



SAN DIEGO COMMUNITY COLLEGE DISTRICT

Division Index

7. CLOSE OUT

Index

Introduction

7.1 BENEFICIAL OCCUPANCY

7.2 PUNCH-LIST

7.3 SUBSTANTIAL COMPLETION

7.4 COMMISSIONING

7.5 FINAL INSPECTION

7.6 FINAL COMPLETION

7.7 FINAL APPLICATION FOR PAYMENT

7. CLOSE OUT

Introduction:

This Division provides procedure for an orderly turnover of new and remodeled facilities from the Contractor to the District. Included are provisions for Beneficial Occupancy, Punch-List Management, Substantial Completion, Final Inspection, Final Completion, Commissioning, Notice of Completion and Final Payment.

Overview:

This section is to provide a general summary of the requirements and actions necessary for closing out construction projects under Proposition S and Proposition M for the San Diego Community College District. It establishes the steps to be taken and includes the necessary procedures for substantial completion, final completion, and recommendation for acceptance of the project by the project team.

7.1 BENEFICIAL OCCUPANCY

The contract may expressly provide for the District to take possession and use of all, or any part, of the Contractor's completed or partially completed work at any time during the life of the contract. The District may use the area for any purpose it chooses, ranging from occupying a portion of a structure to turning a system over to a third party for testing or use. "Beneficial Occupancy" is the term used to describe the situation where the owner takes possession of a discrete part of the Contractor's work prior to the filing of a Certificate of Substantial Completion:

- A room, structure or area of land
- A site-wide system such as drainage, water or sewer system
- A street, road or parking area which may be utilized by the customers or others

Beneficial Occupancy is a contractually important step because it transfers responsibility from the Contractor to the District for maintenance of the area or for damage, which may occur as a result of occupancy. Should the District accept maintenance of an area prior to the completion of any contractual maintenance period (i.e. landscape maintenance), any applicable reduction in contract value (credit) would be owed to the District by the Contractor. The Contractor remains responsible for completing the remaining work and for correcting any deficiencies noted during the period of occupancy.

Beneficial Occupancy does not:

- Accept any work

- Impact the warranty duration
- Relieve the Contractor from responsibility to complete its contract
- Release retention or form the basis for any additional costs

Immediately before taking Beneficial Occupancy, the area should be carefully inspected with the Contractor to establish the status of work remaining to be completed or corrected.

Beneficial Occupancy is initiated at the request of the District and implemented by the Construction Manager (CM) with approval from Campus Project Manager (CPM). The CM will provide the Contractor a written notice prior to the date on which Beneficial Occupancy will occur.

The written notice for Beneficial Occupancy should include:

1. The area, by column or line, stationing, or building designation, which clearly defines the limits to be occupied.
2. A Punch-List of all incomplete work or deficiencies, which remain to be completed or corrected.
3. A clear statement regarding the responsibility for maintenance of the area or structure after Beneficial Occupancy takes place.
4. The date on which the District takes Beneficial Occupancy.

7.2 PUNCH-LIST

A systematic listing and tracking of all remaining Contractor work is required during the final stage of any project. The Punch-List is the industry standard for best communication between the owner and the Contractor of these last remaining work tasks.

Procedures

The following steps will be taken to prepare and manage the Punch-List. The procedure outlined below was prepared assuming one prime Contractor and a Construction Manager acting as Owners Representative and may require minor modification in the case of a multiple prime or Construction Manager At-Risk delivery method.

- At such time as the Contractor believes the project is substantially complete, the Contractor and the CM will conduct an initial inspection. At this time, the Contractor generates a preliminary Punch List. All the corrections will be made and documented.
- The CM will provide the request for a *Punch-List* inspection and the Contractors initial *Punch-List* to the Architect.
- The Architect, Architects Consultants (if apply), and DSA inspector will conduct an inspection in order to determine acceptance of work and identify items remaining to complete. The architect will review and mark-up or add items to the CM/Contractor's *Punch-List* and transmit the revised *Punch-List* to the CM.
- The CM will provide the revised *Punch-List* to the District through the Campus Project Manager (CPM). The CPM shall consult with appropriate District maintenance staff, IT staff and user groups/task force members to include their review and input. All parties shall use the CM/Contractor's *Punch-List*. Any disagreements about what is included on the *Punch-List* will be decided by the District. The CPM will transmit the revised *Punch-List* to the CM.
- The CM will transmit the final *Punch-List* to the Contractor. The Contractor shall complete all items on the *Punch-List* within 30 days, or as stated on the *Notice of Substantial Completion*.
- For DSA projects, if the CPM and the Architect determine that the items remaining are sufficiently minor, and that the District can occupy Work and use it for its intended purpose, then the Architect will prepare a *Notice of Substantial Completion* for the District's signature. For smaller, non-DSA Work, the CPM will prepare the *Notice of Substantial Completion*.
- If work is not substantially complete; the CM/Contractor shall continue construction until such time as project status justifies subsequent inspection. In the event this work is beyond the time period provided in the Project Construction Schedule, the CPM, Architects, and Architects Consultant costs incurred in such subsequent inspections will be paid by the Contractor.

7.3 SUBSTANTIAL COMPLETION

Work under a contract may be considered to be "substantially complete" at some point before the entire contract is completed. Substantial Completion of work is advantageous to both the Contractor and to the District under some circumstances. It also involves the transfer or activation of responsibilities among the parties.

The point at which work is substantially completed may not be defined in the contract and, if it is not, is a matter of judgment between the District and the Contractor. Normally, it occurs when:

- All major work under a contract is completed and only cleanup and Punch-List corrections remain.
- A discrete building, site wide utility system, or area is complete while work continues on other work under the contract.
- It is of benefit to the customer to take over and use a system or work area.
- The work under the original scope is complete and the Contractor is working only on changed or added/extra work, which may extend beyond the original contract completion date.

There is generally no specific contractual provision governing Substantial Completion, but it may be mutually advantageous to transfer work that is essentially complete from the Contractor to the District (The District, as part of taking possession of work under the Beneficial Occupancy contract provisions, may determine the work to also be substantially complete but is not required to do so).

In either case, representatives of all parties will make an inspection of the work. The CM/Contractor shall coordinate this inspection, and include the Architect, the Inspector of Record (IOR) and the CPM. A Punch-List of incomplete and defective work will be developed by the CM/Contractor. The Punch-List will include not only physical work items to be completed, but also all administrative or contractual items related to that physical work, such as completion of "as-built" drawings, obtaining code #1 approvals of all engineering submittals, or resolution of all outstanding proposals for changes to the work which is substantially completed. Firm completion dates for each item will be developed.

Substantial Completion is formalized by issuance of a Certificate signed by all parties, and accompanied by the Punch-List of work to be completed. Prior to issuance to the Contractor, the Certificate should be reviewed with the District Facilities Management and Services Department, and responsibility for maintenance of the work clearly established.

Issuance of the Certificate of Substantial Completion activates several actions by both parties, principally:

- Submittal by the Contractor (within a specified period- typically 30 days from the date of the Certificate) of a final billing for work under the contract, including a projection of all incomplete costs or fees.
- Start of maintenance by the District, if the District has elected to take over that responsibility. If not, the responsibility remains with the Contractor until Final Acceptance.

Completion of all items on the Punch-List will be tracked against the firm dates established by the Certificate of Substantial Completion. Re-inspection to record satisfactory completion of each item will be carried out by representatives of the Contractor, the District, and CM/Contractor.

In the event that the Contractor fails to satisfactorily complete any or all of the items on the Punch-List by the required dates, the District retains the right to have the work performed by others and the cost deducted from any funds due the Contractor.

Procedure for Issuing Certificate

The Contractor shall issue a letter to the CM requesting acknowledgement that substantial completion has been reached. The CM, if in agreement, shall issue a letter to the CPM along with the Contractors letter recommending that the Contractor has achieved Substantial Completion. The CPM will endorse the letter to the District Construction Manager, Facilities Management and Services Department.

Once the District has approved, the CM will issue a Letter to the Contractor transmitting the "*Certificate of Substantial Completion*".

7.4 COMMISSIONING

Building commissioning is a systematic and documented process of ensuring that the owner's operational needs are met, building systems perform efficiently, and building operators and maintenance crews are properly trained. The commissioning goals are to:

- Deliver a facility that operates as it was intended.
- Provide a facility that meets the needs of the building owner and occupants.
- Provide appropriate training for facility operators on the operation and maintenance of the building systems.

If the District hires an independent Commissioner for the project administration, the Contractor and the CM will assist the Commissioner and provide all necessary testing data in a timely manner for commissioning requirement.

In either cases (independent commissioning or not), the District's Maintenance staff must receive both appropriate orientation and instruction on new equipment and fixtures and all necessary Maintenance manuals. This section sets forth the requirements of the Contractor and appropriate sub-contractors.

Turn-Over Instruction

The CM/Contractor shall conduct a series of field meetings with District maintenance representatives and equipment/fixture manufacturers' representatives to conduct field training and orientation. The CM/Contractor shall provide a list of such equipment and fixtures, and the CPM in turn will identify appropriate District Maintenance staff to attend each session. Acceptance of working equipment is essential for full project close out, and the CPM will seek District maintenance recommendations for satisfactory completion of these tasks.

Warranties

The contract with the District generally provides that the CM/Contractor will obtain warranties from its suppliers and contractors. The CM/Contractor will endeavor to obtain warranties from contractors and vendors that match the extent of the contractor's liability with respect to duration and with respect to coverage (e.g., including incidental cost of removal, replacement, re-testing, etc.)

Construction contracts should contain a warranty provision in the General Conditions for material and workmanship. Note that the technical specifications may require a longer warranty on specific materials or equipment (roof, mech. /elect. equipment, etc.) These modified warranty requirements should be shown in the Special Conditions.

After Final Acceptance of the contractor's work, a letter should be issued confirming the anticipated date of Final Acceptance of the project as a whole and, for post-construction issues; the points of contact are the CPM and the CM/Contractor. Note that post-acceptance rework will most often have a different (extended) warranty period and this too, should be documented when accepted.

Deficiencies discovered in the work subsequent to Final Acceptance and not included in the Punch-List issued to the CM/Contractor should be treated as warranty items and not as additions to the Punch-List (note that resolution of all discrepancies/ deficiencies must be documented, whether discovered during the work or after acceptance).

Any potential warranty items noted by the District or the CPM should be reported to the designated representative who was responsible for the construction contract. After verifying that the deficiency is the contractor's responsibility, the CPM will notify the contractor of the problem and direct that corrective action be taken. A letter will be sent to the contractor confirming the direction and accepted method of rework and establishing a required completion date.

Contractors and their subcontractors returning to the site for warranty work must comply with all the site safety and security rules in effect at that time.

7.5 FINAL INSPECTION

Once the Contractor has completed the Punch-List items generated at Substantial Completion, the CM/Contractor shall issue written notice to the PM and Architect that the work, including inspection list items from earlier inspections, has been completed and is ready for inspection.

1. The Architect and the CPM confirms that items required for Final Completion have been completed or received and that the contractor has attained Final Completion.
2. The CPM, District maintenance staff, District and College IT staff, architect, special consultants and contractor shall conduct a joint **re-inspection** of the work. The CPM updates the status of the Punch-List and forwards copies to the architect and CM/Contractor.
 - The CPM shall notify the CM/Contractor of all outstanding items from the inspection, which indicate incomplete and/or defective work or of obligations that have not been fulfilled but are required for Final Completion.
 - The CM/Contractor shall immediately take all measures to correct and/or remedy said deficiencies.

7.6 FINAL COMPLETION

Final completion establishes the steps to be taken to recommend project completion and acceptance. It involves a contract Final Completion Report that documents all elements of the project closeout and a recommendation to the District to accept the work as complete.

The Contractor is primarily responsible for compiling and completing the report and making the acceptance recommendation.

Procedure

Upon completion of the Punch-List items by the contractor and the final inspection, the CPM will initiate the Final Completion Report.

A summary *Work Final Completion Report* will be filled out by the CM/Contractor. Attachments on file will be referenced to the report by corresponding "tab" numbers. Instructions for filling out the report are as follows:

Time

The CM/CPM will perform an analysis, including all approved time extensions and changes that reduced the float, and establish the revised legal completion date. A change order will be drafted to reflect the recommended legal completion date. The date of substantial completion will be as determined by the CM/CPM and Architect/Engineer, based on a date the project could be used for its intended purpose, and established as the actual completion and liquidated damages to be assessed (if any).

Contractor Disputes

The contractor's disputes that are unresolved shall be listed, and a copy of the Disputes Log will be completed and filed.

Disputes against the Contractor and Withholding

A list of potential disputes against the contractor shall consist of items, which have not been issued as a credit change, but may have potential validity. Withholding will consist of recommended credit changes, which have been prepared for processing with the final payment. In many cases, the contractor will not have completed Punch-List items nor provided all closeout documents and may have back charges that must be processed in unilateral withholding (credit changes). A list of the withholdings and claims will be completed and filed. A copy of the unilateral changes will be also attached.

Required Documents and Materials

- *Record Documents*: The as-built, project photo records for maintenance staff, and other record documents will be transmitted to the District. Record Documents required for DSA and CCCCOC shall be provided by the CM/Contractor and transmitted to the Architect and District. The CPM

will provide copies of all transmittals to the A/E. A list of all items required and those not received will be noted.

- *Training, Operations and Maintenance Manuals:* Provide a list of all required training and O&M manuals to the CPM. The documentation such as minutes of meetings and transmittals shall be included.
- *Warranties and Guarantees and Maintenance Contracts:* The documentation shall contain a summary, a list of all warranties, guarantees and one or more copies of each, as determined by District and College maintenance supervisors. This section shall also include any maintenance contracts (e.g. water treatment, landscaping) started by the CM/Contractor and intended to be assigned to the District.
- *Testing and Set-up:* Provide a copy of all test reports for witnessed tests performed, for equipment, or conducted in accordance to local codes or contract document requirements and systems. The CM shall contact the testing companies for all such reports and sign offs. The DSA Inspector shall review this Section before it is transmitted to the CPM.
- *Materials, Parts and Keys:* Provide a list of all materials, special equipment, parts, and keys, including documentation of receipt and a transmittal from the District.
- *Change Orders:* Shall contain a copy of the Change Order Report, including the withholding credit changes.
- *Omissions & Defects:* A copy of the completed omissions and defects Punch-List shall be provided. All incomplete items will be cross-referenced as withholds.
- *Certification of Completion:* A copy of the contractor's Certificate of Substantial Competition and Final Completion, plus related correspondence shall be included
- *Permit:* A copy of any signed permit documents shall be included.
- *Final Payment:* Provide a copy of the recommended final payment; including all liquidated damages and release of liens.

The PM shall review the report for compliance and approval as to form, make recommendation as to the final payment and forward the documents to initiate approval and payment.

Governing Board Approval – Notice of Completion

The District Construction Manager shall prepare an Agenda Item to obtain Governing Board Approval of the Notice of Completion and Release of Retention. The Agenda Item shall include the final project cost information in the Fiscal Impact Statement of the Agenda Item.

7.7 FINAL APPLICATION FOR PAYMENT

Prior to the submittal of the final Application for Payment of Retention the following administrative actions, submittals and/or Work shall precede or coincide with the submittal of the Application for Payment.

- Completion of contract closeout requirements
- Project record documents
- Completion of Punch-List items
- Delivery of extra materials, products and or stock
- Identification of unsettled claims
- Operating and maintenance instruction manuals
- Waivers and releases
- Final Completion Report, with all warranties, guarantees and maintenance contracts

Procedures

Upon completion of all Contract requirements, the CPM shall process the final Application for Payment following the steps described above for the monthly payment request.

In addition, however the Contractor/CM is required to submit:

- *A Conditional or Unconditional Waiver and Release for Final Payment* from each Subcontractor, person or entity listed on the current Application for Payment.
- *Consent of Surety to Final Payment Form.*

If the Contractor/CM fails to submit any of the required Contract items prior to Final Completion, the District may withhold full one hundred percent of any amount in dispute. The CPM is responsible for the assessment or estimate of the value of all items in dispute including outstanding Punch-List items or other outstanding items required for Final Completion of the Contract.

Final Payment, Consent of Surety of Final Payment, and any other required documents are given to the District for processing.

In accordance with Public Contract Code, thirty-five (35) days after Notice of Completion is approved by the Governing Board and filed with the County Recorders Office, the retention shall be paid, except for one-hundred percent (100%) of any amount in dispute and/or the District otherwise has a right to withhold.