel the Contract. In the event of such violation, the Contractor shall be penalized to the extent of ten percent (10%) of the amount of the subcontract involved.

13. THE ARCHITECT:

- A. Nothing contained in the Contract Documents shall create any contractual relationship between the Architect and the Contractor.
- B. The Architect will make periodic visits to the site to familiarize himself

generally with the progress and quality of the work and to determine in general if the Work is proceeding in accordance with the Contract Documents. On the basis of his on-site observations as an Architect, he will keep the Owner informed of the deficiencies in the Work. The Architect will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and he will not be responsible for the Contractor's failure to carry out the work in accordance with the Contract Documents.

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

14. PROTECTION OF PUBLIC:

- A. This work may be executed at the time when the public is using the facility; therefore, the Contractor shall arrange with the Owner, who shall designate the areas, which the Contractor shall use in the storage of materials and the construction activities. Every precaution shall be exercised to protect the public from injury by building accident.

END OF SECTION