

ROWLAND UNIFIED SCHOOL DISTRICT

**UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING
FORMAL BIDDING**

(PROJECT VALUE BETWEEN \$200,000 to 1Mil.)

BIDDING AND CONTRACT DOCUMENTS

RFP 2019/20: (R23)

“Rowland High School Fence Replacement Project”

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TABLE OF CONTENTS

DOCUMENT NO.	DESCRIPTION
00 11 13	Notice Calling for Bids
00 21 13	Instructions for Bidders
00 41 00	Bid Proposal
00 42 13	Alternate Bid Items Proposal Form
00 43 24	Pre-Bid Inquiry Form
00 43 36	Subcontractors List
00 45 13	Statement of Qualifications
00 45 10	DIR Registration Verification
00 45 19	Non-Collusion Declaration
00 45 26	Certificate of Workers Compensation
00 45 46	Fingerprint Certification
00 52 00	Agreement
00 52 10	Terms and Conditions
00 61 10	Bid Bond
00 61 13	Performance Bond
00 61 14	Labor and Material Payment Bond
00 62 90	Verification of Certified Payroll Records Submittal to Labor Commissioner
00 65 36	Guarantee Form

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NOTICE CALLING FOR BIDS

DISTRICT	ROWLAND UNIFIED SCHOOL DISTRICT
PROJECT DESCRIPTION	Rowland High School Fence Replacement Project Bid No. 2019/20: (R23)
LATEST TIME/DATE FOR SUBMISSION OF BID PROPOSALS	10:00 A.M. Wednesday, June 03, 2020
LOCATION FOR SUBMISSION OF BID PROPOSALS	ROWLAND UNIFIED SCHOOL DISTRICT PURCHASING OFFICE 1830 S. NOGALES STREET ROWLAND HEIGHTS, CA 91748S

NOTICE IS HEREBY GIVEN that the ROWLAND UNIFIED SCHOOL DISTRICT (District), acting by and through its Board of Education, will receive up to, but not later than the above-stated date and time, sealed Bid Proposals for the Contract for the Work generally described as:

“Rowland High School Fence Replacement Project, Bid No. 2019/20: (R23)”

- Submittal of Bid Proposals. All Bid Proposals must be submitted on forms furnished by the District prior to the last time for submission of Bid Proposals and the District’s public opening and reading of Bid Proposals.
- Bid and Contract Documents. The Bid and Contract Documents are available at the location stated above for a **Choose an item.** payment of _____ Dollars (\$_____) per set. Payment shall be made by check payable to ROWLAND UNIFIED SCHOOL DISTRICT. If the deposit for the Bid and Contract Documents is refundable, refunds will be processed only if the Bid and Contract Documents are returned to the District intact and in good order within five (5) days of the date of the opening of Bid Proposals.
- Project Planholder List. The District's Project Planholder List will be compiled exclusively from the sign-in sheet at the Mandatory Job Walk. Any Bidder failing to sign-in at the Mandatory Job Walk will be excluded from Project Planholder List and their Bid Proposal will be rejected by the District as being non-responsive. All Project Planholders will receive e-mails from the District advising of any and all Project Addenda issued by the District. Bidders bear sole responsibility for downloading the Project Addenda from the District's website, www.rowlandschools.org. The District will not fax Project Addenda to Planholders.
- Documents Accompanying Bid Proposal. Each Bid Proposal shall be submitted with the following documents. All information or responses of a Bidder in its Bid Proposal and other documents accompanying the Bid Proposal shall be complete, accurate and true; incomplete, inaccurate or untrue responses or information provided therein by a Bidder shall be grounds for the District to reject such Bidder’s Bid Proposal for non-responsiveness.

Bid Proposal	Statement of Bidder’s Qualifications
Bid Security	DIR Registration Verification
Subcontractors List	Addendum Acknowledgement
Non-Collusion Affidavit	

5. Prevailing Wage Rates. Pursuant to California Labor Code §1773, the Director of the Department of Industrial Relations of the State of California has determined the generally prevailing rates of wages in the locality in which the Work is to be performed. Copies of these determinations, entitled "PREVAILING WAGE SCALE" are available for review on the internet at http://www.dir.ca.gov/dlsr/statistics_research.html. The Contractor awarded the Contract for the Work shall post a copy of all applicable prevailing wage rates for the Work at conspicuous locations at the Site of the Work. The Contractor and all Subcontractors performing any portion of the Work shall pay not less than the applicable prevailing wage rate for the classification of labor provide by their respective workers in prosecution and execution of the Work. During the Work and pursuant to Labor Code §1771.4(a)(4), the Department of Industrial Relations shall monitor compliance with prevailing wage rate requirements and enforce the Contractor's prevailing wage rate obligations.
6. Contractors' License Classification. Bidders must possess the following classification(s) of California Contractors License at the time that the Bid Proposal is submitted and at time the Contract for the Work is awarded: **C13 Fence Fencing Contractor's License**. The Bid Proposal of a Bidder who does not possess a valid and in good standing Contractors' License in the classification(s) set forth above will be rejected for non-responsiveness. Any Bidder not duly and properly licensed is subject to all penalties imposed by law. No payment shall be made for the Work unless and until the Registrar of Contractors verifies to the District that the Bidder awarded the Contract is properly and duly licensed for the Work.
7. Bidder and Subcontractors DIR Registered Contractor Status. Each Bidder must be a DIR Registered Contractor when submitting a Bid Proposal. The Bid Proposal of a Bidder who is not a DIR Registered Contractor when the Bid Proposal is submitted will be rejected for non-responsiveness. All Subcontractors identified in a Bidder's Subcontractors' List must be DIR Registered contractors at the time the Bid Proposal is submitted. The foregoing notwithstanding, a Bid Proposal is not subject to rejection for non-responsiveness for listing Subcontractor the Subcontractors List who is/are not DIR Registered contractors if such Subcontractor(s) complete DIR Registration pursuant to Labor Code §1771.1(c)(1) or (2). Further, a Bid Proposal is not subject to rejection if the Bidder submitting the Bid Proposal listed any Subcontractor(s) who is/are not DIR Registered contractors and such Subcontractor(s) do not become DIR Registered pursuant to Labor Code §1771.1(c)(1) or (2), but the Bidder, if awarded the Contract, must request consent of the District to substitute a DIR Registered Subcontractor for the non-DIR Registered Subcontractor pursuant to Labor Code §1771.1(c)(3), without adjustment of the Contract Price or the Contract Time.
8. Contract Time. Substantial Completion of the Work shall be achieved within the time set forth in Contract Documents after the date for commencement of the Work established in the Notice to Proceed issued by the District. Failure to achieve Substantial Completion within the Contract Time will result in the assessment of Liquidated Damages as set forth in the Contract.
9. Bid Security. Each Bid Proposal shall be accompanied by Bid Security in an amount equal to TEN PERCENT (10%) of the maximum amount of the Bid Proposal, inclusive of any additive Alternate Bid Item(s). Failure of any Bid Proposal to be accompanied by Bid Security in the form and in the amount required shall render such Bid Proposal to be non-responsive and rejected by the District.
10. Payment Bond; Performance Bond. Prior to commencement of the Work, the Bidder awarded the Contract shall deliver to the District a Payment Bond and a Performance Bond issued by a California Admitted Surety in the form and content included in the Contract Documents each of which shall be in a penal sum equal to One Hundred Percent (100%) of the Contract Price.

11. Pre-Bid Inquiries. Bidders may submit pre-bid inquiries or clarification requests. Bidders are solely and exclusively responsible for submitting such inquiries or clarification requests no later than **May 22, 2020 and no later than 10:00 a.m.** prior to the scheduled closing date for the receipt of Bid Proposals. The District will not respond to any bidder inquiries or clarification requests, unless such inquiries or clarification requests are submitted timely to: **Rosana McLeod, Director of Purchasing** by e-mail rmcleod@rowlandschools.org
12. No Withdrawal of Bid Proposals. Bid Proposals shall not be withdrawn by any Bidder for a period of **thirty (30) Calendar days** after the opening of Bid Proposals. During this time, all Bidders shall guarantee prices quoted in their respective Bid Proposals.
13. Job-Walk. The District will conduct a Mandatory Job Walk on **Friday, May 15, 2020**, beginning at **9:00 AM**. Bidders are to meet at **Rowland High School, 2000 S. Otterbein Ave., Rowland Heights, CA 91748** for the Job Walk. If the Job Walk is mandatory, the Bid Proposal submitted by a Bidder whose representative(s) did not attend the entirety of the Mandatory Job Walk will be rejected by the District as being non-responsive.
14. Waiver of Irregularities. The District reserves the right to reject any or all Bid Proposals or to waive any irregularities or informalities in any Bid Proposal or in the bidding.
15. Award of Contract. The Contract for the Work, if awarded, will be by action of the District's Board of Education to the responsible Bidder submitting the lowest priced responsive Bid Proposal. If the Bid Proposal requires Bidders to propose prices for Alternate Bid Items, the District's selection of Alternate Bid Items, if any, for determination of the lowest priced Bid Proposal and for inclusion in the scope of the Contract to be awarded shall be in accordance with the Instructions for Bidders.

/s/ ROWLAND UNIFIED SCHOOL DISTRICT

Advertisement publication dates: **Friday, May 01, 2020** and **Friday, May 08, 2020**.

[END OF SECTION]

INSTRUCTIONS FOR BIDDERS

1. Preparation and Submittal of Bid Proposal.
 - 1.1. Bid Proposal Preparation. All information required by the bid forms must be completely and accurately provided. Numbers shall be stated in both words and figures where so indicated in the bid forms; conflicts between a number stated in words and in figures are governed by the words. Partially completed Bid Proposals or Bid Proposals submitted on other than the bid forms included herein are non-responsive and will be rejected. Bid Proposals not conforming to these Instructions for Bidders and the Notice to Contractors Calling for Bids (“Call for Bids”) may be deemed non-responsive and rejected.
 - 1.2. Bid Proposal Submittal. Bid Proposals shall be submitted at the place designated in the Call for Bids in sealed envelopes bearing on the outside the Bidder’s name and address along with an identification of the Work for which the Bid Proposal is submitted. Bidders are solely responsible for timely submission of Bid Proposals to the District at the place designated in the Call for Bids.
 - 1.3. Date and Time of Bid Proposal Submittal. A Bid Proposal is submitted only if the outer envelope containing the Bid Proposal is marked with the Project title and is received by a District Purchasing Department representative for logging-in at (or before) the latest date and time for submittal of Bid Proposals. The official U.S. time-clock website: <http://www.time.gov/timezone.cgi?Pacific/d/-8/java> is controlling and determinative as to the time of the Bidder’s submittal of the Bid Proposal. The foregoing notwithstanding, whether or not Bid Proposals are opened exactly at the time fixed in the Call for Bids, no Bid Proposals shall be received or considered by the District after it has commenced the public opening and reading of Bid Proposals; Bid Proposals submitted after such time are non-responsive and will be returned to the Bidder unopened.
1. Bid Security. Each Bid Proposal shall be accompanied by Bid Security in the form of: (i) cash, (ii) a certified or cashier’s check made payable to the District or (iii) a Bid Bond, in the form and content attached hereto, in favor of the District executed by the Bidder as a principal and a Surety as surety (the “Bid Security”) in an amount equal to Ten Percent (10%) of the Bid Proposal amount, inclusive of the price(s) proposed for additive Alternate Bid Items, if any. A Bid Proposal submitted without the required Bid Security is non-responsive and will be rejected. If the Bid Security is in the form of a Bid Bond, the Bidder’s Bid Proposal shall be deemed responsive only if the Bid Bond is in the form and content included herein, duly completed and **executed (with notary acknowledgements) on behalf of the Bidder and Surety**, and the Surety is an Admitted Surety Insurer under Code of Civil Procedure §995.120.
2. Documents Accompanying Bid Proposal; Signatures. Documents which must be submitted with each Bid Proposal are identified in the Call for Bids. Any document submitted with a Bid Proposal which is not complete, accurate and executed, as required by each document, will result in the Bid Proposal being deemed non-responsive.
3. Bidder Modifications; Withdrawal or Modification of Submitted Bid Proposal.
 - 3.1. Bidder Modifications to Bid Forms Prohibited. Modifications by a Bidder to the bid forms which are not specifically called for or permitted may result in the Bidder’s Bid Proposal being deemed non-responsive and rejected.
 - 3.2. Erasures; Inconsistent or Illegible Bid Proposals. Bid Proposals must not contain any erasures, interlineations or other corrections unless the same are suitably authenticated by affixing in the margin immediately opposite such erasure, interlineations or correction the surname(s) of the person(s) signing the Bid Proposal. Any Bid Proposal not conforming to the foregoing may be deemed by the District to be non-responsive. If any Bid Proposal or portions thereof, is determined by the District to be illegible, ambiguous or inconsistent,

whether by virtue of any erasures, interlineations, corrections or otherwise, the District may reject such a Bid Proposal as being non-responsive.

- 3.3. Withdrawal or Modification of Submitted Bid Proposal. A Bidder may not withdraw or modify a Bid Proposal submitted to the District except in strict conformity to the following. Bid Proposals may be withdrawn or modified only if: (i) the Bidder submitting the Bid Proposal submits a request for withdrawal or modification in writing to the District; and (ii) the written withdrawal or modification request is actually received by the District prior to the latest date/time for submittal of Bid Proposals. Requests for withdrawal of a Bid Proposal after the public opening of Bid Proposals pursuant to Public Contract Code §5100, et seq. will be considered only if in strict conformity with requirements of Public Contract Code §5100, et seq.
4. Examination of Site and Contract Documents. Each Bidder shall, at its sole cost and expense, inspect the Site and to become fully acquainted with the Contract Documents and conditions affecting the Work. Failure of a Bidder to receive or examine any of the Contract Documents or to inspect the Site shall not relieve such Bidder from any obligation with respect to the Bid Proposal, or the Work required under the Contract Documents. The District assumes no responsibility or liability to any Bidder for, nor shall the District be bound by, any understandings, representations or agreements of the District's agents, employees or officers concerning the Contract Documents or the Work made prior to execution of the Contract which are not in the form of Bid Addenda duly issued by the District. The submission of a Bid Proposal shall be deemed prima facie evidence of the Bidder's full compliance with the requirements of this section.
5. Agreement and Bonds Upon Award of Contract. If the Bidder submitting this Bid Proposal is awarded the Contract, the undersigned will execute and deliver to the District the Contract in the form attached hereto **within five (5) calendar days after notification of award of the Contract.** Concurrently with delivery of the executed Agreement to the District, the Bidder awarded the Contract shall deliver to the District: (a) Certificates of Insurance evidencing all insurance coverage required under the Contract Documents; (b) the Performance Bond; (c) the Labor and Material Payment Bond; (d) the Certificate of Workers' Compensation Insurance; (e) the Drug-Free Workplace Certificate; (f) Fingerprint Certificates; and (g) Roof Project Financial Disclosure Certificates, if required. Failure of the Bidder awarded the Contract to strictly comply with the preceding may result in the District's rescission of the award of the Contract and/or forfeiture of the Bidder's Bid Security. In such event, the District may, in its sole and exclusive discretion elect to award the Contract to the responsible Bidder submitting the next lowest Bid Proposal, or to reject all Bid Proposals. The required number of executed copies of the Agreement and the form and content of the Performance Bond and the Payment Bond and other documents or instruments required at the time of execution of the Agreement are specified in the Contract Documents.
6. Pre-Bid Questions; Contract Document Interpretation and Modifications.
- 6.1. Bidder Pre-Bid Questions. Any Bidder in doubt as to the true meaning of any part of the Contract Documents; finds discrepancies, errors or omissions therein; or finds variances in any of the Contract Documents with the Laws ("Pre-Bid Questions"), shall submit a request for an clarification, interpretation or correction thereof using the form of Pre-Bid Inquiry included with the Contract Documents. Bidders are solely and exclusively responsible for submitting Pre-Bid Questions no later than the time/date designated in the Call for Bids. Responses to Pre-Bid Questions will be by written addendum issued by, or on behalf of, the District. A copy of any such addendum will be mailed or otherwise delivered to each Bidder receiving a set of the Contract Documents. Failure to request interpretation or clarification of any portion of the Contract Documents pursuant to the foregoing is a waiver of any discrepancy, defect or conflict therein.

- 6.2. No Oral Interpretations. No person is authorized to: (i) render an oral interpretation or correction of any portion of the Contract Documents; or (ii) provide oral responses to Pre-Bid Questions. No Bidder is authorized to rely on any such oral interpretation, correction or response.
7. District's Right to Modify Contract Documents. Before the public opening and reading of Bid Proposals, the District may modify the Work, the Contract Documents, or any portion(s) thereof by the issuance of written addenda disseminated to all Bidders who have obtained a copy of the Specifications, Drawings and Contract Documents pursuant to the Call for Bids. If the District issues any addenda during the bidding, the failure of any Bidder to acknowledge such addenda in its Bid Proposal will render the Bid Proposal non-responsive and rejected.
8. Bidder's Assumptions. The District is not responsible for any assumptions made or used by the Bidder in calculating its Bid Proposal Amount including, without limitation, assumptions regarding costs of labor, materials, equipment or substitutions/alternatives for any material, equipment, product, item or system incorporated into or forming a part of the Work which have not been previously expressly approved and accepted by the District. The successful Bidder, upon award of the Contract by the District, if any, will be required to complete the Work for the amount bid in the Bid Proposal within the Contract Time and in accordance with the Contract Documents.
9. Bidders Interested in More Than One Bid Proposal; Non-Collusion Affidavit. No person, firm, corporation or other entity shall submit or be interested in more than one Bid Proposal for the same Work; provided, however, that a person, firm or corporation that has submitted a sub-proposal to a Bidder or who has quoted prices for materials to a Bidder is not disqualified from submitting a sub-proposal, quoting prices to other Bidders or submitting a Bid Proposal for the proposed Work to the District. The form of Non-Collusion Affidavit included in the Contract Documents must be completed and duly executed on behalf of the Bidder; failure of a Bidder to submit a completed and executed Non-Collusion Affidavit with its Bid Proposal will render the Bid Proposal non-responsive.
10. Determination of Lowest Responsive Bid/Award of Contract.
- 10.1. Waiver of Irregularities or Informalities. The District reserves the right to reject any and all Bid Proposals or to waive any irregularities or informalities in any Bid Proposal or in the bidding.
- 10.2. Award to Lowest Responsive Responsible Bidder. The award of the Contract for each Bid Package, if made by the District through action of its Board of Education, will be to the responsible Bidder submitting the lowest priced responsive Bid Proposal on the basis of the Base Bid Proposal or the Base Bid Proposal and Alternate Bid Items, if any, selected in accordance with these Instructions for Bidders. **We anticipate awarding this contract on Wednesday, June 10, 2020**
- 10.3. Responsive Bid Proposal. A responsive Bid Proposal shall mean a Bid Proposal which conforms to and complies with requirements of the Bid and Contract Documents. A Bid Proposal that does not conform to material bidding requirements, as reasonably determined by the District, is subject to rejection for non-responsiveness
- 10.4. Hearing re Rejected Bid. If a Bidder's bid is rejected by the District, that Bidder may request a hearing on that rejection: (i) if the District issues a notice of intent to award a contract to a Bidder whose bid is higher than the bid that was rejected; and (ii) the Bidder strictly complies with the following provisions relating to time limitations

for requesting a hearing. To be considered by the District, such a request for a hearing must be in writing and submitted to the the District's Vice President, Chief Business Officer, Rowland Unified School District, 1830 S. Nogales Street, Rowland Heights, CA 91748 and must be actually received by the District's District's Vice President, Chief Business Officer by the earlier of: (i) 5:00 PM one (1) business day after the District's notice to the Bidder of the District's rejection of the Bidder's Bid Proposal; or (ii) 5:00 PM one (1) business day after the date of the District's notice of intent to award a contract. If a Bidder does not request a hearing in strict conformity with the foregoing, such Bidder shall be deemed to have knowingly and voluntarily waive rights to a hearing. The District will grant or deny such request for a hearing based on the holding of the California Court of Appeal in *Great West Contractors, Inc. v. Irvine Unified School District* (2010) 187 Cal. App. 4th 1425. If a Bidder timely requests a hearing pursuant to the foregoing, the District will notify such Bidder in writing by 5:00 PM two (2) business days after the date of the Bidder's request for hearing is submitted of the District grant or denial of such a hearing. If the District grants a hearing, the District will schedule the hearing for a date not less than three (3) business days after the date of such notice to the Bidder requesting a hearing. If the District holds such a hearing, any Bidder may at its own expense: i) be represented at the hearing by legal counsel; ii) record the proceedings by court reporter; iii) present oral and/or written statements and/or other documents.

10.5. Responsible Bidder.

- 10.5.1. Bidder Capacity. Factors affecting the Bidder's capacity to perform and complete the Work will be assessed, including: (i) Bidder's access to labor, materials and other resources necessary to complete the Work; (ii) Bidder's ability to complete the Work within the time established for completion of the Work, or portions thereof; and (iii) Bidder's ability to complete warranty obligations.
- 10.5.2. Bidder Character, Integrity. Factors reflecting the character and integrity of the Bidder, including: (i) other public agency finding/determination, within the past five (5) years, that the Bidder is not responsible; (ii) currently debarred from bidding public works projects or debarment from bidding within past five (5) years; and (iii) false claims liability within the past five (5) years under local, state or federal laws.
- 10.5.3. Bidder Financial Capability. Factors considered include: (i) sufficiency of the Bidder's financial resources; (ii) whether the Bidder is current in payment of debts and performance of other financial obligations; and (iii) bankruptcy or insolvency proceedings have been instituted within the past five (5) years.
- 10.5.4. Bidder Prior Performance. The Bidder's prior performance on prior public works contracts, including without limitation: (i) cost overruns; (ii) compliance with general conditions and other contractual requirements, including schedule development, schedule updates and coordination of labor, material/equipment procurements and subcontractors; (iii) completion within allocated time; (iv) submittal of unsubstantiated, unsupported or excessive cost proposals, claims or contract adjustment requests; (v) completion of a project by a surety; (vi) owner's exercise of default remedies; and (vii) finding or determination by any public agency that the Bidder is not a responsible bidder.
- 10.5.5. Safety. Factors include: (i) findings of serious or willful safety violations of safety laws, regulations or requirements by any local, state or federal agency within the past five (5) years; (ii) adequacy and implementation of safety plans, programs for on-site and off-site construction and construction related activities; and (iii) Workers Compensation Insurance EMR rating exceeding 1.25.

11. Subcontractors.

11.1. Designation of Subcontractors; Subcontractors List. In accordance with Public Contract Code §4104, the Subletting and Subcontracting Fair Practices Act (California Public Contract Code §§4100 et seq.), each Bidder shall submit, on the form of Subcontractors List included with the Contract Documents, a list of its proposed Subcontractors for the proposed Work, including any Alternate Bid Items, who will perform/provide portions of the Work valued at or more than one-half (1/2) of one percent (1%) of the amount proposed by the Bidder for the Work. The Subcontractors List consists of five (5) columns, each of which requires the Bidder's disclosure of information relating to each listed Subcontractor as follows:

Column A Name of Subcontractor
 Column B Subcontractor's Address
 Column C Subcontractor's Portion of the Work
 Column D Subcontractor's California Contractors' License
 Column E Subcontractor DIR Registration

Columns A, B, C and D of the Subcontractors List must be completed by the Bidder for each Subcontractor identified by the Bidder in its Subcontractors List submitted concurrently with the Bidder's Bid Proposal. If Column E of the Subcontractors List is/are not completed on the form of Subcontractors List submitted by a Bidder concurrently with its Bid Proposal, such Bidder shall submit the information required by Column E, as applicable, of the Subcontractors List for each listed Subcontractor within twenty-four (24) hours after the latest date/time for submission of Bid Proposals. Failure of a Bidder to comply with the foregoing will render the Bidder's Bid Proposal non-responsive and rejected.

11.2. Work of Subcontractors. All Bidders are referred to the Contract Documents and the notation therein that all Contract Documents are intended to be complimentary and that the organization or arrangements of the Specifications and Drawings shall not limit the extent of the Work of the Contract Documents. Accordingly, all Bidders are encouraged to disseminate all of the Specifications, Drawings and other Contract Documents to all persons or entities submitting sub-bids to the Bidder. The omission of any portion or item of Work from the Bid Proposal or from the sub-bidders' sub-bids which is/are necessary to produce the intended results and/or which are reasonably inerrable from the Contract Documents is not a basis for adjustment of the Contract Price or the Contract Time. Dissemination of the Contract Documents to sub-bidders and dissemination of addenda issued during the bidding process is solely the responsibility of each Bidder.

11.3. Subcontractor Bonds. Pursuant to California Public Contract Code §4108, if a Bidder requires a bond or bonds of its Subcontractor(s), whether the expense of procuring such bond or bonds are to be borne by the Bidder or the Subcontractor(s), such requirements shall be specified in the Bidder's written or published request for sub-bids. Failure of the Bidder to comply with these requirements shall preclude the Bidder from imposing bonding requirements upon its Subcontractor(s) or rejection of a Subcontractor's bid under California Public Contract Code §4108(b).

12. Department of Justice. Except when there are no pupils present at the Site, no employee or independent contractor to the Contractor, nor any employee or independent contractor to any Subcontractor, of any tier, shall be permitted access to the Site nor to perform any Work at the Site until: (a) such person has submitted her/his fingerprints to the California Department of Justice ("DOJ") pursuant to Education Code § 45125.1; (b) the DOJ has ascertained, based upon the submitted fingerprints, that the individual has not been convicted of a felony defined in Education Code § 45122.1 and has no criminal felony proceedings (as defined in Education

Code § 45122.1) pending against her/him; (c) the Contractor or Subcontractor engaging the individual for the Work has received written or electronic verification from the DOJ of the absence of felony convictions and pending felony criminal proceedings; and (d) the Contractor or Subcontractor engaging such individual as an employee or independent contractor has submitted a Fingerprint Certification to the District specifically identifying such individual as having been verified by the DOJ as not having been convicted of a felony and not having pending criminal felony proceeding pending against her/him.

13. Workers' Compensation Insurance. Pursuant to California Labor Code § 3700, the successful Bidder shall secure Workers' Compensation Insurance for its employees engaged in the Work of the Contract. The successful Bidder shall execute and deliver to the District the form of Workers Compensation Certification included in the Contract Documents concurrently with such Bidder's delivery of the executed Agreement to the District.
14. Bid Security Return. The Bid Security of the Bidders submitting the three lowest priced Bid Proposals, the number being solely at the discretion of the District, will be held by the District for ten (10) days after the period for which Bid Proposals must be held open (which is set forth in the Call for Bids) or until posting by the successful Bidder(s) of the bonds, certificates of insurance required and return of executed copies of the Agreement, whichever first occurs, at which time the Bid Security of such other Bidders will be returned to them.
15. Forfeiture of Bid Security. If the Bidder awarded the Contract fails or refuses to execute the Agreement within **Five (5)** calendar days from the date of receiving notification that it is the Bidder to whom the Contract has been awarded, the District may declare the Bidder's Bid Security forfeited as damages caused by the failure of the Bidder to enter into the Contract and may thereupon award the Contract for the Work to the responsible Bidder submitting the next lowest Bid Proposal or may call for new bids, in its sole and exclusive discretion.
16. Contractors' License. No Bid Proposal will be considered from a Bidder who, at the time Bid Proposals are opened, is not licensed to perform the Work of the Contract Documents, in accordance with the Contractors' License Law, California Business & Professions Code §§7000 et seq. This requirement is not a mere formality and will not be waived by the District or its Board of Education. The required California Contractors' License classification(s) for the Work is set forth in the Call for Bids.
17. Non-Discriminatory Employment Practices. It is the policy of the District that there be no discrimination against any prospective or active employee engaged in the Work because of race, color, ancestry, national origin, religious creed, sex, age, marital status or other legally protected classification. All Bidders agree to comply with the District's non-discrimination policy and all applicable Federal and California anti-discrimination laws including but not limited to the California Fair Employment & Housing Act beginning with California Government Code §§ 12940 et seq. and California Labor Code § 1735. In addition, all Bidders agree to require like compliance by any Subcontractor employed by them on the Work of the Contract.
18. Sexual Harassment. It is the policy of the District to ensure that everyone complies with Education Code, Government Code, Title V of the Administrative Code, and all other related statues related to the prevention of Sexual Harassment. All Bidders agree to comply with the District's Sexual Harassment Prevention Program and all applicable Federal and California laws including but not limited to the California Fair Employment & Housing Act commencing with California Government Code §12950, et seq. In addition, all Bidders agree to require like compliance by any Subcontractor employed by them on the Work of the Contract.

19. Bidder's Qualifications. Each Bidder shall submit with its Bid Proposal the form of Statement of Bidder's Qualifications, which is included within the Contract Documents. All information required by Statement of Bidder's Qualifications shall be completely and fully provided. Any Bid Proposal not accompanied by the Statement of Bidder's Qualifications completed with all information required and bearing the signature of the Bidder's duly authorized representative under penalty of perjury will render the Bid Proposal non-responsive and rejected. If the District determines that any information provided by a Bidder in the Statement of Bidder's Qualifications is false or misleading, or is incomplete so as to be false or misleading, the District may reject the Bid Proposal submitted by such Bidder as being non-responsive. If any response to the "Essential Requirements" section of the Statement of Qualifications is a "not qualified" response, the Bidder's Bid Proposal will be rejected for failure of the Bidder to meet minimum qualifications for the Work.
20. Job-Walk.
- 20.1. Mandatory and Non-Mandatory Job Walk. The District will conduct a Job-Walk at the time(s) and place(s) designated in the Call for Bids. If attendance at the Job Walk is indicated in the Call for Bids as being mandatory, the failure of any Bidder to have its authorized representative present at the entirety of the Job-Walk will render the Bid Proposal of such Bidder to be non-responsive. The attendance by representatives of the Bidder's Subcontractors at a Mandatory Job Walk without attendance by a representative of the Bidder shall not be sufficient to meet the Bidder's obligations hereunder and will render the Bid Proposal of such Bidder to be non-responsive. If a Job Walk is indicated in the Call for Bids as being Non-Mandatory, the Bid Proposal of a Bidder who does not attend the Non-Mandatory Job Walk will not be rejected for non-responsiveness. Notwithstanding the non-compulsory attendance of Bidders at a Non-Mandatory Job Walk, all Bidders are encouraged to attend Non-Mandatory Job Walks.
- 20.2. District Additional Job Walk. The District may, in its sole and exclusive discretion, elect to conduct one or more Job-Walk(s) in addition to that set forth in the Call for Bids, in which event the District shall notify all Bidders who have theretofore obtained the Contract Documents pursuant to the Call for Bids of any such additional Job-Walk. If the District elects to conduct any Job-Walk in addition to that set forth in the Call for Bids, the District shall, in its notice of any such additional Job-Walk(s), indicate whether Bidders' attendance at such additional Job-Walk(s) is/are mandatory.
- 20.3. Bidder Requested Additional Job Walk. Any Bidder who has obtained the Bid Documents pursuant to the Call for Bids may, by written request to the District, request an additional Job Walk if the District has designated a Job Walk in the Call for Bids or a Job Walk if the District has not designated a Job Walk in the Call for Bids. The District may, in its sole and exclusive discretion, conduct such requested Job-Walk taking into consideration factors such as the time remaining prior to the scheduled opening of Bid Proposals. Any such requested Job Walk will be conducted only upon the requesting Bidder's agreement to reimburse the District for the actual and/or reasonable costs for the District's staff and its agents and representatives in arranging for and conducting such additional Job-Walk.
21. Public Records. Bid Proposals and other documents responding to the Call for Bids become the exclusive property of the District upon submittal to the District. At such time as the District issues the Notice of Intent to award the Contract pursuant to these Instructions for Bidders, all Bid Proposals and other documents submitted in response to the Call for Bids become a matter of public record and shall be thereupon be considered public records, except for information contained in such Bid Proposals deemed to be Trade Secrets (as defined in California Civil Code § 3426.1) and information provided in response to the Statement of Qualifications. A Bidder that indiscriminately marks all or most of its Bid Proposal as exempt from disclosure as a public record, whether by the notations of "Trade Secret," "Confidential," "Proprietary," or other similar

notations, may result in, or render, the Bid Proposal non-responsive and rejected. The District is not liable or responsible for the disclosure of such records, including those exempt from disclosure if disclosure is deemed required by law, by an order of Court, or which occurs through inadvertence, mistake or negligence on the part of the District or its officers, employees or agents. At such time as Bid Proposals are deemed a matter of public record, pursuant to the above, any Bidder or other party shall be afforded access for inspection and/or copying of such Bid Proposals, by request made to the District in conformity with the California Access to Public Records Act, California Government Code §§6250, et. seq. If the District is required to defend or otherwise respond to any action or proceeding wherein request is made for the disclosure of the contents of any portion of a Bid Proposal deemed exempt from disclosure hereunder, the Bidder submitting the materials sought by such action or proceeding agrees to defend, indemnify and hold harmless the District in any action or proceeding from and against any liability, including without limitation attorneys' fees arising therefrom. The party submitting materials sought by any other party shall be solely responsible for the cost and defense in any action or proceeding seeking to compel disclosure of such materials; the District's sole involvement in any such action shall be that of a stakeholder, retaining the requested materials until otherwise ordered by a court of competent jurisdiction.

22. Drug Free Workplace Certificate. In accordance with California Government Code §§ 8350 et seq., the Drug Free Workplace Act of 1990, the successful Bidder will be required to execute a Drug Free Workplace Certificate concurrently with execution of the Agreement. The successful Bidder will be required to implement and take the affirmative measures outlined in the Drug Free Workplace Certificate and in California Government Code §§8350 et seq. Failure of the successful Bidder to comply with the measures outlined in the Drug Free Workplace Certificate and in California Government Code §§ 8350 et seq. may result in penalties, including without limitation, the termination of the Agreement, the suspension of any payment of the Contract Price otherwise due under the Contract Documents and/or debarment of the successful Bidder.
23. Roof Projects Certification Re Financial Relationships Disclosure. In accordance with Public Contract Code § 3006, upon award of contract, Contractor and/or any of its Subcontractors and Materialmen involved in bid or proposal for a roof project shall disclose and financial relationships by completing and signing the District the Certification Re Financial Relationships Disclosure. Any person who knowingly provides false information or fails to disclose a financial relationship shall be subject to civil liability and penalties as set forth in Public Contract Code 3006.
24. Notice of Intent to Award Contract. Following the public opening and reading of Bid Proposals, the District will issue a Notice of Intent to Award the Contract, identifying the Bidder to whom the District intends to award the Contract and the date/time/place of the District's Board of Education meeting at which award of the Contract will be considered.
25. Substitute Security. The successful Bidder may request substitution of eligible and equivalent securities for any monies withheld by the District to ensure the Contractor's performance under the Contract pursuant to California Public Contract Code §22300. The foregoing notwithstanding, the Bidder to whom the Contract is awarded shall make its written request to the District for substitute security not later than the date of the submission of the first Application for Progress Payment; failure to request substitute security on or prior to such date shall be deemed a waiver of rights under Public Contract Code §22300.
26. Bid Protest.
 - 26.1. Submittal of Bid Protest. Any Bidder submitting a Bid Proposal to the District may file a protest of the District's intent to award the Contract provided that all of the following are complied with: (i) the bid protest is in writing; (ii) the bid protest is filed and received by the

District's Vice President, Chief Business Officer, Rowland Unified School District, 1830 S. Nogales Street, Rowland Heights, CA 91748 not more than **three (3) calendar days** after the date of issuance of the District's Notice of Intent to Award the Contract; and (iii) the written bid protest sets forth, in detail, all grounds for the bid protest, including without limitation all facts, supporting documentation, legal authorities and argument in support of the grounds for the bid protest; any matters not set forth in the written bid protest shall be deemed waived. All factual contentions must be supported by competent, admissible and creditable evidence. Any bid protest not conforming to the foregoing shall be rejected by the District as invalid.

26.2. District Review and Disposition of Bid Protest. Provided that a bid protest is filed in strict conformity with the foregoing, the District's Vice President, Chief Business Officer, or such individual(s) as may be designated by him/her ("Designee") will review and evaluate the basis of the bid protest. The District's Vice President, Chief Business Officer, or Designee shall provide the Bidder submitting the bid protest with a written statement concurring with or denying the bid protest ("Bid Protest Response"). The Bid Protest Response is deemed the final action of the District and not subject to appeal or reconsideration by any other employee or officer of the District or the Board of Education of the District. The issuance of the Bid Protest Response by the District's Vice President, Chief Business Officer, or the Designee is an express condition precedent to the institution of any legal or equitable proceedings relative to the bidding process, the District's intent to award the Contract, the District's disposition of any bid protest or the District's decision to reject all Bid Proposals. If any such legal or equitable proceedings are instituted and the District is named as a party thereto, the prevailing party(ies) shall recover from the other party(ies), as costs, all attorneys' fees and costs incurred in connection with any such proceeding, including any appeal arising therefrom. Each Bidder shall acknowledge in the Bid Proposal that the foregoing is a binding attorneys' fee agreement pursuant to Civil Code §1717 and shall be enforceable against the Bidder and the District.

27. Disclosures.

- 27.1. The District will consider a Bidder's request(s) for confidentiality; however, the District will not be bound by the assertion that a page contains confidential material. An assertion by a Bidder that an entire volume of its proposal is confidential will not be honored. The District reserves the right to disclose all information in the proposal, even if the Bidder requests that it remain confidential, if the District determines that disclosure is not prohibited by law or court order.
- 27.2. Until a contract resulting from this Request for Proposal is executed, no employee, agent or representative of any Bidder shall make available or discuss its proposal with the press, any elected or appointed official or officer of the District, or any employee, agent, or other representative of the District, unless specifically allowed to do so in the Request for Proposal or in writing by the District for the purposes of clarification and evaluation.
- 27.3. Bidders shall not issue any news release(s) or make any statement to the news media pertaining to this Request for Proposal or any proposal and/or contract or work resulting therefrom without the prior written approval of the District which may be given or withheld in its sole and absolute discretion and then only in cooperation with the District

[End of Section]

BID PROPOSAL

Project: "Rowland High School Fence Replacement Project, Bid No. 2019/20: (R23)"

Bidder Name	_____	
Bidder Representative(s)	Name and Title _____	
	Name and Title _____	
Bidder Representative(s) Contact Information	Email Address(es) _____ _____	Phone/Fax (_____) _____ Telephone (_____) _____ Fax
	Bidder Mailing Address Address _____ City/State/Zip Code _____	
California Contractors' License	Number _____	
	Classification(s) and Expiration Date _____	

1. Bid Proposal.

Bid Proposal Amount. The undersigned Bidder proposes and agrees to furnish and install the Work including, without limitation, providing and furnishing any and all labor, materials, tools, equipment and services necessary to complete, in a workmanlike manner in accordance with the Contract Documents, all of the Work described as: **"Rowland High School Fence Replacement Project, Bid No. 2019/20: (R23)"**

, for the sum of:

\$, , .

Dollars

(in words; printed or typed)

The Bidder confirms that it has checked all of the above figures and understands that neither the District nor any of its agents, employees or representatives shall be responsible for any assumptions, errors or omissions on the part of the undersigned Bidder in preparing and submitting this Bid Proposal.

1.1 Acknowledgment of Bid Addenda. The Bidder confirms that this Bid Proposal incorporates and is inclusive of, all items or other matters contained in Bid Addenda, if any, issued by or on behalf of the District.

_____ **Addenda Nos.** _____ received, acknowledged and incorporated into this Bid Proposal.
(initial)

2. Documents Accompanying Bid Proposal. The Bidder has submitted with this Bid Proposal the following:

Bid Proposal	Statement of Bidder's Qualifications
Bid Security	DIR Registration Verification
Subcontractors List	Addendum Acknowledgement
Non-Collusion Affidavit	

The Bidder acknowledges that if this Bid Proposal and the foregoing documents are not fully in compliance with applicable requirements set forth in the Call for Bids, the Instructions for Bidders and in each of the foregoing documents, the Bid Proposal may be rejected as non-responsive.

3. Award of Contract. If the Bidder submitting this Bid Proposal is awarded the Contract, the undersigned will execute and deliver to the District the Agreement in the form attached hereto within **Five (5)** calendar days after notification of award of the Contract. Concurrently with delivery of the executed Agreement to the District, the Bidder awarded the Contract shall deliver to the District: (i) Certificates of Insurance evidencing all insurance coverages required under the Contract Documents; (ii) Performance Bond; (iii) Labor and Material Payment Bond; (iv) Certificate of Workers' Compensation Insurance; and (v) Drug-Free Workplace Certificate. Failure of the Bidder awarded the Contract to strictly comply with the preceding may result in the District's rescinding award of the Contract and/or forfeiture of the Bidder's Bid Security. In such event, the District may, in its sole and exclusive discretion elect to award the Contract to the responsible Bidder submitting the next lowest priced Bid Proposal or to reject all Bid Proposals.

4. Contractors' License. The Bidder certifies that: (i) it possesses a valid and in good standing Contractors' License, in the necessary class(es), for performing the Work as set for in the Call for Bids; (ii) that such license shall be in full force and effect throughout the duration of the performance of the Work; and (iii) that all Subcontractors providing or performing any portion of the Work are properly licensed to perform their respective portions of the Work at the time of submitting this Bid Proposal and will remain so properly licensed at all times during their performance of the Work.

5. Agreement to Bidding Requirements and Attorney's Fees. The undersigned Bidder acknowledges and confirms its receipt, review and agreement with, the contractual requirements set forth in this Bid Proposal and the Contract Documents. By executing this Bid Proposal hereinbelow, the Bidder expressly acknowledges and agrees that if the Bidder institutes any legal or equitable proceedings in connection with this Bid Proposal and the District is named as a party thereto, the prevailing party(ies) shall recover from the other party(ies), as costs, all attorneys' fees and costs incurred in connection with any such proceeding, including any appeal arising therefrom. This provision shall constitute a binding attorneys' fee agreement in accordance with and pursuant to California Civil Code §1717 which shall be enforceable against the Bidder and the District. This attorneys' fee provision shall be solely limited to legal or equitable proceedings arising out of a bid protest or the bidding process and shall not extend to or have any force and effect on the Contract for the Work or to modify the terms of the Contract Documents for the Work.

6. Acknowledgment and Confirmation. The undersigned Bidder acknowledges its receipt, review and understanding of the Drawings, the Specifications and other Contract Documents pertaining to the proposed Work. The undersigned Bidder certifies that the Contract Documents are, in its opinion, adequate, feasible and complete for providing, performing and constructing the Work in a sound and suitable manner for the use specified and intended by the Contract Documents. The undersigned Bidder certifies that it has, or has available, all necessary equipment,

personnel, materials, facilities and technical and financial ability to complete the Work for the amount bid herein within the Contract Time and in accordance with the Contract Documents.

By:

(Signature of Bidder's Authorized Officer
or Representative)

(Typed or Printed Name)

Title:

**PRE-BID REQUEST FOR INFORMATION
ROWLAND UNIFIED SCHOOL DISTRICT**

TO: Rosana Mcleod – rmcleod@rowlandschools.org	PHONE: (626) 854-8387 RECEIVED: _____ (District Use Only)
Date of Pre-Bid RFI: _____ Project: Rowland HS Fencing Project Trade Description: _____ Bidder Name: _____ _____ _____	Bidder's Contact: _____ Bidder's Contact Phone and Fax Numbers; Email Address: _____ _____ _____

Bidder's Pre-Bid Request for Information

Additional pages attached by Bidder: ___ Yes ___ No
Number of additional pages attached by Bidder: _____

Response to Bidder's Pre-Bid Request for Information

Date: _____

Additional pages of RFI Response attached: ___ Yes ___ No
Number of additional RFI Response pages attached: _____

Response By (Firm Name): _____	Signed: _____
--------------------------------	---------------

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DIR REGISTRATION VERIFICATION

I am the _____ of _____ (“Bidder”) submitting the _____ (Title/Position) _____ (Bidder Name) accompanying Bid Proposal for the Work described as

“Rowland High School Fence Replacement Project, Bid No. 2019/20: (R23)”

1. The Bidder is currently registered as a contractor with the Department of Industrial Relations (“DIR”).
2. The Bidder’s DIR Registration Number is: _____. The expiration date of the Bidder’s DIR Registration is June 30, 20____.
3. If the Bidder is awarded the Contract for the Work and the expiration date of the Bidder’s DIR Registration will occur: (i) prior to expiration of the Contract Time for the Work; or (ii) prior to the Bidder completing all obligations under the Contract for the Work, the Bidder will take all measures necessary to renew the Bidder’s DIR Registration so that there is no lapse in the Bidder’s DIR Registration while performing Work under the Contract.
4. The Bidder, if awarded the Contract for the Work will remain a DIR registered contractor for the entire duration of the Work.
5. The Bidder has independently verified that each Subcontractor identified in the Subcontractors List submitted with the Bid Proposal of the Bidder is currently a DIR registered contractor.
6. The Bidder has provided the DIR Registration Number for each subcontractor identified in the Bidder’s Subcontractors’ List or within twenty-four (24) hours of the opening of Bid Proposals for the Work, the Bidder will provide the District with the DIR Registration Number for each subcontractor identified in the Bidder’s Subcontractors List.
7. The Bidder’s solicitation of subcontractor bids included notice to prospective subcontractors that: (i) all sub-tier subcontractors must be DIR registered contractors at all times during performance of the Work; and (ii) prospective subcontractors may only solicit sub-bids from and contract with lower-tier subcontractors who are DIR registered contractors.
8. If any of the statements herein are false or omit material facts rendering a statement to be false or misleading, the Bidder’s Bid Proposal is subject to rejection for non-responsiveness.

I have personal first hand-knowledge of all of the foregoing. I declare under penalty of perjury under California law that the foregoing is true and correct.

Executed this ____ day of _____, 20____ at _____
City and State)

 (Signature)

 (Name, typed or printed)

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STATEMENT OF QUALIFICATIONS

1. Bidder Information.

1.1. Contact Information

Bidder Name	_____
Mailing Address	Street Address _____ City, State, Zip Code _____
Physical Location (if different from mailing address)	Street Address _____ City, State, Zip Code _____
Telephone/Fax	(____) _____ Telephone (____) _____ Fax

1.2. Bidder Contacts.

Name	_____
Contact Information	Telephone: (____) _____ Fax (____) _____ Email _____

1.3. California Contractors' License.

License Number(s)	_____
License Classification(s)	_____
Responsible Managing Employee; Responsible Managing Officer	_____
Expiration Date(s)	_____

1.4. Bidder Form of Entity.

- | | |
|--|--|
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Limited Liability Partnership |
| <input type="checkbox"/> General Partnership | <input type="checkbox"/> Joint Venture |
| <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Sole Proprietorship |
| <input type="checkbox"/> Limited Liability Company | |

[CONTINUED NEXT PAGE]

2. Revenue. Complete the following for the Bidder's construction operations; if any portion of the revenue disclosed is generated by non-construction operations or activities, the Bidder must identify the portion of revenue attributed to construction operations and generally describe business activities of the Bidder that generates non-construction operations related revenue.

Calendar Year/ Fiscal Year	Annual Gross Revenue	Annual Net Revenue	Average Dollar Value of all Contracts	Dollar Value of Largest Contract
Choose an item.				
Choose an item.				
Choose an item.				

3. References.

DSA Project Inspectors			
Firm Name	Address	Telephone No.	Contact Name
Owners (K-12 school districts or community colleges preferred)			
Owner Name	Address	Telephone No.	Contact Name
Architects (K-12 or Community College Projects)			
Architect Firm Name & Architect Firm Contact Name	Address	Telephone No.	Contact Name

[CONTINUED NEXT PAGE]

4. Insurance.

<p>Commercial General Liability Insurance</p>	<p>Insurer: _____</p> <p>Policy No. _____</p> <p>Broker _____</p>
<p>Commercial General Liability Insurance Broker</p>	<p>(Contact Name) _____</p> <p>_____ (Street Address)</p> <p>_____ (City, State & Zip Code)</p> <p>(_____) _____ (_____) _____ Telephone Fax</p> <p>_____ (Email address)</p>
<p>Bid, Performance and Labor & Materials Payment Bond Surety</p>	<p>Surety: _____</p> <p>Surety Broker _____</p> <p>_____ (Surety Broker Contact Name)</p> <p>_____ (Street Address)</p> <p>_____ (City, State & Zip Code)</p> <p>(_____) _____ (_____) _____ Telephone Fax</p> <p>_____ (Email address)</p>
<p>Workers Compensation Insurance</p>	<p>Insurer: _____</p> <p>Policy No. _____</p> <p>Broker _____</p>
<p>Workers Compensation Insurance Broker</p>	<p>(Contact Name) _____</p> <p>_____ (Street Address)</p> <p>_____ (City, State & Zip Code)</p> <p>(_____) _____ (_____) _____ Telephone Fax</p> <p>_____ (Email address)</p>

[CONTINUED NEXT PAGE]

5. Essential Requirements. A Bidder will not be deemed qualified if the answer to any of the following questions results in a “not qualified” response and the Bid Proposal submitted by such a Bidder will be rejected for failure of the Bidder to meet minimum qualifications for the Work.

5.1. Bidder possesses a valid and currently in good standing California Contractors’ license for the Classification(s) of Contractors’ License required by the Call for Bids.

Yes No (Not Qualified)

5.2. Bidder is currently a DIR Registered Contractor?

Yes No (Not Qualified)

5.3. Bidder has a current commercial general liability insurance policy with coverage limits of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

Yes No (Not Qualified)

5.4. Bidder has a current workers’ compensation insurance policy as required by the Labor Code or is legally self-insured pursuant to Labor Code §3700.

Yes No (Not Qualified)
 Bidder is exempt from this requirement, because it has no employees

5.5. The Bidder ineligible or debarred from submitting Bid Proposals for public works projects or public works contracts pursuant Labor Code §1777.1 or Labor Code §1777.7.

Yes (Not Qualified) No

5.6. A public agency, within the past five (5) years conducted proceedings that resulted in a finding that the Bidder, or any predecessor to the Bidder, is not a “responsible” bidder for a public works project or a public works contract.

Yes (Not Qualified) No

5.7. During the last five (5) years, the Bidder or any predecessor to the Bidder, or any of the equity owners of the Bidder has been convicted of a federal or state crime involving fraud, theft, or any other act of dishonesty?

Yes (Not Qualified) No

5.8. During the past five (5) years a Surety has completed any project or the Bidder’s obligations under a construction contract.

Yes (Not Qualified) No

5.9. During the past five (5) years the Bidder has been declared in default under any construction contract to which the Bidder was a party.

Yes (Not Qualified) No

5.10. The Bidder’s Worker’s Compensation Insurance current EMR is more than 1.25.

Yes (Not Qualified) No

5.11. The Bidder's Worker's Compensation Insurance average EMR over the past five (5) years is more than 1.25.

Yes (Not Qualified) No

6. Questionnaire. If the response to any of the following questions is a "yes" complete and accurate details must be attached; failure to attach such details will render the Bid Proposal of the Bidder to be non-responsive and rejected. Responses to the following will be used to evaluate Bidder responsibility.

6.1. Have legal, arbitration or administrative proceedings been brought construction project owner against the Bidder or any of the principals, officers or equity owners of the Bidder within the past ten (10) years which arise out of or are related to any construction project? If "yes," on a separate attachment, include the following details: (i) name of party initiating proceedings against the Bidder; (ii) contact name, address, phone and email address of party initiating proceedings; (iii) circumstances resulting in the initiation of proceedings; (iv) amount or other relief demanded; and (v) outcome of proceedings.

Yes No

6.2. Has the Bidder brought any legal, arbitration or administrative proceedings against the owner of a construction project within the past ten (10) years which arise out of or are related to the construction project? If "yes," on a separate attachment, include the following details: (i) name of owner; (ii) contact name, address, phone and email address of contact person for owner; (iii) circumstances resulting in the initiation of proceedings; (iv) amount or other relief demand; and (v) outcome of proceedings.

Yes No

6.3. Has the Bidder brought any legal, arbitration or administrative proceedings against the architect or design professional for a construction project within the past ten (10) years which arise out of or are related to the construction project? If "yes," on a separate attachment, include the following details: (i) name of architect; (ii) contact name, address, phone and email address of contact person for architect or design professional; (iii) circumstances resulting in the initiation of proceedings; (iv) amount or other relief demand; and (v) outcome of proceedings.

Yes No

6.4. Has the Bidder brought any legal, arbitration or administrative proceedings against the construction/project manager for a construction project within the past ten (10) years which arise out of or are related to the construction project? If "yes," on a separate attachment, include the following details: (i) name of construction/project manager; (ii) contact name, address, phone and email address of contact person for construction/project manager; (iii) circumstances resulting in the initiation of proceedings; (iv) amount or other relief demand; and (v) outcome of proceedings.

Yes No

6.5. Provide the following for three (3) projects the Bidder has completed within the past five (5) years similar in size, scope, function and construction value as the Work:

Project Name	
Project Owner; Contact Information	
Function/Use of Project	
Original Contract Duration	
Actual Project Completion Duration	
Original Contract Price	
Final Adjusted Contract Price	

6.6. On a separate attachment, identify all projects the Bidder has completed within the three (3) years, including the following information:

Project Name	
Project Owner; Contact Information	
Architect Name and Contact Information	
Original Contract Duration	
Actual Project Completion Duration	
Original Contract Price	
Final Adjusted Contract Price	

6.7. On a separate attachment, identify all projects the Bidder currently has in progress, including the following information:

Project Name	
Project Owner; Contact Information	
Architect Name and Contact Information	
Original Contract Duration	
Projected Completion Duration	
Original Contract Price	
Current Adjusted Contract Price	

6.8. During the past five (5) years, has a surety declined to issue a surety bond for your organization in connection with a construction project?

Yes No

If "yes" on a separate attachment provide details of the denial of bond coverage and the name of the company or companies which denied coverage.

6.9. At any time during the past five (5) years, has any surety company made any payments on behalf the Bidder to satisfy any claims made against a bid, performance or payment bond issued to the Bidder, in connection with a construction project, either public or private?

Yes No

If "yes," on a separate attachment set forth: (i) the amount of each such claim; (ii) the name and telephone number of the claimant; (iii) the date of the claim; (iv) the grounds for the claim; (v) the present status of the claim; (vi) the date of resolution of such claim if resolved; (vii) the method by which such was resolved if resolved; (viii) the nature of the resolution; and (ix) the amount, if any, at which the claim was resolved.

6.10. In the last five years has any insurance carrier, for any policy of insurance, refused to renew the insurance policy for your firm?

Yes No

6.11. Within the past five (5) years, has the Bidder been required to pay either back wages or penalties for the Bidder's failure to comply with California prevailing wage laws? This question refers only to the Bidder's violation of prevailing wage laws, not to violations of the prevailing wage laws by a subcontractor.

Yes No

If "yes," on a separate attachment: (i) describe each instance of prevailing wage rate violation; (ii) identify the project on which a prevailing wage rate violation occurred; (iii) the public agency owner of the project; (iv) the number of employees affected by each prevailing wage rate violation; and (v) amount of back wages and penalties the Bidder was required to pay.

6.12. Within the past five (5) years, has there been more than one occasion in which the Bidder was penalized or required to pay back wages for failure to comply with the Federal Davis-Bacon prevailing wage requirements?

Yes No

If "yes," on a separate attachment: (i) describe each instance of prevailing wage rate violation; (ii) identify the project on which a prevailing wage rate violation occurred; ((iii) the number of employees affected by each prevailing wage rate violation; and (iv) amount of back wages and penalties the Bidder was required to pay.

6.13. Within the past five (5) years, has the Bidder been found to have violated any provision of California apprenticeship laws or regulations, or the laws pertaining to use of apprentices on public works projects?

____ Yes ____ No

If "yes," provide the date(s) of such findings, and attach copies of the Apprenticeship Counsel's final decision(s).

Accuracy and Authority. The undersigned is duly authorized to execute this Statement of Qualifications under penalty of perjury on behalf of the above-identified Bidder. The undersigned warrants and represents that he/she has personal knowledge of each of the responses to this Statement of Qualifications and/or that he/she has conducted all necessary and appropriate inquiries to determine the truth, completeness and accuracy of responses to this Statement of Qualifications. The undersigned declares and certifies that the responses to this Statement of Qualifications are complete and accurate; there are no omissions of material fact or information that render any response to be false or misleading and there are no misstatements of fact in any of the responses. The above-identified Bidder acknowledges and agrees that if the District determines that any response herein is false or misleading or contains misstatements of fact so as to be false or misleading, the Bidder's Bid Proposal may be rejected by the District for non-responsiveness.

Executed this ____ day of _____ 20__ at _____
(City and State)

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

By: _____
(Signature of Bidder's Authorized Officer or Representative)

(Typed or Printed Name)

Title: _____

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NON-COLLUSION DECLARATION

PROJECT: "Rowland High School Fence Replacement Project, Bid No. 2019/20: (R23)"

The undersigned declares:

I am _____

(Insert "Sole Owner", "Partner", "President", "Secretary", or other proper title)

of _____

(Insert name of bidder)

As the party submitting a Bid Proposal for the above-identified Project, the undersigned declares, states and certifies that:

1. The Bid Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization or corporation.

2. The Bid Proposal is genuine and not collusive or sham.

3. 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 other bidder or anyone else to put in sham bid, or to refrain from bidding.

4. The Bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price, or that of any other bidder, or to fix any overhead, profit or cost element of the bid price or that of any other bidder, or to secure any advantage against the public body awarding the contract or of anyone interested in the proposed contract.

5. All statements contained in the Bid Proposal and related documents are true.

6. The Bidder has not, directly or indirectly, submitted the 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 person, corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Executed this ____ day of _____, 20__ at _____
(City, County and State)

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

Signature

(Address)

Name Printed or Typed

(City, County and State)

(_____) _____
(Area Code and Telephone Number)

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CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

I, _____ the _____ of
(Name) (Title)
_____, declare, state and certify that:
(Contractor Name)

1. I am aware that California Labor Code § 3700(a) and (b) provides:

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

(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.

6. (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer, or one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees.”

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

(Contractor Name)

By: _____
(Signature)

(Typed or printed name)

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DRUG-FREE WORKPLACE CERTIFICATION

I, _____, am the _____ of
 (Print Name) (Title)

 (Contractor Name)

I declare, state and certify to all of the following:

1. I am aware of the provisions and requirements of California Government Code §§8350 et seq., the Drug Free Workplace Act of 1990.
2. I am authorized to certify, and do certify, on behalf of Contractor that a drug free workplace will be provided by Contractor by doing all of the following:
 - A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in Contractor's workplace and specifying actions which will be taken against employees for violation of the prohibition;
 - B. Establishing a drug-free awareness program to inform employees about all of the following:
 - i. The dangers of drug abuse in the workplace;
 - ii. Contractor's policy of maintaining a drug-free workplace;
 - iii. The availability of drug counseling, rehabilitation and employee-assistance programs; and
 - iv. The penalties that may be imposed upon employees for drug abuse violations;
 - C. Requiring that each employee engaged in the performance of the Contract be given a copy of the statement required by subdivision (A), above, and that as a condition of employment by Contractor in connection with the Work of the Contract, the employee agrees to abide by the terms of the statement.
 - D. Contractor agrees to fulfill and discharge all of Contractor's obligations under the terms and requirements of California Government Code §8355 by, inter alia, publishing a statement notifying employees concerning: (i) the prohibition of any controlled substance in the workplace, (ii) establishing a drug-free awareness program, and (iii) requiring that each employee engaged in the performance of the Work of the Contract be given a copy of the statement required by California Government Code §8355(a) and requiring that the employee agree to abide by the terms of that statement.
3. Contractor and I understand that if the District determines that Contractor has either: (i) made a false certification herein, or (ii) violated this certification by failing to carry out and to implement the requirements of California Government Code §§8355, the Contract awarded herein is subject to termination, suspension of payments, or both. Contractor and I further understand that, should Contractor violate the terms of the Drug-Free Workplace Act of 1990, Contractor may be subject to debarment in accordance with the provisions of California Government Code §§8350, et seq.

4. Contractor and I acknowledge that Contractor and I are aware of the provisions of California Government Code §§8350, et seq. and hereby certify that Contractor and I will adhere to, fulfill, satisfy and discharge all provisions of and obligations under the Drug-Free Workplace Act of 1990.

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

Executed at _____ this ____ day of _____, 20____.
(City and State)

(Signature)

(Printed or Typed Name)

FINGERPRINT CERTIFICATION

I, _____, am the _____
of _____ (Print Name) _____ (Title)

_____. I declare, state, and certify all of the following:
(Contractor Name)

1. I am aware of the provisions and requirements of California Education Code §45125.1, regarding fingerprinting of persons providing services to school districts.

2. I have personal knowledge of and/or have made due and diligent inquiry with respect to the following, and based on said knowledge and/or inquiry I certify that:

A. The fingerprints of each person identified on Attachment A have been submitted to the California Department of Justice pursuant to Education Code §45125.1; and,

B. The California Department of Justice has issued written or electronic verification that each person identified on Attachment A has not been convicted of a felony, as defined in Education Code §45122.1, and has no criminal felony proceedings, as defined in Education Code §45122.1, pending against him or her.

3. The Contractor shall provide additional Fingerprint Certificates for each and every person who is not identified on Attachment A prior to permitting such person(s) access to the Site or to perform any Work at the Site.

4. Contractor and I understand that if the District determines that Contractor has either: (a) made a false certification herein, or (b) violates this certification by failing to carry out and to implement the requirements of California Education Code §45125.1, the Contract awarded herein is subject to termination, suspension of payments, or both.

5. I am authorized to execute this Fingerprint Certificate on behalf of the Contractor. All of the statements set forth above and all of the information provided in Attachment A are true, correct, complete, and accurate. Further, there are no omissions or misstatements of material fact in the foregoing statements or in the information set forth in Attachment A which would render such statements and/or information to be false or misleading.

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

Executed at _____ this ____ day of _____, 20 ____.
(City and State)

(Signature)

(Handwritten or Typed Name)

**FINGERPRINT CERTIFICATE
ATTACHMENT A**

(The California Department of Justice has issued electronic verification that each person identified below meets the requirements of California Education Code §45125.1.)

AGREEMENT

THIS AGREEMENT is entered into **June 10, 2020** in the City of Palm Desert, County of Riverside, State of California, by and between **ROWLAND UNIFIED SCHOOL DISTRICT**, a California Community College District hereinafter "District" and [REDACTED] ("Contractor").

WITNESSETH, that the District and the Contractor in consideration of the mutual covenants contained herein agree as follows:

The Work. Within the Contract Time and for the Contract Price, subject to adjustments thereto pursuant to the Contract Documents, the Contractor shall perform and provide all necessary labor, materials, tools, equipment, utilities, services and transportation to complete in a workmanlike manner all of the Work required in connection with the work of improvement commonly referred to as **"Rowland High School Fence Replacement Project, Bid No. 2019/20: (R23)"**. Contractor shall complete all Work covered by the Contract Documents, including without limitation, the Drawings and Specifications prepared by the **Director of Maintenance & Operations, Chris Ferraro** and other Contract Documents enumerated in Article 5 below, along with all modifications and addenda thereto issued in accordance with the Contract Documents.

1. Contract Time. The Contractor shall achieve Substantial Completion the Work within the Contract Time which is **Thirty (30)** calendar days after the date established in the Notice to Proceed issued by or on behalf of the District for commencement of the Work.

2. Contract Price. The District shall pay the Contractor as full consideration for the Contractor's full, complete and faithful performance of the Contractor's obligations under the Contract Documents, subject to adjustments of the Contract Price in accordance with the Contract Documents, the Contract Price of [REDACTED] Dollars (\$ [REDACTED]). The District's payment of the Contract Price shall be in accordance with the Contract Documents. The Contract Price is based upon the Contractor's Base Bid Proposal and the following Alternate Bid Items, if any: [REDACTED].

3. Liquidated Damages. The Contractor shall be subject to assessment of Liquidated Damages set forth in the Special Conditions if the Contractor: (i) fails to submit each Submittal required by the Contract Documents in accordance with the Submittal Schedule incorporated into the Contractor's Construction Schedule; or (ii) fails to achieve Substantial Completion of the Work within the Contract Time, subject to adjustments thereto in accordance with the Contract Documents; or (iii) fails to complete all Punchlist items within the time established pursuant to the Contract Documents.

4. Limitation on Damages. In the event of the District's breach or default of its obligations under the Contract Documents, the damages, if any, recoverable by the Contractor shall be limited to general damages which are directly caused by said breach or default of the District and shall exclude any and all special or consequential damages, if any, suffered by the Contractor. By executing this Agreement, the Contractor expressly acknowledges the foregoing limitation to the recovery only of general damages from the District if the District is in breach or default of its obligations under the Contract Documents. The Contractor expressly waives any right to and foregoes the recovery of any special or consequential damages from the District including, without limitation, damages for: i) lost or impaired bonding capacity; and/or, ii) lost profits arising out of or in connection with any past, present, or future work of improvement, except for the Project which is the subject of the Contract Documents.

5. The Contract Documents. The documents forming a part of the Contract Documents consist of the following:

00 11 13	Notice Calling for Bids, including Bid Addenda Nos. 	00 45 27	Drug-Free Workplace Certification
00 21 13	Instructions for Bidders	00 45 46	Fingerprint Certificate
00 42 13	Bid Proposal	00 52 00	Agreement
00 42 13	Alternate Bid Proposal Form	00 52 10	Terms and Conditions
00 43 24	Pre-Bid Inquiry Form	00 61 10	Bid Bond
00 45 00	Subcontractors List	00 61 13	Performance Bond
00 45 10	DIR Registration Verification	00 61 14	Labor and Material Payment Bond
00 45 13	Statement of Qualifications	00 62 90	Verification of Certified Payroll Form to Labor Commissioner
00 45 19	Non-Collusion Affidavit	00 65 36	Guarantee Form
00 45 26	Certificate of Workers Compensation		Drawings/Specifications

6. Authority to Execute. The individual(s) executing this Agreement on behalf of the Contractor is/are duly and fully authorized to execute this Agreement on behalf of Contractor and to bind the Contractor to each and every term, condition and covenant of the Contract Documents.

CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD. QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD, P.O. BOX 2600, SACRAMENTO, CALIFORNIA 95826

IN WITNESS WHEREOF, this Agreement has been duly executed by the District and the Contractor as of the date set forth above.

“DISTRICT”
ROWLAND UNIFIED SCHOOL DISTRICT

“CONTRACTOR”

By: Alejandro Flores
 Title: Assistance Superintendent
 Administrative Services

By: _____
 Title: _____

TERMS AND CONDITIONS

- 1. Labor and Materials.** The Contractor shall furnish and pay for all labor, materials, equipment and services necessary to complete the Work in accordance with the Contract Documents. Unless otherwise expressly provided for in the Contract Documents, all materials, equipment and other items incorporated into the Work shall be new and of the most suitable grade and quality for the purpose intended. The Work is subject to tests/inspections as required by the Contract Documents. The Contractor shall afford the District, the Project Inspector, the Architect and test/inspection services with access to the Work, wherever located and whether in place or in progress. All of the Work shall conform with the requirements of the Contract Documents and applicable laws, ordinances, rules and regulations.
- 2. Architect's/Engineer's Administration of the Contract.**

 - 2.1 Administration of Contract.** The Architect or Engineer ("Architect") will provide administration of the Contract as described in the Contract Documents, and will be one of the District's representatives during construction until the time that Final Payment. The Architect will advise and consult with the District, the Project Manager, if any, and the Project Inspector with respect to the administration of the Contract and the Work. The Architect is authorized to act on behalf of the District to the extent provided for in the Contract Documents; and shall have the responsibilities and authority established by the Laws.
 - 2.2 Periodic Site Inspections.** The Architect will visit the Site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed Work and to determine, in general, if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. The Architect is not required to make exhaustive or continuous Site inspections to check quality or quantity of the Work. On the basis of Site observations as an architect, the Architect will keep the District informed of the progress of the Work, and will endeavor to guard the District against defects and deficiencies in the Work
 - 2.3 Contractor Responsibility for Construction Means, Methods and Sequences.** The Architect will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, these being solely the Contractor's responsibility. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.
 - 2.4 Review of Applications for Payment.** Pursuant to Article 8 hereof, the Architect will review the Contractor's Payment Applications and for Application For Final Payment, evaluate the extent of Work performed and verify to the District the amount properly due the Contractor.
 - 2.5 Rejection of Work.** The Architect is authorized to reject Work which is defective or does not conform to the requirements of the Contract Documents. Whenever the Architect considers it necessary or advisable, for implementation of the intent of the Contract Documents, the Architect is authorized to require additional inspections or testing of the Work, whether or not such Work is fabricated, installed or completed. Neither this authority of the Architect nor a decision made in good faith by the Architect to exercise or not to exercise such authority shall modify requirements of the Contract Documents or any obligation of the Contractor under the Contract Documents.

2.6 Submittals.

2.6.1 Processing of Submittals. Submittals required by the Contract Documents shall be prepared by or on behalf of the Contractor in accordance with the requirements of the Contract Documents. If the District retains a Project Manager for the Work, Submittals shall be transmitted by the Contractor to the Project Manager for distribution by the Project Manager to the Architect and the District. Upon completion of the Architect's review of a Submittal, the Project Manager shall transmit the reviewed Submittal to the Contractor for the Contractor's distribution to its Subcontractor(s) and other affected parties. If the District does not retain a Project Manager for the Work, Submittals shall be submitted by the Contractor to the Architect or such other party designated in the Contract Documents or by the Architect for review and processing.

2.6.2 Architect's Review. The Architect will review and approve or take other appropriate action upon the Contractor's Submittals, but only for the limited purpose of checking for general conformance with information given and the design concept expressed in the Contract Documents. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's Submittals shall not relieve the Contractor of its obligations under the Contract Documents. The Architect's review of Submittals shall not constitute approval of safety measures, programs or precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item in a Submittal shall not indicate approval of an assembly of which the item is a component with the Submittal(s) required and relating to such assembly have been reviewed by the Architect.

2.6.3 Time for Architect's Review. The Architect's review of Submittals will be conducted promptly so as not to delay or hinder the progress of the Work or the activities of the Contractor, the District or the District's separate contractors while allowing sufficient time, in the Architect's reasonable professional judgment, to permit adequate review of Submittals. The foregoing notwithstanding, the Architect's review and return of Submittals will conform with the time limits and other conditions, if any, set forth in the Specifications or the Submittal Schedule if the Submittal Schedule is required by other provisions of the Contract Documents, but shall, under no circumstance, be less than fifteen (15) days.

2.7 Issuance of Construction Change Directive. The Architect is authorized to issue Construction Change Directives.

2.8 Changes to the Work; Change Orders. The Architect will prepare Change Orders, and may authorize minor Changes in the Work which do not result in adjustment of the Contract Time or the Contract Price.

2.9 Completion. In conjunction with the District, Project Inspector, Project Manager, if any, and the Contractor, the Architect will conduct observations of the Work to determine the date(s) of Substantial Completion and Final Completion. If the District does not designate a Project Manager for the Work, the Architect shall: (i) be authorized to enforce the Contractor's close-out obligations; and (ii) receive from the Contractor and

the records, written warranties and related close-out materials assembled by the Contractor in accordance with the Contract Documents.

2.10 Interpretation of Contract Documents. The Architect will interpret and decide matters concerning the requirements of the Contract Documents on written request of either the District or the Contractor. The Architect's response to such requests will be made with reasonable promptness and within the time limits agreed upon, if any. If no agreement is reached establishing the time for the Architect's review and response to requests under this Article 2.6.2, the Architect shall be afforded a fifteen (15) day period after receipt of such request to review and respond thereto. Interpretations and decisions of the Architect will: (i) be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions; (ii) endeavor to secure faithful performance by both the District and the Contractor; (iii) not show partiality to either the District or Contractor; and (iv) not result in liability for results of interpretations or decisions so rendered in good faith. The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

2.11 Request for Information. If the Contractor encounters any condition which the Contractor believes, in good faith and with reasonable basis, is the result of an ambiguity, conflict, error or omission in the Contract Documents (collectively "the Conditions"), Contractor shall timely notify the Architect, in writing, of the Conditions encountered and to request information from the Architect necessary to address and resolve any such Conditions before proceeding with any portion of the Work affected or which may be affected by such Conditions. If the Contractor fails to timely notify the Architect in writing of any Conditions encountered and the Contractor proceeds to perform any portion of the Work containing or affected by such Conditions the Contractor shall bear all costs associated with or required to correct, remove, or otherwise remedy any portion of the Work affected thereby without adjustment of the Contract Time or the Contract Price. In requesting information of the Architect to address and resolve any Conditions the Contractor shall act with promptness in submitting any such written request so as to allow the Architect a reasonable period of time to review, evaluate and respond to any such request, taking into account the then current status of the progress and completion of the Work and the actual or potential impact of any such Conditions upon the completion of the Work within the Contract Time. The Contract Time shall not be subject to adjustment in the event that the Contractor shall fail to timely request information from the Architect. The Architect's responses to any such Contractor request for information shall conform to the standards and time frame set forth in Article 2.10 of these General Conditions. The foregoing provisions notwithstanding, if the Architect reasonably determines that any of Contractor's request(s) for information: (i) does not reflect adequate or competent supervision or coordination by the Contractor or any Subcontractor; (ii) does not reflect the Contractor's adequate or competent knowledge of the requirements of the Work or the Contract Documents; or (iii) is not justified for any other reason, Contractor shall be liable to the District for all costs incurred by the District associated with the processing, reviewing, evaluating and responding to any such request for information, including without limitation, fees of the Architect. In responding to any of Contractor's request(s) for information, the Architect shall, in the response, indicate if the Architect has made the determination pursuant to the preceding sentence and, if so, the costs to be borne by the Contractor for the processing, review, evaluation and response to the request for information. Thereafter, the District is authorized to deduct such costs from any portion of the

Contract Price then or thereafter due the Contractor.

2.12 Communications; Architect's Role. All communications regarding the Work, the performance thereof or the Contract Documents shall be in writing; verbal communications shall be reduced to writing. If the District does not designate a Project Manager for the Work, communications between the Contractor and the District shall be through the Architect. Communications between separate contractors, if any, shall be through the Architect.

2.13 Termination of Architect; Substitute Architect. In case of termination of employment of the Architect, the District shall appoint a substitute architect whose status under the Contract Documents shall be that of the Architect.

2.14 Project Manager. If a Project Manager is designated for the Work, the Project Manager shall be a representative of the District until Final Completion is achieved and Final Payment is due the Contractor. The Project Manager is authorized to act on behalf of the District and in connection with the Work as set forth in the Contract Documents, including without limitation: (i) review of the Contractor's Construction Schedule and updates thereto; (ii) review of the Contractor's Applications for Payment and verification of the amount due the Contractor under an Application for Payment; (iii) conducting the Pre-Construction Meeting, Progress Meetings and/or Special Meetings and maintaining minutes thereof; and (iv) enforcement of the Contractor's obligations under the Contract Documents, including the Contractor's close-out obligations.

3. **Schedule; Contract Time**

3.1 Construction Schedule. The Contractor shall prepare a Construction Schedule in such form and format as directed by the District, which shall be submitted to the District for its approval. The Construction Schedule shall reflect all activities necessary to complete the Work and shall be in such detail as required by the District. The Contractor shall update the Approved Construction Schedule monthly or more frequently as directed by the District or required by the circumstances of the Work. If the progress of the Work is behind the Approved Construction Schedule, the Contractor shall indicate what measures will be taken to place the Work back on schedule. The District's approval of a Construction Schedule shall be for the sole and limited purpose of determining conformity with the requirements of the Contract Documents. By the Approved Construction Schedule, the District shall not be deemed to have exercised control over, or approval of, construction means, methods or sequences, all of which remain the responsibility and obligation of the Contractor in accordance with the terms of the Contract Documents. Further, the Approved Construction Schedule shall not operate to limit or restrict any of Contractor's obligations under the Contract Documents nor relieve the Contractor from the full, faithful and timely performance of such obligations in accordance with the terms of the Contract Documents. The activities, commencement and completion dates of activities, and the sequencing of activities depicted on the Approved Construction Schedule shall not be modified or revised by the Contractor without the prior consent, or direction, of the District and the Architect. Updates to the Approved Construction Schedule shall not be deemed revisions to the Approved Construction Schedule. In the event that the Approved Construction Schedule shall depict completion of the Work in a duration shorter than the Contract Time, the same shall not be a basis for an adjustment of the Contract Time or the Contract Price in the event that actual completion of the Work shall occur after such the time depicted in such Approved Construction Schedule. In such event, the Contract Price shall not be subject to

adjustment on account of any additional costs incurred by the Contractor to complete the Work prior to the Contract Time, as adjusted in accordance with the terms of the Contract Documents. Any adjustment of the Contract Time or the Contract Price shall be based upon the Contract Time set forth in the Contract Documents and not any shorter duration which may depicted in the Approved Construction Schedule. The District may, from time to time, and in the District's sole and exclusive discretion, transmit to the Contractor's Performance Bond Surety the Approved Construction Schedule, any updates thereof and the narrative statement described hereinabove. The District's election to transmit, or not to transmit such information, to the Contractor's Performance Bond Surety shall not limit the Contractor's obligations under the Contract Documents.

3.2 Contract Time. The Contract Time for Substantial Completion of the Work is **Thirty (30) calendar days** after the date for commencement of the Work, as set forth in the Notice to Proceed issued by or on behalf of the District to the Contractor.

3.3 Substantial Completion of the Work Within Contract Time. Unless otherwise expressly provided in the Contract Documents, the Contract Time is the period of time, including authorized adjustments thereto, allotted in the Contract Documents for achieving Substantial Completion of the Work. The date for commencement of the Work is the date established by the Notice to Proceed issued by the District pursuant to the Agreement, which shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible. The date of Substantial Completion is the date certified by the Architect and the Project Inspector as such in accordance with the Contract Documents.

3.4 Progress and Completion of the Work.

3.4.1 Time of Essence. Time limits stated in the Contract Documents are of the essence. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing and achieving Substantial Completion of the Work. The Contractor shall employ and supply a sufficient force of workers, material and equipment, and prosecute the Work with diligence so as to maintain progress, to prevent Work stoppage and to achieve Substantial Completion of the Work within the Contract Time.

3.4.2 Substantial Completion. Substantial Completion is that stage in the progress of the Work when the Work or any designated portion thereof (whether described as milestones, phases, segments or other similar terms) is complete in accordance with the Contract Documents so the District can occupy or use the Work or designated portion thereof for its intended purpose. Substantial Completion shall be determined by the Architect, Project Manager, if any, and the Project Inspector upon request by the Contractor in accordance with the Contract Documents. The good faith and reasonable determination of Substantial Completion by the Project Inspector, Project Manager, if any and the Architect shall be controlling and final.

3.4.3 Correction or Completion of the Work After Substantial Completion.

3.4.3.1 Punchlist. Upon achieving Substantial Completion of the Work, the District, the Project Inspector, the Project Manager, if any, the Architect and the Contractor shall jointly inspect the Work and prepare a comprehensive list of items of the Work to be corrected or completed by the Contractor ("the Punchlist"). The exclusion of, or failure to include, any item on the Punchlist shall not alter or limit the obligation of the Contractor to complete or correct any portion of the Work in accordance with the Contract Documents.

- 3.4.3.2 Time for Completing Punchlist Items.** In addition to establishing the Punchlist items pursuant to Article 3.4.3.1, the Project Manager, if any, Contractor and Architect shall, after the joint inspection, establish a reasonable time for Contractor's completion of all Punchlist items. If mutual agreement is not reached to establish the time for the Contractor's completion of Punchlist items, the Architect shall determine such time, and in such event, the time determined by the Architect shall be final and binding upon the District and Contractor so long as the Architect's determination is made in good faith. The Contractor shall promptly and diligently proceed to complete all Punchlist items within the time established. If the Contractor fails or refuses, for any reason, to complete all Punchlist items within the time established, Contractor shall be subject to assessment of Liquidated Damages in accordance with Article 3.5 hereof. The foregoing notwithstanding, if the Contractor fails or refuses to complete all Punchlist items, the District may in its sole and exclusive discretion and without further notice to Contractor, elect to cause the completion of all remaining Punchlist items provided, however that such election by the District is in addition to and not in lieu of any other right or remedy of the District under the Contract Documents or at law. If the District elects to complete Punchlist items of the Work, pursuant to the foregoing, Contractor shall be responsible for all costs incurred by the District in connection herewith and the District may deduct such costs from the Contract Price then or thereafter due the Contractor, if these costs exceed the remaining Contract Price due to the Contractor, the Contractor and the Performance Bond Surety are jointly and severally liable to District for any such excess costs.
- 3.4.4 Final Completion.** Final Completion is that stage of the Work when all Work has been completed in accordance with the Contract Documents, including without limitation, all Punchlist items noted upon Substantial Completion, and the Contract has been otherwise fully performed by the Contractor. Final Completion shall be determined by the Architect, Project Manager, if any and the Project Inspector upon request of the Contractor. The good faith and reasonable determination of Final Completion by the Project Inspector, Project Manager, if any, and the Architect shall be controlling and final.
- 3.4.5 Contractor Responsibility for Multiple Inspections.** If the Contractor requests determination of Substantial Completion or Final Completion by the Project Inspector, Project Manager, if any, and the Architect and it is determined by the Project Inspector, Project Manager, if any, or the Architect that the Work does not then justify certification of Substantial Completion or Final Completion and re-inspection is required at a subsequent time to make such determination, the Contractor shall be responsible for all costs of such re-inspection, including without limitation, the fees of the Architect, Project Manager, if any, and the Project Inspector. The District may deduct such costs from the Contract Price then due or thereafter due to the Contractor.
- 3.4.6 Final Acceptance.** Final Acceptance of the Work shall occur upon approval of the Work by the District's Board of Education; such approval shall be submitted for adoption at the next regularly scheduled meeting of the District's Board of Education after the determination of Final Completion. The commencement of any warranty or guarantee period under the Contract Documents is the date upon which the District's Board of Education approves

of the Final Acceptance of the Work.

3.5 Liquidated Damages. The per diem rate of Liquidated Damages for delayed Substantial Completion, delayed submission of Submittals and delayed completion of Punchlist shall be as set forth herein.

3.5.1 Delayed Substantial Completion. If Substantial Completion is not achieved on or before expiration of the Contract Time, the Contractor shall be liable to the District for Liquidated Damages in the sum of **Five Hundred Dollars (\$500.00)** per day from the date of expiration of the Contract Time to the date that the Contractor achieves Substantial Completion of the Work.

3.5.2 Delayed Submission of Submittals. If the Contractor fails to submit a Submittals in accordance with the Submittal Schedule, the Contractor shall be liable to the District for Liquidated Damages for each delayed Submittal at the rate of N/A Dollars (\$) from the date that such Submittal was due to be submitted pursuant to the Submittal Schedule and the date that the Contractor actually submits the Submittal to the Architect.

3.5.3 Delayed Punchlist. If the Contractor fails to complete Punchlist within the time established pursuant to the Contract Documents, the Contractor shall be liable to the District for Liquidated Damages in the sum of **Five-Hundred Dollars (\$500.00)** per day from the date established for completion of Punchlist until the date that all Punchlist is actually completed.

3.5.4 Surety Liability. Subject only to limitations established by the penal sum of the Performance Bond, the Surety issuing the Performance Bond shall be liable to the District for Liquidated Damages due from the Contractor.

4. Changes.

4.1 Mark-Ups on Changes to the Work. In the event of Changes to the Work, pursuant this Article 4, the mark-up for all overhead (including home and field office overhead), general conditions costs and profit, shall not exceed the percentage of allowable direct actual costs for performance of the Change as set forth below.

4.1.1 Subcontractor Performed Changes. For the portion of any Change performed by Subcontractors of any tier, the percentage mark-up on allowable actual direct labor and materials costs incurred by all Subcontractors of any tier shall be Ten Percent (10%). In addition, for the portion of any Change performed by a Subcontractor of any tier, the Contractor may add an amount equal to Five Percent (5%) of the allowable actual direct labor and materials costs of Subcontractors performing the Change; the foregoing mark-up shall not be applied to the Subcontractor mark-up.

4.1.2 Contractor Performed Changes. For the portion of any Change performed by the Contractor's own forces, the mark-up on the allowable actual direct labor and materials costs of such portion of a Change shall be Fifteen Percent (15%).

4.1.3 Bond Premium Costs. In addition to the foregoing mark-ups on the direct costs of labor and materials, a bond premium expense in an amount equal to the lesser of the Contractor's actual bond premium rate or one percent (1%) of the total actual direct costs of labor and materials (before Subcontractor and Contractor mark-ups) will be allowed.

4.1.4 Exclusions From Mark-Up of Actual Costs. Mark-ups on the actual cost of materials/equipment incorporated into a Change or for purchase/rental of Construction Equipment shall not be applied to any portion of such costs which are for sales, use or other taxes arising out of the purchase of materials/equipment and/or for purchase/rental of Construction Equipment.

4.2 Change Orders. If the District approves of a Change, a written Change Order prepared by the Architect on behalf of the District shall be forwarded to the Contractor describing the Change and setting forth the adjustment to the Contract Time and the Contract Price, if any, on account of such Change. All Change Orders shall be in full payment and final settlement of all claims for direct, indirect and consequential costs, including without limitation, costs of delays or impacts related to, or arising out of, items covered and affected by the Change Order, as well as any adjustments to the Contract Time. Any claim or item relating to any Change incorporated into a Change Order not presented by the Contractor for inclusion in the Change Order shall be deemed waived. The Contractor shall execute the Change Order prepared pursuant to the foregoing; once the Change Order has been prepared and forwarded to the Contractor for execution, without the prior approval of the District which may be granted or withheld in the sole and exclusive discretion of the District, the Contractor shall not modify or amend the form or content of such Change Order, or any portion thereof. The Contractor's attempted or purported modification or amendment of any such Change Order, without the prior approval of the District, shall not be binding upon the District; any such unapproved modification or amendment to such Change Order shall be null, void and unenforceable. Unless otherwise expressly provided for in the Contract Documents or in the Change Order, any Change Order issued hereunder shall be binding upon the District only upon action of the District's Board of Education approving and ratifying such Change Order. In the event of any amendment or modification made by the Contractor to a Change Order for which there is no prior approval by the District, in accordance with the provisions of this Article 4.3, unless otherwise expressly stated in its approval and ratification of such Change Order, any action of the Board of Education to approve and ratify such Change Order shall be deemed to be limited to the Change Order as prepared by the Architect; such approval and ratification of such Change Order shall not be deemed the District's approval and ratification of any unapproved amendment or modification by the Contractor to such Change Order.

4.3 Unilateral Change Order. A Unilateral Change Order is a Change Order issued by the District before the Contractor and District have agreed on the price and/or time of performance for the Change. The District may, in its sole reasonable discretion, issue a Unilateral Change Order for Changes in the Work approved by the District notwithstanding any objection of the Contractor to the District's determination of the extent of any adjustment to the Contract Price or Contract Time. The District shall issue a Unilateral Change Order only in the event that the District has notified the Contractor in writing of the District's determination, and the Contractor has notified the District, the Architect, and the Project Inspector, in writing, not more than fifteen (15) calendar days from the date of the District's written notice of its objection to the District's determination, or the District's determination has been deemed accepted by the Contractor and the Contractor has waived its right to protest or otherwise object to District's determination by failing to notify the District, the Architect, and the Project Inspector, in writing, not more than fifteen (15) calendar days from the date of the District's written notice of its objection to the District's determination. A Unilateral Change Order shall describe the Change and set forth the adjustment to the Contract Time and Contract Price, if any, and may include, without limitation, direct costs, indirect costs, and/or costs of delay or impact related to, or arising out of, items covered and/or affected by the Change Order. The District shall forward to the Contractor for information only a copy of the proposed Unilateral Change Order at least five (5) calendar days prior to the Board of Education's review and consideration of the Unilateral Change Order. Any Unilateral Change Order issued hereunder shall

be binding upon the District and Contractor only upon action of the District's Board of Education' approval or ratification of same. Any and all claims by the Contractor arising out of such Unilateral Change Order, and/or the Change giving rise to such Unilateral Change Order, shall accrue as of the date of the Board of Education' approval or ratification of each such Unilateral Change Order and shall be subject to the claim provisions set forth herein.

4.4 Construction Change Directive. A Construction Change Directive is a written instrument issued by the District directing a Change to the Work prior to the Contractor and District reaching full agreement on an adjustment of the Contract Time and/or Contract Price on account of such Change. The Contractor shall promptly commence and diligently complete any Change to the Work subject to a Construction Change Directive issued hereunder. The Contractor shall not be relieved or excused from its prompt commencement and diligent completion of any Change subject to a Construction Change Directive by virtue of the absence or inability of the Contractor and the District to agree upon the extent of any adjustment to the Contract Time or the Contract Price for such Change. The issuance of a Change Order pursuant to this Article 4 in connection with any Change authorized by the District under this Article 4 shall not be deemed a condition precedent to Contractor's obligation to promptly commence and diligently complete any such Change authorized by a Construction Change Directive hereunder. Upon completion of the Work such Change, if the Contractor and District have not agreed on the Contract Time and Contract Price for such Change, District shall issue a Unilateral Change Order pursuant to Article 4.3 hereof.

4.5 Contractor Notice of Changes. If the Contractor should claim that any instruction, request, the Drawings, the Specifications, action, condition, omission, default, or other situation obligates the District to increase the Contract Price or to extend the Contract Time, the Contractor shall notify the Project Inspector and the Architect, in writing, of such claim within ten (10) calendar days from the date of its actual or constructive notice of the factual basis supporting the same. The District shall consider any such claim of the Contractor only if sufficient supporting documentation is submitted with the Contractor's notice to the Project Inspector and the Architect. Time is of the essence in Contractor's written notice pursuant to the preceding sentence so that the District can promptly investigate and consider alternative measures to the address such instruction, request, Drawings, Specifications, action, condition, omission, default or other situation. Accordingly, Contractor acknowledges that its failure, for any reason, to give written notice (with sufficient supporting documentation to permit the District's review and evaluation) within ten (10) calendar days of its actual or constructive knowledge of any instruction, request, Drawings, Specifications, action, condition, omission, default or other situation for which the Contractor believes there should an adjustment of the Contract Time or the Contract Price shall be deemed Contractor's waiver, release, discharge and relinquishment of any right to assert or claim any entitlement to an adjustment of the Contract Time or the Contract Price on account of any such instruction, request, Drawings, Specifications, action, condition, omission, default or other situation. In the event that the District determines that the Contract Price or the Contract Time are subject to adjustment based upon the events, circumstances and supporting documentation submitted with the Contractor's written notice under this Article 4, any such adjustment shall be determined in accordance with the provisions of Articles 4 and 5.

4.6 Unit Price Items. If the Bid Proposal for the Work includes proposal(s) for Unit Price Item(s), during Contractor's performance of the Work, the District may elect to add or

delete any such Unit Price Item(s). If the District elects to add or delete any such Unit Price Item(s) pursuant to the foregoing, the debit or credit for such Unit Price Item(s) shall be in accordance with the amount(s) set forth in the Contractor's Unit Price Item(s) Proposal.

4.7 Addition or Deletion of Alternate Bid Item(s). If the Bid for the Work includes proposal(s) for Alternate Bid Item(s), during Contractor's performance of the Work, the District may elect, pursuant to this Article to add any such Alternate Bid Item(s) if the same did not form a basis for award of the Contract or delete any such Alternate Bid Item(s) if the same formed a basis for award of the Contract. If the District elects to add or delete any such Alternate Bid Item(s) pursuant to the foregoing, the cost or credit for such Alternate Bid Item(s) shall be as set forth in the Contractor's Bid. If any Alternate Bid Item is added or deleted from the Work pursuant to the foregoing, the Contract Time shall be adjusted by the number of days allocated for the added or deleted Alternate Bid Item in the Contract Documents; if days are not allocated for any Alternate Bid Item added or deleted pursuant to the foregoing, the Contract Time shall be equitably adjusted to the extent that the addition or deletion of an Alternate Bid Item actually affects Work on the critical path of the Construction Schedule as of the date upon which an Alternate Bid Item is added to or deleted from the Work.

4.8 Substitutions. No substitution of any specified item, product, material or system ("Specified Items") will be considered unless the Contractor submits a request to substitute Specified Items along with data substantiating the equivalency of the proposed substitution with the Specified Items not more **than three (3) calendar days after the date of award** of the Contract to the Contractor. The Contractor shall reimburse the District for all costs and expenses incurred by the District to review a proposed substitution for Specified Items. The District's acceptance or rejection of a proposed substitution shall be final. No substitution accepted by the District shall increase the Contract Price or the Contract Time; provided, however, if the cost to furnish/install an approved substitution is less than the specified Item, the Contract Price shall be reduced by such cost difference. If any Specified Items are identified in any portion of the Contract Documents as "District Standard Materials/Equipment" "match existing in use" or similar words/phrases, in accordance with Public Contract Code §3400, the District shall be deemed to have made a finding that such Specified Items are designated as "sole source" items designed to match existing and in use items. In accordance with Public Contract Code §3400, the District will not consider or accept alternatives or substitutions for any Specified Items so identified.

4.9 Disputed Changes. In the event of any dispute or disagreement between the Contractor and the District or the Architect regarding the characterization of any item as a Change to the Work or as to the appropriate adjustment of the Contract Price or the Contract Time on account thereof, the Contractor shall promptly proceed with the performance of such item of the Work, subject to a subsequent resolution of such dispute or disagreement in accordance with the terms of the Contract Documents. The Contractor's failure or refusal to so proceed with such Work shall be deemed to be Contractor's default of a material obligation of the Contractor under the Contract Documents.

4.10 Adjustment of Contract Time. If Substantial Completion is delayed, adjustment, if any, to the Contract Time on account of such delay shall be in accordance with this Article 4.10.

4.10.1 Excusable Delays. If Substantial Completion of the Work is delayed by

Excusable Delays, the Contract Time shall be subject to adjustment for such reasonable period of time as determined by the Architect; Excusable Delays shall not result in any increase in the Contract Price. Excusable Delays refer to unforeseeable and unavoidable casualties or other unforeseen causes beyond the control, and without fault or neglect, of the Contractor, any Subcontractor, Material Supplier or other person directly or indirectly engaged by the Contractor in performance of any portion of the Work. Excusable Delays include unanticipated and unavoidable labor disputes, unusual and unanticipated delays in transportation of equipment, materials or Construction Equipment reasonably necessary for completion and proper execution of the Work, unanticipated unusually severe weather conditions or DSA directive to stop the Work. Neither the financial resources of the Contractor or any person or entity directly or indirectly engaged by the Contractor in performance of any portion of the Work shall be deemed conditions beyond the control of the Contractor. If an event of Excusable Delay occurs, the Contract Time shall be subject to adjustment hereunder only if the Contractor establishes: (i) full compliance with all applicable provisions of the Contract Documents relative to the method, manner and time for Contractor's notice and request for adjustment of the Contract Time; (ii) that the event(s) forming the basis for Contractor's request to adjust the Contract Time are outside the reasonable control and without any fault or neglect of the Contractor or any person or entity directly or indirectly engaged by Contractor in performance of any portion of the Work; and (iii) that the event(s) forming the basis for Contractor's request to adjust the Contract Time directly and adversely impacted the critical path of the Work as indicated in the Approved Construction Schedule or the most recent updated Approved Construction Schedule relative to the date(s) of the claimed event(s) of Excusable Delay. The foregoing provisions notwithstanding, if the Terms and Conditions set forth a number of "Rain Days" to be anticipated during performance of the Work, the Contract Time shall not be adjusted for rain related unusually severe weather conditions until and unless the actual number of Rain Days during performance of the Work shall exceed those noted and agreed upon in the Approved Construction Schedule and such additional Rain Days shall have directly and adversely impacted the critical path of the Work as depicted in the Approved Construction Schedule or the most recent updated Approved Construction Schedule relative to the date(s) of such additional Rain Days.

4.10.1.1 Rain Days. The Project Construction Schedule shall include 2, (Two) Rain Days. Rain Days are those days on which the Contractor is prevented by inclement weather or conditions resulting immediately therefrom adverse to the current controlling operation or operations, as determined by the Architect or Construction Manager, from proceeding with at least 75 percent of the normal labor and equipment force engaged on that operation or operations for at least 60 percent of the total daily time being currently spent on the controlling operation or operations.

4.10.2 Compensable Delays. If Substantial Completion of the Work is delayed and such delay is caused by the acts or omissions of the District, the Architect, or separate contractor employed by the District (collectively "Compensable Delays"), upon Contractor's request and notice, in strict conformity with set forth herein, the Contract Time will be adjusted by Change Order for such reasonable period of time as determined by the Architect and the District. In accordance with California Public Contract Code §7102, if the Contractor's progress is delayed by

any of the events described in the preceding sentence, Contractor shall not be precluded from the recovery of damages directly and proximately resulting therefrom, provided that the District is liable for the delay, the delay is unreasonable under the circumstances involved and the delay was not within the reasonable contemplation of the District and the Contractor at the time of execution of the Agreement. In such event, Contractor's damages, if any, shall be limited to direct, actual and unavoidable additional costs of labor, materials or Construction Equipment directly resulting from such delay, and shall exclude indirect or other consequential damages. Except as expressly provided for herein, Contractor shall not have any other claim, demand or right to adjustment of the Contract Price arising out of delay, interruption, hindrance or disruption to the progress of the Work. Adjustments to the Contract Price and the Contract Time, if any, on account of Changes to the Work or Suspension of the Work shall be governed by the applicable provisions of the Contract Documents.

4.10.3 Unexcusable Delays. Unexcusable Delays refer to any delay to the progress of the Work caused by events or factors other than those specifically identified in Articles 4.10.1 and 4.10.2 above. Neither the Contract Price nor the Contract Time shall be adjusted on account of Unexcusable Delays.

4.11 Adjustment to Contract Price and Contract Time on Account of Changes to the Work.

4.11.1 Adjustment to Contract Price. Adjustments to the Contract Price due to Changes in the Work shall be determined by application of one of the following methods, in the following order of priority:

4.11.1.1 Mutual Agreement. By negotiation and mutual agreement, on a lump sum basis, between the District and the Contractor on the basis of the estimate of the actual and direct increase or decrease in costs on account of the Change. Upon request of the District or the Architect, the Contractor shall provide a detailed estimate of increase or decrease in costs directly associated with performance of the Change along with cost breakdowns of the components of the Change and supporting data and documentation. The Contractor's estimate of increase or decrease in costs pursuant to the foregoing, if requested, shall be in sufficient detail and in such form as to allow the District, the District's Inspector and the Architect to review and assess the completeness and accuracy thereof. The Contractor shall be solely responsible for any additional costs or additional time arising out of, or related in any manner to, its failure to provide the estimate of costs within the time specified in the request of the District or the Architect for such estimate.

4.11.1.2 Determination by the District. By the District, whether or not negotiations are initiated pursuant to Article 4.11.1.1 above, based upon actual and necessary costs incurred by the Contractor as determined by the District on the basis of the Contractor's records. In the event that the procedure set forth in this Article 4.11.1.2 is utilized to determine the extent of adjustment to the Contract Price on account of Changes to the Work, promptly upon determining the extent of adjustment to the Contract Price, the District shall

notify the Contractor in writing of the same; the Contractor shall be deemed to have accepted the District's determination of the amount of adjustment to the Contract Price on account of a Change to the Work unless Contractor shall notify the District, the Architect and the District's Inspector, in writing, not more than fifteen (15) days from the date of the District's written notice, of any objection to the District's determination. Failure of the Contractor to timely notify the District, the Architect and the District's Inspector of Contractor's objections to the District's determination of the extent of adjustment to the Contract Price shall be deemed Contractor's acceptance of the District's determination and a waiver of any right or basis of the Contractor to thereafter protest or otherwise object to the District's determination. Notwithstanding any objection of the Contractor to the District's determination of the extent of any adjustment to the Contract Price pursuant to this Article 4.11.1.2, Contractor shall diligently proceed to perform and complete any such Change.

4.11.2 Basis for Adjustment of Contract Price. If Changes in the Work require an adjustment of the Contract Price pursuant to Articles 4.11.1.1 or 4.11.1.2 above, the basis for adjustment of the Contract Price shall be as follows:

4.11.2.1 Labor. The Contractor shall be compensated for the costs of labor actually and directly utilized in the performance of the Change. Such labor costs shall be limited to field labor for which there is a prevailing wage rate classification. Wage rates for labor shall not exceed the prevailing wage rates in the locality of the Site and shall be in the labor classification(s) necessary for the performance of the Change. Use of a labor classification which increase labor costs associated with any Change shall not be permitted. Labor costs shall exclude costs incurred by the Contractor in preparing estimate(s) of the costs of the Change, in the maintenance of records relating to the costs of the Change, coordination and assembly of materials and information relating to the Change or performance thereof, or the supervision and other overhead and general conditions costs associated with the Change or performance thereof.

4.11.2.2 Fringe Benefits, Payroll Taxes and Labor Burdens. The Contractor or Subcontractor may adjust the prevailing wage rate for allowable labor costs to reflect fringe benefits, payroll taxes and labor burdens actually incurred by Contractor and provided to such labor directly engaged in performing a Change. The allowable adjustment for fringe benefit payments, payroll taxes and labor burdens shall not, however, exceed fifteen percent (15%) of the applicable prevailing wage rate and shall not be subject to the additional mark-up set forth in Article 4.11.2.5.

4.11.2.3 Materials and Equipment. Contractor shall be compensated for the costs of materials and equipment necessarily and actually used or consumed in connection with the performance of Changes. Costs of materials and equipment may include reasonable costs of transportation from a source closest to the

site of the Work and delivery to the Site. If discounts by Material Suppliers are available for materials necessarily used in the performance of Changes, they shall be credited to the District. If materials and/or equipment necessarily used in the performance of Changes are obtained from a supplier or source owned in whole or in part by the Contractor, compensation therefor shall not exceed the current wholesale price for such materials or equipment. If, in the reasonable opinion of the District, the costs asserted by the Contractor for materials and/or equipment in connection with any Change is excessive, or if the Contractor fails to provide satisfactory evidence of the actual costs of such materials and/or equipment from its supplier or vendor of the same, the costs of such materials and/or equipment and the District's obligation for payment of the same shall be limited to the then lowest wholesale price at which similar materials and/or equipment are available in the quantities required to perform the Change. The District may elect to furnish materials and/or equipment for Changes to the Work, in which event the Contractor shall not be compensated for the costs of furnishing such materials and/or equipment or any mark-up thereon.

4.11.2.4 Construction Equipment. The Contractor shall be compensated for the actual cost of the necessary and direct use of Construction Equipment in the performance of Changes to the Work. Use of such Construction Equipment in the performance of Changes to the Work shall be compensated in increments of fifteen (15) minutes. Rental time for Construction Equipment moved by its own power shall include time required to move such Construction Equipment to the site of the Work from the nearest available rental source of the same. If Construction Equipment is not moved to the Site by its own power, Contractor will be compensated for the loading and transportation costs in lieu of rental time. The foregoing notwithstanding, neither moving time or loading and transportation time shall be allowed if the Construction Equipment is used for performance of any portion of the Work other than Changes to the Work. Unless prior approval in writing is obtained by the Contractor from the Architect, Project Manager, the District's Inspector and the District, no costs or compensation shall be allowed for time while Construction Equipment is inoperative, idle or on standby, for any reason. The Contractor shall not be entitled to an allowance or any other compensation for Construction Equipment or tools used in the performance of Changes to the Work where such Construction Equipment or tools have a replacement value of \$500.00 or less. Construction Equipment costs claimed by the Contractor in connection with the performance of any Change to the Work shall not exceed rental rates established by distributors or construction equipment rental agencies in the locality of the Site; any costs asserted which exceed such rental rates shall not be allowed or paid. Unless otherwise specifically approved in writing by the Architect, the Project Manager, the District's Inspector and the District, the allowable rate for the use of Construction Equipment in connection with Changes to the Work shall constitute full compensation to the

Contractor for the cost of rental, fuel, power, oil, lubrication, supplies, necessary attachments, repairs or maintenance of any kind, depreciation, storage, insurance, labor (exclusive of labor costs of the Construction Equipment operator), and any all other costs incurred by the Contractor incidental to the use of such Construction Equipment.

4.11.2.5 Mark-up on Costs of Changes to the Work. In determining the cost to the District and the extent of increase to the Contract Price resulting from a Change adding to the Work, the allowance for mark-ups on the costs of the Change for all overhead (including home office, supervision and field overhead), general conditions costs and profit associated with the Change shall not exceed the percentage set forth in Article 4.1, above, regardless of the number of Subcontractors performing any portion of any Change to the Work. If a Change to the Work reduces the Contract Price, no profit, general conditions or overhead costs shall be paid by the District to the Contractor for the reduced or deleted Work. In such event, the adjustment to the Contract Price shall be the actual cost reduction realized by the reduced or deleted Work multiplied by the percentage set forth in the Article 4.1 for mark-ups on the cost of a Change adding to the scope of the Work.

4.11.3 Contractor Maintenance of Records. If the Contractor is directed to perform any Changes to the Work pursuant to Article 4, or should the Contractor encounter conditions which the Contractor, pursuant to Article 4.5, believes would obligate the District to adjust the Contract Price and/or the Contract Time, the Contractor shall maintain detailed records on a daily basis. Such records shall include without limitation hourly records for labor and Construction Equipment and itemized records of materials and equipment used that day in connection with the performance of any Change to the Work. In the event that more than one Change to the Work is performed by the Contractor in a calendar day, Contractor shall maintain separate records of labor, Construction Equipment, materials and equipment for each such Change. If any Subcontractor provides or performs any portion of any Change to the Work, the Contractor shall require that each such Subcontractor maintain records in accordance with this Article. Each daily record maintained hereunder shall be signed by Contractor's Superintendent or Contractor's authorized representative; such signature shall be deemed Contractor's representation and warranty that all information contained therein is true, accurate, complete and relate only to the Change referenced therein. All records maintained by a Subcontractor, of any tier, relating to the costs of a Change to the Work shall be signed by such Subcontractor's authorized representative or Superintendent. All records maintained hereunder shall be subject to inspection, review and/or reproduction by the District, the Architect, the Project Manager or the District's Inspector upon request. If the Contractor fails or refuses, for any reason, to maintain or make available for inspection, review and/or reproduction such records and the adjustment to the Contract Price on account of any Change to the Work is determined pursuant to this Article, the District's reasonable good faith determination of the extent of adjustment to the Contract Price on account of such Change shall be final, conclusive, dispositive and binding upon the Contractor. The Contractor's obligation to maintain records hereunder is in addition to, and not in lieu of, any other Contractor obligation under the Contract

Documents with respect to Changes to the Work.

4.11.4 Adjustment to Contract Time. In the event of any Change(s) to the Work pursuant to this Article 4, the Contract Time shall be extended or reduced by Change Order for a period of time commensurate with the time reasonably necessary to perform such Change. If any Change requires an extension of the Contract Time, the Contractor shall not be subject to Liquidated Damages for such period of time.

- 5. Payment Bond; Performance Bond.** Prior to commencement of Work, the Contractor shall obtain and deliver to the District a Labor and Materials Payment Bond and a Performance Bond. Bonds required hereunder will be accepted by the District only if: (a) they are in the form and content included in the Contract Documents; (b) the Bonds are issued by and Admitted Surety Insurer under California law; and (c) in a penal sum equal to one hundred percent (100%) of the Contract Price.
- 6. Safety; Security.** The Contractor shall comply with all applicable laws, ordinances, rules, or regulations pertaining to safety at the Site, including without limitation, implementation and enforcement of safety programs. The Contractor shall implement and maintain safety measures such as fencing, barricades, signs, lights and other precautions to prevent injury or death to persons or damage to property, as required or appropriate by the circumstances or the nature of the Work. The Contractor is responsible for securing the Site and Work in place or in progress (including materials/equipment/tools situated at the Site) to prevent theft, loss or damage.
- 7. Wage Rates; Employment of Labor.**

7.1 Prevailing Wage Rates.

7.1.1 Prevailing Wage Rate Schedules. Pursuant to the provisions of Division 2, Part 7, Chapter 1, Article 2 of the California Labor Code at §§1770 et seq., the District has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the prevailing rate for holiday and overtime work in the locality in which the Work is to be performed. Holidays shall be as defined in the collective bargaining agreement applicable to each particular craft, classification or type of worker employed under the Contract. Per diem wages include employer payments for health and welfare, pensions, vacation, travel time and subsistence pay as provided in California Labor Code §1773.8, apprenticeship or other training programs authorized by California Labor Code §3093, and similar purposes when the term “per diem wages” is used herein. Holiday and overtime work, when permitted by law, shall be paid for at the rate of at least one and one-half (1½) times the above specified rate of per diem wages, unless otherwise specified. The Contractor shall post, at appropriate and conspicuous locations on the Site, a schedule showing all determined general prevailing wage rates.

7.1.1.1 Payment of Prevailing Rates. There shall be paid each worker of the Contractor and Subcontractors, of any tier, engaged in the Work, not less than the general prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between the Contractor or any Subcontractor, of any tier, and such worker.

7.1.1.2 Prevailing Rate Penalty. The Contractor shall, as a penalty, forfeit not more than Two Hundred Dollars (\$200.00) to the District for each calendar day or portion thereof, for each worker paid less than the prevailing rates for such work or craft in which such worker is employed for the Work by the Contractor or by any Subcontractor, of

any tier, in connection with the Work. The amount of the penalty for failure to pay applicable prevailing wage rates shall be determined and assessed in accordance with the standards established pursuant to Labor Code §1775(a)(2). The amount of the penalty shall be determined based on consideration of both of the following: (i) whether the failure of the Contractor or Subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the Contractor or Subcontractor; and (ii) whether the Contractor or Subcontractor has a prior record of failing to meet its prevailing wage obligations. The penalty may not be less than forty dollars (\$40) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the Contractor or Subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor. The penalty may not be less than eighty dollars (\$80) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Contractor or Subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned. The penalty may not be less than one hundred twenty dollars (\$120) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1. When the penalty amount due hereunder is collected from the Contractor or Subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that Contractor or Subcontractor shall be satisfied before applying that amount to the penalty imposed on that Contractor or Subcontractor hereunder. The difference between prevailing wage rates and the amount paid to each worker each calendar day, or portion thereof, for which each worker paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.

7.1.1.3 Prevailing Wage Rate Monitoring and Enforcement. During the Work and pursuant to Labor Code §1771.4(a)(4), the Department of Industrial Relations shall monitor and enforce the obligation of the Contractor and Subcontractors of every tier to pay laborers performing any portion of the Work the Prevailing Wage Rate established for the classification of work/labor performed.

7.1.2 Payroll Records.

7.1.2.1 Certified Payroll Records. Pursuant to California Labor Code §1776, the Contractor and each Subcontractor, of any tier, shall keep an accurate payroll record, 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 person employed for the Work.

7.1.2.2 Certified Payroll Records Submittal to Labor Commissioner. The Contractor and all Subcontractors shall prepare and submit Certified Payroll Records to the Labor Commissioner in compliance with requirements established in Labor Code §1771.4. The form and content of Certified Payroll Records shall be as established by the

Labor Commissioner and the frequency of Certified Payroll Records submittal to the Labor Commissioner shall be pursuant to Labor Code §1771.4.

7.1.2.3 Inspection and Copies of Certified Payroll Records. The payroll records shall be certified and available for inspection at all reasonable hours at the principal office of the Contractor on the following basis: (i) a certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his/her authorized representative on request; (ii) a certified copy of all payroll records shall be made available for inspection or furnished upon request to the District, the Division of Labor Standards Enforcement ("DLSE") and the Division of Apprenticeship Standards of the Department of Industrial Relations ("Apprenticeship Council"); (iii) a certified copy of payroll records shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the District, DLSE and the Apprenticeship Council. If the requested payroll records have not been provided, the requesting party shall, prior to being provided the records, reimburse the cost of preparation by the Contractor, Subcontractors and the entity through which the request was made; the public shall not be given access to such records at the principal office of the Contractor; (iv) the Contractor shall file a certified copy of the payroll records with the entity that requested such records within ten (10) days after receipt of a written request; (v) any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the District, the Apprenticeship Council or DLSE shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor or any Subcontractor, of any tier, performing a part of the Work shall not be marked or obliterated. The Contractor shall inform the District of the location of payroll records, including the street address, city and county and shall, within five (5) working days, provide a notice of a change or location and address. In the event of noncompliance with the foregoing requirements, the Contractor shall have ten (10) days in which to comply, subsequent to receipt of written notice specifying in what respects the Contractor must comply herewith. Should noncompliance still be evident after such ten (10) day period, the Contractor shall, as a penalty to the District, 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 Apprenticeship Council or DLSE, such penalties shall be withheld from any portion of the Contract Price then or thereafter due the Contractor. The Contractor is solely responsible for compliance with the foregoing provisions.

7.1.3 Hours of Work.

7.1.3.1 Limits on Hours of Work. Pursuant to California Labor Code §1810, eight (8) hours of labor shall constitute a legal day's work. Pursuant to California Labor Code §1811, the time of service of any worker employed at any time by the Contractor or by a Subcontractor, of any tier, upon the Work or upon any part of the Work, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as hereafter provided.

Notwithstanding the foregoing provisions, Work performed by employees of Contractor or any Subcontractor, of any tier, in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1½) times the basic rate of pay.

7.1.3.2 Penalty for Excess Hours. The Contractor shall pay to the District a penalty of Twenty-five Dollars (\$25.00) for each worker employed on the Work by the Contractor or any Subcontractor, of any tier, for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week, in violation of the provisions of the California Labor Code, unless compensation to the worker so employed by the Contractor is not less than one and one-half (1½) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

7.1.3.3 Contractor Responsibility. Any Work performed by workers necessary to be performed after regular working hours or on Saturdays, Sundays or other holidays shall be performed without adjustment to the Contract Price or any other additional expense to the District. The Contractor shall be responsible for costs incurred by the District which arise out of Work performed by the Contractor at times other than regular working hours and regular working days. Upon determination of such costs, the District may deduct such costs from the Contract Price then or thereafter due the Contractor.

7.1.4 Apprentices.

7.1.4.1 Employment of Apprentices. Any apprentices employed to perform any of the Work shall be paid the standard wage paid to apprentices under the regulations of the craft or trade for which such apprentice is employed, and such individual shall be employed only for the work of the craft or trade to which such individual is registered. Only apprentices, as defined in California Labor Code §3077 who are in training under apprenticeship standards and written apprenticeship agreements under California Labor Code §§3070 et seq. are eligible to be employed for the Work. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which such apprentice is training.

7.1.4.2 Apprenticeship Certificate. When the Contractor or any Subcontractor, of any tier, in performing any of the Work employs workers in any Apprenticeable Craft or Trade, the Contractor and such Subcontractor shall apply to the Joint Apprenticeship Committee administering the apprenticeship standards of the craft or trade in the area of the site of the Work for a certificate approving the Contractor or such Subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected, provided, however, that the approval as established by the Joint Apprenticeship Committee or Committees shall be subject to the approval of the Administrator of Apprenticeship. The Joint Apprenticeship Committee or Committees, subsequent to approving the Contractor or Subcontractor, shall arrange for the dispatch of apprentices to the Contractor or such Subcontractor in order to comply with California Labor Code §1777.5. Prior to the

commencement of the Work, the Contractor and Subcontractors shall submit contract award information (on Form DAS-140) to the applicable Joint Apprenticeship Committee which shall include an estimate of journeyman hours to be performed under the Contract, the number of apprentices to be employed, and the approximate dates the apprentices will be employed. Concurrently with submission of contract information on Form DAS-140 to the Apprenticeship Council, the Contractor shall deliver a copy of its completed DAS-140 to the District and the Construction Manager. There shall be an affirmative duty upon the Joint Apprenticeship Committee or Committees, administering the apprenticeship standards of the crafts or trades in the area of the site of the Work, to ensure equal employment and affirmative action and apprenticeship for women and minorities. Contractors or Subcontractors shall not be required to submit individual applications for approval to local Joint Apprenticeship Committees provided they are already covered by the local apprenticeship standards.

7.1.4.3 Ratio of Apprentices to Journeymen. The ratio of Work performed by apprentices to journeymen, who shall be employed in the Work, may be the ratio stipulated in the apprenticeship standards under which the Joint Apprenticeship Committee operates, but in no case shall the ratio be less than one hour of apprentice work for each five hours of labor performed by a journeyman, except as otherwise provided in California Labor Code §1777.5. The minimum ratio for the land surveyor classification shall not be less than one apprentice for each five journeymen. Any ratio shall apply during any day or portion of a day when any journeyman, or the higher standard stipulated by the Joint Apprenticeship Committee, is employed at the site of the Work and shall be computed on the basis of the hours worked during the day by journeymen so employed, except for the land surveyor classification. The Contractor shall employ apprentices for the number of hours computed as above before the completion of the Work. The Contractor shall, however, endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the site of the Work. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Division of Apprenticeship Standards, upon application of a Joint Apprenticeship Committee, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification. The Contractor or any Subcontractor covered by this Article and California Labor Code §1777.5, upon the issuance of the approval certificate, or if it has been previously approved in such craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the apprenticeship standards. Upon proper showing by the Contractor that it employs apprentices in such craft or trade in the State of California on all of its contracts on an annual average of not less than one apprentice to each five journeymen, the Division of Apprenticeship Standards may grant a certificate exempting the Contractor from the 1-to-5 ratio as set forth in this Article and California Labor Code §1777.5. This Article shall not apply to contracts of general contractors, or to contracts of specialty contractors not bidding for work through a general or prime contractor,

involving less than Thirty Thousand Dollars (\$30,000.00) or twenty (20) working days. The term "Apprenticeable Craft or Trade," as used herein shall mean a craft or trade determined as an Apprenticeable occupation in accordance with rules and regulations prescribed by the Apprenticeship Council.

7.1.4.4 Exemption From Ratios. The Joint Apprenticeship Committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the Contractor from the 1-to-5 ratio set forth in this Article when it finds that any one of the following conditions are met: (i) unemployment for the previous three-month period in such area exceeds an average of fifteen percent (15%) or; (ii) the number of apprentices in training in such area exceeds a ratio of 1-to-5 in relation to journeymen, or; (iii) the Apprenticeable Craft or Trade is replacing at least one-thirtieth (1/30) of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis, or; (iv) if assignment of an apprentice to any Work performed under the Contract Documents would create a condition which would jeopardize such apprentice's life or the life, safety or property of fellow employees or the public at large, or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman. When such exemptions from the 1-to-5 ratio between apprentices and journeymen are granted to an organization which represents contractors in a specific trade on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local Joint Apprenticeship Committees, provided they are already covered by the local apprenticeship standards.

7.1.4.5 Contributions to Trust Funds. The Contractor or any Subcontractor, of any tier, who, performs any of the Work by employment of journeymen or apprentices in any Apprenticeable Craft or Trade and who is not contributing to a fund or funds to administer and conduct the apprenticeship program in any such craft or trade in the area of the site of the Work, to which fund or funds other contractors in the area of the site of the Work are contributing, shall contribute to the fund or funds in each craft or trade in which it employs journeymen or apprentices in the same amount or upon the same basis and in the same manner as the other contractors do, but where the trust fund administrators are unable to accept such funds, contractors not signatory to the trust agreement shall, using California Apprenticeship Council Training Fund Contributions Form CAC-2, pay a like amount to the California Apprenticeship Council. The Division of Labor Standards Enforcement is authorized to enforce the payment of such contributions to such fund(s) as set forth in California Labor Code §227. Such contributions shall not result in an increase in the Contract Price.

7.1.4.6 Contractor's Compliance. The responsibility of compliance with this Article for all Apprenticeable Trades or Crafts is solely and exclusively that of the Contractor. All decisions of the Joint Apprenticeship Committee(s) under this Article are subject to the provisions of California Labor Code §3081. If the Contractor willfully fails to comply with the provisions of this Article and California Labor Code §1777.5, pursuant to California Labor Code §1777.7, the Contractor shall: (i)

be denied the right to bid on any public works contract for a period of one (1) year from the date the determination of non-compliance is made by the Administrator of Apprenticeship; and (ii) forfeit, as a civil penalty, Fifty Dollars (\$50.00) for each calendar day of noncompliance. Notwithstanding the provisions of California Labor Code §1727, upon receipt of such determination, the District shall withhold such amount from the Contract Price then due or to become due. Any such determination shall be issued after a full investigation, a fair and impartial hearing, and reasonable notice thereof in accordance with reasonable rules and procedures prescribed by the California Apprenticeship Council. Any funds withheld by the District pursuant to this Article shall be deposited in the General Fund or other similar fund of the District. The interpretation and enforcement of California Labor Code §§1777.5 and 1777.7 shall be in accordance with the rules and procedures of the California Apprenticeship Council.

7.1.5 DIR Registration.

7.1.5.1 Contractor and Subcontractor Compliance. Strict compliance with DIR Registration requirements pursuant to Labor Code §1725.5 is a material obligation of the Contractor hereunder. The foregoing includes without limitation, compliance with DIR Registration requirements at all times during performance of the Work by the Contractor and all Subcontractors of any tier. No portion of the Work is permitted to be performed by a Subcontractor of any tier unless the Subcontractor is a DIR Registered contractor. The failure of the Contractor and all Subcontractors of every tier to be DIR Registered at all times during performance of the Work is the Contractor's default of a material obligation of the Contractor under the Contract Documents.

7.1.5.2 Contractor Obligation to Verify Subcontractor DIR Registration Status. An affirmative and on-going obligation of the Contractor under the Contract Documents is the Contractor's verification that all Subcontractors, of all tiers, are at all times during performance of the Work in full and strict compliance with DIR Registration requirements. The Contractor shall not permit or allow any Subcontractor of any tier to perform any Work without the Contractor's verification that all such Subcontractors are in full and strict compliance with DIR Registration requirements.

7.1.5.3 Contractor Obligation to Request Substitution of Non-DIR Registered Subcontractor. If any Subcontractor identified in the Contractor's Subcontractors List submitted with the Contractor's proposal for the Work is not DIR Registered at the time of opening of proposals for the Work or if a Subcontractor's DIR Registration lapses prior to or during a Subcontractor's performance of Work, the Contractor shall request the District's consent to substitute the non-DIR Registered Subcontractor pursuant to Labor Code §1771.1(c)(3) and/or Labor Code §1771.1(d).

7.1.6 Employment of Independent Contractors. Pursuant to California Labor Code §1021.5, Contractor shall not willingly and knowingly enter into any agreement with any person, as an independent contractor, to provide any services in

connection with the Work where the services provided or to be provided requires that such person hold a valid contractors' license issued pursuant to California Business and Professions Code §§7000 et seq. and such person does not meet the burden of proof of his/her independent contractor status pursuant to California Labor Code §2750.5. If the Contractor employs any person in violation of the foregoing, Contractor shall be subject to the civil penalties under California Labor Code §1021.5 and any other penalty provided by law. In addition to the penalties provided under California Labor Code §1021.5, Contractor's violation of this Article 7.1.5 or the provisions of California Labor Code §1021.5 shall be deemed an event of Contractor's default under Article 15.1 of these General Conditions. The Contractor shall require any Subcontractor or Sub-Subcontractor performing or providing any portion of the Work to adhere to and comply with the foregoing provisions.

7.2 Assignment of Antitrust Claims. Pursuant to California Government Code §4551, the Contractor and its Subcontractor(s), of any tier, hereby offers and agrees to assign to the District all rights, title and interest in and to all causes of action they may have under Section 4 of the Clayton Act, (15 U.S.C. §15) or under the Cartwright Act (California Business and Professions Code §§16700 et seq.), arising from purchases of goods, services or materials hereunder or any Subcontract. This assignment shall be made and become effective at the time the District tenders Final Payment to the Contractor, without further acknowledgment by the parties. If the District receives, either through judgment or settlement, a monetary recovery in connection with a cause of action assigned under California Government Code §§4550 et seq., the assignor thereof shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the District any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the District as part of the Contract Price, less the expenses incurred by the District in obtaining that portion of the recovery. Upon demand in writing by the assignor, the District shall, within one year from such demand, reassign the cause of action assigned pursuant to this Article if the assignor has been or may have been injured by the violation of law for which the cause of action arose: and (i) the District has not been injured thereby; or (ii) the District declines to file a court action for the cause of action.

8. Subcontractors. The Work of each Subcontractor shall be set forth in a written Subcontract agreement incorporating by reference this Contract; Subcontracts shall be made available to the District for review upon request of the District. The Contractor is responsible to the District for the acts, omissions and other conduct of Subcontractors. Each Subcontractor shall maintain Workers Compensation/Employers Liability Insurance and Commercial General Liability Insurance as required by the Contract for Labor and Materials.

9. Non-Discrimination. The Contractor and its Subcontractors shall not discriminate against any active or prospective employee based upon race, color, ancestry, national origin, religion, sex, age, sexual preference or marital status. The Contractor and its Subcontractors shall comply with all applicable laws, ordinances, rules and regulations prohibiting workplace discrimination and/or discriminatory employment practices.

10. District Right to Takeover Work.

10.1 Progress of Work. If the Contractor fails or refuses, for any reason and at any time, to provide sufficient materials, labor, equipment, tools and services to maintain progress of the Work in accordance with the then current Construction Schedule, the District may

correct such failure(s), after seventy-two (72) hour advance written notice of same from the District to the Contractor. Upon such notice, District may, in its sole discretion, takeover the Work and thereafter diligently continue to completion or, in the alternative, supplement Contractor's materials, labor, equipment, tools and services to maintain progress of the Work in accordance with the then current Construction Schedule.

10.2 District's Right to Withhold. All costs, expenses or other charges incurred by the District in connection with completing or supplementing the Work under this Article 10.2 shall be at the sole cost of the Contractor. District shall be entitled to deduct from the Contract Price then or thereafter due Contractor, all such costs, expenses, and charges, including costs for any additional services the District's representatives and consultants made necessary thereby. If the Contract Price then or thereafter due the Contractor are insufficient to cover such amounts, Contractor shall pay the additional sum to the District promptly upon demand therefore. The assessment and/or withholding of the amount of such costs, expenses, and/or other charges shall be in addition to, and not in lieu of, any liquidated damages assessed and/or withheld from Contractor under Article 10.2 hereof. If the District takes action pursuant to the preceding sentence, the Contractor shall be solely responsible for all fees, costs or expenses incurred by the District.

10.3 Non-exclusive Remedy. The District's exercise of rights pursuant to the foregoing shall not be deemed a waiver or limitation of any other right or remedy of the District under the Contract Documents.

11. Payment of the Contract Price. The District will make payment of the Contract Price upon completion of the Work, the Contractor's full performance of all other obligations under this Contract and the Contractor's submission of a properly itemized invoice. Upon receipt of the Contractor's invoice, the District Representative will promptly verify that the Work has been completed and that the Contractor has performed all other obligations hereunder. Within thirty (30) days of the District Representative's confirmation of the completion of Work and the Contractor's performance of other obligations hereunder, the District will make payment of the Contract Price. If the Contract Time is a duration of sixty (60) days or more, the Contractor may submit invoices on a monthly basis for the value of Work completed in the prior month, whereupon the District Representative will promptly verify that the Work has been completed as indicated in the Contractor's invoice. Within thirty (30) days of the date of such verification, the District will make payment equal to ninety-five percent (95%) of the value of the Work completed. Within sixty (60) days of completion of all Work and all other of the Contractor's obligations hereunder, amounts previously retained from prior invoices will be released to the Contractor. The District may, in its sole discretion, condition payment of the Contract Price, or any portion thereof, upon: (a) the Contractor's preparation of a Schedule of Values for review and acceptance by the District's Representative; (b) the submittal of executed Waivers and Releases (on Progress Payment or Final Payment, as applicable) for the Contractor and all Subcontractors receiving any portion of the Contract Price; (c) delivery of Certified Payroll records of the Contractor and Subcontractors; and (d) submission to District of the executed Verification of Certified Payroll Record Submission to Labor Commissioner (Exhibit 2). The District may withhold payment of the Contract Price if: (a) there are claims or the probability of claims being submitted by Subcontractor, Material Suppliers or others in connection with the Work; (b) defective or non-conforming Work which is not remedied; or (c) there are any uncured Contractor defaults.

11.1 District's Right to Disburse Progress Payments by Joint Checks. Provided that the District is in receipt of the applicable Subcontract or Purchase Order, the District, may in its sole discretion, issue joint checks to the Contractor and such Subcontractor or Material

Supplier in satisfaction of its obligation to make Progress Payments or the Final Payment due hereunder.

11.2 No Waiver of Defective or Non-Conforming Work. The approval of any Application for Progress Payment or the disbursement of any Progress Payment to the Contractor shall not be deemed nor constitute acceptance of defective Work or Work not in conformity with the Contract Documents.

11.3 Progress Payments for Changed Work. The Contractor’s Applications for Progress Payment may include requests for payment on account of Changes in the Work which have been properly authorized and approved by the Project Inspector, the Architect and all other governmental agencies with jurisdiction over such Change in accordance with the terms of the Contract Documents and for which a Change Order has been issued. Except as provided for herein, no other payment shall be made by the District for Changes in the Work.

12. Insurance. The Contractor and its Subcontractors shall, at all times during the Work, maintain Workers Compensation, Employers Liability, and Commercial General Liability Insurance in the minimum coverage amounts set forth in the Contract. The Contractor’s Commercial General Liability Insurance shall name the District as an Additional Insured. The Contractor shall maintain a policy of Builders Risk Insurance covering the full insurable value of the Work; if noted as a requirement in the Contract, the Builder’s Risk Insurance shall include seismic coverage. All policies of insurance shall include provisions that the policy of insurance will not be materially modified, cancelled or allowed to expire without at least thirty (30) days advance notice to the District. Prior to commencing the Work, the Contractor shall deliver Certificates of Insurance of itself and its Subcontractors evidencing the required insurance coverages. No Work at the Site by the Contractor or any Subcontractor will be permitted unless the Contractor and Subcontractor, as applicable has/have submitted Certificates of Insurance evidencing the required insurance policies hereunder to the District Representative.

12.1 Insurance Requirements for Contractors. Pursuant to Article 6 of the General Conditions, the Contractor shall obtain and maintain the following insurance coverage with the following minimum coverage amounts:

Workers Compensation Insurance	In accordance with applicable law
Employers Liability Insurance	\$1,000,000.00
Commercial General Liability Insurance (including coverage for bodily injury, death, property damage and motor vehicle liability)	
Per Occurrence	\$1,000,000.00
Aggregate	\$2,000,000.00

12.2 Builders Risk Insurance. In accordance with Article 6.3 of the General Conditions, coverage shall be provided for the full insurable value of the Work. Coverage for the perils of earthquakes **is not** to be included within the scope of coverage under the Builders Risk Insurance Policy.

12.3 Subcontractor’s Insurance. In accordance with Article 6.5 of the General Conditions, each Subcontractor shall obtain and maintain the following insurance coverages in the following minimum coverage amounts:

Workers Compensation Insurance	In accordance with applicable law
Employers Liability Insurance	\$1,000,000.00
Commercial General Liability Insurance	

(including coverage for bodily injury, death, property damage and motor vehicle liability)

Per Occurrence	\$1,000,000.00
Aggregate	\$2,000,000.00

- 13. Indemnification.** Unless arising solely out of the active negligence or willful misconduct of the District, the Contractor shall indemnify, defend and hold harmless the District, the District’s Board of Education and all members thereof and the District’s employees, officers, agents and representatives from all claims, demands and liabilities, including without limitation, attorneys fees, which arise out of or related in any manner to this Contract or the Work. The Contractor’s obligations hereunder include without limitation: (a) injury to, or death of, persons; (b) damage to property; (c) theft or loss of property; (d) Stop Notice claims; and (e) other losses, damages or costs arising out of, in whole or in part, of the acts, omissions or other conduct of the Contractor or Subcontractors. The Contractor’s obligations hereunder shall survive termination of the Contract and/or completion of the Work, and are deemed incorporated into and made a part of the obligations of the Surety issuing the Performance Bond.
- 14. DSA Construction Oversight.** All of the Work is subject to DSA Construction Oversight processes and procedures; a material obligation of the Contractor hereunder is the Contractor’s compliance with the processes and procedures established by DSA for the Work. As applicable, the foregoing shall include without limitation, the processes and procedures established under DSA PR 13-01 in effect at the time of performing the Work hereunder. The foregoing shall include:
- 14.1 DSA Approved Documents.** The Contractor shall carefully study the DSA approved documents and shall plan a schedule of operations well ahead of time.
 - 14.2 Correction of Non-Conforming Work.** If at any time it is discovered that Work is not in accordance with the DSA approved construction documents, the Contractor shall correct the Work immediately.
 - 14.3 Verification of DSA 152 Forms.** The Contractor shall verify that DSA 152 forms were issued for prior to the commencement of construction.
 - 14.4 Test/Inspection Communications.** The Contractor shall meet with the Architect, Construction Manager, the Laboratory of Record retained by the District for special tests/inspections and the Project Inspector to mutually communicate and understand the testing and inspection program, and the methods of communication appropriate for the Work.
 - 14.5 DSA Form 156 Notifications to Project Inspector.** The Contractor shall notify the Project Inspector, in writing, of the commencement of construction of each and every aspect of the Work at least 48 hours in advance by submitting Commencement/Completion of Work Notification (form DSA 156), or other agreed upon written documents, to the Project Inspector. The Contractor shall notify the Project Inspector of the completion of construction of each and every aspect of the Work by submitting form DSA 156 (or other agreed upon written documents) to the Project Inspector.
 - 14.6 Limitations on Contractor Work.** Until the Project Inspector has signed off applicable blocks and sections of the form DSA 152, the Contractor may be prohibited from proceeding with subsequent construction activities that cover up the unapproved Work. Any subsequent construction activities, that cover up the unapproved Work, will be subject to a “Stop Work Order” from DSA or the District, and are subject to removal and remediation if found to be in non-compliance with the DSA approved construction documents.
 - 14.7 Final Verified Report.** The Contractor shall submit the final Contractor Verified Report. (form DSA 6-C) to DSA and the Project Inspector. The DSA 6-C reports are required to

be submitted by the Contractor upon occurrence of any of the following events: (i) the Work is substantially complete (DSA considers the Work to be complete when the construction is sufficiently complete in accordance with the DSA approved construction documents so that the owner can occupy or utilize the Work); (ii) Work is suspended for a period of more than one (1) month; (iii) services of the Contractor are terminated for any reason prior to the completion of the Work; or (iv) DSA requests a verified report.

15. The Project Inspector.

15.1 Authority of Project Inspector. In addition to the authority and rights of the Project Inspector as provided for elsewhere in the Contract Documents and/or the Laws, all of the Work shall be performed under the observation of the Project Inspector. The foregoing notwithstanding, the Contractor shall not perform any Work deviating from the Contract Documents solely on the basis of direction by the Project Inspector; such deviations shall be deemed defective or non-conforming Work subject to correction or replacement at the sole cost of the Contractor and without adjustment of the Contract Time. The performance of the duties of the Project Inspector shall not relieve or limit the Contractor's performance of its obligations under the Contract Documents.

15.1.1 Limitations on Project Inspector. The Project Inspector does not have authority to interpret the Contract Documents or to modify the Work depicted in the Contract Documents. The Project Inspector has no authority relative to the content or scope of the Contractor's safety plan/program. The Contractor shall not perform any Work deviating from the Contract Documents solely on the basis of direction by the Project Inspector; such deviations shall be deemed Defective or Non-Conforming Work subject to correction or replacement at the sole cost of the Contractor and without adjustment of the Contract Time.

15.1.2 Contractor Access for Project Inspector. The Contractor shall provide the Project Inspector with access to all parts of the Work at any time, wherever located and whether partially or completely fabricated, manufactured, furnished or installed.

15.1.3 Contractor and District Responsibilities for Costs and Fees of Project Inspector. The District is responsible only for payment of the fees of the Project Inspector for standard eight (8) hour work day Mondays through Fridays, excepting holiday days ("Project Inspector Standard Workdays"). All services provided by the Project Inspector exceeding an eight (8) hour workday Mondays through Fridays and/or the first eight (8) hours on Saturday shall be at 1½ times the Project Inspector's basic hourly rate. All hours of service provided by the Project Inspector in excess of eight (8) hours on Saturdays, and all hours of service provided by the Project Inspector on holiday days or on Sundays are at two (2) times the Project Inspector's basic hourly rate. Fees for services provided by the Project Inspector beyond the Project Inspector Standard Workdays set forth above are the sole responsibility of the Contractor; the District may deduct fees for the Project Inspector which exceeds the Project Inspector Standard Workdays from the Contract Price.

16. Uncovering and Correction of Work

16.1 Uncovering of Work. If any portion of the Work is covered contrary to the request of the Architect, the Project Inspector or the requirements of the Contract Documents, it must, if required by the Architect or the Project Inspector, be uncovered for observation by the Architect and the Project Inspector and be replaced at the Contractor's expense without adjustment of the Contract Time or the Contract Price.

16.2 Rejection of Work. Prior to the District's Final Acceptance of the Work, any Work or materials or equipment forming a part of the Work or incorporated into the Work which is defective or not in conformity with the Contract Documents may be rejected by the District,

the Project Manager the Architect or the Project Inspector. The Contractor shall correct such rejected Work without any adjustment to the Contract Price or the Contract Time, even if the Work, materials or equipment have been previously inspected by the Architect or the Project Inspector or even if they failed to observe the defective or non-conforming Work, materials or equipment.

- 16.3 Correction of Work.** The Contractor shall promptly correct any portion of the Work rejected by the District, the Project Manager, the Architect or the Project Inspector for failing to conform to the requirements of the Contract Documents, or which is determined by them to be defective, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected Work, including additional testing and inspections and compensation for the services and expenses of the District, the Project Manager, the Architect, or the Project Inspector made necessary thereby. The Contractor shall bear all costs of correcting destroyed or damaged construction, whether completed or partially completed, of the District or separate contractors, caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents, or which is defective.
- 16.4 Removal of Non-Conforming or Defective Work.** The Contractor shall immediately, at its sole cost and expense, remove from the Site all portions of the Work which are defective or are not in accordance with the requirements of the Contract Documents which are neither corrected by the Contractor nor accepted by the District; failure of the Contractor to comply with this Article 16.4 may be deemed by the District to be a default of a material obligation of the Contractor under the Contract Documents.
- 16.5 Failure of Contractor to Correct Work.** If the Contractor fails to commence to correct defective or non-conforming Work within 3 days of notice of such condition and promptly thereafter complete the same within a reasonable time, the District may correct it in accordance with the Contract Documents. If the Contractor does not proceed with correction of such defective or non-conforming Work within the time fixed herein, the District may remove it and store the salvable materials or equipment at the Contractor's expense. If the Contractor does not pay costs of such removal and storage after written notice, the District may sell such materials or equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including without limitation compensation for the Architect's services, attorneys fees and other expenses made necessary thereby. If such proceeds of sale do not cover the costs which the Contractor should have borne, the Contract Price shall be reduced by the deficiency. If payments of the Contract Price then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor and the Surety shall promptly pay the difference to the District.
- 16.6 Acceptance of Defective or Non-Conforming Work.** The District may, in its sole and exclusive discretion, elect to accept Work which is defective or which is not in accordance with the requirements of the Contract Documents, instead of requiring its removal and correction, in which case the Contract Price shall be reduced as appropriate and equitable.
- 16.7 Safety.**
- 16.7.1 Safety Programs.** Notwithstanding any action by the District, the Construction Manager, the Project Inspector or the Architect, the Contractor shall be solely responsible for initiating, maintaining and supervising all safety programs required by the Laws or governmental orders in connection with the performance of the Contract, or otherwise required by the type or nature of the Work. The Contractor's safety program shall include all actions and programs necessary for compliance with California or federally statutorily mandated workplace safety programs including, without limitation, compliance with the California Drug Free

Workplace Act of 1990 (California Government Code §§8350 et seq.). Without limiting or relieving the Contractor of its obligations hereunder, the Contractor shall require that its Subcontractors similarly initiate and maintain all appropriate or required safety programs. Prior to commencement of Work at the Site, the Contractor shall provide the Construction Manager and the District with the Contractor's proposed safety program for the Work for the Construction Manager's review and acceptance and the District's records. Without adjustment of the Contract Price or the Contract Time, the Contractor shall modify and resubmit its proposed safety plan to incorporate modifications thereto requested by the Construction Manager. If the District retains a Construction Manager for the Work, the Construction Manager is authorized to enforce the Contractor's obligation to implement the safety program.

- 16.7.2 Safety Precautions.** The Contractor shall be solely responsible for initiating and maintaining reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to: (i) employees on the Work and other persons who may be affected thereby; (ii) the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and (iii) other property or items at the site of the Work, or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction. The Contractor shall take adequate precautions and measures to protect existing roads, sidewalks, curbs, pavement, utilities, adjoining property and improvements thereon (including without limitation, protection from settlement or loss of lateral support) and to avoid damage thereto. Without adjustment of the Contract Price or the Contract Time, the Contractor shall repair, replace or restore any damage or destruction of the foregoing items as a result of performance or installation of the Work.
- 16.7.3 Safety Signs, Barricades.** The Contractor shall erect and maintain, as required by existing conditions and conditions resulting from performance of the Contract, reasonable safeguards for safety and protection of property and persons, including, without limitation, posting danger signs and other warnings against hazards, promulgating safety regulations and notifying Districts and users of adjacent sites and utilities.
- 16.7.4 Safety Notices.** The Contractor shall give or post all notices required by applicable law and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.
- 16.7.5 Safety Coordinator.** The Contractor shall designate a responsible member of the Contractor's organization at the Site whose duty shall be the prevention of accidents and the implementation and maintenance safety precautions and programs. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Project Inspector and the Architect.
- 16.7.6 Emergencies; First Aid.** In an emergency affecting safety of persons or property, the Contractor shall act, to prevent threatened damage, injury or loss. The Contractor shall maintain stocked emergency first aid kits at the Site which comply with applicable Laws.
- 16.7.7 Hazardous Materials.**
- 16.7.7.1 General.** In the event that the Contractor, any Subcontractor or anyone employed directly or indirectly by them shall use, at the Site, or incorporate into the Work, any material or substance deemed to be hazardous or toxic under any law, rule, ordinance, regulation or interpretation thereof (collectively "Hazardous

Materials”), the Contractor shall comply with all Laws applicable thereto and shall exercise all necessary safety precautions relating to the use, storage or disposal thereof.

16.7.7.2 Prohibition on Use of Asbestos Construction Building Materials (“ACBMs”). Notwithstanding any provision of the Drawings or the Specifications to the contrary, it is the intent of the District that ACBMs not be used or incorporated into any portion of the Work. In the event that any portion of the Work depicted in the Drawings or the Specifications shall require materials or products which the Contractor knows, or should have known with reasonably diligent investigation, to contain ACBMs, Contractor shall promptly notify the Architect and the Project Inspector of the same so that an appropriate alternative can be made in a timely manner so as not to delay the progress of the Work. Contractor warrants to the District that there are no materials or products used or incorporated into the Work which contain ACBMs. Whether before or after completion of the Work, if it is discovered that any product or material forming a part of the Work or incorporated into the Work contains ACBMs, the Contractor shall at its sole cost and expense remove such product or material in accordance with any laws, rules, procedures and regulations applicable to the handling, removal and disposal of ACBMs and to replace such product or material with non-ACBM products or materials and to return the affected portion(s) of the Work to the finish condition depicted in the Drawings and Specifications relating to such portion(s) of the Work. Contractor’s obligations under the preceding sentence shall survive the termination of the Contract, the warranty period provided under the Contract Documents, the Contractor’s completion of the Work or the District’s acceptance of the Work. In the event that the Contractor shall fail or refuse, for any reason, to commence the removal and replacement of any material or product containing ACBMs forming a part of, or incorporated into the Work, within ten (10) days of the date of the District’s written notice to the Contractor of the existence of ACBM materials or products in the Work, the District may thereafter proceed to cause the removal and replacement of such materials or products in any manner which the District determines to be reasonably necessary and appropriate; all costs, expenses and fees, including without limitation fees and costs of consultants and attorneys, incurred by the District in connection with such removal and replacement shall be the responsibility of the Contractor and the Contractor’s Performance Bond Surety.

16.7.7.3 Disposal of Hazardous Materials. Contractor shall be solely and exclusively responsible for the disposal of any Hazardous Materials on or about Site resulting from the Contractor’s performance of Work and other activities. The Contractor’s obligations hereunder shall include without limitation, the transportation and disposal of any Hazardous Materials in strict conformity with any and all applicable laws, regulations, orders, procedures or ordinances.

17. District Right to Terminate. The Contractor’s failure to comply with any term or condition of the Contract Documents shall constitute default of the Contractor; in such event, the District may

terminate the Contract upon seven (7) days written notice to the Contractor. Unless the Contractor shall have commenced, and diligently thereafter prosecute to completion, all required actions to cure such default(s), this Contract shall be deemed terminated without further action of the District; such termination shall be effective the seventh (7th) day after the date of the District's written notice. If the District terminates the Contract for default of the Contractor, the Contractor and the Performance Bond Surety shall be liable to the District for all losses, costs and damages arising out of the Contractor's default and costs to complete the Work which exceeds the remaining Contract Price at the time of termination. In addition to the preceding, the District may terminate this Contract at any time for the convenience of the District upon seven (7) days written notice to the Contractor, in which case, the payment of the Contract Price shall be limited to the value of the Work in place or in progress at the time of the termination for the District's convenience.

- 18. Warranty.** If within one (1) year, or such other period set forth in the Contract Documents, any of the Work or workmanship is found defective or not in compliance with the Contract Documents, the Contractor shall upon the District's demand, promptly take all measures necessary to correct, repair or replace such Work or workmanship. If the Contractor fails to do so, the District may take necessary action to correct, replace or repair such Work or workmanship at the cost and expense of the Contractor. The surety issuing the Performance Bond shall be liable to the District for correction, repair or replacement of defective/non-conforming Work if the Contractor fails or refuses to perform in accordance with the preceding.
- 19. Tests/Inspections of the Work.** The Work shall be subject to tests/inspections as required by the Contract Documents. The Contractor shall be liable excessive costs of tests/inspections which result from the Work not being ready for tests/inspections or the failure of the Work to comply with the applicable test/inspection standards. If the Work is subject to the jurisdiction of the Office of Statewide Health Planning and Development ("OSHPD"), all of the Work shall be subject to inspection/observation by the Project Inspector retained by the District under OSHPD regulations. The Project Inspector shall have access at all times to the Work, whether in place or in progress; the Contractor shall provide such access without adjustment of the Contract Price or the Contract Time.
- 20. Dispute Resolution.**
- 20.1 Disputes; Continuation of Work.** Notwithstanding any claim, dispute or other disagreement between the District and the Contractor regarding performance under the Contract Documents, the scope of Work thereunder, or any other matter arising out of or related to, in any manner, the Contract Documents, the Contractor shall proceed diligently with performance of the Work in accordance with the District's written direction, pending any final determination or decision regarding any such claim, dispute or disagreement.
- 20.2 Dispute Resolution; Arbitration.**
- 20.2.1 Claims Under \$375,000.00.** Claims between the District and the Contractor of \$375,000.00 or less shall be resolved in accordance with the procedures established in Part 3, Chapter 1, Article 1.5 of the California Public Contract Code, §§20104 et seq.; provided however that California Public Contract Code §20104.2(a) shall not supersede the requirements of the Contract Documents with respect to the Contractor's notification to the District of such claim or extend the time for the giving of such notice as provided in the Contract Documents. The term "claims" as used herein shall be as defined in California Public Contract Code §20104(b)(2).
- 20.2.2 JAMS Arbitration.** Except as provided in Article 20.2.1, any other claims, disputes, disagreements or other matters in controversy between the District and

the Contractor arising out of, or related, in any manner, to the Contract Documents, or the interpretation, clarification or enforcement thereof shall be resolved by binding arbitration conducted before a retired judge in accordance with the arbitration rules of Judicial Arbitration Mediation Services (“JAMS”) in effect as of the date that a Demand for Arbitration is filed, except as expressly modified herein. The locale for any arbitration commenced hereunder shall be the regional office of the JAMS closest to the Site. The award rendered by the Arbitrator(s) shall be final and binding upon the District and the Contractor only if the arbitration award: (i) is supported by substantial evidence; (ii) is based on applicable legal standards in effect at the time the arbitration award is issued; and (iii) includes written findings of fact and conclusions of law in conformity with California Code of Civil Procedure §1296. In connection with any arbitration proceeding commenced hereunder, the discovery rights and procedures provided for in California Code of Civil Procedure §1283.05 shall be applicable, and the same shall be deemed incorporated herein by this reference.

- 20.2.3 Demand for Arbitration.** A Demand for Arbitration shall be filed and served within a reasonable time after the occurrence of the claim, dispute or other disagreement giving rise to the Demand for Arbitration, but in no event shall a Demand for Arbitration be filed or served after the date when the institution of legal or equitable proceedings based upon such claim, dispute or other disagreement would be barred by the applicable statute of limitations. If either the District or the Contractor assert that the other filed a Demand for Arbitration after expiration of the applicable statute of limitations, no arbitration proceeding shall be commenced until an action is filed in the Riverside County Superior Court seeking an adjudication of whether or not matters raised in the Demand for Arbitration are barred by the applicable statute of limitations and a judgment or an order in such action is rendered by the Riverside County Superior Court.
- 20.2.4 Consolidation of Multiple Demands for Arbitration.** In the event more than one Demand for Arbitration is made by either the District or the Contractor, all such controversies shall be consolidated into a single arbitration proceeding, unless otherwise agreed to by the District and the Contractor.
- 20.2.5 Third Parties.** The Contractor’s Surety, a Subcontractor or Material Supplier to the Contractor and other third parties may be permitted to join in and be bound by an arbitration commenced hereunder if required by the terms of their respective agreements with the Contractor, except to the extent that such joinder would unduly delay or complicate the expeditious resolution of the claim, dispute or other disagreement between the District and the Contractor, in which case an appropriate severance order shall be issued by the arbitrator.
- 20.2.6 Discovery.** In connection with any arbitration proceeding commenced hereunder, the discovery rights and procedures provided for in California Code of Civil Procedure §1283.05 shall be applicable, and the same shall be deemed incorporated herein by this reference.
- 20.2.7 Arbitrator’s Award.** Notwithstanding Rule 24 of JAMS Comprehensive Arbitration Rules and Procedures, in accordance with California Code of Civil Procedure §1296, in any arbitration commenced hereunder, the arbitrator’s award shall be supported by law and substantial evidence; the District and Contractor hereby expressly agree that a court shall, subject to California Code of Civil Procedure §1286.4, vacate the arbitrator’s award if after review of the arbitrator’s award it determines either that the arbitrator’s award is not supported by substantial evidence or that it is based on an error of law. Any arbitration award that does not include written findings of fact and conclusions of law in conformity with California Code of Civil Procedure §1296 shall be invalid and unenforceable. Subject to the foregoing provisions, the arbitrator’s award shall

be final, binding and conclusive upon the District and the Contractor.

- 20.2.8 Costs.** The expenses and fees of the arbitration and the arbitrator shall be divided equally among the parties to the arbitration. Each party to any arbitration commenced hereunder shall be responsible for and shall bear its own attorneys' fees, witness fees and other cost and expense incurred in connection with such arbitration. The foregoing notwithstanding, the arbitrator may award arbitration costs, consisting of arbitration expenses and the arbitrator's fees but excluding attorneys' fees, to the prevailing party.
- 20.2.9 Confirmation of Arbitration Award.** The confirmation, enforcement, vacation or correction of an arbitration award rendered hereunder shall be the Riverside County Superior Court. The substantive and procedural rules for such post-award proceedings shall be as set forth in California Code of Civil Procedure §1285 et seq.
- 20.2.10 Limitation on Damages.** In the event of the District's breach or default of its obligations under the Contract Documents, the damages, if any, recoverable by the Contractor shall be limited to general damages which are proximately and directly caused by the breach or default of the District and shall exclude any and all special or consequential damages, if any. By executing the Agreement, the Contractor expressly acknowledges the foregoing limitation to recovery of only general damages from the District if the District is in breach or default of its obligations under the Contract Documents; the Contractor expressly waives and relinquishes any recovery of special or consequential damages from the District including, without limitation, damages for: (i) lost or impaired bonding capacity; and/or, (ii) lost profits arising out of or in connection with any past, present, or future work of improvement, except for the Project which is the subject of the Contract Documents.
- 20.2.11 Inapplicability to Bid Bond.** The provisions of this Article 20.2.3 shall not be applicable to disputes, disagreements or enforcement of rights or obligations under the Bid Bond; all claims, disputes and actions to enforce rights or obligations under the Bid Bond shall be adjudicated only by judicial proceedings commenced in a court of competent jurisdiction.
- 20.2.12 Government Code Claims.** All claims, demands, disputes, disagreements or other matters in controversy asserted by the Contractor against the District in a demand for arbitration filed pursuant to Article 20.2.3 or asserted by the Contractor against the District in any arbitration proceeding commenced pursuant to Article 20.2.3 above, shall be deemed a "suit for money or damages" under Government Code §900 et seq. An express condition precedent to the Contractor's commencement of any legal action, including arbitration proceedings under Article 20.2.3, is the Contractor's compliance with and exhaustion of remedies and procedures under Government Code §900 et seq, including without limitation, §§945.4, 945.6 and 946. Notwithstanding the dispute resolution and arbitration provisions set forth in Article 20.2 herein, all claims demands, disputes, disagreements or other matters in controversy asserted by the Contractor against the District seeking money or damages in any sum shall first be presented to the District's Board of Education and acted upon or deemed rejected by the Board of Education in accordance with Government Code §900 et seq.

21. Miscellaneous

- 21.1 Identification Badges.** Identification badges are required for Site access. Personnel providing or performing any Work at the Site will be permitted access to the Site only if District-issued identification badges are worn
- 21.2 Fingerprinting.** The Contractor shall have the job superintendent and all employees, consultants, subcontractors of all tiers, and regular delivery persons who may be working on or frequenting the site at any time fingerprinted.
- 21.3 Successors.** This Contract shall be binding upon and inure to the benefit of the respective successors-in-interest of the District and the Contractor. The foregoing notwithstanding, the Contractor shall not assign this Contract, any right or obligation hereunder or any portion thereof.
- 21.4 Cumulative Rights and Remedies; No Waiver.** Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not in lieu of or otherwise a limitation or restriction of duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the District shall constitute a waiver of a right or remedy afforded it under the Contract Documents or the Laws nor shall such an action or failure to act constitute approval of or acquiescence in a breach hereunder, except as may be specifically agreed in writing.
- 21.5 Permits; Approvals.** Unless otherwise expressly provided in the Contract Documents, the Contractor shall obtain and pay for all fees, permits or approvals necessary to complete the Work.
- 21.6 Project Manager.** The **Project Manager is Chris Ferraro, Director of Maintenance and Operations** for the Rowland Unified School District.
- 21.7 District Provided Temporary Utilities.** During the Contractor's performance of the Work, the District will provide utility services and a point of connection for electrical power, data, telephone and domestic potable water utility services. The connection and placement, relocation and removal of temporary distributions of the electrical power and domestic potable water utility service provided by the District will be by the Contractor at its cost and expense without adjustment of the Contract Price. The Contractor may use the temporary electrical power and domestic potable water service furnished by the District provided that: (i) the District may discontinue, limit or condition use of such services by a Contractor if the District reasonably determines that the Contractor has wasted such utilities, and (ii) the District shall not be liable to the Contractor, nor shall the Contract Time or the Contract Price be increased if any District provided temporary utility service is discontinued or disrupted for any reason other than the District's non-payment of undisputed utility charges. Notwithstanding any provision of the Contract Documents to the contrary, the Contractor shall not use District provided water supply in connection with any earthwork or grading operations; water supply for earthwork or grading operations shall be obtained by the Contractor, without adjustment of the Contract Time or the Contract Price, from an off-site source or mobile water delivery service. Further, notwithstanding the District's provision of a point of connection for the Contractor's telephone/data service at the Site, the Contractor is solely responsible for the payment of utility service charges therefor.
- 21.8 Site Maintenance.** Contractor shall at all times shall keep Site free from debris such as waste, dust, excess water, storm water runoffs, rubbish, and excess materials and

equipment. Contractor shall not leave debris under, in, or about the premises, but shall promptly remove same from the premises and dispose of same offsite in a lawful manner.

21.9 Days. Unless otherwise stated in the Contract Documents, all references to “days” shall be deemed references to calendar days.

21.10 Severability. If any term, condition or provision of this Contract is deemed invalid, illegal or unenforceable by a Court of competent jurisdiction, such term, condition or provision shall be deemed severed herefrom, but all other terms, conditions and provisions hereof shall remain unaffected and in full force and effect.

21.11 Attorneys’ Fees. Except as expressly provided for in the Contract Documents, or authorized by law, neither the District nor the Contractor shall recover from the other any attorneys’ fees or other costs associated with or arising out of any legal, administrative or other proceedings filed or instituted in connection with or arising out of the Contract Documents or the performance of either the District or the Contractor thereunder.

21.12 Provisions Required by the Laws Deemed Inserted. Each and every provision of law and clause required by the Laws to be inserted in the Contract Documents is deemed to be inserted herein and the Contract Documents shall be read and enforced as though such provision or clause are included herein, and if through mistake, or otherwise, any such provision or clause is not inserted or if not correctly inserted, then upon application of either party, the Contract Documents shall forthwith be physically amended to make such insertion or correction.

21.13 Entire Agreement. The Contract Documents contain the entire agreement and understanding between the District and the Contractor concerning the subject matter hereof, and supersedes and replaces all prior negotiations, proposed agreements or amendments, whether written or oral. No amendment or modification to any provision of the Contract Documents shall be effective or enforceable except by an agreement in writing executed by the District and the Contractor.

[END OF SECTION]

BID BOND

KNOW ALL MEN BY THESE PRESENTS that we, _____, as Surety and _____, as Principal, are jointly and severally, along with their respective heirs, executors, administrators, successors and assigns, held and firmly bound unto **ROWLAND UNIFIED SCHOOL DISTRICT** ("the Obligee") for payment of the penal sum hereof in lawful money of the United States, as more particularly set forth herein.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the Principal has submitted the accompanying Bid Proposal to the Obligee for the Work commonly described as:

"Rowland High School Fence Replacement Project, Bid No. 2019/20: (R23)"

WHEREAS, subject to the terms of this Bond, the Surety and the Principal are jointly and severally firmly bound unto the Obligee in the penal sum equal to Ten Percent (10%) of the maximum amount of the Bid Proposal submitted by the Principal to the Obligee, inclusive of amounts proposed for additive Alternate Bid Items, if any.

NOW THEREFORE, if the Principal shall not withdraw said Bid Proposal within the period specified therein after the opening of the same, or, if no period be specified, for sixty (60) days after opening of said Bid Proposal; and if the Principal is awarded the Contract, and shall within the period specified therefore, or if no period be specified, within five (5) days after the prescribed forms are presented to him for signature, enter into a written contract with the Obligee, in accordance with the Bid Proposal as accepted and give such bond(s) with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such Contract and for the payment for labor and materials used for the performance of the Contract, or in the event of the withdrawal of said Bid Proposal within the period specified for the holding open of the Bid Proposal or the failure of the Principal to enter into such Contract and give such bonds within the time specified, if the Principal shall pay the Obligee the difference between the amount specified in said Bid Proposal and the amount for which the Obligee may procure the required Work and/or supplies, if the latter amount be in excess of the former, together with all costs incurred by the Obligee in again calling for Bids, then the above obligation shall be void and of no effect, otherwise to remain in full force and effect.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or the Call for Bids, the Work to be performed there under, the Drawings or the Specifications accompanying the same, or any other portion of the Contract Documents shall in no way affect its obligations under this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of said Contract, the Call for Bids, the Work, the Drawings or the Specifications, or any other portion of the Contract Documents.

In the event suit or other proceeding is brought upon this Bond by the Obligee, the Surety and Principal shall be jointly and severally liable for payment to the Obligee all costs, expenses and fees

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incurred by the Obligee in connection therewith, including without limitation, attorney's fees.

IN WITNESS WHEREOF, the Principal and Surety have executed this instrument this _____ day of _____, 20____ by their duly authorized agents or representatives.

(Bidder/Principal Name)

By: _____
(Signature)

(Typed or Printed Name)

Title: _____

(Attach Notary Public Acknowledgement of Principal's Signature)

(Surety Name)

By: _____
(Signature of Attorney-In-Fact for Surety)

(Typed or Printed Name of Attorney-In-Fact)

(Attach: (i) Attorney-In-Fact Certification; (ii) Notary Public Acknowledgment of Authorizing Signature on Attorney-Fact Certification; and (iii) Notary Public Acknowledgement of Attorney-In-Fact's Signature.)

Contact name, address, telephone number and email address for notices to the Surety

(Contact Name)

(Street Address)

(City, State & Zip Code)

(_____) _____ (_____) _____
Telephone Fax

(Email address)

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS that we, _____, as Surety and _____, as Principal, are jointly and severally, along with their respective heirs, executors, administrators, successors and assigns, held and firmly bound unto **ROWLAND UNIFIED SCHOOL DISTRICT** ("the Obligee") for payment of the penal sum the penal sum of _____ Dollars (\$ _____) in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the Obligee, by resolution of its Board of Education has awarded to the Principal a Contract for the Work described as

"Rowland High School Fence Replacement Project, Bid No. 2019/20: (R23)"

WHEREAS, the Principal, has entered into an agreement with the Obligee for performance of the Work; the Agreement and all other Contract Documents set forth therein are incorporated herein and made a part hereof by this reference.

WHEREAS, by the terms of the Contract Documents, the Principal is required to furnish a bond ensuring the Principal's prompt, full and faithful performance of the Work of the Contract Documents.

NOW THEREFORE, if the Principal shall promptly, fully and faithfully perform each and all of the obligations and things to be done and performed by the Principal in strict accordance with the terms of the Contract Documents as they may be modified or amended from time to time; and if the Principal shall indemnify and save harmless the Obligee and all of its officers, agents and employees from any and all losses, liability and damages, claims, judgments, liens, costs, and fees of every description, which may be incurred by the Obligee by reason of the failure or default on the part of the Principal in the performance of any or all of the terms or the obligations of the Contract Documents, including all modifications, and amendments, thereto, and any warranties or guarantees required thereunder; then this obligation shall be void; otherwise, it shall be, and remain, in full force and effect.

The Surety, for value received, hereby stipulates and agrees that no change, adjustment of the Contract Time, adjustment of the Contract Price, alterations, deletions, additions, or any other modifications to the terms of the Contract Documents, the Work to be performed thereunder, or to the Specifications or the Drawings shall limit, restrict or otherwise impair Surety's obligations or Obligee's rights hereunder; Surety hereby waives notice from the Obligee of any such changes, adjustments of Contract Time, adjustments of Contract Price, alterations, deletions, additions or other modifications to the Contract Documents, the Work to be performed under the Contract Documents, or the Drawings or the Specifications.

In the event of the Obligee's termination of the Contract due to the Principal's breach or default of the Principal's obligations thereunder, within twenty (20) days after written notice from the Obligee to the Surety of the Principal's breach or default of the Contract Documents and Obligee's termination of the Contract, the Surety shall notify Obligee in writing of Surety's assumption of obligations hereunder by its election to either remedy the default or breach of the Principal or to take charge of the Work of the Contract Documents and complete the Work at its own expense ("the Notice of Election"); provided, however, that the procedure by which the Surety undertakes to discharge its obligations under this

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Bond shall be subject to the advance written approval of the Obligee, which approval shall not be unreasonably withheld, limited or restricted. The insolvency of the Principal or the Principal's denial of a failure of performance or default under the Contract Documents shall not by itself, without the Surety's prompt, diligent inquiry and investigation of such denial, be justification for Surety's failure to give the Notice of Election or for its failure to promptly remedy the failure of performance or default of the Principal or to complete the Work.

In the event the Surety fails to issue its Notice of Election to Obligee within the time provided for hereinabove, the Obligee may thereafter cause the cure or remedy of the Principal's failure of performance or default or to complete the Work. The Principal and the Surety shall be jointly and severally liable to the Obligee for all damages and costs sustained by the Obligee as a result of the Principal's failure of performance under the Contract Documents or default in its performance of obligations thereunder, including without limitation the costs of cure or completion of the Work exceeding the then remaining balance of the Contract Price; provided that the Surety's liability hereunder for the costs of performance, damages and other costs sustained by the Obligee upon the Principal's failure of performance or default under the Contract Documents shall be limited to the penal sum hereof, which shall be deemed to include the costs or value of any Changes to the Work which increases the Contract Price.

In the event that suit or other proceeding is brought upon this Bond by the Obligee, the Surety and Principal shall be jointly and severally liable for payment to the Obligee of all costs, expenses and fees incurred by the Obligee therewith, including without limitation, attorneys' fees.

IN WITNESS WHEREOF, the Principal and Surety have executed this instrument this ____ day of _____, 20____ by their duly authorized agent or representative

(Contractor-Principal Name)

By: _____
 (Signature)

 (Typed or Printed Name)

Title: _____

(Attach Notary Public Acknowledgement of Principal's Signature)

Contact name, address, telephone number and email address for notices to the Surety

 (Contact Name)

 (Street Address)

 (City, State & Zip Code)

(_____) _____ (_____) _____
 Telephone Fax

 (Email address)

(Surety Name)

By: _____
 (Signature of Attorney-In-Fact for Surety)

 (Typed or Printed Name of Attorney-In-Fact)

(Attach: (i) Attorney-In-Fact Certification; (ii) Notary Public Acknowledgment of Authorizing Signature on Attorney-Fact Certification; and (iii) Notary Public Acknowledgement of Attorney-In-Fact's Signature.)

LABOR AND MATERIAL PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS that we, _____, as Surety and _____, as Principal, are jointly and severally, along with their respective heirs, executors, administrators, successors and assigns, held and firmly bound unto **ROWLAND UNIFIED SCHOOL DISTRICT** (“the Obligee”) for payment of the penal sum the penal sum of _____ Dollars (\$ _____) in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the Obligee, by resolution of its Board of Education has awarded to the Principal a Contract for the Work described as:

“Rowland High School Fence Replacement Project, Bid No. 2019/20: (R23)”

WHEREAS, the Principal, has entered into an Agreement with the Obligee for performance of the Work, the Agreement and all other Contract Documents set forth therein are incorporated herein by this reference and made a part hereof.

WHEREAS, by the terms of the Contract Documents, the Principal is required to furnish a bond for the prompt, full and faithful payment to any Claimant, as hereinafter defined, for all labor materials or services used, or reasonably required for use, in the performance of the Work.

NOW THEREFORE, if the Principal shall promptly, fully and faithfully make payment: (i) to any Claimant for all labor, materials or services used or reasonably required for use in the performance of the Work; (ii) of amounts due under the Unemployment Insurance Code for work or labor performed under the Contract; and (iii) of amounts required to be deducted, withheld and paid to the Employment Development Department from wages of the employees of the Principal and its Subcontractors under Section 13020 of the Unemployment Insurance Code with respect to work and labor under the Contract then this obligation shall be void; otherwise, it shall be, and remain, in full force and effect.

The term “Claimant” shall refer to any person, corporation, partnership, proprietorship or other entity including without limitation, all persons and entities described in California Civil Code §1900, providing or furnishing labor, materials or services used or reasonably required for use in the performance of the Work under the Contract Documents, without regard for whether such labor, materials or services were sold, leased or rented. This Bond shall inure to the benefit of all Claimants so as to give them, or their assigns and successors, a right of action upon this Bond.

In the event that suit is brought on this Bond by any Claimant for amounts due such Claimant for labor, materials or services provided or furnished by such Claimant, the Surety shall pay for the same and reasonable attorney’s fees pursuant to California Civil Code §9554.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, deletion, addition, or any other modification to the terms of the Contract Documents, the Work to be performed thereunder, the Specifications or the Drawings, or any other portion of the Contract Documents, shall in any way limit, restrict or otherwise affect its obligations under this Bond; the Surety hereby waives notice from the Obligee of any such change, extension of time, alteration, deletion, addition or other modification to the Contract Documents, the Work to be performed under the Contract Documents, the Drawings or the Specifications of any other portion of the Contract Documents.

IN WITNESS WHEREOF, the Principal and Surety have executed this instrument this _____ day of _____, 20__ by their duly authorized agent or representative.

(Contractor-Principal Name)

By: _____
(Signature)

(Typed or Printed Name)

Title: _____

(Attach Notary Public Acknowledgement of Principal's Signature)

(Surety Name)

By: _____
(Signature of Attorney-In-Fact for Surety)

(Typed or Printed Name of Attorney-In-Fact)

(Attach: (i) Attorney-In-Fact Certification; (ii) Notary Public Acknowledgment of Authorizing Signature on Attorney-Fact Certification; and (iii) Notary Public Acknowledgement of Attorney-In-Fact's Signature)

Contact name, address, telephone number and email address for notices to the Surety

(Contact Name)

(Street Address)

(City, State & Zip Code)

(_____) _____ (_____) _____
Telephone Fax

(Email address)

VERIFICATION OF CERTIFIED PAYROLL RECORDS SUBMITTAL TO LABOR COMMISSIONER

I am the _____ for _____ in connection with _____.
(Superintendent/Project Manager) (Contractor)
(Project Name)

1. This Verification is submitted to Rowland Unified School District concurrently with the Contractor's submittal of an Application for Progress Payment to the District, identified as Application For Progress Payment No. _____ ("the Pay Application").

2. The Pay Application requests the District's disbursement of a Progress Payment for the value of Work performed between _____, 20__ and _____, 20__.

3. The Contractor has submitted Certified Payroll Records ("CPR") to the Labor Commissioner for all employees of the Contractor engaged in performance of Work subject to prevailing wage rate requirements for the period of time covered by the Pay Application.

4. All Subcontractors who are entitled to any portion of payment to be disbursed pursuant to the Pay Application have submitted their CPRs to the Labor Commissioner for all of their employees performing Work subject to prevailing wage rate requirements for the period of time covered by the Pay Application.

5. I have reviewed the Contractor's CPRs submitted to the Labor Commissioner. The CPRs submitted to the Labor Commissioner by the Contractor are complete and accurate for the period of time covered by the Pay Application.

6. I have reviewed the Subcontractors' CPRs submitted to the Labor Commissioner. The CPRs submitted to the Labor Commissioner by the Subcontractors are complete and accurate for the period of time covered by the Pay Application.

I declare under penalty of perjury under California law that the foregoing is true and correct. I executed this Certification on the ____ day of _____, 20__ at

(City and State)

By: _____

(Typed or Printed Name)

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GUARANTEE

Project: "Rowland High School Fence Replacement Project, Bid No. 2019/20: (R23)"

The Contractor hereby warrants and guarantees to the District that all work, materials, equipment and workmanship provided, furnished or installed by or on behalf of Contractor in connection with the above referenced Project (the "Work") have been provided, furnished and installed in strict conformity with the Contract Documents for the Work, including without limitation, the Drawings and the Specifications. Contractor further warrants and guarantees that all work, materials, equipment and workmanship as provided, furnished and/or installed are fit for use as specified and fulfill all applicable requirements of the Contract Documents including without limitation, the Drawings and the Specifications. Contractor shall, at its sole cost and expense, repair, correct and/or replace any or all of the work, materials, equipment and/or workmanship of the Work, together with any other items which may be affected by any such repairs, corrections or replacement, that may be unfit for use as specified or defective within a period of two (2) years from the date of the District's Final Acceptance of the Work, ordinary wear and tear and unusual abuse or neglect excepted.

In the event of the Contractor's failure and/or refusal to comply with the provisions of this Guarantee, within the period of time set forth in the Contract Documents after the District's issuance of the Notice to the Contractor of any defect(s) in the Work, materials, equipment or workmanship, Contractor authorizes the District, without further notice to Contractor, to repair, correct and/or replace any such defective item at the expense of the Contractor. The Contractor shall reimburse the District for all costs, expenses or fees incurred by the District in providing or performing such repairs, corrections or replacements within ten (10) days of the District's presentation of a demand to the Contractor for the same.

The provisions of this Guarantee and the provisions of the Contract Documents for the Work relating to the Contractor's Guarantee(s) and warranty(ies) relating to the Work shall be binding upon the Contractor's Performance Bond Surety and all successors or assigns of Contractor and/or Contractor's Performance Bond Surety.

The provisions of this Guarantee are in addition to, and not in lieu of, any provisions of the Contract Documents for the Work relating to the Contractor's guarantee(s) and warranty(ies) or any guarantee(s) or warranty(ies) provided by any material supplier or manufacturer of any equipment, materials or other items forming a part of, or incorporated into the Work, or any other guarantee or warranty obligation of the Contractor, prescribed, implied or imposed by law.

The undersigned individual executing this Guarantee on behalf of Contractor warrants and represents that he/she is duly authorized to execute this Guarantee on behalf of Contractor and to bind Contractor to each and every provision hereof.

Contractor

(Contractor Name)

(Signature of Contractor's Authorized Employee, Officer Or Representative)

(Printed Name and Title)

(Date)