

REQUEST FOR PROPOSALS

CIVIC AUDITORIUM:

PORTABLE AUDIENCE SEATING PROJECT

San Jose, California

For the

REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE

200 E. Santa Clara St.
14th Floor Tower
San Jose, California 95113

Proposal Form Approved by:

A handwritten signature in black ink, appearing to read 'Bill Ekern', is written over a horizontal line.

Bill Ekern, Director Project Management
City of San Jose, Redevelopment Agency

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SECTION 00100

INSTRUCTIONS TO SUPPLIERS

Section 1. Description of Project

This request for proposals has been issued to selected Suppliers by the Redevelopment Agency of the City of San Jose (the "Agency"). This request for proposals is intended to enable the Agency to select a supplier for the procurement and delivery of portable audience seats (the "Project") for the Civic Auditorium located at 135 W. San Carlos Street, San Jose, California 95113 (the "Project Site").

The Project Site is owned by the City of San Jose (the "City") and is operated by Team San Jose, Inc. (the "Operator"). Entry to the Project Site shall be arranged by the Agency; however, the indemnity and insurance obligations of the selected Supplier shall be extended to benefit the City and the Operator.

A complete description of the Project is set forth in the attached Specifications.

Section 2. Invitation to Submit a Proposal

The Agency invites your firm to submit a proposal for the Project.

The proposal shall be submitted no later than Monday, June 29, 2009, 2:00 p.m. Pacific Time to the office of:

Dolores A. Montenegro, Senior Project Manager
Redevelopment Agency of the City of San Jose
200 E. Santa Clara St., 14th Floor Tower
San Jose, California 95113

Any proposal received after the due date and time cannot be accepted and will be rejected and returned, unopened, to the proposer.

Hand-delivered proposals must be placed in the designated box located at the main reception desk on the 14th Floor Tower of 200 E. Santa Clara St., San Jose, CA, no later than the time set forth above. Proposals sent by regular or certified mail must also be received by the Agency at the above-referenced address no later than the time set forth above. All proposals must be enclosed in a sealed envelope which is marked clearly as "Proposal for the Civic Auditorium Portable Audience Seating Project".

Section 3. Consideration of Proposals - Agency's Rights and Options

3.1 Selection of a Supplier - The proposals will be evaluated by the Agency on the basis of the following criteria: qualifications and experience of proposer (including, without limitation, ability to procure and deliver the seats, without exceptions or qualifications, within specified deadlines), proposal price, and financial background of proposer.

Such criteria may be weighted and/or supplemented/waived as determined by the Agency, it being understood that the supplier selected shall be the one whose proposal, as determined in the Agency's sole discretion, is deemed to most closely satisfy the needs of the Agency and to be most advantageous to the Agency. The Agency may seek written clarification from any proposer in order to better understand and evaluate the proposal.

Upon conclusion of the request for proposals process, the selected supplier shall enter into an agreement with the Agency in substantial conformity with the selected proposal and the Agency's Standard Terms and Conditions, which are included within this request for proposals. Should the selected supplier fail to enter into the agreement with Agency as required or to provide satisfactory evidence of compliance with the insurance requirements on or before the date which is eight (8) calendar days after the selected supplier has received from the Agency the proposed form of agreement, either by an overnight delivery service or by certified mail with return receipt requested, the Agency may withdraw the selection, and select the next highest ranked proposer. No agreement shall be binding on or valid with the Agency unless and until it is executed by authorized representatives of the Agency.

The Agency reserves the right to negotiate project deliverables (including without limitation the acceptance or rejection of any or all alternates) and associated costs as well as other terms and conditions. The Agency reserves the right to reject or accept any and all proposals or portions thereof in response to this request for proposals. The Agency also reserves the right to waive any informalities or irregularities in the proposals. The Agency may, for any reason, decide not to conclude an agreement as a result of this request for proposals.

The proposing firms acknowledge and understand that their review of this request for proposals and all materials provided with this request for proposals, and preparation of all materials and samples for submittals shall be done at their sole cost and expense. The proposers expressly understand and agree that the Agency shall in no event be responsible for any cost or expense incurred by a proposer, which arises out of, or is in any way connected with, the preparation and/or submission of a proposal for the Project. Any such costs and/or expenses are the sole responsibility of the proposing suppliers.

Section 4. Proposer's Responsibilities and Representations

4.1 Qualification of Proposers – Each proposer shall submit their statement of qualifications, which shall be submitted with the Proposal Form. Section 5.5 of these instructions sets forth the minimum information required. The Agency reserves the right to investigate any information about a proposer presented within or with the Proposal Form and shall be entitled to consider information available to it from any source concerning any proposer. Each proposer must possess all licenses, if any, necessary to perform the Project.

4.2 Examination of Project Specifications and Conditions of Project Site - Proposers shall examine carefully the Project Site and the requirements of these instructions, the Proposal Form, the Proposer's Bond Form, the Standard Terms and Conditions, and the Specifications. The submission of a proposal shall be conclusive evidence that the proposer has investigated and is satisfied as to the conditions to be encountered, the requirements of the proposal documents, and that the proposer has read and understands this request for proposals. No request for modification of the proposal shall be considered after its submission on the grounds that the proposer was not fully informed as to any fact or condition. Proposals shall be based on the products specified with no substitutions, except as specifically provided to the contrary in the Specifications. Further, where substitutions are so permitted, all requests for substitution (including any supporting material) shall be submitted by proposers together with their proposals, except in the event that the reason for substitution is product unavailability and the product in question has become unavailable only after the proposal has been submitted, or other extraordinary circumstances as may be determined in the sole discretion of Agency.

Section 5. Proposal Documents and Procedures

5.1 Proposal Documents - Proposal documents include these instructions, the Proposal Form, the Proposer's Bond Form, the Standard Terms and Conditions, and the Specifications, including any addendum or interpretation issued prior to the time fixed for the receipt of proposals. Proposals containing information, which is subsequently proven false, shall be considered non-responsive and shall be rejected.

5.2 Addenda and Interpretations. - Written addenda by way of amendments, changes or additions to the proposal documents may be issued before the opening of proposals. Such addenda will be sent either by e-mail or fax to all proposers, not later than three (3) calendar days prior to the date fixed for the receipt of proposals. All addenda so issued shall become part of the proposal documents.

No interpretation of the meaning of the plans, specifications or other proposal documents will be made orally. Every request for such interpretation should be in writing addressed to the Agency at The Redevelopment Agency of the City of San

Jose, Attn: Dolores A. Montenegro, 200 E. Santa Clara St. 14th Floor, San Jose, CA 95113, or faxed to the Agency and directed to the attention of Dolores A. Montenegro, at 408-292-6755 or e-mailed to dolores.montenegro@sanjoseca.gov. To be given consideration, such requests must be received at least five (5) business days prior to the date fixed for the receipt of proposals. Any and all such interpretations will be in the form of writing which, if issued, will be sent either by e-mail or fax to all proposers, not later than three (3) calendar days prior to the date fixed for the receipt of proposals. All interpretations so issued shall also become part of the proposal documents.

5.3 Proposal Forms - The Agency will furnish a Proposal Form, which, when filled out, executed and accompanied by all supplements required in the proposal documents, shall be submitted as its proposal. Proposals not presented on forms so furnished or submitted without all supplements may be disregarded.

All proposals shall give the price proposed, both in words and in figures in the respective spaces provided, and shall be signed by the proposer, who shall fill out all blanks in the Proposal Form. In the case of any discrepancy between words and figures, the words shall prevail, unless it clearly appears in the proposal in Agency's opinion that the words rather than the figures are in error. Proposals shall be clearly written without erasures or deletions. Do not modify the Proposal Form or qualify proposals.

A Proposal Form is attached. Additional copies may be obtained from the Agency at the Redevelopment Agency of the City of San Jose, 200 E. Santa Clara St. 14th Floor, San Jose, California.

5.4 Proposal Security - All proposals shall be accompanied by one of the following forms of security: a cashier's check made payable to the Agency, a certified check made payable to the Agency, or a proposer's bond executed as principal by the proposer and as surety, by a corporate surety insurer authorized to engage in such business in California, made payable to the Agency on the Proposer's Bond form included within this request for proposals.

The security shall be in the amount equal to at least ten percent (10%) of the total price proposed by a proposer, without consideration of alternates. A proposal shall not be considered unless one of the foregoing forms of proposer's security is enclosed with it.

If the selected supplier fails to enter into the agreement with Agency as required or fails to provide satisfactory evidence of compliance with the insurance requirements within the time specified in these instructions, the amount of the security may be declared forfeited to the Agency and all bonds so forfeited may be prosecuted.

It is understood that the proposal security shall not be considered as liquidated damages for the failure of the selected supplier to enter into the agreement or

to provide evidence of insurance compliance. The proposal security shall neither limit nor fix liability to the Agency for damages suffered because of failure of the selected supplier to enter into the agreement or to provide evidence of insurance compliance.

All proposal securities will be held until the earlier to occur of: 1) such time as the required agreement has been fully executed and the selected supplier has filed with the Agency the required proof of insurance compliance, or 2) the Agency's rejection of all proposals, after which such proposal securities will be returned to the respective proposer whose proposals they have accompanied.

5.5 Reference and Other Items for Proposal - With each proposal, proposers shall provide a written list of a minimum of three (3) projects comparable to the Project in material, size, scope and cost (with current contact names, telephone numbers and e-mail addresses). Preferably, proposers shall have a minimum of ten (10) years experience in the procurement and delivery of seats similar to the Project. The Project shall be performed by the selected supplier's employed labor, and shall not be subcontracted unless previously approved in writing by the Agency. A description of the portion of the Project which shall be done by each proposed subcontractor, together with qualifications for all proposed subcontractors, shall also be submitted with each proposal.

5.6 Withdrawal of Proposals - Any proposal may be withdrawn at any time prior to the time fixed for the receipt of proposals only by written request for the withdrawal of the proposal filed with the Agency. The request shall be executed by the proposer or its duly authorized representative. The withdrawal of a proposal does not prejudice the right of the proposer to file a new proposal. This section does not authorize the withdrawal of any proposal after the time fixed for the receipt of proposals.

5.7 Pre-Proposal Meeting - A mandatory pre-proposal meeting will be held on Monday, June 15, 2009, at 10:00 a.m. Pacific Time at the Agency's offices at 200 E. Santa Clara St. 14th Floor, San Jose, CA 95113. Immediately following this meeting a mandatory Project Site visit to review the site conditions will be held. Sign-in of each proposer's representative shall occur at the start of the pre-proposal meeting.

5.8 Protests - A proposer may protest a proposed selection of a supplier. The protesting party shall deliver the written bid protest to Bill Ekern, Director of Project Management, 200 East Santa Clara Street, 14th Floor, San Jose, CA 95113. The protest shall be filed before 5 p.m. of the fifth business day following the Agency's issuance of written notice to all proposers of intent to select a supplier, which Agency notice shall identify the proposed supplier and briefly describe the grounds for selection. The protest shall provide a full and complete statement specifying in detail the ground of the protest and the facts supporting the protest. The Agency will not make any selection prior to the expiration of the protest period. Failure to comply with these procedures shall constitute a waiver of any right to further pursue the protest, including filing a Government Code claim or legal proceedings.

5.9 Penalty for Collusion - If at any time it shall be found that the person, firm or corporation with whom an agreement has been entered has, in presenting any proposal or proposals, colluded with any other party or parties, then the agreement so entered shall be null and void, and the selected supplier and its sureties, if any, shall be liable to the Agency for all loss of damage which the Agency may suffer thereby.

Section 6. Product and Material Guaranty - The agreement shall require the selected supplier to furnish a guaranty covering the Project, the terms of which are contained in the Agency's Standard Terms and Conditions and the Specifications. In addition, the agreement may require the selected supplier to furnish a complete statement of the origin, composition, and manufacture of any or all materials to be used, together with samples which may be subject to tests provided for in these specifications.

Section 7. Insurance.

The selected supplier shall be required to procure and maintain insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the Project by, or on behalf of, selected supplier, as follows:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001, with limits of \$1,000,000 per occurrence for bodily injury, personal injury and property damage, and coverage for Agency/City as additional insured. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and
2. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired autos; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance with limits of \$1,000,000 per accident.

There shall be no endorsement reducing the scope of coverage required above unless approved by the City's Risk Manager.

Additional terms applicable to insurance are contained in the Agency's Standard Terms and Conditions.

SECTION 00200

PROPOSAL FORM

**PROPOSAL TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE
FOR THE
CIVIC AUDITORIUM: PORTABLE AUDIENCE SEATING PROJECT**

Name of Proposer: _____

Business Address of Proposer:

Section 1 - Submit proposal form to:

REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE
200 E. SANTA CLARA ST., 14TH FLOOR TOWER
SAN JOSE, CA 95113
ATTENTION: DOLORES A. MONTENEGRO, SENIOR PROJECT
MANAGER

Section 2 - PROPOSER'S REPRESENTATIONS

Proposer understands, agrees, and warrants:

1. That proposer has carefully read and fully understands the information that was provided by the Agency to serve as the basis for submission of this proposal.
2. That proposer has the capability to successfully undertake and complete the responsibilities and obligations of the proposal being submitted.
3. That all information contained in the proposal is true and correct to the best of proposer's knowledge.
4. That proposer did not, in any way, collude, conspire or agree, directly or indirectly, with any person, firm, corporation or other proposer in regard to the amount, terms, or conditions of this proposal.

5. That proposer did not receive unauthorized information from any Agency staff member or consultant during the proposal period except as provided for in the request for proposals package, addenda thereto, or the pre-proposal conference, if any.
6. That by submission of this proposal, the proposer acknowledges that the Agency has the right to make any inquiry it deems appropriate to substantiate or supplement information supplied by proposer, and the proposer hereby grants the Agency permission to make said inquiries, and to provide any and all requested documentation in a timely manner.

Section 3 - PROPOSAL AMOUNT

The total price for all goods, labor, materials, services, equipment, transport, taxes (including, without limitation, sales and similar taxes), insurance, profit and any other costs or expenses necessary to complete the Project within the time stated in Section 6:

(\$ _____) _____ AND NO/100 DOLLARS

The above total price includes all addenda and interpretations issued by the Agency.

The following prices shall determine the cost or credit resulting from inclusion in the Project of the below-listed alternate items and shall include all goods, labor, materials, services, equipment, transport, taxes (including, without limitation, sales and similar taxes), insurance, profit and any other costs or expenses necessary thereto. The proposer is required to clearly define "ADD" or "DEDUCT" for each alternate item.

Alternate No. 1 – Provide alternative fabric described in Specifications Section 12 6200, Paragraph 2.3F.

_____ DOLLARS
(\$ _____) ADD or DEDUCT (circle one)

Alternate No. 2 – Provide non-contoured seat foam as described in Specifications Section 12 6200, Paragraph 2.4B.

_____ DOLLARS
(\$ _____) ADD or DEDUCT (circle one)

Section 4 – PAYMENT SCHEDULE

Agency will pay one-hundred percent (100%) of the agreed price following Agency acceptance of the completed Project at the Project Site, upon receipt of an invoice.

Section 5 – SELECTION OF SUPPLIER

The proposer who will be selected will be the proposer whose proposal, in the Agency's sole discretion, is deemed to most closely satisfy the needs of the Agency and to be most advantageous to the Agency.

The selection, if made, is expected to be made on or before July 6, 2009.

It is understood that, following the time fixed for the receipt of proposals, the proposer's proposal may not be withdrawn or modified for the period of ninety (90) calendar days following the date fixed for the receipt of proposals.

In the event that the proposer's proposal is selected (which selection may only occur through either action of Agency's Executive Director or Board of Directors), proposer agrees to enter into an agreement with the Agency in substantial conformity with the selected proposal and the form of the Agency's Standard Terms and Conditions. Should the selected supplier fail to enter into the agreement with Agency as required or to provide satisfactory evidence of compliance with the insurance requirements on or before the date which is eight (8) calendar days after the selected supplier has received the proposed form of agreement from the Agency, the proposer acknowledges that the Agency may withdraw the selection. In such event, the amount of the proposal security may be declared forfeited to the Agency and all bonds so forfeited may be prosecuted.

Section 6 - TIME OF COMPLETION

The selected supplier shall initiate the Project on a date to be specified in a written notice from the Agency to proceed ("Notice to Proceed"). It is anticipated that the Notice to Proceed will be issued on or before July 20, 2009.

The selected supplier shall thereafter diligently prosecute the Project to completion (including, without limitation, delivery and testing of all goods) within a period of ninety (90) calendar days after the date of issuance of the Notice to Proceed

The agreement shall provide that liquidated damages of \$100 per day shall be assessed for failure to meet said completion date.

Executed by the proposer on this ____ day of _____, 2009.

By _____

By _____

[signature of person(s)
with legal authority to
sign contracts for proposer
and title(s) of such persons].

SECTION 00300

PROPOSER'S BOND FORM

KNOW ALL PERSONS BY THESE PRESENTS:

That we, _____
as PRINCIPAL, and _____
a corporation duly organized under the laws of the State of _____
and duly licensed to become sole surety on bonds required or
authorized by the State of California, as SURETY, are held and firmly bound unto the
Redevelopment Agency of the City of San Jose (hereinafter called the "Agency"), in the
penal sum of TEN PERCENT (10%) OF THE TOTAL AMOUNT OF THE PROPOSAL
PRICE of the Principal above named, submitted by the Principal to the Agency, for the
project described below; for the payment of which sum in lawful money of the United
States, well and truly to be made, we bind ourselves, our heirs, executors,
administrators and successors, jointly and severally, firmly by these presents. In no
case shall the liability of the Surety hereunder exceed the sum of
_____ Dollars (\$ _____).

THE CONDITION OF THIS OBLIGATION IS SUCH,

That whereas the Principal has submitted the above mentioned proposal to the
Redevelopment Agency of the City of San Jose, for the supply of certain portable
seating equipment, for which proposals are to be opened at the Redevelopment Agency
of the City of San Jose, located at 200 East Santa Clara Street, 14th Floor Tower, San
Jose California, on June 29, 2009, for the following project:

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NOW, THEREFORE, if the aforesaid Principal is selected as the supplier of the
goods and, within the time and manner required under the specifications, after the
prescribed forms are presented to him for signature, enters into a written contract, in the
prescribed forms, in accordance with the proposal, and files a Performance Bond and
the required insurance documents with the Agency, all as required by the specifications
and the contract or by law, then the obligation shall be null and void; otherwise it shall
be and remain in full force and effect.

The Surety, for value received, hereby stipulates and agrees that the obligation
of said Surety and its bond shall be in no way impaired or affected by any extension of
the time within which the Agency may accept such proposal; and said surety does
hereby waive notice of any such extension.

In the event suit is brought upon this bond by the Agency and judgment is recovered, the Surety shall pay all costs incurred by the Agency in such suit, including reasonable attorney's fees to be fixed by the court.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this _____ day of _____, 200__.

PRINCIPAL

SURETY

Legal Company Name

Legal Company Name

By: _____
Signature

By: _____
Signature

Print Name

Print Name

Title

Title

By: _____
Signature

Address: _____

Print Name

Title

(Affix Corporate Seals)

(Attach Acknowledgments of both Principal and Surety signatures.)

SECTION 00350

RESERVED

SECTION 00400

STANDARD TERMS AND CONDITIONS

SECTION 1. SCOPE; COMPENSATION.

A. SUPPLIER agrees to supply _____ ("Goods") for the _____ ("Site") as described in detail in EXHIBIT A, entitled "SPECIFICATIONS", which is attached. SUPPLIER shall coordinate all procurement and delivery of the Goods with AGENCY and AGENCY's other contractors and suppliers.

B. For SUPPLIER's satisfactory performance of the procurement and delivery of the Goods, as described in the SPECIFICATIONS, AGENCY agrees to compensate SUPPLIER in an amount of _____ DOLLARS (\$_____).

SECTION 2. SCHEDULE OF PERFORMANCE.

The performance of SUPPLIER shall be completed according to the schedule set out in EXHIBIT B, entitled "SCHEDULE OF PERFORMANCE", which is attached. Time is of the essence in this AGREEMENT.

SECTION 3. FORCE MAJEURE; DELAY DAMAGES.

For purposes of this AGREEMENT the term "Force Majeure" shall mean earthquake, fire or other casualty, flood, landslide, epidemic, unforeseeable adverse weather, "acts of God," war, civil disturbance, court ordered injunction, intervention by civil or military authorities or government, strikes, lockouts, boycotts or other labor disputes, to the extent any of the foregoing are beyond the reasonable control of either AGENCY or SUPPLIER and which cause such party to be delayed or hindered in or prevented from the performance of any covenant or obligation under this AGREEMENT other than the payment of money.

If either AGENCY or SUPPLIER is delayed or prevented from the performance of any act required by this AGREEMENT by reason of acts of Force Majeure, or by reason of the act or omission of the other party, its employee, agent or representative (other than by reason of the proper exercise of their respective rights, duties and obligations under this AGREEMENT), performance of such act shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

AGENCY and SUPPLIER recognize that AGENCY will suffer financial loss if SUPPLIER the work is not completed according to the schedule set out in the SCHEDULE OF PERFORMANCE. AGENCY and SUPPLIER further recognize the delays, expense and difficulty involved in proving AGENCY's actual losses in a legal

proceeding. Accordingly, and instead of requiring such proof of loss or damage, AGENCY and SUPPLIER agree that for each calendar day's delay beyond the schedule set out in the SCHEDULE OF PERFORMANCE (which delays are not excused pursuant to the paragraph immediately above), SUPPLIER shall pay to AGENCY the sum of One Hundred and No/100 Dollars (\$100.00) as liquidated damages.

SECTION 4. WARRANTY.

SUPPLIER warrants that the Goods shall be delivered free and clear of all liens, claims, security interests or encumbrances, and that neither purchase, use or resale of the Goods nor delivery thereof shall violate any rights under patent or copyright, if applicable. SUPPLIER warrants that the Goods shall conform to applicable specifications, drawings, and descriptions. SUPPLIER's warranties shall run to the AGENCY and shall not be deemed exclusive. AGENCY's inspection, approval, acceptance, use of or payment for all or any part of the Goods shall in no way affect the warranty rights whether or not a breach of warranty had become or should have become evident at the time.

All warranties of third party manufacturers of the Goods shall run to the AGENCY or its assignee, and shall be delivered by the SUPPLIER to the AGENCY as a further condition to the AGENCY's final payment obligations under this AGREEMENT. All warranties shall be in form and content acceptable to the AGENCY.

SECTION 5. CHANGES.

AGENCY shall have the right by written notice to change the extent of work covered by this AGREEMENT ("Notice of Change") including without limitation the time or place of delivery, the method of shipment or packaging, or to suspend work. Upon receipt of any such notice, SUPPLIER shall promptly make the changes in accordance with the terms of the Notice of Change; provided, however, that if SUPPLIER believes that such changes will cause an increase or decrease in the cost of performance or in the time required for performance other than as may be indicated by AGENCY, SUPPLIER shall, within ten (10) calendar days of its receipt of the Notice of Change, deliver to AGENCY in writing, its proposed price adjustment, with supporting cost figures, or necessary schedule change, which proposed price adjustment or schedule change shall be subject to the approval of AGENCY. In the event that AGENCY does not approve SUPPLIER's proposed price adjustment or schedule change, and AGENCY and SUPPLIER are not able to thereafter promptly negotiate an equitable adjustment, AGENCY may withdraw or modify its Notice of Change. Except as provided in this Section, the SUPPLIER shall have no claim for any compensation due to changes in the project.

SECTION 6. PAYMENT BY AGENCY.

Payments to SUPPLIER by AGENCY shall be made within thirty (30) days after receipt of SUPPLIER's itemized invoice in accordance with the payment schedule provided in EXHIBIT C, entitled "COMPENSATION", which is attached. Request for payment shall be made to:

Redevelopment Agency of the City of San Jose
Attention: Dolores Montenegro, Project Coordinator
P.O. Box 720847
San Jose, CA 95112-3679

AGENCY may condition payment upon AGENCY's receipt of an affidavit from SUPPLIER that all payrolls, bills for materials and equipment, and other indebtedness connected with the work for which the AGENCY or the property of the AGENCY or the City of San Jose ("City") might in any way be responsible, have been paid or otherwise satisfied, and/or receipt of other evidence of payment reasonably satisfactory to AGENCY.

SECTION 7 INDEPENDENT CONTRACTOR.

It is understood and agreed that SUPPLIER, in the performance of the obligations agreed to be performed by SUPPLIER, shall act as and be an independent contractor and not an agent or employee of AGENCY.

SECTION 8. ASSIGNABILITY.

A. The parties agree that the expertise and experience of SUPPLIER are material considerations for this AGREEMENT. SUPPLIER shall not assign or transfer any interest in this AGREEMENT nor the performance of any of SUPPLIER's obligations hereunder, without the prior written consent of AGENCY, and any attempt by SUPPLIER to so assign this AGREEMENT or any rights, duties or obligations arising hereunder shall be void and of no effect.

B. Notwithstanding Section 8.A., SUPPLIER may use **[the following designated]** subcontractors in performing the work under this AGREEMENT[:

(list subcontractors)] [based upon prior written approval by AGENCY's Project Coordinator.]

SUPPLIER shall be responsible for directing the work of any permitted subcontractors and for any compensation due to such subcontractors. AGENCY assumes no responsibility whatsoever concerning such compensation.

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SUPPLIER shall change or add subcontractors only with the prior written approval of the AGENCY's Project Coordinator.

C. AGENCY shall have the right to assign or transfer from time to time any and all rights acquired pursuant to this AGREEMENT to the City, or others, if the AGENCY so desires.

SECTION 9. INDEMNIFICATION.

SUPPLIER shall defend, indemnify and hold harmless AGENCY, the City, their officers, employees and agents against any claim, loss or liability arising out of or resulting in any way from: 1) work performed under this AGREEMENT due to the willful or negligent acts (active or passive) or omissions by SUPPLIER or its subcontractors, or anyone directly or indirectly employed by them or for whose acts they may be liable, or 2) breach by the SUPPLIER of any of its obligations under this AGREEMENT. The acceptance of said services and duties by AGENCY shall not operate as a waiver of such right of indemnification. All of SUPPLIER's obligations under this Section are intended to apply to the fullest extent permitted by law and shall survive the expiration or sooner termination of this AGREEMENT.

SECTION 10. INSURANCE REQUIREMENTS.

SUPPLIER agrees to have and maintain the policies set forth in EXHIBIT D, entitled "INSURANCE REQUIREMENTS", which is attached. All policies, endorsements, certificates and/or binders shall be subject to approval by the Director of Human Resources or the Director's authorized designee ("Risk Manager") as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the Risk Manager.

SECTION 11. NONDISCRIMINATION.

SUPPLIER shall not discriminate, in any way, against or grant preferential treatment to any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of this AGREEMENT.

SECTION 12. TERMINATION.

A. AGENCY shall have the right to terminate this AGREEMENT, without cause, by giving not less than seven (7) days written notice of termination.

B. Subject to reasonable opportunity to cure (not to exceed fifteen days), if SUPPLIER fails to perform any of its material obligations under this AGREEMENT, in

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STANDARD TERMS AND CONDITIONS

addition to all other remedies provided by law, AGENCY may terminate this AGREEMENT immediately upon written notice,.

C. AGENCY's Executive Director is empowered to terminate this AGREEMENT on behalf of AGENCY.

D. In the event of termination, SUPPLIER shall deliver to AGENCY copies of all reports and documents, and all other work prepared by SUPPLIER under this AGREEMENT. In the event of AGENCY's termination without cause, upon receipt of all such reports and documents, and all other work prepared by SUPPLIER and the undertaking of such other actions as the AGENCY may reasonably direct in relation to such termination, AGENCY shall pay to SUPPLIER the reasonable cost to SUPPLIER for goods, materials, labor, services and equipment provided or performed by SUPPLIER to the date of termination, plus a reasonable allowance for foreseeable profit on such to-date cost not to exceed four percent (4%) thereof.

SECTION 13. GOVERNING LAW.

AGENCY and SUPPLIER agree that the law governing this AGREEMENT shall be that of the State of California.

SECTION 14. COMPLIANCE WITH LAWS.

SUPPLIER shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments.

SECTION 15. OWNERSHIP OF GOODS AND RISK OF LOSS; OWNERSHIP OF MATERIALS AND OTHER WORK PRODUCT.

The Goods shall become the property of AGENCY upon AGENCY's final acceptance of the Goods, regardless of payment for the Goods. SUPPLIER agrees that until the Goods are formally accepted by the AGENCY at the Site, any damage to, theft or vandalism to, or acts of God or nature affecting the Goods, are the responsibility of SUPPLIER, including, but not limited to, any loss occurring during the storage, transportation or delivery of the Goods.

All reports, documents, electronic equivalents or other materials developed or discovered by, as well as any work product prepared by, SUPPLIER or any other person engaged directly or indirectly by SUPPLIER to perform the services required hereunder, and any rights associated therewith (including, without limitation, copyright, if applicable), shall be and remain the property of AGENCY without restriction or limitation upon their use. All drawings, plans, specifications and copies thereof furnished by the AGENCY or AGENCY's architect and/or engineer are and shall remain the property of the AGENCY, and are to be used only with respect to the present project and are not to be used on any other project.

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SECTION 16. WAIVER.

SUPPLIER agrees that waiver by AGENCY of any breach or violation of any term or condition of this AGREEMENT shall not be deemed to be a waiver of any other term or condition of this AGREEMENT. The acceptance by AGENCY of the performance of any work or services by SUPPLIER shall not be deemed to be a waiver of any term or condition of this AGREEMENT.

SECTION 17. GIFTS.

A. SUPPLIER is familiar with AGENCY's prohibition against the acceptance of any gift by an AGENCY officer or designated employee, which prohibition is found in the San Jose Municipal Code.

B. SUPPLIER agrees not to offer any AGENCY officer or designated employee any gift prohibited by said Code.

C. The offer or giving of any prohibited gift shall constitute a material breach of this AGREEMENT by SUPPLIER. In addition to any other remedies AGENCY may have in law or equity, AGENCY may terminate this AGREEMENT for such breach as provided in SECTION 12 of this AGREEMENT.

SECTION 18. SPECIAL PROVISIONS.

Special provisions, if any, to this AGREEMENT are specified in EXHIBIT E, entitled, "SPECIAL PROVISIONS", which is attached.

SECTION 19. NOTICES.

Other than requests for payment pursuant to Section 6 of this AGREEMENT, all notices and other communications required or permitted to be given under this AGREEMENT shall be in writing and may be delivered by hand, by facsimile transmission with verification of receipt, or by United States mail, postage prepaid and return receipt requested, addressed to the respective parties as follows:

To AGENCY: Redevelopment Agency of the City of San Jose
 Dolores Montenegro, Project Coordinator
 200 East Santa Clara Street, 14th Floor Tower
 San Jose, CA 95113

To SUPPLIER: _____

CIVIC AUDITORIUM PORTABLE AUDIENCE SEATING PROJECT:

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or to such other address as any party may designate by notice in accordance with this Section.

A copy of any notice of a legal nature, including, but not limited to, any claims against AGENCY, its officers or employees shall also be served in the manner specified above to the following address:

Redevelopment Agency of the City of San Jose
Richard Doyle, General Counsel
200 East Santa Clara Street, 16th Floor Tower
San Jose, CA 95113

Notice shall be deemed effective on the date of personal delivery by hand or the date of receipt of facsimile transmission (with verification of receipt) or, if mailed, three (3) days after deposit in the mail.

SECTION 20. VENUE.

In the event that suit shall be brought by either party hereunder, the parties agree that trial of such action shall be exclusively vested in a state court in the County of Santa Clara or, or if federal jurisdiction is appropriate, in the United States District Court for the Northern District of California, San Jose, California.

SECTION 21. PRIOR AGREEMENTS AND AMENDMENTS.

This AGREEMENT, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This AGREEMENT may only be modified by a written amendment duly executed by the parties to this AGREEMENT.

SECTION 22. SEVERABILITY.

If any term, covenant, condition or provision of this AGREEMENT, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this AGREEMENT, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

SECTION 23. PENALTY FOR COLLUSION.

If, at any time, it is determined by the AGENCY that the SUPPLIER has, in presenting any proposal or proposals, colluded with any other party or parties, then the CIVIC AUDITORIUM PORTABLE AUDIENCE SEATING PROJECT:

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AGREEMENT shall be null and void, and the SUPPLIER and his sureties shall be liable for loss or damage which the AGENCY may suffer thereby.

SECTION 24. REPRESENTATION OF AUTHORITY.

The person executing this AGREEMENT on behalf of SUPPLIER does hereby represent and warrant that SUPPLIER is and shall remain during the term of this AGREEMENT qualified to do business in the State of California, that SUPPLIER has full right, power and authority to enter into this AGREEMENT and to carry out all actions contemplated by this AGREEMENT, that the execution and delivery of this AGREEMENT were duly authorized by proper action of SUPPLIER and no consent, authorization or approval of any person is necessary in connection with such execution, delivery and performance of this AGREEMENT except as have been obtained and are in full force and effect, and that this AGREEMENT constitutes the valid, binding and enforceable obligation of SUPPLIER. Upon AGENCY's request, SUPPLIER shall provide AGENCY with evidence reasonably satisfactory to AGENCY confirming the foregoing representations and warranties.

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EXHIBIT A

SPECIFICATIONS

(Note – to incorporate Project Specifications)

EXHIBIT B

SCHEDULE OF PERFORMANCE

EXHIBIT C

COMPENSATION

- A. The total compensation be paid to SUPPLIER under this AGREEMENT for all goods, materials, labor, services, equipment, transport, taxes (including, without limitation, sales and similar taxes), insurance, profit and any other costs or expenses necessary to complete the project shall be _____ AND NO/100 DOLLARS (\$_____).
- B. SUPPLIER will be paid one-hundred percent (100%) of the total compensation in a single lump sum payment following AGENCY acceptance of the completed project, such payment to be made following receipt of an invoice.
- C. There shall be no separate payment by AGENCY for subcontractors, reimbursable expenses, costs of supplies or materials.
- D. Where applicable, AGENCY may elect to self-accrue taxes for direct payment to taxing agencies, in which event such self-accrued amounts shall be withheld from the total compensation set forth in Paragraph A, above.

EXHIBIT D

INSURANCE REQUIREMENTS

SUPPLIER shall procure and maintain for the duration of the AGREEMENT at its sole cost and expense, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the work hereunder by, or on behalf of, the SUPPLIER.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001; and
2. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired autos; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance.

There shall be no endorsement reducing the scope of coverage required above unless approved by the City's Risk Manager.

B. Minimum Limits of Insurance

SUPPLIER shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by, the AGENCY. At the option of the AGENCY, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the AGENCY, the City, their officials, employees, agents and contractors; or the SUPPLIER shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the AGENCY.

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages.
 - a. The AGENCY, the City, their officials, employees, agents and contractors are to be covered as additional insureds as respects: liability arising out of activities performed by, or on behalf of, the SUPPLIER; products and completed operations of the SUPPLIER; premises owned, leased or used by the SUPPLIER; automobiles owned, leased, hired or borrowed by SUPPLIER. The coverage shall contain no special limitations on the scope of protection afforded to the AGENCY, the City, their officials, employees, agents and contractors; and
 - b. The SUPPLIER's insurance coverage shall be primary insurance as respects the AGENCY, the City, their officials, employees, agents and contractors. Any insurance or self-insurance maintained by the AGENCY, the City, their officials, employees, agents or contractors shall be excess of the SUPPLIER's insurance and shall not contribute with it; and
 - c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the AGENCY, the City, their officials, employees, agents, or contractors; and
 - d. Coverage shall state that the SUPPLIER's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - e. Coverage shall contain a waiver of subrogation in favor of the AGENCY, the City, their officials, employees, agents, and contractors.

2. Workers' Compensation and Employers Liability Coverages

The coverage shall contain a waiver of subrogation in favor of the AGENCY, the City, their officials, employees, agents, and contractors.

3. All Coverages

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to the AGENCY.

E. Acceptability of Insurers

Insurance is to be placed with insurers acceptable to the City's Risk Manager.

F. Verification of Coverage

SUPPLIER shall furnish the AGENCY with certificates of insurance and with original endorsements affecting coverage required by this AGREEMENT. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be mailed to the following address or any subsequent address as may be directed in writing by the City's Risk Manager:

The City of San Jose—Human Resources
Risk Management
200 East Santa Clara Street, 2nd Floor Wing
San Jose, CA 95113-1905

G. Subcontractors

SUPPLIER shall include all subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor.

EXHIBIT E

SPECIAL PROVISIONS

SECTION 00500

SPECIFICATIONS

SECTION 01100

SUMMARY

PART 1 - GENERAL

1.1 INTENTIONALLY OMITTED

1.2 WORK COVERED BY PROJECT

- A. Procurement and delivery of the portable audience seating listed in Section 12 6200 following.
- B. During the performance of the Project, all requests for interpretation of the Project requirements shall be addressed by Supplier only to, and instruction shall be taken only from, the Agency's Project Coordinator. If Supplier believes that any such interpretation or instruction will cause an increase or decrease in the cost of performance or in the time required for performance other than as may be indicated by Agency, Supplier shall follow the procedure set forth in the Agreement governing Notice of Change; provided, however, that the necessity and amount of any price adjustment or schedule change shall be determined in Agency's sole but reasonable discretion.

1.3 PERMITS AND AUTHORITIES HAVING JURISDICTION

- A. The Project Site falls under the jurisdiction of the City of San Jose.
- B. Issues affecting Project Site access and emergency service are subject to the requirements of the City of San Jose Police and Fire Departments.
- C. Supplier shall secure and pay for all permits required for the Project, and either Supplier or all persons retained by Supplier to perform work on the Project (including related preparatory work or services) shall possess all requisite licenses. All pertaining statutes, ordinances, laws, codes, and standards, and the lawful order of all public authorities having jurisdiction of such work are hereby incorporated herein.
- D. Information relating to existing conditions is given as being the best information available but without guarantee of accuracy. Proposers must verify all existing conditions at the Project Site prior to submitting their

proposals. Supplier shall promptly notify Agency's Project Coordinator in writing of any latent or unusual physical conditions at the Project Site differing from those indicated or observable. If Supplier believes that any such conditions will cause an increase or decrease in the cost of performance or in the time required for performance other than as may be indicated by Agency, Supplier shall follow the procedure set forth in the Agreement governing Notice of Change; provided, however, that the necessity and amount of any price adjustment or schedule change shall be determined in Agency's sole but reasonable discretion.

1.4 USE OF PROJECT SITE

- A. During delivery Supplier shall have full use of the immediate area required to properly complete such work; provided, however, that such activities will be scheduled to minimize disruption to the Project Site and to surrounding business and residents.
- B. Supplier shall conduct all operations, including staging and other required support functions, within secured areas. If additional support areas are required, provide such areas off-site at no additional cost to Agency.
- C. Parking is severely limited in the area of the Project Site. Supplier is responsible for providing all employees parking. If additional parking is required, Supplier shall arrange and pay for all costs associated with such parking. Haul routes are subject to regulation and limitation.
- D. Supplier shall keep the Project Site and surrounding area free from accumulation of waste material or rubbish caused by its operations. At completion of the Project, the Supplier shall remove from and about the Project Site, rubbish, the Supplier's tools, construction machinery, equipment, surplus materials and other property.

1.5 HOURS OF WORK

- A. Hours of operation for work on the Project Site shall be between the hours of 7:00 a.m. and 5:00 p.m. Monday through Friday. Work on Saturdays shall only be performed between the hours of 8:00 a.m. and 5:00 p.m. Work during other hours such as Sundays or on City's legal holidays shall not be performed, except in an emergency, unless authorized in writing by the Agency's Project Coordinator. Such authorization shall not be unreasonably withheld.

1.6 SECURITY

- A. Security of the immediate area required to properly complete the delivery work shall be the Supplier's responsibility at all times.

1.7 PROJECT SAFETY

- A. Supplier shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the delivery work.

1.8 SITE ACCESS

- A. Supplier shall conduct all operations to offer the least possible obstruction and inconvenience to public pedestrian and vehicular traffic. Supplier shall remove any spillage resulting from Supplier's operations immediately.
- B. Supplier shall secure the appropriate permits from authorities having jurisdiction for transport and disposal of material.

1.9 PROJECT SCHEDULE

- A. Agency anticipates issuing a Notice to Proceed to Supplier on or before July 20, 2009.
- B. Supplier shall diligently prosecute the Project to completion (including, without limitation, delivery and testing of all goods) within a period of ninety (90) calendar days after the date of issuance of the Notice to Proceed.

1.10 PROGRESS MEETINGS

- A. Project progress meetings will be scheduled by the Agency as needed or required to provide for the efficient implementation of the Project. Scheduled progress meetings will be attended by a representative of Supplier, Agency, Agency's consultant, and where required, by a representative of Team San Jose, and by a representative of any subcontractor. The first meeting will be a pre-commencement meeting at about the time of the Supplier selection. Supplier will keep and issue meeting notes and keep track of agenda items. The meetings will be held at a time and day yet to be agreed on, at a location in the Project Site. At each meeting Supplier will provide a verbal report of the previous week's work and a written schedule outlining the work to come in the next two weeks.

1.11 INTENTIONALLY OMITTED.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01100

SECTION 12 6200

PORTABLE AUDIENCE SEATING
(attached)

SECTION 12 6200

PORTABLE AUDIENCE SEATING

PART 1 - GENERAL

1.1 SUMMARY

A. Section Includes:

1. Provision of services as listed herein and related to the procurement and delivery of portable audience chairs.
2. Coordination with all related sections doing adjacent or integrated work and existing conditions, including loading docks, floor finishing and material handling lift.
3. Upon acceptance by the Owner's Representative, at the Project Site, seating shall be turned over to the Owner complete, cleaned, and ready for use.

1.2 ALTERNATES

A. Alternates affect the work in this Section. Reference Drawings, applicable paragraphs Sections below and Bid Forms for information.

1. Alternate 1: Provide alternative fabric as described in 12 6200.2.3F.
2. Alternate 2: Provide non-contoured seat foam as described in 12 6200.2.4B3a.

1.3 RELATED DOCUMENTS

A. Drawings and general provisions of Contract, including General and Supplementary Conditions and Division 1 Specification Sections, apply to this Section. Drawings are attached at the end of this Section.

1.4 REFERENCES

A. Comply with all national, state, and local regulations and the procedures and requirements of the local building authorities. In the event of conflict between these specifications and the applicable regulations, the more stringent shall govern.

B. Codes:

1. California Building Code (CBC)
2. National Fire Protection Association (NFPA)

C. Equipment shall be provided per the related trade and regulatory guidelines including but not limited to UL and all manufacturer's recommendations and requirements. Supplier shall be responsible in the event that work under their control voids or jeopardizes manufacturers' warranties.

1.5 DEFINITIONS

- A. Owner: The Redevelopment Agency of the City of San Jose, attention: Dolores Montenegro, Senior Project Manager.
- B. Operator: Team San Jose
- C. Owner's Representative: ELS Architects and The Shalleck Collaborative, Inc., Theatre Consultants.

1.6 SYSTEM DESCRIPTION

- A. The San Jose Civic Auditorium and support spaces are undergoing a systematic renovation. Provide portable audience seating in the Auditorium as shown on plans.
- B. The seating shall be provided with seat hinges in order to provide additional passing width in the seating rows.

1.7 CHAIR DESIGN CRITERIA

- A. The overall front-to-back envelope dimension of every chair with the seat down while unoccupied shall be no greater than 22.5" in order to comply with building code for clear passing widths for the configuration shown on Drawings.
- B. Chair assemblies shall comply with CA Technical Bulletin #117 as applicable to sprinklered buildings.
- C. Chairs shall have been tested and certified as complying with BIFMA Voluntary Upholstered Furniture Flammability Standard BIFMA X5.7-1991 or current equivalent.

1.8 SUBSTITUTIONS

- A. All requests for substitutions from the specified materials, assemblies, or related services shall be submitted for review by the Owner's Representative prior to proposal submittal. Substitution requests made after the proposal submittal shall be neither reviewed nor accepted, except in the event that the reason for the substitution is product unavailability and the product in question has become unavailable only after the proposal has been submitted, or other extraordinary circumstances as may be determined in the sole discretion of Agency. Requests shall be made in a timely fashion so as to not affect the project schedule in either case of the substitution being accepted or rejected.
- B. Documentation for the substitution shall be submitted with supporting material and shall include the related information for the item as specified so that equivalency can be demonstrated. The burden of proof rests solely upon the Supplier. The Owner's Representative shall be the sole evaluator of the fitness of the substitution.

- C. All expenses related to the substitution including, but not be limited to, all fees and expenses incurred in the evaluation of the substitution, and any effect on the costs and schedule of other trades whether or not the substitution is accepted, shall be borne by the Supplier.
- D. If Supplier believes that any such substitution will cause an increase or decrease in the cost of performance or in the time required for performance other than as may be indicated by Agency, Supplier shall follow the procedure set forth in the agreement governing Notice of Change; provided, however, that the necessity and amount of any price adjustment or schedule change shall be determined in Agency's sole but reasonable discretion.

1.9 SUBMITTALS

- A. Submittals shall be made in a timely fashion so as to not affect the project schedule, and shall allow for adequate time for review and resubmittal, but not later than 30 days from the execution of the agreement, or as required for coordination.
- B. Submittals shall be reviewed and field dimensions verified prior to commencing acquisition for, and fabrication of the work in this section. All services and parts of the work in this section shall be verified by through the submittal process.
- C. Product Data:
 - 1. Submit data sheets for standard component parts, which shall include all information necessary to verify compliance with this Section.
- D. Samples:
 - 1. Submit samples of the following:
 - a. Metal and plastic finish selection card.
 - b. Fabric selection cards.
- E. Mock-up:
 - 1. Upon review and approval of the product data and selection of finishes, provide one complete and operating chair mock-up of each type of chair and finish set to be provided. Mock up shall demonstrate all features and finishes as selected.
 - 2. Mock-up shall be reviewed and approved prior to commencing acquisition for, and fabrication of the work in this section, and shall be retained as a model for comparison to the final product.
 - 3. All costs for shipping of the mock-up to the Owner Representative's office and, following review, to the job site shall be borne by the Supplier. Following approval of the finished product, the mock-up shall be turned over to the Owner, as part of the attic stock.
- F. Certification of Flame Proofing or Flame Resistance: Submit certification, recommendations, and instructions for laundering of specific fabrics and maintenance of final products.

G. Record Documents:

1. At time of final acceptance, submit regulatory listings and certifications as required by prevailing building codes.
2. Within 30 days, submit six (6) copies of product data, and care and maintenance instructions and warranty documents.

1.10 WARRANTY

- A. Manufacture's warranty shall provide coverage for the metal frame of material defects, and assembly workmanship for a period of twenty-five years following the date of acceptance by the Owner.
- B. Items under warranty shall be serviced to the satisfaction of the Owner within 14 days of notification to the Supplier.

1.11 QUALITY ASSURANCE

- A. Equipment in this Section shall be provided by specialty suppliers and manufacturers meeting the qualifications listed herein.
- B. Specialty manufacturers responsible for engineering and manufacturing shall have been continuously engaged in the engineering and manufacturing similar to that specified herein for a minimum of ten years, and have successfully completed the delivery of at least 10,000 fixed theatre chairs. The Owner's Representative shall be the final judge of the suitability of experience.
- C. All equipment shall be UL listed and bear the appropriate labels.

1.12 DELIVERY, STORAGE AND HANDLING

- A. Materials shall be packed for shipment by personnel qualified in seating installations and shipping. Packing shall prevent damage to the chairs during transit. Costs to repair or replace all chairs damaged during the course of the contract services shall be borne by the Supplier.
- B. Do not deliver materials in this Section until building is ready to receive the portable seats. Supplier is responsible to properly sequence the work and to protect from damage during delivery, handling, and storage,
- C. Supplier is responsible to coordinate and provide secure and protected storage as required for the execution of the Project.

1.13 MAINTENANCE

- A. Provide user-serviceable spare parts from the same production run as the delivered chairs:
 1. If user-serviceable, provide spare seat and back covers in a quantity equal to 5% of chairs provided, prorated to sizes of chairs used.

- B. Attic stock shall be packaged in labeled long term storage packaging and turned over to the Owner.

PART 2 - PRODUCTS

2.1 SPECIALTY SUPPLIERS

- A. The following specialty manufacturers may furnish equipment for the work in this section:

Spec Seats International
Represented by The Kleinman Group
Attn: Larry Kleinman
1933 Baja Vista Way
Camarillo, CA 93010
Tel. (805) 445-9243
Fax (805) 445-9253

Clarín, a Division of Greenwich Industries
Attn: Kathleen J. Sobotta
927 North Shore Drive
Lake Bluff, IL 60044
Tel. (847) 245-8863
Fax (847) 245-8862

Or equal

2.2 MATERIALS

- A. Padding Material:

1. Seat and back padding material shall be of new, prime manufacture, polyurethane foam. Padding materials shall comply with the flammability requirements outlined in CA Technical Information Bulletin #117, Resilient Cellular Materials, Sections A & D, current edition, when tested in accordance with Federal Test Method Standard 191, Method 5903.2.

- B. Wood:

1. Plywood, exposed or concealed, shall be hardwood. All plywood shall be hot press laminated using high frequency process. Interior plays shall be Class 3 or better. Exposed exterior plies shall be Class 1. All exposed, solid northern grown maple shall be clear and selected by color.

- C. Steel:

1. All welded steel parts shall be in compliance with A.I.S.C. specifications.

2. Steel shall be the primary structural material for chair support systems, including aisle and center standards, and back component attachment. Steel structural components shall be die-formed according to modern manufacturing methods, and assembled by means of state-of-the-art MIG welding processes. All steel shall have smooth surfaces and be of sufficient gauge thickness and designed to withstand strains of normal use.
- D. Fabric:
1. Upholstery fabric shall meet Class 1 flammability requirements of the US Department of Commerce Commercial Standard 191-53 per CA Technical Bulletin #117.
- E. Metal Parts:
1. Finish for all exposed metal parts shall be powder coated with a hybrid thermosetting powder coat finish. The powder coat finish shall be applied by electrostatic means to a thickness of 2.5 mils minimum, and shall provide a durable coating having a 2H Pencil hardness. Prior to powder coating, metal parts shall be treated with a three-stage bonderization process for superior finish adhesion, and after coating shall be oven baked to cause proper flow of the epoxy powder to result in a smooth, durable finish.
 2. Custom color as selected by Owner's Representative and shall match color of metal parts on new fixed audience theatre seating.
- F. All exposed hardware shall be rust resistant.

2.3 FABRIC

- A. Quality: The finish goods are to be graded "First Quality". This precludes the use of seconds or of 1st run seconds. No flaws, piercing, or discoloration will be accepted.
- B. Width of fabric: 54"
- C. Cleanability: Water or solvent based cleaners are acceptable.
- D. Color Fastness to Light: UV light resistance to greater than 1,000 hrs.
- E. Upholstery Fabric Shall Be:
1. Manufacturer: CMI Enterprises
 2. Pattern: Illusion, manufacturer's standard color range
 3. Surface treatment: TAS-101
 4. Surface Abrasion: Exceeds 50,000 double rubs MF-MH BN 8.2 minimum when tested to Wyzenbeek/CFFA-1a Federal Standard 191A Method 5304.
 5. Weight: 25.0 oz. per lineal yard
 6. Fabric: 50 mils thick

- F. Alternate 1: Fabric Shall Be:
1. Manufacturer: CMI Enterprises
 2. Pattern: Reflections, manufacturer's standard color range
 3. Surface treatment: top coated lacquered with "Blockade"
 4. Surface Abrasion: Exceeds 100,000 double rubs MF-MH BN 8.2 minimum when tested to Wyzenbeek/CFFA-1a Fed Standard 191A Method 5304.
 5. Weight: 32.0 oz. per lineal yard
 6. Fabric: 50 mils thick
- G. Fabric to be a match with fabric provided for new fixed audience theatre seating

2.4 CHAIRS

- A. Frame Construction:
1. Roll-formed double tube and channel 19 gauge steel, with all perforations in channel and no perforations in tube. Full front "K" brace support; approximately 11" clearance between first cross-brace and floor. Seat height from floor approximately 19".
 2. Rear legs have two steel embossed cross-braces for extra support/strength. On each chair leg is a molded foot glide over an extra protective smooth "U" shaped metal pronged design hairpin for a secure friction fit and are removable only with the use of tools.
 3. Between the roll-formed double tubes is a standard plastic channel bumper insert in matching colors extending from the top of the ganging bracket over the top of the long leg frame (metal back) to the ganging bracket on the opposite side shaped with tapered ends for a snap in and secure fit.
- B. Seat Construction:
1. Seat frame folds independently of chair frame and rotates from the open position to the up position during use. 11 gauge steel frame with vertical leg approximately .875" wide and horizontal leg approximately .625" wide forming a rectangular frame measuring approximately 18.25" wide x 15.5" long.
 2. Provide contoured polyurethane foam seat cushion 2.5" to 3" thick. Cushion shall conform to ASTM D3574, California 117 and BIFMA fire retardant requirements. Cushion shall be over 1/2" thick laminate/wood black chalkboard base with enough vent holes to allow for air discharge.
 3. Upholstery as specified above.
 4. Alternate 2: Provide non-contoured flat slab cushion
 5. Seat frame and seat assembly will be attached directly by using vandal proof plated recessed hex head screws.
- C. Backrest Construction
1. Provide 1" thick pure polyurethane foam on .125" shaped plywood backboard with threaded metal insert/fasteners. Upholstered backrest

shall be approximately 18.5" wide x 12" high, attached with vandal-proof plated recessed hex head screws.

2. Upholstery as specified above.

D. Channel bumper shall color match with painted frame colors.

E. Weight: a single chair with two arms shall weigh no more than 31 lbs.

F. Quantity: as shown on Drawings

G. Chairs shall be model ABS700W/ArcBac folding arm chair w/perma-ganging by Spec Seats International, or equal.

2.5 PERMANENT ARM

A. In the chair open position the chair armrest can be used in the up or folded down allowing additional spacing between chairs, or in the closed position for storage space savings.

B. Frame Construction: Main support of arm shall consist of two roll-formed double tube and channel 19 gauge steel armrest support sections are riveted together, flat-side back to back. All perforations shall be in the channel with no perforations in tube. Arm frame shall match chair frame design. Two arm support extensions for top and bottom are riveted perpendicular to the armrest main support main support and chair frame. Top of arm support base plate shall be formed to support armrest assembly and underside shall be welded and riveted to both main support of arm section and to the folding arm mechanism spring support extension. The finished armrest top shall be approximately 11" long and 2 1/4" wide.

C. Armrest Cup-holder Attachment: Un-upholstered black molded rubber secure fit armrest cup-holder top 15 1/4" long with crossbar cup design and inside dimension 3 5/8" and approx. 3" depth. Recessed threaded metal insert to metal attachment secured directly to main arm frame support base plate with three vandal proof recessed hex head screws.

2.6 CHAIR GANGING

A. Gangs shall permanently attach folding arm chairs and accommodate various seating dimensions and configurations which require a single, common folding arm rest between chairs.

B. Provide the necessary chair combination and layout as shown on drawings. Three ganged sets are required:

1. One set of three chairs with each chair w/a single permanent folding right arm;
2. One set of two chairs with each chair w/a single permanent folding right arm;
3. And one chair with 2 permanent folding arms.

4. Verify during submittal process.

- C. The chair sections are ganged together with a single metal crossbar roll formed double tube and channel not less than 19 gauge steel attached to the front of each chair stretcher in two places, with a temporary metal plug attachment and a single identical metal crossbar with attachment to each chair lower rear stretcher in two places. This shall allow each section of chairs to be folded together flat with no obstructions and with a folded thickness of approximately 5".
- D. In order to combine the various chair sections for a continuous row configuration it is necessary to use a metal chair connector. The metal chair connector is a roll formed double tube and channel not less than 19 gauge steel with a welded 11 gauge metal insert for added strength and durability. These connectors fit underneath the single metal crossbar in the front stretcher and rear stretcher of each chair section with direct attachment as required in both places.

2.7 STORAGE TRUCKS

- A. Under-stage storage trucks shall be the same manufacturer as the seats to fit the exact chairs, as proposed.
- B. The under-stage truck shall accommodate approximately 75 chairs stacked in an orderly fashion with each chair nesting together in the same direction to form a straight continuous line. For additional chair alignment and spacing provide polyurethane leg support pockets for chair indexing that cover the length of the outside base ends and center channels. The pallet truck shall be constructed for standard forklift operation handling, with special forklift pockets and/or metal tabs 30 1/2" on center for safety.
- C. The under-stage trucks shall be approximately 126" (320cm) in length, 66.5" (169cm) in width and as required to accommodate the chair ganging as specified above, and 55" (140cm) in height. The center beds of the under-stage truck shall be made from channel steel 5" x 1 3/4" x 1/4". The outside beds of the truck shall be made from channel steel 3" x 1 1/2" x 1/4". The end supports of the truck shall be made from structural steel angles 3" x 3" x 1/4" and 10 1/2" x 11 gauge high carbon square tubular steel. All support braces shall be made from 1" diameter x 14 gauge high carbon round tubing. Each end support shall be equipped with polyurethane material for extra chair protection / support. All four corners of the under-stage truck shall have welded caster housings spaced properly which are 1 3/8" x 7/8" x 7 gauge and shall have 2 swivel casters on one end and 2 rigid casters on the other side. The caster wheels shall measure 6" x 2" for each caster with a load capacity of 700#.
- D. All metal parts are painted black powder coat and/or as necessary. Trucks shall be delivered fully assembled and ready for use.
- E. Quantity: as required for the storage of all chairs as shown on Drawings.

- F. Trucks shall be model no. US100W Truck Series by Spec Seats International, or equal.

PART 3 - EXECUTION

3.1 PERFORMANCE OF THE WORK

- A. The deliver and set up shall be performed under the direction of a qualified installation superintendent representing and employed by the Supplier.

3.2 SET UP

- A. Chairs shall be delivered, unpacked, and set out in the configuration as shown on Drawings, cleaned and ready for final inspection and inventory.

3.3 ADJUSTING AND CLEANING

- A. All work is to be inspected, adjusted as necessary, and cleaned.
- B. Supplier shall at its sole cost remove or cause to be removed from the jobsite all debris and packing materials and dispose of legally.

3.4 DEMONSTRATION

- A. Set up seating shall be operated for approval and inspected by the Owner's Representative. Supplier shall make necessary adjustments, as required.
- B. Final inspection shall be scheduled according to the project schedules and based on the availability of the Owner's Representative, and coordinated with the Owner's Operations staff for access and floor protection. Supplier shall provide a written declaration that the project is completed and ready for final review.
 - 1. Costs for re-inspection due to the Owner's Representative having deemed the project incomplete and/or the work having been found not in compliance with the specifications shall be borne by the Supplier. These costs include, but are not limited to hourly consulting fees including travel time, travel and other expenses related to the reinspection.

END OF SECTION 12 6200