

DOCUMENT 00 45 10
AGREEMENT C-1894 – Emergency Electrical Cable Replacement at Loma Vista Campus

1. **SPECIAL TERMS.** These special terms are incorporated into the Contract Documents.

(Sec. 2) **Parties:** (Public Agency or "District" or "Owner") Mt. Diablo Unified School District (MDUSD)
 (Contractor) CESCORP dba CAL ELITE BUILDERS
Complete Legal Name

(Sec. 2) **Effective Date:** Upon Receipt of Notice to Proceed

(Sec. 3) **The Work:** Emergency electrical cable replacement at Loma Vista Campus

(Sec. 6) **Completion Date:** (Strike out (a) or (b) and "calendar " or "working")
 a) By (date) July 13, 2021
 b) ~~Within _____ calendar/working days from starting date.~~

(Sec. 8) **Liquidated Damages:** \$ 500.00 per calendar day/per site.

(Sec. 2) **Public Agency's Agent:** Rosdinah Baharin, District CM

(Sec. 14) **Contract Price:** \$ 258,000 (for unit price contracts: more or less, in accordance with finished quantities at unit bid prices.) (Strike out parenthetical material if inapplicable).

SIGNATURES & ACKNOWLEDGMENT

Public Agency, By: [Signature] (President, Chairman or Other Designated Representative)
 (MDUSD) _____ (Secretary)

Contractor, hereby also acknowledges awareness of and compliance with Labor Code Sec. 1861 concerning Worker's Compensation Law.

By: [Signature] (CORPORATE SEAL)
 (Designate official capacity in the business)

By: [Signature]
 (Designate official capacity in the business)

Note to Contractor: (1) Execute acknowledgment form below, and (2) if a corporation, affix corporate seal.

State of California _____) ACKNOWLEDGMENT (by Corporation, Partnership, or Individual)
 County of Solano _____)

On 7/20/21 before me, (here insert name and title of the officer), personally appeared Jeanine David Nucum, Public Charlie Abalos Lapurga Evangelina Pasana Lapurga
 who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: [Signature] (Seal)



FORM APPROVED BY District Counsel (DC -1; Rev. 5/02)

1. **The Work:** Contractor agrees to furnish all tools, equipment, apparatus, facilities, labor, and material necessary to perform and complete in a good and workmanlike manner, the work of

PROJECT: **C-1894: Emergency Electric Cable Replacement at Loma Vista Campus**

for which the Drawings and Specifications are identified by the signature of the parties to this Agreement. It is understood and agreed that the Work shall be performed and completed as required in the Drawings and Specifications under the direction and supervision of, and subject to, the approval of the Superintendent of the District or its authorized representative.

2. **The Contract Documents:** The complete Contract consists of all Contract Documents as defined in the General Conditions and incorporated herein by this reference. Any and all obligations of the District and Contractor are fully set forth and described in the Contract Documents. All Contract Documents are intended to cooperate so that any Work called for in one and not mentioned in the other or vice versa is to be executed the same as if mentioned in all Contract Documents.
3. **Interpretation of Contract Documents:** Should any question arise concerning the intent or meaning of Contract Documents, including the Drawings or Specifications, the question shall be submitted to the District for interpretation. If a conflict exists in the Contract Documents, this Agreement shall control over the Special Conditions, which shall control over any Supplemental Conditions, which shall control over the General Conditions, which shall control over the remaining Division 0 documents, which shall control over Division 1 Documents which shall control over Division 2 through Division 18 documents, which shall control over figured dimensions, which shall control over large-scale drawings, which shall control over small-scale drawings. In no case shall a document calling for lower quality material or workmanship control. The decision of the District in the matter shall be final.

- (i) District-approved modifications, beginning with the most recent (if any);
- (ii) Agreement;
- ~~(iii) Special Conditions (if any);~~
- ~~(iv) Supplemental Conditions (if any);~~
- ~~(v) General Conditions;~~
- ~~(vi) Remaining Division 0 documents (Documents beginning with "00");~~
- ~~(vii) Division 1 Documents (Documents beginning with "01");~~
- ~~(viii) Division 2 through Division 49 documents (Technical Specifications);~~
- ~~(ix) Figured dimensions;~~
- ~~(x) Large-scale drawings;~~
- (xi) Small-scale drawings.

In case of conflict, the greater quantity and/or higher standard of workmanship shall apply unless the District expressly in writing (e.g., via a Change Order) accepts a lesser quantity or lower quality of workmanship and the Contract Price is adjusted accordingly. The decision of the District in the matter shall be final.

4. **Integration / Modification.** The Contract Documents and any documents specifically incorporated by reference are completely integrated as the complete and exclusive statement of the terms of the Agreement. This Agreement supersedes all previous contracts, agreements, and / or communications, both oral and written, and constitutes the entire understanding of the District and Contractor. No extrinsic evidence whatsoever shall be admissible or used to explain or supplement the terms of the Contract, Contract Documents, or any items incorporated by reference. No changes, amendments or alterations shall be effective unless in writing, signed by both Parties, and unless provided otherwise by the Contract Documents.

5. **Time for Completion:** It is hereby understood and agreed that the work under this contract shall be completed by July 20, 2021 (# OF DATES) consecutive calendar days ("Contract Time") from the date specified in the District's Notice to Proceed.
6. **Completion-Extension Of Time:** Should the Contractor fail to complete this Contract, and the Work provided herein, within the time fixed for completion, due allowance being made for the contingencies provided for herein, the Contractor shall become liable to the District for all loss and damage which the District may suffer on account thereof. The Contractor shall coordinate its work with the Work of all other contractors. The District shall not be liable for delays resulting from Contractor's failure to coordinate its Work with other contractors in a manner that will allow timely completion of Contractor's Work. Contractor shall be liable for delays to other contractors caused by Contractor's failure to coordinate its Work with the work of other contractors.
7. **Liquidated Damages:** Time is of the essence for all Work to be performed. It is hereby understood and agreed that it is and will be difficult and/or impossible to ascertain and determine the actual damage that District will sustain in the event of and by reason of Contractor's delay; therefore, pursuant to Government Code section 53069.85 and Public Contract Code section 7203, Contractor shall forfeit and pay to District the following sum(s) as liquidated damages ("Liquidated Damages"):
- **Project Completion:** five hundred dollars \$500.00 per day /per site as Liquidated Damages for each and every day's delay beyond the Contract Time to complete all the Work.
- a. Each portion of the Liquidated Damages shall be calculated cumulatively. For example, if Contractor is late in completing two milestones and the entire Project, Contractor will forfeit and pay three separate Liquidated Damages amounts. It is hereby understood and agreed that neither the total cumulative Liquidate Damages amount nor any portion of the Liquidated Damage amount are penalties.
 - b. It is hereby understood and agreed that neither the total cumulative Liquidate Damages amount nor any portion of the Liquidated Damage amount are penalties.
 - c. District may deduct Liquidated Damages from money due or that may become due Contractor under this Agreement. Contractor's forfeiture of Liquidated Damages to District, and District's right to retain Liquidated Damages, are as indicated in Government Code section 53069.85 and as indicated herein and in the General Conditions.
 - d. Liquidated Damages are automatically and without notice of any kind forfeited and payable by Contractor upon the accrual of each day of delay. Neither District's failure or delay in deducting Liquidated Damages from payments otherwise due the Contractor, nor District's failure or delay in notifying Contractor of the forfeiture and payment of Liquidated Damages, shall be deemed a waiver of District's right to Liquidated Damages and/or the District's right to withhold Liquidated Damages from any amounts that would otherwise be payable to the Contractor.
 - e. Contractor and Surety shall be liable for and pay to District the entire amount of Liquidated Damages including any portion that exceeds the amount of the Contract Price then held, retained or controlled by District.
 - f. Liquidated Damages shall be in addition, and not in lieu of, District's right to charge Contractor for the District's cost of completing or correcting items of the Work.
 - g. District may extend the Contract Time if Work is delayed for causes outside the Contractor's control, as further described in the General Conditions. This provision does not exclude the recovery of

damages for delay by either party under other provisions in the Contract Documents.

8. **Loss Or Damage:** The District and its authorized representatives shall not in any way or manner be answerable or suffer loss, damage, expense, or liability for any loss or damage that may happen to the Work, or any part thereof, or in or about the same during its construction and before acceptance, and the Contractor shall assume all liabilities of every kind or nature arising from the Work, either by accident, negligence, theft, vandalism, or any cause whatever; and shall hold the District and its authorized representatives harmless from all liability of every kind and nature arising from accident, negligence, or any cause whatever.
9. **Insurance and Bonds:** Contractor shall provide all required certificates of insurance, and payment and performance bonds as evidence thereof.
10. **Prosecution of Work:** If the Contractor should neglect to prosecute the Work properly or fail to perform any provisions of this contract, the District, may, pursuant to the General Conditions and without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor.
11. **Authority of Architect, Project Inspector, and DSA:** Contractor hereby acknowledges that the Architect(s), the Project Inspector(s), and the Division of the State Architect have authority to approve and/or stop Work if Contractor's Work does not comply with the requirements of the Contract Documents, Title 24 of the California Code of Regulations, and all applicable laws. Contractor shall be liable for any delay caused by its non-compliant Work.
12. **Assignment of Contract:** Neither the Contract, nor any part thereof, nor any moneys due or to become due thereunder, may be assigned by the Contractor without the written approval of the District, nor without the written consent of the Surety on the Contractor's Performance Bond (the "Surety"), unless the Surety has waived in writing its right to notice of assignment.
13. **Classification Of Contractor's License:** Contractor hereby acknowledges that it currently holds valid Type B, C10 Contractor's license(s) issued by the State of California, Contractor's State Licensing Board, in accordance with division 3, chapter 9, of the Business and Professions Code and in the classification called for in the Contract Documents.
14. **Contract Price:** That, in consideration of the foregoing covenants, promises, and agreements on the part of the Contractor, and the strict and literal fulfillment of each and every covenant, promise, and agreement, and as compensation agreed upon for the Work and construction, erection, and completion as aforesaid, the District covenants, promises, and agrees that it will well and truly pay and cause to be paid to the Contractor in full, and as the full Contract Price and compensation for construction, erection, and completion of the Work hereinabove agreed to be performed by the Contractor, the prices specified in the Contractor's Proposal dated June 4, 2021, on file in the office of the Superintendent of the District, in lawful money of the United States, which sum is to be paid according to the schedule provided by the Contractor and accepted by the District and subject to additions and deductions as provided in the Contract.
15. **Contact Information; Changes.** Notice must be addressed and delivered to a Party at the address set forth below, with attention to such Party's representative named below. A Party must give Notice, in accordance with this Section 5, of each change in such Party's address, person to whom attention should be directed, or e-mail address. If any such information applicable to a Party changes and such Party does not give Notice

of such change, any subsequent Notices addressed and delivered based on such Party's prior contact information shall be deemed and construed to have been properly given or served in accordance with this Section 5, regardless of whether "actual receipt" has occurred.

District: Mount Diablo Unified School District
1936 Carlotta Dr.
Concord, CA 94519-1397
Attention: Rosdinah Baharin
Title: District Construction Manager
Phone: (925) 825-7440, Ext. 3810
Facsimile: (925) 684-4002
Email: BaharinR@mdusd.org

Contractor: Charlie A. Lapurga
CESCORP dba CAL ELITE BUILDERS
605 Railroad Avenue, Suite E
Suisun, CA 94585
Title: President-General Manager
Phone: (707) 422-4017
Facsimile: (707) 422-4076
Email: Charlie@calelectric.net

16. **Payment of Prevailing Wages:** Contractor and all Subcontractors under Contractor shall pay all workers on Work performed pursuant to this Contract not less than the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work as determined by the Director of the Department of Industrial Relations, State of California, for the type of work performed and the locality in which the work is to be performed within the boundaries of the District, pursuant to sections 1770 et seq. of the California Labor Code.
17. **Contractor & Subcontractor Registration:** Contractor shall comply with the registration and compliance monitoring provisions of Labor Code section 1771.4, including complying with any applicable enforcement by the Department of Industrial Relations.
18. **Authority of Contractor's Representative:** Contractor hereby certifies that its legal representative as defined in the General Conditions and the person(s) it employees on the Project at or above the level of project superintendent, each have the authority to legally bind the Contractor.
19. **Severability:** If any term, covenant, condition, or provision of the Contract Documents is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions in the Contract Documents shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.
20. **CONTRACTOR SPECIFICALLY AGREES TO ASSERT NO DEMANDS OR CLAIMS IN ARBITRATION OR LITIGATION UNLESS IT HAS STRICTLY COMPLIED WITH THE PROVISIONS IN THE "CLAIMS RESOLUTION" SECTION OF THE GENERAL CONDITIONS (DOCUMENT 00 70 00).**

Contractor's Initials Acknowledging "Claims Resolution" Requirements: _____



ACKNOWLEDGMENT

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

State of California
County of Solano

On 7/20/21 before me, Jeanine David Nucum, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.



Signature [Handwritten Signature] (Seal)