

**Ceres Unified School District
SERVICES CONTRACT**

2022-2023

This contract is used for any non-professional routine, recurring maintenance and equipment service for less than \$15,000.

THIS CONTRACT ("Contract") is hereby entered into by the Ceres Unified School District, hereinafter referred to as DISTRICT, and

<hr/> CONTRACTOR	<hr/> STATE LICENSE CLASS & NUMBER (if req.)		
<hr/> MAILING ADDRESS	<hr/> CITY	<hr/> STATE	<hr/> ZIP
<hr/> Start Date	<hr/> June 30, 2023	<hr/> End Date	
		<hr/> Total Cost of Services	

1. **SCOPE OF WORK.** Contractor shall furnish all labor, equipment and materials necessary to accomplish the following work ("Scope of Work"):

2. **CHANGES TO SCOPE OF WORK.** There shall be no change whatsoever in the scope of work described in paragraph 1 without an executed change order.

3. **TERM.** The work contemplated in paragraph 1 shall commence and complete as directed by a purchase order issued by District.

4. **INDEPENDENT CONTRACTOR.** Contractor enters into this Contract as an independent contractor and not as an employee of District. Contractor shall have no power or authority by this Contract to bind District in any respect except as provided herein. Nothing in this Contract shall be construed to be inconsistent with this relationship or status. All employees, agents, contractors or subcontractors hired or retained by Contractor are employees, agents, contractors or subcontractors of Contractor and not of District. District shall not be obligated in any way to pay any wage claims or other claims made against Contractor by any such employees, agents, contractors or subcontractors, or any other person resulting from performance of this Contract.

5. **PAYMENT.** Contractor shall be paid at the completion of services for the actual fees, costs and expenses for all time and materials required and expended, but in no event shall total compensation exceed the amount specified in the purchase order issued by the District, without District's prior written approval. Said amount shall be paid upon submittal of a final billing. Contractor shall furnish District with invoices for all expenses as well as for all materials authorized by this Contract. The invoices shall be submitted with the final billing. If Contractor's performance is not in conformity with the terms of this Contract, payments may be delayed or denied, unless the failure is a documented result of District's actions, or if the schedule is extended pursuant to paragraph 2. If the work is halted at the request of District, compensation shall be based upon the proportion that the work performed bears to the total work required by this Contract, subject to this section.

6. **QUALIFICATIONS.** Contractor agrees and represents that it is qualified to properly provide the services set forth herein in a manner which is consistent with the generally accepted standards of Contractor's profession. The work completed herein must meet the approval of District and shall be subject to District's general right of inspection and supervision to secure the satisfactory completion thereof.

7. **GUARANTEE.** In addition to guarantees required elsewhere, Contractor shall, and hereby does, guarantee all work for a period of one year after date of acceptance of work by District and shall repair or replace any or all such work, together with any other work, which may be displaced in so doing, that may prove defective in workmanship and/or materials within a one-year period from date of acceptance without expense whatsoever to District, ordinary wear and tear, unusual abuse or neglect excepted.

8. **PROTECTION OF WORK AND PROPERTY:** Contractor shall be responsible for all damages to persons or property that occur as a result of Contractor's fault or negligence in connection with the prosecution of this Contract and shall be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance by District.

9. **INDEMNIFICATION.** Contractor shall indemnify, defend, and hold harmless the District, its officers, officials, agents, and employees and volunteers from and against any and all claims, damages, demands, liability, costs, losses, and expenses including, without limitation, court costs and reasonable attorneys' fees, arising in any manner by reason of negligent acts or negligent failure to act, errors, omissions or willful misconduct incident to the performance of this Contract on the part of Contractor except such loss or damage which was caused by the active negligence, sole negligence or willful misconduct of District. The provisions of this paragraph shall survive termination or suspension of this Contract.

10. **INSURANCE.** Contractor shall procure and maintain for the duration of the contract 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 and the results of that work by the Contractor, his agents, representatives, employees or subcontractors. District retains sole discretion in determining the types and proper levels of insurance coverages. District reserves the right to withhold any payments to Contractor in the event of noncompliance with insurance requirements.

Coverage shall be at least as broad as:

Commercial General Liability:	Automobile:	Workers' Compensation:
Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.	ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage. <input type="checkbox"/> Not Applicable	As required by the State of California, with Statutory Limits, and Employer's Liability Insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.

If the contractor maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity

Other Insurance Provisions

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

Additional Insured Status

The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

Primary Coverage

1145385.5 10745-005

For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.

Waiver of Subrogation

Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

11. NOTICE OF CLAIMS. District shall provide Contractor timely notice of any third-party claims received by District related to the Contract.

12. CONTRACTOR REGISTRATION: Pursuant to Labor Code section 1725.5. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. This project is subject to compliance monitoring and enforcement by the DIR.

13. PREVAILING WAGES. This work contemplated herein constitutes a public work within the meaning of Labor Code section 1720 and Labor Code section 1771 as it applies to the project. Contractor acknowledges that it has examined the prevailing rate of per diem wages as established by the California Director of Industrial Relations. Contractor agrees to pay workers not less than the applicable prevailing rate of per diem wages, as set forth in these requirements and in accordance with Labor Code section 1774. To the extent applicable, Contractor agrees to be bound by and comply with the provisions of Section 1777.5 et seq. of the Labor Code with respect to apprentices. Labor Code sections 1776 and 1810 to 1815, inclusive, are incorporated herein by reference.

A. Contractor shall forfeit as penalty to District the amount specified by law for each calendar day or portion thereof for each worker (whether employed by Contractor or any subcontractor) paid less than the stipulated prevailing rates for any work done under the Contract in violation of the provisions of the Labor Code and, in particular, Section 1775.

B. District will not recognize any claims for additional compensation because of the payment of prevailing wages. The possibility of wage increases is one of the elements to be considered by Contractor in determining its proposal, and will not, under any circumstances, other than delays caused by District or District's agents, be considered as the basis of a claim against District.

C. Contractor agrees that the work is subject to monitoring and enforcement of prevailing wage requirements. Contractor and each subcontractor performing any portion of the work shall comply with all payroll reporting requirements. The Director of the Department of Industrial Relations of the State

of California has determined the general prevailing rate of per diem wages in the locality in which the work is to be performed for each craft or type of worker needed to execute the Contract. Copies of the applicable prevailing wage rate determinations are made available to Contractor and subcontractor prior to commencing work. Contractor shall post a copy of this document of the prevailing wages at each job site, along with a prevailing wage work place poster printed on 8½" x 11" paper or larger, in accordance with California Code of Regulations, Title 8, Section 16451(d).

D. Contractor and subcontractors shall maintain and furnish to the Department of Industrial Relations' a certified copy of each weekly payroll (but no less often than monthly), with a statement of compliance signed under penalty of perjury. Such certified payroll reports shall be transmitted electronically to the Department of Industrial Relations after first registering at <https://apps.dir.ca.gov/eCPR/DAS/altlogin>. Contractor and all subcontractors shall make the certified payroll records available for inspection by District representatives upon request and shall permit such representatives to interview employees during the work hours on the job site.

E. As directed by the California Department of Industrial Relations Labor Commissioner, District shall withhold contract payments equal to the payments due or estimated to be due to Contractor or subcontractors whose payroll records are delinquent or inadequate, plus any additional amount that the Labor Commissioner has reasonable cause to believe may be needed to cover a back wage and penalty assessment against such Contractor or subcontractors. Contractor shall be required to withhold payments to a subcontractor whose payroll records are delinquent or inadequate until the Labor Commissioner provides notice that the subcontractor has cured such delinquency or deficiency. Contractor shall be held entirely responsible for the prompt resolution of all noncompliances with the prevailing wage laws, including those pertaining to all subcontractors and any lower tier subcontractors. The project will not be accepted as complete by District nor final payment made until all items of noncompliance are corrected or until appropriate provision is made by depository agreement to assure the ultimate resolution and payment of any back wages that may be found due.

14. DAY'S WORK. In accordance with the provisions of the Labor Code and, in particular, Sections 1810 to 1815 thereof, inclusive, incorporated herein by reference, eight hours labor shall constitute a day's work, and no worker in the employ of Contractor, or any subcontractor, doing or contracting to do any part of the work contemplated by the Contract, shall be required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of those provisions; provided that subject to Labor Code Section 1815, a worker may perform work in excess of either eight (8) hours per day or forty (40) hours during any one week upon compensation for all hours worked in excess of eight (8) hours per day or forty (40) hours during any one week at not less than one and one-half times the basic rate of pay.

15. APPRENTICES. Contractor's attention is directed to Section 1777.5 of the Labor Code. Provisions of said section pertaining to employment of registered apprentices are hereby incorporated by reference into these Specifications. As applicable, Contractor or any subcontractor employed by Contractor in the performance of the work shall take such actions as necessary to comply with the provisions of Section 1777.5.

16. TOBACCO USE. District has adopted a policy prohibiting the use of tobacco products anywhere and anytime on all District properties. Contractor will inform all employees and subcontractors of this policy and will be responsible for enforcement of the policy.

17. FINGERPRINTING. Contractor must certify that none of the employees who may come in contact with students has been convicted of a violent or serious felony. All employees of a business with which District contracts who may have contact with pupils must submit fingerprints to the Department of Justice. This requirement does not apply when District determines that the contract employee will have limited contact with pupils. Contact with pupils is considered to be "limited" if any or all of the following criteria are met: a) the contract employee will be on the school grounds for brief periods of time; b) students will not be in close proximity to the area in which the contract employee is working; and c) the contract employee will not be working alone on the school grounds.

Contractor must check one of the blanks below:

_____ I certify that I nor any of my employees are subject to California Department of Justice clearance because they will either not come in contact or come in limited contact with pupils.

_____ I certify that none of my employees who may have contact with pupils have been convicted of a felony, i.e., certain serious or violent crimes, sex, or drug offenses. A list of the names of my employees who may come in contact with pupils is attached.

18. W-9. Contractor must complete the attached IRS Form W-9 "Request for Taxpayer Identification Number and Certification."

19. CONFLICT OF INTEREST. Contractor covenants that neither it, nor any of its employees, agents, contractors, or subcontractors has any interest, nor shall they acquire any interest, direct or indirect, in the subject of the Contract, nor any other interest which would conflict in any manner or degree with the performance of its services hereunder. Contractor shall make all disclosures required by District's conflict of interest code in accordance with the category designated by District, unless District determines in writing that Contractor's duties are more limited in scope than is warranted by the category designated by District code and that a narrower disclosure category should apply. Contractor also agrees to make disclosure in compliance with District conflict of interest code if, at any time after the execution of this Contract, District determines and notifies Contractor in writing that Contractor's duties under this Contract warrant greater disclosure by Contractor than was originally contemplated. Contractor shall make disclosures in the time, place and manner set forth in the conflict of interest code and as directed by District.

20. RESOLUTION OF CONSTRUCTION CLAIMS OF \$375,000 OR LESS. For public work claims of \$375,000 or less between Contractor and District, if District has not elected to resolve disputes by arbitration pursuant to article 7.2 (commencing with section 10240) of chapter 1 of part 2 of the Public Contract Code, the provisions of article 1.5 (commencing with section 20104) of chapter 1 of part 3 of the Public Contract Code apply ("Article 1.5").

For purposes of Article 1.5, "public work" means "public works contract" as defined in Section 1101 but does not include any work or improvements contracted for by the state or the Regents of the University of California. "Claim" means a separate demand by Contractor for a time extension, or payment of money or damages for work done by or for Contractor, payment for which is not otherwise expressly provided in the contract or to which Contractor would not otherwise be entitled, or a payment disputed by District.

Each claim shall be submitted in writing before the date of final payment and shall include all necessary substantiating documentation. District shall respond in writing within forty-five (45) days of receipt of the claim if the claim is less than \$50,000 ("50,000 claim") or within sixty (60) days of receipt of the claim, if the claim is over \$50,000 but less than or equal to \$375,000 ("50,001-\$375,000 claim"). In either case, District may request in writing within thirty (30) days of receipt of the claim any additional documentation supporting the claim or relating to defenses to the claim District may have against the claimant. Any additional information shall be requested and provided upon mutual agreement of District and the claimant. District's written response to the claim shall be submitted to claimant within fifteen (15) days after receipt of the further documentation for \$50,000 claims or within thirty (30) days after receipt of the further documentation for \$50,001-\$375,000 claims or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

Within fifteen (15) days of receipt of District's response, if claimant disputes District's written response or within fifteen (15) days of District's failure to respond within the time prescribed, the claimant shall provide written notification to District demanding an informal conference to meet and confer ("conference") to be scheduled by District within thirty (30) days. If the claim or any portion of the claim remains in dispute following the conference, the claimant may file a claim as provided in chapter 1 (commencing with section 900) and chapter 2 (commencing with section 910) of part 3 of division 3.6 of title 1 of the Government Code. For purposes of those provisions, the period of time within which a claim must be filed is tolled from the time the claimant submits a written claim until the time the claim is denied, including time utilized as a result of the meet and confer process.

If a civil action is filed to resolve claims within sixty (60) days (but no earlier than thirty (30) days) following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide that both parties select a disinterested third person mediator within fifteen (15) days, shall be commenced within thirty (30) days of the submittal and concluded within fifteen (15) days from the commencement of the mediation unless time is extended upon a good case showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

If the material remains in dispute, the case shall be submitted to judicial arbitration pursuant to chapter 2.5 (commencing with Section 1141.10) of title 3 of part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act of 1986 (article 3, commencing with section 2016, of chapter 3 of title 3 or part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration. The court may, upon request by any party, order any witness to participate in the mediation or arbitration process.

Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates not to exceed their customary rate. Such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall state or county funds pay these fees or expenses. Any party who, after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment, shall pay the attorneys' fees of the other party arising out of the trial de novo in addition to payment of costs and fees required under chapter 2.5 (commencing with section 1141.10) of title 3 of part 3 of the Code of Civil Procedure. District shall not fail to pay any portion of a claim which is undisputed unless otherwise provided herein and shall pay interest at the legal rate commencing on the date the suit is filed in court on any arbitration award or judgment.

21. **COMPLY WITH ALL LAWS.** Contractor shall keep itself fully informed of, shall observe and comply with, and shall cause any and all persons, firms or corporations employed by it or under its control to observe and comply with, applicable federal, state, county, and municipal laws, ordinances, regulations, orders, and decrees which in any manner affect those engaged or employed on the work described by this Contract or the materials used or which in any way affect the conduct of the work.

Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, CA 95826.

22. **EMPLOYMENT DISCRIMINATION PROHIBITED.** Contractor shall not engage in unlawful employment discrimination. Such unlawful employment discrimination includes, but is not limited to, employment discrimination based upon a person's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship, or sexual orientation.

23. **RECORD INSPECTION.** Contractor shall maintain and make available for inspection by District and its auditors accurate records of all of its costs, disbursements and receipts with respect to any work under this Contract. Such inspection may be made during regular office hours at any time until six (6) months after the final payments under this Contract are made to Contractor.

24. **ASSIGNMENT.** Neither party shall assign or delegate any part of this Contract without the written consent of the other party.

25. **SUBCONTRACTING.** Contractor agrees to bind every subcontractor by terms of this Contract as far as such terms are applicable to subcontractor's work. If Contractor shall subcontract any part of this Contract, Contractor shall be fully responsible to District for acts and omissions of subcontractor and of persons either directly or indirectly employed. Nothing contained in these contract documents shall create any contractual relation between any subcontractor and District.

26. **TERMINATION.** This Contract may be terminated by either party notifying the other, in writing, at least ten (10) days prior to the date of termination. In the event of termination, Contractor shall be compensated as provided for in this Contract. Upon termination, District shall be entitled to all work performed to that date.

27. **NOTICES.** All notices that are required to be given by one party to the other under this Contract shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail addressed to the parties at the following addresses:

1145385.5 10745-005

DISTRICT: Ceres Unified School District
ATTN: Assistant Superintendent, Business Services
PO Box 307
2503 Lawrence Street
Ceres, CA 95307

CONTRACTOR: To the address specified on page 1.

28. ENTIRE CONTRACT. This Contract constitutes the entire agreement between the parties relative to the services specified herein and no modification hereof shall be effective unless and until such modification is evidenced by a writing signed by both parties to this Contract. There are no understandings, agreements, conditions, representations, warranties or promises, with respect to this Contract, except those contained in or referred to in the writing.

29. ATTORNEYS' FEES. In the event of any action or proceeding between the parties arising out of or relating to this Contract or the breach, interpretation, or enforcement of same, the prevailing party shall be entitled to recover from the other party reasonable expenses, attorneys' fees and costs.

30. GOVERNING LAW AND VENUE. This Contract shall be interpreted and governed by the laws of the State of California. Any action arising out of this Contract shall be brought in Stanislaus County, California, regardless of where else venue may lie.

By its signature below, Contractor, as named above, accepts all provisions of this Contract and any other attachments.

FOR DISTRICT:

FOR CONTRACTOR:

SIGNATURE
Kristi Britton
NAME
Assistant Supt., Business Services

TITLE DATE

SIGNATURE

NAME

TITLE DATE

WORKERS' COMPENSATION INSURANCE WAIVER - (To be signed only by companies that have NO EMPLOYEES)

The undersigned does hereby certify that he/she is aware of the provisions of Section 3700 et seq. of the Labor Code which require every employer to be insured against liability for Workers' Compensation claims or to take self-insurance in accordance with the provisions of said code. The undersigned hereby certifies that he/she is self-employed without any employees and as such does not need to comply with the code. The undersigned agrees that he/she shall not employ any person in any manner so as to become subject to the Workers' Compensation laws of California, and agrees that if he/she should become subject to the Workers' Compensation provisions of Section 3700, he/she shall forthwith comply with the provisions of Section 3700.

CONTRACTOR: _____ DATE: _____

Attachments:

- Exhibit A: Reserved
- Exhibit B: Employee Fingerprint List
- Exhibit C: W-9 Form

FINGERPRINTING NOTICE AND ACKNOWLEDGEMENT
FOR CONTRACTS OTHER THAN CONSTRUCTION CONTRACTS

(Education Code Section 45125.1)

Other than business entities performing construction, reconstruction, rehabilitation, or repair who have complied with Education Code section 45125.2, business entities entering into contracts with the District must comply with Education Code sections 45125.1. Such entities are responsible for ensuring full compliance with the law and should therefore review all applicable statutes and regulations. The following information is provided simply to assist such entities with compliance with the law:

1. You shall ensure that your employee(s), or you as a sole proprietor, who interact with pupils outside of the immediate supervision and control of the pupil's parent or guardian or a school employee have a valid criminal records summary and comply with Education Code section 45125.1(a). You shall do the same for any other employees as directed by the District pursuant to Education Code section 45125.1(c). When you perform a criminal background check, you shall immediately provide any subsequent arrest and conviction information it receives to the District
2. You shall not permit an employee to interact with pupils until the Department of Justice has ascertained that the employee has not been convicted of a felony as defined in Education Code section 45122.1. (Education Code §45125.1(e).)
3. You shall certify in writing to the District that neither the employer nor any of its employees who are required to submit fingerprints, and who may interact with pupils, have been convicted of a felony as defined in Education Code section 45122.1. (Education Code §45125.1(f).)
4. If you are providing the above services in an emergency or exceptional situation, you are not required to comply with Education Code section 45125.1, above. An "emergency or exceptional" situation is one in which pupil health or safety is endangered or when repairs are needed to make a facility safe and habitable. District shall determine whether an emergency or exceptional situation exists. (Education Code §45125.1(b).)
5. If you are a sole proprietorship, the District shall prepare and submit your fingerprints to the Department of Justice as described in Education Code section 45125.1(a). (Education Code §45125.1(h)(2).)

I have read the foregoing and agree to comply with the requirements of Education Code §45125.1 as applicable.

Dated: _____

Signature: _____

Name: _____

Title: _____

ATTACHMENT A

Violent and Serious Felonies

Under Education Code sections 45122.1 and 45125.1, no employee of a contractor or subcontractor who has been convicted of or has criminal proceedings pending for a violent or serious felony may come into contact with any student. A violent felony is any felony listed in subdivision (c) of Section 667.5 of the Penal Code. Those felonies are presently defined as:

- (1) Murder or voluntary manslaughter.
- (2) Mayhem.
- (3) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.
- (4) Sodomy as defined in subdivision (c) or (d) of Section 286.
- (5) Oral copulation as defined in subdivision (c) or (d) of Section 288a.
- (6) Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288.
- (7) Any felony punishable by death or imprisonment in the state prison for life.
- (8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.
- (9) Any robbery.
- (10) Arson, in violation of subdivision (a) or (b) of Section 451.
- (11) Sexual penetration as defined in subdivision (a) or (j) of Section 289.
- (12) Attempted murder.
- (13) A violation of Section 18745, 18750, or 18755.
- (14) Kidnapping.
- (15) Assault with the intent to commit a specified felony, in violation of

Section 220.

- (16) Continuous sexual abuse of a child, in violation of Section 288.5.
- (17) Carjacking, as defined in subdivision (a) of Section 215.
- (18) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.
- (19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22 of the Penal Code.
- (20) Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22 of the Penal Code.
- (21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.
- (22) Any violation of Section 12022.53.
- (23) A violation of subdivision (b) or (c) of Section 11418.

A serious felony is any felony listed in subdivision (c) Section 1192.7 of the Penal Code. Those felonies are presently defined as:

- (1) Murder or voluntary manslaughter; (2) Mayhem; (3) Rape; (4) Sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (5) Oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (6) Lewd or lascivious act on a child under the age of 14 years; (7) Any felony punishable by death or imprisonment in the state prison for life; (8) Any felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or any felony in which the defendant personally uses a firearm; (9) Attempted murder; (10) Assault with intent to commit rape, or robbery; (11) Assault with a deadly weapon or instrument on a peace officer; (12) Assault by a life prisoner on a non-inmate; (13) Assault with a deadly weapon by an inmate; (14) Arson; (15) Exploding a destructive device or any explosive with intent to injure; (16) Exploding a destructive device or any explosive causing bodily injury, great bodily injury, or mayhem; (17) Exploding a destructive device or any explosive with intent to murder; (18) Any burglary of the first degree; (19) Robbery or bank robbery; (20) Kidnapping; (21) Holding of a hostage by a person confined in a state prison; (22) Attempt to commit a felony punishable by death or imprisonment in the state prison for life; (23) Any felony in which the defendant personally used a dangerous or deadly weapon; (24) Selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug,

as described in paragraph (2) of subdivision (d) of Section 11055 of the Health and Safety Code, or any of the precursors of methamphetamines, as described in subparagraph (A) of paragraph (1) of subdivision (f) of Section 11055 or subdivision (a) of Section 11100 of the Health and Safety Code; (25) Any violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; (26) Grand theft involving a firearm; (27) carjacking; (28) any felony offense, which would also constitute a felony violation of Section 186.22; (29) assault with the intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220; (30) throwing acid or flammable substances, in violation of Section 244; (31) assault with a deadly weapon, firearm, machine gun, assault weapon, or semiautomatic firearm or assault on a peace officer or firefighter, in violation of Section 245; (32) assault with a deadly weapon against a public transit employee, custodial officer, or school employee, in violation of Sections 245.2, 245.3, or 245.5; (33) discharge of a firearm at an inhabited dwelling, vehicle, or aircraft, in violation of Section 246; (34) commission of rape or sexual penetration in concert with another person, in violation of Section 264.1; (35) continuous sexual abuse of a child, in violation of Section 288.5; (36) shooting from a vehicle, in violation of subdivision (c) or (d) of Section 26100; (37) intimidation of victims or witnesses, in violation of Section 136.1; (38) criminal threats, in violation of Section 422; (39) any attempt to commit a crime listed in this subdivision other than an assault; (40) any violation of Section 12022.53; (41) a violation of subdivision (b) or (c) of Section 11418; and (42) any conspiracy to commit an offense described in this subdivision.