



**REQUEST FOR PROPOSALS**

**FOR**

**VISIONS IN EDUCATION**

**TENANT IMPROVEMENT PROJECT**

**AT**

**11931 Foundation Place**  
**Gold River, CA 95670**

**Bid No. 26-01**

**County of Sacramento**  
**APN: 069-0260-015**

**Permit Numbers**

**CBAC2025-00539 - Canopy**  
**CBAC2025-00612 - 2<sup>nd</sup> Floor T.I.**

**VISIONS IN EDUCATION**

**February 4, 2026**

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## NOTICE CALLING FOR BIDS

**Project Owner:** Visions In Education  
11931 Foundation Place, Gold River, CA 95670

**Project Location:** Visions In Education  
11931 Foundation Place, Gold River, CA 95670

**Project Title:** Visions In Education - Tenant Improvement Project

**Project No:** 26-01

Visions In Education is seeking proposals from general contractors to provide construction services, which will include but not be limited to the remodeling of approximately 1,781 S.F. of existing office space to increase the number of private offices by moving and adding partition walls. Mechanical, Electrical and Fire Sprinkler modifications are also necessary. Additionally, the scope of work to include the fabrication and installation of (3) metal and steel awnings (canopies) on the exterior of the building ("Project"). Visions In Education will select a general contractor based on best value to Visions In Education, including but not limited to qualifications and proposed fee.

Electronic submission from bidders will be received at the time/date/location indicated here ("**Bid Submission Deadline**"):

**Time:** 2:00:00 PM PST  
**Date:** Friday, February 27, 2026  
**Location:** Electronic Submission to [ttafoya@viedu.org](mailto:ttafoya@viedu.org)

All bids shall be on the form provided by Visions In Education. Each bid must conform and be responsive to all pertinent Project Documents, including, but not limited to, the Information for Bidders.

*Project Estimate: \$ 400,000*  
*Project Time: 103 Calendar Days*

Bids shall be for a single contract, including all trades as necessary for the timely completion of the Project.

Each bid shall be prepared in accordance with this RFP, and all Project Documents provided with this RFP, digital copies of which may be obtained from the Visions In Education website:

<https://www.viedu.org/request-for-proposals/>

Questions/Clarifications/RFIs regarding this RFP must be submitted via email to Tom Tafoya [ttafoya@viedu.org](mailto:ttafoya@viedu.org) and cc: Sharon Thomas [sharont@capitalpm.com](mailto:sharont@capitalpm.com). The deadline for questions is no later than **5:00pm on Wednesday, February 18, 2026**. Responses to questions regarding this RFP will be issued as addendum and will be posted on the Visions In Education's website shown above.

Proposals must be submitted electronically to Tom Tafoya [ttafoya@viedu.org](mailto:ttafoya@viedu.org) and cc: Sharon Thomas [sharont@capitalpm.com](mailto:sharont@capitalpm.com) ("**Place of Bid Receipt**"). Please include "Your Company

Name – Visions In Education Tenant Improvement Project #26-01 RFP” in the subject line. Any responses received after the Bid Submission Deadline will be deemed Non-Responsive.

As security for its Bid, each bidder shall provide with its Bid either (1) a bid bond issued by an admitted surety insurer on the form provided by Visions In Education, (2) cash, or (3) a cashier's check or a certified check, drawn to the order of Visions In Education, in the amount of ten percent (10%) of the total bid price. This bid security shall be a guarantee that the Bidder shall, within the time frame required in the Project Documents, enter into the contract to perform the Project. If bid bond is to be provided in the manner of cash, cashier's or certified check it must be delivered to Visions In Education 11931 Foundation Place, California at Bid Submission Deadline.

The successful Bidder shall be required to furnish a 100% Performance Bond and a 100% Payment Bond if it is awarded the contract to perform the Project.

Visions In Education will conduct **one (1)** informational job walk and conference relative to the Project on **Thursday, February 12, 2026. Attendance is MANDATORY.** The location of the job walk /conference shall be **at Visions In Education, 11931 Foundation Place, Gold River, CA 95670. Meet at the front of the building.**

**Job walk and conference will commence promptly at 11:00 a.m.**

Visions In Education requires that each Bidder possess the following classification(s) of contractor's license(s) at the time the bid is submitted:

**California State Contractor's  
B License - General Building**

The Bidder's license(s) must remain active and in good standing at the time of the bid opening and throughout the term of the Agreement.

The Project Documents include the plans and specifications pursuant to which the Project is to be constructed and upon which the bidders are to base their bids.

**Substitutions: Any product substitution must be submitted five calendar (5) days prior to bid submission deadline or Monday, February 23, 2026.**

Visions In Education shall award the project, if it awards it at all, by sending written notice to the winning bidder via electronic mail by no later than **Friday, March 6, 2026.**

Visions In Education shall award the Project, if it awards it at all, to the bidder offering the best value to Visions In Education according to the selection criteria set forth herein and based on the base bid amount only.

Visions In Education reserves the right to reject any or all bids or to waive any irregularities or informalities in any bids or in the RFP process. Prior to the Bid Submission Deadline, any respondent may withdraw its proposal in person or by written request. No bids may be withdrawn between the Bid Submission Deadline and the ninetieth (90<sup>th</sup>) calendar day thereafter, inclusive, and all bids shall be effective throughout that entire ninety (90) day period.

Date of this Notice: February 4, 2026 and February 11, 2026

## INFORMATION FOR BIDDERS

**Project Owner:** Visions In Education  
11931 Foundation Place, Gold River, CA 95670

**Project Location:** Visions In Education  
11931 Foundation Place, Gold River, CA 95670

**Project Title:** Visions In Education - Tenant Improvement Project

**Project No:** 26-01

**WARNING: READ THIS DOCUMENT CAREFULLY**  
**DO NOT ASSUME THAT IT IS THE SAME DOCUMENT AS OTHER SIMILAR**  
**DOCUMENTS YOU MAY HAVE SEEN, EVEN FROM VISIONS IN EDUCATION**

1. **Preparation of Bid Form and Related Documents.** Pursuant to the attached Notice Calling for Bids (“**Notice**”), Visions In Education has invited proposals for the award of a contract for the construction of the project identified above (“**Project**”). All such bids must be submitted on the bid form attached hereto (“**Bid Form**”) and must be accompanied by the documents and items designated in the Notice. The Bid Form and such other documents and items submitted therewith must otherwise comply with the requirements of the Notice and of this document (this “**Information for Bidders**”). The Bid Form and all documents submitted therewith must be legibly completed, in full, at the time of submission, and must otherwise comply with the requirements of the Notice and of this Information for Bidders.
2. **Clarifications/RFI’s.** All requests for clarification must be made via email to: Tom Tafoya [ttafoya@viedu.org](mailto:ttafoya@viedu.org) and cc: Sharon Thomas [sharont@capitalpm.com](mailto:sharont@capitalpm.com) no later than **5:00pm on Wednesday, February 18, 2026.**
3. **Delivery of Bids.** All bids must be submitted at the time, place and manner stated in the Notice. It is the bidder’s sole responsibility to ensure that its bid is received prior to the Bid Submission Deadline identified in the Notice. Any bid received after that Proposal Submission Deadline shall be returned to the bidder unopened.
4. **[RESERVED]**
5. **Mandatory Informational Job Walk and Conference.** A bidder’s non-attendance at the informational job walk and conference identified in the Notice will affect that bidder’s eligibility to submit bids for the Project. Job Walks will be referenced as such in the Notice Calling for Bids.
6. **Conformity and Responsiveness of Bid to Project Documents.** The bid must conform and be responsive to all of the documents listed below, which are collectively referred to herein as the “**Project Documents**”. The bidder should carefully examine the Project Documents. The Project Documents consist of:

- The Notice Calling for Bids;
- This Information for Bidders;
- The Bid Form;
- The Bid Bond Form;
- The Non-collusion Declaration;
- The Designation of Subcontractors;
- The Contract and General Conditions (“Agreement”);
- The Plans and Specifications (sometimes collectively referred to as the “Plans and Specifications”) pursuant to which the Project is to be constructed by GRA Architecture
- The form of Faithful Performance Bond;
- The form of Payment Bond;
- Certificate of Insurance and Acord Certificate of Liability Insurance and Underlying of Excess Liability Policy and required endorsements;
- Workers’ Compensation Certificate;
- Contractor’s Certificate Regarding Non-Asbestos Statement;
- The Drug Free Workplace Certificate;
- Fingerprinting Requirements / Contractor Certification
- The Milestone construction schedule developed by Visions In Education, the Architect, and/or Visions In Education’s other consultant(s) establishing timelines for the commencement and completion of the work (and the individual components thereof) to be performed under the Agreement (the “**Construction Schedule**”);
- Any other “**Addendum**” or “**Addenda**” to any of the foregoing now or hereafter issued by Visions In Education. As used herein, the term “Addendum” means changes to the Plans, Specifications, or other Project Documents which alter, explain or clarify the Project Documents, but only if those changes have been authorized in writing by Visions In Education prior to the Bid Submission Deadline specified in the Notice.

7. **Document Submission Checklist.** Each bidder shall provide the following documents only as indicated below. All documents must be original wet signature, corporate seal, notarized or other proof of authenticity.

<b>Document Name</b>	<b>Submit with Bid</b>	<b>Submit Upon Notice of Award</b>
Bid Form	<b>X</b>	
Bid Bond or other Bid Security	<b>X</b>	
Non-collusion Declaration	<b>X</b>	
Designation of Subcontractors	<b>X</b>	
Agreement Between Owner and Contractor		<b>X</b>
Performance Bond		<b>X</b>
Payment Bond		<b>X</b>
Certificate of Insurance and Acord Certificate of Liability Insurance and Underlying of Excess Liability Policy with required endorsement		<b>X</b>
Workers Compensation Insurance Certificate		<b>X</b>

Contractor's Certificate Regarding Non-Asbestos Containing Materials		<b>X</b>
Drug-Free Workplace Certification		<b>X</b>
Fingerprinting Requirements / Contractor Certification		<b>X</b>

Form of contract to be negotiated upon award.

8. **Bid Security.** Each Bid shall be accompanied by a bid security in the form of cash, a certified or cashier's check payable to Visions In Education, or a Bid Bond in the form attached hereto. The amount of the bid security shall not be less than ten percent (10%) of the total bid price, including all additive alternates, payable to Visions In Education and shall be given as a guarantee that the bidder, if awarded the contract, will execute the Agreement and all required documents with the Agreement within **ten (10) "Calendar Days"** after Visions In Education's Notice of Award. If the bidder fails or refuses to timely execute the Agreement and all required documents with the Agreement as indicated herein, the bid security shall be forfeited to Visions In Education.

9. **Duration of Faithful Performance Bond.** The Faithful Performance Bond shall remain in full force and effect through the guarantee period as specified in the General Conditions.

10. **Signatures.** Any of the Project Documents which is to be executed by the bidder must be signed in the name of the bidder and must bear the signature of the person or persons duly authorized by the bidder to sign those documents on the bidder's behalf. The signatures of all persons on the Bid Form and related documents shall be in longhand. All such signatures shall specify the title of the office or other position relative to the bidder held or occupied by the person signing on the bidder's behalf. In any case, Visions In Education may require proof (in the form of incumbency certificates, resolutions of governing bodies, or other evidence satisfactory to Visions In Education) that the person or persons signing said Project Documents are authorized by the bidder to do so on behalf of the bidder. Furthermore, at the time the Agreement is executed, Visions In Education may require a certification signed by the bidder (in the manner set forth above) designating an individual person who shall be the agent of the bidder authorized to sign any and all necessary documents for the bidder relative to the Project.

11. **Numbers.** Numbers contained in the Bid Form and related documents shall be expressed both in written words and in Arabic numerals. Discrepancies between written words and figures, or words and numerals, will be resolved in favor of words.

12. **Erasures, Corrections, Inconsistencies, and Illegible Portions of Bids.** The bid submitted must not contain any erasures, interlineations, or other corrections unless each such erasure, interlineations or correction creates no inconsistency and is authenticated by affixing the initials of the person(s) signing the bid on the bidder's behalf in the margin immediately adjacent to the erasure, interlineations or correction. All handwritten interlineations or corrections must be made in ink. If the values of the written words and the corresponding Arabic numerals in the bid conflict, the values expressed by written words shall control over those expressed by Arabic numerals. In the event of inconsistency between any other words and figures in the bid, words shall control figures. If Visions In Education determines that any bid is unintelligible, illegible or ambiguous, Visions In Education may reject such bid as not being responsive. If the line item and the total amount named by a bidder for any item are not in agreement, the line item alone



shall be considered as representing the bidder's intention, and the total amount of the bid shall be corrected.

13. **Modifications to Bid or Project Documents by Bidder.** Changes in or additions to the bid or to any of the Project Documents, any alternative proposals, or any other modifications which are not specifically called for by Visions In Education in writing may result in Visions In Education's rejection of the bid as not being responsive. No oral or telephonic modification of any bid will be considered. However, Visions In Education may (but is not required to) consider written modifications faxed or e-mailed to Visions In Education prior to the opening of bids, but only if (a) Visions In Education is satisfied prior to the opening of bids that the modifications were authorized by and transmitted by or at the direction of the bidder, and (b) a paper copy of the fax or e-mail transmission is delivered to the Place of Bid Receipt (as defined in the Notice) prior to the Bid Submission Deadline specified in the Notice.

14. **Examination of Project Site.** At its own expense and prior to submitting its bid, each bidder shall: visit the Project site; determine the local conditions which may in any way affect the performance of the work to be performed under the Agreement; familiarize itself with all Federal, State and local laws, ordinances, rules, regulations and codes affecting the performance of the work, including without limitation the cost of permits and licenses required for the work; make such surveys and investigations, including investigation of subsurface or latent physical conditions at the Project site or other locations where work is to be performed under the Agreement, as the bidder may deem necessary for performance of the work at its bid price; determine the character, quality, and quantities of the work to be performed and the materials and equipment to be provided; and correlate the bidder's observations, investigations, and determinations with all requirements of the Project. Under no circumstances shall any bidder be present on site unless escorted by authorized Visions In Education personnel. To the extent that the Project Documents describe or depict existing Project site conditions, those descriptions and depictions are provided only for informational purposes; Visions In Education does not warrant said information and shall not be liable for any loss sustained by the bidders (successful or otherwise) resulting from any variance between the site conditions as so depicted and the actual conditions revealed during the bidder's pre-bid examination or during the progress of the work.

15. **Examination and Interpretation of Project Documents.** Each bidder must thoroughly familiarize itself with the Project Documents. If any bidder is in doubt as to the true meaning of any part of the Project Documents, or finds discrepancies in or omissions from the Project Documents, the bidder may submit to Visions In Education a written request for an interpretation or correction thereof. The bidder submitting the written request shall be responsible for its prompt delivery by the deadline as stated in the Notice Calling for Bids. Any interpretation or correction of the Project Documents will be made only by Addendum duly issued by Visions In Education, and a copy of such Addendum will be posted on the Visions In Education's website and emailed to Contractors that attended the mandatory site walk. Visions In Education will not be responsible for any other explanation or interpretation of the Project Documents. No person is authorized to make any oral interpretation of any provision in the Project Documents, nor shall any oral interpretation of Project Documents be binding on Visions In Education. If discrepancies exist in or among any of the Project Documents, Visions In Education's interpretation of the Project Documents with respect to those discrepancies shall prevail.

16. **Withdrawal of Bids.** Any bid may be withdrawn, either personally or by written request, at any time prior to the "Date and Time of Bid Opening" identified in the Notice. The bid security for bids withdrawn prior to that date and time shall be returned. No bidder may withdraw any bid for a period of ninety (90) days after the Date and Time of Bid Opening.

17. **Submission of Bid Constitutes Bidder's Representation Upon Which Visions In Education Can Rely.** Submission of a bid shall constitute the bidder's representation to Visions In Education that the bidder:

17.1 Has visited the Project site and conducted such diligent investigations as specified in Section 14 above;

17.2 Has examined the Project Documents and satisfied itself as to the meanings thereof pursuant to the provisions of Section 15 above;

17.3 Has determined that the Plans and Specifications and other Project Documents are sufficient for bidding and completing the work required by the Agreement;

17.4 Is capable of reading and understanding the Project Documents and is capable of completing the work required of it in accordance with the Plans and Specifications and other Project Documents;

17.5 Accepts the Plans and Specifications and other Project Documents as establishing an acceptable standard for plans, specifications, and drawings;

17.6 Agrees that the work required under the Agreement, Special Conditions and other Project Documents can and will be completed by the bidder to Visions In Education's in accordance with the Construction Schedule;

17.8 Has otherwise complied with all the requirements of the provisions of the Notice and this Information for Bidders.

17.9 Visions In Education shall be entitled to rely on all of the foregoing representations, and the bidder's submission of a bid shall be incontrovertible evidence of the truth of those representations.

18. **Qualifications of Insurers.** Insurers who are to provide policies of insurance required under the Project Documents must have an "**A**" policyholder's rating and a financial size rating of at least **Class VIII** in accordance with the most current Best's Key Rating Guide, Property-Casualty.

19. **Addenda.** It shall be the bidder's responsibility to ascertain whether any Addenda have been issued by Visions In Education subsequent to the Notice, and to ensure that the bid submitted responds to and takes into account all such Addenda issued by Visions In Education prior to the submission of the bid. Each Addendum received during the bidding period shall be properly acknowledged in the designated space on the Bid Form with the information therein requested. If any Addendum or Addenda have been issued by Visions In Education and not noted in the designated space on the Bid Form as having been received, the bid may be declared non-responsive.

20. **No Multiple Bids; Exceptions.** No bidder may submit more than one bid in response to the Notice to act as a general contractor or prime contractor for the Project. Notwithstanding the foregoing, (a) any bidder may submit multiple bids if and to the extent that alternate bids are specifically called for in writing by Visions In Education; and (b) prior to the Bid Submittal Deadline identified in the Notice, any bidder may withdraw its existing bid and submit a new bid.

Furthermore, the fact that a subcontractor or material supplier may be named in the bids of more than one bidder will not disqualify that subcontractor or material supplier and will not cause said bids to be declared non-responsive.

21. **Award of Contract**. Visions In Education reserves the right to reject any or all bids, or to waive any irregularities or informalities in any bids or in the bidding process. The award of the contract, if made by Visions In Education, will be by action of Visions In Education's Board of Directors and will be made to the contractor that provides the best value to the Visions In Education based on the scoring of qualifications, the proposed price and the interview. If two identical acceptable scores are received from responsive and responsible bidders, the Board will determine which bid will be awarded. In the event Visions In Education chooses to award the contract to a bidder, and such bidder fails or refuses to execute the Agreement and provide the required documents within **ten (10) Calendar Days** after the award of the contract to the bidder, then Visions In Education may award the contract to the next contractor that scored the best value or, in Visions In Education's sole discretion, Visions In Education may reject all bids.

<p align="center"><b>BEST VALUE SCORING – MAXIMUM POINTS</b> <b>200 Points</b></p>
<p align="center"><b>COVER LETTER</b> 10 Points</p>
<p align="center"><b>PRIOR RELEVANT EXPERIENCE/REFERENCES</b> 35 Points</p>
<p align="center"><b>METHODS</b> 35 Points</p>
<p align="center"><b>LICENSURE</b> 10 Points</p>
<p align="center"><b>PROPOSED PRICE</b> <b>(Maximum Points for Lowest Price)</b> 45 Points</p>
<p align="center"><b>INTERVIEW – If Needed</b> 65 Points</p>

Based on the criteria and rating system, Visions In Education staff will review and assign points to each response received for the total maximum points. The higher the points, the higher the proposer is ranked, and the more it reflects the better combination of price and qualifications for the Project.

Refer to Section 6.3 of the Bid form for Statement of Qualifications response.

22. **Alternatives.** The Notice and related documents may call for a base bid alone, or for a base bid together with alternative additions and/or deductions. If alternate bids are called for, Visions In Education shall have the discretion to award the base bid alone or on the base bid and any combination of the alternatives.

23. **[RESERVED].**

24. **Subcontractors.** Each bidder shall comply with the following:

24.1 **Designation of Subcontractors.** The bidder shall submit, on the "Designation of Subcontractors" form furnished with the Project Documents, a list of the subcontractors that the bidder proposes to use on the Project. The bidder is required to list the name and the location of the place of business of each subcontractor who will do either of the following for an amount in excess of one-half of one percent ( $\frac{1}{2}\%$ ) of the bidder's total bid price: (a) perform work or labor or render service to the bidder in connection with the Project, or (b) specially fabricate and install a portion of the work on the Project according to detailed drawings contained in the Plans and Specifications.

24.2 **Restrictions on Substitution of Subcontractors.** No bidder whose bid is accepted shall (a) substitute any subcontractor in place of any subcontractor listed on the "Designation of Subcontractors" form, (b) permit any of the bidder's subcontracts related to the Project to be voluntarily assigned or transferred or allow it to be performed by anyone other than the original subcontractor listed in that Designation of Subcontractors form with the original bid, or (c) assign or subcontract any portion of the work on the Project in excess of one-half of one percent ( $\frac{1}{2}\%$ ) of the bidder's total bid as to which the Designation of Subcontractors form submitted with the original bid did not designate a subcontractor.

25. **Workers' Compensation.** In accordance with the provisions of Section 3700 of the Labor Code, the successful bidder shall secure the payment of compensation to all employees. The successful bidder who has been awarded the contract shall sign and file with Visions In Education (as indicated in Section 17 above) three (3) original counterparts of the Workers' Compensation Certificate, which states, in part, as follows: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

26. **Contractor's License.** If, at the "Date and Time of Bid Opening" specified in the Notice, the bidder is not properly licensed to perform the work on the Project called for under the Notice and required under the Agreement and the Notice in accordance with the Contractor's State License Law, set forth at Division 3, Chapter 9, of the Business and Professions Code (commencing with Section 7000), then that bidder's bid will be rejected as non-responsive pursuant to Business and Professions Code Section 7028.15(e). If at any time Visions In Education believes that the bidder was not so licensed at said Date and Time of Bid Opening, then Visions In Education shall make no payment to the bidder for work or materials under the Agreement unless and until the bidder causes the State Contractors License Board, pursuant to Business and Professions Code Section 7031(d), to provide a verified certificate of licensure to Visions In Education which establishes that the bidder was properly licensed at the Time and Date of Bid Opening. Any bidder not so licensed is subject to penalties under the law, and the

Agreement entered into with such bidder will be considered void. If the license classification specified in the Notice is that of a “specialty contractor” as defined in Business and Professions Code Section 7058, then the specialty contractor who is awarded the contract for the Project shall construct a majority of the Project’s work, in accordance with the provisions of Business and Professions Code Section 7059(b).

27. **Anti-Discrimination**. It is Visions In Education’s policy that in connection with all work performed under contracts to which Visions In Education is a party, there be no unlawful discrimination against any prospective or active employee engaged in the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. The successful bidder agrees to comply with applicable federal and state laws including, but not limited to, the California Fair Employment and Housing Act, beginning with Government Code Section 12900, and with Labor Code Section 1735. In addition, the successful bidder agrees to require like compliance by any subcontractors employed on the Project by such bidder.

28. **[RESERVED]**

29. **Substitution of Equipment and Materials**. The Plans and Specifications and other portions of the Project Documents may specifically identify (by brand name, trade name or otherwise) materials, processes, services or equipment to be used on the Project, but may allow the bidder to propose alternate materials, processes, services or equipment which the bidder believes to be “equal” to those specified by Visions In Education. Any such proposal shall be subject to applicable law, and the following provisions:

29.1 **Failure to Propose a Substitute “Equal” Item Constitutes Bidder’s Agreement to Use the Specified Item**. If the bidder fails to indicate (in the manner specified below) a proposed substitute material, process, service or equipment, then its bid shall be deemed to offer the material, process, service or equipment specified by Visions In Education.

29.2 Requests for substitutions prior to award of the Contract shall be done a minimum of **Ten (10) calendar days** prior to bid opening.

29.3 Request for substitutions after award of the contract can only be done as stated in the Contract.

29.4 **Visions In Education’s Right to Reject Proposed Substitutions**. Visions In Education reserves the right to reject any such proposed substituted item. If Visions In Education rejects a proposed “equal” item, the bidder will then supply the material, process, service or equipment originally designated by Visions In Education, or a substitute therefore which meets with the approval of Visions In Education, which approval may be withheld in Visions In Education’s sole discretion.

29.5 **Approval of Substitute Items**. Visions In Education is not responsible for locating or securing any information, which is not included in such substantiating data. The burden of proof as to the quality or suitability of proposed substituted items shall be borne by the bidder. Visions In Education shall be the sole judge as to the quality and suitability of proposed substituted items, and decisions of Visions In Education shall be final and conclusive. If the bidder fails to timely provide such information, or if Visions In Education determines in its sole discretion that the proposed substitute is not at least equally suitable for the Project as the item originally

designated by Visions In Education, then Visions In Education may reject the proposed substitution, in which case the bidder shall use the material, process, service or equipment originally specified by Visions In Education. Visions In Education shall notify the successful bidder of Visions In Education's decision concerning the proposed substitution of "equal" items. All such decisions by Visions In Education shall be in writing, and no proposed substituted item shall be deemed approved unless Visions In Education has so indicated in writing. These time limitations shall be complied with strictly, and in no case will an extension of time for completion be granted because of the bidder's failure to request the substitution of an item at the times and in the manner set forth herein.

29.6 **Preference for Supplies Produced in California.** Price, fitness and quality being equal with regard to supplies, Visions In Education shall always prefer supplies manufactured, grown or produced in California, and shall next prefer supplies partially manufactured, grown, or produced in the United States. Visions In Education may, at its discretion, use of such supplies in connection with the Project, provided that (a) the bids of said suppliers or the prices quoted by them do not exceed by more than five percent (5%) the lowest bids/prices quoted by out-of-state suppliers, (b) the major portion of the manufacture of the supplies is not done outside of California and (c) in the opinion of Visions In Education and/or its officers, the public good will be served thereby.

29.7 Visions In Education is not responsible and/or liable in any way for a Contractor's damages and/or claims related, in any way, to that Contractor's basing its bid on any requested substitution that Visions In Education has not approved.

30. **Proof of Surety's Qualifications.** Upon Visions In Education's request, any surety proposed by the bidder must provide Visions In Education with the documents identified in Code of Civil Procedure Section 995.660 in order to qualify for the issuance of bonds for the Project.

31. **Liquidated Damages.** All work to be performed by the successful bidder and its subcontractors in connection with the Project must be completed within the time limits set forth in the Notice. By submitting its bid, each bidder agrees that Visions In Education may assess liquidated damages in the amount of **\$500** per day.

32. **Drug-Free Workplace Certification.** Pursuant to the Drug-Free Workplace Act of 1990 (Government Code Sections 8350 *et seq.*), the successful bidder will be required to execute a Drug-Free Workplace Certificate upon execution of the Agreement. The bidder will be required to take positive measures outlined in that certificate in order to ensure the presence of a drug-free workplace. Failure to abide with the conditions set forth in the Drug-Free Workplace Act of 1990 could result in penalties including termination of the Agreement or suspension of payment there under.

33. **Change Orders.** All requests for information, requests for clarification, requests for interpretation, and proposed change orders must be submitted in the form(s) set forth in the Project Documents and must otherwise comply with the provisions of the General Conditions. The amount of allowable charges submitted pursuant to a change order shall be limited to the charges allowed under the General Conditions. Indirect, consequential and incidental costs, project management costs, extended home office and field office overhead, administrative costs and profit and other charges not specifically authorized under the General Conditions will not be allowed.

34. **Contractor's Certificate Regarding Non-Asbestos Containing Materials.** Visions In Education shall also require the successful bidder to complete and deliver to Visions In Education a "Contractor's Certificate Regarding Non-Asbestos Containing Materials" in the form prescribed by Visions In Education.

35. **Criminal Record Checks.** Education Code Section 45125.1 provides that if there is a possibility that the employees of any entity that has a contract with a school Visions In Education may have any contact with pupils, those employees shall submit or have submitted their fingerprints in a manner authorized by the Department of Justice together with a fee determined by the Department of Justice to be sufficient to reimburse the Department of Justice for its costs incurred in processing the application.

The Department of Justice shall ascertain whether the individual whose fingerprints were submitted to it has been arrested or convicted of any crime insofar as that fact can be ascertained from information available to the Department. When the Department of Justice ascertains that an individual whose fingerprints were submitted to it has a pending criminal proceeding for a violent felony listed in Penal Code Section 667.5(c) or a serious felony listed in Penal Code Section 1192.7(c), or has been convicted of such a violent felony or serious felony, the Department shall notify both the employer and Visions In Education of the criminal information pertaining to the individual. The notification shall be delivered to the employer by telephone or electronic mail, and to Visions In Education by first-class mail.

The bidder shall not permit an employee to come in contact with pupils until the Department of Justice has ascertained that the employee has not been convicted of a violent felony or serious felony as defined in the above-referenced Penal Code Sections. The bidder shall certify in writing to Visions In Education's Board of Directors that none of the bidder's employees who may come in contact with pupils have been convicted of a violent or serious felony. The bidder shall provide a list of the names of its employees who may come in contact with pupils to Visions In Education's Board of Directors. In addition, pursuant to Education Code Section 45125.1(g), the successful bidder shall certify in writing to Visions In Education that neither the bidder nor any of its employees whose fingerprints are required to be submitted to the Department of Justice and who may come in contact with pupils have been convicted of any such violent felony or serious felony.

36. **Protest.** Any bid protest by any Bidder regarding any other bid must be submitted in writing to Visions In Education, before 4:00 p.m. on the **THIRD (3RD) Calendar Day** following the posting on the Visions In Education website of the Notice of Intent to Award or next business day following the weekend or holiday.

36.1 The protest must contain a complete statement of any and all bases for the protest.

36.2 The protest must refer to the specific portions of all documents that form the bases for the protest.

36.3 The protest must include the name, address and telephone number of the person representing the protesting party.

36.4 The party filing the protest must concurrently transmit a copy of the protest and any attached documentation to all other parties with a direct financial interest that may be adversely affected by the outcome of the protest. Such parties shall include all other bidders or proposers who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.

36.5 The procedure and time limits set forth in this paragraph are mandatory and are each bidder's sole and exclusive remedy in the event of bid protest. Failure to comply with these procedures shall constitute a waiver of any right to further pursue the bid protest, including filing a Government Code Claim or legal proceedings.



## BID FORM

**Project Owner:** Visions In Education  
11931 Foundation Place, Gold River, CA 95670

**Project Location:** Visions In Education  
11931 Foundation Place, Gold River, CA 95670

**Project Title:** Visions In Education - Tenant Improvement Project

**Project No:** 26-01

Bidders wishing to bid for the above-referenced project ("Project") must submit their bids on this Bid Form. Only bids which are submitted on this Bid Form will be accepted. This entire Bid Form must be completed and delivered in the manner specified in the Notice Calling for Bids ("Notice") and in the corresponding document entitled "Information for Bidders" ("Information for Bidders"), each of which was issued by the Visions In Education ("Visions In Education") in connection with the Project. This Bid Form must be submitted to the "Place of Bid Receipt" and by the "Bid Submission Deadline" specified in the Notice. When submitting this Bid Form, the Bidder must include the other documents required by the Notice. Bidders should carefully review the Notice and the Information for Bidders when completing and submitting this Bid Form and related documents. Failure to properly submit and complete the entire Bid Form and all of the other documents as required by the Notice and the Information for Bidders may invalidate the bid and cause Visions In Education to reject the bid as non-responsive.

The name, address and other information identifying the bidder who is submitting this Bid Form ("**Bidder**") is as follows:

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

Type of Entity (*check one*):    ☐ Corporation  
   ☐ General partnership  
   ☐ Limited partnership  
   ☐ Limited liability partnership  
   ☐ Limited liability company  
   ☐ Individual  
   ☐ Other (specify) \_\_\_\_\_

State in which Bidder was organized (if Bidder is an entity) or in which Bidder resides (if Bidder is an individual) (*check one*)

☐ California                      ☐ Other (*specify*): \_\_\_\_\_

Bidder's Street Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

Bidder's Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

Bidder's Telephone Number: (\_\_\_\_\_) \_\_\_\_ - \_\_\_\_\_

Bidder's e-mail address: \_\_\_\_\_

Bidder's California State Contractor's License Number: \_\_\_\_\_

Class of Bidder's California State Contractor's License: \_\_\_\_\_

Name under which Bidder does business (if different from Bidder's legal name)  
\_\_\_\_\_

1. **Submission of Bid.** The Bidder hereby submits this bid to Visions In Education and agrees to perform all work required by the "**Agreement**" (as that term is defined in the Information for Bidders) for the construction of the Project, at the Bid Price specified in Section 3 below and subject to all of the terms, conditions, representations and warranties set forth in this Bid Form.

2. **Base Bid Price.** As used in this Bid Form, the Bidder's "**Bid Price**" in words & numbers is:

\_\_\_\_\_ DOLLARS and \_\_\_\_\_ Cents (\$ \_\_\_\_\_)

2.1 **Visions In Education Allowance.** The Visions In Education will include an allowance of TWENTY-FIVE THOUSAND DOLLARS (\$25,000) in the contract price to be used for any unforeseen conditions.

3. **Representations of Bidder in Connection with Bid Price.** The Bidder hereby acknowledges, represents and warrants to Visions In Education that the Bidder's calculation of its Bid Price (including the Base Bid and any Alternate Bids, if applicable) has been based, among other things, on the following, all of which are true and correct:

3.1 **Familiarity with Project Documents.** The Bidder is familiar with all of the Project Documents, and the Bid Price (including the Base Bid and Alternate Bids, if applicable) and each line-item component comprising the same has to the extent deemed necessary by the Bidder been determined based on the Bidder's review of the Plans and Specifications and all other Project Documents.

3.2 **Familiarity with Local Conditions.** As to the work, which is to be done by or under the control of the successful bidder pursuant to the Project Documents, the Bidder is familiar with the local conditions affecting both the performance and the cost of that work at the place where the work is to be performed. The Bid Price (including the Base Bid and Alternate Bids, if applicable) and each line-item component comprising the same has to the extent deemed necessary by the Bidder

been determined based on the Bidder's visits to the Project site and the Bidder's familiarity with said conditions.

3.3 **Performance of Work.** The Bidder hereby proposes and agrees to be bound by all the terms and conditions of the Project Documents and agrees to perform, within the time stipulated, all of the general contractor's obligations and duties there under, including without limitation the obligations to furnish, provide and pay for any and all of the labor, materials, tools, expendables, equipment, facilities, utility and transportation services, applicable taxes, bonds, insurance policies, and incidental items necessary to perform the entire "**Agreement**" (as that term is defined in the Information for Bidders) and to complete in a good workmanlike manner all of the work required to build the Project in strict conformity with the Project Documents and with any legal requirements related to that performance and completion.

3.4 **Addenda.** The Bidder acknowledges receipt of all of the following Addenda issued by Visions In Education in connection with the Project which modify and are included as a part of the Project Documents:

Addendum No. \_\_\_\_\_ dated \_\_\_\_\_, 20\_\_\_\_;  
Addendum No. \_\_\_\_\_ dated \_\_\_\_\_, 20\_\_\_\_;  
Addendum No. \_\_\_\_\_ dated \_\_\_\_\_, 20\_\_\_\_;  
Addendum No. \_\_\_\_\_ dated \_\_\_\_\_, 20\_\_\_\_;

*(Attach additional sheets if necessary to describe additional Addenda issued by Visions In Education)*

4. **Visions In Education's Right to Reject Bid.** The Bidder understands that Visions In Education reserves the right to reject this bid for the reasons specified in the Notice, in the Information for Bidders, in this Bid Form, and as otherwise authorized by applicable law.

5. **Withdrawal of Bid.** The Bidder understands that it may withdraw this bid at any time prior to the "Date and Time of Bid Opening" identified in the Notice, but that it may not withdraw this bid at any time within ninety (90) days following the Date and Time of Bid Opening.

6. **Documents and Items Submitted with this Bid.** The following documents and items are hereby submitted to Visions In Education along with this Bid Form. The Bidder acknowledges that its failure to include any one or more of those documents and items may result in Visions In Education rejecting this bid as non-responsive.

6.1. **Bid Security.** The required bid security is attached. The Bidder understands and agrees that if Visions In Education accepts this bid and awards the contract for the Project to the Bidder, and if the Bidder thereafter fails or refuses to return executed copies of the Agreement and any or all other documents required from the Bidder under the Project Documents at the time and in the manner required by the Project Documents, then the bid security shall be forfeited to Visions In Education.

6.2 **Designation of Subcontractors.** The required list (or, if the Project involves alternate bids, lists) of proposed subcontractors is (are) attached hereto on the form prescribed by Visions In Education. The Bidder represents and warrants that such list(s) is (are) complete and that the Bidder will comply with the Subletting and Subcontracting Fair Practices Act (Public Contract Code Sections 4100 *et seq.*).

6.3 **Statement of Qualifications.** Provide (1) electronic copy in 8-1/2 x 11-inch format with font no less than 11 point and no more than twenty (20) single sided pages of the following:

(a) **Cover Letter** – letter of introduction signed by an authorized officer of the bidder with company name, address, telephone number, email address and identify who is authorized to speak for the bidder during the evaluation process.

(b) **Prior Relevant Experience/References** – Identify three (3) recent projects of similar construction scope that bidder has been involved with in the past five (5) years. Provide project name, description of work, start and finish dates for construction, project's construction value and reference name, telephone number and email address.

(c) **Methods** – describe the company approach to the following:

- Strategies for working in an occupied building and managing disruptive activities
- Resolving problems that may be encountered in the field.
- Development of a project schedule and sequencing of sub-contractors while working on in an occupied building.
- Coordination with the Owner related to work in an occupied building.

(d) **Licensure** - Provide Contractor's Licenses held, License Classification, License Number, Date Issued, Expiration date and a statement as to whether the Contractor's license has been revoked or suspended in the last (5) years.

7. **Execution of Documents and Commencement of Work Following Award of Contract.**

If Visions In Education decides to accept this bid and award the contract for the Project to the Bidder, then within **ten (10) "Calendar Days"** (defined as days on which Visions In Education is opened for business) after Visions In Education delivers written notice of such acceptance and award to the Bidder, the Bidder will execute and deliver to Visions In Education the following documents:

- **Agreement**
- **Faithful Performance Bond**
- **Payment Bond**
- **Certificate of Insurance and Acord Certificate of Liability Insurance and Underlying of Excess Liability Policy with required endorsement**
- **Workers' Compensation Insurance Certificate**
- **Contractor's Certificate Regarding Non-Asbestos Containing Materials**
- **Drug Free Workplace Certification**
- **Fingerprinting Requirements / Contractor Certification**
- **All other Project Documents required by the Information to Bidders to be executed and delivered to Visions In Education at that time.**

The Bidder further agrees to commence the work required under the Agreement within one (1) day after Visions In Education delivers to the Bidder a **"Notice to Proceed"** with the Project, which notice shall be in such form and content as determined by Visions In Education unless otherwise specified in the Agreement. Visions In Education may, at its discretion, indicate in the Notice to Proceed a later date for the Bidder to commence the work required under the Agreement.

8. **Delivery of Notices to Bidder.** Written communications conveying acceptance of bid, requests for additional information or other correspondence should be mailed, delivered, faxed or e-mailed to the Bidder at the addresses set forth in Section 1 above.

9. **Principals of Bidder.** The name of all of the Bidder's shareholders, partners, members or other persons having an ownership interest in the Bidder or otherwise having an interest as principals in this bid or in the Bidder are as follows:

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*(Attach additional sheets if necessary)*

10. **Assignment of Rights.** In submitting this bid, the Bidder offers and agrees that if the bid is accepted, the Bidder will assign to Visions In Education all rights, title and interest in and to all causes of action the Bidder may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Business & Professions Code Sections 16700 *et seq.*) arising from purchases of goods, materials, or services by the Bidder for sale to Visions In Education pursuant to the bid. Such assignment shall be made and become effective at the time Visions In Education tenders final payment under the Agreement, without further acknowledgement by the Bidder or Visions In Education.

11. **Bidder's License.** The Bidder hereby represents and warrants that (a) it has been issued a California State Contractor's License, (b) the number and class of that license are accurately set forth in Section 1 above, (c) the license is in full force and effect and will remain in full force and effect throughout the term of the Agreement, (d) the license entitles the Bidder to perform and otherwise provide the work required under the Agreement and the other Project Documents, and (e) any and all subcontractors to be employed or engaged by the Bidder will have appropriate licenses.

12. **Compliance with Immigration Reform and Control Act.** The Bidder hereby certifies that it is, and at all times during the term of the Agreement shall be, in full compliance with the provisions of the Federal Immigration Reform and Control Act of 1986 (Public Law 99-603) ("IRCA") in the hiring of its employees, and the Bidder shall indemnify, hold harmless and defend Visions In Education against any and all actions, proceedings, penalties or claims arising out of the Bidder's failure to comply strictly with the IRCA.

13. **Financial Information.** If requested by Visions In Education, the Bidder shall furnish financial statements (in addition to any which may be enclosed herewith), references, and other information required by Visions In Education sufficiently comprehensive to permit Visions In Education to appraise the Bidder's ability to perform the obligations required under the Agreement and the other Project Documents.

14. **Warranty Regarding Completion Date.** The Bidder hereby warrants that if Visions In Education awards the contract to the Bidder, the Bidder shall cause all work required under the Project Documents to be completed by the Completion Date identified in the Notice. Time is of the essence. The Bidder agrees that failure to complete said work by that Completion Date will result in the imposition of liquidated damages in the amounts specified in the Agreement.

15. **Change Orders.** All requests for information, requests for clarification, requests for interpretation, and proposed change orders must be submitted in the form(s) set forth in the Project Documents and must otherwise comply with the provisions of the General Conditions. The amount of allowable charges submitted pursuant to a change order shall be limited to the charges allowed under the General Conditions. Indirect, consequential and incidental costs, project management costs, extended home office and field office overhead, administrative costs and profit and other charges not specifically authorized will not be allowed.

The undersigned hereby declares that all of the representations of this bid are made under penalty of perjury under the laws of the State of California.

[Signatures on the following page]

**Name of Bidder:**

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

*(Signature of the person signing on behalf of Bidder, or printed name of corporation or other entity signing on behalf of Bidder)*

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

*(Printed name here)*

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

*(i.e., President, General Partner, etc.)*

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

## BID BOND

**Project Owner:** Visions In Education  
11931 Foundation Place, Gold River, CA 95670

**Project Location:** Visions In Education  
11931 Foundation Place, Gold River, CA 95670

**Project Title:** Visions In Education - Tenant Improvement Project

**Project No:** 26-01

KNOW ALL MEN BY THESE PRESENTS, that we \_\_\_\_\_ as Principal (hereinafter called the "Principal") and \_\_\_\_\_ as Surety, (hereinafter called the "**Surety**") are held and firmly bound unto the VISIONS IN EDUCATION (hereinafter called "**Visions In Education**") in the penal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_),

lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, assigns, and successors, jointly and severally, firmly by these presents. The condition of this obligation is such that whereas the Principal has submitted the accompanying Bid dated \_\_\_\_\_, 20\_\_\_\_, for the construction of:

### **Visions In Education - Tenant Improvement Project**

**Bid Number: 26-01**

NOW THEREFORE, if Visions In Education accepts the Principal's bid, and if within **seven (7) calendar days** (*i.e.* days on which Visions In Education is opened for business) thereafter the Principal enters into a written contract with Visions In Education in accordance with the bid as accepted, and if by no later than said **seventh (7<sup>th</sup>)** calendar day the Principal shall give the required bonds with good and sufficient sureties for the faithful performance and proper fulfillment of such contract, and for the prompt payment of labor and material furnished in connection with that contract, or in the event of the failure of the Principal to enter into such contract and to give such bonds, if the Principal shall pay to Visions In Education within ten (10) business days after Visions In Education's request the difference between the amount specified in the bid and the amount for which Visions In Education may in good faith contract with another party to perform the work covered by the bid, then the above obligation shall be void and of no effect, otherwise it shall remain in full force and effect. The full payment of the sum stated above shall be due immediately if Principal fails to execute the Contract as indicated herein.

Forfeiture of this bond shall not preclude Visions In Education from seeking any or all other remedies provided by law to cover losses sustained as a result of the Principal's failure to do any of the foregoing, and this bond shall not be a limitation on the Principal's liability therefore.

Upon Visions In Education's request, the Surety will provide Visions In Education with all of the documents specified in subdivision (a) of California Code of Civil Procedure Section 995.660.

If Visions In Education is required to initiate legal proceedings to recover on this bond, it may also recover (in addition to any other relief to which it may be entitled) all reasonable costs and expenses incurred in connection with those legal proceedings, including, without limitation, reasonable attorneys' fees, accountants' fees and experts' fees.

Unless otherwise required by law, no bidder may withdraw its bid for ninety (90) days after the date of the bid opening.

Any claims under this bond may be addressed to the Surety at the following address:

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

Attention: \_\_\_\_\_  
Telephone No.: (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_  
Fax No.: (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_  
E-mail Address: \_\_\_\_\_

IN WITNESS WHEREOF the above-bounded parties have executed this instrument on \_\_\_\_\_, 20\_\_\_\_.

**"Principal"**

**"Surety"**

\_\_\_\_\_

\_\_\_\_\_

**By:**  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

**By:**  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

**By:**  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

*Attach evidence (in the form of a Power of Attorney or some other evidence satisfactory to Visions In Education) that the Surety's signatory or signatories who have signed this bond on behalf of the Surety are authorized by the Surety to do so and to bind the Surety to the obligations set forth herein.*



## DESIGNATION OF SUBCONTRACTORS

**Project Owner:** Visions In Education  
11931 Foundation Place, Gold River, CA 95670

**Project Location:** Visions In Education  
11931 Foundation Place, Gold River, CA 95670

**Project Title:** Visions In Education - Tenant Improvement Project

**Project No:** 26-01

Each bidder submitting a bid as a general or prime contractor on the project identified above shall set forth below the name, license number, and the location of the place of business of each subcontractor who will perform work or labor or render service to the bidder in or about the construction of the work or improvement to be performed in connection with the project, or a subcontractor licensed by the State of California who, under subcontract to the bidder, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of one percent (0.5%) of the bidder's total bid; In case more than one subcontractor is named for the same kind of Work, state the portion that each will perform. Vendors or suppliers of materials only do not need to be listed.

If a bidder fails to specify a subcontractor for any portion of the work in excess of one half of one percent (0.5%) of the bidder's total bid, then the bidder shall be deemed to have agreed that the bidder is fully qualified to perform that portion, and that the bidder alone shall perform that portion. Violation of this provision (including without limitation the procurement of subcontractors for the project if no subcontractor is specified herein) can result in Visions In Education invoking any available remedies, and Visions In Education hereby reserves any and all rights in this regard.

The bidder should use the form attached on the following page to designate its subcontractors for the project. To the extent that additional space is needed, the bidder should complete and attach additional copies of that form. In addition to information necessary to identify the subcontractors, each page of that form should include the bidder's name, the bid number, the project number, the project title, and the school name.

Bidder must provide the Contractor State License Board number ("CSLB No.") for all listed subcontractors.

**Visions In Education will permit each Bidder to submit each listed subcontractor's CSLB No. no later than twenty-four (24) hours after bid opening.**

**Alternates.** Each page of that form should also indicate whether the designation of contractors pertains to the bidder's base bid or (if the project involves alternate bids) an alternate bid; if the designation pertains to an alternate bid, the alternate bid number should also be specified.

**Name of Bidder:** \_\_\_\_\_

**Bid No:** \_\_\_\_\_ **Project Title:** \_\_\_\_\_ **Location:** \_\_\_\_\_

**This Designation Pertains to (*Check one*):** \_\_\_\_\_ **Base Bid** \_\_\_\_\_ **Alternate Bid No.** \_\_\_\_\_

<b>Portion of Work to be Performed by Subcontractor</b>	<b>Name of Subcontractor</b>	<b>License No.</b>	<b>Location</b>

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

**By (Signature):** \_\_\_\_\_

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

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

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

## MILESTONE SCHEDULE

**Project Owner:** Visions In Education  
11931 Foundation Place, Gold River, CA 95670

**Project Location:** Visions In Education  
11931 Foundation Place, Gold River, CA 95670

**Project Title:** Visions In Education - Tenant Improvement Project

**Project No:** 26-01

Task Name	Anticipated Finish Date
First Advertisement / Second Advertisement	Wednesday, February 4, 2026 / Wednesday, February 11, 2026
Site Walk	Thursday, February 12, 2026 at 11:00 am
Substitutions Deadline	Monday, February 23, 2026
Clarifications/RFI Deadline	Wednesday, February 18, 2026 at 5:00 pm
Issue Final Addendum	Tuesday, February 24, 2026
RFP Deadline	Friday, February 27 at 2:00:00 pm PST
RFP Responses / Bids Reviewed/Scored	Monday, March 2, 2026 thru Tuesday, March 3, 2026
Post Bid Interviews	Wednesday, March 4, 2026 – If Needed
Notice of Intent to Award	Friday, March 6, 2026
Protest Period	Friday, March 6, 2026 thru Wednesday, March 11, 2026
Board Award	Thursday, March 26, 2026
Notice to Proceed	Friday, April 3, 2026
Mobilization Start	Monday, April 6, 2026
Construction Start	Wednesday, April 7, 2026
Substantial Completion/Occupancy 10 days prior to Construction Complete, including punch list items	Tuesday, June 30, 2026
Construction Complete	Wednesday, July 15, 2026
Close Out	Thursday, July 16, 2026 thru August 1, 2026
Retention Release	35 - 60 days after Filing Notice of Completion

## WORKERS' COMPENSATION CERTIFICATE

**Project Owner:** Visions In Education  
11931 Foundation Place, Gold River, CA 95670

**Project Location:** Visions In Education  
11931 Foundation Place, Gold River, CA 95670

**Project Title:** Visions In Education - Tenant Improvement Project

**Project No:** 26-01

Labor Code Section 3700 provides as follows:

"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.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer, or as 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."

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

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

**By (Signature):** \_\_\_\_\_

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

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

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

## DRUG-FREE WORKPLACE CERTIFICATION

**Project Owner:** Visions In Education  
11931 Foundation Place, Gold River, CA 95670

**Project Location:** Visions In Education  
11931 Foundation Place, Gold River, CA 95670

**Project Title:** Visions In Education - Tenant Improvement Project

**Project No:** 26-01

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

Visions In Education is not a “state agency” as defined in the applicable section(s) of the Government Code, but Visions In Education is a local agency and public school under California law and requires all contractors on Visions In Education projects to comply with the provisions and requirements of Government Code section 8350 *et seq.*, the Drug-Free Workplace Act of 1990.

Pursuant to Government Code Section 8355, the undersigned (hereinafter referred to as the “**Contractor**”) hereby certifies that the Contractor will provide a drug-free workplace by doing all of the following:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the Contractor’s workplace and specifying actions, which will be taken against employees for violations of the prohibition;
- (b) Establishing a drug-free awareness program to inform employees about all of the following:
  - (1) The dangers of drug abuse in the workplace;
  - (2) The Contractor’s policy of maintaining a drug-free workplace;
  - (3) Any available drug counseling, rehabilitation and employee-assistance programs; and
  - (4) The penalties that may be imposed upon employees for drug abuse violations;
- (c) Requiring that each employee engaged in the performance of the contract awarded to the Contractor in connection with the above-referenced Project (“**Agreement**”) by the Visions In Education (“**Visions In Education**”) be given a copy of the statement required by

subdivision (a) and that, as a condition of employment on that Agreement, the employee agrees to abide by the terms of the statement.

The Contractor understands that if Visions In Education determines that the Contractor has either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of Government Code Section 8355, then the Agreement is subject to suspension of payments, termination, or both. The Contractor further understands that if it violates the terms of the Drug-Free Workplace Act of 1990, the Contractor may be subject to debarment in accordance with the requirements of Government Code Sections 8350 *et seq.*

The Contractor acknowledges that it is aware of the provisions of Government Code Sections 8350 *et seq.*, and hereby certifies that the Contractor will adhere to the requirements of the Drug-Free Workplace Act of 1990.

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

**By (Signature):** \_\_\_\_\_

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

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

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

## NOTICE OF AWARD OF CONTRACT

[Date]

[Name and address of successful bidder]

**Re: Notice of Award of Contract**

VISIONS IN EDUCATION  
Tenant Improvement Project  
Project No: 26-01

Dear \_\_\_\_\_:

The Board of Directors of Visions In Education at a regular meeting held on \_\_\_\_\_, 20\_\_\_\_, accepted your bid in the amount of \$\_\_\_\_\_ for the above-referenced project.

Before commencing work on this project, it will be necessary for you to complete, sign and deliver to us two (2) originals of each of the following documents:

- **Agreement** (enclosed) – initial all pages and sign
- **Faithful Performance Bond** (enclosed) – must also be signed by Surety
- **Payment Bond** (enclosed) – must also be signed by surety
- **Certificate of Insurance and Acord Certificate of Liability Insurance and Underlying of Excess Liability Policy with required endorsement**
- **Workers' Compensation Insurance Certificate** (enclosed)
- **Drug-Free Workplace Certification** (enclosed)
- **Contractor's Certificate Regarding Non-Asbestos Containing Materials** (enclosed)
- **Fingerprinting Requirements / Contractor Certification** (enclosed)

You must send all of those documents to my attention within **ten (10) calendar days** after the date of this letter. Visions In Education can only send you a Notice to Proceed authorizing you to begin work on the Project after we receive those documents from you. Please be sure to obtain all of the necessary insurance required by those documents, and to notify your insurance carriers that copies of all notices and other documentation regarding this project should be sent to:

**Tom Tafoya, Chief Operating Officer**  
**VISIONS IN EDUCATION**  
5030 El Camino Avenue  
Carmichael, CA 95608

Sincerely:

## AGREEMENT BETWEEN OWNER AND CONTRACTOR

This Agreement, effective \_\_\_\_\_, 2024, is by and between **Visions In Education**, hereinafter called the "Owner" and **[ADD]** hereinafter called the "Contractor."

**WITNESSETH:** That the Contractor and the Owner for the consideration hereinafter named agree as follows:

**ARTICLE I. SCOPE OF WORK.** The Contractor agrees to furnish all labor, equipment and materials, including tools, implements, and appliances required, and to perform all the Work in a good and workmanlike manner, free from any and all liens and claims from mechanics, material suppliers, subcontractors, artisans, machinists, teamsters, freight carriers, and laborers required for:

**VISIONS IN EDUCATION  
TENANT IMPROVEMENT PROJECT  
PROJECT #26-01**

all in strict compliance with the plans, drawings and specifications therefore prepared by:

**GRA ARCHITECTURE  
205 23<sup>RD</sup> Street  
Sacramento, CA 95816**

and other Contract Documents relating thereto.

**ARTICLE II. CONTRACT DOCUMENTS.** The Contractor and the Owner agree that all of the documents listed in Article 1.13 of the General Conditions form the Contract Documents which form the Contract.

**ARTICLE III. TIME TO COMPLETE AND LIQUIDATED DAMAGES.** Time is of the essence in this Contract, and the time for Completion of the Work ("the Contract Time") shall be **April 3, 2026 to July 15, 2026 (103 calendar days)** if no other dates are established in a Notice to Proceed from Owner.

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

Accordingly, the parties agree that the amount herein set forth shall be the amount of damages which the Owner shall directly incur upon failure of the Contractor to Complete the Work within



the Contract Time: **\$500**, for each calendar day by which Completion of the Work is delayed beyond the Contract Time as adjusted by Change Orders.

If Contractor causes delay to any other contractor's work on the Project that results in delayed *completion* of the Project, Contractor shall be subject to liquidated damages in the amount set forth above for each calendar day Contractor delayed *completion* of the Project. The actual occurrence of damages and the actual amount of the damages which the Owner would suffer for such delayed *completion* of the Project are dependent upon many circumstances and conditions which could prevail in various combinations and, from the nature of the case, it is impracticable and extremely difficult to fix the actual damages. Damages which the Owner would suffer in the event of such delay include, but are not limited to, loss of the use of the other contractor's work and the Project, disruption of activities, costs of administration and supervision, and the incalculable inconvenience and loss suffered by the public.

Accordingly, the parties agree that the amount set forth herein shall be presumed to be the amount of damages which the Owner shall directly incur for each calendar day that *completion* of the Project is delayed because of Contractor caused delays to the work of other contractors.

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

If Owner accepts any work or makes any payment under this Agreement after a default by reason of delays, the payment or payments shall in no respect constitute a waiver or modification of any Agreement provisions regarding time of Completion and liquidated damages.

**ARTICLE IV. PAYMENT AND RETENTION.** The Owner agrees to pay the Contractor in current funds **[ADD]** (\$**[ADD]**) for work satisfactorily performed after receipt of properly documented and submitted Applications for Payment and to make payments on account thereof, as provided in the General Conditions. Contractor agrees that Owner may retain ten percent (10%) of the amount otherwise due.

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

**ARTICLE VI. TERMINATION.** The Owner or Contractor may terminate the Contract as provided in the General Conditions.

**ARTICLE VII. [RESERVED].**

**ARTICLE VIII. [RESERVED].**

**ARTICLE IX. [RESERVED].**

## **ARTICLE X. [RESERVED].**

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

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

Contractor shall provide the insurance set forth in the General Conditions. The amount of general liability insurance shall be \$3,000,000 per occurrence for bodily injury, personal injury and property damage and the amount of automobile liability insurance shall be \$2,000,000 per accident for bodily injury and property damage combined single limit. The Owner shall be named as an additional insured on all policies provided by Contractor under this Agreement.

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

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

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

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

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

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

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

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

**OWNER**

**Visions In Education**

**By:**

\_\_\_\_\_

**Its:**

\_\_\_\_\_

**Date:**

\_\_\_\_\_

**CONTRACTOR**

**[ADD]**

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

**Its:** \_\_\_\_\_

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

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

\_\_\_\_\_

**California License No:** \_\_\_\_\_

**Expiration Date:** \_\_\_\_\_

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

**FINGERPRINTING REQUIREMENTS  
CONTRACTOR CERTIFICATION**

With respect to the Agreement dated \_\_\_\_\_ 2024 by and between Visions In Education (“Owner”) and [ADD] (“Contractor”) for the provision of construction services, Contractor hereby certifies to Owner’s governing board that it has completed the criminal background check requirements of Education Code section 45125.1 and that none of its employees that may come in contact with Owner’s pupils have been convicted of a violent felony listed in Penal Code Section 667.5(c), a serious felony listed in Penal Code Section 1192.7(c), a sex offense listed in Education Code Section 44010, a controlled substance offense listed in Education Code Section 44011, a crime involving moral turpitude (e.g., embezzlement, perjury, fraud, etc.), or any offense which may make the employee unsuitable/undesirable to work around students. The Contractor shall also request and receive subsequent arrest notifications for all such employees from the California Department of Justice to ensure ongoing safety of students.

\_\_\_\_\_  
Contractor’s Representative

\_\_\_\_\_  
Date

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**CONTRACTOR EXEMPTION**

Pursuant to Education Code section 45122.1, Visions In Education (“Owner”) and [ADD] (“Contractor”) is exempt from the criminal background check certification requirements for the service Agreement dated \_\_\_\_\_ 2024 by and between Owner and Contractor (“Agreement”) because:

\_\_\_\_\_ Contractor’s employees will have no contact with Owner’s students during the course of the Agreement; or

\_\_\_\_\_ Emergency or exceptional circumstances exist.

\_\_\_\_\_  
Owner Official

\_\_\_\_\_  
Date

## HAZARDOUS MATERIALS CERTIFICATION

**PROJECT:** Visions In Education Tenant Improvement Project, Project Number: 26-01 between Visions In Education ("Owner") and [ADD] ("Contractor" or "Bidder") ("Contract" or "Project").

1. Contractor hereby certifies that no Asbestos, or Asbestos-Containing Materials, polychlorinated biphenyl (PCB), or any material listed by the federal or state Environmental Protection Agency or federal or state health agencies as a hazardous material, or any other material defined as being hazardous under federal or state laws, rules, or regulations ("New Hazardous Material"), shall be furnished, installed, or incorporated in any way into the Project or in any tools, devices, clothing, or equipment used to affect any portion of Contractor's work on the Project for Owner.
2. Contractor further certifies that it has instructed its employees with respect to the above- mentioned standards, hazards, risks, and liabilities.
3. Asbestos and/or asbestos-containing material shall be defined as all items containing but not limited to chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite. Any or all material containing greater than one-tenth of one percent (.1%) asbestos shall be defined as asbestos-containing material.
4. Any disputes involving the question of whether or not material is New Hazardous Material shall be settled by electron microscopy or other appropriate and recognized testing procedure, at the Owner's determination. The costs of any such tests shall be paid by Contractor if the material is found to be New Hazardous Material.
5. All Work or materials found to be New Hazardous Material or Work or material installed with equipment containing "New Hazardous Material" will be immediately rejected and this Work will be removed at Contractor's expense at no additional cost to the Visions In Education.
6. Contractor has read and understood the document Hazardous Materials Procedures & Requirements, and shall comply with all the provisions outlined therein.

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

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

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

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

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

## NOTICE TO PROCEED

Date:

Name  
COMPANY  
Address  
City, State, Zip

**Re: Notice to Proceed**

VISIONS IN EDUCATION  
Tenant Improvement Project  
Project No: 26-01

Dear XXXXXX:

This letter constitutes the “**Notice to Proceed**” with the above-referenced project from Visions In Education. The commencement date on which you are to begin your work on the project is \_\_\_\_\_, 20\_\_.

Pursuant to the requirements of the Contract Documents, you must also submit four (4) copies of the following documents, all checked and approved by you, not later than the following dates:

- A construction schedule by no later than **7 calendar days after Notice to Proceed** – four (4) copies, that addresses the work in his Contract as indicated in the Contract Documents;
- All other schedules by no later than **7 calendar days after Notice to Proceed** four (4) copies, including a schedule of values and a procurement schedule as indicated in the Contract Documents;
- All submittals by no later than **7 calendar days after Notice to Proceed** - four (4) copies;
- All shop drawings by no later than **7 calendar days after Notice to Proceed** four (4) copies;
- All materials list by no later than **7 calendar days after Notice to Proceed** – four (4) copies;
- All samples by no later than **7 calendar days after Notice to Proceed** – four (4) copies;
- Contractor’s Safety plan by no later than **7 calendar days after Notice to Proceed** – four (4) copies;
- **Copy of Subcontracts**. A copy of each **fully executed** written subcontract between the Contractor and any first-tier Subcontractor, whether listed or not (and a written statement signed by the Contractor giving the name of the Subcontractor and the terms and conditions of any unwritten subcontract), no later than **12 calendar days after Notice to Proceed** – one (1) copy.

Enclosed for your use are the following documents:

- (a) One fully signed original counterpart of the Agreement;
- (b) One Guaranty Form, to be signed and submitted upon completion of your work under the Agreement.

We look forward to working with you on this Project.

Sincerely,

## FAITHFUL PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that:

WHEREAS, the VISIONS IN EDUCATION (hereinafter called the “**Visions In Education**”) awarded to \_\_\_\_\_ (hereinafter called the “**Principal**”) the contract for the construction of the work described as follows (the “**Project**”):

Visions In Education  
Tenant Improvement Project  
Project Number: 26-01

AND WHEREAS, in connection with that award the Principal has executed the accompanying construction contract entitled “Agreement” and dated \_\_\_\_\_, 20\_\_ (the “**Agreement**”);

AND WHEREAS, the Principal is required under the terms of the Agreement to furnish a bond for the faithful performance of the Agreement;

NOW, THEREFORE, we the undersigned \_\_\_\_\_ as Surety, (hereinafter called the “**Surety**”) and Principal are hereby jointly and severally held and firmly bound to Visions In Education, in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) (“**Bond Amount**”) lawful money of the United States of America, this amount being not less than one hundred twenty five percent (125%) of the total bid price of the contract awarded by Visions In Education for the Project as evidenced by the Agreement, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, assigns, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT if the Principal, its heirs, executors, administrators, successors or assigns shall in all things stand to and abide by and well and truly keep and perform all the undertakings, terms, covenants, conditions, and agreements in the Agreement and in any other document referenced in the Agreement as creating obligations on behalf of the Principal, and in all respects according to their true intent and meaning, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

The following provisions shall apply to this Faithful Performance Bond (“**Bond**”):

1. Upon written notice from Visions In Education to the Surety that the Principal is in default or is being terminated under the Agreement, the Surety shall take all required action within the time frame(s) as indicated in the Agreement, including Section 00700-General Conditions. Surety shall also promptly (but in no event later than fourteen (14) days after the delivery of said notice) do one of the following at the Surety’s expense:

(a) Perform and complete the Agreement itself, through its agents or through independent contractors; the Surety acknowledges and agrees that if it elects to proceed under this Section 1(a), then the Surety’s liability in connection with the construction and completion of the work called for under the Agreement is not limited to the Bond Amount;



(b) Obtain bids or negotiated proposals from qualified contractors acceptable to Visions In Education for a contract ("**New Contract**") for the performance and completion of the work required by the Agreement in accordance with the terms and conditions of the Agreement; cause the New Contract to be prepared for execution by Visions In Education and the contractor whose bid or proposal is accepted by the Surety ("**New Contractor**"), submit the New Contract to Visions In Education for its review and approval, and make any changes thereto reasonably requested by Visions In Education; cause the New Contractor to sign the New Contract in the form approved by Visions In Education; cause the New Contract to be secured with performance and payment bonds in the same form as this Bond and the accompanying Payment Bond, executed by a new surety whose qualifications and financial strength are at least equal to that of the Surety; and pay to Visions In Education, concurrent with Visions In Education's execution of the New Contract, an amount equal to the difference between the "Cost of Completion" (as defined in Section 4 below), less the "Balance of the Agreement Price" (as defined in Section 5 below), provided, however, that said amount payable by the Surety to Visions In Education shall in no event exceed the Bond Amount;

(c) Subject to the prior written consent of Visions In Education (which written consent may be granted, conditionally granted, or denied in Visions In Education's sole discretion), finance the Principal's performance and completion of the Agreement, and cause the Principal to perform and complete the same; any payments by the Surety to or on behalf of the Principal pursuant to this Section 1(c) shall not be credited against the Bond Amount; or

(d) Pay Visions In Education an amount equal to the Cost of Completion minus the Balance of the Agreement Price (provided, however, that said amount payable by the Surety may not exceed the Bond Amount, unless agreed to by the Surety);

2. Notwithstanding anything to the contrary set forth in Section 1 above or anywhere else in this Bond, the Surety shall not utilize the Principal in completing the Agreement, nor shall the Surety accept a bid from the Principal for the completion of the work required under the Agreement, if Visions In Education notifies the Surety of Visions In Education's objection to the Principal's further participation in the completion of the Agreement and the work required thereunder.

3. The Surety acknowledges and agrees that Visions In Education may reject any contractor or subcontractor proposed by the Surety in connection with the fulfillment of the Surety's obligations under Section 1(a) and/or 1(b) above.

4. As used herein, the term "**Cost of Completion**" means the cost payable by Visions In Education to the New Contractor under the New Contract, if Visions In Education enters into a New Contract pursuant to Section 1(b) above, or, in all other cases, Visions In Education's estimate of the cost of completing the work required under the Agreement. In either case, the "Cost of Completion" shall include, without limitation: the cost of correcting the Principal's (or its subcontractors' or material men's) defective work; legal, design professional and delay costs resulting from the Principal's default under the Agreement; legal, design professional and delay costs resulting from the Surety's failure to timely perform its obligations under this Bond; liquidated damages specified in the Agreement, or, if none are specified in the Agreement, actual damages caused by the Principal's default under the Agreement; and the costs to Visions In Education of soliciting bids for the completion of the work called for under the Agreement and the costs to Visions In Education of preparing and entering into a new contract with the successful bidder.

5. As used herein, the term “**Balance of the Agreement Price**” means the total amount payable to the Principal by Visions In Education under the Agreement, less any amounts already paid or owing by Visions In Education to the Principal pursuant to the terms of the Agreement.

6. No change, extension of time, alteration, or addition to the terms of the Agreement, or to the work to be performed there under, or to the Plans and Specifications or any other Project Documents accompanying the same, shall in any way affect the Principal’s and the Surety’s obligation on this Bond. The Surety hereby waives notice by Visions In Education of any such change, extension of time, alteration or addition.

7. Forfeiture of this Bond shall not preclude Visions In Education from seeking any or all other remedies provided by law to cover losses sustained as a result of the Principal’s failure to do any of the foregoing, and this Bond shall not be a limitation on the Principal’s liability therefore.

8. Upon Visions In Education’s request, the Surety will provide Visions In Education with all of the documents specified in subdivision (a) of California Code of Civil Procedure Section 995.660.

9. If any dispute between the Surety and Visions In Education related to this Bond should result in litigation, or if any action at law or in equity is taken to enforce or interpret the terms and conditions of this Bond, then the prevailing party shall (in addition to any other relief to which that party may be entitled) be reimbursed for all reasonable costs and expenses incurred in connection with such litigation, including, without limitation, reasonable attorneys’ fees, accountants’ fees and experts’ fees. As used herein, the term “prevailing party” shall include without limitation any party against whom a cause of action, complaint, cross-complaint, counter-claim, cross-claim or third-party complaint is voluntarily dismissed, with or without prejudice.

10. This Bond shall be construed and interpreted in accordance with and shall be governed and enforced in all respects according to the laws of the State of California, without regard to conflicts of laws principles.

11. All judicial proceedings brought against Visions In Education or the Surety arising out of or relating to this Bond may be brought in any state or federal court of competent jurisdiction in the County of Sacramento, State of California, and by execution and delivery of this Agreement Visions In Education and the Surety each accepts for itself and in connection with its properties, generally and unconditionally, the exclusive jurisdiction of the aforesaid courts, waives any defense of forum non convenient and irrevocably agrees to be bound by any judgment rendered thereby in connection with this Bond. Visions In Education and the Surety each hereby agrees that service of all process in any such proceeding in any such court may be made by registered or certified mail, return receipt requested, to any other party at its address provided herein, such service being hereby acknowledged by each party to be sufficient for personal jurisdiction in any action against said party in any such court and to be otherwise effective and binding service in every respect. Nothing herein shall affect the right to serve process in any other manner permitted by law.

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

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\_\_\_\_\_  
Attention: \_\_\_\_\_  
Telephone No.: (\_\_\_\_) \_\_\_\_ - \_\_\_\_  
Fax No.: (\_\_\_\_) \_\_\_\_ - \_\_\_\_  
E-mail Address: \_\_\_\_\_

IN WITNESS WHEREOF the above-bounded parties have executed this instrument on  
\_\_\_\_\_, 20\_\_\_\_.

**“Principal”**

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

**“Surety”**

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

**By:** \_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

**By:** \_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

**By:** \_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

**By:** \_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

*Attach evidence (in the form of a Power of Attorney or some other evidence satisfactory to Visions In Education) that the Surety's signatory or signatories who have signed this Bond on behalf of the Surety are authorized by the Surety to do so and to bind the Surety to the obligations set forth herein.*

## PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that:

WHEREAS, the VISIONS IN EDUCATION (hereinafter called the “**Visions In Education**”) awarded to \_\_\_\_\_ (hereinafter called the “**Principal**”) the contract for the construction of the work described as follows (the “**Project**”):

Visions In Education  
Tenant Improvement Project  
Project Number: 26-01

AND WHEREAS, in connection with that award the Principal has executed the accompanying construction contract entitled “Agreement” and dated \_\_\_\_\_, 20\_\_\_\_ (the “**Agreement**”);

AND WHEREAS, the Principal is required under the terms of the Agreement to furnish a payment bond,

NOW, THEREFORE, we the undersigned \_\_\_\_\_ as Surety, (hereinafter called the “**Surety**”) and Principal are hereby jointly and severally held and firmly bound to Visions In Education, in the sum of

\_\_\_\_\_ Dollars (\$\_\_\_\_\_) (“**Bond Amount**”) lawful money of the United States of America, this amount being not less than one hundred percent (100%) of the total bid price of the contract awarded by Visions In Education for the Project as evidenced by the Agreement, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, assigns, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT If the Principal or any of the Principal’s subcontractors fails to pay as and when due, with respect to Agreement or the Project:

- any of the persons named in Section 3181 of the California Civil Code;
- any amounts due under the California Unemployment Insurance Code with respect to work or labor performed under the Agreement; or
- for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from wages of employees of the Principal and/or the Principal’s subcontractors pursuant to Section 13020 of the California Unemployment Insurance Code with respect to the work and labor,

then the Surety will pay the same in an aggregate amount not exceeding the Bond Amount, and also will pay, in case suit is brought upon this Payment Bond (“**Bond**”), such reasonable attorney’s fees as shall be fixed by the court, awarded and taxed as provided in Division 3, Part IV, Title XV, Chapter 7 (commencing at Section 3247) of the California Civil Code.

This Payment Bond shall inure to the benefit of any of the persons named in Section 3181 of the California Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this Bond.

The Surety shall not be exonerated or released from the obligation of this Bond by any of the following: (a) any change, extension of time (including without limit an extension of time for payment), alteration, or addition to the terms of the Agreement, or to the work to be performed there under, or to the Plans and Specifications or any other Project Documents accompanying the same; (b) any rescission or attempted rescission of the Agreement or this Bond; (c) any conditions precedent or subsequent in this Bond attempting to limit the right of recovery of claimants otherwise entitled to recover under the Agreement or this Bond; and (f) any fraud practiced by any person other than the claimant seeking to recover on this Bond. This Bond shall be construed most strongly against the Surety and in favor of all persons for whose benefit this Bond is given. Under no circumstances shall the Surety be released from liability to those for whose benefit this Bond has been given, by reason of any breach of the Agreement between Visions In Education and the Principal or on the part of any obligee. The sole conditions of recovery shall be that claimant is a person described in Sections 3110 and 3112 of the California Civil Code and that the claimant has not been paid the full amount of the claimant's claim. The Surety does hereby waive, notice of any such change, extension of time, alteration or addition.

The Surety hereby waives notice by Visions In Education of any such change, extension of time, alteration or addition.

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

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

Attention: \_\_\_\_\_  
Telephone No.: (\_\_\_\_) \_\_\_\_-\_\_\_\_\_  
Fax No.: (\_\_\_\_) \_\_\_\_-\_\_\_\_\_  
E-mail Address: \_\_\_\_\_

IN WITNESS WHEREOF the above-bounded parties have executed this instrument on \_\_\_\_\_, 20\_\_\_\_.

**"Principal"**

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

**"Surety"**

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

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

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

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

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

*Attach evidence (in the form of a Power of Attorney or some other evidence satisfactory to Visions In Education) that the Surety's signatory or signatories who have signed this Bond on behalf of the Surety are authorized by the Surety to do so and to bind the Surety to the obligations set forth herein.*

## CERTIFICATE OF INSURANCE

Visions In Education  
Tenant Improvement Project  
Project Number: 26-01

The undersigned, \_\_\_\_\_ (the “**Insurance Company**”), hereby certifies to Visions In Education (the “Visions In Education”) as follows:

The following policies of insurance (“**Policies**”) have been issued by the Insurance Company to \_\_\_\_\_ (the “**Insured**”), and the policies are in full force and effect as of the execution of this Certificate of Insurance:

Visions In Education is named as an additional insured on all such policies, except as follows: *(if no exceptions, indicate “no exceptions”)*: \_\_\_\_\_.

This Certificate of Insurance is not an insurance policy and does not amend, extend, or alter the coverage afforded by the Policies listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this Certificate of Insurance may be issued or may pertain, the insurance afforded by the Policies described herein is subject to all the terms, exclusions, and condition of such Policies.

The Insurance Company will give at least thirty (30) days written notice by certified mail to Visions In Education prior to any material change or cancellation of said Policies.

The Insurance Company has an “**A**” policyholder’s rating and a financial size rating of at least **Class VIII** in accordance with the most current Best’s Key Rating Guide, Property-Casualty.

\_\_\_\_\_  
Named Insured

\_\_\_\_\_  
Insurance Company

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City and State

\_\_\_\_\_  
City and State

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature of Company Representative)

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

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

No substitution or revision to the above certificate form will be accepted. If the insurance called for is provided by more than one insurance company, a separate certificate in the exact above form shall be provided for each insurance company.



## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

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

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

PRODUCER	CONTACT NAME	
	PHONE (A/C, H/L, E/O)	FAX (A/C, H/L)
INSURED	E-MAIL ADDRESS	
	INSURANCE AFFORDING COVERAGE	
	NAME #	
	INSURER A:	
	INSURER B:	
	INSURER C:	
INSURER D:		
INSURER E:		
INSURER F:		

**COVERAGES**

CERTIFICATE NUMBER:

REVISION NUMBER:

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

AGG LTR	TYPE OF INSURANCE	AGG SUBM	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY					EACH OCCURRENCE
	<input type="checkbox"/> CLAIM-MADE <input type="checkbox"/> OCCUR					CASUALTY TO RENTED
						PREMISES (EA OCCURRENCE)
						VED EXP (Per occ per ann)
						PERSONAL & ADY INJURY
						GENERAL AGGREGATE
	GEN'L AGGREGATE LIMIT APPLIES PER:					PRODUCTS - COMPROP AGG
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC					
	(OTHER)					
	AUTOMOBILE LIABILITY					COMBINED SINGLE LIMIT (EA OCCURRENCE)
	ANY AUTO					BOODY INJURY (Per person)
	OWNED AUTOS ONLY	<input type="checkbox"/> SCHEDULED AUTOS				BOODY INJURY (Per accident)
	HIRSD AUTOS ONLY	<input type="checkbox"/> NON-OWNED AUTOS ONLY				PROPERTY DAMAGE (Per accident)
	UMBRELLA LMB	<input type="checkbox"/> OCCUR				
	EXCESS LMB	<input type="checkbox"/> CLAIM-MADE				EACH OCCURRENCE
	(DED) <input type="checkbox"/> RETENTION \$					AGGREGATE
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					PER EMPLOYEE <input type="checkbox"/> OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NYS)	<input type="checkbox"/> Y/N				E.L. EACH ACCIDENT
	If yes, describe under DESCRIPTION OF OPERATIONS below	N/A				E.L. DISEASE - EA EMPLOYEE
						E.L. DISEASE - POLICY LIMIT

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

**CERTIFICATE HOLDER****CANCELLATION**

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

AUTHORIZED REPRESENTATIVE

ACORD 25 (2016/03)

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## Sample Additional Insured Endorsement

### Sample Additional Insured Endorsement:

[REDACTED]

#### COMMERCIAL GENERAL LIABILITY

[REDACTED]

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

Policy Number [REDACTED]

Insured **Your business/your name**

This endorsement modifies insurance provided under the following:

#### COMMERCIAL GENERAL LIABILITY COVERAGE PART

##### SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)
Visions In Education 8000 El Camino Ave. Carmichael, CA 95608
Information required to complete this Schedule, if not shown above will be shown in the Declarations.

**Section II - WHO IS AN INSURED** is amended to include as an insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions of the acts or omissions of those acting on your behalf.

- A. In the performance of your ongoing operations; or
- B. In connection with your premises owned by or rented to you.

[REDACTED]

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Page 1 of 1 □



## CONTRACTOR'S CERTIFICATE REGARDING NON-ASBESTOS CONTAINING MATERIALS

Visions In Education  
Tenant Improvement Project  
Project Number: 26-01

Contractor Name (the "Contractor") hereby certifies that no asbestos or asbestos-containing materials shall be used in this Project or in any tools, devices, clothing, or equipment used to affect the \_\_\_\_\_ which we have installed in the Tenant Improvement Project at Visions In Education under Project No: 26-01.

(a) The Contractor further certifies that he/she/it has instructed the Contractor's employees with respect to the above-mentioned restrictions and has discussed with those employees the hazards, risks and liabilities associated with asbestos and asbestos-containing materials.

(b) Asbestos and/or asbestos-containing material shall be defined as all items containing but not limited to chrysotile, crocidolite, amosite, anthophyllite, tremolite and actinolite.

(c) Any or all material containing greater than one-tenth of one percent (.1%) asbestos shall be defined as asbestos-containing material.

(d) Any disputes involving the question of whether or not material contains asbestos shall be settled by electron microscopy; the costs of any such tests shall be paid by the Contractor if the material is found to contain asbestos.

All work or materials found to contain asbestos or work or material installed with asbestos-containing equipment will be immediately rejected and this work will be removed at no additional cost to Visions In Education.

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

**By (Signature):** \_\_\_\_\_

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

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

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

## SUBSTITUTION REQUEST FORM

# \_\_\_\_\_

DATE: \_\_\_\_\_ PROJECT NO: 26-01

TO: \_\_\_\_\_

PROJECT: Visions In Education - Tenant Improvement Project

SPECIFIED ITEM:

Section	Page	Paragraph	Description
---------	------	-----------	-------------

The undersigned requests consideration of the following:

PROPOSED SUBSTITUTION: \_\_\_\_\_

Attached data includes product description, specifications, drawings, photographs, performance and test data adequate for evaluation of the request. Applicable portions of the data are clearly identified.

Attached data also includes a description of changes to the Contract Documents which the proposed substitution will require for its proper installation.

The undersigned certifies that the following paragraphs, unless modified by attachments are correct:

1. The proposed substitution does not affect dimensions shown on drawings:
2. The undersigned will pay for changes to the building design, including engineering design, detailing, and construction costs caused by the requested substitution.
3. The proposed substitution will have no adverse effect on other trades, the construction schedule, or specified warranty requirements.
4. Maintenance and service parts will be locally available for the proposed substitution.
5. The proposed substitution is submitted within the time frames indicated in the Contract Documents.

The undersigned further states that the function, appearance, and quality of the proposed substitution are equivalent or superior to the specified item.

Submitted by: \_\_\_\_\_ **(For Use By The Design Consultant)**

Signature \_\_\_\_\_ ☐ Accepted ☐ Accepted as noted

Firm: \_\_\_\_\_ ☐ Not Accepted ☐ Received too late

Address \_\_\_\_\_ Reviewed By: \_\_\_\_\_

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

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

## GUARANTEE

Guarantee for \_\_\_\_\_. We hereby guarantee that the \_\_\_\_\_, which we have installed in \_\_\_\_\_ has been done in accordance with the Contract Documents, including without limitation, the drawings and specifications, and that the work as installed will fulfill the requirements included in the bid documents. The undersigned and its surety agrees to repair or replace any or all such work, together with any other adjacent work, which may be displaced in connection with such replacement, that may prove to be defective in workmanship or material within a period of Two (2) years from the date of the Notice of Completion of the above-mentioned project by Visions In Education's ordinary wear and tear and unusual abuse or neglect excepted.

In the event the undersigned or its surety fails to comply with the above-mentioned conditions within a reasonable period of time, as determined by the District, but not later than ten (10) days after being notified in writing by Visions In Education or within forty eight (48) hours in the case of an emergency or urgent matter, the undersigned and its surety authorizes Visions In Education to proceed to have said defects repaired and made good at the expense of the undersigned and its surety, who will pay the costs and charges therefor upon demand. The undersigned and its surety shall be jointly and severally liable for any costs arising from Vision in Education's enforcement of this Guarantee.

Countersigned

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

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

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

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

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

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

Representatives to be contacted for service:

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

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

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

## **GENERAL CONDITIONS**

### **ARTICLE 1: DEFINITIONS**

1.1 Owner. "Owner" refers to Visions In Education and unless otherwise stated, includes Owner's authorized representatives, including the Construction Manager, if a Construction Manager is designated, Owner's Board of Directors and Owner's officers, employees, agents and representatives.

1.2 Contractor. Contractor is the person or entity identified as such in the Agreement; references to "Contractor" include Contractor's authorized representatives.

1.3 Architect of Record ("AOR"). The Architect of Record is the person or entity, licensed under the laws of the State of California as an architect and who has produced Design Documents for review and permitting by the County of Sacramento. References to the AOR include, as appropriate by the circumstances of usage, Design Consultants (who may or may not be members of Contractor) responsible for completing portions of the Design Documents.

1.4 Not Used.

1.5 Design Documents. The Design Documents are all drawings, specifications and other design documents required by this Contract and created (or, where the context requires, to be created) by the Architect for the performance of the Work.

1.6 Design Services. Design Services refers to the services of California licensed/registered architects or engineers to produce complete and accurate Design Documents for review and permitting by the County of Sacramento and construction of the Project.

1.7 Construction Services. All of the work, labor, materials, equipment, services and other items necessary to complete construction of the Project based upon County of Sacramento permitted Design Documents and Changes thereto directed or authorized by Owner in accordance with the terms of the Contract Documents.

1.8 The Work. The Work is the entirety of the design and construction services required by the Contract Documents, and includes all labor, materials, equipment or services provided or to be provided by Contractor to fulfill Contractor's obligations under the Contract Documents.

1.9 The Project. The Project is the total construction of which the Work performed by Contractor under the Contract Documents which may be the whole or a part of the Project and which may include construction by Owner or by separate contractors.

1.10 Subcontractors; Sub-Subcontractors. A Subcontractor is a person or entity who has a direct contract with Contractor to perform a portion of the Work. "Subcontractor" does not include a separate contractor to Owner or Subcontractors of any separate contractors. A Sub-Subcontractor is a person or entity of any tier, who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the Site.

1.11 Material Supplier. A Material Supplier is any person or entity who only furnishes materials, equipment or supplies for the Work without fabricating, installing or consuming them in the Work.

1.12 Drawings and Specifications. The Drawings are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing generally, the design,

location and dimensions of the Work and may include without limitation, plans, elevations, sections, details, schedules or diagrams. The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards, criteria and workmanship for the Work and related services. Figured dimensions on Drawings shall govern, but Work which is not dimensioned shall be as directed or required by field conditions. Specifications shall govern as to materials, workmanship and installation procedures.

1.13 Contract Documents. The Contract Documents consist of the Agreement between Owner and Contractor and all documents identified in the Agreement as forming a part of the Contract Documents. The Contract Documents shall include modifications thereto issued after execution of the Agreement. The Contract Documents include but are not limited to:

- Construction Agreement
- General Conditions
- Plans and Specifications
- Addendum
- Performance and Payment Bonds
- Certificate of Insurance and Acor Certificate of Liability Insurance and Underlying of Excess Liability Policy with required endorsement

1.14 Intent and Correlation of Contract Documents.

1.14.1 Work of the Contract Documents. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by Contractor. The Contract Documents are complementary and what is required by one shall be as binding as if required by all; performance by Contractor shall be required to the extent consistent with the Contract Documents and reasonably inferable therefrom as being necessary to produce the intended results. Organization of the Specifications into divisions, sections or articles, and the arrangement of Drawings shall not control Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade. Where any portion of the Contract Documents is silent and information appears elsewhere in the Contract Documents, such other portions of the Contract Documents shall control.

1.14.2 Technical Terms. Unless otherwise stated in the Contract Documents, words or terms which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

1.14.3 Conflict in Contract Documents. In the event there are conflicting provisions in the Contract Documents, the Owner shall determine which of the conflicting provisions shall govern. In general, the Owner shall use as a guideline the more stringent requirements or the more expensive material unless, in the opinion of the Owner, other requirements are more appropriate. The decision of the Owner is final and shall not be further reviewable or appealable by arbitration or litigation. If conflicts exist between portions of the Contract Documents regarding the quality of any item, product, equipment or materials, unless otherwise directed or authorized by Owner, Contractor shall provide, furnish and install the item, product, equipment or material of the highest or more stringent quality.

1.14.4 Drawing Dimensions. Dimensions given on the Drawings take precedence over scaled measurements, and large-scale Drawings take precedence over small scale Drawings. Figures take precedence over scaled dimensions. Scaling of dimensions is performed at Contractor's own risk.

1.15 Shop Drawings; Samples; Product Data ("Submittals"). Shop Drawings are diagrams, schedules and other data specially prepared for the Work by Contractor or a Subcontractor, Sub-Subcontractor, manufacturer, Material Supplier, or distributor to illustrate some portion of the Work. Samples are physical examples of materials, equipment or workmanship forming a part of, or to be incorporated into the Work. Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by Contractor to illustrate materials or equipment for some portion of the Work. Shop Drawings, Samples and Product Data prepared or furnished by Contractor or any of its Subcontractors or Material Suppliers are collectively referred to as "Submittals".

1.16 Contract Document Terms. The term "provide" means "provide complete in place" or to "furnish and install" such item. Unless otherwise provided in the Contract Documents, the terms "approved;" "directed;" "satisfactory;" "accepted;" "acceptable;" "proper;" "required;" "necessary" and "equal" shall mean as approved, directed, satisfactory, accepted, acceptable, proper, required, necessary and equal, in the opinion of the Owner. The term "typical" as used in the Drawings shall require the installation or furnishing of such item(s) of the Work designated as "typical" in all other areas similarly marked as "typical" or which are reasonably inferable as a "typical" condition; Work in such other areas shall conform to that shown as "typical" or as reasonably inferable therefrom.

1.17 Contractor's Field Superintendent. Contractor's Field Superintendent is the individual employed by Contractor whose principal responsibility shall be the supervision and coordination of Contractor's Construction Services and activities; Contractor's Superintendent shall not perform routine construction labor.

1.18 Record Drawings. The Record Drawings are a set of the Drawings marked by Contractor during the performance of the Work to indicate completely and accurately the actual as-built condition of the Work. The Record Drawings shall be sufficient for a capable and qualified draftsman to modify the Drawings to reflect and indicate the Work actually in place at Final Completion of the Work.

1.19 Construction Equipment. "Construction Equipment" is equipment utilized for the performance of any portion of the Work, but which is not incorporated into the Work.

1.20 Site. The Site is the physical area designated in the Contract Documents for Contractor's performance, construction and installation of the Work.

1.21 Field Clarifications. A written or graphic document consisting of supplementary details, instructions or information issued on behalf of Owner which clarifies or supplements the Contract Documents and which becomes a part of the Contract Documents upon issuance. Field Clarifications do not constitute an adjustment of the Contract Time or the Contract Price, unless a Change Order relating to a Field Clarification is authorized and issued under the Contract Documents.

1.22 Defective or Non-Conforming Work. Defective or non-conforming Work is any Work which is unsatisfactory, faulty or deficient by: (a) not conforming to the requirements of the Contract Documents; (b) not conforming to the standards of workmanship of the applicable trade or industry; (c) not being in compliance with the requirements of any inspection, reference, standard, test, or approval required by the Contract Documents or not in compliance with Laws; or (d) damage occurring prior to Final Completion of all of the Work. Contractor shall promptly correct, repair or replace any portion of the Work subject to a Notice of Non-Compliance.

1.23 Delivery. The term “delivery” used in conjunction with any equipment, materials or other items to be incorporated into the Work shall mean the unloading and storage in a protected condition pending incorporation into the Work.

1.24 Notice to Proceed. The Notice to Proceed is the written notice issued by or on behalf of Owner to Contractor authorizing Contractor to proceed with commencement of the Work and which establishes the date for commencement of the Contract Time for completion of the Construction Services.

1.25 Progress Reports; Verified Reports. Progress Reports are written reports prepared by Contractor and its Subcontractors on a daily basis. Daily Progress Reports shall be completed and submitted to Owner weekly by end of day Friday. Daily Progress Reports must include: (i) the number of labor and supervising personnel at the Site; (ii) the labor/work classification of each laborer; (iii) a detailed description of the Work in progress and completed; (iv) weather/environmental conditions; and (v) problems encountered with a potential impact to the Contract Time or the Contract Price. Verified Reports are periodic written reports prepared by Contractor and submitted to the County of Sacramento; Verified Reports shall be in such form and content as required by the applicable provisions of Title 24 of the California Code of Regulations. A material obligation of Contractor is the preparation of complete and accurate Progress Reports, if required, and Verified Reports as well as the timely submission of the same.

1.26 Laws. The term “Laws” as used in the Contract Documents shall refer to all laws, ordinances, codes, rules and/or regulations promulgated by any governmental or quasi-governmental agency with jurisdiction over any portion of the Work and which apply to any portion of the Work. Laws refer to those enacted and in effect as of the execution of the Agreement, amendments thereto occurring during the performance of the Work and subsequently enacted Laws that take effect during the performance of the Work. No adjustment of the Contract Time or the Contract Price shall be allowed for Contractor’s compliance with the Laws.

## **ARTICLE 2: OWNER**

### **2.1 Information Required of Owner.**

2.1.1 Surveys; Site Information. Information, if any, concerning physical characteristics of the Site, including without limitation, surveys, soils reports, and utility locations, to be provided by Owner are set forth in the Contract Documents. Information not provided by Owner or necessary information in addition to that provided by Owner concerning physical characteristics of the Site which is required shall be obtained by Contractor without adjustment to the Contract Price or the Contract Time.

2.1.2 Furnishing of Information. Information or services to be provided by Owner under the Contract Documents shall be furnished by Owner with reasonable promptness to avoid delay in the orderly progress of the Work. Information about existing conditions furnished by Owner under the Contract Documents is obtained from sources believed to be reliable, but Owner neither guarantees or warrants that such information is complete and accurate. Contractor shall verify all information provided by Owner. To the extent that the Contract Documents depict existing conditions on or about the Site, or the Work involves the renovation, removal or remodeling of existing improvements, or the Work involves any tie-in or other connection with any existing improvements; the conditions and/or existing improvements depicted in the Contract Documents are, as they are believed to exist. Contractor shall bear the risk of any variations between conditions or existing improvements depicted in the Contract Documents and those conditions or existing improvements actually encountered in the performance of the Work. Subject to the provisions of Article 4.2.3, the existence of any variations between conditions or existing

improvements depicted in the Contract Documents and those actually encountered in the performance of the Work shall not result in any Owner liability therefor, nor shall any such variations result in an adjustment of the Contract Time or the Contract Price.

2.2 Owner's Right to Stop the Work. In addition to Owner's right to suspend the Work or terminate the Contract pursuant to the Contract Documents, Owner may, by written order, direct Contractor to stop the Work, or any portion thereof, until the cause for such stop work order has been eliminated if Contractor: (i) fails to correct Work which is not in conformity and in accordance with the requirements of the Contract Documents, or (ii) otherwise fails to carry out the Work in conformity and accordance with the Contract Documents. The right of Owner to stop the Work hereunder shall not be deemed a duty on the part of Owner to exercise such right for the benefit of Contractor or any other person or entity, nor shall Owner's exercise of such right waive or limit the exercise of any other right or remedy of Owner under the Contract Documents or the Laws. If Work is stopped or suspended pursuant to the foregoing, the Contract Price and the Contract Time are not subject to adjustment.

### 2.3 Partial Occupancy or Use.

2.3.1 Owner's Right to Partial Occupancy. Owner may occupy or use any completed or partially completed portion of the Work, provided that: (i) Owner has obtained the consent of, or is otherwise authorized by, public authorities with jurisdiction thereof, to so occupy or use such portion of the Work and (ii) Owner and Contractor have accepted, in writing, the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, utilities, damage to the Work, insurance and the period for correction of the Work and commencement of warranties required by the Contract Documents for such portion of the Work partially used or occupied by Owner. If Contractor and Owner are unable to agree upon the matters set forth in (ii) above, Owner may nevertheless use or occupy any portion of the Work, with the responsibility for such matters subject to resolution in accordance with the Contract Documents. Immediately prior to such partial occupancy or use of the Work, or portions thereof, Owner, AOR and Contractor, shall jointly inspect the portions of the Work to be occupied or to be used to determine and record the condition of the Work. Repairs, replacements or other corrective action noted in such inspection shall be promptly performed and completed by Contractor so that the portion of the Work to be occupied or used by Owner is in conformity with the requirements of the Contract Documents and Owner's occupancy or use thereof is not impaired. Owner's use or occupancy of the Work or portions thereof pursuant to the preceding shall not be deemed "completion" of the Work.

2.3.2 No Acceptance of Defective or Nonconforming Work. Unless otherwise expressly agreed upon by Owner and Contractor, Owner's partial occupancy or use of the Work or any portion thereof, shall not constitute Owner's acceptance of the Work not complying with the requirements of the Contract Documents or which is otherwise defective.

## ARTICLE 3: CONTRACT ADMINISTRATION

### 3.1 Administration of the Contract.

3.1.1 Role of the AOR and Owner. The AOR and Owner will provide administration of the Contract as described in the Contract Documents during construction until the time that Final Payment is due Contractor under the Contract Documents. The AOR will advise and consult with Owner with respect to the administration of the Contract and the Work. The AOR is authorized to act on behalf of Owner to the extent provided for in the Contract Documents.

3.1.2 Contractor Responsibility for Construction Means, Methods and Sequences. Neither Owner nor AOR will have control over or charge of and be responsible for construction means,



methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, these being solely Contractor's responsibility. Owner and AOR have no control over or charge of and are not responsible for acts or omissions of Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

3.1.3 Review of Applications for Payment. In accordance with Article 8 hereof, the Owner and AOR will review Contractor's Applications for Progress Payments and for Final Payment, evaluate the extent of Work performed and the amount properly due Contractor on such Application for Payment.

3.1.4 Rejection of Work. The Owner and AOR are authorized to reject Work which is defective or does not conform to the requirements of the Contract Documents. Whenever the Owner or AOR considers it necessary or advisable, for implementation of the intent of the Contract Documents, the Owner or AOR may require additional inspections or testing of the Work, whether or not such Work is fabricated, installed or completed. Neither this authority of the Owner or AOR nor a decision made in good faith by the Owner or AOR to exercise or not to exercise such authority shall give rise to a duty or responsibility to Contractor, Subcontractors, Material Suppliers, their agents or employees, or other persons performing portions of the Work.

3.1.5 Changes to the Work; Change Orders. The AOR will prepare Change Orders upon the written approval or direction of Owner.

3.1.6 Completion. The AOR and Owner will conduct observations to determine the date(s) of Final Completion. The AOR and Owner will receive from Contractor written warranties and related documents or other items required by the Contract Documents upon close-out of the Work which are assembled by Contractor. The AOR and Owner will verify that Contractor has complied with all requirements of the Contract Documents and is entitled to receipt of Final Payment.

3.1.7 Interpretation of Contract Documents; AOR as Initial Arbiter of Disputes. The AOR will interpret and decide matters concerning the requirements of the Contract Documents on written request of either Owner or Contractor. The AOR'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 AOR's review and response to requests under this Article 3.1.7, the AOR shall be afforded a ten (10) calendar day period after receipt of such request to review and respond thereto. Interpretations and decisions of the AOR will 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, the AOR will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions so rendered in good faith. The AOR's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents. If there is any disagreement, dispute or other matter in controversy between Owner and Contractor, in addition to other requirements established by the Contract Documents or by law, the submission of the same to the AOR for its decision shall be a condition precedent to initiation of dispute resolution procedures.

3.2 Communications. All communications regarding the Work, the performance thereof or the Contract Documents shall be in writing via email to Tom Tafoya [ttafoya@viedu.org](mailto:ttafoya@viedu.org) and cc: Sharon Thomas at [sharont@capitalpm.com](mailto:sharont@capitalpm.com) ; verbal communications shall be reduced to writing. Communications between Contractor and Owner's separate contractors, if any, shall be through Owner. All written communications between Contractor and any Subcontractor, Material Supplier or others directly or indirectly engaged by Contractor to perform or provide any portion of the Work shall be available to Owner, and the AOR for review, inspection and reproduction as may be requested from time to time. Failure or refusal of Contractor to permit Owner or the AOR to review,

inspect or reproduce such written communications may be deemed a default of Contractor hereunder. Owner reserves the right to implement a computerized data logging and storage system for communications relating to the Work. Contractor's use and access to such data logging system will be as established by Owner. Contractor's use of the data logging system will be without charge or expense to Contractor; provided, however, the Contract Time and the Contract Price shall not be subject to adjustment on account of the use of the data logging system or training of Contractor's personnel on the use and functions of the data logging system.

3.3 Termination of OAR; Substitute AOR. In case of termination of Owner's contract with the AOR, Owner shall appoint a substitute construction manager whose status under the Contract Documents shall be that of the AOR.

## **ARTICLE 4: CONTRACTOR**

4.1 Work in Accordance with Contract Documents. Contractor shall perform all of the Work in strict conformity with the Contract Documents, including without limitation County of Sacramento permitted Design Documents. Contractor shall not commence any Project construction activities unless the County of Sacramento has issued a construction permit for the Work and Contractor has obtained all other approvals, reviews and/or authorizations of any public or quasi-public agency with jurisdiction over any portion of the Work (collectively "Permits"). Prior to commencement of construction activities at the Site, Contractor shall compile and present to Owner and AOR all of the Permits for review and confirmation that all necessary Permits have been obtained by Contractor. Within three (3) days of Contractor submittal of all Permits to Owner and the AOR, Owner and AOR shall notify Contractor of Owner's acceptance of the Permits as being validly issued and that all Permits necessary for construction have been obtained ("Owner Permit Acceptance").

4.2 Site Investigation; Subsurface Conditions.

4.2.1 Contractor Investigation. Contractor shall be responsible for, and by executing the Agreement acknowledges, that it has carefully examined the Site and has taken all steps it deems reasonably necessary to ascertain all conditions which may affect the Work, or the cost thereof, including, without limitation, conditions bearing upon transportation, disposal, handling or storage of materials; availability of labor and materials; access to the Site; and the physical conditions and the character of equipment, materials, labor and services necessary to perform the Work. Any failure of Contractor to do so will not relieve it from the responsibility for fully and completely performing all Work without adjustment to the Contract Price or the Contract Time. Owner assumes no responsibility to Contractor for any understandings or representations concerning conditions or characteristics of the Site, or the Work, made by any of its officers, employees or agents prior to the execution of the Agreement, unless such understandings or representations are expressly set forth in the Agreement

4.2.2 Subsurface Data. By executing the Agreement, Contractor acknowledges that it has examined the boring data and other subsurface data available and satisfied itself as to the character, quality and quantity of surface and subsurface materials, including without limitation, obstacles which may be encountered in performance of the Work, insofar as this information is reasonably ascertainable from an inspection of the Site, review of available subsurface data and analysis of information furnished by Owner under the Contract Documents. Subsurface data or other soils investigation report provided by Owner hereunder are not a part of the Contract Documents. Information contained in such data or report regarding subsurface conditions, elevations of existing grades or below grade elevations are approximate only and is neither

guaranteed or warranted by Owner to be complete and accurate. Contractor shall examine all boring and other subsurface data to make its own independent interpretation of the subsurface conditions and acknowledges that its bid is based upon its own opinion of the conditions which may be encountered.

4.2.3 Subsurface Conditions. If the Work under the Contract Documents involves digging trenches or other excavations that extend deeper than four feet below the surface, Contractor shall promptly and before the following conditions are disturbed, notify the Owner and AOR, in writing, of any (i) material that Contractor believes may be material that is hazardous waste, as defined in California Health and Safety Code § 25117, that is required to be removed to a Class I or Class II or Class III disposal site in accordance with provisions of existing law; (ii) subsurface or latent physical conditions at the site differing from those indicated; or (iii) unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in the Work or the character provided for in the Contract Documents. If upon notice to Owner of the conditions described above and upon Owner's investigation thereof, Owner determines that the conditions so materially differ or involve such hazardous materials which require an adjustment to the Contract Price or the Contract Time, Owner shall issue a Change Order in accordance with Article 9 hereof. Any dispute arising between Contractor and Owner as to any of the conditions listed in (i), (ii) or (iii) above, shall not excuse Contractor from the completion of the Work within the Contract Time and Contractor shall proceed with all Work to be performed under the Contract Documents. Owner reserves the right to terminate the Contract pursuant to Article 15.2 hereof should Owner determine not to proceed because of any condition described in (i), (ii) or (iii) above.

4.3.1 Performance of the Work. The Contractor shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Contractor performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, the Contractor shall assume responsibility for such Work and shall bear the costs attributable to correction.

4.3.2 Supervision of the Work. Contractor shall supervise and direct performance of the Work, using Contractor's best skill and attention and in compliance with all applicable laws. Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract Documents. The Owner and AOR shall be responsible for inspection of completed or partially completed portions of Work to determine that such portions are in proper condition to receive subsequent Work.

4.3.3 Responsibility for the Work. Contractor shall be responsible to Owner for acts and omissions of Contractor's employees, Subcontractors and their agents and employees, and all other persons performing any portion of the Work under a contract with Contractor or a Subcontractor. Contractor shall not be relieved of the obligation to perform the Work in accordance with the Contract Documents either by activities or duties of the Owner and AOR in their administration of the Contract, observations of the Work, or by tests, inspections or approvals required or performed by persons other than Contractor.

4.3.4 Layouts. Contractor is solely responsible for laying-out the Work so that construction of the Work conforms to the requirements of the Contract Documents and so that all component parts of the Work are coordinated. Contractor shall be responsible for maintenance and preservation of benchmarks, reference points and stakes for the Work. The cost of maintenance and preservation of benchmarks, reference points and stakes shall be included within the Contract Price. Contractor shall be solely responsible for all loss or costs resulting from the loss, destruction, disturbance or damage of benchmarks, reference points or stakes.

4.3.5 Construction Utilities. Owner will provide any utility services at the Site for use during Project construction. Contractor is not responsible for securing and paying for all necessary utility services and distributions thereof at the Site. Contractor shall remove temporary utility distributions at the Site prior to Final Completion.

4.3.6 Existing Utilities; Removal, Relocation and Protection. Contractor and Owner acknowledge that the provisions of Government Code §4215 shift the burden for identification and locating utility lines and related utility appurtenances to Owner. Contractor and Owner express agree that now the provisions of Government Code §4215, Owner and Contractor waive all rights and obligations thereunder. The foregoing is based upon Contractor's obligations to complete the Design Documents for the Work and in doing so, Contractor's assumption of responsibility and liability for identifying and locating utility lines and related appurtenances.

4.3.7 Conferences and Meetings. A material obligation of Contractor under the Contract Documents is the scheduling of and attendance at required meetings by Contractor's supervisory personnel for the Work and Contractor's management personnel as required by the Contract Documents or as requested by Owner. Contractor's personnel participating in conferences and meetings relating to the Work shall be authorized to act on behalf of Contractor and to bind Contractor. Contractor is solely responsible for arranging for the attendance by Subcontractors, Material Suppliers at meetings and conferences relating to the Work as necessary, appropriate or as requested by Owner.

4.3.7.1 Pre-Construction Conference. Contractor's representatives (and representatives of Subcontractors as requested by Owner) shall attend a Pre-Construction Conference at such time and place as designated by Owner. The Pre-Construction Conference will generally address the requirements of the Work and Contract Documents, and to establish construction procedures. Subject matters of the Pre-Construction Conference will include as appropriate: (i) administrative matters, including an overview of the respective responsibilities of Owner, AOR, Contractor, Subcontractors, and others performing any part of the Work or services relating to the Work; (ii) Submittals; (iii) Changes and Change Order processing; (iv) employment practices, (v) Progress Schedule development and maintenance; (vi) development of Schedule of Values and payment procedures; (vii) communications procedures; (ix) Site visitor policies; (x) conduct of Contractor/Subcontractor personnel at the Site; and (xi) punch list/close-out procedures.

4.3.7.2 Progress Meetings. Progress meetings will be conducted on regular intervals (weekly unless otherwise expressly indicated elsewhere in the Contract Documents). Contractor's representatives and representatives of Subcontractors (as requested by Owner) shall attend Progress Meetings. Progress Meetings will be chaired by Owner or AOR and will generally include as agenda items: Site safety, field issues, coordination of Work, a review of a three (3) week look-ahead schedule which shall be prepared by Contractor's Superintendent and provided to all parties at least 24 hours prior to the meeting, construction progress and impacts to timely completion, if any. The purposes of the Progress Meetings include: a formal and regular forum for discussion of the status and progress of the Work by all Project participants, a review of progress or resolution of previously raised issues and action items assigned to the Project participants, and reviews of the Progress Schedule and Submittals.

4.3.7.3 Special Meetings. As deemed necessary or appropriate by Owner, Special Meetings will be conducted with the participation of Contractor, Subcontractors and other Project participants as requested by Owner. Attendance of Contractor, Subcontractors and others as directed by Owner at such special meetings is a material obligation of Contractor under the Contract Documents.

4.3.7.4 Minutes of Meetings. Following conclusion of the Pre-Construction Conference, Progress Meetings and Special Meetings, the Owner's representative will prepare and distribute minutes reflecting the items addressed and actions taken at a

meeting or conference. Unless the AOR or Owner notifies Contractor in writing of objections or corrections to minutes prepared hereunder within five (5) days of the date of distribution of the minutes, the minutes as distributed shall constitute the official record of the meeting or conference. No objections or corrections of any Subcontractor or Material Supplier shall be submitted directly to the AOR or Owner; such objections or corrections shall be submitted to the AOR or Owner through Contractor. If AOR or Owner timely interposes objections or notes corrections, the resolution of such matters shall be addressed at the next scheduled Progress Meeting.

4.3.8 Temporary Sanitary Facilities. At all times during Work at the Site, Contractor shall obtain and maintain temporary sanitary facilities in conformity with the Laws. Contractor shall maintain temporary sanitary facilities in a neat and clean manner with sufficient toilet room supplies. Personnel engaged in the Work are permitted to use any toilet facilities situated on the Project construction site as designated by the Owner and AOR.

4.3.9 Noise and Dust Control.

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

4.3.9.2 Dust Control. Contractor shall be fully and solely responsible for maintaining and upkeeping all areas of the Site and adjoining areas, outdoors and indoors, free from flying debris, grinding powder, sawdust, dirt and dust as well as any other product, product waste or work waste, that by becoming airborne may cause respiratory inconveniences to persons, particularly to students and Owner personnel. Additionally, Contractor shall take specific care to avoid deposits of airborne dust or airborne elements. Such protection devices, systems or methods shall be in accordance with the Laws, including without limitation, the regulations established by the EPA and OSHA. Additionally, Contractor shall be the sole party responsible to regularly and routinely clean up and remove any and all deposits of dust and other elements. Damage and/or any liability derived from Contractor's failure to comply with these requirements shall be exclusively at the cost of Contractor, including, without limitation, any and all penalties that may be incurred for violations of applicable law, rule or regulation, and any amounts expended by Owner to pay such damages shall be due and payable to Owner on demand. Contractor shall replace any damaged property or part thereof and professionally clean any and all items that become covered or partially covered to any degree by dust or other airborne elements. If classes are in session at any point during the progress of Work, and, in Owner's reasonable determination, debris, powder, sawdust, dirt or dust from any Work disrupts or disturbs the students or faculty or the normal operation of Owner, at Owner's request, Contractor shall schedule the performance of all such Work around normal Owner hours and make other arrangements so that the Work does not cause such disruption or disturbance. In no event shall such arrangements result in adjustment of the Contract Price or the Contract Time.

4.3.9.3 Contractor Failure to Comply. If Contractor fails to comply with the requirements for dust control, noise control, or any other maintenance or clean up requirement of the Contract Documents, Owner or the AOR are each authorized to notify Contractor in writing of such failure and direct corrective measures and Contractor shall take immediate action to implement such corrective measures. Should Contractor fail to respond with immediate and responsive action and not later than twenty-four (24) hours from such notification, Owner shall have the absolute right to proceed as it may deem necessary to remedy such matter. Any and all costs incurred by Owner in connection with such actions shall be the sole responsibility of, and be borne by, Contractor; Owner may deduct such amounts from the Contract Price then or thereafter due Contractor.

#### 4.4 Labor and Materials.

4.4.1 Payment for Labor, Materials and Services. Unless otherwise provided in the Contract Documents, Contractor shall provide and pay for all labor, materials, equipment, tools, Construction Equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated in the Work.

4.4.2 Employee Discipline. Contractor shall enforce strict discipline and good order among Contractor's employees, the employees of any Subcontractor or Sub-Subcontractor, and all other persons performing any part of the Work at the Site. Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. Contractor shall dismiss from its employ and direct any Subcontractor or Sub-Subcontractor to dismiss from their employment any person deemed by Owner to be unfit or incompetent to perform Work and thereafter, Contractor shall not employ nor permit the employment of such person for performance of any part of the Work without the prior written consent of Owner, which consent may be withheld in the reasonable discretion of Owner.

4.4.3 Contractor's Project Manager and Superintendent. Contractor shall employ a competent Project Manager, Superintendent and all necessary assistants. Either Contractor's Superintendent or Project Manager shall be in attendance at the Site at all times during performance of the Work. Competency of Contractor Superintendent shall include, without limitation, a minimum of three (3) years prior experience as a superintendent for a contractor on projects similar in size, scope and complexity to the Work. Contractor's communications relating to the Work or the Contract Documents shall be through Contractor's Superintendent or Project Manager. The Superintendent and/or Project Manager shall represent Contractor and communications given to the superintendent or Project Manager shall be binding as if given to Contractor. Contractor shall dismiss Project Manager or the Superintendent or any of his/her assistants if they are deemed, in the sole reasonable judgment of Owner, to be unfit, incompetent or incapable of performing the functions assigned to them. In such event, Owner shall have the right to approve of the replacement Project Manager, Superintendent or assistants, as applicable. Contractor's Superintendent and Project Manager shall be satisfactory to Owner and shall not be changed except with the consent of Owner, unless the Superintendent or Project Manager proves to be unsatisfactory to Contractor and ceases to be employed by Contractor.

#### 4.4.4 Prohibition on Harassment.

4.4.4.1 Owner's Policy Prohibiting Harassment. Owner is committed to providing a school site and workplace free of sexual harassment and harassment based on factors such as race, color religion, national origin, ancestry, age, medical condition, marital status, disability or veteran status. Harassment includes without limitation, verbal, physical

or visual conduct which creates an intimidating, offensive or hostile environment such as racial slurs; ethnic jokes; posting of offensive statements, posters or cartoons or similar conduct. Sexual harassment includes without limitation the solicitation of sexual favors, unwelcome sexual advances, or other verbal, visual or physical conduct of a sexual nature.

4.4.4.2 Contractor's Adoption of Anti-Harassment Policy. Contractor shall adopt and implement all appropriate and necessary policies prohibiting any form of discrimination in the workplace, including without limitation harassment on the basis of any classification protected under local, state or federal law, regulation or policy. Contractor shall take all reasonable steps to prevent harassment from occurring, including without limitation affirmatively raising the subject of harassment among its employees, expressing strong disapproval of any form of harassment, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment and informing complainants of the outcome of an investigation into a harassment claim. Contractor shall require that any Subcontractor or Sub-Subcontractor performing any portion of the Work to adopt and implement policies in conformity with this Article 4.4.4.2

4.4.4.3 Prohibition on Harassment at the Site. Contractor shall not permit any person, whether employed by Contractor, a Subcontractor, Sub-Subcontractor, or any other person or entity, performing any Work at or about the Site to engage in any prohibited form of harassment. Any such person engaging in a prohibited form of harassment directed to any individual performing or providing any portion of the Work at or about the Site shall be subject to appropriate sanctions in accordance with the anti-harassment policy adopted and implemented pursuant to Article 4.4.4.2 above. Any person, performing or providing Work on or about the Site engaging in a prohibited form of harassment directed to any student, faculty member or staff of Owner or directed to any other person on or about the Site shall be subject to immediate removal and shall be prohibited thereafter from providing or performing any portion of the Work. Upon Owner's receipt of any notice or complaint that any person employed directly or indirectly by Contractor in performing or providing the Work has engaged in a prohibited form of harassment, Owner will promptly undertake an investigation of such notice or complaint. In the event that Owner, after such investigation, reasonably determines that a prohibited form of harassment has occurred, Owner shall promptly notify Contractor of the same and direct that the person engaging in such conduct be immediately removed from the Site. Unless Owner's determination that a prohibited form of harassment has occurred is grossly negligent or without reasonable cause, Owner shall have no liability for directing the removal of any person determined to have engaged in a prohibited form of harassment nor shall the Contract Price or the Contract Time be adjusted on account thereof. Contractor shall defend, indemnify and hold harmless Owner and its employees, officers, Board of Directors, agents, and representatives from any and all claims, liabilities, judgments, awards, actions or causes of actions, including without limitation, attorneys' fees, which arise out of, or pertain in any manner to: (i) the assertion by any person dismissed from performing or providing work at the direction of Owner pursuant to this Article 4.4.4.3; or (ii) the assertion by any person that any person directly or indirectly under the employment or direction of Contractor has engaged in a prohibited form of harassment directed to or affecting such person. The obligations of Contractor under the preceding sentence are in addition to, and not in lieu of, any other obligation of defense, indemnity and hold harmless whether arising under the Contract Documents, at law or otherwise; these obligations survive completion of the Work or the termination of the Contract.

4.5 Taxes. Contractor shall pay, without adjustment of the Contract Price, all sales, consumer, use and other taxes for the Work or portions thereof provided by Contractor under the Contract Documents.

#### 4.6 Permits, Fees and Notices; Compliance With Laws.

4.6.1 Payment of Permits, Fees. Unless otherwise provided in the Contract Documents, Owner shall pay for the building permits, other permits, governmental fees, licenses and inspections necessary or required for construction, completion of the Work, or use/occupancy of the Work upon completion thereof, though Contractor is responsible for applying for and acquiring same. Contractor is solely responsible for obtaining all other permits or approvals and payment of fees or charges for issuance of such other permits/approvals without adjustment of the Contract Price. Contractor will pick-up Owner paid permits from the issuing authority.

4.6.2 Compliance With Laws. Contractor shall comply with and give notices required by the Laws and other orders of public authorities bearing on performance of the Work.

4.6.3 Notice of Variation From Laws. If Contractor knows, or has reason to believe, that any portion of the Contract Documents are at variance with applicable Laws, Contractor shall promptly notify the Owner and AOR in writing, of the same. If Contractor performs Work knowing, or with reasonable diligence should have known, it to be contrary to laws, statutes, ordinances, building codes, rules or regulations applicable to the Work without such notice, Contractor shall assume full responsibility for such Work and shall bear the attributable costs arising or associated therefrom, including without limitation, the removal, replacement or correction of the same.

#### 4.7 Submittals.

4.7.1 Purpose of Submittals. Shop Drawings, Product Data, Samples and similar submittals (collectively "Submittals") are not Contract Documents. The purpose for submission of Submittals is to demonstrate, for those portions of the Work for which Submittals are required, the manner in which Contractor proposes to provide or incorporate such item of the Work in conformity with the information given and the design concept expressed in the Contract Documents.

#### 4.7.2 Contractor's Submittals.

4.7.2.1 Prompt Submittals. Contractor shall review, approve and submit to the Owner and AOR or such other person or entity designated by the Contract Documents, the number of copies of Submittals required by the Contract Documents.

4.7.2.2 Contractor Approval of Subcontractor Submittals. All Submittals prepared by Subcontractors, of any tier, Material Suppliers, manufacturers or distributors shall bear the written approval of Contractor and Contractor's AOR (if applicable) thereto prior to submission to the Owner and AOR for review. Any Submittal not bearing Contractor's and Contractor's AOR (if applicable) written approval shall be subject to return to Contractor for re-submittal in conformity herewith, with the same being deemed to not have been submitted. Any delay, impact or cost associated therewith shall be the sole and exclusive responsibility of Contractor without adjustment to the Contract Time or the Contract Price.

4.7.2.3 Verification of Submittal Information. By approving and submission of Submittals, Contractor and Contractor AOR represents to Owner and AOR that Contractor has determined and verified materials, field measurements, field construction criteria, catalog numbers and similar data related thereto and has checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Contract Documents. Each Submittal shall include the following certification duly executed by Contractor's Superintendent:



“Contractor and Contractor AOR has reviewed and approved the field dimensions and construction criteria of the attached Submittal. Contractor and Contractor AOR has verified that the Submittal includes notations of any portion of the Work depicted in the Submittal which is not in strict conformity with the Contract Documents. The information in the attached Submittal has been reviewed and coordinated by Contractor and Contractor AOR with information included in other Submittals.”

4.7.2.4 Contractor Responsibility for Deviations. Contractor shall not be relieved of responsibility for correcting deviations from the requirements of the Contract Documents by the Owner and AOR’s review of Contractor and Contractor AOR Submittals unless Contractor has specifically informed the Owner and AOR in writing of such deviation at the time of submission of the Submittal, Contractor notifies the Owner and AOR in writing of such deviation and the Owner and AOR have given written approval to the specific deviation. Contractor shall not be relieved of responsibility for errors or omissions in Submittals by the Owner and AOR’s review thereof.

4.7.2.5 No Performance of Work Without Owner and AOR Review. Contractor shall perform no portion of the Work requiring Contractor AOR’s review of Submittals until the AOR has completed its review and returned the Submittal to Contractor indicating “No Exception Taken” to such Submittal and the Submittal is approved by the Owner. Contractor shall not perform any portion of the Work forming a part of a Submittal or which is affected by a related Submittal until the entirety of the Submittal or other related Submittal has been fully processed. Such Work shall be in accordance with the final action taken by the Owner and AOR in review of Submittals and other applicable portions of the Contract Documents.

4.7.3 AOR Review of Submittals. The AOR shall review Submittals for conformity to requirements of the Contract Documents. If the AOR returns a Submittal as rejected or requiring correction(s) with re-submission, Contractor, so as not to delay the progress of the Work, shall thereafter resubmit, within seven (7) days, a Submittal conforming with the requirements of the Contract Documents; the resubmitted Submittal shall indicate the portions thereof modified in accordance with the AOR’s direction. When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the Owner and AOR shall be entitled to rely upon the accuracy and completeness of such calculations and certifications accompanying Submittals. Unless otherwise provided elsewhere in the Contract Documents, the following notations or notations of a similar nature noted by the AOR on a reviewed Submittal will require Contractor action noted below.

AOR Notation	Contractor Action
No Exceptions Taken	No formal revision required.
Make Corrections Noted	Make revision noted; re-submission of revised Submittal not required.
Revise; Re-Submit	Revise Submittal in accordance with notations and re-submit for subsequent review.
Rejected; Re-Submit	Prepare new alternative Submittal and re- submit for review.

4.7.4 Owner Review of Submittals. Upon the AOR completion of its review of a Submittal and the AOR’s acceptance of such Submittal, the AOR and/or Contractor shall submit such AOR accepted Submittal to the Owner for review. The Owner’s review of such Submittals shall be for limited purposes of: (i) verifying that the required Submittal has been prepared; (ii) that the Submittal appears to conform to the requirements of the Contract Documents relating thereto; and (iii) that the AOR has reviewed and accepted the Submittal as conforming to the requirements

of the Contract Documents. Upon completion of such review of Submittals, the Owner shall return the Submittal to Contractor noting confirmation of the matters described in (i), (ii) and (iii) above. If a Submittal is returned to Contractor by the Owner with a notation that (i), (ii) or (iii) above have not been verified or confirmed, Contractor shall provide the Owner with reasonably satisfactory evidence to verify or confirm that (i), (ii) or (iii) above have been complied with by Contractor. No Work relating to a Submittal shall be commenced until after the applicable Submittal(s) has been reviewed and accepted by the AOR and the Owner.

4.7.5 Deferred Approval Items. In the event that any portion of the Work is designated in the Contract Documents as a "Deferred Approval" item, Contractor shall be solely and exclusively responsible for the preparation of Submittals for such item(s) in a timely manner so as not to delay or hinder the completion of the Work within the Contract Time. All fees, costs or expenses incurred or necessary to incur to complete Submittals relating to Deferred Approval Items and to obtain approvals/permits therefor shall be borne solely by Contractor without adjustment of the Contract Price. Preparation, submission, approval and permitting of Submittals relating to Deferred Approval Items shall be completed without adjustment of the Contract Time.

#### 4.8 Materials and Equipment.

4.8.1 Specified Materials, Equipment. Except as otherwise expressly set forth in the Contract Documents, references in the Bridging Documents to any specific article, device, equipment, product, material, fixture, patented process, form, method or type of construction, by name, make, trade name, or catalog number, with or without the words "or equal" shall be deemed to establish a minimum standard of quality or performance, and shall not be construed as limiting competition. Whenever a product, material or other item is specified with reference to a Federal Specification, an ASTM Standard, an American National Standards Institute Specification, or other trade association standard (collectively, "the Standards"), Contractor shall present an affidavit from the manufacturer when requested by the Owner or required in the Specifications, certifying the product, material or other item to be furnished and installed complies with the Standards. When requested by the Owner or required by the Contract Documents, support test data shall be submitted to substantiate compliance with the Standards.

4.8.2 Approval of Substitutions or Alternatives. Except for proposed substitutions identified in Contractor's Proposal and accepted by Owner, Contractor agrees to provide, furnish and install all materials, equipment and other products/items specified in the Bridging Documents and the Contract Documents.

4.8.3 Placement of Material and Equipment Orders. Contractor shall, after the County of Sacramento's issuance of the construction permit, promptly and timely place all orders for materials and/or equipment necessary for completion of the Work so that delivery of the same shall be made without delay or interruption to the timely completion of the Work, or shall order said items prior to issuance of the permit if delivery times are backed up to the point that a later order will make completion of the Work within the Construction Schedule impossible. Contractor shall require that any Subcontractor or Sub-Subcontractor performing any portion of the Work similarly place orders for all materials and/or equipment to be furnished by any such Subcontractor or Sub-Subcontractor in a prompt and timely manner so that delivery of the same shall be made without delay or interruption to the timely completion of the Work. Upon request of Owner or the CMAOR Contractor shall furnish reasonably satisfactory written evidence of the placement of orders for materials and/or equipment necessary for completion of the Work, including without limitation, orders for materials and/or equipment to be provided, furnished or installed by any Subcontractor or Sub-Subcontractor.

4.8.4 Owner's Right to Place Orders for Materials and/or Equipment. Notwithstanding any other provision of the Contract Documents, in the event that Contractor shall, upon request of Owner

or the AOR, fail or refuse, for any reason, to provide reasonably satisfactory written evidence of the placement of orders for materials and/or equipment necessary for completion of the Work, or should Owner determine, in its sole and reasonable discretion, that any orders for materials and/or equipment have not been placed in a manner so that such materials and/or equipment will be delivered to the Site so the Work can be completed without delay or interruption, Owner shall have the right, but not the obligation, to place such orders on behalf of Contractor. If Owner exercises the right to place orders for materials and/or equipment pursuant to the foregoing, Owner's conduct shall not be deemed to be an exercise, by Owner, of any control over the means, methods, techniques, sequences or procedures for completion of the Work, all of which remain the responsibility and obligation of Contractor. Notwithstanding the right of Owner to place orders for materials and/or equipment pursuant to the foregoing, the election of Owner to exercise, or not to exercise, such right shall not relieve Contractor from any of Contractor's obligations under the Contract Documents, including without limitation, completion of the Work within the Contract Time and for the Contract Price. If Owner exercises the right hereunder to place orders for materials and/or equipment on behalf of Contractor pursuant to the foregoing, Contractor shall reimburse Owner for all costs and fees incurred by Owner in placing such orders; such costs and fees may be deducted by Owner from the Contract Price then or thereafter due Contractor.

#### 4.9 Safety.

4.9.1 Safety Programs. Notwithstanding any action by Owner or AOR, Contractor shall be solely responsible for initiating, maintaining, supervising and enforcing all safety programs required by the Laws in connection with the performance of the Contract, or otherwise required by the type or nature of the Work. 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 Contractor of its obligations hereunder, Contractor shall require that its Subcontractors similarly initiate and maintain all appropriate or required safety programs. Prior to commencement of Work at the Site, Contractor shall provide the AOR and Owner with Contractor's proposed safety program for the Work for review. Such review by AOR and/or Owner shall not operate to relieve, impair or otherwise limit Contractor's responsibility for initiating, maintaining, supervising and enforcing safety programs. Without adjustment of the Contract Price or the Contract Time, Contractor shall modify and re-submit its proposed safety plan to incorporate modifications thereto requested by Owner or the AOR. The AOR and Owner are authorized to monitor Contractor's obligation to implement Contractor's safety program.

4.9.2 Safety Precautions. 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 Contractor or 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. Contractor shall take adequate precautions and measures to protect existing roads, sidewalks, curbs, pavement, utilities, utility easements, adjoining property and improvements thereon (including without limitation, protection from settlement or loss of lateral support) and to avoid damage thereto. When use or storage of explosives or other hazardous materials or equipment or other hazardous construction methods are necessary, Contractor shall give Owner and AOR prior written notice. At all times Contractor shall provide an adequate number of fire extinguishers or other approved fire/life- safety devices during Work at the Site. Each fire extinguisher shall be conspicuously displayed and clearly marked with instructions for use. Without adjustment of the Contract Price or the Contract Time,

Contractor shall repair, replace or restore any damage or destruction of the foregoing items as a result of performance or installation of the Work.

4.9.3 Safety Signs, Barricades. 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 owners and users of adjacent sites and utilities.

4.9.4 Safety Notices. Contractor shall post all notices required by applicable law and comply with the Laws bearing on safety of persons or property or their protection from damage, injury or loss.

4.9.5 Safety Coordinator. Contractor shall designate a responsible member of 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 Contractor's Superintendent unless otherwise designated by Contractor in writing to Owner and the AOR.

4.9.6 Emergencies; First Aid. In an emergency affecting safety of persons or property, Contractor shall act, to prevent threatened damage, injury or loss. Contractor shall maintain stocked emergency first aid kits at the Site which comply with the Laws.

4.9.7 Hazardous Materials.

4.9.7.1 General. In the event that 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"), Contractor shall comply with all laws, rules, ordinances or regulations applicable thereto and shall exercise all necessary safety precautions relating to the use, storage or disposal thereof.

4.9.7.2 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 Owner that ACBMs not be used or incorporated into any portion of the Work. Contractor warrants to Owner 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, 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, Contractor's completion of the Work or Owner's acceptance of the Work. In the event that 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 Owner's written notice to Contractor of the existence of ACBM materials or products in the Work, Owner may thereafter proceed to cause the removal and replacement of such materials or products in any manner which Owner determines to be reasonably necessary and appropriate; all costs, expenses and fees, including without limitation fees and costs of consultants and attorneys, incurred by Owner in connection with such removal and replacement shall be the responsibility of Contractor. Disposal of Hazardous Materials. Contractor shall be

solely and exclusively responsible for the disposal of any Hazardous Materials on or about Site resulting from Contractor's performance of Work and other activities. Contractor's obligations hereunder shall include without limitation, the transportation and disposal of any Hazardous Materials in strict conformity with the Laws.

#### 4.10 Maintenance of Documents.

4.10.1 Documents at Site. Contractor shall maintain at the Site: (i) one record copy of the Drawings, Specifications and all addenda thereto; (ii) Change Orders approved by Owner and all other modifications to the Contract Documents; (iii) Submittals reviewed by the AOR; (iv) Record Drawings; (v) Material Safety Data Sheets ("MSDS") accompanying any materials, equipment or products delivered or stored at the Site or incorporated into the Work; and (vi) all building and other codes or regulations applicable to the Work, including without limitation, Title 24, Parts 2, 3, 4, 5, 7 and 9 of the California Code of Regulations. During performance of the Work, all documents maintained by Contractor at the Site shall be available upon request to Owner and the AOR for review, inspection or reproduction. Upon completion of the Work, all documents maintained at the Site by Contractor (except for codes and regulations) pursuant to the foregoing shall be assembled and transmitted to the AOR for delivery to Owner.

4.10.2 Maintenance of Record Drawings. During its performance of the Work, Contractor shall maintain Record Drawings consisting of a set of the Drawings which are marked to indicate all field changes made to adapt the Work depicted in the Drawings to field conditions, changes resulting from Change Orders and all concealed or buried installations, including without limitation, piping, conduit and utility services. All buried or concealed items of Work shall be completely and accurately marked and located on the Record Drawings. The Record Drawings shall be clean and all changes, corrections and dimensions shall be marked in a neat and legible manner in a contrasting color. Record Drawings relating to the Structural, Mechanical, Electrical and Plumbing portions of the Work shall indicate without limitation, circuiting, wiring sizes, equipment/member sizing and shall depict the entirety of the as built conditions of such portions of the Work. The Record Drawings shall be continuously maintained by Contractor during the performance of the Work. At any time during Contractor's performance of the Work, upon the request of Owner or the AOR, Contractor shall make the Record Drawings maintained hereunder available for Owner's review and inspection. Owner's review and inspection of the Record Drawings during Contractor's performance of the Work shall be only for the purpose of generally verifying that Contractor is continuously maintaining the Record Drawings in a complete and accurate manner; any such inspection or review shall not be deemed to be Owner's approval or verification of the completeness or accuracy thereof. The failure or refusal of Contractor to continuously maintain complete and accurate Record Drawings or to make available the Record Drawings for inspection and review by Owner may be deemed by Owner to be Contractor's default of a material obligation hereunder. Without waiving, restricting or limiting any other right or remedy of Owner for Contractor's failure or refusal to continuously maintain the Record Drawings, Owner may, upon reasonably determining that Contractor has not, or is not, continuously maintaining the Record Drawings in a complete and accurate manner, take appropriate action to cause the continuous maintenance of complete and accurate Record Drawings, in which event all fees and costs incurred or associated with such action shall be charged to Contractor and Owner may deduct the amount of such fees and costs from any portion of the Contract Price then or thereafter due Contractor. In accordance with Article 8.4.2 of these General Conditions, prior to receipt of the Final Payment, Contractor shall deliver the Record Drawings to the Owner and AOR.

4.11 Use of Site. Contractor shall confine operations at the Site to areas permitted by law, ordinances or permits, subject to any restrictions or limitations set forth in the Contract Documents. Contractor shall not unreasonably encumber the Site or adjoining areas with materials or equipment. Contractor shall be solely responsible for providing security at the Site with all such costs included in the Contract Price. Owner shall at all times have access to the Site.

4.12 Clean-Up. Contractor shall at all times keep the Site and all adjoining areas free from the accumulation of any waste material or rubbish caused or generated by performance of the Work. Without limiting the generality of the foregoing, Contractor shall maintain the Site in a "broom-clean" standard on a daily basis. In the event that the Work of the Contract Documents includes painting and/or the installation of floor covering, prior to commencement of any painting operations or the installation of any flooring covering, the area and adjoining areas of the Site where paint is to be applied or floor covering is to be installed shall be in a "broom-clean" condition. Prior to completion of the Work, Contractor shall remove from the Site all rubbish, waste material, excess excavated material, tools, Construction Equipment, machinery, surplus material and any other items which are not the property of Owner under the Contract Documents. At completion of the Work, Contractor shall clean the building interior and exterior, including fixtures, equipment, walls, floors, ceilings, roofs, window sills and ledges, horizontal surfaces, areas where debris, dust and similar items have collected, clean and polish all glass, plumbing fixtures, finish hardware, metal/wood/stone finishes. As directed by Owner or the AOR, Contractor shall remove temporary fencing, barricades, planking, temporary sanitary facilities, temporary utility distributions and other temporary facilities. Upon completion of the Work, the Site and all adjoining areas shall be left in a neat and broom clean condition satisfactory to Owner. The Owner and AOR shall be authorized to direct Contractor's clean-up obligations hereunder. If Contractor fails to clean up as provided for in the Contract Documents, Owner may do so, and all costs incurred in connection therewith shall be charged to Contractor; Owner may deduct such costs from any portion of the Contract Price then or thereafter due Contractor.

4.13 Access to the Work. Contractor shall provide the County of Sacramento, Owner and the AOR with access to the Work, whether in place, preparation or in progress and wherever located.

4.14 Patents and Royalties. Contractor shall defend, indemnify and hold harmless Owner and its agents, employees and officers from any claim, demand or legal proceeding arising out of or pertaining, in any manner, to any actual or claimed infringement of patent rights in connection with performance of the Work under the Contract Documents.

4.15 Cutting and Patching. Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make the component parts thereof fit together properly. Contractor shall not damage or endanger any portion of the Work, or the fully or partially completed construction of Owner or separate contractors to Owner by cutting, patching, excavation or other alteration. When modifying new Work or when installing Work adjacent to an existing structure/facility, Contractor shall match, as closely as conditions of the Site and materials will allow, the finishes, textures and colors of the existing structure/facility and refinish elements of the existing structure/facility. Contractor shall not cut, patch or otherwise alter the construction by Owner or separate contractor without the prior written consent of Owner or separate contractor thereto, which consent shall not be unreasonably withheld. Contractor shall not unreasonably withhold consent to the request of Owner or separate contractor to cut, patch or otherwise alter the Work.

4.16 Encountering Hazardous Materials. In the event Contractor encounters Hazardous Materials at the Site which have not been rendered harmless or for which there is no provision in the Contract Documents for containment, removal, abatement or handling of such Hazardous Materials, Contractor shall immediately stop the Work in the affected area, but shall diligently proceed with the Work in all other unaffected areas. Upon encountering such Hazardous Materials, Contractor shall immediately notify the Owner and AOR, in writing, of such condition. Contractor shall proceed with the Work in such affected area only after such Hazardous Materials have been rendered harmless, contained, removed or abated. In the event such Hazardous Materials are encountered, Contractor shall be entitled to an adjustment of the Contract Time to the extent that the Work is stopped and Substantial Completion of the Work is affected thereby.

In no event shall there be an adjustment to the Contract Price solely on account of Contractor encountering such Hazardous Materials.

4.17 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 Contractor's 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. In the event that Contractor shall employ 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 4.18.7 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. 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. If any Subcontractor or Sub-Subcontractor violate the foregoing, the Subcontractor or Sub-Subcontractor, as applicable and Contractor shall be subject to the foregoing penalties for such violations.

4.18 Assignment of Antitrust Claims. Pursuant to California Government Code §4551, Contractor and its Subcontractor(s), of any tier, hereby offers and agrees to assign to Owner 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 Owner tenders Final Payment to Contractor, without further acknowledgment by the parties. If Owner 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 Owner any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by Owner as part of the Contract Price, less the expenses incurred by Owner in obtaining that portion of the recovery. Upon demand in writing by the assignor, Owner 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) Owner has not been injured thereby; or (ii) Owner declines to file a court action for the cause of action.

4.19 Limitations Upon Site Activities. Except in the circumstances of an emergency, no construction activities shall be permitted at or about the Site except during Owner's hours and days set forth in the Contract Documents. Work performed outside of the hours and days noted in the Special Conditions will not result in adjustment of the Contract Time or the Contract Price; unless Work outside of the hours and days noted in the Special Conditions is expressly authorized by Owner.

4.20 Construction Oversight. All of the Work is subject to the County of Sacramento Construction Oversight processes and procedures; a material obligation of Contractor hereunder is Contractor's compliance with the processes and procedures established by County of Sacramento for the Work and all Laws. The project is not subject to Division of State Architect ("DSA") review and approval in accordance with Education Code for Charter School Operation §47610.

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## **ARTICLE 5: SUBCONTRACTORS**

5.1 Subcontracts. Any Work performed for Contractor by a Subcontractor shall be pursuant to a written agreement between Contractor and such Subcontractor which specifically incorporates by reference the Contract Documents and which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents, including without limitation, the policies of insurance required under Article 6 of these General Conditions and the termination provisions of Article 15, and obligates the Subcontractor to assume toward Contractor all the obligations and responsibilities of Contractor which by the Contract Documents Contractor assumes toward Owner and the CM. The foregoing notwithstanding, no contractual relationship shall exist, or be deemed to exist, between any Subcontractor and Owner, unless the Contract is terminated and Owner, in writing, elects to assume the Subcontract. Each Subcontract for a portion of the Work shall provide that such Subcontract may be assigned to Owner if the Contract is terminated by Owner pursuant to Article 15.1 hereof. Contractor shall provide to Owner copies of all executed Subcontracts and Purchase Orders to which Contractor is a party within thirty (30) days after Contractor's execution of the Agreement. During performance of the Work, Contractor shall, from time to time, as and when requested by Owner or the AOR provide Owner with copies of any and all Subcontracts or Purchase Orders relating to the Work and all modifications thereto. Contractor's failure or refusal, for any reason, to provide copies of such Subcontracts or Purchase Orders in accordance with the two preceding sentences is Contractor's default of a material term of the Contract Documents.

## 5.2 Substitution of Listed Subcontractor.

5.2.1 Substitution Process. Any request of Contractor to substitute a listed Subcontractor will be considered only if such request is in strict conformity with this Article 5.2. All costs incurred by Owner, including without limitation, costs of the AOR or attorneys' fees in the review and evaluation of a request to substitute a listed Subcontractor shall be borne by Contractor; such costs may be deducted by Owner from the Contract Price then or thereafter due Contractor.

5.2.2 Responsibilities of Contractor Upon Substitution of Subcontractor. Owner's consent to Contractor's substitution of a listed Subcontractor shall not relieve Contractor from its obligation to complete the Work within the Contract Time and for the Contract Price. The substitution of a listed Subcontractor shall not, under any circumstance, result in, or give rise to any to any increase of the Contract Price or the Contract Time on account of such substitution. In the event of Owner's consent to the substitution of a listed Subcontractor, the Owner and AOR shall determine the extent to which, if any, revised or additional Submittals will be required of the newly substituted Subcontractor. In the event that the Owner and AOR determine that revised or additional Submittals are required of the newly substituted Subcontractor, the Owner and AOR shall promptly notify Contractor, in writing, of such requirement. In such event, revised or additional Submittals shall be submitted to Owner and AOR not later than thirty (30) days following the date of the Owner and AOR's written notice to Contractor pursuant to the foregoing sentence; provided that if in the reasonable and good faith judgment of the Owner and AOR, the progress of the Work or completion of the Work requires submission of additional or revised Submittals by the newly substituted Subcontractor in less than thirty (30) days, the Owner and AOR shall so state in their written notice to Contractor. Any revised or additional Submittals required pursuant to this Article

5.2.2 shall conform with the requirements of Article 4.7 of these General Conditions. Contractor shall reimburse Owner for all fees and costs, including without limitation fees of the AOR and/or any design consultant and County of Sacramento fees, incurred or associated with the processing, review and evaluation of any revised or additional Submittals required pursuant to this Article 5.2.2; Owner may deduct such fees and costs from any portion of the Contract Price then or thereafter due Contractor. In the event that additional or revised Submittals are required pursuant to this Article 5.2.2, such requirement shall not result in an increase to the Contract Time or the Contract Price.



5.3 Subcontractors' Work. Whenever the Work of a Subcontractor is dependent upon the Work of Contractor or another Subcontractor, Contractor shall require the Subcontractor to: (i) coordinate its Work with the dependent Work; (ii) provide necessary dependent data and requirements; (iii) supply and/or install items to be built into the dependent Work of others; (iv) make appropriate provisions for dependent Work of others; (v) carefully examine and understand the portions of the Contract Documents (including Drawings, Specifications and Field Clarifications) and Submittals relating to the dependent Work; and (vi) examine the existing dependent Work and verify that the dependent Work is in proper condition for the Subcontractor's Work. If the dependent Work is not in a proper condition, the Subcontractor shall notify Contractor in writing and not proceed with the Subcontractor's Work until the dependent Work has been corrected or replaced and is in a proper condition for the Subcontractor's Work.

## ARTICLE 6: INSURANCE; INDEMNITY; BONDS

6.1 Workers' Compensation Insurance; Employer's Liability Insurance. Contractor shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000). Contractor shall submit to District, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of Visions In Education, its officers, agents, employees, and volunteers.

Required Insurance Policy Certificate	Minimum Contractor Coverage Limits
Workers Compensation	In accordance with law
Employers Liability	One Million Dollars (\$1,000,000) per occurrence
Comprehensive General Liability (including property damage and automobile liability, blanket contractual liability, specifically covering, but not limited to, the contractual obligations assumed by Contractor), Personal Injury (with employment and contractual exclusions deleted), and Broad Form Property Damage coverage (including Completed Operations).	Three Million Dollars(\$3,000,000) per claim/ Four Million Dollars (\$4,000,000) aggregate
Automobile	Two Million Dollars (\$2,000,000)
Builders Risk "All Risk"	Replacement Value

6.2 Commercial General Liability and Property Insurance.  
Not Used.

6.3 Automobile; Contractor shall provide auto liability coverage for owned, non-owned, and hired autos using ISO Business Auto Coverage form CA 00 01, or the exact equivalent, with a limit of no less than two million dollars (\$2,000,000) per accident.

6.4 Builder's Risk "All-Risk" Insurance. Contractor shall obtain and maintain Builders Risk/Course of Construction insurance. Policy shall be provided for replacement value on an "all-risk" basis, including earthquake and flood. Visions In Education shall be named as Loss Payee on the policy and there shall be no coinsurance penalty provision in any such policy. Policy must include: (1) coverage for removal of debris, and insuring the buildings, structures, machinery, equipment, materials, facilities, fixtures, and all other properties constituting a part of the project; (2) "Installation Floater" coverage with limits sufficient to insure the full replacement value of any property or equipment stored either on or off the project site. Such insurance shall be on a form acceptable to District to ensure adequacy of terms and limits. Contractor shall not be required to maintain property insurance for any portion of the Project following transfer of control thereof to District.

6.5 Insurance Policy Requirements. Each policy of insurance required by the Contract Documents to be obtained and maintained by Contractor shall conform to the following requirements.

6.5.1 Minimum Coverage Limits. The insurance required of Contractor hereunder shall be written for not less than coverage limits specified in the Contract Documents, or required by law, whichever is greater. In the event of any loss or damage covered by a policy of insurance required to be obtained and maintained by Contractor hereunder, Contractor shall be solely and exclusively responsible for the payment of the deductible, if any, under such policy of insurance, without adjustment to the Contract Price on account thereof.

6.5.2 Required Qualifications of Insurers. Contractor and Subcontractors' policies of Commercial General Liability and Property/Casualty insurance will be accepted by Owner only if the insurer(s) are: (i) A.M. Best rated A- or better; (ii) A.M. Best Financial Size Category VII or higher; and (iii) authorized under California law to transact business in the State of California and authorized to issue insurance policies in the State of California. If at any time during performance of the Work, the insurer(s) issuing a policy of insurance covering Commercial General Liability or Property/Casualty is/are not A.M. Best rated A- or better and is/are not A.M. Best Financial Size Category VII or higher, Contractor or Subcontractor, as applicable shall within thirty (30) days of Owner's written notice of the insufficiency of an insurer to Contractor, obtain insurance coverage(s) from alternative insurer(s) who is/are then A.M. Best rated A- or better and who is/are A.M. Best Financial Size Category VII or higher. If Contractor fails to deliver Certificate(s) of Insurance from an alternative insurer(s) meeting or exceeding the A.M. Best rating and A.M. Best Financial Size Category set forth above, within thirty (30) days of the date of Owner's issuance of a written notice pursuant to the preceding sentence, in addition to any other right or remedy of Owner under the Contract Documents or arising by operation of the Laws, Owner may withhold disbursement of any Progress Payment otherwise due hereunder until Contractor has delivered such Certificate(s) of Insurance from an alternative insurer(s).

6.6 Evidence of Insurance; Subcontractor's Insurance.

6.6.1 Certificates of Insurance. Prior to commencing the Work, Contractor shall deliver to Owner Certificates of Insurance with required endorsements evidencing the insurance coverages required by the Contract Documents. Failure or refusal of Contractor to so deliver Certificates of Insurance may be deemed by Owner to be a default of a material obligation of Contractor under the Contract Documents, and thereupon Owner may proceed to exercise any right or remedy provided for under the Contract Documents or the Laws. The Certificates of Insurance and the insurance policies required by the Contract Documents shall contain a provision that coverages afforded under such policies will not be canceled or allowed to expire until at least thirty (30) days prior written notice has been given to Owner. The insurance policies required of Contractor hereunder shall also name Owner and its Board of Directors, officers, employees, agents,

representatives and each member of the Board of Directors as additional insureds. Should any policy of insurance be canceled before Final Acceptance of the Work by Owner and Contractor fails to immediately procure replacement insurance as required, Owner reserves the right to procure such insurance and to deduct the premium cost thereof and other costs incurred by Owner in connection therewith from any sum then or thereafter due Contractor under the Contract Documents. Contractor shall, from time to time, furnish Owner, when requested, with satisfactory proof of coverage of each type of insurance required by the Contract Documents; failure of Contractor to comply with Owner's request may be deemed by Owner to be a default of a material obligation of Contractor under the Contract Documents.

6.6.2 Subcontractors' Insurance. Contractor shall require that every Subcontractor, of any tier, performing or providing any portion of the Work obtain and maintain the policies of insurance set forth in Articles 6.1 and 6.2 of these General Conditions; the coverages and limits of liability of such policies of insurance to be obtained and maintained by Subcontractors shall be as set forth in the Contract Documents. The policies of insurance to be obtained and maintained by Subcontractors hereunder are in addition to, and not in lieu of, Contractor obtaining and maintaining such policies of insurance. Each of the policies of insurance obtained and maintained by a Subcontractor hereunder shall conform with the requirements of this Article 6. Upon request of Owner, Contractor shall promptly deliver to Owner Certificates of Insurance evidencing that the Subcontractors have obtained and maintained policies of insurance in conformity with the requirements of this Article 6, and which name PCA and Board of Directors, officers, employees, agents, representatives and each member of the Board of Directors as additional insureds. Failure or refusal of Contractor to provide Owner with Subcontractors' Certificates of Insurance evidencing the insurance coverages required hereunder is a material default of Contractor hereunder.

6.7 Maintenance of Insurance. Any insurance bearing on the adequacy of performance of Work shall be maintained after Owner's Final Acceptance of all of the Work for the full one-year correction of Work period and any longer specific guarantee or warranty periods set forth in the Contract Documents. Should such insurance be canceled before the end of any such periods and Contractor fails to immediately procure replacement insurance as specified, Owner reserves the right to procure such insurance and to charge the cost thereof to Contractor. Nothing contained in these insurance requirements is to be construed as limiting the extent of Contractor's liabilities or responsibility for payment of damages resulting from its operations or performance of the Work under the Contract Documents, including without limitation Contractor's obligation to pay Liquidated Damages. In no instance will Owner's exercise of its option to occupy and use completed portions of the Work relieve Contractor of its obligation to maintain insurance required under this Article until the date of Final Acceptance of the entirety of the Work by Owner, or such time thereafter as required by the Contract Documents.

6.8 Contractor's Insurance Primary. All insurance and the coverages thereunder required to be obtained and maintained by Contractor hereunder, if overlapping with any policy of insurance maintained by Owner, shall be deemed to be primary and non-contributing with any policy maintained by Owner and any policy or coverage thereunder maintained by Owner shall be deemed excess insurance. To the extent that Owner maintains a policy of insurance covering property damage arising out of the perils of fire or other casualty covered by Owner's Builder's Risk Insurance or Contractor's Comprehensive General Liability Insurance of Contractor or any Subcontractor, Owner, Contractor and all Subcontractors waive rights of subrogation against the others. The costs for obtaining and maintaining the insurance coverages required herein shall be included in the Contract Price.

6.9 Indemnity. Contractor shall indemnify, defend and hold harmless the Indemnified Parties who are: (i) Owner and its Board of Directors, officers, employees, agents, representatives and each member of the Board of Directors and the AOR and their agents and employees.

Contractor's obligations hereunder includes indemnity, defense and hold harmless of the Indemnified Parties from and against any and all damages, losses, claims, demands or liabilities whether for damages, losses or other relief, including, without limitation attorneys' fees and costs which arise out of any failure to comply with obligations under the Contract Documents, as well as negligent, grossly negligent or willful conduct of Contractor, any Subcontractor or any person or entity engaged by them for the Work. Contractor's obligations under the foregoing include without limitation: (i) injuries to or death of persons; (ii) damage to property; or (iii) theft or loss of property; (iv) Stop Notice claims asserted by any person or entity in connection with the Work; and (v) other losses, liabilities, damages or costs resulting from, in whole or part, any acts, omissions or other conduct of Contractor, any of Contractor's Subcontractors, of any tier, or any other person or entity employed directly or indirectly by Contractor or any Subcontractor in connection with the Work and their respective agents, officers or employees. If any action or proceeding, whether judicial, administrative, arbitration or otherwise, shall be commenced on account of any claim, demand or liability subject to Contractor's obligations hereunder, and such action or proceeding names any of the Indemnified Parties as a party thereto, Contractor shall, at its sole cost and expense, defend the named Indemnified Parties in such action or proceeding with counsel reasonably satisfactory to the named Indemnified Parties. In the event that there shall be any judgment, award, ruling, settlement, or other relief arising out of any such action or proceeding to which any of the Indemnified Parties are subject to, or bound by, Contractor shall pay, satisfy or otherwise discharge any such judgment, award, ruling, settlement or relief; Contractor shall indemnify and hold harmless the Indemnified Parties from any and all liability or responsibility arising out of any such judgment, award, ruling, settlement or relief. Contractor's obligations hereunder are binding upon Contractor and these obligations shall survive notwithstanding Contractor's completion of the Work or the termination of the Contract.

## **ARTICLE 7: CONTRACT TIME**

7.1 Final Completion of the Work Within Contract Time. The Contract Time is the period of time, including authorized adjustments thereto, allotted in the Contract Documents for achieving Final Completion of the Work. The date for commencement of the Work is the date established by the Notice to Proceed issued by Owner, which shall not be postponed by the failure to act of Contractor or of persons or entities for whom Contractor is responsible. The date of Final Completion is the date certified by the AOR as such in accordance with the Contract Documents.

### **7.2 Progress and Completion of the Work.**

7.2.1 Time of Essence. Time limits stated in the Contract Documents are of the essence. By executing the Agreement, Contractor confirms that the Contract Time is a reasonable period for performing and achieving Final Completion of the Work. 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 Final Completion of the Work within the Contract Time.

7.2.2 Substantial Completion. Substantial Completion is that stage in the progress of the Work when the Work is complete and approved by the County of Sacramento and any other governmental agencies with jurisdiction over the Work or any portion thereof in accordance with the Contract Documents so Owner can occupy or use the Work for its intended purpose. Substantial Completion shall be determined by the Owner and AOR upon request by Contractor in accordance with the Contract Documents. The good faith and reasonable determination of Substantial Completion by the Owner and AOR shall be controlling and final.

7.2.3 Completion of Punchlist after Substantial Completion. Upon achieving Substantial Completion of the Work, Owner, the AOR and Contractor shall jointly inspect the Work and prepare

a comprehensive list of items of the Work to be corrected or completed by Contractor ("the Punchlist"). The exclusion of, or failure to include, any item on the Punchlist shall not alter or limit the obligation of Contractor to complete or correct any portion of the Work in accordance with the Contract Documents.

**7.2.4 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, the performance of all Punchlist Items noted upon Substantial Completion, and the Contract has been otherwise fully performed by Contractor. Final Completion shall be determined by the Owner and AOR upon request of Contractor. The good faith and reasonable determination of Final Completion by the Owner and AOR shall be controlling and final.

**7.2.5 Contractor Responsibility for Multiple Inspections.** In the event Contractor shall request determination of Substantial Completion or Final Completion by the Owner and AOR and it is determined by the Owner and AOR 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, Contractor shall be responsible for all costs of such re-inspection, including without limitation, the fees of the AOR. Owner may deduct such costs from the Contract Price then due or thereafter due to Contractor.

**7.2.6 Final Acceptance.** Final Acceptance of the Work shall occur upon approval of the Work by Owner's Board of Directors; such approval shall be submitted for adoption at the next regularly scheduled meeting of Owner's Board of Directors after Final Completion is achieved. The commencement of any warranty or guarantee period under the Contract Documents shall be deemed to be the date upon which Owner's Board of Directors approves of the Final Acceptance of the Work.

### **7.3 Construction Schedule.**

**7.3.1 Submittal of Preliminary Construction Schedule.** Not more than five (5) days prior to Contractor's anticipated commencement date for Construction Services at the Site, Contractor shall prepare and submit to Owner and the AOR a Preliminary Construction Schedule indicating, in graphic form, the estimated rate of progress and sequence of all Work required under the Contract Documents. The Preliminary Construction Schedule shall be organized into groupings by location, responsibility, specifications, sections, etc. The purpose of the Preliminary Construction Schedule is to assure adequate planning and execution of the Work so that it is completed within the Contract Time and to permit evaluation of the progress of the Work. Unless otherwise provided in the Contract Documents, the Construction Schedules required under this Article 7 shall; (i) be prepared utilizing scheduling software accepted in advance by Owner; (ii) indicate the date(s) for commencement and completion of various portions of the Work including without limitation, procurement, fabrication and delivery of major items, materials or equipment, completion of: foundation, building framing/structural elements, mechanical/electrical/plumbing rough-in, roofing, exterior doors and windows, interior finishes, etc.; (iii) indicate manpower and other resources required for completion of each Construction Schedule activity; (iv) indicate costs for completion of each Construction Schedule activity; (v) identify each Submittal required by the Contract Documents, the date for Contractor's submission of each Submittal and the date for the return of the reviewed Submittal to Contractor; (vi) indicate sequencing and interdependencies of activities. Contractor may submit a Preliminary Construction Schedule depicting completion of the Work in a duration shorter than the Contract Time; provided that such Preliminary Construction Schedule shall not be a basis for adjustment to the Contract Price in the event that completion of the Work shall occur after the time depicted therein, nor shall such Preliminary Construction Schedule be the basis for any extension of the Contract Time, Contractor's entitlement to any extension of the Contract Time shall be based upon the Contract Time and not on any shorter duration which may be depicted in Contractor's Preliminary Construction Schedule. If the

Construction Schedules required under this Article 7.3 incorporate therein any “float” time, such float shall be deemed to jointly belong to and owned by Owner and Contractor. As used herein, “float time” shall be deemed to refer to the time between earliest finish date and the latest finish date of each activity shown on the Construction Schedule. The Construction Schedule prepared by Contractor shall not sequester float through float suppression techniques such as extending activity durations, using preferential logic, etc.

7.3.2 Review of Preliminary Construction Schedule. Owner and the AOR shall review the Preliminary Progress Schedule submitted by Contractor pursuant to Article 7.3.1 above for conformity with the requirements of the Contract Documents. Within fifteen (15) days of the date of receipt of the Preliminary Progress Schedule, the Preliminary Construction Schedule will be returned to Contractor with comments to the form or content thereof. Review of the Preliminary Progress Schedule and any comments thereto by Owner and/or the CM shall not be deemed to be the assumption of construction means, methods or sequences by Owner or the AOR, all of which remain Contractor’s obligations under the Contract Documents.

7.3.3 Preparation and Submittal of Contract Construction Schedule. Within ten (10) days of Owner’s return of the Preliminary Construction Schedule to Contractor pursuant to Article 7.3.2 above, Contractor shall prepare and submit to the AOR and Owner the Construction Schedule, fully cost and resource loaded, which incorporates therein the comments to the Preliminary Construction Schedule. Upon Contractor’s submittal of such Construction Schedule, Owner and the AOR shall review the same for purposes of determining conformity with the requirements of the Contract Documents. Within fifteen (15) days of the receipt of the Construction Schedule, Owner will accept such Construction Schedule or will return the same to Contractor with comments to the form or content. In the event there are comments to the form or content thereof, Contractor, shall within seven (7) days of receipt of such comments, revise and resubmit the Construction Schedule incorporating therein such comments. Upon Owner’s acceptance of the form and content of a Construction Schedule, the same shall be deemed the “Accepted Construction Schedule.” Owner’s acceptance of a Construction Schedule shall be for the sole and limited purpose of determining conformity with the requirements of the Contract Documents. By the Accepted Construction Schedule, Owner 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 Contractor in accordance with the terms of the Contract Documents. Further, the Accepted Construction Schedule shall not operate to limit or restrict any of Contractor’s obligations under the Contract Documents nor relieve 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 Accepted Construction Schedule shall not be modified or revised by Contractor without the prior consent, or direction, of Owner and the AOR. Updates to the Accepted Construction Schedule pursuant to Article 7.3.5 below shall not be deemed revisions to the Accepted Construction Schedule. In the event that the Accepted 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 Accepted Construction Schedule. In such event, the Contract Price shall not be subject to adjustment on account of any additional costs incurred by 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 be depicted in the Accepted Construction Schedule.

7.3.4 Revisions to Accepted Construction Schedule. In the event that the progress of the Work or the sequencing of the activities of the Work shall materially differ from that indicated in the Accepted Construction Schedule, as determined by Owner in its reasonable discretion and

judgment, Owner may direct Contractor to revise the Accepted Construction Schedule; within fifteen (15) days of Owner's direction, Contractor shall prepare and submit to the AOR and Owner a revised Accepted Construction Schedule, for review and acceptance by Owner. Contractor may request consent of Owner to revise the Accepted Construction Schedule. Any such request shall be considered by Owner only if in writing setting forth Contractor's proposed revision(s) to the Accepted Construction Schedule and the reason(s) therefor. Owner may grant, deny or condition consent to such request of Contractor to revise the Accepted Construction Schedule in Owner's sole reasonable discretion.

7.3.5 Updates to Accepted Construction Schedule. Contractor shall monitor and update the Accepted Construction Schedule on a monthly basis, provide four-week rolling schedules on a weekly basis or more frequently as required by the conditions or progress of the Work, or as may be requested by Owner. Contractor shall provide Owner and the AOR with updated Accepted Construction Schedules indicating progress achieved and activities commenced or completed within the prior updated Accepted Construction Schedule. Updates to the Accepted Construction Schedule shall not include any revisions to the activities, commencement and completion dates of activities or the sequencing of activities depicted on the Accepted Construction Schedule. Any such revisions to the Accepted Construction Schedule shall result in Owner's rejection of such update and Contractor shall, within seven (7) days of Owner's rejection of such update, submit to the AOR and Owner an Updated Accepted Construction Schedule which does not incorporate any such revisions. Contractor shall also submit, with its updates to the Accepted Construction Schedule a narrative statement including a description of current and anticipated problem areas of the Work, delaying factors and their impact, and an explanation of corrective action taken or proposed by Contractor. If the progress of the Work is behind the Accepted Construction Schedule, Contractor shall indicate what measures will be taken to place the Work back on schedule.

7.3.6 Contractor Responsibility for Construction Schedule. Contractor shall be responsible for the preparation, submittal and maintenance of the Construction Schedules required by the Contract Documents, and any failure of Contractor to do so may be deemed by Owner as Contractor's default in the performance of a material obligation under Contract Documents. Any and all costs or expenses required or incurred to prepare, submit, maintain, and update the Construction Schedules shall be solely that of Contractor and no such cost or expense shall be charged to Owner. The Contract Price shall not be subject to adjustment on account of costs, fees or expenses incurred or associated with Contractor's preparation, submittal, and maintenance or updating of the Construction Schedules.

7.4 Adjustment to Contract Time. If Final Completion is delayed, adjustment, if any, to the Contract Time on account of such delay shall be in accordance with this Article 7.4.

7.4.1 Excusable Delays. As used in these Contract Documents, the term "Excusable Delay" shall refer to a delay (i) that affects the critical path of the construction schedule that is prevailing at the time of the incident that caused the delay; and (ii) that is caused either by the Owner or the AOR (except for scope changes authorized by Owner pursuant to Contract Change Order); (iii) by Inclement Weather ; by strikes, lockouts, or other labor or industrial disturbance; by civil disturbance, riot, blockade, embargo; by act of the public enemy (including war, terrorism, sabotage, blockade, embargo); by governmental delay; by lightning, earthquake, fire, hurricane, tornado, flood, washout, explosion or other Acts of God; by pending mediation or arbitration; by unforeseen conditions; or by any other causes that are outside of the control of Contractor and/or its Subcontractors, governmental preemption in connection with a National Emergency, disease (including without limitation, delays arising out the spread of COVID-19, such as, without limitation, delays in the responsiveness of, or the unavailability of, governmental authorities to grant permit applications or signoffs or to perform inspections, or the unavailability of required meetings or governmental agencies necessary to act to grant any Approvals) or by reason of any

rule, order or regulation of any department or subdivision thereof of any government agency or by reason of the conditions of supply and demand which have been or are affected by war or other emergency. As used in these Contract Documents, the term "Inclement Weather" means any type of precipitation that registers .50 inches or greater per day, as documented by the records from the National Weather Station closest to the Project Site. Contractor agrees to use its best efforts to mitigate against the consequences of Inclement Weather.

If Final 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 Owner and the AOR; 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 Contractor, any Subcontractor, Material Supplier or other person directly or indirectly engaged by 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 Inclement Weather or County of Sacramento directive to stop the Work. As used in these Contract Documents, the term "Inclement Weather" means any type of precipitation that registers .50 inches or greater per day, as documented by the records from the National Weather Station closest to the Project Site. Contractor agrees to use its best efforts to mitigate against the consequences of Inclement Weather. Neither the financial resources of Contractor or any person or entity directly or indirectly engaged by Contractor in performance of any portion of the Work shall be deemed conditions beyond the control of Contractor. If an event of Excusable Delay occurs, the Contract Time shall be subject to adjustment hereunder only if 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 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 Accepted Construction Schedule or the most recent updated Accepted Construction Schedule relative to the date(s) of the claimed event(s) of Excusable Delay.

**7.4.2 Compensable Delays.** If Final Completion of the Work is delayed and such delay is caused by the acts or omissions of Owner, the AOR, or separate contractor employed by Owner (collectively "Compensable Delays"), upon Contractor's request and notice, in strict conformity with Articles 7 and 9 of these General Conditions, the Contract Time will be adjusted by Change Order for such reasonable period of time as determined by the AOR and Owner. If 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 Owner is liable for the delay, the delay is unreasonable under the circumstances involved and the delay was not within the reasonable contemplation of Owner and 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, including without limitation, Articles 9 and 14 of these General Conditions.



7.4.3 Inexcusable Delays. Inexcusable Delays refer to any delay to the progress of the Work caused by events or factors other than those specifically identified in Articles 7.4.1 and 7.4.2 above. Neither the Contract Price nor the Contract Time shall be adjusted on account of Inexcusable Delays.

#### 7.4.4 Adjustment of Contract Time.

7.4.4.1 Procedure for Adjustment of Contract Time. The Contract Time shall be subject to adjustment only in strict conformity with applicable provisions of the Contract Documents. Failure of Contractor to request adjustment(s) of the Contract Time in strict conformity with applicable provisions of the Contract Documents shall be deemed Contractor's waiver of the same.

7.4.4.2 Limitations Upon Adjustment of Contract Time on Account of Delays. Any adjustment of the Contract Time on account of an Excusable Delay or a Compensable Delay shall be limited as set forth herein. If an Excusable Delay and a Compensable Delay occur concurrently, the maximum extension of the Contract Time shall be the number of days from the commencement of the first delay to the cessation of the delay which ends last. If an Inexcusable Delay occurs concurrently with either an Excusable Delay or a Compensable Delay, the maximum extension of the Contract Time shall be the number of days, if any, which the Excusable Delay or the Compensable Delay exceeds the period of time of the Inexcusable Delay. In addition to the foregoing limitations upon extension of the Contract Time, no adjustment of the Contract Time shall be made on account of any Excusable Delays or Compensable Delays unless such delay(s) actually and directly impact Work or Work activities on the critical path of the then current and updated Accepted Construction Schedule as of the date on which such delay first occurs. Owner shall not be deemed in breach of, or otherwise in default of any obligation hereunder, if Owner shall deny any request by Contractor for an adjustment of the Contract Time for any delay which does not actually and directly impact Work or Work activities on the critical path of the then current and updated Accepted Construction Schedule.

7.5 Owner Right to Take-Over Work. Unless caused by Owner or the AOR if Contractor fails or refuses, for any reason and at any time, to furnish adequate materials, labor, equipment or services to maintain progress of the Work in accordance with the then current Construction Schedule after twenty- four (24) hour advance written notice from Owner or the AOR to Contractor of its failure or refusal, Owner may thereafter furnish or cause to be furnish such materials, labor, equipment or services necessary to maintain progress of the Work in accordance with the then current Construction Schedule. All costs, expenses or other charges (whether direct, indirect and administrative) incurred by Owner in furnishing such materials, labor, equipment or services shall be at the sole cost of Contractor and Owner may deduct the same from the Contract Price then or thereafter due Contractor. Owner's exercise of rights pursuant to the foregoing shall not be deemed a waiver or limitation of any other right or remedy of Owner under the Contract Documents.

## **ARTICLE 8: CONTRACT PRICE**

8.1 Contract Price. The Contract Price is the amount stated in the Agreement as such, and subject to any authorized adjustments thereto in accordance with the Contract Documents, is the total amount payable by Owner to Contractor for performance of the Work under the Contract Documents. Owner's payment of the Contract Price to Contractor shall be in accordance with the Contract Documents. The Contract Price is inclusive of all expenses, fees, costs or other charges incurred by Contractor to complete all of Contractor's obligations under the Contract Documents. The Contract Price shall not be subject to adjustment for costs incurred by Contractor, including

without limitation, extended work-hours or premium labor costs to complete utility tie-ins and/or to avoid disruption of utility services or Owner's on-going operations and activities. Rebates obtained by Contractor or any Subcontractor for materials, equipment or services utilized to complete the Work or incorporated into the Work shall be deemed the property of Owner. Contractor shall completely accurately account for all rebates arising out of the Work and shall deliver proceeds by issuing a check to the Owner reflecting the full value of all such rebates.

8.2 Cost Breakdown. Within fifteen (15) days after commencing construction activities, Contractor shall furnish a detailed estimate and complete Cost Breakdown of the Construction Services Contract Price. The Cost Breakdown shall be subject to review and approval by AOR and Owner. In the event that Owner shall reasonably object to any portion of the Cost Breakdown, within ten (10) days of Owner's receipt of the Cost Breakdown, Owner shall notify Contractor, in writing of Owner's objection(s) to the Cost Breakdown. Within five (5) days of the date of Owner's and/or the AOR's written objection(s), Contractor shall submit a revised Cost Breakdown to Owner and the AOR for review and approval. The foregoing procedure for the preparation, review and approval of the Cost Breakdown shall continue until Owner and the AOR have accepted of the entirety of the Cost Breakdown. Once the Cost Breakdown is accepted by Owner and the AOR, the Cost Breakdown shall not be thereafter modified or amended by Contractor without the prior consent and approval of Owner and the CM, which may be granted, denied or conditioned in their sole reasonable discretion.

### 8.3 Progress Payments.

8.3.1 Applications for Progress Payments. During Contractor's performance of the Construction Services, Contractor shall submit monthly, on the first working day of each month, to Owner and the AOR, Applications for Progress Payments, on forms approved or designated by Owner, setting forth an itemized estimate of the value of the Work completed in the preceding month for the purpose of Owner's making of Progress Payments thereon. Values utilized in the Applications for Progress Payments shall be based upon Owner accepted Cost Breakdown of the Construction Services Contract Price pursuant to Article 8.2 above and such values shall be only for determining the basis of Progress Payments to Contractor, and shall not be considered as fixing a basis for adjustments, whether additive or deductive, to the Construction Services Contract Price, or for determining the extent of Work actually completed. In addition to submitting the Application for Progress Payment, Contractor shall submit with each Application for Progress Payment a detailed summary of (i) the break-down of the Progress Payment requested reflecting the amount of the requested Progress Payment to be retained by Contractor; (ii) the Subcontractors/Material Suppliers to whom the remaining balance of the requested Progress Payment will be disbursed to, along with the amount to be disbursed to each identified Subcontractor/Material Supplier; and (iii) the amounts disbursed by Contractor to the Subcontractors/Material Suppliers from the immediately preceding Progress Payment.

8.3.2 Owner's Review of Applications for Progress Payments. Upon receipt of an Application for Progress Payment, Owner shall cause the same to be reviewed by the CM, as soon as is practicable after receipt of such Application for Progress Payment. Such review shall be for the purpose of determining that the Application for Progress Payment is a proper Progress Payment request. For purposes of this Article 8.3.2, an Application for Progress Payment shall be deemed "proper" only if it is submitted on the form approved by Owner, with all of the requested information of such form of Application for Progress Payment completely and accurately provided by Contractor and such completed Application for Progress Payment is accompanied by: (i) duly completed and executed forms of Conditional Waiver and Release of Rights Upon Progress Payment in accordance with California Civil Code §3262 of Contractor, all Subcontractors of any tier, and Material Suppliers covering the Progress Payment requested; (ii) duly completed and executed forms of Unconditional Waiver and Release of Rights upon Progress Payment in accordance with California Civil Code §3262 of Contractor, all Subcontractors of any tier, and

Material Suppliers covering the Progress Payment received by Contractor under the prior Application for Progress Payment; (iii) if applicable, a current union statement reflecting that Contractor and any Subcontractor of any tier, are current in the payment of any supplemental fringe benefits required pursuant to any collective bargaining agreement to which Contractor or any such Subcontractor is a party to or is otherwise bound by; (iv) a certification by Contractor that it has continuously maintained, or caused to be maintained, the Record Drawings reflecting the actual as-built conditions of the Work performed for which the Progress Payment is requested, it being understood that such certification is subject to verification by Owner or the Construction Manager prior to disbursement of the Progress Payment; and (v) an updated Construction Schedule, reflecting Work actually completed and in progress. An Application for Progress Payment determined by Owner not to be a proper Application for Progress Payment shall be returned by Owner to Contractor as soon as is practicable after receipt of the same from Contractor, but in no event not more than seven (7) days after Owner's receipt thereof. Owner's return of any Application for Progress Payment pursuant to the preceding sentence shall be accompanied by a written document setting forth the reason(s) why the Application for Progress Payment is not proper.

8.3.3 Review of Applications for Progress Payments. Upon receipt of an Application for Progress Payment, the AOR shall inspect and verify the Work to determine whether it has been performed in accordance with the terms of the Contract Documents and to determine the portion of the Application for Progress Payment which is properly due to Contractor under the terms of the Contract Documents.

#### 8.3.4 Owner's Disbursement of Progress Payments

8.3.4.1 Timely Disbursement of Progress Payments. Within thirty (30) days after Owner's receipt of a proper Application for Progress Payment that it is not disputing, there shall be paid, by Owner, to Contractor a sum equal to ninety percent (90%) of the value of the Work indicated in the Application for Progress Payment which is actually in place as of the date of the Application for Progress Payment and as verified and approved by the AOR and the pro rata portion of Contractor's overhead, supervision and general conditions costs and profit for that month; provided, however, that Owner's obligation to disburse any Progress Payment shall be subject to Owner's receipt of all documents set forth in Article 8.3.2 above, each and all of which are conditions precedent to Owner's obligation to disburse Progress Payments. If an Application for Progress Payment is determined not to be proper due to the failure or refusal of Contractor to submit documents with the Application for Progress Payment, as required by Article 8.3.2, or incompleteness or inaccuracies in any such documents submitted or if it is reasonably determined that the Record Drawings have not been continuously maintained to reflect the actual as built conditions of the Work completed or scheduled to be completed in the period for which the Progress Payment is requested, the thirty (30) day period hereunder for Owner's timely disbursement of a Progress Payment shall be deemed to commence on the date that Owner is actually in receipt of documents not submitted with the Application for Progress Payment, or corrections to documents with the Application for Progress Payment so as to render them complete and accurate, or the date upon which Contractor accurately and fully completes preparation of the Record Drawings relating to the Work for which the Progress Payment is requested.

8.3.4.2 Untimely Disbursement of Progress Payments. In the event that Owner shall fail to make any Progress Payment within thirty (30) days after receipt of an undisputed and properly submitted Application for Progress Payment, Owner shall pay Contractor interest on the undisputed amount of such Application for Progress Payment equal to the legal rate of interest set forth in California Code of Civil Procedure §685.010(a). The foregoing notwithstanding, in the event that Owner shall determine that

any Application for Progress Payment is not proper, pursuant to Article 8.3.2 above, and Owner does not return such Application for Progress Payment within the seven (7) day period provided for in Article 8.3.2, the period of time for Owner's disbursement of the Progress Payment on such Application for Progress Payment without incurring the interest liability shall be reduced by the number of days exceeding the seven (7) day return period.

8.3.4.3 Owner's Right to Disburse Progress Payments by Joint Checks. Provided that Owner is in receipt of the applicable Subcontract or Purchase Order, Owner, may in its sole discretion, issue joint checks to Contractor and such Subcontractor or Material Supplier in satisfaction of its obligation to make Progress Payments or the Final Payment due hereunder.

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

8.3.5 Progress Payments for Changed Work. 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 Owner and the AOR 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 Owner for Changes in the Work.

8.3.6 Materials or Equipment Not Incorporated Into the Work.

8.3.6.1 Limitations Upon Payment. Except as expressly provided for herein, no payments shall be made by Owner on account of any item of the Work, including without limitation, materials or equipment which, at the time of Contractor's submittal of an Application for Progress Payment, has/have not been incorporated into and made a part of the Work.

8.3.6.2 Materials or Equipment Delivered and Stored at the Site. Owner may, in its sole and exclusive discretion, make payment for materials or equipment not yet incorporated into the Work if, at or prior to the time of Contractor's submittal of a an Application for Progress Payment incorporating therein a request for payment of such materials or equipment if all of the following are complied with: (i) the materials or equipment have been delivered to the Site; (ii) adequate arrangements, reasonably satisfactory to Owner, have been made by Contractor to store and protect such materials or equipment at the Site including without limitation, insurance reasonably satisfactory to Owner, covering and protecting against the risk of loss, destruction, theft or other damage to such materials or equipment while in storage if such coverage is not afforded under the policy of Builder's Risk insurance obtained by Contractor pursuant to the Contract Documents; and (iii) the establishment of procedures reasonably satisfactory to Owner by which title to such materials or equipment will be vested in Owner upon Owner's payment therefor. Contractor acknowledges that the discretion to make, or not to make, payment for materials or equipment delivered or stored at the site of the Work pursuant to the preceding sentence shall be exercised exclusively by Owner; Owner's exercise of discretion not to make payment for materials or equipment delivered or stored at the Site, but not yet incorporated into the Work shall not be deemed Owner's default hereunder. In the event that Owner shall elect to make payment for materials or equipment delivered and stored at the Site, the costs and expenses incurred to comply with the requirements of (ii) and (iii) of this Article 8.3.6.2 shall be borne solely and exclusively by Contractor and no payment shall be made by Owner on account of such costs and expenses.

8.3.6.3 Materials or Equipment Not Delivered or Stored at the Site. No payments shall be made by Owner for materials or equipment to be incorporated into the Work where such materials or equipment have not been delivered or stored at the Site. The foregoing notwithstanding, Owner may, in its sole and exclusive discretion, elect to make payment for materials or equipment not incorporated into the Work and which are not delivered or stored at the Site at or prior to the time of Contractor's submittal of an Application for Progress Payment incorporating therein a request for payment of such materials or equipment provided that each and all of the following have been complied with: (i) adequate arrangements, reasonably satisfactory to Owner, have been made by Contractor to store and protect such materials or equipment which include without limitation, insurance reasonably satisfactory to Owner, covering and protecting against the risk of loss, destruction, theft or other damage to such materials or equipment while in storage if coverage for the same is not afforded under the policy of Builder's Risk insurance obtained by Contractor pursuant to the Contract Documents; and (ii) the establishment of procedures reasonably satisfactory to Owner by which title to such materials or equipment will be vested in Owner upon Owner's payment therefor. Contractor acknowledges that the discretion to make, or not to make, payment for such materials or equipment pursuant to the preceding sentence shall be exercised exclusively by Owner; Owner's exercise of discretion not to make payment for such materials or equipment shall not be deemed Owner's default hereunder. In the event that Owner shall elect to make payment for materials or equipment not at the Site, the costs and expenses incurred to comply with the requirements of (i) and (ii) of this Article 8.3.6.3 shall be borne solely and exclusively by Contractor and no payment shall be made by Owner on account of such costs and expenses.

8.3.6.4 Materials or Equipment in Fabrication or Transit. The provisions of Article 8.3.6 notwithstanding, Owner shall not make any payment on account of any materials or equipment which are in the process of being fabricated or which are in transit to the Site or other storage location.

8.3.7 Exclusions From Progress Payments. In addition to Owner's right to withhold disbursement of any Progress Payment provided for in the Contract Documents, neither Contractor's Application for Progress Payment shall include, nor shall Owner be obligated to disburse any portion of the Contract Price for amounts which Contractor does not intend to pay any Subcontractor, of any tier, or Material Supplier because of a dispute or any other reason.

8.4 Title to Work. Contractor warrants that title to all Work covered by an Application for Progress Payment will pass to Owner no later than the time of payment. Contractor further warrants that upon submittal of an Application for Progress Payment, all Work for which a Progress Payment has been previously issued and Contractor has received payment from Owner therefor shall, to the best of Contractor's knowledge, information and belief, be free and clear of liens, claims, stop notices, security interests or encumbrances in favor of Contractor, Subcontractors, Material Suppliers or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

8.5 Substitute Security for Retention. Eligible and equivalent securities may be substituted for any monies withheld by Owner to ensure Contractor's performance under the Contract Documents at the request and expense of Contractor. Notwithstanding the foregoing, failure of Contractor to request the substitution of eligible and equivalent securities for monies to be withheld by Owner prior to submission of the first Application for Progress Payment of the Construction Services Contract Price shall be deemed Contractor's waiver of rights for same.

8.6 Final Payment.

8.6.1 Application for Construction Services Final Payment. When Contractor has achieved Final Completion of the Work and has otherwise fully performed its obligations under the Contract Documents, Contractor shall submit an Application for Final Payment on such form as approved by Owner. Thereupon, the AOR and Owner will promptly make a final inspection of the Work and when the AOR and Owner find the Work acceptable under the Contract Documents and that the Contract has been fully performed by Contractor, the AOR and Owner will thereupon promptly approve the Application for Final Payment, stating that to the best their knowledge, information and belief, the Work has been completed in accordance with the terms of the Contract Documents. The Final Payment shall include the remaining balance of the Contract Price and any retention from Progress Payments previously withheld by Owner.

8.6.2 Conditions Precedent to Disbursement of Final Payment. Neither Final Payment nor any remaining Contract Price shall become due until Contractor submits to Owner each and all of the following, the submittal of which are conditions precedent to Owner's obligation to disburse the Final Payment: (i) an affidavit or certification by Contractor that payrolls, bills for materials and other indebtedness incurred in connection with the Work for which Owner or Owner's property may or might be responsible or encumbered have been paid or otherwise satisfied; (ii) a certificate evidencing that insurance required by the Contract Documents to remain in force after Contractor's receipt of Final Payment is currently in effect; (iii) a written statement that Contractor knows of no substantial reason that the insurance will not be renewable to cover any period following Final Payment as required by the Contract Documents; (iv) duly completed and executed forms of Conditional or Unconditional Waivers and Releases of rights upon Final Payment of Contractor, Subcontractors of any tier and Material Suppliers in accordance with California Civil Code §3262, with each of the same stating that there are, or will be, no claims for additional compensation after disbursement of the Final Payment; (v) Operations and Maintenance manuals and separate warranties provided by any manufacturer or distributor of any materials or equipment incorporated into the Work; (vi) the Record Drawings; (vii) any and all other items or documents required by the Contract Documents to be delivered to Owner upon completion of the Work; (viii) the completion and submittal of all reports required by the Contract Documents, including without limitation, verified reports required by applicable provisions of the California Code of Regulations; and (ix) if required by Owner, such other data establishing payment or satisfaction of obligations such as receipts, releases and waivers of liens, stop notices, claims, security interest or encumbrances arising out of the Contract to the extent and in such form as may be required by Owner.

8.6.3 Disbursement of Final Payment. Provided that Owner is then in receipt of all documents and other items set forth in Article 8.5.2 above as conditions precedent to Owner's obligation to disburse Final Payment, not later than sixty (60) days following Final Acceptance Owner shall disburse the Final Payment to Contractor. If there is any dispute between Owner and Contractor at the time that disbursement of the Final Payment is due, Owner may withhold from disbursement of the Final Payment an amount not to exceed one hundred fifty percent (150%) of the amount in dispute.

8.6.4 Waiver of Claims. Contractor's acceptance of the Final Payment is a waiver and release by Contractor of any and all claims against Owner for compensation or otherwise in connection with Contractor's performance of the Contract.

8.6.5 Claims Asserted After Final Payment. Any lien, stop notice or other claim filed or asserted after Contractor's acceptance of the Final Payment by any Subcontractor, of any tier, laborer, Material Supplier or others in connection with or for Work performed under the Contract Documents shall be the sole and exclusive responsibility of Contractor who further agrees to indemnify, defend and hold harmless Owner and its officers, agents, representatives and employees from and against any claims, demands or judgments arising or associated therewith, including without limitation attorneys' fees incurred by Owner in connection therewith. In the event

any lien, stop notice or other claim of any Subcontractor, Laborer, Material Supplier or others performing Work under the Contract Documents remain unsatisfied after Final Payment is made, Contractor shall refund to Owner all monies that Owner may pay or be compelled to pay in discharging any lien, stop notice or other claim, including, without limitation all costs and reasonable attorneys' fees incurred by Owner in connection therewith.

8.7 Withholding of Payments. Owner may withhold any Progress Payment or the Final Payment, in whole or in part, or back charge Contractor to the extent it may deem advisable to protect Owner on account of: (i) defective Work or Work not in conformity with the requirements of the Contract Documents which is not remedied; (ii) failure of Contractor to make payments when due Subcontractors or Material Suppliers for materials or labor; (iii) claims filed or reasonable evidence of the probable filing of claims by Subcontractors, laborers, Material Suppliers, or others performing any portion of the Work under the Contract Documents for which Owner may be liable or responsible including, without limitation, Stop Notice Claims filed with Owner pursuant to California Civil Code §9350 et seq.; (iv) a reasonable doubt that the Contract can be completed for the then unpaid balance of the Contract Price; (v) tax demands filed in accordance with California Government Code §12419.4; (vi) other claims, penalties and/or forfeitures for which Owner is required or authorized to retain funds otherwise due Contractor; (vii) any amounts due from Contractor to Owner under the terms of the Contract Documents; (viii) violations of the obligations of Contractor or any Subcontractor relating to the employment of labor in connection with the Work; or (ix) Contractor's failure to perform any of its obligations under the Contract Documents or its default under the Contract Documents or its failure to maintain adequate progress of the Work. In addition to the foregoing, Owner shall not be obligated to process any Application for Progress Payment or Final Payment, nor shall Contractor be entitled to any Progress Payment or Final Payment so long as any lawful or proper direction concerning the Work or the performance thereof or any portion thereof, given by Owner, the AOR or any public authority having jurisdiction over the Work, or any portion thereof, shall not be fully and completely complied with by Contractor. When Owner is reasonably satisfied that Contractor has remedied any such deficiency, payment shall be made of the amount withheld. In lieu of making payment of withheld amounts to Contractor, Owner may, in its sole exclusive discretion, apply withheld amounts to the payment and satisfactions of debts and obligations of Contractor relating to the Work. In doing, Owner shall be an agent of Contractor for the sole and limited purpose of making payment(s) to others for the Work on behalf of Contractor; payments made by Owner pursuant to the foregoing shall be deemed payments to Contractor and the Contract Price shall be adjusted to reflect such payment(s). Owner shall not be liable to Contractor or others for its good faith decision to make or not make payment(s) of amounts withheld from Contractor pursuant to the foregoing. If Owner elects to make payments to other of amounts withheld from Contractor, Owner may do so without prior judicial determination; Owner will render Contractor a complete and accurate accounting of amounts withheld and paid to others on behalf of Contractor.

8.8 Payments to Subcontractors. Contractor shall pay all Subcontractors for and on account of Work of the Contract performed by such Subcontractors in accordance with the terms of their respective subcontracts and the process set forth in Public Contract Code §10262; while this law is not applicable to Owner or this Project, Owner has elected to reference the process set forth therein as governing this Contract. In the event of Contractor's failure to make payment to Subcontractors in conformity with California Public Contract Code §10262, the process set forth in California Public Contract Code §10253 shall be used to address said failure, except that the references in said Section 10253 to "the director" shall be deemed to refer to Owner. Retention withheld by Contractor from a progress payment due from Contractor to a Subcontractor shall not exceed the retention withheld by Owner from Contractor under the Contract Documents. Contractor shall timely make payment of retention due Subcontractors within 60 days after the date of completion of the Work. In the event of a dispute between the Owner and Contractor, Owner may withhold from the final payment an amount not to exceed 150 percent of the disputed amount. Within seven days from the time that all or any portion of the retention proceeds are

received by the Contractor, the Contractor shall pay each of its subcontractors from whom retention has been withheld, each subcontractor's share of the retention received. However, if a retention payment received by the Contractor is specifically designated for a particular subcontractor, payment of the retention shall be made to the designated subcontractor, if the payment is consistent with the terms of the subcontract. Contractor may withhold from a subcontractor its portion of the retention proceeds if a bona fide dispute exists between the subcontractor and the Contractor. The amount withheld from the retention payment shall not exceed 150 percent of the estimated value of the disputed amount. In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to attorney's fees and costs.

## **8.9 Computerized Job Cost Reporting System.**

**8.9.1 Job Cost Reporting.** Contractor and each Subcontractor with a Subcontract valued at Five Hundred Thousand Dollars (\$500,000) or greater shall maintain a computerized job cost reporting system conforming with the requirements set forth herein. The computer program(s) utilized by Contractor and applicable Subcontractors shall be subject to review and acceptance by Owner. The job cost reporting systems for the Work shall be updated in regular intervals of not more than one (1) calendar month.

**8.9.2 Job Cost Reporting System Requirements.** The computerized job cost programs utilized by Contractor and applicable Subcontractors shall conform and comply with generally accepted accounting principles applied in a consistent manner and with recognized and generally accepted construction industry accounting standards, guidelines and procedures. The job cost reporting system format and configuration shall follow the general format of Owner approved Cost Breakdown and budgets established for each line item shall be traceable to a bid estimate of costs. The job cost reporting systems utilized by Contractor and applicable Subcontractors shall be capable of: (i) providing overall cost status on a monthly and cumulative basis; (ii) providing comparative analysis of the original budgeted costs, actual costs, remaining budget, and projected cost of completion; the job cost reporting system shall be capable of providing comparative analysis for individual line items and the totality of the Work reflected in the job cost report and; (iii) tracking adjustments to original budget amounts for Changes to the Work (including, without limitation, issued, pending and potential Change Orders).

**8.9.3 Job Cost System Information.** Upon request of Owner or AOR, Contractor and applicable Subcontractors shall make available written job cost reports and provide Owner and the CM with the electronic files of the then current or requested job cost report. The foregoing are material obligations of Contractor under the Contract Documents.

## **ARTICLE 9: CHANGES**

**9.1 Changes in the Work.** Owner, at any time, by issuance of a Field Order may make Changes within the general scope of the Work under the Contract Documents or issue additional instructions, require additional Work or direct deletion of Work. Owner may, without directing or authorizing a Change to the Work, request that Contractor provide a proposal for adjustment of the Contract Time and/or the Contract Price, in connection with a Change being considered by Owner ("Proposal Request"). Unless otherwise expressly provided in a Proposal Request issued on behalf of Owner to Contractor, Contractor shall respond to each Proposal Request within five (5) days of the issuance thereof. If Contractor fails or refuses to respond to a Proposal Request within said five (5) days and Owner elects to proceed with the potential Change noted in a Proposal Request, the reasonable determination of Owner of the extent of adjustment of the Contract Price or the Contract Time on account of the potential Change shall be final, binding and enforceable against Contractor. Contractor shall not proceed to implement a proposed Change noted in a Proposal Request unless specifically directed or authorized in writing by or on behalf



of Owner. Contractor shall not proceed with any Change involving an increase or decrease in the Contract Price or the Contract Time without prior written authorization from the AOR and Owner. The foregoing notwithstanding, Contractor shall promptly commence and diligently complete any Change to the Work subject to the written authorization issued by the AOR and Owner pursuant to the preceding sentence. Contractor shall not be relieved or excused from its prompt commencement and diligent completion of any Change subject to such written authorization by virtue of the absence or inability of Contractor and Owner to agree upon the extent of any adjustment to the Contract Time or the Contract Price on account of such Change. The issuance of a Change Order pursuant to this Article 9 in connection with any Change authorized by Owner under this Article 9.1 shall not be deemed a condition precedent to Contractor's obligation to promptly commence and diligently complete any such Change authorized by Owner hereunder. Owner's right to make Changes shall not invalidate the Contract nor relieve Contractor of any liability or other obligations under the Contract Documents. Changes to the Work depicted or described in the Drawings or the Specifications shall be subject to approval by the County of Sacramento. Owner may make Changes to bring the Work or the Project into compliance with environmental requirements or standards established by state or federal statutes and regulations enacted after award of the Contract.

9.2 Oral Order of Change in the Work. Any oral order, direction, instruction, interpretation, or determination from Owner or the AOR which in the opinion of Contractor causes any change to the scope of the Work, or otherwise requires an adjustment to the Contract Price or the Contract Time, shall be treated as a Change only if Contractor gives Owner and the AOR written notice within ten (10) days of the order, directions, instructions, interpretation or determination and prior to acting in accordance therewith. Time is of the essence in Contractor's written notice pursuant to the preceding sentence so that Owner can promptly investigate and consider alternative measures to address the order, direction, instruction, interpretation or determination giving rise to Contractor's notice. Accordingly, Contractor acknowledges and agrees that its failure, for any reason, to give written notice within ten (10) days of such order, direction, instruction, interpretation or determination shall be deemed Contractor's waiver of any right to assert or claim any entitlement to an adjustment of the Contract Time or the Contract Price on account of such order, direction, instruction, interpretation or determination. The written notice shall state the date, circumstances, extent of adjustment to the Contract Price or the Contract Time, if any, requested, and the source of the order, directions, instructions, interpretation or determination that Contractor regards as a Change. Unless Contractor acts in strict accordance with this procedure, any such order, direction, instruction, interpretation or determination shall not be treated as a Change and Contractor hereby waives any claim for any adjustment to the Contract Price or the Contract Time on account thereof.

9.3 Contractor Submittal of Data. Within ten (10) days after receipt of a written order directing a Change in the Work or furnishing the written notice regarding any oral order directing a Change in the Work, Contractor shall submit to the AOR and Owner a detailed written statement setting forth the general nature of the Change, the amount of any adjustment to the Contract Price and impact to the then current Construction Schedule on account thereof, properly itemized and supported by a detail Construction Schedule analysis and sufficient substantiating data to permit evaluation of the same, and the extent of adjustment of the Contract Time, if any, required by such Change. No claim or adjustment to the Contract Price or the Contract Time shall be allowed if not asserted by Contractor in strict conformity herewith or if asserted after Final Payment is made under the Contract Documents.

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

9.4.1 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:

9.4.1.1 Mutual Agreement. By negotiation and mutual agreement, on a lump sum basis, between Owner and 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 Owner or the CM, 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. 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 Owner and the AOR to review and assess the completeness and accuracy thereof. 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 Owner, and the Consulting for such estimate.

9.4.1.2 Determination by Owner. By Owner, whether or not negotiations are initiated pursuant to Article 9.4.1.1 above, based upon actual and necessary costs incurred by Contractor as determined by Owner on the basis of Contractor's records. In the event that the procedure set forth in this Article 9.4.1.2 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, Owner shall notify Contractor in writing of the same; Contractor shall be deemed to have accepted Owner's determination of the amount of adjustment to the Contract Price on account of a Change to the Work unless Contractor shall notify Owner and the AOR, in writing, not more than fifteen (15) days from the date of Owner's written notice, of any objection to Owner's determination. Failure of Contractor to timely notify Owner and the AOR of Contractor's objections to Owner's determination of the extent of adjustment to the Contract Price shall be deemed Contractor's acceptance of Owner's determination and a waiver of any right or basis of Contractor to thereafter protest or otherwise object to Owner's determination. Notwithstanding any objection of Contractor to Owner's determination of the extent of any adjustment to the Contract Price pursuant to this Article 9.4.1.2, Contractor shall, pursuant to Article 9.7 below, diligently proceed to perform and complete any such Change.

9.4.1.3 Basis for Adjustment of Contract Price. If Changes in the Work require an adjustment of the Contract Price pursuant to Articles 9.4.1.1 or 9.4.1.2 above, the basis for adjustment of the Contract Price shall be as follows:

9.4.1.3.1 Labor. 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. Labor costs shall exclude costs incurred by 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 costs of supervision, including costs/salaries of Contractor's and Subcontractor(s)' superintendents and non-labor foremen and other overhead and general conditions costs associated with the Change or performance thereof.

9.4.1.3.2 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 Owner. 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 Contractor, compensation therefor shall not exceed the current wholesale price for such materials or equipment. If, in the reasonable opinion of Owner, the costs asserted by Contractor for materials and/or equipment in connection with any Change is excessive, or if 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 Owner'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. Owner may elect to furnish materials and/or equipment for Changes to the Work, in which event Contractor shall not be compensated for the costs of furnishing such materials and/or equipment or any mark-up thereon.

9.4.1.3.3 Construction Equipment. 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 Contractor from the AOR and Owner, no costs or compensation shall be allowed for time while Construction Equipment is inoperative, idle or on standby, for any reason. 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 one thousand dollars (\$1,000.00) or less. Construction Equipment costs claimed by 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 AOR and Owner, the allowable rate for the use of Construction Equipment in connection with Changes to the Work shall constitute full compensation to 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 Contractor incidental to the use of such Construction Equipment.

9.4.1.3.4 Mark-up on Costs of Changes to the Work. In determining the cost to Owner 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 and field overhead), general conditions costs and profit associated with the Change shall not exceed ten percent (10%) regardless of the number of Subcontractors, of any tier, performing any portion of any Change to the Work. See the special conditions for the mark up structure. If a Change to the Work reduces the Contract Price, no profit, general conditions or overhead costs shall be paid by Owner to 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 Contract Documents for mark-ups on the cost of a Change adding to the scope of the Work.

9.4.1.3.5 Contractor Maintenance of Records. In the event that Contractor shall be directed to perform any Changes to the Work pursuant to Article 9.1 or 9.2, or should Contractor encounter conditions which Contractor, pursuant to Article 9.6, believes would obligate Owner to adjust the Contract Price and/or the Contract Time, Contractor shall maintain detailed records itemizing each element of costs along with substantiating evidence of costs incurred 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 Contractor in a calendar day, Contractor shall maintain separate records of labor, Construction Equipment, materials and equipment for each such Change. In the event that any Subcontractor, of any tier, shall provide or perform any portion of any Change to the Work, 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 Owner and the AOR upon request. In the event that Contractor shall fail or refuse, 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, Owner'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 Contractor. 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.

9.4.2 Adjustment to Contract Time. In the event of any Change(s) to the Work pursuant to this Article 9, 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. In the event that any Change shall require an extension of the Contract Time, Contractor shall not be subject to Liquidated Damages for such period of time. If completion of the Work is delayed by causes for which Owner is responsible and the delay is unreasonable under the circumstances involved, and not within the contemplation of Contractor and Owner at the time of execution of the Agreement, Contractor shall not be precluded from the recovery of damages arising therefrom.

9.5 Change Orders. If Owner approves of a Change, a written Change Order prepared by the AOR on behalf of Owner shall be forwarded to Contractor describing the Change and setting forth the adjustment to the Contract Time and the Contract Price (broken down by costs for labor, materials, equipment, Subcontractor mark-ups and other costs incorporated into the Change Order), 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 Contractor for inclusion in the Change Order shall be deemed waived. Contractor shall execute the Change Order prepared pursuant to the

foregoing; once the Change Order has been prepared and forwarded to Contractor for execution, without the prior approval of Owner which may be granted or withheld in the sole and exclusive discretion of Owner, Contractor shall not modify or amend the form or content of such Change Order, or any portion thereof. Contractor's attempted or purported modification or amendment of any such Change Order, without the prior approval of Owner, shall not be binding upon Owner; 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 Owner only upon action of Owner's Board of Directors approving and ratifying such Change Order. In the event of any amendment or modification made by Contractor to a Change Order for which there is no prior approval by Owner, in accordance with the provisions of this Article 9.5, unless otherwise expressly stated in its approval and ratification of such Change Order, any action of the Board of Directors to approve and ratify such Change Order shall be deemed to be limited to the Change Order as prepared by the AOR and Owner; such approval and ratification of such Change Order shall not be deemed Owner's approval and ratification of any unapproved amendment or modification by Contractor to such Change Order. The form and content of Change Orders shall be as set forth in the attachments to the Special Conditions.

9.6 Contractor Notice of Changes. If Contractor should claim that any instruction, request, action, condition, omission, default, or other situation obligates Owner to increase the Contract Price or to extend the Contract Time, Contractor shall notify the Owner and the AOR, in writing, of such claim within ten (10) days from the date of its actual or constructive notice of the factual basis supporting the same. Owner shall consider any such claim of Contractor only if sufficient supporting documentation is submitted with Contractor's notice to the AOR. Time is of the essence in Contractor's written notice pursuant to the preceding sentence. Accordingly, Contractor acknowledges that its failure, for any reason, to give written notice (with sufficient supporting documentation to permit Owner's review and evaluation) within ten (10) days of its actual or constructive knowledge of any instruction, request, action, condition, omission, default or other situation for which Contractor believes there should be 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, action, condition, omission, default or other situation. In the event that Owner determines that the Contract Price or the Contract Time are subject to adjustment based upon the events, circumstances and supporting documentation submitted with Contractor's written notice under this Article 9.6, any such adjustment shall be determined in accordance with the provisions of Articles 9.4.1 and 9.4.2.

9.7 Disputed Changes. In the event of any dispute or disagreement between Contractor and Owner or the AOR 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, 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. Contractor's failure or refusal to so proceed with such Work is Contractor's default of a material obligation of Contractor under the Contract Documents.

9.8 Emergencies. In an emergency affecting the safety of life, or of the Work, or of property, Contractor, without special instruction or prior authorization from Owner or the AOR, is permitted to act at its discretion to prevent such threatened loss or injury. Any compensation claimed by Contractor on account of such emergency work shall be submitted and determined in accordance with this Article 9.

9.9 Minor Changes in the Work. The Owner and AOR may order minor Changes in the Work not involving an adjustment in the Contract Price or the Contract Time and not inconsistent with

the intent of the Contract Documents. Such Changes shall be affected by written order and shall be binding on Owner and Contractor. Contractor shall carry out such orders promptly.

9.10 Unauthorized Changes. Any Work beyond the extent of Work shown on the Contract Documents, or any extra Work performed or provided by Contractor without notice to the CM and Owner in the manner and within the time set forth in Articles 9.2 or 9.6 shall be considered unauthorized and at the sole expense of Contractor. Work so done will not be measured or paid for, no extension to the Contract Time will be granted on account thereof and any such Work may be ordered removed at Contractor's sole cost and expense. The failure of Owner to direct or order removal of such Work shall not constitute acceptance or approval of such Work nor relieve Contractor from any liability on account thereof.

## **ARTICLE 10: SEPARATE CONTRACTORS**

10.1 Owner's Right to Award Separate Contracts. Owner reserves the right to perform construction or operations related to the Project with Owner's own forces or to award separate contracts in connection with other portions of the Project or other construction or operations at or about the Site. If Contractor claims that delay or additional cost is involved because of such action by Owner, Contractor shall seek an adjustment to the Contract Price or the Contract Time as provided for in the Contract Documents. Failure of Contractor to request such an adjustment of the Contract Time or the Contract Price in strict conformity with the provisions of the Contract Documents applicable thereto shall be deemed a waiver of the same.

10.2 Owner's Coordination of Separate Contractors. Owner shall provide for coordination of the activities of Owner's own forces and of each separate contractor with the Work of Contractor, who shall cooperate with them. Contractor shall participate with each such other separate contractors and Owner in reviewing their respective Construction Schedules when directed to do so. Contractor shall make any revisions to the Accepted Construction Schedule for the Work hereunder deemed necessary after a joint review and mutual agreement. The Construction Schedules shall then constitute the Construction Schedules to be used by Contractor, separate contractors and Owner until subsequently revised.

10.3 Mutual Responsibility. Contractor shall afford Owner and separate contractors' reasonable opportunity for storage of their materials and equipment and performance of their activities at the Site and shall connect and coordinate Contractor's Work, construction and operations with theirs as required by the Contract Documents.

10.4 Discrepancies or Defects. If part of Contractor's Work depends for proper execution or results upon construction or operations by Owner or a separate contractor, Contractor shall, prior to proceeding with that portion of the Work, promptly report to the AOR and Owner any apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of Contractor to so report shall constitute an acknowledgment that Owner's or separate contractors completed or partially completed construction is fit and proper to receive Contractor's Work, except as to defects not then discoverable by Contractor's reasonable diligence.

## **ARTICLE 11: TESTS AND INSPECTIONS**

11.1 Tests; Inspections; Observations.

11.1.1 Contractor's Notice. If the Contract Documents, the Laws or any public authority with jurisdiction over any portion of the Work requires the Work, or any portion thereof, to be specially

tested, inspected or approved, Contractor shall give the AOR and Owner written notice of the readiness of such Work for observation, testing or inspection at least two (2) working days prior to the time for the conducting of such test, inspection or observation. If inspection, testing or observation is by authority other than Owner, Contractor shall inform the Owner and AOR not less than two (2) working days prior to the date fixed for such inspection, test or observation. Contractor shall not cover up any portion of the Work subject to tests, inspections or observations prior to the completion and satisfaction of the requirements of such test, inspection or observation. In the event that any portion of the Work subject to tests, inspection or approval shall be covered up by Contractor prior to completion and satisfaction of the requirements of such tests, inspection or approval, Contractor shall be responsible for the uncovering of such portion of the Work as is necessary for performing such tests, inspection or approval without adjustment of the Contract Price or the Contract Time on account thereof.

11.1.2 Cost of Tests and Inspections. Owner will pay for fees, costs and expenses for the initial tests/inspections of materials/equipment forming a part of the Work which are conducted at a location within a one hundred (100) mile radius of the Site. All fees, costs or expenses for subsequent tests/inspections or for tests/inspections conducted at a location situated more than a one hundred (100) mile radius from the Site (including without limitation, travel and travel-related expenses) shall be borne solely and exclusively by Contractor. Owner may deduct such fees, costs or expenses from any portion of the Contract Price then or thereafter due Contractor.

11.1.3 Testing/Inspection Laboratory. Owner shall select duly qualified person(s) or testing laboratory(ies) to conduct the tests and inspections to be paid for by Owner and required by the Contract Documents. Tests and inspections required of the Work shall be as set forth in the Contract Documents and as required by the Laws. Test/inspection standards shall be as set forth in the Contract Documents or established by the Laws. Where inspection or testing is to be conducted by an independent laboratory or testing agency, materials or samples thereof shall be selected by the laboratory, testing agency, or the Owner and not by Contractor.

11.1.4 Additional Tests, Inspections and Approvals. If the Owner, AOR or public authorities having jurisdiction over the Work determine that portions of the Work require additional testing, inspection or approval, the AOR will, upon written authorization from Owner, instruct Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to Owner, and Contractor shall give timely notice to the Owner and AOR of when and where tests and inspections are to be made so the Owner and AOR may observe such procedures. Owner shall bear the costs of such additional tests, inspections or approvals, except to the extent that such additional tests, inspections or approvals reveal any failure of the Work to comply with the requirements of the Contract Documents, in which case Contractor shall bear all costs made necessary by such failures, including without limitation, the costs of corrections, repeat tests, inspections or approvals and the costs of the AOR's services or its consultants in connection therewith.

11.2 Delivery of Certificates. Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by Contractor and promptly delivered to Contractor's AOR, with copies thereof immediately transmitted by Contractor to the AOR and Owner.

11.3 Timeliness of Tests, Inspections and Approvals. Tests or inspections required and conducted pursuant to the Contract Documents shall be made or arranged by Contractor to avoid delay in the progress of the Work.

## **ARTICLE 12: UNCOVERING AND CORRECTION OF WORK**

## 12.1 Inspection of the Work.

12.1.1 Access to the Work. All Work and all materials and equipment forming a part of the Work or incorporated into the Work are subject to inspection by Owner and the AOR for conformity with the Contract Documents. Contractor shall, at its cost and without adjustment to the Contract Price or the Contract Time, furnish any facilities necessary for sufficient and safe access to the Work for purposes of inspection by Owner and the AOR or any other public or quasi-public authority with jurisdiction over the Work or any portion thereof.

12.1.2 Limitations Upon Inspections. Inspections, tests, measurements, or other acts of the AOR hereunder are for the sole purpose of assisting them in determining that the Work, materials, equipment, progress of the Work, and quantities generally comply and conform with the requirements of the Contract Documents. These acts or functions shall not relieve Contractor from performing the Work in full compliance with the Contract Documents. No inspection by the Owner or AOR shall constitute or imply acceptance of Work inspected. Inspection of the Work hereunder is in addition to, and not in lieu of, any other testing, inspections or approvals of the Work required under the Contract Documents.

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

12.3 Rejection of Work. Prior to Owner'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 Owner or the AOR and 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 Owner and AOR or even if they failed to observe the defective or non-conforming Work, materials or equipment.

12.4 Correction of Work. A material obligation of Contractor is its prompt correction of any portion of the Work rejected by Owner or the AOR 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 Final Completion and whether or not fabricated, installed or completed. Contractor shall bear all costs of correcting such rejected Work, including additional testing and inspections and compensation for the services of the AOR and other expenses made necessary thereby. Contractor shall bear all costs of correcting destroyed or damaged construction, whether completed or partially completed, of Owner or separate contractors, caused by Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents, or which is defective.

12.5 Removal of Non-Conforming or Defective Work. Contractor shall, 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 Contractor nor accepted by Owner.

12.6 Failure of Contractor to Correct Work. If Contractor fails to commence to correct defective or non-conforming Work within three (3) days of notice by or on behalf of Owner of such condition and promptly thereafter complete the same within a reasonable time, Owner may correct it in accordance with the Contract Documents and reduce the Contract Price by all amounts expended to do so. If Contractor does not proceed with correction of such defective or non-conforming Work within the time fixed herein, Owner may remove it and store the salvable materials or equipment at Contractor's expense. If Contractor does not pay costs of such removal and storage after



written notice, Owner 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 Contractor, including without limitation compensation for the AOR's services, attorneys' fees and other expenses made necessary thereby. If such proceeds of sale do not cover costs which Contractor should have borne, the Contract Price shall be reduced by the deficiency. If payments of the Contract Price then or thereafter due Contractor are not sufficient to cover such amount, Contractor shall promptly pay the difference to Owner.

12.7 Acceptance of Defective or Non-Conforming Work. Owner 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.

## **ARTICLE 13: WARRANTIES**

13.1 Workmanship and Materials. Contractor warrants to Owner that all materials and equipment furnished under the Contract Documents shall be new, of good quality and of the most suitable grade and quality for the purpose intended, unless otherwise specified in the Contract Documents. All Work shall be of good quality, free from faults and defects and in conformity with the requirements of the Contract Documents. If required by the AOR or Owner, Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment incorporated into the Work. Any Work, or portion thereof not conforming to these requirements, including substitutions or alternatives not properly approved in accordance with the Contract Documents may be deemed defective. Where there is an approved substitution of, or alternative to, material or equipment specified in the Contract Documents, Contractor warrants to Owner that such installation, construction, material, or equipment will equally perform the function and have the quality of the originally specified material or equipment. Contractor expressly warrants the merchantability, the fitness for use, and quality of all substitute or alternative items in addition to any warranty given by the manufacturer or supplier of such item.

13.2 Warranty Work. If, within two years after the date of Final Acceptance, or such other time frame set forth elsewhere in the Contract Documents, any of the Work is found to be defective or not in accordance with the requirements of the Contract Documents, or otherwise contrary to the warranties contained in the Contract Documents, Contractor shall commence all necessary corrective action not more than seven (7) days after receipt of a written notice from Owner to do so, and to thereafter diligently complete the same. In the event that Contractor shall fail or refuse to commence correction of any such item within said seven (7) day period or to diligently prosecute such corrective actions to completion, Owner may, without further notice to Contractor, cause such corrective Work to be performed and completed. In such event, Contractor shall be responsible for all costs in connection with such corrective Work, including without limitation, general administrative overhead costs of Owner in securing and overseeing such corrective Work. Nothing contained herein shall be construed to establish a period of limitation with respect to any obligation of Contractor under the Contract Documents. The obligations of Contractor hereunder shall be in addition to, and not in lieu of, any other obligations imposed by any special guarantee or warranty required by the Contract Documents, guarantees or warranties provided by any manufacturer of any item or equipment forming a part of, or incorporated into the Work, or otherwise recognized, prescribed or imposed by law. Neither Owner's Final Acceptance, the making of Final Payment, any provision in Contract Documents, nor the use or occupancy of the Work, in whole or in part, by Owner shall constitute acceptance of Work not in accordance with the Contract Documents nor relieve Contractor from liability with respect to any warranties or responsibility for faulty or defective Work or materials, equipment and workmanship incorporated therein.

13.3 Survival of Warranties. The provisions of this Article 13 shall survive Contractor's completion of Work under the Contract Documents, Owner's Final Acceptance or the termination of the Contract.

## **ARTICLE 14: SUSPENSION OF WORK**

14.1 Owner's Right to Suspend Work. Owner may, without cause, and without invalidating or terminating the Contract, order Contractor, in writing, to suspend, delay or interrupt the Work in whole or in part for such period of time as Owner may determine. When all or a portion of the Work is to be suspended for any reason, Contractor and each Subcontractor shall securely fasten down all coverings, to protect the Work from damage, destruction or deterioration from any cause. Contractor shall resume and complete the Work suspended by Owner in accordance with Owner's directive, whether issued at the time of the directive suspending the Work or subsequent thereto.

14.2 Adjustments to Contract Price and Contract Time. In the event Owner shall order suspension of the Work, an adjustment shall be made to the Contract Price for increases in the direct cost of performance of the Work of the Contract Documents, actually caused by suspension, delay or interruption ordered by Owner; provided however that no adjustment of the Contract Price shall be made to the extent: (i) that performance is, was or would have been so suspended, delayed or interrupted by another cause for which Contractor is responsible under the Contract Documents; or (ii) that an equitable adjustment is made or denied under another provision of the Contract Documents. The foregoing notwithstanding, any such adjustment of the Contract Price shall not include any adjustment to increase Contractor's overhead, general administrative costs or profit, all of which will remain as reflected in the Cost Breakdown submitted by Contractor pursuant to the Contract Documents. In the event of Owner's suspension of the Work, the Contract Time shall be equitably adjusted.

## **ARTICLE 15: TERMINATION**

15.1 Termination for Cause.

15.1.1 Owner's Right to Terminate. Owner may terminate the Contract, in whole or in part, upon the occurrence of any one or more of the following events of Contractor's default: (i) if Contractor refuses or fails to prosecute the Work with diligence as will insure Final Completion of the Work within the Contract Time, or if Contractor fails to achieve Final Completion of the Work within the Contract Time; (ii) if Contractor becomes bankrupt or insolvent, or makes a general assignment for the benefit of creditors, or if Contractor or a third party files a petition to reorganize or for protection under any bankruptcy or similar laws, or if a trustee or receiver is appointed for Contractor or for any of Contractor's property on account of Contractor's insolvency, and Contractor or its successor in interest does not provide adequate assurance of future performance in accordance with the Contract Documents within 10 days of receipt of a request for such assurance from Owner; (iii) if Contractor repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment; (iv) if Contractor repeatedly fails to make prompt payments to any Subcontractor, of any tier, or Material Suppliers or others for labor, materials or equipment; (v) if Contractor disregards the Laws or the requirements of any public entity having jurisdiction over any portion of the Work; (vi) if Contractor disregards proper directives of the AOR or Owner under the Contract Documents; (vii) if Contractor performs Work which deviates from the Contract Documents and neglects or refuses to correct such Work; or (viii) if Contractor otherwise violates in any material way any provisions or requirements of the Contract Documents. Once Owner determines that sufficient cause exists to justify the action, Owner may terminate the Contract without prejudice to any other right or remedy Owner may have, after giving Contractor at least seven (7) days advance written notice of the effective date of termination. Owner shall have the

sole discretion to permit Contractor to remedy the cause for the termination without waiving Owner's right to terminate the Contract, or otherwise waiving, restricting or limiting any other right or remedy of Owner under the Contract Documents or at law.

15.1.2 Owner's Rights Upon Termination. In the event that the Contract is terminated pursuant to this Article 15.1, Owner may take over the Work and prosecute it to completion, by contract or otherwise, and may exclude Contractor from the Site. Owner may take possession of the Work and of all of Contractor's tools, appliances, construction equipment, machinery, materials, and plant which may be on the site of the Work, and use the same to the full extent they could be used by Contractor without liability to Contractor. In exercising Owner's right to prosecute the completion of the Work, Owner may also take possession of all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and finish the Work as Owner deems expedient. In exercising Owner's right to prosecute the completion of the Work, Owner shall have the right to exercise its sole discretion as to the manner, methods, and reasonableness of the costs of completing the Work and Owner shall not be required to obtain the lowest price for completion of the Work. In the event that Owner takes bids for remedial Work or completion of the Work, Contractor shall not be eligible for the award of such contract(s).

15.1.3 Assignment and Assumption of Subcontracts. Owner shall, in its sole and exclusive discretion, have the option of requiring any Subcontractor or Material Supplier to perform in accordance with its Subcontract or Purchase Order with Contractor and assign the Subcontract or Purchase Order to Owner or such other person or entity selected by Owner to complete the Work.

15.1.4 Costs of Completion. In the event of termination under this Article 15.1, Contractor shall not be entitled to receive any further payment of the Contract Price. If the unpaid balance of the Contract Price as of the date of termination exceeds Owner's direct and indirect costs and expenses for completing the Work, including without limitation, attorneys' fees and compensation for additional professional and consultant services, such excess shall be used to pay Contractor for the cost of the Work performed in compliance with its obligations under the Contract Documents prior to the effective date of termination with a reasonable allowance for overhead and profit. If Owner's costs and expenses to complete the Work exceed the unpaid Contract Price, Contractor shall pay the difference to Owner. Payments made or due pursuant to the preceding shall not operate to limit, restrict, waive or modify any other rights or remedies of Owner under the Contract Documents, or the Laws arising out of the causes for Owner's exercise of the default termination remedy under Article 15.1.

15.1.5 Contractor Responsibility for Damages. Contractor shall be liable for all damage sustained by Owner resulting from, in any manner, the termination of Contract under this Article 15.1, including without limitation, attorneys' fees, and for all costs necessary for repair and completion of the Work over and beyond the Contract Price.

15.1.6 Conversion to Termination for Convenience. In the event the Contract is terminated under this Article 15.1, and it is determined, for any reason, that Contractor was not in default under the provisions hereof, the termination shall be deemed a Termination for Convenience of Owner and thereupon, the rights and obligations of Owner and Contractor shall be determined in accordance with Article 15.2 hereof.

15.1.7 Owner's Rights Cumulative. In the event the Contract is terminated pursuant to this Article 15.1, the termination shall not affect or limit any rights or remedies of Owner against Contractor. The rights and remedies of Owner under this Article 15.1 are in addition to, and not in lieu of, any other rights and remedies provided by the Laws or under the Contract Documents. Any retention or payment of monies to Contractor by Owner shall not be deemed to release Contractor from any liability hereunder.

15.2 Termination for Convenience of Owner. Owner may at any time, in its sole and exclusive discretion, by written notice to Contractor, terminate the Contract in whole or in part when it is in the interest of, or for the convenience of, Owner. In such case, Contractor shall be entitled to payment for: (i) Work actually performed and in place as of the effective date of such termination for convenience of Owner, with a reasonable allowance for profit and overhead on such Work, and (ii) reasonable termination expenses for reasonable protection of Work in place and suitable storage and protection of materials and equipment delivered to the Site but not yet incorporated into the Work, provided that such payments exclusive of termination expenses shall not exceed the total Contract Price as reduced by payments previously made to Contractor and as further reduced by the value of the Work as not yet completed. Contractor shall not be entitled to profit and overhead on Work which was not performed as of the effective date of the termination for convenience of Owner. Owner may, in its sole discretion, elect to have Subcontracts assigned pursuant to Article 15.1.4 above after exercising the right hereunder to terminate for Owner's convenience.

## **ARTICLE 16: MISCELLANEOUS**

16.1 Governing Law. This Contract shall be governed by and interpreted in accordance with the laws of the State of California.

16.2 Marginal Headings; Interpretation. The titles of the various Articles of these General Conditions and elsewhere in the Contract Documents are used for convenience of reference only and are not intended to, and shall in no way, enlarge or diminish the rights or obligations of Owner or Contractor and shall have no effect upon the construction or interpretation of the Contract Documents. The Contract Documents shall be construed as a whole in accordance with their fair meaning and not strictly for or against Owner or Contractor.

16.3 Successors and Assigns. Except as otherwise expressly provided in the Contract Documents, all terms, conditions and covenants of the Contract Documents shall be binding upon, and shall inure to the benefit of Owner and Contractor and their respective heirs, representatives, successors-in-interest and assigns.

16.4 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 Owner shall constitute a waiver of a right or remedy afforded it under the Contract Documents or at law 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.

16.5 Severability. In the event any provision of the Contract Documents shall be deemed illegal, invalid, unenforceable and/or void, by a court or any other governmental agency of competent jurisdiction, such provision shall be deemed to be severed and deleted from the Contract Documents, but all remaining provisions hereof, shall in all other respects, continue in full force and effect.

16.6 No Assignment by Contractor. Contractor shall not sublet or assign the Contract, or any portion thereof, or any monies due thereunder, without the express prior written consent and approval of Owner, which approval may be withheld in the sole and exclusive discretion of Owner. Owner's approval to such assignment shall be upon such terms and conditions as determined by Owner in its sole and exclusive discretion.

16.7 Gender and Number. Whenever the context of the Contract Documents so require, the neuter gender shall include the feminine and masculine, the masculine gender shall include the feminine and neuter, the singular number shall include the plural and the plural number shall include the singular.

16.8 Independent Contractor Status. In performing its obligations under the Contract Documents, Contractor is an independent contractor to Owner and not an agent or employee of Owner. Nothing contained herein shall be deemed or construed as creating a relationship of employer and employee between Owner and Contractor or any Subcontractors, employees of Contractor or Subcontractors or their respective agents and representatives. Neither Contractor, Subcontractors nor any employees of Contractor or Subcontractors are entitled to any rights or privileges of Owner employees.

16.9 Notices. Except as otherwise expressly provided for in the Contract Documents, all notices which Owner or Contractor may be required, or may desire, to serve on the other, shall be effective only if delivered by personal delivery or by postage prepaid, First Class Certified Return Receipt Requested United States Mail, addressed to Owner or Contractor at their respective address set forth in the Contract Documents, or such other address (es) as either Owner or Contractor may designate from time to time by written notice to the other in conformity with the provisions hereof. In the event of personal delivery, such notices shall be deemed effective upon delivery, provided that such personal delivery requires a signed receipt by the recipient acknowledging delivery of the same. In the event of mailed notices, such notice shall be deemed effective on the third working day after deposit in the mail.

16.10 Disputes; Continuation of Work. Notwithstanding any claim, dispute, disagreement or other matter and controversy between Owner and Contractor arising out of or related in any manner to the Contract Documents or the Work thereunder, Contractor shall, unless expressly excused in writing by Owner, proceed diligently with performance of the Work in accordance with the Contract Documents, pending any final determination or decision regarding any such claim, dispute, disagreement or other matter in controversy.

#### 16.11 Claims Resolution.

16.11.1 Claims Resolution Procedures. Any claims of Contractor are subject to the process for non-binding dispute resolution procedures set forth herein, however, that these procedures are expressly subject to Contractor's prior full and timely compliance with requirements and procedures of the Contract Documents relating to procedures for resolution of claims, change orders, disputes and other matters in controversy under the Contract Documents.

16.11.1.1 Claim Submittal and Documentation. Claims shall be submitted to Owner and supported by documentation of: (i) contractual and legal basis establishing Claim entitlement or merit; (ii) factual basis for Owner liability for the Claim; (iii) detailed breakdown of labor, materials, equipment and other costs included in the Claim; and (iv) detailed basis, including Construction Schedule analysis supporting any Contract Time adjustment or Liquidated Damages relief included in the scope of a Claim.

16.11.1.2 Owner Claim Review Statement. Within 45 days after the claim is submitted, or such other time mutually agreed to by Owner and Contractor, Owner will review the Claim and provide Contractor with a written statement identifying the disputed and undisputed portions of the Claim ("Claim Review Statement"). If Owner fails to provide the Claim Review Statement within 45 days or other time mutually agreed to by Owner and Contractor, the Claim is deemed rejected in its entirety and thereupon, Contractor may initiate the Meet and Confer process described below. If the Claim Review Statement identifies any undisputed portion of a Claim ("Undisputed Claim") and payment is due from

Owner on the Undisputed Claim, Owner shall process and make payment on the Undisputed Claim within sixty (60) days after the issuance date of the Claim Review Statement.

#### 16.11.1.3 Meet and Confer.

16.11.1.3.1 Meet and Confer Demand. Within 5 days after receipt of the Claim Review Statement or the expiration of the 45-day timeline for Owner to provide a Claim Review Statement, Contractor may demand an informal conference to meet and confer with Owner for settlement of the issues in dispute ("Meet and Confer"). Contractor's Meet and Confer request must be submitted to Owner: (i) in writing; (ii) by registered mail or certified mail, return receipt requested; and (iii) within ten (10) days after the Claim Review Statement is submitted to Contractor or within ten (10) days after the date the Claim is deemed rejected, as applicable. Failure of Contractor to strictly comply with the foregoing is a waiver of Contractor's right to request the Meet and Confer and the Non-Binding Mediation procedures below. If Contractor strictly complies with the foregoing, Owner will schedule the Meet and Confer conference within thirty (30) days of Contractor's Meet and Confer request.

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

#### 16.11.1.4 Non-Binding Mediation.

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

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

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

16.11.1.4.4 Mediation Costs. All costs, fees and expenses of the mediator(s) and mediation administration shall be shared equally by Owner and Contractor.

The foregoing notwithstanding, Contractor and Owner shall each bear the costs, fees and expenses of their own attorneys, experts and consultants.

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

16.11.2 Waiver. Owner and Contractor may mutually agree to waive, in writing, Mediation and subject to Contractor's compliance with Government Code Claim requirements, proceed directly to commencement of a civil action or binding arbitration.

16.11.3 Payments of Undisputed Claims. If a payment due from Owner for Undisputed Claims identified in the Claim Review Statement or the Meet and Confer Statement issued for a Claim is not made within the time established herein, the overdue portion of such payment shall bear interest at the rate of six percent (6%) per annum from the date due. Owner's credit application of any amount due for an Undisputed Claim against amounts due from Contractor under the Contract Documents shall be deemed payment of the Undisputed Claim.

16.11.4 Subcontractor Claims.

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

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

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

16.11.4.4 Disputed Subcontractor Claims. Subcontractor Claims which are not fully resolved by the non-binding dispute resolution procedures shall be resolved by the Dispute Resolution Procedures or binding arbitration, as applicable. Commencement of Dispute Resolution Procedures or binding arbitration proceedings in connection with any

Subcontractor Claim is subject to compliance with Government Code Claims requirements.

#### 16.11.4.5 Binding Arbitration of Claims

16.11.4.5.1 JAMS Arbitration. Any Claim, or portion thereof in dispute after completion of the non-binding mediation and any other claims, disputes, disagreements or other matters in controversy between Owner and 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 Construction Arbitration Rules and Procedures 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.

16.11.5 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 more than one Demand for Arbitration is filed by either Owner or Contractor relating to the Work or the Contract Documents, all Demands for Arbitration shall be consolidated into a single arbitration proceeding, unless otherwise agreed to by Owner and Contractor. Contractor's Subcontractor or Material Supplier to 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 Contractor, except to the extent that such joinder would unduly delay or complicate the expeditious resolution of the claim, dispute or other disagreement between Owner and Contractor, in which case an appropriate severance order shall be issued by the Arbitrator(s).

16.11.5.1 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.

16.11.5.2 Arbitration Award. The award rendered by the Arbitrator(s) ("Arbitration Award") shall be final and binding upon Owner and Contractor only if the Arbitration Award is: (i) supported by substantial evidence; (ii) based on applicable legal standards in effect that the time the Arbitration Award is issued; and (iii) supported by written findings of fact and conclusions of law in conformity with California Code of Civil Procedure §1296. Any Arbitration Award that does not conform to the foregoing is invalid and unenforceable. Owner and Contractor hereby expressly agree that the Court shall, subject to California Code of Civil Procedure §§1286.4 and 1296, vacate the Arbitration Award if, after review, the Court determines either that the Arbitration Award does not fully conform to the foregoing. The confirmation, enforcement, vacation or correction of an arbitration award rendered hereunder shall be made by the Superior Court of the State of California for the county in which the Site is situated. The substantive and procedural rules for such post-award proceedings shall be as set forth in California Code of Civil Procedure §1285 et seq.

16.11.5.3 Arbitration Fees and Expenses. The expenses and fees of the Arbitrator(s) shall be divided equally among all of 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 costs or expenses incurred in connection with such



arbitration. The foregoing notwithstanding, the Arbitrator(s) may award arbitration costs, including Arbitrators' fees but excluding attorneys' fees, to the prevailing party.

16.11.5.4 Limitation on Arbitrator. The Superior Court for the State of California for the County in which the Project Site is situated has the sole and exclusive jurisdiction, and an arbitrator has no authority, to hear and/or determine a challenge to the commencement or maintenance of an arbitration proceeding on the grounds that: (i) the subject matter of the arbitration proceeding is barred by the applicable statute of limitations; (ii) the subject matter of the arbitration proceeding is barred by a provision of the California Government Claims Act; (iii) the subject matter of the arbitration proceeding is outside the scope of the arbitration clause; (iv) Contractor has failed to satisfy all conditions precedent to commencement or maintenance of an arbitration proceeding; (v) waiver of the right to compel arbitration; (vi) grounds exist for the revocation of the arbitration agreement; and/or, (vii) there is the prospect that a ruling in arbitration would conflict or potentially with a ruling in a pending proceeding regarding the Project on a common issue of law or fact.

16.11.5.5 Limitation on Special/Consequential Damages. In the event of Owner's breach or default of its obligations under the Contract Documents, the damages, if any, recoverable by Contractor shall be limited to general damages which are directly caused by the breach or default of Owner and shall exclude any and all special or consequential damages, if any. Contractor expressly acknowledges the foregoing limitation to recovery of only general damages from Owner if Owner is in breach or default of its obligations under the Contract Documents; Contractor expressly waives and relinquishes any recovery of special or consequential damages from Owner.

16.12 Capitalized Terms. Except as otherwise expressly provided, capitalized terms used in the Contract Documents shall have the meaning and definition for such term as set forth in the Contract Documents.

16.13 Attorneys' Fees. Except as expressly provided for in the Contract Documents, or authorized by law, neither Owner nor Contractor shall recover from the other any attorney's 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 Owner or Contractor thereunder.

16.14 Provisions Required by Law Deemed Inserted. Each and every provision of law and clause required by law 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.

16.15 Days. Unless otherwise expressly stated, references to "days" in the Contract Documents shall be deemed to be calendar days.

16.16 Prohibited Interests. No employee of Owner, who is authorized in such capacity on behalf of Owner to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any architectural, engineering, inspection, construction or material supply contract or subcontract in connection with the Work shall become directly or indirectly financially interested in the Work or any part thereof.

16.17 Entire Agreement. The Contract Documents contain the entire agreement and understanding between Owner and 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 Owner and Contractor.

**ARTICLE 17: NOT USED**

## **SPECIAL CONDITIONS**

The following supplements modify the General Conditions. Where a portion of the General Conditions is modified and or deleted by these Special Conditions, the unaltered portions of the General Conditions shall remain in effect.

### **1. SCOPE OF WORK**

- All scope of work and technical requirements are shown on the drawings.
- Bidder shall carefully review the total scope of responsibilities with respect to the Work of the Bid Package and shall provide for the total scope in its Formal Bid. Bidder is responsible to confirm all makes, model numbers, options and applicable part numbers.

### **2. ARTICLE 4 – CONTRACTOR**

#### **Article 4.19 Limitations Upon Site Activities**

- Visions In Education business hours are 8:00am to 4:30pm, Monday thru Friday.
- All contractor site activities are to occur after 3pm Monday thru Friday. If activities are to occur outside of those hours, contractor to obtain permission with the Owner a minimum of 24 hours prior.
- All disruptive activities are **NOT** to occur during business hours (i.e.: demolition or any loud work)
- Material deliveries can **NOT** occur before 3:00pm and must be delivered to the rear of the building at the loading area and not the front of the building.
- Materials cannot be stored in the tenant's operational areas and must be located in the construction area itself.
- All internal tenant improvement work to be contained within the Room 221 area. If any work has a need outside of the improvement area, coordination is required with the Owner.
- The contractor is required to properly cover any pathways leading to the construction area including the protection of the tile in front of the elevator for deliveries and personnel.
- Any power or utility shut offs must be in coordination with the facilities staff 24 hours ahead.
- Installation of the canopies will need to be coordinated with owner staff with operational activities.

#### Article 4.3.8 Temporary Sanitary Facilities

- Contractor will be required to provide temporary sanitary facilities for personnel. Location to be determined / coordinated with Owner on the property.

#### 4. ARTICLE 9 – CHANGES IN WORK

Article 9.10.1.1.1 – Include the mark up structure as follows for changes in work:

The following format shall be used as applicable by Visions In Education and the Contractor to communicate proposed additions/deducts to the Contract. All costs submitted shall be actual costs and labor. All markups combined not to exceed 10%.

	<u>EXTRA</u>	<u>CREDIT</u>
(a) Material (attach itemized quantity and unit cost plus sales tax)		
(b) Labor Not to Exceed Applicable Rates (attach itemized hours and rates)	_____	_____
(c) Equipment (attach invoices)	_____	_____
(d) Subtotal	_____	_____
(e) If Subcontractor performed work, add Subcontractor's overhead and profit to portions performed by Subcontractor, not to exceed 5% of item (d).	_____	_____
(f) Subtotal	_____	_____
(g) Contractor's Overhead and Profit: Not to exceed 10% of Item (d) if Contractor performed the work. No more than 5% of Item (d) if Subcontractor performed the work. If work was performed by Contractor and Subcontractors, portions performed by Contractor shall not exceed 5% of Item (d), and portions performed	_____	_____

by Subcontractor shall not exceed 5% of  
Item (d).

\_\_\_\_\_

\_\_\_\_\_

(h)

Subtotal

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(i) Applicable for changes outside of the  
Vision in Education Allowance; bond not  
to exceed one percent (1%) of Item (h)

\_\_\_\_\_

\_\_\_\_\_