

**Victor Valley Community College District
Board of Trustees
Resolution No. 24-14**

Authorization for Approval of Change Order No. 1

WHEREAS, the District previously awarded the Contract for the track surface material and installation of the track surface material for the Stadium/Educational Event Center Project (“the Project”) to Wall 2 Wall Commercial Floorcoverings (“Contractor”), with an original Contract Price of \$860,254.30.

WHEREAS, Change Order No.1 proposal is submitted to the District for consideration for necessary corrective work in the amount of \$231,000 for project work that is within the original scope of work of the project General Contractor, Bernards Brothers, Inc. Bernards Bros., Inc.’s subcontractor has been unable to complete the required work to meet the project specifications. Bernards Bros., Inc. has requested that the contract work now be performed by the District’s Track Surface Contractor, Wall 2 Wall Commercial Floorcoverings. Bernards Bros., Inc. has agreed to reimburse the District via deductive change order for all District costs associated with this work.

WHEREAS, the costs proposed by the Contractor to complete Change Order No. 1 Work has been reviewed and evaluated by the District’s project staff, LPA Architects and Bernards Bros., Inc. Based on such review and evaluation, District Project staff, LPA Architects and Bernards Bros., Inc. has determined that the costs are fair, reasonable and consistent with or less than anticipated market rate costs for completing Change Order No. 1 work in the amount of \$231,000.

WHEREAS, California Public Contract Code §20659 generally limits changes or alterations to a public project construction contract to ten percent (10%) of the original contract price without the need for securing bids from other contractors.

WHEREAS, California courts recognize a legal exception to the statutory bidding requirements when a public agency determines that competitive bidding would be futile, unavailing, undesirable, impractical, impossible, and would cause additional delay and additional cost. (*Meakin v. Steveland* (1977) 68 Cal.App.3d 490; *Los Angeles Dredging v. Long Beach* (1930) 210 Cal. 348).

WHEREAS, bidding Change Order No. 1 work would be futile, undesirable and impractical; Project completion will be delayed as a result of the time necessary to complete the bidding processes to secure a separate contractor for the Change Order No. 1.

WHEREAS, the Contractor is ready, willing and able to perform the Change Order No. 1 work.

WHEREAS, there would be no advantage to the District to competitively bid Change Order No. 1 work since such competitive bid work could result in multiple contractors being required to perform work less efficiently and effectively than by one contractor.

NOW, THEREFORE, the Governing Board of the District hereby finds, determines, resolve as follows:

RESOLVED, the Board does hereby find and determine that the foregoing recitals and determinations are true and correct and are hereby incorporated by this reference.

FURTHER RESOLVED, that it would cause an incongruity and not produce any advantage to the District to competitively bid the Change Order No. 1 work.

FURTHER RESOLVED, that the District approves completion of the Change Order No. 1 work without competitively bidding such work.

FURTHER RESOLVED, that the Governing Board delegates to the District's President/Superintendent or his designee, authority to execute Change Order No. 1 and take all other actions necessary to fulfill the intent of these Resolutions.

FURTHER RESOLVED, that these Resolutions shall be effective as of the date of its adoption.

APPROVED AND ADOPTED by the Board of Trustees of the Victor Valley Community College District this 11th day of June 2024 by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

Secretary/Clerk, Board of Trustees,
Victor Valley Community College District