

to the City representative designated by City. Copies of policies shall be delivered to the City on demand. Certificates of insurance shall be signed by an authorized representative of the insurance carrier.

(2) The City may withdraw its offer of contract or cancel the Contract if the certificates of insurance and endorsements required have not been provided prior to execution of this Agreement. The City may withhold payments to Contractor and/or cancel the Contract if the insurance is canceled or Contractor otherwise ceases to be insured as required herein.

(F) Subcontractors

Contractor shall require and verify that all subcontractors maintain insurance coverage that meets the minimum scope and limits of insurance coverage specified in subsection A, above.

20. FAILURE TO MAINTAIN BONDS OR INSURANCE

If, at any time during the performance of this Contract, Contractor fails to maintain any item of the bonds and/or insurance required under the Contract in full force and effect, Contractor shall immediately suspend all work under the Contract and notify City in writing of such failure. After such notice is provided, or if City discovers such failure and notifies Contractor, the City thereafter may withhold all Contract payments due or that become due until notice is received by City that such bonds and/or insurance have been restored in full force and effect and that the premiums therefor have been paid for a period satisfactory to the Division of Risk Management. Contractor shall not resume work until notified by City to do so, and the City shall have no responsibility or liability for any costs incurred by Contractor as a result of such suspension of Work.

In addition to the foregoing, any failure to maintain any item of the required bonds and/or insurance at any time during the performance of this Contract will be sufficient cause for termination of the Contract by City.

The Contractor shall be solely responsible for, and shall defend, indemnify and hold harmless the City, its officers, employees and agents against and from, any and all damages, claims, losses, actions, costs or other expenses of any kind incurred by any party as a direct or indirect result of any suspension of Work or termination of the Contract under the provisions of this Section.

21. EXCUSABLE DELAYS

For the purpose of these Contract Documents, the term "Excusable Delay" shall mean, and is limited to, delay caused directly by: acts of God; acts of a public enemy; fires; inclement weather as determined by the Engineer; riots; insurrections; epidemics; quarantine restrictions; strikes; lockouts; sitdowns; acts of a governmental agency; priorities or privileges established for the manufacture, assemble, or allotment of materials necessary in the Work by order, decree or otherwise of the United States or by any department, bureau, commission, committee, agent, or administrator of any legally constituted public authority; changes in the Work ordered by City insofar as they necessarily require additional time in which to complete the Work; the prevention of Contractor from commencing or prosecuting the Work because of the acts of others, excepting Contractor's subcontractors or suppliers; or the prevention of Contractor from commencing or prosecuting the Work because of a Citywide failure of public utility service.

The term "Excusable Delay" shall specifically not include: (i) any delay that could have been avoided by the exercise of care, prudence, foresight and diligence on the part of Contractor; (ii) any delay in the prosecution of any part of the Work that does not constitute a Controlling Operation, whether or not such delay is unavoidable; (iii) any reasonable delay resulting from time required by City for review of any Contractor submittals and for the making of surveys, measurements and inspection; and, (iv) any delay arising from an interruption in the prosecution of the Work on account of reasonable interference by other Contractors employed by City that does not necessarily prevent the completion of the entire Work within the time specified. Excusable Delays, if any, shall operate only to extend the Completion Date (not in excess of the period of such delay as determined by City) and shall not under any circumstances increase the amount City is required to pay Contractor except as otherwise provided in these Contract Documents.

22. CONTRACTOR TO SERVE NOTICE OF DELAYS

Whenever Contractor foresees any delay in the prosecution of the Work, and in any event as soon as possible (not to exceed a period of ten (10) calendar days) after the initial occurrence of any delay that Contractor regards as or may later claim to be an Excusable Delay, the Contractor shall notify the Engineer in writing of such delay and its cause, in order that the Engineer: (i) may take immediate steps to prevent if possible the occurrence or continuance of the delay; or (ii) if this cannot be done, may determine whether the delay is to be considered excusable, how long it continues, and to what extent the prosecution and completion of the Work are delayed thereby. Said written notice shall constitute an application for an extension of time only if the notice requests such an extension and sets forth the Contractor's estimate of the additional time required together with a full description of the cause of the delay relied upon.

After the completion of any part or whole of the Work, the Engineer, in estimating the amount due Contractor, will assume that any and all delays that may have occurred in its prosecution and completion were not Excusable Delays, except for such delays for which the Contractor has provided timely written notice as required herein, and that the Engineer has found to be excusable. Contractor shall not be entitled to claim Excusable Delay for any delay for which the Contractor failed to provide such timely written notice.

23. EXTENSION OF TIME

If the Contractor complies with Section 22, above, and the Engineer finds a delay claimed by the Contractor to be an Excusable Delay, the Contractor shall be allowed an extension of time to complete the Work that is proportional to the period of Excusable Delay determined by the Engineer, subject to the approval by City of a change order granting such time extension. During a duly authorized extension for an Excusable Delay, City shall not charge liquidated damages against the Contractor for such delay.

If the City extends the time to complete the Work as provided herein, such extension shall in no way release any warranty or guarantee given by Contractor pursuant to the provisions of the Contract Documents, nor shall such extension of time relieve or release the sureties of the Bonds provided pursuant to the Contract Documents. By executing such Bonds, the Sureties shall be deemed to have expressly agreed to any such extension of time. The granting of any extension of time as provided herein shall in no way operate as a waiver on the part of City of its rights under this Contract, excepting only extension of the Completion Date for such period of Excusable Delay as may be determined by the Engineer and approved by a duly authorized change order.

24. NO PAYMENT FOR DELAYS

No damages or compensation of any kind shall be paid to Contractor or any subcontractor because of delays in the progress of the Work whether or not such delays qualify for extension of time under this Agreement; except that this provision shall not preclude the recovery of damages for a delay caused by the City that is unreasonable under the circumstances and that is not within the contemplation of the parties, provided that the Contractor timely submits all such written notice(s) and fully complies with such other procedures as may be specified in the Contract Documents or any Laws or Regulations for Contractor to claim damages for such delay.

25. CHANGES IN THE WORK

Changes in the Work authorized or directed in accordance with the Contract Documents and extensions of time of completion made necessary by reason thereof shall not in any way release any warranty or guarantee given by Contractor pursuant to the provisions of the Contract Documents, nor shall such changes in the Work relieve or release the Sureties on Bonds provided pursuant to the Contract Documents. By executing such Bonds, the Sureties shall be deemed to have expressly agreed to any such change in Work and to any extension of time made by reason thereof.

26. TERMINATION AFTER COMPLETION DATE

In addition to any other rights City may have, if any services or work required under the Contract (including but not limited to punch list items) are not completed as of the Completion Date (as adjusted by any extensions of time for Excusable Delays granted pursuant to the Contract Documents), City may terminate the Contract at any time after the Completion Date (as adjusted by any extensions of time for Excusable Delays granted pursuant to the Contract Documents), by providing a written notice to Contractor specifying the date of termination. Such notice also may specify conditions or requirements that Contractor must meet to avoid termination of the Contract on such date. If Contractor fails to fulfill all such conditions and requirements by such termination date, or, if no such conditions or requirements are specified, Contractor shall cease rendering services and performing work on such termination date, and shall not be entitled to receive any compensation for services rendered or work performed after such termination date. In the event of such termination, Contractor shall remain liable to City for liquidated damages incurred for any period of time prior to the termination date.

In addition to any other charges, withholdings or deductions authorized under the Contract or any Laws or Regulations, if City terminates the Contract pursuant to this section, City may withhold and deduct from any payment and/or retention funds otherwise due Contractor any sum necessary to pay the City's cost of completing or correcting, or contracting for the completion or correction of, any services or work under the Contract that are not completed to the satisfaction of the City or that otherwise are deficient or require correction as of such termination date, including but not limited to incomplete punch list items. Such costs shall include all of the City's direct and indirect costs incurred to complete or correct such services or work, including the City's administrative and overhead costs. If the amount of payment(s) and/or retention funds otherwise due the Contractor are insufficient to pay such costs, City shall have the right to recover the balance of such costs from the Contractor and/or its Surety(ies).

27. TERMINATION FOR CONVENIENCE

Upon written notice to the Contractor, the City may at any time, without cause and without prejudice to any other right or remedy of the City, elect to terminate the Contract for the convenience of City. In such case, the Contractor shall be paid (without duplication of any items, and after deduction and/or withholding of any amounts authorized to be deducted or withheld by the Contract Documents or any Laws or Regulations):

(A) For Work executed in accordance with the Contract Documents prior to the effective date of termination and determined to be acceptable by the Engineer, including fair and reasonable sums for overhead and profit on such Work;

(B) For reasonable claims, costs, losses, and damages incurred in settlement of terminated contracts with subcontractors, suppliers, and others; and

(C) For reasonable expenses directly attributable to termination.

Contractor shall not be paid for any loss of anticipated profits or revenue for any Work not performed prior to termination, nor for any economic loss arising out of or resulting from such termination, except for the payments listed in this section. Contractor's warranty under Section 14 of this Agreement shall apply, and Contractor shall remain responsible for all obligations related to such warranty, with respect to all portions of the Work performed prior to the effective date of the termination for convenience pursuant to this section. The City shall be entitled to have any or all remaining Work performed by other contractors or by any other means at any time after the effective date of a termination for convenience pursuant to this section.

28. TERMINATION FOR BREACH OF CONTRACT

If Contractor abandons the Work under this Contract, or if the Contract or any portion of the Contract is sublet or assigned without the consent of the City, or if the Engineer determines in the Engineer's sole discretion that the conditions of the Contract in respect to the rate of progress of the Work are not being fulfilled or any part thereof is unnecessarily delayed, or if Contractor violates or breaches, or fails to execute in good faith, any of the terms or conditions of the Contract, or if Contractor refuses or fails to supply enough properly skilled labor or materials or refuses or fails to make prompt payment to subcontractors for material or labor, or if Contractor disregards any Laws or Regulations or proper instruction or orders of the Engineer, then, notwithstanding any provision to the contrary herein, the City may give Contractor and its Sureties written notification to immediately correct the situation or the Contract shall be terminated.

In the event that such notice is given, and, in the event such situation is not corrected, or arrangements for correction satisfactory to the City are not made, within ten (10) calendar days from the date of such notice or within such other period of time as may be specified by the City in the notice, the Contract shall upon the expiration of said period cease and terminate. In the event of any such termination, City may take over the Work and prosecute the Work to completion, or otherwise, and the Contractor and its Sureties shall be liable to City for any cost occasioned City thereby, as hereinafter set forth.

In the event City completes the Work, or causes the Work to be completed, no payment of any kind shall be made to Contractor until the Work is complete. The cost of completing the Work, including but not limited to, extra costs of project administration and management incurred by City, both direct or indirect, shall be deducted from any sum then due, or that becomes due, to

Contractor from City. If sums due to Contractor from City are less than the cost of completing the Work, Contractor and its Sureties shall pay City a sum equal to this difference on demand. In the event City completes the Work, and there is a sum remaining due to Contractor after City deducts the costs of completing the Work, then City shall pay such sum to Contractor. The Contractor and Contractor's Sureties shall be jointly and severally liable for all obligations imposed on Contractor hereunder.

No act by City before the Work is finally accepted, including, but not limited to, exercise of other rights under the Contract, actions at law or in equity, extensions of time, payments, assessments of liquidated damages, occupation or acceptance of any part of the Work, waiver of any prior breach of the Contract or failure to take action pursuant to this section upon the happening of any prior default or breach of Contractor, shall be construed to be a waiver or estoppel of the City's right to act pursuant to this Section upon any subsequent event, occurrence or failure by Contractor to fulfill the terms and conditions of the Contract. The rights of City to terminate the Contract pursuant to this Section and pursuant to Sections 26 and 27 are cumulative and are in addition to all other rights of City pursuant to the Contract and at law or in equity.

29. CONTRACTOR BANKRUPT

If Contractor should commence any bankruptcy proceeding, or if Contractor is adjudged a bankrupt, or if Contractor makes any assignment for the benefit of creditors, or if a receiver is appointed on account of Contractor's insolvency, then the City may, without prejudice to any other right or remedy, terminate the Contract and complete the work by giving notice as provided in Section 28 above.

30. SURETIES' OBLIGATIONS UPON TERMINATION

If the City terminates the Contract pursuant to Section 28 or Section 29 above:

(A) The Surety under Contractor's performance bond shall be fully responsible for all of the Contractor's remaining obligations of performance under the Contract as if the Surety were a party to the Contract, including without limitation Contractor's obligations, as provided in the Contract Documents, to complete and provide a one-year warranty of the entire Work, pay liquidated damages and indemnify, defend and hold harmless City, up to the full amount of the performance bond.

(B) The Surety under Contractor's payment bond shall be fully responsible for the performance of all of the Contractor's remaining payment obligations for work, services, equipment or materials performed or provided in connection with the Work or any portion thereof, up to the full amount of the payment bond.

31. ACCOUNTING RECORDS OF CONTRACTOR

During performance of the Contract and for a period of three (3) years after completing the entire Work, Contractor shall maintain all accounting and financial records related to the Contract and performance of the Work in accordance with generally accepted accounting practices, and shall keep and make such records available for inspection and audit by representatives of the City upon reasonable written notice.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement on the date set for opposite their names.

CONTRACTOR

Under penalty of perjury, I certify that the taxpayer identification number and all other information provided here are correct.

DATE _____

BY _____

Print Name _____

Title _____

BY _____

Print Name _____

Title _____

Federal ID# _____

State ID# _____

City of Sacramento Business Operation Tax Certificate No. (City will not award contract until Certificate Number is obtained)

Type of Business Entity (*check one*):

____ Individual/Sole Proprietor

____ Partnership

____ Corporation

____ Limited Liability Company

____ Other (*please specify*: _____)

CITY OF SACRAMENTO

a municipal corporation

DATE _____

BY _____

For: _____

City Manager

Original Approved As To Form:

Attest:

City Attorney

City Clerk

**CITY OF SACRAMENTO
PERFORMANCE BOND**

Department of Convention, Culture, and Leisure

Page 1 of 1

WHEREAS, the City of Sacramento, State of California, hereinafter called City, has conditionally awarded to: _____ as principal, hereinafter called Contractor, a contract for construction of:

**SACRAMENTO MEMORIAL AUDITORIUM ROOF REPAIR
(B09-17001111-001)**

which contract is by reference incorporated herein and made a part hereof as if the Surety named below were a party to the contract, and is hereinafter referred to as the Contract; and

WHEREAS, under the terms of the Contract, Contractor is required to furnish a bond for the faithful performance of the Contract.

NOW, THEREFORE, we the Contractor and (here insert full name and address of Surety):

_____, a corporation duly authorized and admitted to transact business and issue surety bonds in the State of California, hereinafter called Surety, are held and firmly bound unto the City, as obligee, in the sum of:

(\$0.00), for the payment of

which sum well and truly to be made, we the Contractor and Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally. The condition of this obligation is such that, if the Contractor, Contractor's heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and fully perform all covenants, conditions and agreements required to be kept and performed by Contractor in the Contract and any changes, additions or alterations made thereto, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meanings, and shall indemnify and save harmless the City, its officers, employees and agents, as therein provided, then the Surety's obligations under the Contract and this bond shall be null and void; otherwise they shall be and remain in full force and effect. This obligation shall remain in full force and effect through the end of the Contract warranty period, which will expire one year after the completion of work date specified in the Notice of Completion filed for the above-named project.

As part of the obligations secured hereby and in addition to the sum specified above, there shall be included all costs, expenses and fees, including attorney's fees, reasonably incurred by City in successfully enforcing such obligations, all to be taxed as costs and included in any judgment rendered.

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

IN WITNESS WHEREOF, this instrument has been duly executed by authorized representatives of the Contractor and Surety. SIGNED AND SEALED on _____, 20____.

(Contractor) (Seal)
By _____
Title _____

(Surety) (Seal)
By _____
Title _____

ORIGINAL APPROVED AS TO FORM:

City Attorney

**CITY OF SACRAMENTO
PAYMENT BOND**

Department of Convention, Culture, and Leisure
Page 1 of 1

WHEREAS, the City of Sacramento, in the State of California, hereinafter called City, has conditionally awarded to: _____ hereinafter called Contractor, a contract for construction of:

**SACRAMENTO MEMORIAL AUDITORIUM ROOF REPAIR
(B09-17001111-001)**

which contract is by reference incorporated herein and made a part hereof, and is hereinafter referred to as the Contract; and

WHEREAS, under the terms of the Contract, Contractor is required to furnish a good and sufficient payment bond to secure the claims to which reference is made in Title 15(commencing with Section 3082) of Part 4 of Division 3 of the California Civil Code.

NOW, THEREFORE, we the Contractor and (*here insert full name and address of Surety*):

a corporation duly authorized and admitted to transact business and issue surety bonds in the State of California, hereinafter called Surety, are held and firmly bound unto the City, and unto all subcontractors, laborers, material men and other persons employed in the performance of the Contract and referred to in the aforesaid Civil Code in the sum of _____ (\$0.00), on the condition that if Contractor shall fail to pay for any materials or equipment furnished or used in performance of the Contract, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, or for any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the Contractor and all subcontractors with respect to such work or labor, then the Surety shall pay the same in an amount not exceeding the sum specified above. If suit is brought upon this bond, Surety shall pay, in addition to the above sum, all costs, expenses and fees, including attorney's fees, reasonably incurred by any party in successfully enforcing the obligation secured hereby, all to be taxed as costs and included in any judgment rendered. Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect, and shall bind Contractor, Surety, their heirs, executors, administrators, successors and assigns, jointly and severally.

It is hereby stipulated and agreed that this bond shall inure to the benefit of all persons, companies, corporations, political subdivisions and State agencies entitled to file claim under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond. The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or to the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by authorized representatives of the Contractor and Surety. SIGNED AND SEALED on _____, 20 ____.

(Contractor) (Seal)
By _____
Title _____

(Surety) (Seal)
By _____
Title _____

ORIGINAL APPROVED AS TO FORM:

City Attorney

**CITY OF SACRAMENTO
CERTIFICATE OF INSURANCE**

This is to certify to the CITY OF SACRAMENTO that the insurance policies listed below have been issued to the named insured and are in force at this time.

NAMED INSURED: _____

ADDRESS: _____

DESCRIPTION OF PERMIT / CONTRACT: _____

TYPE OF INSURANCE	INSURER AND POLICY NUMBER	POLICY PERIOD	LIMITS OF LIABILITY	
			Each Occurrence	Aggregate
GENERAL LIABILITY <input type="checkbox"/> General Liability <input type="checkbox"/> Liquor Liability <input type="checkbox"/> Contractual <input type="checkbox"/> Products / Completed Operations <input type="checkbox"/> Personal Injury <input type="checkbox"/> Broad Form Property Damage			BODILY INJURY \$ PROPERTY DAMAGE \$ BODILY INJURY AND PROPERTY DAMAGE COMBINED \$ DEDUCTIBLE \$	\$ \$ \$ \$
AUTOMOBILE LIABILITY <input type="checkbox"/> Owned, Non-Owned and Hired Automobiles			BODILY INJURY (EACH PERSON) \$ BODILY INJURY (EACH ACCIDENT) \$ PROPERTY DAMAGE \$ BODILY INJURY AND PROPERTY DAMAGE COMBINED \$	\$ \$ \$ \$
UMBRELLA LIABILITY <input type="checkbox"/> Umbrella / Excess Liability			SINGLE LIMIT \$ SELF-INSURED RETENTION \$	\$ \$
WORKERS' COMPENSATION <input type="checkbox"/> Workers' Compensation and Employer Liability			EMPLOYER LIABILITY LIMIT \$	\$
FIRE <input type="checkbox"/> Fire & Extended Coverage Perils			AMOUNT OF INSURANCES \$	\$
MISCELLANEOUS COVERAGE <input type="checkbox"/> Aircraft Liability (including passenger injuries) <input type="checkbox"/> Garage Keepers Liability <input type="checkbox"/> Watercraft Liability <input type="checkbox"/> Professional Liability			BODILY INJURY \$ PROPERTY DAMAGE \$ AMOUNT OF INSURANCES \$ BODILY INJURY \$ PROPERTY DAMAGE \$ AMOUNT OF INSURANCES \$	\$ \$ \$ \$ \$ \$
OTHER INSURANCE (Indicate)				

THE FOLLOWING PROVISIONS APPLY:

- None of the above described coverage will be cancelled, reduced or non-renewed until after 30 days written notice has been given to the Risk Management Manager, City of Sacramento.
- The City of Sacramento, its officials, agents and employees are named on all liability policies described above (except professional liability policies) as additional insureds with respect to all operations performed for the City of Sacramento by or on behalf of the named insured.
- The above policies include a severability of interest clause.

Any liability insurance maintained by the City of Sacramento will apply only in excess of the liability insurance coverage and limits described above.

DATE ISSUED _____
 AUTHORIZED REPRESENTATIVE OF INSURANCE COMPANY

Signature _____ Title _____

Company Name _____

Address _____

Phone _____

WORKER'S COMPENSATION CERTIFICATION

In accordance with Article 5 (commencing at Section 1860), Chapter 1, Part 7, Division 2 of the Labor Code, the below certificate must be signed and filed with the awarding body prior to performing any work under this contract. Labor Code Section 3700, inter alia, states the following:

"Every employer 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, 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 employees.

To be signed by authorized corporate officer or partner or individual submitting the Proposal. If Bidder is: (example)

1. An individual using a firm name, sign: "John Doe, an individual doing business as Blank Company."
2. An individual doing business under his own name, Sign: your name only.
3. A co-partnership, sign: "John Doe and Richard Doe, co-partners doing business as Blank Company, by, John Doe, co-partner.
4. A corporation, sign: "Blank Company, by John Doe, Secretary." (or other title)

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's 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.

DATE: _____

Contractor _____

By _____
Signature

PAY REQUEST APPLICATION

CONTRACTOR: _____

PURCHASE ORDER NO.: _____ COST CENTER: _____

INVOICE NO.: _____ PERIOD ENDING DATE: _____

SUBMITTAL OF A PROGRESS SCHEDULE IS REQUIRED TO BE SUBMITTED WITH THIS PAY REQUEST IN ACCORDANCE WITH CITY'S STANDARD SPECS; NO PROGRESS PAYMENTS WILL BE MADE FOR ANY WORK UNTIL SATISFACTORY SCHEDULE HAS BEEN SUBMITTED TO THE ENGINEER.

ORIG. CONTRACT AMT.		\$ _____
CHANGE ORDER NO. 1	\$ _____	
CHANGE ORDER NO. 2	\$ _____	
CHANGE ORDER NO. 3	\$ _____	
CHANGE ORDER NO. 4	\$ _____	
NET CHANGE BY CHANGE ORDERS:	\$ _____	
TOT ADJUSTED CONTRACT AMT TO DATE:		\$ _____
BALANCE OF CONTRACT TO FINISH:	\$ _____	
TOTAL COMPLETE AND STORED TO DATE:		\$ _____
LESS 10%	\$ _____	
LESS PREVIOUS PAYMENTS:	\$ _____	
AMOUNT DUE THIS INVOICE:		\$ _____

*****Labor Compliance (payrolls etc.) is current and submitted for this Pay Request*****

Submitted By _____ Date: _____
Submit To: Department of Convention, Culture, and Leisure
1030 15th Street, 2nd Floor
Sacramento, CA 95814
Attn.: Project Manager

Approved
By (Const. Insp.) _____ Date: _____
Approved
By (Project Manager) _____ Date: _____
Approved
By (Labor Compliance) _____ Date: _____

In accordance with Public Contract Code §20104.50 the City shall pay Contractor interest on any progress payment which is made by City more than 30 days after City receives an undisputed and properly submitted written payment request. Said interest shall be equal to the rate set forth in CCP§685.010(a), and shall begin to accrue upon the expiration of said 30 day period. Any written request for a progress payment which City determines to be disputed, improper or not suitable for payment for any reason shall be returned to Contractor within 7 days after receipt by City, along with a written statement of the reason or reasons why such request is disputed, improper or not suitable for payment.
(Rev. 9/17/04)

**CITY OF SACRAMENTO
CONVENTION, CULTURE & LEISURE DEPARTMENT**

SCHEDULE OF VALUES

Remit To:
City of Sacramento
Convention, Culture & Leisure Department
Attention: Rebecca Blitter
1030 15th Street, 2nd Floor
Sacramento, CA 95814

PROJECT NAME:
CITY PROJ. NO.:
FUNDING:
CONTRACT NO.:

CONTRACTOR:
ADDRESS:
PHONE NO.:

Payment No. _____
Work Performed Thru _____
Date Payment Submitted _____
Days Expended on Contract _____

Item No.	Item Description	Estimated Quantity	Unit	Unit Price	Authorized Amount	This Estimate		Total Work Completed		Quantity Remaining
						Quantity	\$ Amount	Quantity	\$ Amount	
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
11										
12										

000062

GUARANTEE

We hereby guarantee the: **SACRAMENTO MEMORIAL AUDITORIUM ROOF REPAIR
(B09-17001111-001:)**

City of Sacramento for one (1) year in accordance with the guarantee required in the specifications. We agree to repair or replace any or all such work, together with all or any other work which may be displaced in so doing, that may be proven defective in workmanship or material within the one-year period from the date of acceptance without any expense whatsoever to the City, ordinary wear and tear and unusual abuse or neglect excepted.

In the event of our failure to comply with the above-mentioned conditions within five (5) days time after being notified in writing, we collectively or separately, do hereby authorize the City to proceed to have the defects repaired and made good at our expense and will pay the costs and damages, including but not limited to any related attorney fees and City staff and administrative expenses, therefor immediately upon demand.

Dated: _____

Signed:

Printed Name

Company

Address

GENERAL CONDITIONS

City of Sacramento

Department of Convention, Culture and Leisure

ARTICLE 1

DEFINITIONS

For purposes of the Contract Documents, the words listed in this Article shall have the ascribed meanings. In some instances, but not all, defined words are capitalized within the text.

- 1.1. Addendum: A document issued by City during the bidding period which modifies, supersedes or supplements the original Contract Documents.
- 1.2. Contract: The written Contract executed by City and Contractor covering the performance of the Work and the furnishing of labor, materials, supervision, tools and equipment for the construction of the Work pursuant to the Contract Documents.
- 1.3. Contract Price: The original dollar amount specified in the Contract between City and Contractor.
- 1.4. Bid: See Bid Proposal.
- 1.5. Bidder: Any individual, partnership, corporation, association, joint venture, or any combination thereof, submitting a Bid Proposal for the Work contemplated, whether acting directly or through a duly authorized representative.
- 1.6. Bid Bond: See Bid Proposal Guarantee.
- 1.7. Bid Proposal: The offer of the Bidder for the Work when properly completed, executed, guaranteed and submitted on the Bid Proposal Form.
- 1.8. Bid Proposal Form: The approved form upon which the City requires formal bids for the Work to be prepared and submitted.
- 1.9. Bid Proposal Guarantee: The security to be furnished by the Bidder as a guarantee of good faith that it will enter into the Contract and execute the required Bonds covering the Work contemplated, if selected by the City as the successful Bidder.
- 1.10. City: The municipal corporation known as the City of Sacramento, State of California.
- 1.11. Claim: Written demand for monetary compensation or other damages.
- 1.12. Commence Work: To engage in a continuous program on-site including, but not limited to, job-site clearing, grading, land filling and the fabrication, erection and installation of the Work.
- 1.13. Consultant: A professional under Contract to the City to provide professional services for the Work.

1.14. Contract Documents: The Contract Documents consist of the documents set forth in Paragraph I of the Contract, together with any change orders which show the location, character, dimensions and details of the Work to be done.

1.15. Contractor: The individual, partnership, corporation, association, joint venture, or any combination thereof, who has entered into an Contract with the City to perform the Work. When used herein, the term Contractor shall include any Subcontractors performing any portion of the Work. (See Subcontractor)

1.16. Day: Calendar day equal to 24 hours.

1.17. Drawings: The City approved graphic instruments including plans, elevations, sections, detail drawings, diagrams, plates, general notes, information and schedules thereon, or exact reproductions thereof, showing the location, extent, dimension, and details of the Work. The Drawings include any graphics or plates found within the Specifications.

1.18. General Notes: The written instructions, provisions, conditions or other requirements appearing on the Drawings, and so identified thereon, which pertain to the performance of the Work.

1.19. Inspector: The City representative authorized to conduct field inspections acting within the scope of those duties delegated.

1.20. Intent of Terms: Where the words "directed" or "required", "permitted", "ordered", "designated", "prescribed" or words of like import are used, it shall be understood that the direction, requirement, permission, order, designation or prescription of the City or its designated representative or officer is intended; and similarly, the words "approved", "acceptable", "satisfactory" or words of like import, shall mean approved by or acceptable to the City or its designated representative.

1.21. Job-site: The area of real property specified in the Contract Documents where the Work is to be performed.

1.22. Liquidated Damages: The sum prescribed in the Contract Documents to be paid to the City or to be deducted from any payment due or to become due to the Contractor for each day's delay beyond the time allowed in the Contract Documents for completing the whole, or any specified portion, of the Work.

1.23. Payment Bond: The approved form of security furnished by the Contractor and its surety to guarantee that the Contractor will pay in full all bills, accounts and related costs for labor and materials used in construction of the Work.

1.24. Performance Bond: The approved form of security furnished by the Contractor and its surety to guarantee Contractor's good faith and ability to execute the Work in accordance with the terms of the Contract Documents.

1.25. Project Manager: The Program Manager of the Department of Convention, Culture and Leisure, or a designated representative .

1.26. Project Manual: The published booklet containing all the Contract Documents except the Drawings, but including any graphics or plates found in the Specifications.

1.27. Specifications: Written technical descriptions of materials, equipment, construction system, standards and fabrication as applied to the Work and certain administrative details applicable thereto.

1.28. Subcontractor: A legal entity which contracts for portions of the Contract Documents with the Contractor or another Subcontractor.

1.29. Superintendent: The employee of the Contractor providing continuous on-site, general and overall supervision of the Work.

1.30. Supplier: A legal entity which supplies materials only for the Work and does not perform any labor in or about the job-site.

1.31. Work: The construction required by the Contract Documents, including labor necessary to produce such construction, and materials and equipment incorporated or to be incorporated in such construction, or required by the Contract Documents.

ARTICLE 2

LABOR REQUIREMENTS, SAFETY, INSURANCE AND REGULATIONS

2.1. Prevailing Wage:

Pursuant to Sacramento City Code Section 03.60.180, the Contractor and Subcontractors shall pay the general prevailing rate of wages, including overtime and holiday Work, required in contracts for Public Projects for the area in which the City is located, as said rates of wages are determined by the Director of the Department of Industrial Relations pursuant to Labor Code Section 1773. The determination of the Director of the Department of Industrial Relations in force at the time the Notice to Bidders is published with respect to the general prevailing rate of wages in private employment in the City for similar Work shall be binding upon the parties during the life of any Contract awarded. The Contractor and Subcontractors shall be jointly and severally liable for each worker paid less than the general prevailing rate of wages for any Work done under or by virtue of the Contract and shall forfeit as a penalty to the City fifty (\$50.00) dollars for each worker paid less than the general prevailing rate of wages.

The Contractor shall insert in every subcontract provisions regarding rates of wages and hours of labor identical with the provisions set forth in the Contract Documents.

Every Contractor or Subcontractor willfully violating any terms or provisions of the Contract Documents shall be deemed not to be a responsible Bidder upon all future City contracts for Public Projects.

2.1.1. Wage rates set forth are the minimum that may be paid by Contractor. Nothing herein contained shall be construed as preventing Contractor from paying more than minimum rates set forth. However, as stated in Section 7.6. infra- pertaining to change orders, no labor costs will be allowed at rates in excess of the established prevailing wage. No extra compensation whatsoever will be allowed by City due to inability of Contractor to hire labor at minimum rates, or for payment by Contractor of subsistence, travel time, overtime, or other added compensation, which possibilities are elements to be considered and ascertained to Contractor's own satisfaction in preparing the Bid Proposal.

2.1.2. If it becomes necessary to employ crafts other than those listed by the Director of the Department of Industrial Relations, Contractor shall notify City immediately, and City will ascertain additional prevailing wage rates and the rates thus determined shall be applicable as the minimum from time of initial employment of persons in such crafts.

2.2. Payroll Records:

Every Contractor and Subcontractor shall keep an accurate payroll record, showing the name, address, social security number, Work week, and the actual wages paid to each journeyman, apprentice, worker, or other employee employed in connection with the public project. Such records shall be certified and available for inspection at all reasonable hours at the principal office of the Contractor in a manner set forth in California Labor Code Section

1776. Every Contractor and Subcontractor shall file a certified copy of the records enumerated above with the City within ten (10) calendar days after each pay period. The Contractor shall be held responsible for all subcontractors' compliance with this Article.

2.3. Apprentices:

Nothing in this article shall prevent the employment of properly registered apprentices upon Public Projects whether such Work be done directly under Contract award, or indirectly by or under subcontract, partnership, day labor, station Work, piece Work, or by any other arrangement whatsoever. Every such apprentice shall be paid the applicable apprentice prevailing wage rate according to an apprentice wage progression schedule available from the Department of Industrial Relations, Division of Apprenticeship Standards (DAS). Apprentices employed can only be assigned to perform Work of the craft or trade to which the apprentice is registered. Work of the craft or trade consists of job duties normally assigned to journeymen in the apprenticeable occupation. Only apprentices as defined in California Labor Code Section 3077, who are in training under apprenticeship standards and who have written apprentice agreements may be employed on Public Projects in apprenticeable occupations. All Contractors employing apprentices upon Public Projects, as defined in Sacramento City Code Section 3.60, shall comply with Section 1777.5 et. seq. of the California Labor Code. The responsibility for compliance with these provisions is fixed with the Contractor for all apprenticeable occupations and the Contractor is specifically liable for each Subcontractor's compliance. In the event the Contractor or a Subcontractor willfully fails to comply with these provisions, the City may refer the Contractor or Subcontractor to the Director of Industrial Relations for action as necessary under Section 1777.7 of the California Labor Code.

2.4. Skilled Labor:

Every part of the Work shall be accomplished by workers, laborers or mechanics especially skilled in each class of Work required. The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention, through Contractor's Superintendent. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract Documents, unless the Contract Documents give other specific instructions concerning these matters. Suggestions made by the City shall be followed at Contractors sole risk.

2.5. Drug-Free Workplace Policy:

The Contractor shall insure that it and all Subcontractors performing under this Contract will provide a drug-free workplace by:

2.5.1. Publishing a "Drug-Free Workplace" statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition.

2.5.2. Establishing a Drug-Free Awareness Program to inform employees about:

A. The dangers of drug abuse in the workplace.

- B. The Contractor's policy of maintaining a drug-free workplace.
- C. Any available drug counseling, rehabilitation, and employee assistance program.
- D. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

2.5.3. Notify employees that as a condition of employment under this Contract, employees will be expected to:

- A. Abide by the terms of the statement.
- B. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace.

2.5.4. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy on the "Drug-Free Workplace" statement.

2.5.5. Taking one of the following appropriate actions, within thirty (30) calendar days of receiving notice from an employee or otherwise receiving such notice, that said employee has received a drug conviction for a violation occurring in the workplace:

- A. Taking appropriate disciplinary action against such an employee, up to and including termination; or
- B. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement or other appropriate agency.

2.6. Dismissal of Unsatisfactory Employees:

Contractor shall employ only workers who are competent and skilled in their respective lines of Work, in accordance with Section 2.4. above. Whenever the City notifies Contractor that any worker employed on the Work is in its opinion incompetent or disorderly, or refuses to carry out provisions of the Contract, or uses threatening or abusive language to any person, or is otherwise unsatisfactory, Contractor shall remove the worker from the Work and shall not return that worker to the Work unless Contractor can give assurance satisfactory to City that proper Work and conduct can be expected.

2.7. Equal Employment Opportunity Laws:

During the performance of this Contract, Contractor and its Subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40), sex or sexual preference or orientation. Contractors and Subcontractors shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractors and Subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et. seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et. seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Contract by reference and made a part hereof as if set forth in full. Contractor and its Subcontractors shall give written notice of their

obligations under this clause to labor organizations with which they have a collective bargaining or other contract.

2.7.1. Contractor shall include the above paragraph in all subcontracts to perform Work under the Contract.

2.7.2. Contractor shall designate a responsible official to monitor employment related activity to ensure that the company Equal Employment Opportunity policy is being carried out, to submit reports relating to the provisions hereof as may be required and to keep records. Record keeping shall comply with the requirements of the U.S. Equal Employment Opportunity Commission and the California Fair Employment and Housing Commission. Records shall be maintained in an easily understandable and retrievable form; however to the degree that existing records satisfy this requirement, Contractor shall not be required to maintain separate records.

2.8. Safety:

Precautions shall be exercised at all times for protection of persons (including employees) and property. These shall include, but not be limited to, installation of adequate safety guards and protective devices for equipment and machinery, whether used in the performance of Work or permanently installed as part of the Work. Contractor shall comply with applicable laws relating to safety precautions, including, but not limited to, safety regulations and orders enacted by or enforced by the State Department of Industrial Relations and each of its Divisions, including, but not limited to, the Division of Occupational Safety and Health and the Occupational Health and Safety Standards Board.

2.8.1. Where conditions of the Work present unreasonable risk of injury or death to persons or property, in the judgment of the City, it may direct Contractor at Contractor's sole expense, to close down the Work and not commence Work again until the hazardous condition is eliminated.

2.8.2. Until the completion and final acceptance by City of Work under this Contract, the Work shall be under Contractor's responsible care and charge. Contractor, at Contractor's sole expense, shall rebuild, repair, restore and make good injuries, damages, re-erect and repairs occasioned or rendered necessary by accidental causes of any nature, to all or any portion of the Work.

2.8.3. Except as otherwise herein expressly stipulated, Contractor shall perform the Work and furnish labor, materials, tools, power, light and appliances, necessary or proper for performing and completing the Work herein required in the manner and within the time herein specified. The mention of any specific duty or liability shall be construed to be for the purpose of explanation.

2.8.4. Neither the City, nor any officer or employee of the City shall be liable for any loss or damage that may happen to the Work or any part thereof or to any of the materials or other things used or employed in performing the Work; or for injury to any person or persons, either workers or the public, for damage to property from any cause related to the Work, against all of which injuries or damages Contractor must properly guard.

2.8.5. Contractor shall limit construction operations to the job-site unless otherwise shown on the Drawings or in the Specifications. Contractor shall perform no operations of any nature on, over, or across the job-site except such operations as are specifically authorized in the Drawings or Specifications, or otherwise authorized, in writing, by City.

2.8.6. The Contract Documents do not purport to designate the method of performing the Work but only the requirements as to the nature of the completed Work. Contractor shall assume the full responsibility for methods of performing the Work.

2.9. Insurance:

During the term of this Contract and until final completion and acceptance of the Work required by the Contract Documents, Contractor shall maintain in full force and effect at Contractor's own cost and expense the following insurance coverage:

2.9.1. Contractor shall maintain Worker's Compensation Insurance as specified by Labor Code Section 3700 et. seq. In the event Contractor is self-insured, Contractor shall furnish a Certificate of Permission to Self-Insure issued by the Department of Industrial Relations Administration of Self-Insurance.

2.9.2. Contractor shall sign and file with the Division of Risk Management of the City the following certification prior to commencing performance of the Work of the Contract:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of the Code, and I shall comply with such provisions before commencing the performance of the Work of this Contract."

2.9.3. Contractor shall provide sufficient broad coverage to include:

- A. Comprehensive Auto and General Liability Insurance
- B. Broad Form Property Damage Liability
- C. Personal Injury Liability

2.9.4. The amount of each policy shall be no less than \$1,000,000 Single Limit per occurrence, issued by an admitted insurer or insurers as defined by the California Insurance Code, providing that the City, its officers, employees and agents are to be named insured under the policy, and the policy shall stipulate that this insurance will operate as primary insurance and that no other insurance effected by City or other named insured will be called on to contribute to a loss covered thereunder.

2.9.5. Contractor shall have City's standard Certificate of Insurance completed and filed with the Division of Risk Management within ten (10) calendar days of receipt of the fully executed Contract. Each policy shall provide that no cancellation, change in coverage or expiration may be effected by the insurance carrier without first giving written notice to City thirty (30) calendar days prior to the effective date of such cancellation, change in coverage or expiration of policy.

2.9.6. If, at any time during the performance of this Contract, Contractor fails to maintain any item of the required insurance in full force and effect, Contractor shall, at Contractor's sole expense, immediately discontinue all Work under the Contract and City will withhold Contract payments due or that become due until notice is received by City that such insurance has been restored in full force and effect and that the premiums therefore have been paid for a period satisfactory to the Division of Risk Management. Additionally, any failure to maintain any item of the required insurance will be sufficient cause for termination of the Contract.

2.10. Bonds:

Within ten (10) days of receipt of the notice of award of contract, the successful Bidder shall provide a Performance Bond and a Payment Bond. The Performance Bond shall be for a sum equal to one hundred percent (100%) of the Contract price. The Payment Bond shall be for a sum equal to one hundred percent (100%) of the Contract price. Such Bonds shall be subject to the approval of the City Attorney and in conformance with the forms provided in the Project Manual. Such Bonds shall be executed by an admitted surety insurer. When the amount to be paid to the Contractor is based upon units of Work to be performed or items to be provided, the term Contract Price, as used above for the purpose of posting Performance and Payment Bonds, shall be computed on the basis of the unit price Bid Proposal multiplied by the Project Estimate of units of Work to be performed or items to be furnished. Notwithstanding the foregoing, for any Contract with a Contract Price less than \$25,000.00, no Bonds will be required unless it is specifically required in the Supplementary Conditions.

2.11. Pertinent Laws and Regulations:

Contractor shall keep informed of, observe and comply with and cause agents and employees to observe and comply with prevailing Federal, State, County and City laws, including the payment of all applicable taxes, and rules and regulations made pursuant to said Federal and State Laws, which in any way affect conduct of Work under this Contract. Contractor shall at Contractor's expense, obtain all necessary permits and licenses for excavating or other Work on or off public streets, roads or sidewalks and shall comply with laws in connection therewith. If conflict arises between provisions of the Contract Documents and any such law above referred to, then Contractor shall notify City at once in writing. Contractor, pursuant to Section 3.10. below, shall defend and indemnify the City and any of its officers, agents and employees against any claim or liability arising from or based on the violation of any such law, rule or regulation, whether by Contractor, Subcontractor or agents or employees of either.

2.11.1. When any Federal, State or local law, statute, ordinance, regulation or rule is referenced in the Contract Documents, it is intended that any reference to said law, statute, ordinance, regulation or rule is as it may be amended or renumbered in the future.

2.12. Permits and Business Licenses: Contractor shall obtain a "no fee" building permit from the City Building Department. Contractor shall obtain and pay for all other permits and licenses required for the execution of the Work. A Business License shall be obtained from the City

Finance Department, Revenue Division prior to issuance of payments. Contractor shall obtain and pay for all utility permits or fees required for the completion of work, reimbursement shall be made as part of progress billing with acceptable proof of payment.

2.13. Anti-Trust Claims:

On execution of this Contract, Contractor offers and agrees to assign to City, rights, title and interest in and to all causes of action it may have under the Clayton Act (15 U.S.C. Sec.15) Section 4, or under the Cartwright Act (Business and Professions Code) Section 16700 et. seq., arising from purchases of goods, services, or materials pursuant to the Contract Documents. This assignment shall be deemed effective at the time of the tender of final payment to Contractor, without further acknowledgment by the parties. Contractor shall include, or cause to be included, a similar provision in any subcontract entered into for any part of the Work of the Contract.

2.14. Patents:

Contractor shall assume costs arising from use of patented materials, equipment, devices or processes used on or incorporated in the Work, and agrees, pursuant to Section 3.10., below, to defend and indemnify and save harmless the City, its officers and employees from suits, actions or claims for, or on account of, the use of any patented materials, equipment, devices or processes.

2.15. Pollution Control:

Contractor and Subcontractors shall comply with all applicable Federal, State and local water and air pollution control rules, regulations, ordinances and statutes which apply to any Work performed pursuant to the Contract. Contractor further agrees to implement and apply any mitigation measures adopted by City upon project approval under the California Environmental Quality Act.

ARTICLE 3

RESPONSIBILITIES AND RELATIONSHIPS OF PARTIES

3.1. Authority of City:

The Work shall be done to the complete satisfaction and approval of City. City will be the sole judge of the Work and materials with respect to both quality and quantity.

3.1.1. The complete Work shall be executed under the review and observation of City and its designated representatives.

3.2. Authority of City's Consultant(s):

Consultant(s) will from time to time assist City during construction and until Final Acceptance. Consultant(s) will advise and consult with City. Consultant(s) will not have authority to act on behalf of City.

3.2.1. Consultant(s) will not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and will not be responsible for Contractor's failure to carry out the Work in accordance with the Contract Documents. Consultant(s) will not be responsible for or have control or charge over the acts or omissions of Contractor, Subcontractors or any of their agents or employees, or any other persons performing any of the Work.

3.3. Activities Contracted to Other Parties by City:

The City reserves the right to conduct other activities in connection with the project or adjacent thereto by Contract or otherwise. Contractor shall at all times conduct the Work so as to impose no hardship on the City or others or to cause any unreasonable delay or hindrance thereto.

3.3.1. Where two or more Contractors are employed on related or adjacent Work, each shall conduct operations in such a manner as not to cause delay or additional expense to the other.

3.4. Subcontractors:

Contractor shall be responsible for the all Work performed under the Contract. Contractor shall give personal attention to fulfillment of the Contract and shall keep the Work under its control. When any Subcontractor fails to prosecute a portion of the Work in a manner satisfactory to City, Contractor shall, at Contractor's sole expense, remove such Subcontractor immediately upon written request of City and such Subcontractor shall not be employed again on the Work. Although Specification sections of the Contract Documents may be arranged according to various trades or general grouping of Work, Contractor is not obligated to sublet Work in such manner. City will not arbitrate or otherwise be responsible for the resolution of disputes among Subcontractors or between Contractor and one or more Subcontractors concerning responsibility for performing any part of the Work.

3.4.1. Contractor shall not substitute any entity as Subcontractor in place of a Subcontractor listed in the Bid Proposal without written approval of the City.

3.5. Delegation of Performance or Assignment of Money Earned:

Performance of the Contract may not be delegated except upon written consent of the City. Consent will not be given to proposed delegation which would relieve Contractor or its surety of responsibility under the Contract Documents. Contractor may not assign monies due or to become due under the Contract Documents.

3.6. Inspection of the Work:

Contractor shall at all times permit City to visit and inspect the Work or any part thereof as well as shops where Work is in preparation. The Contractor shall maintain proper facilities and safe access for such inspection. Where the Contract Documents require Work to be tested, it shall not be covered up until inspected and approved by City. City will provide inspection only during the hours of 7:00 AM to 4:00 PM, Monday through Friday, City holidays excepted. Contractor shall be solely responsible for notifying City where and when such Work is in readiness for inspection and testing. Should any such Work be covered without such test and approval, it shall be uncovered at Contractor's sole expense. Whenever Contractor desires to perform Work on Saturdays, Sundays or a City holiday, Contractor shall request from the City written authorization of such Work at least 48 hours in advance. Contractor shall bear all additional costs incurred by the City as the result of any such Work.

3.7. Uniform Code Required Inspections:

The Contractor has sole responsibility for securing appropriate regulatory agency inspections required by any Uniform Codes applicable to the Work.

3.8. Rejection:

Should any portion of the Work done or any material, article, or equipment delivered fail to comply with requirements of the Contract Documents, such Work, materials, articles or equipment shall immediately be made satisfactory to the City, by Contractor, at no additional expense to the City. Such materials, articles or equipment shall immediately be removed from the premises at Contractor's expense.

3.9. Rights and Remedies:

Duties and obligations imposed by the Contract Documents and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the City shall constitute a waiver of a right or duty afforded under the Contract Documents, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically otherwise agreed in writing subsequent to the execution of the Contract.

3.10. Indemnification:

Contractor shall assume the defense of, and indemnify and save harmless, the City, its officers, employees and agents, and each and every one of them, from and against actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of, or resulting from, the performance of the Work, whether upon or off the Work,

including the loss of use thereof and is caused in whole or in part by any act or omission of the Contractor and/or Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, whether or not it is caused in part by a party indemnified hereunder. The foregoing shall include, but not be limited to, any attorney fees reasonably incurred by the City.

3.10.1. In addition to any other remedy authorized by law, any sum due Contractor under and by virtue of the Contract Documents may be retained by the City until disposition has been made of such suits, actions, or claims for damages.

ARTICLE 4

INTERPRETATION OF CONTRACT DOCUMENTS

4.1. Correlation:

The Contract Documents shall be interpreted as being explanatory and complementary in requiring complete Work ready for use and occupancy or, if not to be occupied, operational. Any requirement occurring in any one of the documents is as binding as though occurring in all. If the Contract Documents do not specifically allow Contractor a choice as to the quality or cost of items to be furnished, but could be interpreted to admit such a choice, the Contract Documents shall be construed to require the Contractor to furnish the highest quality under existing industry standards regardless of the cost of the item.

4.2 Omissions:

If the Contract Documents are not complete as to any minor detail or required construction system or with regard to the manner of combining or installing of the parts, materials or equipment, but there exists accepted trade standard of good fabrication and construction, such standard shall be deemed to have been impliedly required by the Contract Documents in accordance with such standard.

4.3. Conflicts in the Contract Documents:

In the event of a conflict in the Contract Documents, priorities stated in this Section and set forth below shall govern :

4.3.1. Addenda shall govern over other Contract Documents. Subsequent addenda shall govern over prior addenda only to the extent specified.

4.3.2. The Contract shall control over all other Contract Documents except for Supplementary Conditions and Addenda, if any.

4.3.3. The General Conditions of the Contract shall govern over all other Contract Documents, except for the Contract, Supplementary Conditions and Addenda, if any.

4.3.4. In case of conflict between Drawings and Specifications, the Drawings shall govern in matters of quantity and the Specifications shall govern in matters of quality.

4.3.5. In case of conflict within the Drawings involving quantities, furnish the greater quantity.

4.3.6. In case of conflict within the Specifications involving quality of material or procedure, furnish the higher quality material and procedure.

4.3.7. Schedules appearing in the Drawings shall govern over other portions of the Drawings.

4.3.8. Specific notes shall govern over other notes and other portions of the Drawings except Schedules described in Section 4.3.5. above.

4.3.9. Larger scale drawings shall govern over smaller scale drawings.

4.3.10. Detail drawings shall govern over standard plates bound within the Specifications.

4.3.11. Figured or numerical dimensions shall govern over dimensions obtained by scaling.

4.3.12. Where provisions of codes, safety orders, Contract Documents, referenced manufacturer's specifications or industry standards are in conflict, the more restrictive and higher quality shall govern.

4.4. Major Conflicts in the Contract Documents:

Should Contractor discover complex or major conflicts, omissions, or errors in the Contract Documents or have any question concerning interpretation or clarification of the Contract Documents or if it appears that the Work to be done or any matters relative thereto are not sufficiently detailed or explained in the Contract Documents, then, before proceeding with Work affected, Contractor shall immediately describe and identify areas of concern by notifying City, in writing, requesting interpretation, clarification or furnishing of additional detailed instructions concerning the Work within ten (10) calendar days of discovery. Such questions, including the question of whether and to what extent a conflict, error or omission exists or a need exists for interpretation or clarification, shall be resolved and instructions, if any, to Contractor issued within a reasonable time by City, whose decision shall be final and conclusive. Should Contractor proceed with Work affected before receipt of instructions from City, Contractor shall remove and replace or adjust Work which is not in accordance with such instructions and shall be solely responsible for resultant damage, defect or added cost.

4.5. Additional Detailed Instructions:

The City may furnish additional detailed written instructions to explain the Work more fully, and such instructions shall be a part of the Contract Documents. Should such additional detailed instructions, in the opinion of Contractor, constitute Work in excess of the scope of the Contract Documents, Contractor shall submit written notice thereof to the City within ten (10) calendar days following receipt of such instructions, and in any event prior to commencement of Work thereon. City will consider such notice and, if in its judgment, Contractor is partially or entirely correct, the City's instructions will be revised or the extra Work authorized. Procedures specified in Section 7.16. shall apply to any dispute arising under this Section. Contractor shall have no claim for additional compensation because of such additional instructions unless Contractor gives City written notice thereof within the ten (10) calendar days specified above. This procedure, including the notices and associated time frames therefore set forth in this Section and Section 4.4. above, constitute an administrative remedy which must be exhausted by the Contractor.

4.6. Product Designation:

When descriptive catalogue designations, including manufacturer's name, product brand name or model number are referred to in the Contract Documents, such designations shall be considered as being those found in industry publications of current issue on the date of the Invitation to Bid.

4.7. Reference Standards:

When standards of Federal Government, trade societies or trade associations are referred to in the Contract Documents by specific date of issue, these standards shall be incorporated by reference. When such references do not bear date of issue, the currently published edition on the date of issuance of the Invitation to Bid shall apply.

4.8. Ownership and Use of Contract Documents:

The City shall have all ownership and control of all Contract Documents. The Contractor shall be provided ten (10) copies of the Contract Documents at no cost. Additional copies are available from the City for the cost of reproduction.

ARTICLE 5

PROGRESS AND COMPLETION

5.1. Notice to Proceed:

The City will issue a written Notice to Proceed which will designate the starting day of the performance period. The Contractor shall commence Work within fifteen (15) calendar days of receipt of the written Notice to Proceed. Contractor shall complete the Work within the number of days, as set forth in the Contract for completion, subject only to such adjustment of time as may be set forth in this Article 5 or pursuant to Article 7.

5.2. Schedules:

Contractor shall prepare prior to receipt of the written Notice to Proceed, and obtain City's approval of, a Construction Schedule for the Work which shows the number of days allowed for substantial completion of the Work as set forth in the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work, shall be related to the entire Work to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

5.2.1. Contractor shall prepare and keep current, for the City's approval, a schedule of submittals which is coordinated with the Contractor's Construction Schedule and allows City reasonable time to review submittals.

5.2.2. Contractor shall conform to the most recent approved schedules. Should Contractor fall behind by five percent or more of the total Contract time as specified by the Contract Documents, Contractor shall revise the project schedule, indicating the steps to be taken to make-up any time deficiency, to allow for the project to be completed within the time specified in the Contract Documents.

5.3. Controlling Operation:

A Controlling Operation shall mean that portion of the Work as to which the Contractor can establish that a delay in its completion will necessarily extend the time for completion of the Work. Controlling Operation shall not be regarded as delayed or suspended on any day during which Contractor is able to perform Work on that Controlling Operation for a period of at least 5 hours.

5.4. Extensions of Time:

Extensions of time, when granted, will be based upon the effect of delays to the project as a whole and will not be granted for non-controlling operations of Work unless it can be shown that such delays did, in fact, delay the progress of the project as a whole.

5.4.1. Contractor shall not be charged with any delay from and after the time City issues the Certificate of Substantial Completion, unless the City finds that the Work was not in fact substantially complete upon the date certificate was issued by City.

5.4.2. Even though Contractor has no legal right to additional days, the City nevertheless may grant such, if determined to be in the best interest of the City. The City may, as a condition to so doing, charge the Contractor, its heirs, assigns or surety, and will deduct from final payment for the Work or any part, as deemed proper, the actual cost to the City, of engineering, inspections, superintendency and other overhead administrative expenses, including but not limited to legal expenses, which are caused by the delay or are incurred in making the required determinations hereunder.

5.4.3. Other than claims for adjustment in time of Work in the manner herein provided, Contractor shall have no claim for any compensation or damage for any delay or disruption except as provided in Section 5.5.2, below.

5.5. Delays; Notice Requirements:

Whenever Contractor foresees any delay in the prosecution of the Work, and in any event, immediately upon occurrence of any delay which Contractor regards as unavoidable, Contractor shall notify City immediately in writing of the probability of the occurrence of such delay and its cause in order that City may take immediate steps to prevent, if possible, occurrence or continuance of the delay, or, if this cannot be done, may determine whether delay is to be considered unavoidable, how long it may continue and to what extent the prosecution and completion of the Work are to be delayed by it. Delays which have occurred in the prosecution and completion of the Work are presumably avoidable delays, except such delays as shall have been called to the attention of City at or before the time of occurrence and found by City to have been unavoidable. Any delay not called to the attention of City at time of occurrence shall be conclusively presumed avoidable between City and Contractor.

5.5.1. Avoidable delays in prosecution or completion of the Work shall include delays which, in the opinion of City, would have been avoided by exercise of care, prudence, foresight and diligence on the part of Contractor or its Subcontractors. The following shall be deemed to be avoidable delays: (i) delays in prosecution of parts of the Work which may in themselves be unavoidable but do not necessarily prevent or delay prosecution of other parts of the Work or completion of the whole Work within the time specified for completion of the Work; (ii) reasonable loss of time resulting from the necessity of submitting samples of materials and drawings to City for approval and from testing materials, measurements and inspections; and (iii) reasonable interference of other contractors employed by City which do not necessarily prevent completion of the whole Work within time agreed upon. The foregoing list is illustrative only, and is not intended as an exhaustive listing of avoidable delay situations. Under no circumstances will an avoidable delay qualify for an extension of time.

5.5.2. Unavoidable delays in prosecution or completion of the Work shall include delays which, in the opinion of City, result from causes beyond control of Contractor and which could not have been avoided by exercise of care, prudence, foresight and diligence on the part of Contractor or its Subcontractors. Extensions to the completion date due to Contract modifications ordered by City and unforeseeable delays in completion of Work of other contractors employed by City will be considered unavoidable delays insofar as they interfere

with Contractor's completion of the Work. War, government regulations, labor disputes, strikes, fires, floods necessitating cessation of Work, other similar action of the elements, inability to obtain materials, equipment or labor, required extra work or other specific reasons as may be further described in the Specifications may constitute an unavoidable delay. Unavoidable delays may constitute sufficient justification for the granting of an extension of time provided the notice requirements of Section 5.5. above have been met. Other than an extension of time, Contractor shall have no claim for any compensation or damage for any unavoidable delay or disruption, including claims relating to changes in the Work extending the completion date, unless it is shown by Contractor, to the satisfaction of the City, that the unavoidable delay or disruption resulted from a work stoppage or suspension caused by the City and that such stoppage or suspension was unforeseeable and unreasonable under the circumstances.

5.5.3. If adverse weather conditions are the basis for a request for an extension of time, such request shall be documented by data substantiating that weather conditions were abnormal for the season and could not have been reasonably anticipated, and that weather conditions had an adverse effect on the scheduled construction. Contractor shall submit such documentation covering each and every day of delay which Contractor claims was caused by adverse weather conditions.

5.5.4. Determination of each day upon which an unavoidable or adverse weather delay occurred shall be made and agreed upon during such day, or as soon thereafter as practicable, by conference between Contractor and City at the job-site. If contract is not reached, Contractor shall notify City in writing of the cause of delay within ten (10) calendar days. Except in those cases deemed by the City to be so warranted, no determination as to time adjustment shall be made by the City as to any alleged cause of delay until the Work is completed.

5.6. City's Right to Stop the Work:

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents or consistently fails to carry out the Work in accordance with Contract Documents, City, by written notice, may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated. The right of City to stop the Work shall not give rise to a duty on the part of City to exercise this right for the benefit of Contractor or any other person or entity.

5.7. Occupancy by the City Prior to Acceptance:

The City reserves the right to occupy all or any part of the project prior to completion of the Work. Such occupancy does not constitute acceptance by City of the Work or any portion thereof, nor will it relieve Contractor of responsibility for correcting defective Work or materials. If the City chooses to occupy all or a part of the Work, Contractor shall cooperate in making available for City's use heating, ventilating, cooling, water, lighting, telephone and other such building services as deemed necessary by the City. On written request from Contractor, the City will issue Partial Substantial Completion on the occupied portion,

provided the occupied portion is in fact Substantially Complete, as defined in the Contract Documents, and all Life - Safety items are fully operational. The guarantee period will commence

to run from the date of issuance of the Certificate of Partial Substantial Completion for equipment, systems and materials which operate entirely within the area which is occupied by the City. Substantial Completion and guarantee period for equipment, systems and materials which are operational both in unoccupied and occupied areas shall not be affected. Partial Substantial Completion shall in no manner stop or otherwise affect the City's right to Liquidated Damages or other rights which the City may have.

5.8. Substantial Completion:

When Contractor considers the entire Work complete and ready for its intended use, Contractor shall, in writing to City, certify that the entire Work is substantially complete and request that City issue a Certificate of Substantial Completion. Within a reasonable time thereafter, City and Contractor shall make an inspection of the Work to determine the status of completion. If City does not consider the Work substantially complete, City will notify Contractor in writing giving reasons therefore. If City considers the Work substantially complete, City will prepare a Certificate of Substantial Completion. There shall be attached to the Certificate a punch list of items to be completed or corrected before Final Acceptance and final payment.

5.9. Final Inspection and Final Acceptance of Work:

When the Work is fully completed, Contractor shall so certify and shall request final inspection in writing. Within ten (10) calendar days of receipt of such completed request form, City shall make final inspection. If, from final inspection, City determines that the Work has been fully completed, City will issue a certificate of Final Acceptance. Upon Final Acceptance of the Work by the City, Contractor will be relieved of the duty of maintaining and protecting the Work. If City determines that the Work is not complete after receipt of certification by Contractor, Contractor shall be notified in writing of deficiencies. After the deficiencies have been corrected, the procedure for final inspection as set forth above shall again be initiated by Contractor. Neither determination by City that the Work is complete nor Final Acceptance thereof by the City shall operate as a bar to claims against Contractor pursuant to Section 6.10.