

NOTICE TO CONTRACTORS CALLING FOR BIDS
COAST COMMUNITY COLLEGE DISTRICT

NOTICE IS HEREBY GIVEN that the Coast Community College District, acting by and through its Governing Board, will receive sealed bids for the award of a contract for the following named project. Bids will be received up until, but not later than, the bid deadline listed below.

Project Name: **Site Preparation for New Steel Building at Orange Coast College**
Bid Number: **2103**

Bid Deadline: **March 27, 2017 prior to 10:00 a.m.**
Place of Bid Receipt: Coast Community College District
1370 Adams Avenue
Costa Mesa, CA 92626

Project Description: Remove 100' x 50' of existing asphalt; Over excavate for base material; Dispose of spoils; Form up foundation; Pour and finish 100' x 50' concrete slab and set anchor bolts; Strip forms and dispose of construction debris. It is anticipated that the project will commence on 4/28/17 and be completed by 5/28/17.

Each bidder shall be a licensed contractor pursuant to the Business and Professions Code §7028.15 and California Public Contract Code §3300. The District requires that the bidder possess at the time of bid and maintain throughout the duration of the contract a **B** classification(s):

DIR Registration. Each bidder submitting a proposal to complete the work, labor, material and/or services (“Work”) subject to this procurement must be a Department of Industrial Relations (DIR) registered contractor pursuant to Labor Code §1725.5. A bidder who is not DIR registered contractor when submitting a proposal for the Work is deemed “not qualified” and the proposal of such a Bidder will be rejected for non-responsiveness. Pursuant to Labor Code §1725.5, all subcontractors identified in a Bidder’s subcontractors’ list shall be DIR registered contractors as well.

Prevailing Wage Rate (“PWR”) Monitoring and Enforcement. The Work is subject to payment of the PWR. The Contractor and all Subcontractors of every tier shall pay laborers performing any portion of the Work not less than the PWR established for the labor provided. Pursuant to Labor Code §1771.4(a)(4), PWR monitoring and enforcement shall be by the Department of Industrial Relations.

Project Timeline: Time is of the essence. This project must be completed within the project timeline specified above. Failure to achieve substantial completion within the contract time will result in the assessment of Liquidated Damages.

A **MANDATORY pre-bid job-walk** will be held at 10:00 a.m.; 3/16/17; 2701 Fairview Rd, Costa Mesa, CA 92626 – Maintenance and Operations Conference Room

All bids shall be submitted on the forms furnished by the District, must be received in the Office of Purchasing at the address identified above, and will be opened and publicly read aloud immediately upon the close of bids. Incomplete, inaccurate, or untrue responses or information provided therein by a bidder shall be grounds for the District to reject such submissions for non-responsiveness.

More information regarding this project can be found at <http://www.cccd.edu/purchasing/pages/bids.aspx> or by contacting the Coast Community College District Purchasing Department at purchasing@ccd.edu.

INFORMATION FOR BIDDERS

WARNING: READ THIS DOCUMENT CAREFULLY. TAKE SPECIAL NOTE OF DOCUMENTS REFERENCED AS "PROJECT DOCUMENTS".

1. Preparation of Bid Form. Bids shall be submitted on the prescribed Bid Form, completed in full. All bid items and statements shall be properly and legibly filled out. Numbers shall be stated both in words and in figures where so indicated, and where there is a conflict in the words and the figures, the words shall control over the numbers. The signatures of all persons shall be in longhand and in ink. Prices, wording and notations must be in ink or typewritten.

2. Form and Delivery of Bids. The bid must conform and be responsive to all Project Documents and shall be made on the Bid Form provided, and the complete bid, together with any and all additional materials as required, shall be enclosed in a sealed envelope, addressed and hand delivered or mailed to the DISTRICT at: **Coast Community College District, Purchasing Dept., 1370 Adams Ave., Costa Mesa Ca. 92626** and must be received on or before the bid deadline (Public Contract Code Section 20112). The envelope shall be plainly marked in the upper left hand corner with the bidder's name, the Project designation and the date and time for the opening of bids. **It is the bidder's sole responsibility to ensure that their bid is received prior to the bid deadline.** In accordance with Government Code Section 53068, any bid received after the scheduled closing time for receipt of bids shall be returned to the bidder unopened. At the time and place set forth for the opening of bids, the sealed bids will be opened and publicly read aloud. However, if prequalification of bidders is required pursuant to Public Contract Code Section 20111.5 only those sealed bids received from prequalified bidders shall be opened and publicly read aloud. The District will place a date/time stamp machine in a conspicuous location at the place designated for submittal of Bid Proposal is stamped by the District's date/time stamp machine: Bid; Bid Proposals not so stamped as timely submitted will be rejected and returned to the Bidder unopened. The Date/time stamp is controlling and determinative as to the date and time of the Bidder's submittal of its Bid Proposal. The foregoing notwithstanding, whether or not Bid Proposals are opened exactly at the time fixed in the Call for Bids, no Bid Proposals shall be received or considered by the District after bid deadline, Bid Proposals submitted after such time are non-responsive and will be returned to the Bidder unopened.

3. Bid Security. Each bid shall be accompanied by a bid security in the form of cash, a certified or cashier's check or bid bond in the amount of not less than Ten percent (10%) of the total bid price payable to the DISTRICT and shall be given as a guarantee that the bidder, if awarded the contract, will execute the Agreement within Five (5) working days after notice of award of the contract, and will furnish, on the prescribed forms, a satisfactory Faithful Performance Bond in an amount not less than one hundred percent (100%) of the total bid price and separate Payment (labor and material) Bond in an amount not less than one hundred percent (100%) of the total bid price, furnish certificates and endorsements evidencing that the required insurance is in effect, the Workers' Compensation Certificate, Drug-Free Work Place Certification, and the Contractor's Certificate Regarding Non-Asbestos Containing Materials, if applicable, all within Five (5) working days of the notice of award of the contract or as otherwise requested in writing by the DISTRICT. It is understood and agreed that should bidder fail or refuse to return these documents as required by the DISTRICT, the bid security shall be forfeited to the DISTRICT. If the Bidder elects to furnish a bid bond as its Bid Security, the Bidder shall use the bid bond form included in the Project Documents.

4. Signature. Any signature required on Project Documents must be signed in the name of the bidder and must bear the signature of the person or persons duly authorized to sign these documents. Where indicated, if bidder is a corporation, the legal name of the corporation shall first be set forth,

together with two signatures: one from among the chairman of the board, president or vice president and one from among the secretary, chief financial officer, or treasurer. Alternatively, the signature of other authorized officers or agents may be affixed, if duly authorized by the corporation. Such documents shall include the title of such signatories below the signature and shall bear the corporate seal. Where indicated, in the event that the bidder is a joint venture or partnership, there shall be submitted with the bid certifications signed by authorized officers of each of the parties to the joint venture or partnership, naming the individual who shall sign all necessary documents for the joint venture or partnership and, should the joint venture or partnership be the successful bidder, who shall act in all matters relative to the Project for the joint venture or partnership. If bidder is an individual, his/her signature shall be placed on such documents.

5. Modifications. Changes in or additions to any of the bid documents, summary of the work bid upon, alternative proposals, or any other modifications which are not specifically called for by the DISTRICT may result in the DISTRICT'S rejection of the bid as being non-responsive. No oral, telephonic, facsimile or electronic modification of any of the bid documents will be considered.

6. Erasures, Inconsistent or Illegible Bids. The bid submitted must not contain any erasures, interlineations, or other corrections unless each such correction is authenticated by affixing the initials of the person(s) signing the bid in the margin immediately adjacent to the correction. In the event of inconsistency between words and numbers in the bid, words shall control numbers. In the event that DISTRICT determines that any bid is unintelligible, illegible or ambiguous, the DISTRICT may reject such bid as being non-responsive.

7. Examination of Site and Project Documents. At its own expense and prior to submitting its bid, each bidder shall examine all documents relating to the Project; visit the site and determine the local conditions which may in any way affect the performance of the work, including the general prevailing rates of per diem wages and other relevant cost factors; familiarize itself with all Federal, State and Local laws, ordinances, rules, regulations and codes affecting the performance of the work, including the cost of permits and licenses required for the work; make such surveys and investigations, including investigation of subsurface or latent physical conditions at the site or where work is to be performed, as it may deem necessary for performance of the work at its bid price ; determine the character, quality, and quantities of the work to be performed and the materials and equipment to be provided; and correlate its observations, investigations, and determinations with all requirements of the Project . The Project Documents show and describe the existing conditions as they are believed to have been used in the design of the work and are only provided as information for the bidder. The DISTRICT is not making any warranties regarding said information. The DISTRICT shall not be liable for any loss sustained by the successful bidder resulting from any variance between the conditions and design data given in the Project Documents and the actual conditions revealed during the bidder's pre-bid examination or during the progress of the work. **Bidder agrees that the submission of a bid shall be incontrovertible evidence that the bidder has complied with all the requirements of this provision of the Information for Bidders.**

8. Withdrawal of Bids. Any bid may be withdrawn, either personally or by written request signed by the bidder, at any time **prior** to the scheduled closing time for receipt of bids. The bid security for a bid withdrawn prior to the scheduled closing time for receipt of bids, in accordance with this paragraph, shall be returned. No bidder may withdraw any bid for a period of Sixty (60) calendar days after the date set for the opening of bids.

9. Contractor Agreement and Bonds. The Contractor Agreement which the successful bidder will be required to execute and the payment bond required in accordance with Civil Code Section 3247,

are included in the Project Documents as part of the General Conditions. The payment bond shall be in the amount not less than one hundred percent (100%) of the amount of the contract in accordance with Civil Code Section 3248. The successful bidder will also be required to furnish a separate faithful performance bond in the amount of one hundred percent (100%) of the contract and in the form included in the Project Documents, which shall remain in full force and effect through the guarantee period as specified in the General Conditions. All bond premiums shall be at bidder's cost.

10. Interpretation of Project Documents. If any bidder is in doubt as to the true meaning of any part of the Project Documents, or finds discrepancies in or omissions from the Project Documents, a written request for an interpretation or correction thereof must be submitted to the DISTRICT 10 days before bid deadline. No requests shall be considered after this time. The bidder submitting the written request shall be responsible for its prompt delivery. Any interpretation or correction of the Project Documents will be made solely at DISTRICT's discretion and only by written addendum duly issued by the DISTRICT, and a copy of such addendum will be hand delivered or mailed or faxed to each bidder known to have received a set of the Project Documents. No person is authorized to make any oral interpretation of any provision in the Project Documents, nor shall any oral interpretation of Project Documents be binding on the DISTRICT. If there are discrepancies of any kind in the Project Documents, the interpretation of the DISTRICT shall prevail. Submittal of a bid without a request for clarifications shall be incontrovertible evidence that the bidder has determined that the project documents are acceptable and sufficient for bidding and completing the work; that bidder is capable of reading, following and completing the work in accordance with the project documents; and that bidder agrees that the project can and will be completed according to the district's timelines and according to the progress schedule to be submitted by the successful bidder incorporating the district's timelines for completion of the project.

11. Bidders Interested in More Than One Bid. No person, firm or corporation shall be allowed to make, or file, or be interested in more than one bid for the same work unless alternate bids are specifically called for by the DISTRICT. A person, firm, or corporation that has submitted a sub-proposal to a bidder, or that has quoted prices of materials to a bidder, is not thereby disqualified from submitting a proposal or quoting prices to other bidders or submitting a bid on the Project.

12. Award of Contract. The DISTRICT reserves the right to reject any or all bids, or to waive any irregularities or informalities in any bids or in the bidding process. The award of the contract, if made by the DISTRICT, will be by action of the Governing Board and to the lowest responsive and responsible bidder. If two identical low bids are received from responsive and responsible bidders, the DISTRICT will determine which bid will be accepted pursuant to Public Contract Code Section 20117. In the event an award of the contract is made to a bidder, and such bidder fails or refuses to execute the Agreement and provide the required documents within Fifteen (15) working days after the notice of award of the contract to bidder, the DISTRICT may award the contract to the next lowest responsive and responsible bidder or reject all bidders. As a condition of bid, the Bidder consents to the use of the DISTRICT's Standard Contractor Agreement for the Project, without alteration or change.

13. Alternate Bids. In accordance with Public Contract Code Section 20103.8, the Governing Board of the DISTRICT intends to call for alternate bids.

a. The Governing Board intends to award the contract to the lowest responsive and responsible bidder on the base bid without consideration of any of the additive and/or deductive items.

14. Competency of Bidders. In selecting the lowest responsive and responsible bidder, consideration will be given not only to the financial standing but also to the general competency of the bidder for the performance of the Project. By submitting a bid, each bidder agrees that the DISTRICT, in

determining the successful bidder and its eligibility for the award, may consider the bidder's experience and facilities, conduct and performance under other contracts, financial condition, reputation in the industry, litigation and claims history, and other factors which could affect the bidder's performance of the Project. To this end, each bid shall be supported by a statement of the bidder's experience on the form entitled "INFORMATION REQUIRED OF BIDDER."

The DISTRICT may also consider the qualifications and experience of subcontractors and other persons and organizations (including those who are to furnish the principal items of material and equipment) proposed for those portions of the work. Operating costs, maintenance considerations, performance data and guarantees of materials and equipment may also be considered by the DISTRICT. In this regard, the DISTRICT may conduct such investigations as the DISTRICT deems necessary to assist in the evaluation of any bid and to establish the responsibility, qualifications and financial ability of the bidder, proposed subcontractors, and other persons and organizations to do the work to the DISTRICT's satisfaction within the prescribed time. The DISTRICT reserves the right to reject the bid of any bidder who does not pass any such evaluation to the satisfaction of the DISTRICT.

In addition to other requirements established herein relating to bidder qualifications, the bidder shall be a Department of Industrial Relations ("DIR") registered contractor in order to be qualified to submit a bid proposal. Proposals received from bidders that are not a DIR registered contractor at the time of bid opening will be rejected for non-responsiveness.

15. Listing Subcontractors. Each bidder shall submit, on the form furnished with the Contract Documents, a list of the proposed subcontractors on this Project as required by the Subletting and Subcontracting Fair Practices Act (Public Contract Code Section 4100, et seq.). Pursuant to Labor Code §1725.5, all subcontractors identified in the Bidder's subcontractors' list shall be DIR Registered Contractors. The foregoing notwithstanding, a proposal is not subject to rejection for non-responsiveness when the subcontractors list accompanying the proposal lists any subcontractor (s) who is/are not DIR registered contractors if the listed subcontractor(s) who are not DIR registered *become* DIR registered within twenty-four (24) hours of the opening of proposals pursuant to Labor Code § 1771.1(c)(1) or (2). If the subcontractors list accompanying the proposal lists any subcontractor(s) who is/are not DIR registered contractors and the listed subcontractor(s) who are not DIR registered do not become DIR registered prior to the opening of proposals or become DIR registered within twenty-four (24) hours of the opening of proposals pursuant to Labor Code §1771.1(c)(1) or (2), such proposal is not subject to rejection for non-responsiveness, provided that if the Bidder submitting the subcontractors list with non-DIR registered subcontractors is awarded the contract for the work, the bidder shall request consent of the DISTRICT to substitute another subcontractor for the non-DIR registered subcontractor pursuant to Labor Code §1771.1(c)(3), without adjustment of the contract price or the contract time within twenty-four (24) hours of the opening of proposals.

If alternate bids are called for and the bidder intends to use different or additional subcontractors, a separate list of DIR registered subcontractors must be submitted for each such alternate bid. If the bidder fails to specify a subcontractor for any portion of the work in excess of one half (1/2) of one percent (1%) of the bidder's total bid, the bidder agrees that he/she is fully qualified to perform that work and agrees to perform that portion of the work. Violation of this requirement (including the procurement of a subcontractor for the Project if no subcontractor is specified) can result in the DISTRICT invoking the remedies of Public Contract Code Sections 4110 and 4111.

16. Insurance and Workers' Compensation. The successful bidder shall be required to furnish certificates and endorsements evidencing that the required insurance is in effect. DISTRICT may request that such certificates and endorsements are completed on DISTRICT provided forms. In accordance with

the provisions of Section 3700 of the Labor Code, the successful bidder shall secure the payment of compensation to all employees. The successful bidder who has been awarded the contract shall sign and file with DISTRICT prior to performing the work, the Workers' Compensation Certificate included as a part of the Project Documents. Labor Code Section 1861. DISTRICT reserves the right to utilize an Owner Controlled Insurance Program for the Project, at its sole discretion.

17. Contractor's License. If, at the time and date of the bid opening, bidder is not properly licensed to perform the Project in accordance with Division 3, Chapter 9, of the Business and Professions Code and the Project Documents, such bid will be rejected as non-responsive. (Public Contract Code Section 3300) Pursuant to Business and Professions Code Section 7028.15, no payment shall be made for work or materials under the contract unless and until the Registrar of Contractors verifies to the DISTRICT that the bidder was properly licensed at the time the bid was submitted. Any bidder not so licensed is subject to penalties under the law and the contract will be considered void and DISTRICT shall have the right to bring an action against the unlicensed bidder awarded the contract for recovery of all compensation paid under the contract. (Business and Professions Code Section 7031(b)) If the license classification specified hereinafter is that of a "specialty contractor" as defined in Section 7058 of the Business and Professions Code, the specialty contractor awarded the contract for this work shall construct a majority of the work, in accordance with the provisions of Business and Professions Code Section 7059. The bidder may not use the contractor license of a third party for this bid.

18. No Unlawful Discrimination. In connection with all work performed under this Project, there shall be no unlawful discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, religious creed, sex, age, marital status, physical disability, mental disability, or medical condition. The successful bidder agrees to comply with applicable Federal and State laws including, but not limited to, the California Fair Employment and Housing Act, beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, the successful bidder agrees to require like compliance by any subcontractors employed on the Project by such bidder.

19. Hold Harmless and Indemnification. The successful bidder awarded the contract will be required to indemnify and hold harmless the DISTRICT, its Governing Board, officers, agents, and employees as set forth in the Agreement.

20. Substitutions. Should the bidder wish to request any substitution for the materials, process, service, or equipment specified, the bidder shall be required to comply with Article 30 of the General Conditions.

21. Surety Qualifications for Bonds. Bidders shall ensure all surety companies have a minimum rating of "A," as rated by the current edition of Best's Key Rating Guide, published by A.M. Best Company, Oldwick, New Jersey 08858. Only California admitted surety insurers will be acceptable for the issuance of bonds. (Code of Civil Procedure Section 995.311) DISTRICT shall verify the status of the surety by one of the following ways: (1) printing out information from the website of the California Department of Insurance confirming the surety is an admitted surety insurer and attaching it to the bond, or (2) obtaining a certificate from the county clerk for the county in which the DISTRICT is located that confirms the surety is an admitted surety insurer and attaching it to the bond. Any admitted surety insurer who cannot satisfy the minimum rating specified above, but who satisfies the following requirements set forth in Code of Civil Procedure Section 995.660 shall be accepted and approved for the issuance of bonds:

(a) There must be on file in the office of the county clerk, for the county in which the DISTRICT is located, an unrevoked appointment, power of attorney, bylaws, or other instrument, duly

certified by the proper authority and attested by the seal of the insurer authorizing the person who executed the bond to do so for and on behalf of the insurer within ten (10) calendar days of the insurer's receipt of a request to submit such document from the DISTRICT, and an original or certified copy of the document must be submitted to the DISTRICT.

(b) A certified copy of the certificate of authority of the insurer issued by the Insurance Commissioner must be submitted to the DISTRICT within ten (10) calendar days of the insurer's receipt of a request to submit such document from the DISTRICT.

(c) A certificate from the clerk of the county that the certificate of authority of the insurer has not been surrendered, revoked, cancelled, annulled, or suspended, and in the event it has, whether renewed authority has been granted must be submitted to DISTRICT within ten (10) calendar days of the insurer's receipt of a request to submit such document from the DISTRICT.

(d) Copies of the insurer's most recent annual statement and quarterly statement filed with the California Department of Insurance must be submitted to the DISTRICT within ten (10) calendar days of the insurer's receipt of a request to submit the statements.

22. Liquidated Damages. All work must be completed within the time limits set forth in the Project Documents. It is agreed that damages for the failure to complete the Project described herein within the time limits required are impossible to ascertain. Should the work not be completed within the specified time for completion, the successful bidder awarded the contract shall be liable for liquidated damages, payable to the DISTRICT, in an amount as specified in Special Conditions section for each consecutive calendar day of delay in completion. Such damages shall be deducted from any payments due or to become due to the successful bidder. Government Code Section 53069.85, Civil Code Section 1671.

23. Drug-Free Workplace Certification. Pursuant to Government Code Sections 8350, et seq., the successful bidder will be required to execute a Drug-Free Workplace Certification upon execution of the Agreement. The bidder will be required to take positive measures outlined in the certification in order to ensure the presence of a drug-free workplace. Failure to abide with the conditions set forth in the Drug-Free Workplace Act could result in penalties including termination of the Agreement or suspension of payment thereunder.

24. Non-collusion Affidavit. In accordance with the provisions of Section 7106 of the Public Contract Code, each bid must be accompanied by a non-collusion affidavit.

25. Escrow Agreement. Public Contract Code Section 22300 permits the substitution of securities for any monies withheld by a public agency to ensure performance under a contract. At the request and expense of the successful bidder awarded the contract, securities equivalent to the amount withheld as retention shall be deposited with the DISTRICT, or with a state or federally chartered bank in California as the escrow agent, who shall then pay such monies to the successful bidder. The DISTRICT retains the sole discretion to approve the bank selected by the successful bidder to serve as escrow agent. Upon satisfactory completion of the contract, the securities shall be returned to the successful bidder. Securities eligible for investment shall include those listed in Government Code Section 16430 or bank or savings and loan certificates of deposit. The successful bidder shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.

In the alternative, under Section 22300, the successful bidder may request DISTRICT to make payment of earned retentions directly to the escrow agent at the expense of the successful bidder. Also at the successful bidder's expense, the successful bidder may direct investment of the payments into securities, and the successful bidder shall receive interest earned on such investment upon the same conditions as provided for securities deposited by successful bidder. Upon satisfactory completion of the contract, successful bidder shall receive from the escrow agent all securities, interest and payments received by escrow agent from DISTRICT pursuant to the terms of Section 22300.

The successful bidder who elects to receive interest on monies withheld in retention by the DISTRICT shall, at the request of any subcontractor performing more than five percent (5%) of the successful bidder's total bid, make that option available to the subcontractor regarding any monies withheld in retention by the successful bidder from the subcontractor. If the successful bidder elects to receive interest on any monies withheld in retention by the DISTRICT, then the subcontractor shall receive the identical rate of interest received by the successful bidder on any retention monies withheld from the subcontractor by the successful bidder, less any actual pro rata costs associated with administering and calculating that interest. In the event that the interest rate is a fluctuating rate, the rate for the subcontractor shall be determined by calculating the interest rate paid during the time that retentions were withheld from the subcontractor. If the successful bidder elects to substitute securities in lieu of retention, then, by mutual consent of the successful bidder and subcontractor, the subcontractor may substitute securities in exchange for the release of monies held in retention by the successful bidder. Public Contract Code Section 22300(d)(1).

The successful bidder wishing to utilize Public Contract Code Section 22300 and enter into an Escrow Agreement shall complete and execute the form Escrow Agreement included in the Project Documents and submit it to the DISTRICT.

26. Change Orders. All change order requests must be submitted in the form set forth in the Project Documents and pursuant to Article 59 of the General Conditions. The amount of allowable charges submitted pursuant to a change order shall be limited to the charges allowed under Article 59 of the General Conditions. Indirect, consequential and incidental costs, project management costs, extended home office and field office overhead, administrative costs and profit and other charges not specifically authorized under Article 59 of the General Conditions will not be allowed.

27. Tobacco-Free Policy. The successful bidder shall agree to enforce a tobacco-free work site.

28. Lead. Pursuant to the Lead-Safe Schools Protection Act (Education Code Sections 32240, et seq.) and other applicable law, the successful bidder shall not use lead-based paint, lead plumbing and solders, or other potential sources of lead contamination in the construction of any new school facility or the modernization or renovation of any existing school facility.

29. Copies. The number of executed copies of the Agreement, the Faithful Performance Bond, and the Payment Bond required is Five (5).

30. Prevailing Wage Rate (PWR) Monitoring and Enforcement. This project is subject to compliance with the Department of Industrial Relations (DIR) certified payroll and public works labor enforcement requirements. The CONTRACTOR and all subcontractors of every tier shall pay laborers performing any portion of the work not less than the PWR established for the labor provided. Pursuant to Labor Code §1771.4(a)(4), PWR monitoring and enforcement shall be by the Department of Industrial Relations. The CONTRACTOR shall maintain and furnish to the DIR, certified payroll records (CPRs)

utilizing the DIR's electronic CPR system. More information regarding enrollment in this system can be found at:

<https://www.dir.ca.gov/Public-Works/Certified-Payroll-Reporting.html>

Such records must, no less frequent than once each month, be submitted under penalty of perjury.

31. DIR Registration Verification. A form of DIR Registration Verification (Appendix A) is included with the contract documents. Each bidder shall submit the completed DIR Registration Verification Form executed by a duly authorized officer or employee of the bidder with the bidder's proposal for the work; failure of a bidder to do so will render the proposal non-responsive and rejected. The proposal of a bidder who does not verify to all matters set for in the form of DIR Registration Verification will be rejected for non-responsiveness.

32. Contractor and Subcontractor Compliance. Strict compliance with DIR Registration requirements pursuant to Labor Code §1725.5 is a material obligation of the contractor under the contract documents. The foregoing includes without limitation, compliance with DIR registration requirements at all times during performance of Work by the contractor and all subcontractors of any tier. The failure of the contractor and all subcontractors of every tier to be DIR registered at all times during performance of the work is a contractor's default of a material obligation of the contractor under the contract documents.

33. No Subcontractor Performance of Work without Required DIR Registration. No portion of the work is permitted to be performed by a subcontractor of any tier unless the subcontractor is a DIR registered contractor.

34. Contractor Obligation to Verify Subcontractor DIR Registration Status. An affirmative and on-going obligation of the contractor under the contract documents is the contractor's verification that all subcontractors, of all tiers, are at all times during performance of the work in full and strict compliance with DIR Registration requirements. The contractor shall not permit or allow any subcontractor of any tier to perform any work without the contractor's verification that all such subcontractors are in full and strict compliance with DIR Registration requirements.

35. Certified Payroll Records. A material obligation of the contractor under the contract documents is the contractor's strict compliance with the requirements pursuant to Labor Code §§ 1771.4 and 1776 for preparation and submittal of Certified Payroll Records (CPR) and the contractor's enforcement of CPR preparation and submittal for all subcontractors of every tier.

36. Express Condition Precedent to Payment of Contract Price. Strict compliance with CPR requirements established pursuant to Labor Code §1776 is an express condition precedent to the DISTRICT's obligation to: (i) process any request for payment of any portion of the contract price; or (ii) to disburse any portion of the contract price to the contractor. The contractor shall demonstrate strict compliance with CPR preparation and submittal requirements by delivery to the DISTRICT of electronic files or hard copies of all CPRs submitted by the contractor and/or subcontractors for work pursuant to Labor Code §§ 1771.4 and 1776 concurrently with the submittal thereof to the Labor Commissioner.

The DISTRICT (i) shall not be obligated to process or disburse any portion of the contract price; or (ii) shall not be deemed in default of the DISTRICT's obligation under the contract documents unless the contractor demonstrates strict compliance with CPR preparation and submittal requirements.

37. Contractor/Subcontractor EMR / Insurance Experience. An Experience Modification Rate (EMR) is a percentage that compares the payroll and loss history of a company to similar-sized companies

within the same industry. An average EMR is considered to be 1.0 (or 100%). In California, EMR's are developed on an annual basis by the Workers Compensation Rating Insurance Bureau (WCIRB). A company can locate their EMR in their Workers Compensation Policy Rating Pages or on an EMR worksheet produced by the WCIRB. If you need assistance locating your EMR, your insurance broker can assist you with this process.

Please Note: In **no** instance shall a contractor or any listed subcontractor have an EMR in excess of 1.35 at time of bid, or in cases of non-listed subcontractors, at the time of subcontract execution, be permitted to work on the project. A bid submitted by prime contractor or any listed subcontractor with a current EMR of greater than 1.35 will be deemed non-responsive. The District requires the production of the most recent 3 years of EMR data for those Contractors or Subcontractors who do not have a current qualified EMR based upon loss experience. **PROOF OF CURRENT 'EMR' RATE IN THE FORM OF AN EXPERIENCE MODIFICATION WORKSHEET OR LETTER FROM THE WCIRB MUST BE INCLUDED WITH YOUR BID SUBMISSION.** The following links are provided to assist submitter in obtaining the required forms necessary for submission:

<http://www.wcirb.com/guide-to-workers-compensation/experience-rating/experience-rating-wksheet>
<http://www.wcirb.com/learning/learning-center-overview>
<http://www.wcirb.com/estimator>
<http://www.wcirb.com/guide-to-workers-compensation/experience-rating>
<http://www.wcirb.com/guide-to-workers-compensation/experience-rating/experience-period>

38. Request for Taxpayer Identification Number and Certification (W-9). Bidder is required to submit their latest W-9 Certification to the District. The latest version of this form can be found on the Internal Revenue Service website at <http://www.irs.gov/pub/irs-pdf/fw9.pdf>.

BID DOCUMENT CHECKLIST

Please use this self-assessment checklist to ensure that all **required** bid documents are submitted. Failure to submit all listed documents may deem your bid package non-responsive.

Form	Yes
Bid Form	
Acknowledgment of Addendum's on Bid Form	
Bid Bond	
Designation of Subcontractors Form	
Information Required of Bidder	
Experience Modification Worksheet from WCIRB: See Information for Bidders section, item #37 and item #25 of Information Required of Bidder	
Non-Collusion Affidavit	
Workers' Compensation Certificate	
Current W-9 form	
Drug Free Workplace Certification	
Certificate Regarding Non-Asbestos Containing Materials	
Contractor registration with DIR for Labor Compliance and Prevailing Wages	

STANDARD BID FORM

TO: COAST COMMUNITY COLLEGE DISTRICT, A California Community College District, acting by and through its Board of Trustees (the "District"), 1370 Adams Avenue, Costa Mesa, California 92626.

FROM: _____
(Name of Bidder)

(Street Address)

(City, State, Zip Code) (Telephone/E-mail)

(Name(s) of Bidder's Authorized Representative(s))

1. The undersigned Bidder, having become familiarized with all the following documents including but not limited to the Notice Calling for Bids, Information for Bidders, Bid Form, Bid Security, Designation of Subcontractors Form, Information Required of Bidder, all prequalification forms pursuant to Public Contract Code Section 20111.5, if any, Non-Collusion Affidavit, Workers' Compensation Certificate, Faithful Performance Bond, Payment Bond, Agreement, Escrow Agreement, Drug-Free Workplace Certification, Change Order Forms, Shop Drawing Transmittal Form, all insurance requirements, Guarantee forms, Contractor's Certificate Regarding Non-Asbestos Containing Materials, DISTRICT's Labor Compliance Program, General Conditions, Special Conditions, if any, drawings, specifications, and all modifications, addenda and amendments, if any (hereinafter Project Documents), the local conditions affecting the performance of the work and the cost of the work at the place where the work is to be done, hereby proposes and agrees to be bound by all the terms and conditions of the Project Documents and agrees to perform, within the time stipulated, the work, including all of its component parts, and everything required to be performed, and to provide and furnish and pay for any and all of the labor, materials, tools, expendable equipment, and all applicable taxes, utility and transportation services necessary to perform the work and complete in a good workmanlike manner all of the work required in accordance with laws, codes, regulations, ordinances and any other legal requirements governing the work, in connection with the following:

PROJECT NAME: Site Preparation for New Steel Building at OCC; Bid No. 2103

all in strict conformity with the Project Documents, including Addenda Nos. _____, _____, _____, and _____, on file at the office of Physical Facilities of said DISTRICT.

TOTAL BID (includes \$ 10,000 Allowance): _____
_____ DOLLARS (\$ _____)

Each individual bid term shall be determined from visiting the work site, reviewing the drawings and specifications and all portions of the Project Documents, and shall include all items necessary to complete the work, including the assumption of all obligations, duties, and responsibilities necessary to the successful completion of the Project, and the furnishing of all materials and equipment required to be incorporated in and form a permanent part of the work, and the furnishing of tools, equipment, supplies, transportation, facilities, labor, superintendence, and services required to perform and complete the work, all as per the requirements of the Project Documents, whether or not expressly listed or designated.

2. It is understood that the DISTRICT reserves the right to reject any or all bids or to waive any irregularities or informalities in any bids or in the bidding process. Bidder agrees that this bid shall remain open and not be withdrawn for the period specified in the Information for Bidders.

3. The required bid security is attached.

4. The required list(s) of proposed subcontractors is attached and are DIR Registered hereto, and the undersigned represents and warrants that such list(s) is complete and in compliance with the Subletting and Subcontracting Fair Practices Act. Public Contract Code Sections 4100, et seq.

5. It is understood and agreed that if written notice of the award of a contract is mailed, faxed, or delivered to the bidder, the bidder will execute and deliver to the DISTRICT the Agreement and will also furnish and deliver to the DISTRICT the Faithful Performance Bond and a separate Payment Bond as specified, and certificates and endorsements of insurance, the Workers' Compensation Certificate, Drug-Free Work Place Certification, the contractor's Certificate Regarding Non-Asbestos Containing Materials, within five (5) working days of the notice of award of the contract, or as otherwise requested in writing by the DISTRICT. It is understood that should bidder fail or refuse to return these documents as required by the DISTRICT, the bid security shall be forfeited to the DISTRICT. The bidder further agrees that the work shall be commenced by the bidder, if awarded the contract after receiving the DISTRICT's Notice to Proceed, and shall be completed by the bidder in the time specified by the DISTRICT.

6. Communications conveying notice of award of the contract, requests for additional information or other correspondence should be addressed to the bidder at the address stated below.

7. The name(s) of all persons interested in the bid as principals are as follows:

8. In submitting this bid, the bidder offers and agrees that if the bid is accepted, it will assign to DISTRICT all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Business & Professions Code Section 16700, et seq.) arising from purchases of goods, materials, or services by the bidder for sale to the DISTRICT pursuant to the bid. Such assignment shall be made and become effective at the time the DISTRICT tenders final payment under the contract. (Public Contract Code Section 7103.5; Government Code Section 4450, 4451 and 4552).

9. The undersigned hereby warrants that the bidder has an appropriate license, **License No.** _____, **Class** _____, **DIR Registration No.** _____ at the time of the bid opening, that such license entitles bidder to provide the work that such license will be in full force and effect throughout the duration of performance of this Project. Bidder shall be non-responsive if the Bidder is not licensed is not DIR Registered as required by the DISTRICT at the time of the bid opening. Any and all subcontractors to be employed by the undersigned shall have appropriate licenses at the time of the bid opening and shall be DIR registered.

10. The bidder hereby certifies that it is, and at all times during the performance of work hereunder shall be, in full compliance with the provisions of the Immigration Reform and Control Act of 1986 ("IRCA") in the hiring of its employees, and the bidder shall indemnify, hold harmless and defend the DISTRICT against any and all actions, proceedings, penalties or claims arising out of the bidder's failure to comply strictly with the IRCA.

11. It is understood and agreed that if requested by the DISTRICT, the bidder shall furnish a notarized financial statement, references, and other information required by the DISTRICT sufficiently comprehensive to permit an appraisal of bidder's ability to perform the Project.

12. The undersigned hereby warrants that all work shall be completed within 30 consecutive calendar days from the date specified on the Notice to Proceed issued by the District. Time is of the essence. The undersigned agrees that failure to complete the work within the time set forth herein will result in the imposition of liquidated damages for each consecutive calendar day of delay in the amount of two thousand five hundred. (Government Code Section 53069.85)

13. The required non-collusion affidavit is attached as required by Public Contract Code Section 7106. Bidder understands and agrees that failure to submit a completed and signed affidavit will render the bidder automatically non-responsive.

14. It is understood and agreed that all change order requests must be submitted in the form set forth in the Project Documents and pursuant to Article 59 of the General Conditions. The amount of allowable charges submitted pursuant to a change order shall be limited to the charges allowed under Article 59 of the General Conditions. Indirect, consequential and incidental costs, project management costs, extended home office and field office overhead, administrative costs and profit and other charges not specifically authorized under Article 59 of the General Conditions will not be allowed.

15. The Information Required of Bidder form has been fully completed and is attached hereto.

ALTERNATE BID ITEMS PROPOSAL

Bidders must provide a proposal price for each Alternate Bid Item set forth herein; failure to do so will result in rejection of the Bid Proposal for non-responsiveness.

NONE

NOTE TO ALL BIDDERS: See BID FORM, Page 1 for the established ALLOWANCE for this project. Please note the conditions for the use of the ALLOWANCE in the SPECIAL CONDITIONS.

By submission of this bid, bidder declares under penalty of perjury, under the laws of the State of California, that the information contained in this document is true, correct and complete.

The undersigned hereby declares that all of the representations of this bid are made under penalty of perjury under the laws of the State of California.

Individual Name: _____
Signed by: _____
Print Name: _____
Date: _____
Business Address: _____
Telephone: _____

Partnership Name: _____
Signed by: _____
Print Name: _____
Date: _____
Business Address: _____

Telephone: _____
Other Partner(s): _____

Corporation Name: _____

(Corporation 1)

Business Address: _____

Telephone: _____

Signed by: _____, President, Date: _____

Print Name: _____, President

Signed by: _____, Secretary, Date: _____

Print Name: _____, Secretary

[Seal]

Joint Venturer: Name: _____

Signed by: _____, Joint Venturer

Print Name: _____

Date: _____

Business Address: _____

Telephone: _____

Other Parties to *If an individual:* _____

Joint Venture: _____ (Name)

Signed by: _____

Print Name: _____

Date: _____

Doing Business as: _____

Business Address: _____

Telephone: _____

If a Partnership: _____
(Name)

Signed by: _____, Partner

Print Name: _____

Date: _____

Business Address: _____

Telephone: _____

If a Corporation: _____
(a _____ Corporation (State))

¹ A corporation awarded the contract shall furnish evidence of its corporate existence and evidence that the officer signing the Agreement and bonds is duly authorized to do so.

Signed By: _____ Date: _____

Print Name: _____

Title: _____

Date: _____

Business Address: _____

Telephone: _____

BID BOND

KNOW ALL PERSONS BY THESE PRESENT, that we, _____, as Principal, and _____, as Surety, a California admitted surety insurer, are held and firmly bound unto the COAST COMMUNITY COLLEGE DISTRICT, hereinafter called the DISTRICT, in the sum of _____, equal to, or greater than TEN PERCENT (10%) OF THE TOTAL AMOUNT OF THE BID of the Principal submitted to the said DISTRICT for the work described below for the payment of which sum in lawful money of the United States, well and truly to be made, we jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

The condition of this obligation is such that whereas the Principal has submitted the accompanying bid dated _____, for **Site Preparation for New Steel Building at OCC; Bid No. 2103.**

NOW, THEREFORE, if the Principal shall not withdraw said bid within the period specified therein after the opening of the same, or, if no period be specified, within sixty (60) days after said opening; and if the Principal is awarded the contract, and shall within the period specified therefore, or, if no period be specified, within Five (5) working days after the notice of award of the contract, or as otherwise requested in writing by the DISTRICT, enter into a written contract with the DISTRICT, in accordance with the bid as accepted and give bonds with good and sufficient surety or sureties, as may be required for the faithful performance and proper fulfillment of such contract and for the payment for labor and materials used for the performance of the contract, furnish certificates and endorsements evidencing the required insurance is in effect and furnish and deliver to the DISTRICT the Workers' Compensation Certificate, Drug-Free Work Place Certification, the Contractor's Certificate Regarding Non-Asbestos Containing Materials, if applicable, then the above obligation shall be void and of no effect, otherwise the bond amount shall be forfeited to the DISTRICT.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or the call for bids, or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation under this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of said contract or the call for bids, or to the work, or to the specifications.

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

IN WITNESS HEREOF, the parties have executed this bond under their several seals this ____ day of _____, 20____, the name and corporate seal of each corporate party being hereto affixed and duly signed by its undersigned authorized representative.

(Corporate Seal of Principal
if Corporation)

Principal (Proper Name of Bidder)

By: _____
Signature

Print Name

Title

(Corporate Seal of Surety)

Surety

(Attach Attorney-in-Fact Certificate
and Required Acknowledgements)

By: _____
Signature

Print Name

Title

Address

Telephone No.

Facsimile No.

DESIGNATION OF SUBCONTRACTORS

In compliance with the Subletting and Subcontracting Fair Practices Act (Public Contract Code Section 4100 et. seq.), DIR Registration requirements pursuant to Labor Code §1725.5 and any amendments thereof, each bidder shall set forth below: (a) the name and the location of the place of business of each subcontractor who will perform work or labor or render service to the bidder (prime contractor) in or about the construction of the work or improvement to be performed under this contract or a subcontractor licensed by the State of California who, under subcontract to the bidder (prime contractor), specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications in an amount in excess of one-half of one percent of the bidder's (prime contractor's) total bid and (b) the portion of the work which will be done by each subcontractor. The bidder (prime contractor) shall list only one subcontractor for each such portion as is defined by the bidder (prime contractor) in this bid.

If a bidder (prime contractor) fails to specify a subcontractor or if a bidder (prime contractor) specifies more than one subcontractor for the same portion of work to be performed under the contract in excess of one-half of one percent of the bidder's (prime contractor's) total bid, bidder shall be deemed to have agreed that bidder is fully qualified to perform that portion, and that bidder alone shall perform that portion. Violation of this requirement (including the procurement of a subcontractor for the Project if no subcontractor is specified) can result in the DISTRICT invoking the remedies of Public Contract Code Sections 4110 and 4111.

No bidder (prime contractor) whose bid is accepted shall (a) substitute any subcontractor, (b) permit any subcontractor to be voluntarily assigned or transferred or allow it to be performed by anyone other than the original subcontractor listed in the original bid, or (c) sublet or subcontract any portion of the work in excess of one-half of one percent of the bidder's (prime contractor's) total bid as to which the original bid did not designate a subcontractor, except as authorized in the Subletting and Subcontracting Fair Practices Act. Subletting or subcontracting of any portion of the work in excess of one-half of one percent of the bidder's (prime contractor's) total bid as to which no subcontractor was designated in the original bid shall only be permitted in cases of public emergency or necessity, only after a finding reduced to writing as a public record of the DISTRICT awarding this contract setting forth the facts constituting the emergency or necessity.

If the subcontractors list accompanying the proposal lists any subcontractor(s) who is/are not DIR registered contractors such proposal is subject to rejection for non-responsiveness. Such bid proposals may be considered provided that the bidder requests consent of the DISTRICT to substitute another subcontractor for the non-DIR registered subcontractor pursuant to Labor Code §1771.1(c)(3), without adjustment of the contract price or the contract time within twenty-four (24) hours of the opening of proposals.

Note: If alternate bids are called for and bidder intends to use a different or additional subcontractors on the alternates, a separate list of subcontractors must be provided for each such alternate. Identify additional list of subcontractors by Alternate Bid No. _____.

Bidder: _____ **Date:** _____

Bidder's Authorized Representative(s): _____

By: _____ (Signature of Bidder)

INFORMATION REQUIRED OF BIDDER

PROJECT NAME: Site Preparation for New Steel Building at OCC; Bid No. 2103

The Bidder shall furnish **all** the following information. Bidder shall carefully read and answer all questions to ensure completeness and accuracy. Failure to comply with this requirement may cause rejection of the bid. Additional sheets may be attached if necessary. "You" or "your" as used herein refers to the bidder and any of its owners, officers, directors, shareholders, principals, responsible managing officer (RMO) or responsible managing employee (RME). DISTRICT has discretion to request additional information depending on the Project.

(1) Bidder name and address (Post Office Box Number not sufficient):

(2) Telephone: _____ Fax No.: _____
Electronic Mail: _____

(3) Individual _____ Partnership _____ Corporation _____ Joint Venture _____ (check one)

(4) Bidder's License No. _____ Class: _____
License Expiration Date _____
Name of License holder _____
DIR Registration No. _____

(5) Have you (as defined above) ever been licensed under a different name or different license number?
Yes ___ No ___ If "Yes," give name and license number.

(6) Names and titles of all your owners, officers, principals, responsible managing officers and responsible managing employees:

Name	Title
_____	_____
_____	_____
_____	_____

(7) Number of years as a contractor in this type of construction work: _____

(8) How many years experience have you had in school construction work?

- (a) As a general contractor? _____
- (b) As a subcontractor? _____

(9) How many years' experience have you had in public construction work?

(a) As a general contractor? _____

(b) As a subcontractor? _____

(10) Have you ever been terminated from a school or any public construction project prior to the completion of the project? Yes ____ No ____ If the answer is "Yes," give dates, names and addresses of school/public agency and details.

(11) Have you ever been barred from bidding on any school or public construction project? Yes ____ No ____ If the answer is "Yes," give dates, names and addresses of school/public agency and details.

(12) Have you ever defaulted on any school or public construction project that resulted in a claim to a surety? Yes ____ No ____ If the answer is "Yes," give dates, names and addresses of school/public agency and details.

(13) Have you been assessed damages (i.e., liquidated damages) for any public construction project in the past ten (10) years? Yes ____ No ____ If the answer is "Yes," give dates, names, and addresses of public agency and details.

(14) Have you ever brought any claim(s) against a public agency? Yes ___ No ___ If the answer is "Yes," please explain in detail name of public agency, nature of the claim and outcome.

(15) Have you ever failed to complete a school or public construction project in the last ten (10) years? Yes ___ No ___ If the answer is "Yes," provide name of public agency and details.

(16) Have you been in litigation or arbitration or dispute of any kind on a question or questions relating to a public construction project during the past ten (10) years? Yes ___ No ___ If the answer is "Yes," provide name of public agency and details:

(17) List the names, addresses and telephone numbers of three Architects or Engineers whose jobs you have worked on in the past five (5) years.

<u>Name</u>	<u>Address</u>	<u>Telephone</u>
_____	_____	() _____
_____	_____	() _____
_____	_____	() _____

(18) Do you now or have you ever had any direct or indirect business, financial or other connection with any officer, employee or consultant of the DISTRICT or Architect?

Yes ___ No ___ If so, please elaborate.

(19) List at least five (5) of your most recent school construction projects.

- (1) _____
- (2) _____
- (3) _____
- (4) _____
- (5) _____

(20) Are you currently under contract for another project? Yes ____ No ____ If the answer is “Yes,” please provide the following information:

(a) Project Number 1:

Name of Project: _____

Detailed Description: _____

Name of Project Owner: _____

Contract Amount: _____

Completion Date: _____

(b) Project Number 2:

Name of Project: _____

Detailed Description: _____

Name of Project Owner: _____

Contract Amount: _____

Completion Date: _____

(c) Project Number 3:

Name of Project: _____

Detailed Description: _____

Name of Project Owner: _____

Contract Amount: _____

Completion Date: _____

(d) Project Number 4:

Name of Project: _____

Detailed Description: _____

Name of Project Owner: _____

Contract Amount: _____

Completion Date: _____

(e) Project Number 5:

Name of Project: _____

Detailed Description: _____

Name of Project Owner: _____

Contract Amount: _____

Completion Date: _____

- (21) Are there projects not listed above that will be undertaken during the duration of DISTRICT's Project?
Yes _____ No _____ If the answer is "Yes," please provide the following information:

(a) Project Number 1:

Name of Project: _____

Detailed Description: _____

Name of Project Owner: _____

Contract Amount: _____

Completion Date: _____

(b) Project Number 2:

Name of Project: _____

Detailed Description: _____

Name of Project Owner: _____

Contract Amount: _____

Completion Date: _____

(c) Project Number 3:

Name of Project: _____

Detailed Description: _____

Name of Project Owner: _____

Contract Amount: _____

Completion Date: _____

(d) Project Number 4:

Name of Project: _____

Detailed Description: _____

Name of Project Owner: _____

Contract Amount: _____

Completion Date: _____

(e) Project Number 5:

Name of Project: _____

Detailed Description: _____

Name of Project Owner: _____

Contract Amount: _____

Completion Date: _____

(22) Additional information required: _____

(23) List of References - Public construction projects of similar nature in a School/Community College/University within the last five (5) years. DISTRICT has discretion to require more than five (5) references.

1. Name: _____

Address and Telephone: _____

Contact Person: _____

Description of Project: _____

Dates of commencement and completion of Project: _____

Contract Amount: _____

Architect: _____

Architect's Address and Telephone: _____

DSA or public agency inspector: _____

Address and Telephone: _____

2. Name: _____

Address and Telephone: _____

Contact Person: _____

Description of Project: _____

Dates of commencement and completion of Project: _____

Contract Amount: _____

Architect: _____

Architect's Address and Telephone: _____

DSA or public agency inspector: _____
Address and Telephone: _____

3. Name: _____
Address and Telephone: _____

Contact Person: _____

Description of Project: _____

Dates of commencement and completion of Project: _____

Contract Amount: _____

Architect: _____

Architect's Address and Telephone: _____

DSA or public agency inspector: _____

Address and Telephone: _____

4. Name: _____
Address and Telephone: _____

Contact Person: _____

Description of Project: _____

Dates of commencement and completion of Project: _____

Contract Amount: _____

Architect: _____

Architect's Address and Telephone: _____

DSA or public agency inspector: _____

Address and Telephone _____

5. Name: _____

Address and Telephone: _____

Contact Person: _____

Description of Project: _____

Dates of commencement and completion of Project: _____

Contract Amount: _____

Architect: _____

Architect's Address and Telephone: _____

DSA or public agency inspector: _____

Address and Telephone: _____

(24) Does your company have California Division of State Architect (DSA) project approval in the last five years? YES _____ NO _____

(25) What is your current Experience Modification Factor? _____

Do any of your listed subcontractors have an EMR in excess of 1.35 at time of bid? _____

Please Note: In **no instance shall a contractor or any listed subcontractor with an EMR in excess of 1.35 at time of bid,** or in cases of non-listed subcontractors, at the time of subcontract execution, be permitted to work on the project. **A bid submitted with prime contractor or any listed subcontractor EMRs greater than 1.35 will be deemed non responsive.** The District requires the production of the Contractor/Subcontractor's most recent 3 years of EMR data for those Contractors or Subcontractors who do not have a current qualified EMR based upon loss experience, or who have been issued a current default EMR of 1.0.

(26) Contractor agrees to be bound to all the terms and conditions set forth in the District's Standard Contractor Agreement, attached to the General Conditions, and the following documents, as applicable to the Project:

Notice Calling for Bids	Workers' Compensation Certificate	Guarantees
Information for Bidders	Faithful Performance Bond	Certificate Regarding Non-Asbestos Containing Materials
Contractor Bid Form	Payment Bond	Contractor registration with DIR for Labor Compliance and prevailing wages
Bid Bond or Bid Security	Escrow Agreement, if applicable	General Conditions
Designation of Subcontractors	Drug-Free Workplace Certification	Special Conditions
Information Required of Bidder	Change orders	Drawings and specifications
All prequalification forms submitted pursuant to Public Contract Code 20111.5	Shop drawings and transmittals	Modifications, addenda, and amendments to any of the above documents
Noncollusion Affidavit		

Insurance certificates and
endorsements

Owner-controlled insurance
Program requirements

Collectively, the above listed documents shall be referred to as the Project Documents for the Project.

Bidder Representative's initials: _____

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing responses to the Information Required of Bidder are true and correct.

Signature

Print Name

Title

Date

NON-COLLUSION AFFIDAVIT
TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID FORM

_____, being first duly sworn, deposes and says that he or she is _____ of the party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature & Date

Printed Name & Title

WORKERS' COMPENSATION CERTIFICATE

Site Preparation for New Steel Building at OCC; Bid No. 2103 California Labor Code Section 3700.

"Every employer except the state shall secure the payment of compensation in one or more of the following ways:

(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees.

(c) For any county, city, city and county, municipal corporation, public district, public agency or any political subdivision of the state, including each member of a pooling arrangement under a joint exercise of powers agreement (but not the state itself), by securing from the Director of Industrial Relations a certificate of consent to self-insure against workers' compensation claims, which certificate may be given upon furnishing proof satisfactory to the director of ability to administer workers' compensation claims properly, and to pay workers' compensation claims that may become due to its employees. On or before March 31, 1979, a political subdivision of the state which, on December 31, 1978, was uninsured for its liability to pay compensation, shall file a properly completed and executed application for a certificate of consent to self-insure against workers' compensation claims. The certificate shall be issued and be subject to the provisions of Section 3702."

I am aware of the provisions of Labor Code Section 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

Name of the Contractor

By: _____
Signature

Print Name

Title

Date

(In accordance with Article 5 [commencing at Section 1860], Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under the contract.)

FAITHFUL PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENT:

WHEREAS, the Coast Community College District of Orange County, California, (hereinafter referred to as "DISTRICT"), awarded to _____, (hereinafter referred to as the "Contractor/Principal") the contract for the work described as:

Site Preparation for New Steel Building at OCC; Bid No. 2103

WHEREAS, the Oblige, by approval of its Board of Trustees passed on _____ has awarded to the Principal a Contract for the Work commonly described as **Site Preparation for New Steel Building at OCC; Bid No. 2103**

WHEREAS, the Principal, on or about _____, entered into a contract with the DISTRICT for performance of the Work; the Agreement and all other Contract Documents set forth therein are incorporated herein and made a part hereof by this reference.

WHEREAS, said Contractor/Principal is required under the terms of said contract to furnish a bond for the faithful performance of said contract which contract is incorporated herein by reference;

NOW, THEREFORE, we the undersigned Contractor, as Principal, and Surety, a California admitted surety insurer are held and firmly bound to the DISTRICT for one hundred percent (100%) of the total amount payable by the DISTRICT in the penal sum of _____ Dollars (\$_____) under the terms of the contract awarded by the DISTRICT to the Contractor/Principal, lawful money of the United States of America, for payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bonded Contractor/Principal, its heirs, executors, administrators, successors, or assigns, shall in all things stand to and abide by and well and truly keep and perform all the undertakings, terms, covenants, conditions, and agreements in the said contract which is attached hereto and incorporated herein by reference and any alteration and/or amendments thereof, made as therein provided, including, but not limited to, the provisions regarding contract duration and liquidated damages, all within the time and in the manner therein designated in all respects according to their true intent and meaning, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

As a condition precedent to the satisfactory completion of the contract, the above obligation shall hold good for a period of One Year (1) year(s) after the acceptance of the work by DISTRICT, during which time if Contractor/Principal shall fail to make full, complete, and satisfactory repair and replacements and totally protect the DISTRICT from loss or damage made evident during the period of One Year (1) year(s) from the date of completion of the work as specified on the Guarantee, and resulting from or caused by defective materials or faulty workmanship, the above obligation in penal sum thereof shall remain in full force and effect. The obligation of Surety hereunder shall continue so long as any obligation of Contractor remains.

Whenever Contractor/Principal shall be, and is declared by the DISTRICT to be, in default under the contract, the DISTRICT having performed the DISTRICT's obligations thereunder, the Surety shall within twenty (20) days after written notice from the Oblige to remedy the default, or shall promptly:

1. Complete the contract in accordance with its terms and conditions; or

2. Obtain a bid or bids for completing the contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a contract between such bidder and the DISTRICT, and make available as work progresses sufficient funds to pay the cost of completion less the balance of the contract price, but not exceeding, including other costs and damages for which Surety may be liable hereunder, the amount set forth above. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor/Principal by the DISTRICT under the contract and any modifications thereto, less the amount previously properly paid by the DISTRICT to the Contractor/Principal.

Surety expressly agrees that the DISTRICT may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Principal. Surety shall not utilize Contractor/Principal in completing the contract nor shall Surety accept a bid from Contractor/Principal for completion of the work if the DISTRICT, when declaring the Contractor/Principal in default, notifies Surety of the DISTRICT's objection to Contractor's/Principal's further participation in the completion of the work.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the DISTRICT named herein or the successors or assigns of the DISTRICT. Any suit under this bond must be instituted within the applicable statute of limitations period.

FURTHER, the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or modification of the Project documents, or of the work to be performed thereunder, shall in any way affect its obligations on this bond; and it does hereby waive notice of any change, extension of time, alteration or modification of the Project documents or of work to be performed thereunder.

Contractor/Principal and Surety agree that if the DISTRICT is required to engage the services of an attorney in connection with the enforcement of this bond, each shall pay DISTRICT's reasonable attorney's fees and costs incurred, with or without suit, in addition to the above amount.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this ____ day of _____, 20____.

CORPORATE SEAL, IF
APPLICABLE AND NOTARIAL
ACKNOWLEDGEMENT OF
CONTRACTOR

Contractor/Principal

By: _____
Signature

Typed or Printed Name
Title _____

SEAL AND NOTARIAL
ACKNOWLEDGEMENT OF
SURETY

(Mailing Address, Telephone
No. and Facsimile No. of Surety)

Surety

By: _____
Signature

Typed or Print Name
Title _____

(Attach Attorney-in-Fact Certificate and Required Acknowledgement)

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENT:

WHEREAS, the Coast Community College District of Orange County, California, (hereinafter referred to as "DISTRICT"), awarded to _____, (hereinafter referred to as the "Contractor/Principal") the contract for the work described as:

Site Preparation for New Steel Building at OCC; Bid No. 2103

WHEREAS, the Principal, on or about _____, entered into a contract with the DISTRICT for performance of the Work; the Agreement and all other Contract Documents set forth therein are incorporated herein and made a part hereof by this reference.

WHEREAS, said Contractor/Principal is required by Division 3, Part IV, Title XV, Chapter 7 (commencing at Section 3247) of the California Civil Code to furnish a bond in connection with said contract;

NOW, THEREFORE, we, the Contractor/Principal and _____, as Surety, a California admitted surety insurer, are held firmly bound unto the DISTRICT for one hundred percent (100%) of the total amount payable by the DISTRICT in the penal sum of _____ Dollars (\$_____) under the terms of the contract awarded by the DISTRICT to the Contractor/Principal lawful money of the United States of America for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Contractor/Principal, his/her or its heirs, executors, administrators, successors, or assigns, or a subcontractor, shall fail to pay any person or persons named in Civil Code Section 3181 or fail to pay for any materials, or other supplies, used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code, with respect to work or labor thereon of any kind, or shall fail to deduct, withhold, and pay over to the Employment Development Department, any amounts required to be deducted, withheld, and paid over by Section 13020 of the Unemployment Insurance Code with respect to work and labor thereon of any kind, then said Surety will pay for the same, in or to an amount not exceeding the amount hereinabove set forth, and also will pay in case suit is brought upon this bond, such reasonable attorney's fees as shall be fixed by the court, awarded and taxed as provided in Division 3, Part IV, Title XV, Chapter 7 (commencing at Section 3247) of the California Civil Code.

This bond shall inure to the benefit of any of the persons named in Section 3181 of the California Civil Code, so as to give a right of action to such person or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety of this bond shall not be exonerated or released from the obligation of the bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement hereinabove described or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension

of the time for any payment pertaining or relating to any scheme or work of improvement hereinabove described, nor by any rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the DISTRICT and original contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 3110 and 3112 of the California Civil Code, and has not been paid the full amount of his/her or its claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned.

Any claims under this bond may be addressed to:

_____	(Name and address of Surety)
_____	(Name and address of agent or representative in California, if different from above)
_____	(Telephone and facsimile number of Surety representative in California)
_____ or agent or	

IN WITNESS HEREOF, we have hereto set our hands and seals on this ____ day of _____, 20____.

CORPORATE SEAL, IF
 APPLICABLE AND NOTARIAL
 ACKNOWLEDGEMENT OF
 CONTRACTOR

 Contractor/Principal

By: _____
 Signature

 Typed or Print Name

Title _____

SEAL AND NOTARIAL
 ACKNOWLEDGEMENT OF SURETY

 Surety

By: _____
 Signature

 Typed or Print Name

Title _____

(Mailing Address, Telephone and
 Facsimile No. of Surety)

(Attach Attorney-in-Fact Certificate and Required Acknowledgement)

Note: This form is to be submitted with the final Pay Request

PROJECT GUARANTEE

Project Guarantee for _____ . We hereby guarantee that the _____ , which we have installed in **Site Preparation for New Steel Building at OCC; Bid No. 2103**, has been done in accordance with the Project Documents and that the work as installed will fulfill the requirements included in the Project Documents. The undersigned agrees to repair or replace any or all of such work, together with any other adjacent work which may be displaced in connection with such repair or replacement, that may prove to be defective in workmanship or material within a period of One (1) year(s) from the date of completion of the Project, ordinary wear and tear and unusual abuse or neglect excepted.

In the event of the undersigned's or undersigned surety's failure to commence and pursue with diligence said repairs or replacements within ten (10) calendar days after being notified in writing by the DISTRICT, the undersigned authorizes the DISTRICT to proceed to have said defects repaired or replaced and made good at the expense of the undersigned and surety who hereby agree to pay the costs and charges therefore immediately upon demand. (General Conditions Article 46(d))

Name of Contractor:

Name of Subcontractor *(if work performed by subcontractor)*

By: _____
Signature of Contractor

By: _____
Signature of Subcontractor

Printed Name

Printed Name

Title

Title

Date of Completion

Date of Completion

Designated Representatives to be contacted for service:

Name: _____

Address: _____

Telephone Number: _____

DRUG-FREE WORKPLACE CERTIFICATION

Site Preparation for New Steel Building at OCC; Bid No. 2103

This Drug-Free Workplace Certification is required pursuant to Government Code Sections 8350, et seq., the Drug-Free Workplace Act of 1990. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract for the procurement of any property or services from any State agency must certify that it will provide a drug-free workplace by doing certain specified acts. In addition, the Act provides that each contract awarded by a State agency may be subject to suspension of payments or termination of the contract and the contractor may be subject to debarment from future contracting, if the state agency determines that specified acts have occurred. Pursuant to Government Code Section 8355, every person or organization awarded a contract from a State agency shall certify that it will provide a drug-free workplace by doing all of the following:

- a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the person's or organization's workplace and specifying actions which will be taken against employees for violations of the prohibition.
- b) Establishing a drug-free awareness program to inform employees about all of the following:
 - 1) The dangers of drug abuse in the workplace.
 - 2) The person's or organization's policy of maintaining a drug-free workplace.
 - 3) The availability of drug counseling, rehabilitation and employee-assistance programs.
 - 4) The penalties that may be imposed upon employees for drug abuse violations.
- c) Requiring that each employee engaged in the performance of the contract be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract, the employee agrees to abide by the terms of the statement.

I, the undersigned, agree to fulfill the terms and requirements of Government Code Section 8355 listed above and will publish a statement notifying employees concerning (a) the prohibition of controlled substance at the workplace, (b) establishing a drug-free awareness program, and (c) requiring that each employee engaged in the performance of the contract be given a copy of the statement required by Section 8355(a) and requiring that the employee agree to abide by the terms of that statement.

I also understand that if the DISTRICT determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of Section 8355, that the contract awarded herein is subject to suspension of payments, termination, or both. I further understand that, should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of Section 8350, et seq. I acknowledge that I am aware of the provisions of Government Code Section 8350, et seq. and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

Contractor Name

Signature

Print Name

Title

Date

**CONTRACTOR'S CERTIFICATE
REGARDING NON-ASBESTOS CONTAINING MATERIALS**

Per Article 69 of the General Conditions.

Certification for _____ . We hereby certify that no Asbestos or Asbestos Containing Materials shall be used in this Project or in any tools, devices, clothing, or equipment used to affect the _____, which we have installed in the Coast Community College District under **Site Preparation for New Steel Building at OCC; Bid No. 2103**

- (a) The Contractor further certifies that he/she has instructed his/her employees with respect to the above- mentioned standards, hazards, risks and liabilities.
- (b) Asbestos and/or asbestos containing material shall be defined as all items containing but not limited to chrysotile, corcidolite, amosite, anthophyllite, tremolite and actinolite.
- (c) Any or all material containing greater than one-tenth of one percent (.1%) asbestos shall be defined as asbestos containing material.
- (d) Any disputes involving the question of whether or not material contains asbestos shall be settled by electron microscopy. The costs of any such tests shall be paid by the Contractor if the material is found to contain asbestos.
- (e) All work or materials found to contain asbestos or work or material installed with asbestos containing equipment will be immediately rejected and this work will be removed at no additional cost to the District.

Date

Name of Contractor

By: _____
Signature

Print Name

Title

ESCROW AGREEMENT
(For Private Security Deposits In Lieu Of Retention)

This Escrow Agreement is made and entered into, as the ____ day of _____, 20____, by and between Coast Community College District, whose address is 1370 Adams Avenue, Costa Mesa, CA 92626 (hereinafter called "DISTRICT"); and _____, whose address is _____ (hereinafter called "Contractor"); and, _____, whose address is _____, hereinafter called "Escrow Agent."

For the consideration hereinafter set forth, the DISTRICT, Contractor, and Escrow Agent agree as follows:

(1) Pursuant to Section 22300 of the Public Contract Code of the State of California, Contractor has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by DISTRICT pursuant to the Agreement entered into between the DISTRICT and Contractor for _____ in the amount of _____,

Site Preparation for New Steel Building at OCC; Bid No. 2103

dated _____ (hereinafter referred to as the "Agreement"). Alternatively, on written request of the Contractor, the DISTRICT shall make payments of the retention earnings directly to the Escrow Agent. When the Contractor deposits the securities as a substitute for retention earnings, the Escrow Agent shall notify the DISTRICT within ten (10) days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Agreement between the DISTRICT and Contractor. Securities shall be held in the name of DISTRICT, and shall designate the Contractor as the beneficial owner.

(2) The DISTRICT shall make progress payments to the Contractor for those funds which otherwise would be withheld from progress payments, provided that the Escrow Agent holds securities in the form and amount specified above.

(3) When the DISTRICT makes payment of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of the Contractor until the time the escrow created under this Escrow Agreement is terminated. The Contractor may direct the investment of the payments into securities. All terms and conditions of this Escrow Agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the DISTRICT pays the Escrow Agent directly.

(4) Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account and all expenses of the DISTRICT. These expenses and payment terms shall be determined by the DISTRICT, Contractor and Escrow Agent.

(5) The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of Contractor and shall be subject to withdrawal by Contractor at any time and from time to time without notice to the DISTRICT.

(6) Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from the DISTRICT to the Escrow Agent that DISTRICT consents to the withdrawal of the amount sought to be withdrawn by Contractor.

(7) The DISTRICT shall have a right to draw upon the securities in the event of default by the Contractor. Upon seven (7) days' written notice to the Escrow Agent from the DISTRICT of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by the DISTRICT.

(8) Upon receipt of written notification from the DISTRICT certifying that the Agreement is final and complete, and that the Contractor has complied with all requirements and procedures applicable to the Agreement, Escrow Agent shall release to Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all monies and securities on deposit and payments of fees and charges.

(9) Escrow Agent shall rely on the written notifications from the DISTRICT and the Contractor pursuant to Sections (5) to (8), inclusive, of this Escrow Agreement and the DISTRICT and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.

(10) The names of the persons who are authorized to give written notice or to receive written notice on behalf of the DISTRICT and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of DISTRICT:

President, CCCD Board of Trustees

Name

Signature

1370 Adams Avenue, Costa Mesa, CA 92626

On behalf of Escrow Agent:

Title

Name

Signature

Address

On behalf of Contractor:

Title:

Name

Signature

Address

At the time the Escrow Account is opened, the DISTRICT and Contractor shall deliver to the Escrow Agent a fully executed counterpart of this Escrow Agreement. IN WITNESS WHEREOF, the parties have executed this Escrow Agreement by their proper officers on the date first set forth above.

District:	Contractor:	Escrow Agent:
Title: _____	Title: _____	Title: _____
Name: _____	Name: _____	Name: _____
Signature: _____	Signature: _____	Signature: _____
Date: _____	Date: _____	Date: _____

SPECIAL CONDITIONS

1. **Award of Contract.** The Award of the contract, if made by the DISTRICT, will be by action of the Governing Board and to the lowest responsive and responsible bidder. See “Information for Bidders, Section 12.”
2. **Application of Special Conditions.** These Special Conditions form a part of the Contract Documents for the Work generally described as:

Site Preparation for New Steel Building at OCC; Bid No. 2103

3. **Job Walk. Walk Through Is MANDATORY.** Date: 03/16/2017 Time: 10:00 a.m.
Place: 2701 Fairview Rd, Costa Mesa, CA 92626 – Maintenance and Operations office
4. **Bids Not to Be Withdrawn.** No bidder may withdraw its bid for a period of 60 days after the date of the opening of bids.
5. **Bid Security.** The Bid Security shall be in an amount of not less than ten percent (10%) of the maximum amount of the bid.
6. **Rain Days.** The number of Rain Days allowed for this project is 0 work days. Work days are Monday through Friday, excluding National Holidays.
7. **Contractor’s License.** In accordance with the California Business & Professions Code and the California Public Contract Code, the required classification(s) of California Contractors License to bid upon and perform the Work is **B**.
8. **Contract Time.** The Work shall commence on the date stated in the Owner's Notice to Proceed issued as set forth in the Contractor Agreement and shall be completed within **30** consecutive calendar days from the Commencement Date stated in the Notice to Proceed. (See Contractor Agreement and General Conditions).
9. **Drawings and Specifications.** The number of copies of the Drawings and the Specifications to be furnished to the Contractor free of charge, pursuant to Article 20 of the General Conditions is one (1) set of contract documents and project plans.
10. **Insurance.**

10.1 **Insurance of Contractor and Subcontractors.** Unless the Project is utilizing the District's OCIP program, in accordance with the Contractor Agreement, and Articles 14-19, and 73 of the General Conditions, the Contractor shall obtain and maintain and shall require all Subcontractors, if any, of any tier, to obtain and maintain the following insurance coverage in the following coverage amounts:

Comprehensive General Liability and Automobile
Liability Insurance for injuries to persons

including accidental death, to any one person in an amount not less than	\$ <u>2,000,000</u>
Subject to the same limit for each person on account of one accident, in an amount not less than	\$ <u>2,000,000</u>
Aggregate	\$ <u>4,000,000</u>

Property Damage Insurance covering losses arising out of damage or destruction to property whether directly or indirectly arising out of or in connection with performance of work under the Contract Documents, including explosion and collapse in an amount not less than	\$ <u>2,000,000</u>
--	---------------------

Workers' Compensation Insurance
In accordance with limits established by law.

Employer's Liability Insurance	\$ <u>1,000,000</u>
--------------------------------	---------------------

11. Liquidated Damages. The Liquidated Damages established in Article 63 of the General Conditions is \$2,500 per day.

12. Mark-ups on Changes to Work. See General Conditions – Article 59. Notwithstanding any other provision in the Project Documents, the adjustment in the contract sum, if any, and the adjustment in the contract time, if any, set out in a change order shall constitute the entire compensation and/or adjustment in the contract time due CONTRACTOR arising out of the change in the work covered by the change order unless otherwise provided in the change order. The amount of the compensation due CONTRACTOR shall be calculated pursuant to Article 59. The entire compensation shall not include any additional charges not set forth in Article 59, and shall not include delay damages (due to processing of a change order, refusal to sign a change order) indirect, consequential, and incidental costs including any project management costs, extended home office and field office overhead, administrative costs and profit other than those amounts authorized in Article 59.

Value of any such extra work, change, or deduction shall be determined at the discretion of DISTRICT in one or more of the following ways:

(1) By mutual written acceptance of a lump sum proposal from CONTRACTOR properly itemized and supported by sufficient substantiating data to permit evaluation by DISTRICT and ARCHITECT.

(2) By unit prices contained in CONTRACTOR's original bid and incorporated in the Project Documents or fixed by subsequent agreement between DISTRICT and CONTRACTOR.

(3) By cost of material and labor and percentage for overhead and profit (“time and material”). If the value is determined by this method the following requirements shall apply:

(i) Labor. The costs of labor will be the actual cost for wages prevailing locally for each craft classification or type of workers at the time the extra work is done, plus employer payments of payroll taxes and insurance, health and welfare, pension, vacation, apprenticeship funds, and other direct costs resulting from federal, state or local laws, as well as assessments or benefits required by lawful collective bargaining agreements. The use of labor classification which would increase the extra work cost will not be permitted unless the CONTRACTOR establishes the necessity for such additional costs. Labor costs for equipment operators and helpers shall be reported only when such costs are not included in the invoice for equipment rental.

(ii) Materials. The cost of materials reported shall be at invoice or lowest current price at which such materials are locally available and delivered to the work site in the quantities involved, plus sales tax, freight and delivery. The DISTRICT reserves the right to approve materials and sources of supply, or to supply materials to the CONTRACTOR if necessary for the progress of the work. No markup shall be applied to any material provided by the DISTRICT.

(iii) Tool and Equipment Rental. No payment will be made for the use of tools which have a replacement value of \$100 or less or where an invoice is not provided.

Regardless of ownership, the rates to be used in determining equipment rental costs shall not exceed listed rates prevailing locally at equipment rental source, or distributors, at the time the work is performed. The rental rates paid shall include the cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, and all incidentals. Necessary loading and transportation costs for equipment used on the extra work shall be included.

If equipment is used intermittently and, when not in use, could be returned to its rental source at less expense to the DISTRICT than holding it at the work site, it shall be returned, unless the CONTRACTOR elects to keep it at the work site at no expense to the DISTRICT.

All equipment shall be acceptable to the ARCHITECT, in good working condition, and suitable for the purpose for which it is to be used. Manufacturer's ratings and manufacturer's approved modifications shall be used to classify equipment and it shall be powered by a unit of at least the minimum rating recommended by the manufacturer.

(iv) Other Items. The DISTRICT may authorize other items which may be required on the extra work. Such items include labor, services, material and equipment which are different in their nature from those required by the work and which are of a type not ordinarily available from the CONTRACTOR or any of the subcontractors. Invoices covering all such items in detail shall be submitted with the request for payment.

(v) Invoices. Vendors' invoices for material, equipment rental, and other expenditures, shall be submitted with the request for payment. If the request for payment is not substantiated by invoices or other documentation, the DISTRICT may establish the cost of the item involved at the lowest price which was current at the time of the report.

The following format shall be used as applicable by the DISTRICT and CONTRACTOR to communicate proposed additions and deductions to the Agreement.

	<u>EXTRA</u>	<u>CREDIT</u>
i. Material/Equipment (attach itemized quantity and unit cost plus sales tax)	_____	_____
ii. Labor (attach itemized hours and rates)	_____	_____
iii. Subtotal	_____	_____
iv. If subcontractor performed work, add Subcontractor's overhead and profit to portions performed by it, not to exceed 15% of Item iii. above	_____	_____
v. Subtotal	_____	_____
vi. General Contractor's Overhead and Profit, not to exceed 15% of Item v if Contractor performed the work. If subcontractor performed the work, not to exceed 5% of Item v. Of portions performed by Contractor and subcontractors, portions performed by Contractor shall not exceed 15% of Item V, and portions performed by Subcontractor shall not exceed 5% of Item v.	_____	_____
vii. Subtotal	_____	_____
viii. Bond and Liability Insurance Premium, if in fact additional bonds or insurance were actually purchased, not to exceed 1% of Item vii.	_____	_____

ix. **Total**

It is expressly understood that the value of such extra work or changes, as determined by any of the aforementioned methods, expressly includes any and all of contractor's costs and expenses, both direct and indirect, resulting from additional time required on the project, or resulting from delays to the project. any costs or expenses not included are deemed waived. for purposes of determining the cost, if any, of any extra work, change, addition or omission hereunder, all trade discounts, rebates, refunds, and all returns from the sale of surplus materials and equipment shall accrue and be credited to contractor, and contractor shall ensure that such discounts, rebates, refunds, and returns may be secured, and the amount thereof shall be allowed as a reduction of contractor's cost in determining the actual cost of construction for purposes of any extra work, change, addition or omissions in the work as provided herein.

If the CONTRACTOR should claim that any instruction, request, drawing, specification, action, condition, omission, default, or other situation obligates the DISTRICT to pay additional compensation to CONTRACTOR or to grant an extension of time, or constitutes a waiver of any provision in the Agreement, CONTRACTOR shall notify the DISTRICT, in writing, of such claim within five (5) calendar days from the date CONTRACTOR has actual or constructive notice of the factual basis supporting the claim. The notice shall state the factual bases for the claim and cite in detail the Project Documents (including plans and specifications) upon which the claim is based. The CONTRACTOR's failure to notify the DISTRICT within such five (5) day period shall be deemed a waiver and relinquishment of such a claim. If such notice be given within the specified time, the procedure for its consideration shall be as stated above in these General Conditions.

“PROHIBITED USAGE OF CONTRACTOR QUALIFYING LANGUAGE STAMPS ON DISTRICT DRAWINGS OR CONTRACT FORMS.” Contractor shall not countersign or endorse any form, drawing, change order, contract or other documents with any conditions not mutually agreed to in advance by the DISTRICT and the CONTRACTOR. Endorsement of a contract, change order, specification, drawing or form with the following: “This change order is being executed without waiver of the right to seek additional compensation for such services,” shall be of no legal force or effect.

- 13. Construction Manager.** Construction will be overseen by Orange Coast College Maintenance Department. A designated contact will be determined prior to the commencement of construction.

Role of the Construction Manager:

The Construction Manager is the DISTRICT's representative in all matters relating to the administration and supervision of the CONTRACT for the Construction Duration. All communications between the Contractor and the DISTRICT, including the DISTRICT's Consultants

and other Contractors, shall be through the Construction Manager. Requests for Information (RFI) shall be simultaneously submitted to the Construction Manager and the DISTRICT's Inspector.

14. Campus Utilities. Contractor shall be prepared to provide emergency response if any of its activities, including the work of Subcontractors and the delivery of materials by Contractor Vendors and Suppliers, cause un-planned interruption to the operation of utilities for the Campus. Emergency response shall be immediate and continuous until the problem is corrected.

15. Emergency Access. Contractor shall not encroach upon the Campus emergency access lanes abutting the DISTRICT's perimeter fence without DISTRICT approval. For work requiring the encroachment or the crossing of any emergency access lane, Contractor shall submit a Work Plan that, at minimum, details how work is to be staged to maintain emergency access at all times.

16. Inspector. The Project shall have an Inspector furnished by the District per Article 7 of the General Conditions.

17. Trenches.

(a) CONTRACTOR shall provide adequate sheeting, shoring, and bracing, or equivalent method, for the protection of life and limb in trenches and open excavation which conform to applicable safety standards.

(b) If this Agreement involves the excavation of any trench or trenches five (5) feet or more in depth, and the Project cost is in excess of \$25,000, the CONTRACTOR shall, in advance of excavation, submit to the DISTRICT for acceptance or to whomever DISTRICT designates which may include a registered civil or structural engineer employed by the DISTRICT to whom authority to accept has been delegated, a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If such plan varies from the Shoring System Standards established by the Construction Safety Orders of the Division of Industrial Safety, the plan shall be prepared by a registered civil or structural engineer employed by the CONTRACTOR, and all costs therefore shall be included in the price named in the Agreement for completion of the work as set forth in the Project Documents. In no case shall such plan be less effective than that required by the Construction Safety Orders. No excavation of such trench or trenches shall be commenced until said plan has been accepted by CAL-OSHA and a CAL-OSHA permit for such plan delivered to the DISTRICT. Labor Code Section 6500 and 6705; Health and Safety Code Section 17922.5)

(c) If this Agreement involves the digging of trenches or excavations that extend deeper than four feet below the surface, the following shall apply pursuant to Public Contract Code section 7104:

(1) The CONTRACTOR shall promptly, and before the following conditions are disturbed, notify the DISTRICT, in writing, of any:

(i) Material that the CONTRACTOR believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code

that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.

(ii) Subsurface or latent physical conditions at the site different from those indicated.

(iii) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.

(2) The DISTRICT shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the CONTRACTOR's cost of, or the time required for, performance of any part of the work shall issue a change order under the procedures described in the Project Documents.

(3) In the event a dispute arises between the DISTRICT and the CONTRACTOR, whether the conditions materially differ or involve hazardous waste, or cause a decrease or increase in the CONTRACTOR's cost of, or time required for, performance of any part of the work, the

CONTRACTOR shall not be excused from any scheduled completion date provided for by the Project Documents, but shall proceed with all the work to be performed under the Project Documents. The CONTRACTOR shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

18. **Allowance and Site Specific Conditions.** The District has allotted an allowance of **\$10,000** for unforeseen conditions for this project. This allowance should be included in the Total Bid Amount on the Bid Form, but is not a guarantee of money to the contractor. All requests must be submitted in writing to the Construction Manager of the project for approval prior to utilizing said funds. Any unused funds at the completion of the project said revert back to the District as a deductive change order.

19. **Contractor EMR/ Insurance Experience.** An Experience Modification Rate (EMR) is a percentage that compares the payroll and loss history of a company to similar-sized companies within the same industry. An average EMR is considered to be 1.0 (or 100%). In California, EMR's are developed on an annual basis by the Workers Compensation Rating Insurance Bureau (WCIRB). A company can locate their EMR in their Workers Compensation Policy Rating Pages or on an EMR worksheet produced by the WCIRB. If you need assistance locating your EMR, your insurance broker can assist you with this process. An Experience Modification Worksheet from the WCIRB **must** be included with the bid submission or it will be deemed non responsive. A letter from the WCIRB is acceptable if a contractor does not have a current qualified EMR based on loss experience. See Item #37 of the Information for Bidders section for links to assist in obtaining this item.

COAST COMMUNITY COLLEGE DISTRICT
WASTE REDUCTION AND RECYCLING REPORT

Site Preparation for New Steel Building at OCC; Bid No. 2103
PART 1 – GENERAL

1.01 PURPOSE

- A. The purpose is to promote waste reduction (source reduction) and recycling practices to the maximum extent reasonably possible for construction and demolition projects.
 - 1. State law requires jurisdictions to achieve a 50% diversion goal. The District is a significant generator of waste during construction and demolition projects and should participate in reducing and recycling waste.
 - 2. The Contractor’s completion of required documentation and submittal of disposal and diversion reporting form will allow the District to track and calculate the diversion rate.

1.02 REFERENCES

- A. The California Integrated Waste Management Act of 1989 (AB 939).
- B. California Code of Regulations Title 14, Section 18700 et seq.
- C. Definitions:

“Recycle” or “recycling” means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. “Recycling” does not include transformation, as defined in California Public Resources Code Section 40201.

“Source reduction” means any action which causes a net reduction in the generation of solid waste. “Source reduction” includes, but is not limited to, reducing the use of non-recyclable materials, replacing disposable materials and products with reusable materials and products, reducing packaging, reducing the amount of yard wastes generated, establishing garbage rate structures with incentives to reduce the amount of wastes that generators produce, and increasing the efficiency of the use of paper, cardboard, glass, metal, plastic, and other materials. “Source reduction” does not include steps taken after the material becomes solid waste or actions which would impact air or water resources in lieu of land, including, but not limited to, transformation.

“Transformation Facility” means a facility whose principal function is to convert, combust, or otherwise process solid waste by incineration, pyrolysis, destructive distillation, or gasification, or to chemically or biologically process solid wastes, for the purpose of volume reduction, synthetic fuel production, or energy recovery. Transformation Facility does not include a composting facility.

1.03 RELATED DOCUMENTS: Waste Disposal and Diversion Reporting Form (see below)

Coast Community College District

WASTE DISPOSAL AND DIVERSION REPORTING FORM

Coast Community College District:
1370 Adam Ave. Costa Mesa, CA 92626

Date: _____

Campus: **Orange Coast College**

Site Preparation for New Steel Building at OCC; Bid No. 2103

Facility Contact and Telephone: _____

Contractor Name: _____

Contractor Contact: _____ Contractor Telephone: _____

Description of Project: _____

Approximate Dollar Value of Construction/Demolition: _____

Approximate Square Footage of Project: _____

Demolition Schedule: _____

Construction Schedule: _____

Name of Hauler(s): _____ Telephone: _____

Please check waste reduction activities that are practiced at this project site:

- Use of Prefabricated Components
- Reuse of Materials Onsite
- Accurate Material Estimates
- Reduced Packaging
- Other (describe) _____

Conversion Factors for Selected Loose Materials

Concrete	2370 lbs/cu yd	1.18 tons/cu yd	0.84 cu yd/ton
Asphalt	1940 lbs/cu yd	0.97 ton/cu yd	1.03 cu yds/ton
Brick	2430 lbs/cu yd	1.21 tons/cu yd	0.82 cu yd/ton
Dirt	2660 lbs/cu yd	1.33 tons/cu yd	0.75 cu yd/ton
Wood	400 lbs/cu yd	0.20 ton/cu yd	5.00 cu yds/ton
Gypsum wallboard	500 lbs/cu yd	0.25 ton/cu yd	4.00 cu yds/ton
Cardboard	100 lbs/cu yd	0.05 ton/cu yd	20.0 cu yds/ton

WASTE MATERIAL DISPOSITION SUMMARIES

Fill out the tables below. The unit of measurement is “tons.” Use the conversion factors provided above. If a different conversion number is used, please provide. If tonnage information is not available, estimates can be provided in “cubic yards.”

Part I. DEMOLITION MATERIALS (tons)

Material Type	Disposed in Class III Landfill	Taken to Inert Fills	Other Disposal (describe)	Reduced, Recycled or Salvaged	How Diverted? (e.g., reused as aggregate, etc.)
Concrete					
Asphalt					
Dirt					
Wood					
Metals					
Mixed Waste					
Other (describe)					
Total Tons	A =	B =	C =	D =	

Demolition Materials Diversion Rate: $D/(A+B+C+D) =$ _____

Additional Notes/Comments:

Part II. CONSTRUCTION MATERIALS (tons)

Material Type	Disposed in Landfill	Taken to Inert Fills	Other Disposal (describe)	Reduced, Recycled or Salvaged	How Diverted? (e.g., reused as aggregate, etc.)
Concrete					
Asphalt					
Dirt					
Wood					
Metals					
Mixed Waste					
Other (describe)					
Total Tons	A =	B =	C =	D =	

Construction Materials Diversion Rate: $D/(A+B+C+D) =$ _____

Additional Notes/Comments:

Disposal Facilities

Name of disposal facilities (e.g., landfill or inert facility name) materials are taken to:

Facility Name _____
Total Tons

Facility Name _____
Total Tons

Facility Name _____
Total Tons

Recycling Facilities

Name of the recycling facilities or recycler (materials given or sold to):

Recycler/Recycling Facility Name _____
Total Tons

Recycler/Recycling Facility Name _____
Total Tons

Recycler/Recycling Facility Name _____
Total Tons

Transformation Facilities

Name of the transformation facility:

Transformation Facility Name _____
Total Tons

To the best of my knowledge, the above estimates are an accurate representation of the disposition of the construction and demolition materials generated on-site at the construction job.

Print Name

Signature

1.04 SUBMITTALS

- A. Submit the Waste Disposal and Diversion Reporting Form at the completion of the construction and/or demolition project.
 - 1. Contractor shall provide weigh tickets and/or other documentation to support the reported tonnages and destinations.
 - 2. Contractor must maintain records for a minimum of three (3) years.

PART 2 – PRODUCTS – NOT USED

PART 3 – EXECUTION

3.01 WASTE REDUCTION AND RECYCLING DIVERSION PROGRAM IMPLEMENTATION

- A. When reasonably feasible, Contractor shall implement “source reduction” (waste reduction/prevention) and recycling practices that divert waste from landfill disposal. Practices such as deconstruction, on-site crushing and reuse of concrete/asphalt as base material, salvage of fixtures, and recovering recyclable materials should be implemented.
- B. Contractor shall make arrangements with the waste hauler for providing source separated bins so that the Contractor can keep recyclable materials separated to a level that a recycling facility can accept them.
- C. Contractor shall take materials to a Transformation Facility whenever feasible and cost effective. Each transformation will only accept limited waste streams. The Contractor is responsible to determining if its specific waste stream is accepted by each facility.
- D. As part of the Project close-out process, complete and submit the Waste Disposal and Diversion Reporting Form along with the supporting documentation.

END OF SECTION

Coast Community College District - "General Conditions"

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GENERAL CONDITIONS

1) DEFINITIONS:

These definitions shall apply to all PROJECT DOCUMENTS.

“AGREEMENT” is the written agreement between DISTRICT and CONTRACTOR. All PROJECT DOCUMENTS are incorporated into the AGREEMENT.

“ARCHITECT” means the architectural entity under contract with DISTRICT to provide architectural services related to the PROJECT.

“BOARD” means the Board of Trustees of DISTRICT.

“COLLEGE” or “COLLEGES” refers to one or more of the colleges of DISTRICT.

“CONTRACTOR” is the contractor identified as a Party in the AGREEMENT.

“DISTRICT” is the Coast Community College District.

“Party” or “Parties” pertains to CONTRACTOR and DISTRICT, individually or collectively.

“PROJECT” is the planned undertaking as provided for in the PROJECT DOCUMENTS.

“PROJECT DOCUMENTS” includes all documents and agreements issued by DISTRICT pertaining to the PROJECT, including but not limited to the following, including any modifications, addenda, and amendments, as applicable: Notice Calling for Bids, Information for Bidders, Bid Form, Bid Security or Bid Bond, Designation of SUBCONTRACTORS, Information Required of Bidder, any prequalification forms pursuant to *Public Contract Code* Section 20111.5, Non-collusion Affidavit, Workers’ Compensation Certificate, Faithful Performance Bond, Payment Bond, Agreement including all Exhibits, Escrow Agreement, Drug-Free Workplace Certification, Criminal Records Check Certification, Change Orders, Shop Drawing Transmittals, Insurance Certificates and Endorsements, Owner Controlled Insurance Program Contractual Provisions, Guarantee, Contractor’s Certificate Regarding Non-Asbestos Containing Materials, Waste Reduction and Recycling Report, Disabled Veteran Business Enterprises Certification, General Conditions, Supplemental Conditions, Special Conditions, and Drawings and Specifications. The PROJECT DOCUMENTS are complementary, and what is required by any one shall be as binding as if required by all.

“Provide,” in reference to duties of CONTRACTOR or its SUBCONTRACTORS, includes “furnish and install.”

“Safety Orders” includes all statutes, regulations, ordinances, and orders, pertaining to safety, issued by an applicable federal, state, or local governmental entity.

“SUBCONTRACTOR” or “SUBCONTRACTORS” includes all those having a direct contractual relationship with CONTRACTOR related to the PROJECT.

“Surety” is the person or entity who executes as a California admitted surety insurer, the CONTRACTOR’s Bid Security, faithful performance bond, and payment bond.

2) STATUS OF CONTRACTOR

CONTRACTOR is and shall at all times be deemed to be an independent CONTRACTOR and shall be wholly responsible for the manner in which it performs the services required of it by the terms of the PROJECT DOCUMENTS. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between DISTRICT and CONTRACTOR or any of CONTRACTOR's agents or employees. CONTRACTOR assumes exclusively the responsibility for the acts of its employees as they relate to the services to be provided during the course and scope of their employment. CONTRACTOR, its agents, and employees shall not be entitled to any rights or privileges of DISTRICT employees and shall not be considered in any manner to be DISTRICT employees. DISTRICT shall be permitted to monitor the activities of the CONTRACTOR to determine compliance with the terms of the PROJECT DOCUMENTS.

CONTRACTOR is required by law to be licensed, and is regulated by, the California Contractors' State License Board. Any CONTRACTOR not so licensed is subject to penalties under the law, and the AGREEMENT will be considered void.

3) CHANGE IN CONTRACTOR'S LEGAL ENTITY

Before CONTRACTOR makes any change in the name or legal nature of CONTRACTOR's entity, CONTRACTOR shall first notify DISTRICT in writing and shall cooperate with DISTRICT in making such changes in the PROJECT DOCUMENTS as DISTRICT may request.

4) CONTRACTOR'S SUPERVISION AND PROGRESS

During progress of the work on the PROJECT, CONTRACTOR shall keep on the work site a competent superintendent ("Superintendent") satisfactory to DISTRICT. Before commencing the work on the PROJECT, CONTRACTOR shall give written notice to DISTRICT and ARCHITECT of the name, qualifications, and experience of the Superintendent. If Superintendent is found unsatisfactory by DISTRICT, CONTRACTOR shall replace the Superintendent with one acceptable to DISTRICT. Superintendent shall not be changed except with written consent of DISTRICT, unless the Superintendent proves to be unsatisfactory to CONTRACTOR and ceases to be in its employ, in which case, CONTRACTOR shall notify DISTRICT and ARCHITECT in writing and replace the Superintendent with one acceptable to DISTRICT. Superintendent shall represent CONTRACTOR and all directions given to Superintendent shall be as binding as if given to CONTRACTOR.

CONTRACTOR shall supervise and direct the work on the PROJECT competently and efficiently, devoting such attention thereto and applying such skills as may be necessary to perform the work in accordance with the PROJECT DOCUMENTS. CONTRACTOR shall carefully study and compare all plans, Drawings and Specifications, and other instructions, and shall at once report to ARCHITECT any error, inconsistency, or omission which CONTRACTOR or its employees may discover. CONTRACTOR represents itself to DISTRICT as a skilled, knowledgeable, and experienced CONTRACTOR. CONTRACTOR shall be liable to DISTRICT for damage resulting from errors, inconsistencies, and omissions in the PROJECT DOCUMENTS that the CONTRACTOR recognized, or should have recognized, and which CONTRACTOR failed to report and which a similarly skilled, knowledgeable, and experienced CONTRACTOR would have discovered.

CONTRACTOR shall verify all indicated dimensions before ordering materials or equipment, or before performing work. CONTRACTOR shall take field measurements, verify field conditions, and carefully compare such field measurements and conditions and other information known to CONTRACTOR with the PROJECT DOCUMENTS before commencing work. Errors, inconsistencies, or omissions discovered shall be reported to DISTRICT without delay. Upon commencement of any item of work, CONTRACTOR shall be responsible for dimensions related to such item of work and shall make any corrections necessary to make work properly fit at no additional cost to DISTRICT. This responsibility for verification of dimensions is a non-delegable duty and may not be delegated to SUBCONTRACTORS or agents.

Omissions from the plans, Drawings and Specifications, or the mis-description of details of work which are necessary to carry out the intent of the plans, or the Drawings and Specifications, or which are customarily performed, shall not relieve CONTRACTOR from performing such omitted or mis-described work, but they shall be performed as if fully and correctly set forth and described in the plans and the Drawings and Specifications.

CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. CONTRACTOR shall be responsible to ensure that the work complies with the language and intent of the PROJECT DOCUMENTS.

5) SUBCONTRACTORS

CONTRACTOR agrees to bind every SUBCONTRACTOR to the terms of the PROJECT DOCUMENTS. CONTRACTOR shall be as fully responsible to DISTRICT for acts and omissions of any SUBCONTRACTOR, and of persons and entities directly or indirectly employed by any SUBCONTRACTOR, as it is for acts and omissions of CONTRACTOR and of persons and entities directly employed by CONTRACTOR. Nothing contained in the PROJECT DOCUMENTS shall create any contractual relation between any SUBCONTRACTOR and DISTRICT, nor shall the PROJECT DOCUMENTS be construed to be for the benefit of any SUBCONTRACTOR.

DISTRICT's consent to any SUBCONTRACTOR shall not in any way relieve CONTRACTOR of any obligations under the PROJECT DOCUMENTS, and no such consent shall be deemed to waive any provision of any part of the PROJECT DOCUMENTS.

CONTRACTOR must submit with its bid a Designation of Subcontractors pursuant to the California Subletting and Subcontracting Fair Practices Act. If CONTRACTOR specifies more than one SUBCONTRACTOR for the same portion of work or fails to specify a SUBCONTRACTOR, and such portion of the work exceeds one-half of one percent of the total bid, CONTRACTOR agrees that it is fully qualified to perform and shall perform such work itself, unless CONTRACTOR provides for substitution or addition of SUBCONTRACTORS. Substitution or addition of SUBCONTRACTORS shall be permitted only as authorized under the California Subletting and Subcontracting Fair Practices Act, *Public Contract Code* Sections 4100 *et. seq.*

In accordance with *Business and Professions Code* Section 7059, if CONTRACTOR is designated as a "specialty contractor" (as defined in *Public Contract Code* Section 7058), all of the work to be performed outside of CONTRACTOR's license specialty shall be performed by a licensed SUBCONTRACTOR in compliance with the California Subletting and Subcontracting Fair Practices Act.

A copy of each subcontract, if in writing, or if not in writing, then a written statement signed by CONTRACTOR giving the name of the SUBCONTRACTOR and the terms and conditions of such subcontract, shall be filed with DISTRICT before SUBCONTRACTOR begins work. Each subcontract shall contain a reference to the AGREEMENT between DISTRICT and CONTRACTOR, and the terms of the AGREEMENT and all parts of the PROJECT DOCUMENTS shall be made a part of such subcontract insofar as applicable to the work covered thereby. Each subcontract will provide for termination in accordance with these General Conditions. Each subcontract shall provide for its annulment by CONTRACTOR at the order of ARCHITECT if in ARCHITECT's opinion the SUBCONTRACTOR fails to comply with the requirements of the PROJECT DOCUMENTS insofar as applicable to the work. Nothing herein contained shall relieve CONTRACTOR of any liability or obligation hereunder.

6) PROHIBITED INTERESTS

No official of DISTRICT who is authorized in such capacity and on behalf of DISTRICT to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting, or approving, any architectural, engineering, inspection, construction, or material supply contract, or any subcontract in connection with construction of the PROJECT, shall become directly or indirectly interested financially in the PROJECT. No officer, employee, architect, attorney, engineer, or inspector of or for DISTRICT who is authorized in such capacity and on behalf of DISTRICT to exercise any executive, supervisory, or other similar functions in connection with the PROJECT shall become directly or indirectly interested financially in the PROJECT. CONTRACTOR shall receive no compensation, and shall repay DISTRICT for any compensation received by CONTRACTOR hereunder, should CONTRACTOR aid, abet, or knowingly participate in violation of this Article.

7) DISTRICT'S INSPECTORS

One or more inspectors ("Inspector"), including special inspectors as required, will be retained by DISTRICT and will be assigned to the PROJECT.

No work shall be performed by CONTRACTOR solely upon the instructions or comments by the Inspector. The Inspector has no authority to interpret the PROJECT DOCUMENTS or order extra work, and any extra work performed without the written instruction of DISTRICT shall be at CONTRACTOR's sole cost and expense, and there will be no delay damages incurred by DISTRICT for such work.

No work shall be carried on except with the knowledge and under the inspection of the Inspectors. The Inspector shall have free access to all parts of the work site at any time. CONTRACTOR shall furnish the Inspector reasonable opportunities for obtaining such information as may be necessary to keep the Inspector fully informed respecting progress and manner of work and character of materials. Inspection of work by the Inspector shall not relieve CONTRACTOR from any obligation to fulfill the PROJECT DOCUMENTS. The Inspector or ARCHITECT shall have authority to stop work whenever provisions of PROJECT DOCUMENTS are not being complied with and such noncompliance is discovered. CONTRACTOR shall instruct its employees accordingly.

CONTRACTOR understands and agrees that the Inspector may serve concurrently as inspector for other DISTRICT projects and may not therefore be available on site during the entire work day. It shall be the responsibility of CONTRACTOR to notify the Inspector not less than 24 hours in advance of materials and equipment deliveries and required inspections.

8) ARCHITECT'S STATUS

ARCHITECT shall be DISTRICT's representative during construction and shall observe the progress and quality of the work on behalf of DISTRICT. ARCHITECT shall have the authority to act on behalf of DISTRICT only to the extent provided in the PROJECT DOCUMENTS. ARCHITECT shall have authority to stop work whenever such stoppage may be necessary in ARCHITECT's reasonable opinion to ensure the proper execution of the PROJECT DOCUMENTS.

ARCHITECT shall be, in the first instance, the judge of the performance of the work. ARCHITECT shall exercise authority under the PROJECT DOCUMENTS to enforce CONTRACTOR's faithful performance.

ARCHITECT shall have all authority and responsibility established by law. ARCHITECT has the authority to enforce compliance with the PROJECT DOCUMENTS, and CONTRACTOR shall promptly comply with instructions from ARCHITECT or an authorized representative of ARCHITECT.

On all questions related to the quantities, the acceptability of material, equipment or workmanship, the execution, progress or sequence of work, the interpretation of plans, specifications or drawings, or the acceptable performance of CONTRACTOR pursuant to the decision of ARCHITECT shall govern and shall be precedent to any payment unless otherwise ordered by DISTRICT. The progress and completion of the work shall not be impaired or delayed by virtue of any question or dispute arising out of or related to the foregoing matters and the instructions of ARCHITECT relating thereto.

General supervision and direction of the work by ARCHITECT shall in no way imply that ARCHITECT is in any way responsible for the safety of CONTRACTOR or its employees, or that ARCHITECT will maintain supervision over CONTRACTOR's construction methods or personnel other than to ensure that the quality of the finished work is in accordance with the PROJECT DOCUMENTS.

9) NOTICE OF TAXABLE POSSESSORY INTEREST

The terms of the AGREEMENT may result in the creation of a possessory interest. If such a possessory interest is vested in a private party to the AGREEMENT, the private party may be subjected to the payment of property taxes levied on such interest.

10) ASSIGNMENT OF ANTITRUST ACTIONS

Public Contract Code Section 7103.5(b) provides as follows:

“In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to [DISTRICT] all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the *Business and Professions Code*), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become

effective at the time the awarding body tenders final payment to the contractor, without further acknowledgment by the parties.”

CONTRACTOR, for itself and all SUBCONTRACTORS, agrees to assign to DISTRICT all rights, title, and interest in and to all such causes of action which CONTRACTOR and any SUBCONTRACTOR may have under the AGREEMENT. This assignment shall become effective at the time DISTRICT tenders final payment to CONTRACTOR, and CONTRACTOR shall require assignments from all SUBCONTRACTORS to comply herewith.

11) OTHER CONTRACTORS

DISTRICT reserves the right to let other contracts in connection with the work on the PROJECT. CONTRACTOR shall afford other contractors reasonable opportunity for introduction and storage of their materials and execution of their work, and shall properly connect and coordinate its work with such other contractors.

If any part of CONTRACTOR’s work depends for proper execution or results upon work of any other contractor, CONTRACTOR shall inspect and promptly report to ARCHITECT in writing any defects in such work that render it unsuitable for such proper execution and results. CONTRACTOR will be held accountable for damages to DISTRICT for that work which it failed to inspect or should have inspected. CONTRACTOR’s failure to inspect and report shall constitute its acceptance of other contractors’ work as fit and proper for reception of its work, except as to defects which may develop in other contractors’ work after final completion of CONTRACTOR’s work.

In order to ensure proper execution of its subsequent work, CONTRACTOR shall measure and inspect work already in place and shall at once report to ARCHITECT in writing any discrepancy between executed work and the PROJECT DOCUMENTS.

CONTRACTOR shall ascertain to its own satisfaction the scope of the PROJECT and nature of any other contracts that have been or may be awarded by DISTRICT related to the PROJECT to the end that CONTRACTOR may perform this AGREEMENT in the light of such other contracts, if any.

Nothing herein contained shall be interpreted as granting to CONTRACTOR exclusive occupancy to the site of the PROJECT. CONTRACTOR shall not cause any unnecessary hindrance or delay to any other contractor working on the PROJECT. If simultaneous execution of any contract for the PROJECT is likely to cause interference with performance of some other contract or contracts, DISTRICT shall decide which contractor shall cease work temporarily and which contractor shall continue or whether work can be coordinated so that contractors may proceed simultaneously.

DISTRICT shall not be responsible for any damages suffered or extra costs incurred by CONTRACTOR resulting directly or indirectly from the award, performance, or attempted performance of any other contract on the PROJECT, or caused by any decision or omission of DISTRICT respecting the order of precedence in performance of contracts.

12) OCCUPANCY

DISTRICT reserves the right to occupy buildings and portions of the work site of the PROJECT at any time before completion, and such occupancy shall not constitute final acceptance of any part of work covered by this AGREEMENT, nor shall such occupancy extend the date specified for completion of the work. Beneficial occupancy of a building or other portion of the work site does

not commence any warranty period, nor shall it entitle CONTRACTOR to any additional compensation due to such occupancy.

13) DISTRICT'S RIGHT TO TERMINATE AGREEMENT

Termination for Cause. If CONTRACTOR refuses or fails to complete the work or any separable part thereof with such diligence as will insure its completion within the time specified or any extension thereof, or fails to complete said work within such time, or if CONTRACTOR should file a petition for relief as a debtor, or should relief be ordered against CONTRACTOR as a debtor under Title 11 of the *United States Code*, or if CONTRACTOR should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, or if it should refuse or should fail to supply enough properly skilled workers or proper equipment, tools, and materials in the necessary quantity and quality to complete the work in the time specified, or if CONTRACTOR should fail to make prompt payment to SUBCONTRACTORS for materials or labor, or disregard laws, regulations, ordinances, or instructions of DISTRICT, or if CONTRACTOR or its SUBCONTRACTORS should otherwise violate any provision of the AGREEMENT, then CONTRACTOR shall be deemed to be in default of the AGREEMENT and DISTRICT may, without prejudice to any other right or remedy, serve written notice upon CONTRACTOR and Surety of DISTRICT's intention to terminate the AGREEMENT, such notice to contain the reasons for such intention to terminate, and unless within ten calendar days after the service of such notice such condition shall cease or such violation shall cease, or arrangements satisfactory to DISTRICT for the correction thereof be made and corrective action commenced in a diligent and workmanlike manner and pursued to satisfactory completion, the AGREEMENT shall upon the expiration of the ten calendar days, cease and terminate. In such case, CONTRACTOR shall be excluded from the work site and not be entitled to receive any further payment until work is finished to DISTRICT's satisfaction.

In the event of any such termination, Surety shall have the right to take over and perform the AGREEMENT, provided, however, that if Surety, within five calendar days after service upon it of the notice of termination, does not give DISTRICT written notice of its intention to take over and perform the AGREEMENT or does not commence performance thereof within ten calendar days after date of service of the notice of termination by DISTRICT on Surety, DISTRICT may take over the work and proceed to completion by any means determined by DISTRICT including hiring another CONTRACTOR at the expense of CONTRACTOR, and CONTRACTOR and the Surety shall be liable to DISTRICT for any excess cost or other damages occasioned by DISTRICT thereby. Time is of the essence in the AGREEMENT. If DISTRICT takes over the work as hereinabove provided, DISTRICT may, without liability for so doing, take possession of and utilize in completing the work such materials, supplies, equipment, and other property belonging to CONTRACTOR as may be on the site of the work and necessary therefore.

The expense of finishing the work, including compensation for additional architectural, managerial, and administrative services, shall be a charge against CONTRACTOR, and CONTRACTOR agrees that the charge may be deducted from any money due or becoming due to CONTRACTOR from DISTRICT, or CONTRACTOR shall pay the charges to DISTRICT. Expense incurred by DISTRICT as herein provided, and damage incurred due to DISTRICT's termination of the AGREEMENT or CONTRACTOR's default, may be certified to DISTRICT by ARCHITECT. The Surety shall become liable for payment should CONTRACTOR fail to pay in full any cost incurred by DISTRICT.

Nonappropriation of Funds/Insufficient Funds. In the event that sufficient funds are not appropriated to complete the PROJECT, or DISTRICT determines that sufficient funds are not available to complete the PROJECT, DISTRICT may terminate or suspend the completion of the PROJECT at any time by giving written notice to CONTRACTOR. In the event that DISTRICT exercises this option, DISTRICT shall pay for any and all work and materials completed or delivered onto the site, and the value of any and all work then in progress and orders actually placed which cannot be canceled up to the date of notice of termination. The value of work and materials paid for shall include a factor of fifteen percent for the CONTRACTOR's overhead and profit, and there shall be no other costs or expenses paid to CONTRACTOR. All work, materials, and orders paid for pursuant to this provision shall become the property of DISTRICT. DISTRICT may, without cause, order CONTRACTOR in writing to suspend, delay, or interrupt the PROJECT in whole or in part for such period of time as DISTRICT may determine.

The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to DISTRICT.

14) BONDS

Unless otherwise specified in Special Conditions or elsewhere in the PROJECT DOCUMENTS, CONTRACTOR shall furnish a surety bond in an amount equal to 100% of the contract price as security for the faithful performance of the AGREEMENT, and shall furnish a separate bond in an amount of 100% of the contract price as security for payment to persons performing labor and furnishing materials in connection with the PROJECT. Bonds shall be in the form set forth in the PROJECT DOCUMENTS.

15) SUBSTITUTION OF SECURITIES

Pursuant to the requirements of *Public Contract Code* Section 22300, upon CONTRACTOR's request, DISTRICT will make payment to CONTRACTOR of any earned retention funds withheld from payments under the AGREEMENT if CONTRACTOR deposits with DISTRICT or in escrow with a California or federally chartered bank acceptable to DISTRICT, securities eligible for the investment pursuant to *Government Code* Section 16430, or bank or savings and loan certificates of deposit, upon the following conditions:

CONTRACTOR shall be the beneficial owner of any securities substituted for retention funds withheld and shall receive any interest thereon.

All expenses relating to the substitution of securities under *Public Contract Code* Section 22300 and under this Article, including, but not limited to DISTRICT's overhead and administrative expenses, and expenses of escrow agent, shall be the responsibility of CONTRACTOR.

If CONTRACTOR shall choose to enter into an escrow agreement, such agreement shall be in the form as set forth in *Public Contract Code* Section 22300(f), attached hereto as part of the PROJECT DOCUMENTS, and which shall allow for the conversion to cash to provide funds to meet defaults by CONTRACTOR including, but not limited to, termination of CONTRACTOR's control over the work, stop notices filed pursuant to law, assessment of liquidated damages, or amounts to be kept or retained under the provisions of the PROJECT DOCUMENTS.

Securities, if any, shall be returned to CONTRACTOR only upon satisfactory completion of the AGREEMENT.

To minimize the expense caused by such substitution of securities, CONTRACTOR shall, prior to or at the time CONTRACTOR requests to substitute security, deposit sufficient security to cover the entire amount to be then withheld and to be withheld under the AGREEMENT . Should the value of such substituted security at any time fall below the amount for which it was substituted, or any other amount which DISTRICT determines to withhold, CONTRACTOR shall immediately, and at CONTRACTOR's expense, deposit additional security qualifying under *Public Contract Code* Section 22300 until the total security deposited is no less than equivalent to the amount subject to withholding under the AGREEMENT.

In the alternative, under *Public Contract Code* Section 22300, CONTRACTOR, at its own expense, may request DISTRICT to make payment of earned retention funds directly to the escrow agent. Also at the expense of CONTRACTOR, CONTRACTOR may direct investment of the payments into securities, and CONTRACTOR shall receive the interest earned on the investment upon the same conditions as shown in paragraph "a" for securities deposited by CONTRACTOR. Upon satisfactory completion of the AGREEMENT, CONTRACTOR shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from DISTRICT, pursuant to the terms of *Public Contract Code* Section 22300.

If any provision of this Article shall be found to be illegal or unenforceable, then, notwithstanding, this Article otherwise shall remain in full force and effect, and such provision shall be deemed stricken.

16) FIRE INSURANCE

CONTRACTOR will procure, at CONTRACTOR's own expense, and before commencement of any work under the AGREEMENT, fire insurance on the PROJECT. Amount of fire insurance shall be sufficient to protect against loss or damage in full until work is accepted by DISTRICT. CONTRACTOR shall submit proof of insurance and shall provide endorsements on forms provided by DISTRICT or on forms approved by DISTRICT.

17) PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE

Unless the Project is insured through the DISTRICT's Owner Controlled Insurance Program, CONTRACTOR shall take out and maintain during the life of the AGREEMENT such public liability and property damage insurance as shall protect CONTRACTOR and DISTRICT from all claims for personal injury, including accidental death, to any person (including, as to DISTRICT, injury or death to CONTRACTOR's or SUBCONTRACTOR's employees), as well as from all claims for property damage arising from operations under the AGREEMENT, in amounts as set forth in the AGREEMENT.

CONTRACTOR shall require its SUBCONTRACTORS to take out and maintain similar public liability and property damage insurance in like amounts or insure the activities of its SUBCONTRACTORS in CONTRACTOR's own policy.

CONTRACTOR, during the progress of the work on the PROJECT, and until notified in writing by DISTRICT that CONTRACTOR may cease insurance coverage, shall maintain Builder's Risk/"All Risk," course-of-construction insurance in an amount not less than as set forth in the AGREEMENT.

Coverage is to provide extended coverage and insurance against vandalism, malicious mischief, perils of fire, sprinkler leakage, civil authority, sonic boom, earthquake, collapse, flood, wind, lightning, smoke, riot, debris removal (including demolition), and reasonable compensation for ARCHITECT's services and expenses required as a result of such insured loss upon the entire work which is the subject of the PROJECT DOCUMENTS, including completed work and work in progress to the full insurable amount thereof. The risk of damage to the work due to the perils covered by the Builder's Risk/"All Risk" Insurance, as well as any other hazards which might result in damage to the work, is that of CONTRACTOR and the surety, and no claims for such loss or damage shall be recognized by DISTRICT nor will such loss or damage excuse the complete and satisfactory performance of the AGREEMENT by CONTRACTOR.

CONTRACTOR shall submit proof of insurance and shall provide endorsements on the forms provided by DISTRICT or on forms approved by DISTRICT. Such insurance shall be issued by admitted surety insurers under the same conditions as required for bonds on the PROJECT (See also Article 78).

18) WORKERS' COMPENSATION INSURANCE

Unless the Project is insured through the DISTRICT's Owner Controlled Insurance Program, in accordance with the provisions of *Labor Code* Section 3700, CONTRACTOR and every SUBCONTRACTOR shall be required to secure the payment of compensation to its employees.

CONTRACTOR shall provide, during the term of the AGREEMENT, workers' compensation insurance for all of its employees engaged in work under the AGREEMENT, on or at the site of the PROJECT, and CONTRACTOR shall require the SUBCONTRACTORS similarly to provide workers' compensation insurance for all the SUBCONTRACTOR's employees. Any class of employee not covered by a SUBCONTRACTOR's insurance shall be covered by CONTRACTOR's insurance. In case any class of employees engaged in work under the AGREEMENT, on or at the site of the PROJECT, is not protected under workers' compensation law, CONTRACTOR shall provide or shall cause a SUBCONTRACTOR to provide, adequate insurance coverage for the protection of such employees not otherwise protected before SUBCONTRACTOR commences work. CONTRACTOR shall file with DISTRICT certificates of its insurance protecting workers, and a 30-day notice shall be provided to DISTRICT before the cancellation or reduction of any policy of CONTRACTOR or SUBCONTRACTOR. CONTRACTOR shall submit proof of insurance and shall provide endorsements on the forms provided by DISTRICT or on forms approved by DISTRICT.

19) PROOF OF INSURANCE

CONTRACTOR shall not commence work, nor shall it allow any SUBCONTRACTOR to commence work, under the AGREEMENT until all required insurance certificates and endorsements from admitted surety insurers have been obtained and delivered in duplicate to and approved by DISTRICT. Such insurance shall be issued by admitted surety insurers under the same conditions as required for bonds on the PROJECT. CONTRACTOR shall provide proof of insurance on DISTRICT approved forms without revisions.

Certificates and insurance policies shall include the following:

A clause stating: *"This policy shall not be canceled or reduced in required limits of liability or amount of insurance until notice has been mailed to DISTRICT stating date of cancellation or*

reduction. Date of cancellation or reduction may not be less than 30 days after date of mailing notice.”

Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

Statement that DISTRICT is an additional insured under the policy described and that such insurance policy shall be primary to any insurance or self-insurance maintained by DISTRICT.

In case of CONTRACTOR’s failure to provide insurance as required by the AGREEMENT, DISTRICT may, at DISTRICT’s option, take out and maintain at the expense of CONTRACTOR, such insurance in the name of CONTRACTOR, or SUBCONTRACTOR, as DISTRICT may deem proper and may deduct the cost of taking out and maintaining such insurance from any sums which are due or to become due to CONTRACTOR under the AGREEMENT.

20) DRAWINGS AND SPECIFICATIONS

Drawings and Specifications are intended to delineate and describe the PROJECT and its component parts to such a degree as will enable skilled and competent contractors to intelligently bid upon the work, and to carry the work to a successful conclusion.

Drawings and Specifications are intended to comply with all laws, ordinances, rules, and regulations of constituted authorities having jurisdiction, and where referred to in the PROJECT DOCUMENTS, said laws, ordinances, rules, and regulations shall be considered as a part of the AGREEMENT within the limits specified. CONTRACTOR shall bear all expenses of correcting work done contrary to said laws, ordinances, rules, and regulations, and if CONTRACTOR performed same (1) without first consulting ARCHITECT for further instructions regarding said work, or (2) disregarded ARCHITECT’s instructions regarding said work.

Questions regarding interpretation of Drawings and Specifications shall be clarified by ARCHITECT upon request. Before commencing any portion of the work, CONTRACTOR shall carefully examine all Drawings and Specifications and other information given to CONTRACTOR. CONTRACTOR shall immediately notify ARCHITECT and DISTRICT in writing of any perceived or alleged error, inconsistency, ambiguity, or lack of detail or explanation in the Drawings and Specifications. If CONTRACTOR or its SUBCONTRACTORS, material or equipment suppliers, or any of their respective officers, agents, or employees performs, permits, or causes the performance of any work under the PROJECT DOCUMENTS, which it knows or should have known to be in error, inconsistent, or ambiguous, or not sufficiently detailed or explained, CONTRACTOR shall bear any and all costs arising therefrom, including, without limitation, the cost of correction thereof. In the event that ARCHITECT determines that CONTRACTOR’s requests for clarification or interpretation are not justified or do not reflect adequate competent supervision or knowledge by the CONTRACTOR or the SUBCONTRACTORS, CONTRACTOR shall be required to pay ARCHITECT’s reasonable and customary fees in processing and responding to such requests. Should CONTRACTOR commence work or any part thereof without seeking clarification, CONTRACTOR waives any claim for extra work or damages as a result of any ambiguity, conflict, or lack of information.

Figured dimensions on drawings shall govern, but work not dimensioned shall be as directed. Work not particularly shown or specified shall be the same as similar parts that are shown or specified. Large scale drawings shall take precedence over smaller scale drawings as to shape and details of construction. Specifications shall govern as to materials, workmanship, and installation procedures. Drawings and Specifications are intended to be fully cooperative and to agree. If CONTRACTOR observes that Drawings and Specifications are in conflict, CONTRACTOR shall promptly notify ARCHITECT in writing, and any necessary changes shall be adjusted as provided in the PROJECT DOCUMENTS; provided, however, that specifications calling for the higher quality material or workmanship shall prevail without additional cost to DISTRICT.

Materials or work described in words which so applied has a well known technical or trade meaning shall be deemed to refer to such recognized standards.

It is not the intention of the AGREEMENT to go into detailed descriptions of any materials or methods commonly known to the trade under "trade name" or "trade term." The mere mention or notation of such trade name or trade term shall be considered a sufficient notice to CONTRACTOR that it will be required to complete the work so named with all its incidental and accessory items according to the best practices of the trade.

The naming of any material or equipment shall mean furnishing and installing of same, including all incidental and accessory items thereto and labor necessary to achieve full and complete functioning of the material and/or equipment as per best practices of the trades involved, unless specifically noted otherwise.

ARCHITECT will furnish to CONTRACTOR one complete set of blue-line prints for posting of changes. Additional blue-line prints shall be provided by ARCHITECT upon payment by CONTRACTOR. During the construction period, CONTRACTOR shall maintain the set of blue-line prints in a satisfactory record condition, and shall thoroughly and neatly post, as they occur, all additions, deletions, corrections, and revisions in the actual construction of the PROJECT. The record drawings must be posted monthly and be current prior to each submission of each certificate of payment.

21) OWNERSHIP OF DRAWINGS

All plans, drawings, designs, specifications, other incidental architectural and engineering work or materials, and other PROJECT DOCUMENTS, and copies thereof furnished by DISTRICT are DISTRICT's property. They are not to be used in other work and are to be returned to DISTRICT upon request at completion of work, and may be used by DISTRICT as it may require, without any additional costs to DISTRICT.

22) DETAIL DRAWINGS AND INSTRUCTIONS

In case of ambiguity, conflict, or lack of information, ARCHITECT shall furnish additional instructions by means of drawings or otherwise, necessary for proper execution of work. All such drawings and instructions shall be consistent with PROJECT DOCUMENTS, true developments thereof, and reasonably inferable therefrom. Such additional instructions shall be furnished with reasonable promptness, provided that CONTRACTOR informs ARCHITECT of the relationship of the request to the critical path of construction.

Work shall be executed in conformity therewith and CONTRACTOR shall do no work without proper drawings and instructions.

ARCHITECT will furnish necessary additional details to more fully explain the work, which details shall be considered as part of the PROJECT DOCUMENTS.

Should any details be more elaborate, in the opinion of CONTRACTOR, than scale Drawings and Specifications warrant, CONTRACTOR shall give written notice thereof to ARCHITECT within five days of the receipt of same. In case no notice is given to ARCHITECT within five days, it will be assumed the details are reasonable development of the scale drawings. In case notice is given, then it will be considered, and if found justified, ARCHITECT will either modify the drawings or shall recommend to DISTRICT a change order for the extra work involved.

All parts of the described and shown construction shall be of the best quality of their respective kinds, and CONTRACTOR is hereby advised to use all diligence to become fully involved as to the required construction and finish, and in no case to proceed with the different parts of the work without obtaining first from ARCHITECT such directions and/or drawings as may be necessary for the proper performance of the work.

If it is found at any time, before or after completion of the work, that the CONTRACTOR has varied from the Drawings and Specifications, in materials, quality, form, or finish, or in the amount or value of the materials and labor used, ARCHITECT shall make a recommendation: (1) that all such improper work should be removed, remade, and replaced, and all work disturbed by these changes be made good at CONTRACTOR's expense; or (2) that DISTRICT deduct from any amount due CONTRACTOR, the sum of money equivalent to the difference in value between the work performed and that called for by the Drawings and Specifications. ARCHITECT shall determine such difference in value. DISTRICT, at its option, may pursue either recommendation made by ARCHITECT.

23) SHOP DRAWINGS

CONTRACTOR shall check and verify all field measurements and shall submit to ARCHITECT within the time periods identified in the project plans and specifications, all shop or setting list drawings, schedules, and materials list required for the work of various trades. ARCHITECT shall review such drawings, schedules, and materials list only for conformance with design concept of the PROJECT and compliance with information given in PROJECT DOCUMENTS, and return as approved or disapproved with guidance as to required corrections. CONTRACTOR shall make any corrections required by ARCHITECT, re-transmit the same number of corrected copies as the original submittal with ARCHITECT, and furnish such other copies as may be needed for construction within the time period mandated by the Construction Manager. ARCHITECT's approval of such drawings, schedules, or materials list shall not relieve CONTRACTOR from responsibility for deviations unless CONTRACTOR has in writing called ARCHITECT's attention to such deviations at time of submission and secured ARCHITECT's written approval, nor shall it relieve CONTRACTOR from responsibility for errors in shop drawings or schedules.

All submittals of shop drawings, catalog cuts, data sheets, schedules, and material lists shall be complete and shall conform to Drawings and Specifications.

The term "shop drawing" as used herein shall be understood to include, but not be limited to, detail design calculations, fabrication and installation drawings, lists, graphs, and operating instructions.

Shop drawings shall be submitted at a time sufficiently early to allow review of same by the Division of State Architect (“DSA”), if required, and ARCHITECT, and to accommodate the rate of construction progress required under the PROJECT DOCUMENTS. CONTRACTOR will be required to pay ARCHITECT’s reasonable and customary fees in order to expedite review of shop drawings which are not submitted in a timely fashion.

All shop drawing submittals shall be accompanied by an accurately completed transmittal form using the format bound herein. Any shop drawing submittal not accompanied by such a form, or where all applicable items on the form are not completed, will be returned for resubmittal. CONTRACTOR may authorize a material or equipment supplier to deal directly with ARCHITECT with regard to shop drawings; however, ultimate responsibility for the accuracy and completeness of the information contained in the submittal shall remain with CONTRACTOR.

Normally, a separate transmittal form shall be used for each specific item or class of material or equipment for which a submittal is required. Transmittal of shop drawings on various items using a single transmittal form will be permitted only when the items taken together constitute a manufacturer’s “package” or are so functionally related that expediency indicates review of the group or package as a whole. At its option, CONTRACTOR or the supplier may obtain from ARCHITECT quantities of the shop drawing transmittal form at reproduction cost.

CONTRACTOR’s review and approval of shop drawings shall include the following stamp:

“CONTRACTOR has reviewed and approved not only the field dimensions but the construction criteria, and also has made written notation regarding any information in the shop drawings that does not conform to the PROJECT DOCUMENTS. This shop drawing has been coordinated with all other shop drawings received to date by CONTRACTOR and this duty of coordination has not been delegated to SUBCONTRACTORS, material suppliers, ARCHITECT, or the engineers on the PROJECT.”

“Signature of CONTRACTOR”

ARCHITECT will return one or more prints of each drawing to CONTRACTOR with its comments noted thereon. CONTRACTOR shall make a complete and acceptable submittal to ARCHITECT by the second submission of drawings. DISTRICT shall withhold funds due to CONTRACTOR to cover additional costs of ARCHITECT’s review beyond the second submission and any other costs incurred by DISTRICT.

If prints of the shop drawing are returned to CONTRACTOR marked “NO EXCEPTIONS TAKEN,” formal revision of said drawing will not be required. If prints of the drawing are returned to CONTRACTOR marked “MAKE CORRECTIONS NOTED,” formal resubmittal of said drawings will not be required. If prints of the drawing are returned to CONTRACTOR marked “REVISE AND RESUBMIT,” CONTRACTOR shall revise said drawing and shall resubmit six copies of the revised drawing to ARCHITECT. If prints of the drawing are returned to CONTRACTOR marked “REJECTED RESUBMIT,” CONTRACTOR shall resubmit six new copies of the drawing to ARCHITECT.

Fabrication of an item shall not be commenced before ARCHITECT has reviewed the pertinent shop drawings and returned copies to CONTRACTOR marked with "NO EXCEPTIONS TAKEN," or "MAKE CORRECTIONS NOTED." Revisions indicated on shop drawings shall be considered as changes necessary to meet the requirements of the PROJECT DOCUMENTS and shall not be taken as the basis of claims for extra work. The review of such drawings by ARCHITECT will be limited to checking for general agreement with the PROJECT DOCUMENTS, and shall in no way relieve CONTRACTOR of responsibility for errors or omissions contained therein, nor shall such review operate to waive or modify any provision contained in the PROJECT DOCUMENTS. Fabricating dimensions, quantities of material, applicable code requirements, and other contract requirements shall be CONTRACTOR's responsibility.

No work represented by required shop drawings shall be purchased or commenced until the applicable submittal has been approved. The work shall conform to the approved shop drawings and all other requirements of the PROJECT DOCUMENTS. CONTRACTOR shall not proceed with any related work which may be affected by the work covered under shop drawings until the applicable shop drawings have been approved, particularly where piping, machinery, and equipment and the required arrangements and clearances are involved.

Except where the preparation of a shop drawing is dependent upon the approval of a prior shop drawing, all shop drawings pertaining to the same class or portion of the work shall be submitted simultaneously.

Calculations of a structural nature must be approved by DSA.

CONTRACTOR SHALL HAVE NO CLAIM FOR DAMAGES OR EXTENSION OF TIME DUE TO ANY DELAY RESULTING FROM CONTRACTOR HAVING TO MAKE REQUIRED REVISIONS TO SHOP DRAWINGS UNLESS REVIEW BY ARCHITECT OF SAID DRAWINGS IS DELAYED BEYOND THE TIME PROVIDED HEREIN AND CONTRACTOR CAN ESTABLISH THAT ARCHITECT'S DELAY IN REVIEW ACTUALLY RESULTED IN A DELAY IN CONTRACTOR'S CONSTRUCTION SCHEDULE. CONTRACTOR SHALL NOT BE ENTITLED TO ANY CLAIM FOR DAMAGES RESULTING FROM DSA REVIEW EXTENDING BEYOND 15 CALENDAR DAYS AFTER SUBMITTAL. HOWEVER, DISTRICT MAY CONSIDER AN EXTENSION OF TIME DUE TO ANY DELAY CAUSED BY DSA REVIEW.

24) LAYOUT AND FIELD ENGINEERING

All field engineering required for laying out of this work and establishing grades for earthwork operations shall be furnished by CONTRACTOR at its expense. Such work shall be done by a qualified civil engineer approved by the ARCHITECT. Any required "Record" drawings of site development shall be prepared by the approved civil engineer.

25) SOILS INVESTIGATION REPORT

When a soils investigation report has been obtained from test holes at the site, such report is available for CONTRACTOR's use in preparing its bid and work under the AGREEMENT, but such report shall not be part of the AGREEMENT. Any information obtained from such report or any information given on drawings as to surface and subsurface soil condition or to elevations of existing grades or elevations of underlying rock is approximate only, is not guaranteed, and does not form a part of the

AGREEMENT. CONTRACTOR is required to make a visual examination of site and must make whatever test CONTRACTOR deems appropriate to determine surface and subsurface soil conditions. If, during the course of work under the AGREEMENT, CONTRACTOR encounters subsurface or latent conditions which differ materially from those indicated in the soils investigation report, then CONTRACTOR shall notify DISTRICT within five working days of discovery of the condition.

WARNING: DISTRICT DOES NOT WARRANT THE SOILS AT THE PROJECT SITE NOR ANY INFORMATION CONTAINED IN ANY SOILS REPORT. SOILS INVESTIGATION REPORT IS PROVIDED FOR CONTRACTOR'S INFORMATION ONLY. CONTRACTOR IS TO CONDUCT AN INDEPENDENT INVESTIGATION OF THE PROJECT SITE AND THE SOILS CONDITIONS OF THE SITE. DISTRICT DOES NOT WARRANT THE SOILS CONDITIONS OF THE SITE AND CONTRACTOR IS FULLY RESPONSIBLE TO ASCERTAIN SITE CONDITIONS FOR THE PURPOSES OF DETERMINING CONSTRUCTION MEANS AND METHODS PRIOR TO COMMENCING CONSTRUCTION.

CONTRACTOR agrees that no claim against DISTRICT will be made by CONTRACTOR for damages, and CONTRACTOR hereby waives any rights to damages in the event that during progress of work CONTRACTOR encounters subsurface or latent conditions at the worksite materially different from those shown on drawings or indicated in specifications.

26) TESTS AND INSPECTIONS

Tests and inspections will comply with *California Code of Regulations* and with all other laws, ordinances, rules, regulations, and orders of public authorities having jurisdiction over the PROJECT.

If the AGREEMENT, DISTRICT's instructions, laws, ordinances, or any public authority require any work to be specially tested or approved, CONTRACTOR shall give notice in accordance with such authority of its readiness for observation or inspection at least two working days prior to being tested or covered up. If inspection is by authority other than DISTRICT, CONTRACTOR shall inform the Inspector of the date fixed for such inspection. Required certificates of inspection shall be secured by CONTRACTOR. Observations by the Inspector shall be promptly made, and where practicable, at source of supply. If any work should be covered up without approval or consent of the Inspector, it must be uncovered for examination and satisfactorily reconstructed at CONTRACTOR's expense in compliance with the AGREEMENT. Costs of tests, inspections, and any materials found to be not in compliance with the AGREEMENT shall be paid for by CONTRACTOR. Other costs for test and inspection shall be paid by DISTRICT.

27) TRENCHES

CONTRACTOR shall provide adequate sheeting, shoring, and bracing, or equivalent method, for the protection of life and limb in trenches and open excavation which conform to applicable safety standards.

If the AGREEMENT involves the excavation of any trench or trenches five feet or more in depth, and the PROJECT cost is in excess of \$25,000, CONTRACTOR shall, in advance of excavation, submit to DISTRICT for acceptance, or to whomever DISTRICT designates, which may include a registered civil or structural engineer employed by DISTRICT to whom authority to accept has been delegated, a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be

made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If such plan varies from the Shoring System Standards established by the Construction Safety Orders of the California Division of Industrial Safety, the plan shall be prepared by a registered civil or structural engineer employed by CONTRACTOR, and all costs therefore shall be included in the price named in the AGREEMENT for completion of the work as set forth in the PROJECT DOCUMENTS. In no case shall such plan be less effective than that required by the Construction Safety Orders. No excavation of such trench or trenches shall be commenced until said plan has been accepted by CAL-OSHA and a CAL-OSHA permit for such plan delivered to DISTRICT. (*Labor Code Sections 6500 and 6705; Health and Safety Code Section 17922.5*)

If the AGREEMENT involves the digging of trenches or excavations that extend deeper than four feet below the surface, the following shall apply pursuant to *Public Contract Code* Section 7104:

CONTRACTOR shall promptly, and before the following conditions are disturbed, notify DISTRICT, in writing, of any:

Material that CONTRACTOR believes may be material that is hazardous waste, as defined in *Health and Safety Code* Section 25117, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.

Subsurface or latent physical conditions at the site different from those indicated.

Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.

DISTRICT shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in CONTRACTOR's cost of, or the time required for, performance of any part of the work shall issue a change order under the procedures described in the PROJECT DOCUMENTS.

In the event a dispute arises between DISTRICT and CONTRACTOR, whether the conditions materially differ or involve hazardous waste, or cause a decrease or increase in CONTRACTOR's cost of, or time required for, performance of any part of the work, CONTRACTOR shall not be excused from any scheduled completion date provided for by the PROJECT DOCUMENTS, but shall proceed with all the work to be performed under the PROJECT DOCUMENTS. CONTRACTOR shall retain all rights provided in the AGREEMENT and in law which pertain to the resolution of disputes and protests.

28) PROJECT DOCUMENTS AT WORK SITE

CONTRACTOR shall keep on the work site at all times one legible copy of all PROJECT DOCUMENTS, including addenda and change orders, and all approved drawings, plans, schedules, and specifications. The PROJECT DOCUMENTS shall be kept in good order and available to ARCHITECT, DISTRICT, and all public authorities having jurisdiction. CONTRACTOR shall be acquainted with and comply with all laws and regulations relating to the PROJECT.

29) STATE AUDIT

Pursuant to and in accordance with the provisions of *Government Code* Section 8546.7, or any amendments thereto, all books, records, and files of DISTRICT, CONTRACTOR, or any SUBCONTRACTOR involving the expenditure of public funds in excess of \$10,000 including, but not limited to, the costs of administration of the AGREEMENT, shall be subject to the examination and audit of the State Auditor at the request of DISTRICT or as part of any audit of DISTRICT for a period of three years after final payment is made under the AGREEMENT.

30) SUBSTITUTIONS

Prior to Bid Opening. Should the bidder wish to request prior to bid opening, any substitution for the materials, process, service, or equipment specified, the bidder shall submit a written request at least ten working days before the bid opening date and hour. If the substituted item is acceptable, DISTRICT will approve it in an Addendum issued to all bidders of record. Requests received less than ten working days prior to bid opening will not be considered. DISTRICT shall consider substitution requests only from bidders submitting the bid for the PROJECT.

After Bid Opening and Prior to Award of Contract. If the bidder clearly indicates in its bid that it is proposing to use an “equal” product, the brand name or trade name, if any, of a proposed substitute item shall be inserted in the space provided in the bid or shall be otherwise clearly identified in the bid. If the bidder fails to indicate an “equal” product, its bid shall be considered as offering the material, process, service, or equipment referred to by the brand name or trade name specified. It is expressly understood and agreed to by the bidder that DISTRICT reserves the right to reject any such proposed substituted item. It is further expressly understood and agreed by bidder that in the event DISTRICT rejects a proposed “equal” item, the bidder will then supply the material, process, service, or equipment designated by brand name or trade name or a substitute therefore which meets with the approval of DISTRICT.

With respect to all proposed substitutions of “equal” items, the bidder shall submit all pertinent and appropriate data substantiating its request for substitutions within 10 days prior to the award of the contract. DISTRICT shall consider substitution requests only from the bidders submitting the bid for the PROJECT. DISTRICT is not responsible for locating or securing any information which is not included in such substantiating data. The burden of proof as to the quality or suitability of proposed substituted items shall be borne by the bidder. DISTRICT shall be the sole judge as to the quality and suitability of proposed substituted items, and decisions of DISTRICT shall be final and conclusive. Unless extended by the mutual agreement of the Parties, DISTRICT shall notify the successful bidder of the decision concerning the proposed substitution of “equal” items prior to the award of the contract. Also such decisions by DISTRICT shall be in writing, and no proposed substituted item shall be deemed approved unless DISTRICT has so indicated in writing. These time limitations shall be complied with strictly, and in no case will an extension of time for completion be granted because of the bidder’s failure to request the substitution of an item at the times and in the manner set forth herein.

Whenever in specifications any materials, process, service, or equipment is indicated or specified by brand name, trade name, proprietary name or by name of manufacturer, such specification shall be deemed to be used for the purpose of facilitating description of material, process, service, or equipment desired and shall be deemed to be followed by the words “or equal,” and CONTRACTOR may, unless otherwise stated, offer any material, process, service, or equipment which shall be

substantially equal or better in every respect to that so indicated or specified subject to DISTRICT or ARCHITECT approval.

If material, process, service, or equipment offered by CONTRACTOR is not, in opinion of ARCHITECT or DISTRICT, substantially equal or better in every respect to that specified, then CONTRACTOR shall furnish the material, process, service, or equipment specified. Burden of proof as to equality of any material, process, service, or equipment shall rest with CONTRACTOR. Provision authorizing submission of "or equal" substantiating data shall not in any way authorize an extension of time for performance of the AGREEMENT nor shall DISTRICT nor ARCHITECT authorize the submission of "or equal" substantiating data within 30 days of the filing of the Notice of Completion on the PROJECT.

In the event that CONTRACTOR furnishes material, process, service, or equipment other than what was specified by DISTRICT and which has been accepted by DISTRICT and which later is found to be defective, then CONTRACTOR, at its sole cost and expense, shall furnish DISTRICT specified material, process, service, or equipment or fully replace with new the defective material process, service, or equipment at DISTRICT's discretion.

In the event that CONTRACTOR furnishes material, process service, or equipment more expensive than that specified, difference in cost of such material, process, service, or equipment so furnished shall be borne by CONTRACTOR. Any engineering, design fees, or approval agencies' fees required to make adjustments in material or work of all trades directly or indirectly affected by the approved substituted items shall be borne entirely by CONTRACTOR. Any difference in cost between an approved substitution which is lower in cost than the originally specified item shall be refunded or credited by CONTRACTOR to DISTRICT.

Price, fitness, and quality being equal with regard to supplies, DISTRICT may prefer supplies grown, manufactured, or produced in California and next prefer supplies partially manufactured, grown, or produced in California, provided that the bids of said suppliers or the prices quoted by them do not exceed by more than 5% of the lowest bids/prices quoted by out-of-state suppliers, the major portion of the manufacture of the supplies is not done outside of California and the public good will be served thereby. (*Government Code Sections 4330-4334*)

31) SAMPLES

CONTRACTOR shall furnish for approval, all samples as required in specifications together with catalogs and supporting data required by ARCHITECT. This provision shall not authorize any extension of time for performance of the work. ARCHITECT shall review such samples, as to conformance with design concept of work and for compliance with information given in the PROJECT DOCUMENTS and approve or disapprove same within ten working days from receipt of same.

Unless specified otherwise, sampling, preparation of samples, and tests shall be in accordance with the latest standards of the American Society for Testing and Materials.

Samples shall, upon demand of ARCHITECT or DISTRICT, be submitted for tests or examinations and considered before incorporation of same into the work. CONTRACTOR shall be solely responsible for delays due to samples not being submitted in time to allow for tests. Acceptance or

rejection will be expressed in writing. Work shall be equal to approved samples in every respect. Samples which are of value after testing will remain the property of CONTRACTOR.

32) PROGRESS SCHEDULE

Within five calendar days after being awarded the contract, CONTRACTOR shall submit a progress schedule for DISTRICT's approval. The schedule shall indicate the beginning and completion dates of all phases of construction and shall use the "critical path method" ("CPM") or equivalent scheduling methodology for the value reporting, planning, and scheduling, of all work required under the PROJECT DOCUMENTS. The schedule will separately identify those milestones or events that must be completed before other portions of the work can be accomplished.

The scheduling is necessary for DISTRICT's adequate monitoring of the progress of the work, and shall be prepared in accordance with the time frame described in the AGREEMENT. DISTRICT may disapprove such a schedule and require modification to it if, in the opinion of ARCHITECT or DISTRICT, adherence to the progress schedule will cause the work not to be completed in accordance with the AGREEMENT. CONTRACTOR shall adhere to any such modifications required by DISTRICT.

CONTRACTOR will exchange scheduling information with SUBCONTRACTORS and suppliers. CONTRACTOR will order work, equipment, and materials with sufficient lead time to avoid interruption of the work.

CONTRACTOR shall submit to DISTRICT a monthly schedule to reflect the actual sequence of the work which shall be totally separate and apart from the original progress schedule.

Also, CONTRACTOR, if requested by ARCHITECT or DISTRICT, shall provide revised schedules within ten calendar days if, at any time, ARCHITECT or DISTRICT, consider the completion date to be in jeopardy. The revised schedule shall be designed to show how CONTRACTOR intends to accomplish the work to meet the original completion date. The form and method employed by CONTRACTOR shall be the same as for the original progress schedule. CONTRACTOR shall modify any portions of the schedule that become infeasible because of "activities behind schedule" or for any other valid reason. CONTRACTOR will provide documents and justification for any schedule changes. An activity that cannot be completed by its original completion date shall be deemed to be behind schedule.

CONTRACTOR shall submit a revised schedule within ten calendar days of CONTRACTOR's request for any extension of time. Failure to submit such schedule will result in CONTRACTOR waiving its right to obtain any extension of time.

IT IS AGREED THAT DISTRICT OWNS THE "FLOAT" ON THIS PROJECT. IF CONTRACTOR SUBMITS A REVISED SCHEDULE SHOWING AN EARLIER COMPLETION DATE FOR THE PROJECT, DISTRICT'S ACCEPTANCE OF THIS REVISED SCHEDULE SHALL NOT ENTITLE CONTRACTOR TO ANY DELAY CLAIM OR DISRUPTION DAMAGES OR ANY OTHER DAMAGES DUE TO ANY SUCH REVISED SCHEDULE. NOTHING PROVIDED HEREIN SHALL BE CONSTRUED AS A DIRECT, INDIRECT, OR IMPLICIT ACCELERATION ORDER TO CONTRACTOR.

CONTRACTOR agrees that failure to timely submit the progress schedule, the monthly schedule, or any revised progress schedule requested by ARCHITECT or DISTRICT may result in delay in payment to CONTRACTOR.

33) MATERIALS AND WORK

Except as otherwise specifically stated in the AGREEMENT, CONTRACTOR shall provide and pay for all materials, supplies, tools, equipment, labor transportation, superintendence, temporary constructions of every nature, and all other services and facilities of every nature whatsoever necessary to execute and complete the PROJECT within specified time.

Unless otherwise specified, all materials shall be new and the best of their respective kinds and grades as noted or specified, and workmanship shall be of good quality.

Materials shall be furnished in sufficient quantities and at such times as to insure uninterrupted progress of work, and shall be stored properly and protected as required. DISTRICT has no obligation to pay for any prefabricated material stored offsite until delivered and installed to the jobsite and inspected and approved by the inspector of record.

CONTRACTOR shall, after issuance of the Notice to Proceed by DISTRICT, place orders for materials and/or equipment as specified so that delivery of same may be made without delays to the work. CONTRACTOR shall, upon demand from ARCHITECT, furnish to ARCHITECT documentary evidence showing that orders have been placed.

DISTRICT reserves the right, for any neglect in not complying with the above instructions, to place orders for such materials and equipment as it may deem advisable in order that the work may be completed at the date specified in the AGREEMENT, and all expenses incidental to the procuring of said materials and/or equipment shall be paid for by CONTRACTOR.

No materials, supplies, or equipment for work under the AGREEMENT shall be purchased subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or in any part thereof is retained by seller or supplier. CONTRACTOR warrants good title to all material, supplies, and equipment installed or incorporated in work and agrees upon completion of all work to deliver premises, together with all improvements and appurtenances constructed or placed thereon by it, to DISTRICT free from any claims, liens, or charges. CONTRACTOR further agrees that neither it nor any person, firm, or corporation furnishing any materials or labor for any work covered by the AGREEMENT shall have any right to lien upon premises or any improvement or appurtenance thereon, except that CONTRACTOR may install metering devices or other equipment of utility companies or of political subdivisions, title to which is commonly retained by utility company or political subdivision. In the event of installation of any such metering device or equipment, CONTRACTOR shall advise DISTRICT as to owner thereof.

Nothing contained in this Article, however, shall defeat or impair the rights of persons furnishing material or labor under any bond given by CONTRACTOR for their protection or any rights under any law permitting such persons to look to funds due CONTRACTOR in hand of DISTRICT, and this provision shall be inserted in all subcontracts and material contracts and notice of its provisions shall be given to all persons furnishing materials or labor when no formal contract is entered into for such materials or labor.

The title to new materials and/or equipment and attendant liability for its protection and safety, shall remain in CONTRACTOR until incorporated in the work and accepted by DISTRICT; no part of said materials or equipment shall be removed from its place of onsite or offsite storage except for immediate installation in the work; and CONTRACTOR shall keep an accurate inventory of all said materials and/or equipment in a manner satisfactory to DISTRICT or its authorized representative.

34) INTEGRATION OF WORK

CONTRACTOR shall do all cutting, fitting, patching, and preparation of work as required to make its several parts come together properly, and fit it to receive or be received by work of other contractors or existing conditions showing upon, or reasonably implied by, the Drawings and Specifications, and shall follow all directions given by ARCHITECT.

All costs caused by defective or ill-timed work shall be borne by CONTRACTOR.

CONTRACTOR shall not endanger any work by cutting, excavating, or otherwise altering work and shall not cut or alter work of any other contractor without the written consent of ARCHITECT. CONTRACTOR shall be solely responsible for protecting existing work on adjacent properties and shall obtain all required permits for shoring and excavations near property lines.

When modifying existing work or installing new work adjacent to existing work, CONTRACTOR shall match, as closely as conditions of site and materials will allow, the finishes, textures, and colors of the original work, refinishing existing work as required, at no additional cost to DISTRICT.

CONTRACTOR is aware that the PROJECT may be split into several phases. If the PROJECT is split into phases, then CONTRACTOR has made allowances for any delays or damages which may arise from coordination with other contractors for other phases. If any delays should arise from a contractor working on a different phase, CONTRACTOR's sole remedy for damages, including delay damages, shall be against the CONTRACTOR who caused such damage and not DISTRICT. CONTRACTOR shall provide access to other contractors for other phases as necessary to prevent delays and damages to contractors working on other phases of construction.

35) OBTAINING OF PERMITS, LICENSES, AND EASEMENTS

Permits, licenses, and certificates necessary for the work on the PROJECT shall be secured and paid for by CONTRACTOR, unless otherwise specified. All such permits, licenses, and certificates shall be delivered to ARCHITECT before demand is made for the certificate of final payment. CONTRACTOR shall, and shall require SUBCONTRACTORS, to maintain contractors' licenses in effect as required by law.

Easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by DISTRICT, unless otherwise specified.

Permits and charges for installation, and inspection thereof, of utility services by serving utilities shall be secured and paid for by DISTRICT.

36) SURVEYS

Surveys to determine location of property lines and corners will be supplied by DISTRICT. Surveys to determine locations of construction, grading, and site work, shall be provided by CONTRACTOR.

37) EXISTING UTILITY LINES; REMOVAL, RESTORATION

Pursuant to *Government Code* Section 4215, DISTRICT assumes the responsibility for removal, relocation, and protection of utilities located on the construction site at the time of commencement of construction under the AGREEMENT with respect to any such utility facilities which are not identified in the plans and specifications. CONTRACTOR shall not be assessed for liquidated damages for delay in completion of the PROJECT caused by failure of DISTRICT to provide for removal or relocation of such utility facilities. If CONTRACTOR, while performing work under the AGREEMENT, discovers utility facilities not identified by DISTRICT in the plans or specifications, CONTRACTOR shall immediately notify DISTRICT and the utility in writing. CONTRACTOR shall be compensated according to the provisions in the PROJECT DOCUMENTS governing changes in the work.

This Article shall not be construed to preclude assessment against the CONTRACTOR for any other delays in completion of the work. Nothing in this Article shall be deemed to require DISTRICT to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the construction site can be inferred from the presence of other visible facilities, such as buildings, meter junction boxes, on or adjacent to the site of the construction.

As part of the work to be performed, CONTRACTOR shall provide the notices and proceed in accordance with *Government Code* Sections 4216.2, 4216.3, 4216.4, and 4216.5, and pay all fees and penalties charged pursuant to *Government Code* Sections 4216 *et seq.*

38) WORK TO COMPLY WITH APPLICABLE LAW

CONTRACTOR shall give all notices and comply with all laws, ordinances, rules, and regulations applicable to the work as indicated and specified.

If CONTRACTOR observes that drawings or specifications are at variance therewith, CONTRACTOR shall promptly notify ARCHITECT in writing and any changes deemed necessary by the ARCHITECT shall be adjusted as provided for changes in work. If CONTRACTOR performs any work which it knew, or through exercise of reasonable care should have known, to be contrary to such laws, ordinances, rules, or regulations, and without such notice to ARCHITECT, CONTRACTOR shall bear all costs arising therefrom. Where plans, drawings or specifications state that materials, processes, or procedures must be approved by DSA, State Fire Marshall, or another agency, CONTRACTOR shall be responsible for satisfying the requirements of such agencies.

39) ACCESS TO WORK

DISTRICT shall at all times have access to work wherever it is in preparation or progress. CONTRACTOR shall provide safe and proper facilities for such access so that DISTRICT's representatives may perform their functions.

40) PAYMENTS BY CONTRACTOR

CONTRACTOR shall pay:

For all transportation and utility services not later than the 20th day of the calendar month following that in which such services are rendered;

For all materials, tools, and other expendable equipment, to the extent of 90% of the cost thereof, not later than the 20th day of the calendar month following that in which such materials, tools, and equipment are delivered at site of PROJECT and balance of cost thereof not later than the 30th day following completion of that part of work in or on which such materials, tools, and equipment are incorporated or used; and

To each of its SUBCONTRACTORS, not later than the 5th day following each payment to CONTRACTOR the respective amounts allowed CONTRACTOR on account of work performed by the respective SUBCONTRACTOR to the extent of such SUBCONTRACTOR's interest therein.

Within seven days from the time that all or any portion of the retentions are received by CONTRACTOR from DISTRICT, to each of its SUBCONTRACTORS from whom retention has been withheld, each SUBCONTRACTOR's share of the retention received. However, if a retention payment received by CONTRACTOR is specifically designated for a particular SUBCONTRACTOR, payment of the retention shall be made to the designated SUBCONTRACTOR, if the payment is consistent with the terms of the subcontract. CONTRACTOR may withhold from a SUBCONTRACTOR its portion of the retentions if a bona fide dispute exists between the SUBCONTRACTOR and CONTRACTOR. The amount withheld from the retention shall not exceed 150% of the estimated value of the disputed amount.

41) INSPECTOR'S FIELD OFFICE

CONTRACTOR shall provide for the exclusive use of the Inspector a temporary field office to be located as directed by the Inspector and to be maintained until removal is authorized by DISTRICT. The office shall be of substantial waterproof construction with adequate natural light and ventilation by means of stock design windows. The door shall have a key-type lock or padlock hasp. A table satisfactory for study of plans and two chairs shall be provided by CONTRACTOR. CONTRACTOR shall provide and pay for adequate electric lights, telephone service (not a pay phone), and adequate heat for the field office until authorized removal.

42) UTILITIES

All utilities, including but not limited to electricity, water, gas, and telephone used on work shall be furnished and paid for by CONTRACTOR. CONTRACTOR shall furnish and install necessary temporary distribution systems, including meters, if necessary, from distribution points to points on site where utility is necessary to carry on the work. When it is necessary to interrupt any existing utility service to make connections, a minimum of 48 hours advance notice shall be given to DISTRICT and ARCHITECT. Interruptions in utility services shall be of the shortest possible duration for the work at hand and shall be approved by DISTRICT and ARCHITECT. In the event that any utility service is interrupted without the required 48-hour notice, then CONTRACTOR shall be liable for all damage suffered by DISTRICT due to the interruption. Upon completion of work on the PROJECT, CONTRACTOR shall remove all temporary distribution systems.

CONTRACTOR may, with written permission of DISTRICT, use DISTRICT's existing utilities by making prearranged payments to DISTRICT for utilities used by CONTRACTOR for the PROJECT.

43) SANITARY FACILITIES

CONTRACTOR shall provide sanitary temporary toilet facilities in no fewer numbers than required by law and such additional facilities as may be directed by the Inspector for the use of all workers. The toilet facilities shall be maintained in a sanitary condition at all times and shall be left at the site until removal is directed by the Inspector. Use of toilet facilities in the work under construction shall not be permitted.

44) CLEANING UP

CONTRACTOR at all times shall keep work site free from debris such as waste, rubbish, and excess materials and equipment caused by this work. CONTRACTOR shall not leave debris under, in, or about the work site, but shall promptly remove same. Upon completion of work, CONTRACTOR shall clean interior and exterior of building, including fixtures, equipment, walls, floors, ceilings, roofs, window sills, and ledges, horizontal projections, and any areas where debris has collected. CONTRACTOR shall clean and polish all glass, plumbing fixtures, and finish hardware and similar finish surfaces and equipment and remove temporary fencing, barricades, planking, sanitary facilities, and similar temporary facilities from site. If CONTRACTOR fails to clean up, then DISTRICT shall do so, and the cost thereof shall be charged to CONTRACTOR and deducted from any payment due to CONTRACTOR.

45) PATENTS, ROYALTIES, AND INDEMNITIES

The CONTRACTOR shall hold and save DISTRICT, and its trustees, officers, agents, and employees, harmless from liability of any nature or kind, including cost and expense, for or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the AGREEMENT, including its use by DISTRICT, unless otherwise specifically provided in the PROJECT DOCUMENTS, and unless such liability arises from the sole negligence or willful misconduct of DISTRICT.

46) GUARANTEE

CONTRACTOR warrants that the work (which includes any equipment furnished by CONTRACTOR as part of the materials) shall: (1) be free from defects in workmanship and material; (2) be free from defects in any design performed by CONTRACTOR; (3) be new, and conform and perform to the requirements stated in the specifications and where detail requirements are not so stated, shall conform to applicable industry standards; and (4) be suitable for the use stated in the specifications.

The warranty period for discovery of defective work shall commence on the date stamped on the Notice of Completion verifying County recordation, and shall continue for one year, unless otherwise specified in the PROJECT DOCUMENTS. If, during the warranty period, the work is not available for use due to defective work, such time of unavailability shall not be counted as part of the warranty period. The warranty period for corrected defective work shall continue for a duration equivalent to the original warranty period.

DISTRICT shall give CONTRACTOR written notice within a reasonable time after discovery of any defective work. CONTRACTOR shall correct any such defective work, as well as any damage to any other part of the work resulting from such defective work, and provide repair, replacement, or reimbursement, at its sole expense, in a manner approved by DISTRICT and with due diligence and dispatch as required to make the work ready for use by DISTRICT, ordinary wear-and-tear, unusual

abuse, or neglect excepted. Such corrections shall include, but not be limited to, any necessary adjustments, modifications, changes of design (unless of DISTRICT's design), removal, repair, replacement, or reinstallation, and shall include all necessary parts, materials, tools, equipment, transportation charges, and labor as may be necessary, and cost of removal and replacement of work shall be performed at a time and in such a manner so as to minimize the disruption to DISTRICT's use of the work.

In the event of failure of CONTRACTOR or Surety to commence and pursue with diligence said repairs or replacements within ten calendar days after being notified in writing, DISTRICT is hereby authorized to proceed to have defects repaired or replaced and made good at expense of CONTRACTOR and Surety who hereby agree to pay costs and charges therefore immediately on demand.

If, in the opinion of DISTRICT, defective work creates a dangerous condition or requires immediate correction or attention to prevent further loss to DISTRICT or to prevent interruption of operations of DISTRICT, DISTRICT will attempt to give the written notice required by this Article. If CONTRACTOR or Surety cannot be contacted or neither complies with DISTRICT's requirements for correction within a reasonable time as determined by DISTRICT, DISTRICT may, notwithstanding the provisions of this Article, proceed to make such correction or provide such attention and the costs of such correction or attention shall be charged against CONTRACTOR and Surety. Such action by DISTRICT will not relieve CONTRACTOR and Surety of the guarantees provided in this Article or elsewhere in the PROJECT DOCUMENTS.

This Article does not in any way limit the guarantees on any items for which a longer guarantee is specified or on any items for which a manufacturer gives a guarantee for a longer period. CONTRACTOR shall furnish to DISTRICT all appropriate guarantee or warranty certificates upon completion of the PROJECT or upon request by DISTRICT.

All guarantees required under this Article shall be in writing on the Guarantee form included in the PROJECT DOCUMENTS.

CONTRACTOR shall provide to DISTRICT instruction manuals for all items which require same.

Nothing herein shall limit any other rights or remedies available to DISTRICT.

DISTRICT shall collect its reasonable costs and attorneys' fees in any action to enforce this Article.

47) DUTY TO PROVIDE FIT WORKERS

CONTRACTOR and SUBCONTRACTORS shall at all times enforce strict discipline and good order among their employees, and shall not employ on work any unfit person or anyone not skilled in work assigned to such person. It shall be the responsibility of CONTRACTOR to ensure compliance with this Article.

Any person in the employ of CONTRACTOR or SUBCONTRACTORS whom DISTRICT or ARCHITECT may deem incompetent, unfit, troublesome, or otherwise undesirable shall be excluded from the work site and shall not again be employed on it except with written consent of DISTRICT.

48) WAGE RATES, TRAVEL, AND SUBSISTENCE

Pursuant to the provisions of *Labor Code* Sections 1770 *et seq.* BOARD has obtained the applicable general prevailing rate of per diem wages, and the applicable general prevailing rate for holiday and overtime work for each craft, classification, or type of worker needed for the PROJECT from the California Department of Industrial Relations (“DIR”). CONTRACTOR shall post a copy of such wage rates at the work site. *Labor Code* Section 1773.2. The rates are available on DIR website.

Holiday and overtime work, when permitted by law, shall be paid for at a rate of at least one and one-half times the above specified rate of per diem wages, unless otherwise specified. Holidays shall be defined in the collective bargaining agreement applicable to each particular craft, classification, or type of worker employed.

CONTRACTOR shall pay and shall cause to be paid each worker engaged in work on the PROJECT not less than the general prevailing rate of per diem wages determined by DIR, regardless of any contractual relationship which may be alleged to exist between CONTRACTOR or any SUBCONTRACTOR and such workers.

CONTRACTOR shall pay and shall cause to be paid to each worker needed to execute the work on the PROJECT travel and subsistence payments, as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed with DIR in accordance with *Labor Code* Section 1773.8.

If during the period this bid is required to remain open, DIR determines that there has been a change in any prevailing rate of per diem wages in the locality in which this public work is to be performed, such change shall not alter the wage rates in the Notice Calling for Bids or the contract subsequently awarded.

Pursuant to *Labor Code* Section 1775, CONTRACTOR shall as a penalty to DISTRICT, forfeit \$200 for each calendar day, or portion thereof, for each worker paid less than the prevailing wages, determined by the Director, for such craft or classification in which such worker is employed for any public work done under the AGREEMENT by CONTRACTOR or by any SUBCONTRACTOR under it. The amount of the penalty shall be determined by DIR and shall be based on consideration of CONTRACTOR’s mistake, inadvertence, or neglect in failing to pay the correct prevailing wage, or the previous record of the CONTRACTOR in meeting its prevailing wage obligations, or CONTRACTOR’s willful failure to pay the correct prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct prevailing rate of per diem wage is not excusable. The difference between such prevailing wage and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage shall be paid to each worker by CONTRACTOR.

Any worker employed to perform work on the PROJECT, which work is not covered by any craft or classification listed in the general prevailing wages determined by DIR shall be paid not less than the minimum rate of wages specified therein for the craft or classification which most nearly corresponds to work to be performed by them, and such minimum wage rate shall be retroactive to time of initial employment of such person in such craft or classification.

Pursuant to *Labor Code* Section 1773.1, prevailing wages are deemed to include employer payments for health and welfare, pension, vacation, travel time, and subsistence.

CONTRACTOR shall post at appropriate conspicuous points on the site of the PROJECT, a schedule showing all determined minimum wage rates and all authorized deductions, if any, from unpaid wages actually earned.

49) HOURS OF WORK

As provided in *Labor Code* Sections 1810 *et seq.*, eight hours of labor shall constitute a legal day's work. The time of service of any worker employed at any time by CONTRACTOR or by any SUBCONTRACTOR shall be limited and restricted by the AGREEMENT to eight hours per day, and 40 hours during any one week, except as hereinafter provided. Notwithstanding the provisions hereinabove set forth, work performed by employees of CONTRACTOR in excess of eight hours per day and 40 hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

The CONTRACTOR shall keep and shall cause each SUBCONTRACTOR to keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by CONTRACTOR in connection with the work or any part of the work contemplated by the AGREEMENT. The record shall be kept open at all reasonable hours to the inspection of DISTRICT and to DIR.

Pursuant to *Labor Code* Section 1813, the CONTRACTOR shall pay to DISTRICT a penalty of \$25 for each worker employed by CONTRACTOR or by any SUBCONTRACTOR for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of law.

Any work necessary to be performed after regular working hours or on Sundays or other holidays shall be performed without additional expense to DISTRICT.

50) LABOR COMPLIANCE PROGRAM

DISTRICT may elect to and/or may be required to run a Labor Compliance Program ("LCP") pursuant to *Labor Code* Sections 1771.5 and/or 1771.7, and applicable DIR regulations. CONTRACTOR and each SUBCONTRACTOR performing work on the PROJECT shall comply with the LCP which is incorporated herein as if fully set forth.

Pursuant to the provisions of *Labor Code* Section 1771.4 and 1776, CONTRACTOR shall keep, and shall cause all SUBCONTRACTORS to keep, an accurate payroll record, showing the name, address, social security number, work classification, straight time, and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed under this Contract.

CONTRACTOR shall maintain and furnish to the Department of Industrial Relations and the DISTRICT, or its designated representative, on a periodic basis as directed by DISTRICT, but in no event less frequent than once each month, certified copies of weekly payroll records, signed under penalty of perjury. The Department of Industrial Relations shall monitor and enforce the obligation of the Contractor and Subcontractors of every tier to pay laborers performing any portion of Work on the Project. Furthermore, the DISTRICT, or its designated representative, may review the payroll records to verify compliance with the general prevailing rates of per diem wages requirements and shall conduct audits as it deems necessary. If the payroll records are delinquent or inadequate,

DISTRICT shall withhold contract payments. Additionally, if, after an investigation, it is established that an underpayment occurred, DISTRICT shall withhold contract payments equal to the amount of underpayment and applicable penalties. DISTRICT thereafter shall follow the notice requirements as provided in *Labor Code* Section 1771.6.

Said payroll records shall be certified under penalty of perjury and shall be available for inspection at all reasonable hours at the principal office of CONTRACTOR on the following basis:

A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

A certified copy of all payroll records shall be made available for inspection at no cost, or furnished upon request to any representative of DISTRICT, the Division of Labor Standards Enforcement ("DLSE"), and the Division of Apprenticeship Standards ("DAS") of Department of Industrial Relations (DIR).

A certified copy of all payroll records shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through DISTRICT, DAS, or DIR. If the requested payroll records have not been provided, the requesting Party shall, prior to being provided the records, reimburse the costs of preparation by CONTRACTOR, SUBCONTRACTORS, and the entity through which the request was made. The public shall not be given access to the payroll records at the principal office of CONTRACTOR.

The form of certification shall be as follows:

I, _____ (Name, the undersigned, am _____ (position in business)
with the authority to act for and on behalf of

_____ (Name of business and/or
CONTRACTOR), certify under penalty of perjury that the records or copies thereof
submitted and consisting of: _____

_____.

(*description, number of pages*) are in compliance with *Labor Code* Sections 1771, 1811,
and 1815 and are the originals or true, full and correct copies of the originals which depict
the payroll record(s) of the actual disbursements by way of cash, check, or whatever form
to the individual or individuals named.

Dated: _____ Signature: _____

The certified payroll records shall be on forms provided by DIR or shall contain the same information as the forms provided by DIR.

CONTRACTOR or any SUBCONTRACTOR shall file a certified copy of the payroll records with the entity that requested the records within ten days after receipt of a written request. In the event that CONTRACTOR or any SUBCONTRACTOR fails to comply within the 10-day period, CONTRACTOR or SUBCONTRACTOR shall, as a penalty to DISTRICT, forfeit \$100 for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the

request of the DAS or DLSE, these penalties shall be withheld from progress payments then due. *Labor Code* Section 1776(h).

Any copy of payroll records made available for inspection as copies and furnished upon request to the public or any public agency by DISTRICT, DAS, or DLSE, shall be marked or obliterated in a manner so as to prevent disclosure of an individual's name, address, and social security number. The name and address of CONTRACTOR or the SUBCONTRACTOR performing work on the PROJECT shall not be marked or obliterated.

CONTRACTOR or SUBCONTRACTOR shall inform DISTRICT of the location of the payroll records, including the street address, city, and county, and shall, within five working days, provide a notice of change of location and address.

It shall be a material obligation of CONTRACTOR to ensure compliance with the provisions of this Article and the provisions of *Labor Code* Section 1771.4 and 1776.

51) APPRENTICES

It shall be the responsibility of CONTRACTOR to ensure compliance with this Article and with *Labor Code* Section 1777.5, as applicable, for all apprenticing occupations.

Apprentices of any crafts or trades may be employed and, when required by *Labor Code* Section 1777.5, shall be employed provided they are properly registered in full compliance with the provisions of law.

Every such apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he or she is employed, and shall be employed only at the work of the craft or trade to which he or she is registered.

Only apprentices, as defined in *Labor Code* Section 3077, who are in training under apprenticeship standards and written apprentice agreements under *Labor Code* Sections 3070et seq., are eligible to be employed on the PROJECT. The employment and training of each apprenticeship shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which he or she is training.

Pursuant to *Labor Code* Section 1777.5, CONTRACTOR and any SUBCONTRACTORS employing workers in any apprenticeship craft or trade in performing any work under the AGREEMENT shall employ apprentices in at least the ratio set forth in *Labor Code* Section 1777.5, and apply to the applicable joint apprenticeship committee for a certificate approving CONTRACTOR or SUBCONTRACTOR under the applicable apprenticeship standards for the employment and training of apprentices.

CONTRACTOR and SUBCONTRACTORS shall submit contract award information to the applicable joint apprenticeship committee which shall include an estimate of journeyman hours to be performed under the AGREEMENT, the number of apprentices to be employed, and the approximate dates the apprentices will be employed.

If CONTRACTOR or SUBCONTRACTOR willfully fails to comply with *Labor Code* Section 1777.5, then, upon a determination of noncompliance by DAS, CONTRACTOR or SUBCONTRACTOR shall be subject to the penalties imposed under *Labor Code* Section 1777.7.

Interpretation and enforcement of these provisions shall be in accordance with the rules and procedures of the California Apprenticeship Council.

CONTRACTOR and all SUBCONTRACTORS shall comply with *Labor Code* Section 1777.6 which section forbids certain discriminatory practices in the employment of apprentices.

CONTRACTOR shall become fully acquainted with the law regarding apprentices prior to commencement of the work. Special attention is directed to *Labor Code* Sections 1777.5, 1777.6, and 1777.7, and Title 8, *California Code of Regulations*, Sections 200, *et seq.*

52) LABOR - FIRST AID

CONTRACTOR shall maintain emergency first aid treatment for CONTRACTOR's and SUBCONTRACTORS' workers on the PROJECT which complies with the federal Occupational Safety and Health Act of 1970 (29 U.S.C.. Sections 651 *et seq.*).

53) PROTECTION OF PERSONS AND PROPERTY

CONTRACTOR shall be responsible for all damages to persons or property that occur as a result of its fault or negligence in connection with the prosecution of this AGREEMENT and shall take all necessary measures and be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance by DISTRICT. CONTRACTOR shall provide such heat, covering, and enclosures as are necessary to protect all work, materials, equipment, appliances, and tools against damage by weather conditions. All work shall be solely at the CONTRACTOR's risk, with the exception of damage to the work caused by "acts of God" as defined in *Public Contract Code* Section 7105(b)(2).

CONTRACTOR shall take, and require SUBCONTRACTORS to take, all necessary precautions for safety of workers and shall comply with all applicable federal, state, local, and other safety laws, standards, orders, rules, regulations, and building codes to prevent accidents or injury to persons on, about, or adjacent to the work site and to provide a safe and healthful place of employment. CONTRACTOR shall furnish, erect, and properly maintain, at all times, as directed by DISTRICT or ARCHITECT, or as required by conditions and progress of work, all necessary safety devices, safeguards, construction canopies, signs audible devices for protection of the blind, safety rails, belts and nets, barriers, lights, and watchmen for protection of workers and the public, and shall post danger signs warning against hazards created by such features in the course of construction. CONTRACTOR shall designate a responsible employee, whose duty shall be to post information regarding protection and obligations of workers and other notices required under occupational safety and health laws, to comply with reporting and other occupational safety requirements, and to protect the life, safety, and health of workers. The name and position of the person so designated shall be reported in writing to DISTRICT by CONTRACTOR. CONTRACTOR shall correct immediately any violations of safety laws, standards, orders, rules, or regulations. Upon the issuance of a citation or notice of violation by the Division of Occupational Safety and Health of DIR, such violation shall be corrected immediately by CONTRACTOR at CONTRACTOR's sole expense.

In an emergency affecting the safety of persons or of work or of adjoining property, CONTRACTOR, without special instruction or authorization from ARCHITECT or DISTRICT, is hereby permitted to act, at its discretion, to prevent such threatened loss or injury; and CONTRACTOR shall so act if so authorized or instructed by ARCHITECT or DISTRICT. Any compensation claimed by

CONTRACTOR on account of emergency work shall be determined by written agreement with DISTRICT.

CONTRACTOR shall take adequate precautions to protect existing roads, sidewalks, curbs, pavements, utilities, adjoining property and structures (including, without limitation, protection from settlement or loss of lateral support), and to avoid damage thereto, and repair any damage thereto caused by construction operations.

CONTRACTOR shall (unless waived by DISTRICT in writing):

Enclose working area with a substantial barricade;

Not allow any unauthorized individuals on the work site;

Require all workers on the PROJECT to be conspicuously identified either by a firm logo on their clothing or prominent identification badge;

Arrange work to cause a minimum amount of inconvenience and danger to DISTRICT students and employees;

Provide substantial barricades around any shrubs or trees indicated by DISTRICT to be preserved.

Deliver materials to work site over route designated by ARCHITECT.

Take preventive measures to eliminate objectionable dust.

Enforce all instructions of DISTRICT and ARCHITECT regarding signs, advertising, fires, and smoking, and require that all workers comply with all regulations while on work site.

Take care to prevent disturbing or covering any survey markers, monuments, or other devices marking property boundaries or corners. If such markers are disturbed by accident, they shall be replaced by an approved civil engineer at no cost to DISTRICT.

54) NON-DISCRIMINATION

In the performance of the terms of the AGREEMENT, CONTRACTOR agrees that it will provide equal employment opportunities to all qualified applicants, subject to the terms of PROJECT DOCUMENTS, and agrees not to engage in, nor permit any SUBCONTRACTOR to engage in, unlawful discrimination in employment of workers, such as on account of race, religion, color, national origin, ancestry, disability, medical condition, marital status, sexual orientation, genetic information, age, or sex.

55) SCHEDULE OF VALUES AND PERIODICAL ESTIMATES

CONTRACTOR shall furnish on forms approved by DISTRICT:

Provide within ten calendar days of the award of contract, a detailed schedule of values giving complete breakdown of contract price for each component of the PROJECT or site which shall include all SUBCONTRACTOR and supplier agreements showing dollar amounts of these agreements to justify the schedule of values; and

Provide a periodical itemized estimate of work done for purpose of making partial payments thereon. Change order work shall be clearly identified on a separate schedule of values.

Provide within ten calendar days of a request by DISTRICT, a schedule of estimated monthly payments which shall be due to CONTRACTOR under the AGREEMENT.

Values employed in making up any of these schedules are subject to the ARCHITECT's written approval and will be used only for determining the basis of partial payments and will not be considered as fixing a basis for additions to or deductions from contract price.

56) CONTRACTOR CLAIMS

If CONTRACTOR claims compensation for any damage sustained by reason of the acts of DISTRICT or its agents, CONTRACTOR shall, within five calendar days after sustaining such damage, submit to ARCHITECT a written statement of the damage sustained. On or before the 15th day of the month succeeding that in which such damage allegedly was sustained, CONTRACTOR shall file with DISTRICT an itemized statement of the details and amount of such damage, and unless such statement is made in accordance with this section, CONTRACTOR's claims for compensation shall be forfeited and invalidated, and CONTRACTOR shall not be entitled to consideration for payment on account of any such damage.

57) DISPUTES – ARCHITECT'S DECISIONS

ARCHITECT shall, within a reasonable time, make decisions on all matters relating to CONTRACTOR's execution and progress of the work on the PROJECT. The decisions of ARCHITECT shall not be binding, but shall be advisory only on CONTRACTOR for the purpose of CONTRACTOR's obligation to proceed with the work.

Except for tort claims, all claims by CONTRACTOR for a time extension, payment of money or damages arising from work done by, or on behalf of, CONTRACTOR pursuant to the AGREEMENT, and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or as to the amount of payment which is disputed by DISTRICT of \$375,000 or less shall be subject to the settlement procedures set forth in *Public Contract Code* Sections 20104, *et seq.*

In the event of a dispute between the Parties as to performance of the work, the interpretation of the AGREEMENT, or payment or nonpayment for work performed or not performed, the Parties shall attempt to resolve the dispute. Pending resolution of the dispute, CONTRACTOR agrees to continue the work diligently to completion. If the dispute is not resolved, CONTRACTOR agrees that it will neither rescind the AGREEMENT nor stop the progress of the work, but CONTRACTOR's sole remedy shall be to submit such controversy to determination by the Superior Court of the State of California, in Orange County, after the PROJECT has been completed, and not before.

58) PAYMENTS

BOARD may make a finding that the PROJECT is "substantially complex" within the meaning of *Public Contract Code* Section 7201(b)(4). In this case, the retention would be increased from 5% to 10%.

Unless otherwise specified in writing, each month within 30 days after receipt by DISTRICT of the monthly progress schedule and an undisputed, properly submitted payment request from

CONTRACTOR which has been certified for payment by ARCHITECT, there shall be paid to CONTRACTOR a sum equal to 95% (or 90% if the retention is increased to 10% pursuant to subparagraph "a" above) of the value of work performed and of materials delivered to the work site, and inspected and approved by the inspector of record, and subject to or under the control of DISTRICT and unused up to the last day of the previous month, less aggregate previous payments, pursuant to *Public Contract Code* Section 20104.50. Monthly payments shall be made only on the basis of monthly estimates which shall be prepared by CONTRACTOR on a form approved by DISTRICT and filed before the fifth day of the month during which payment is to be made. Work completed as estimated shall be an estimate only and no inaccuracy or error in said estimate shall operate to release CONTRACTOR or Surety from any damages arising from such work or from enforcing every provision of the AGREEMENT, and DISTRICT shall have the right subsequently to correct any error made in any estimate for payment. CONTRACTOR SHALL NOT BE ENTITLED TO HAVE ANY PAYMENT ESTIMATES PROCESSED, OR BE ENTITLED TO HAVE ANY PAYMENT FOR WORK PERFORMED, SO LONG AS ANY LAWFUL OR PROPER DIRECTION CONCERNING WORK, OR ANY PORTION THEREOF, GIVEN BY DISTRICT OR ARCHITECT SHALL REMAIN UNCOMPLIED WITH BY CONTRACTOR. CONTRACTOR AGREES TO A 5% RETENTION ON ALL PROGRESS PAYMENTS (or 10% if the retention is increased to 10% pursuant to subparagraph "a" above).

The CONTRACTOR shall submit with each payment request a Certification of Certified Payroll Submittal to Labor Commissioner (Appendix B), declaring under penalty of perjury, that the CONTRACTOR and all of its' Subcontractors have submitted Certified Payroll Records ("CPR") to the Labor Commissioner for all employees engaged in performance of Work for the period of time covered by the Pay Application. Payments to CONTRACTOR shall be contingent upon DISTRICT receipt of this certification.

DISTRICT has discretion to require from CONTRACTOR any of the following information with the application for payment: (i) certified payroll covering the period of the prior application for payment; (ii) unconditional waivers and releases from all SUBCONTRACTORS and suppliers for which payment was requested under the prior application for payment; and (iii) receipts or bills of sale for any items. CONTRACTOR agrees that payment may be contingent upon DISTRICT receiving these documents.

Before payment is made hereunder, a certificate in writing shall be obtained from ARCHITECT stating that the work for which the payment is demanded has been performed in accordance with the terms of the PROJECT DOCUMENTS, and that the amount stated in the certificate is due under the terms of the PROJECT DOCUMENTS, which certificate shall be attached to and made a part of the claim made and filed with DISTRICT, provided that if ARCHITECT shall, within three days after written demand therefore, fail to deliver such certificate to DISTRICT, CONTRACTOR may file its claim with DISTRICT without said certificate, but together with such claim shall be filed a statement that demand was made for such certificate and that the same was refused. Thereupon, DISTRICT will either allow said claim as presented or shall, by an order entered in the minutes of the meeting of BOARD, state the reasons for refusing to allow said claim. It is understood, moreover, that the certificate of ARCHITECT shall not be binding upon DISTRICT, but is advisory only.

Upon receipt of CONTRACTOR's payment request, DISTRICT shall review the payment request as soon as practicable after receipt for the purpose of determining that the payment request is proper. Any payment request determined not to be proper shall be returned to CONTRACTOR as soon as practicable, but not later than seven days after receipt, and shall be accompanied by a document

setting forth in writing the reasons why the payment request was not proper, pursuant to *Public Contract Code* Section 20104.50(c)(2).

NO PAYMENT BY DISTRICT HEREUNDER SHALL BE INTERPRETED SO AS TO IMPLY THAT DISTRICT HAS INSPECTED, APPROVED, OR ACCEPTED ANY PART OF THE WORK.

Unless otherwise provided, on or before making request for final payment of the undisputed amount due under the AGREEMENT, CONTRACTOR shall submit to DISTRICT, in writing a summary of all claims for compensation under or arising out of this AGREEMENT which were timely filed. The acceptance by CONTRACTOR of the payment of the final amount shall constitute a waiver of all claims against DISTRICT under or arising out of the AGREEMENT, except those previously made, in a timely manner and in writing, and identified by CONTRACTOR as unsettled at the time of CONTRACTOR's final request for payment.

CONTRACTOR shall pay each of its SUBCONTRACTORS from whom retention has been withheld each SUBCONTRACTOR's share of the retention received within seven days from the time that all or any portion of the retention are received by CONTRACTOR, subject to any limitations set forth in *Public Contract Code* Section 7107.

The final payment of the retention, if unencumbered, shall be made within 35 days after recording by DISTRICT of the Notice of Completion at the County Recorder's Office. APPROVAL OF COMPLETION OF THE PROJECT WILL BE MADE ONLY BY ACTION OF BOARD.

59) CHANGES AND EXTRA WORK

DISTRICT may, as provided by law and without affecting the validity of the AGREEMENT, order changes, modifications, deletions, and extra work by issuance of written change orders from time to time during the progress of the PROJECT, contract sum being adjusted accordingly. All such work shall be executed under conditions of the original AGREEMENT except that any extension of time caused thereby shall be adjusted at time of ordering such change. DISTRICT has discretion to order changes on a "time and material" basis with adjustments to time made after CONTRACTOR has justified through documentation the impact on the critical path of the PROJECT.

Notwithstanding any other provision in the PROJECT DOCUMENTS, the adjustment in the contract sum, if any, and the adjustment in the contract time, if any, set out in a change order shall constitute the entire compensation and adjustment in the contract time due CONTRACTOR arising out of the change in the work covered by the change order unless otherwise provided in the change order. The amount of the compensation due CONTRACTOR shall be calculated pursuant to this Article. The entire compensation shall not include any additional charges not set forth in this Article, and shall not include delay damages (due to processing of a change order or refusal to sign a change order) indirect, consequential, or incidental costs, including any PROJECT management costs, extended home office and field office overhead, administrative costs and profit other than those amounts authorized under this Article.

In giving instructions, ARCHITECT shall have authority to make minor changes in work, not involving change in cost, and not inconsistent with purposes of the PROJECT. DISTRICT's Vice Chancellor of Administrative Services may authorize changes in work involving a change in cost that does not exceed \$15,000, subject to BOARD ratification. Otherwise, except in an emergency

endangering life or property, no extra work or change shall be made unless in pursuance of a written order from DISTRICT, authorized by action of the BOARD, and no claim for addition to contract sum shall be valid unless so ordered.

If ARCHITECT determines that work required to be done constitutes extra work outside the scope of the AGREEMENT, ARCHITECT shall send a request for a detailed proposal to CONTRACTOR. CONTRACTOR will respond with a detailed proposal within five calendar days of receipt of the Request for Proposal which shall include a complete itemized cost breakdown of all labor and materials showing actual quantities, hours, unit prices, and the wage rates required for the change. If the change order involves a change in construction time, a request for the time change shall accompany the change order cost breakdown. All such requests for time shall be specified by CONTRACTOR as either "work days" or "calendar days." Any request for time received with only the designation of "days" shall be considered calendar days. The term "work days" as used in this Article shall mean Monday through Friday, excluding Saturdays, Sundays, and federal or State of California observed holidays. If the work is to be performed by a SUBCONTRACTOR, CONTRACTOR must include a bid from the SUBCONTRACTOR containing the same detailed information as required for CONTRACTOR. No extensions of time will be granted for change orders that, in the opinion of ARCHITECT, do not affect the critical path of the PROJECT.

Value of any such extra work, change, or deduction shall be determined at the discretion of DISTRICT in one or more of the following ways:

By mutual written acceptance of a lump sum proposal from CONTRACTOR properly itemized and supported by sufficient substantiating data to permit evaluation by DISTRICT and ARCHITECT.

By unit prices contained in CONTRACTOR's original bid and incorporated in the PROJECT DOCUMENTS, or fixed by subsequent agreement between DISTRICT and CONTRACTOR.

By cost of material and labor and percentage for overhead and profit ("time and material"). If the value is determined by this method the following requirements shall apply:

(A) Daily Reports by CONTRACTOR.

General. At the close of each working day, CONTRACTOR shall submit a daily report to the Construction Manager and the Inspector, on forms approved by DISTRICT, together with applicable delivery tickets, listing all labor, materials, and equipment involved for that day, and for other services and expenditures when authorized concerning extra work items. An attempt shall be made to reconcile the report daily, and it shall be signed by the Construction Manager and CONTRACTOR. In the event of disagreement, pertinent notes shall be entered by each Party to explain points which cannot be resolved immediately. Each Party shall retain a signed copy of the report. Reports by SUBCONTRACTORS or others shall be submitted through CONTRACTOR.

Labor. The report shall show names of workers, classifications, and hours worked and hourly rate. Superintendent expenses are not allowed.

Materials. The report shall describe and list quantities of materials used and unit cost.

Equipment. The report shall show type of equipment, size, identification number, and hours of operation, including loading and transportation, if applicable, and hourly/daily cost.

Other Services and Expenditures. Other services and expenditures shall be described in such detail as DISTRICT may require.

(B) Basis for Establishing Costs

(i) Labor. The costs of labor will be the actual cost for wages prevailing locally for each craft classification or type of workers at the time the extra work is done, plus employer payments of payroll taxes and insurance, health and welfare, pension, vacation, apprenticeship funds, and other direct costs resulting from federal, state, or local laws, as well as assessments or benefits required by lawful collective bargaining agreements. The use of labor classification which would increase the extra work cost will not be permitted unless CONTRACTOR establishes the necessity for such additional costs. Labor costs for equipment operators and helpers shall be reported only when such costs are not included in the invoice for equipment rental.

Materials. The cost of materials reported shall be at invoice or lowest current price at which such materials are locally available and delivered to the work site in the quantities involved, plus sales tax, freight and delivery. DISTRICT reserves the right to approve materials and sources of supply, or to supply materials to CONTRACTOR if necessary for the progress of the work. No markup shall be applied to any material provided by DISTRICT.

Tool and Equipment Rental. No payment will be made for the use of tools which have a replacement value of \$250 or less or where an invoice is not provided.

Regardless of ownership, the rates to be used in determining equipment rental costs shall not exceed listed rates prevailing locally at equipment rental source, or distributors, at the time the work is performed. The rental rates paid shall include the cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs, and maintenance of any kind, depreciation, storage, insurance, and all incidentals. Necessary loading and transportation costs for equipment used on the extra work shall be included. If equipment is used intermittently and, when not in use, could be returned to its rental source at less expense to DISTRICT than holding it at the work site, it shall be returned, unless CONTRACTOR elects to keep it at the work site at no expense to DISTRICT.

All equipment shall be acceptable to ARCHITECT, in good working condition, and suitable for the purpose for which it is to be used. Manufacturer's ratings and manufacturer's approved modifications shall be used to classify equipment and it shall be powered by a unit of at least the minimum rating recommended by the manufacturer.

Other Items. DISTRICT may authorize other items which may be required on the extra work. Such items include labor, services, material, and equipment which are different in their nature from those required by the work and which are of a type not ordinarily available from CONTRACTOR or any of the SUBCONTRACTORS. Invoices covering all such items in detail shall be submitted with the request for payment.

Invoices. Vendors' invoices for material, equipment rental, and other expenditures, shall be submitted with the request for payment. If the request for payment is not substantiated by invoices or other documentation, DISTRICT may establish the cost of the item involved at the lowest price which was current at the time of the report.

(C) The following form shall be used as applicable by DISTRICT and CONTRACTOR to communicate proposed additions and deductions to the AGREEMENT.

	<u>EXTRA</u>	<u>CREDIT</u>
(ii) Material/Equipment (attach itemized quantity and unit cost plus sales tax)	_____	_____
(iii) Labor (attach itemized hours and rates)	_____	_____
(iv) Subtotal	_____	_____
(v) If SUBCONTRACTOR performed work, add SUBCONTRACTOR's overhead and profit to portions performed by it, not to exceed 15% of Item iii. above	_____	_____
(vi) Subtotal	_____	_____
(vii) CONTRACTOR's overhead and profit, not to exceed 15% of Item v if CONTRACTOR performed the work. If SUBCONTRACTOR performed the work, not to exceed 5% of Item v. Of portions performed by CONTRACTOR and SUBCONTRACTORS, portions performed by CONTRACTOR shall not exceed 15% of Item V, and portions performed by SUBCONTRACTOR shall not exceed 5% of Item v.	_____	_____
(viii) Subtotal	_____	_____
(ix) Bond and Liability Insurance Premium, if in fact additional bonds or insurance were actually purchased, not to exceed 1% of Item vii.	_____	_____
(x) Total	_____	_____

IT IS EXPRESSLY UNDERSTOOD THAT THE VALUE OF SUCH EXTRA WORK OR CHANGES, AS DETERMINED BY ANY OF THE AFOREMENTIONED METHODS, EXPRESSLY INCLUDES ALL OF CONTRACTOR'S COSTS AND EXPENSES, BOTH DIRECT AND INDIRECT, RESULTING FROM ADDITIONAL TIME REQUIRED ON THE PROJECT, OR RESULTING FROM DELAYS TO THE PROJECT. ANY COSTS OR EXPENSES NOT INCLUDED ARE DEEMED WAIVED. FOR PURPOSES OF DETERMINING THE COST, IF ANY, OF ANY EXTRA WORK, CHANGE, ADDITION, OR OMISSION HEREUNDER, ALL TRADE DISCOUNTS, REBATES, REFUNDS, AND ALL RETURNS FROM THE SALE OF SURPLUS MATERIALS AND EQUIPMENT SHALL ACCRUE AND BE CREDITED TO CONTRACTOR, AND CONTRACTOR SHALL ENSURE THAT SUCH DISCOUNTS, REBATES, REFUNDS, AND RETURNS MAY BE SECURED, AND THE AMOUNT THEREOF SHALL BE ALLOWED AS A REDUCTION OF CONTRACTOR'S COST IN DETERMINING THE ACTUAL COST OF CONSTRUCTION FOR PURPOSES OF ANY EXTRA WORK, CHANGE, ADDITION, OR OMISSIONS IN THE WORK AS PROVIDED HEREIN.

If CONTRACTOR should claim that any instruction, request, drawing, specification, action, condition, omission, default, or other situation obligates DISTRICT to pay additional compensation to CONTRACTOR or to grant an extension of time, or constitutes a waiver of any provision in the AGREEMENT, CONTRACTOR shall notify DISTRICT, in writing, of such claim within five calendar days from the date CONTRACTOR has actual or constructive notice of the factual basis supporting the claim. The notice shall state the factual bases for the claim and cite in detail the PROJECT DOCUMENTS (including plans and specifications) upon which the claim is based. CONTRACTOR's failure to notify DISTRICT within such five-day period shall be deemed a waiver and relinquishment of such a claim. If such notice be given within the specified time, the procedure for its consideration shall be as stated above in these General Conditions.

“PROHIBITED USAGE OF CONTRACTOR QUALIFYING LANGUAGE STAMPS ON DISTRICT DRAWINGS OR CONTRACT FORMS.” CONTRACTOR shall not countersign or endorse any form, drawing, change order, contract, or other documents with any conditions not mutually agreed to in advance by DISTRICT and CONTRACTOR. Endorsement of a contract, change order, specification, drawing, or form with language such as, or similar to the following: “This change order is being executed without waiver of the right to seek additional compensation for such services,” shall be of no legal force or effect.

60) COMPLETION

DISTRICT shall accept completion of the PROJECT and have the Notice of Completion recorded within ten days of acceptance of completion of the PROJECT when the entire work including punch list items shall have been completed to the satisfaction of DISTRICT, pursuant to *Civil Code* Section 3093. The work may be accepted as complete only by action of BOARD.

However, DISTRICT, at its sole option, may accept completion of the PROJECT and have the Notice of Completion recorded when the entire work, including individual portions of the work, shall have been completed to the satisfaction of DISTRICT, except for minor corrective items, as distinguished from incomplete items.

A final walk through of the PROJECT to determine completion and to record the Notice of Completion shall occur only upon a valid claim by CONTRACTOR that the PROJECT is complete except for minor corrective items. Any erroneous claims of completion by CONTRACTOR resulting

in a premature walk through shall be at CONTRACTOR's sole cost and expense, and DISTRICT shall make adjustments to the contract price by reducing the amount thereof to pay for any costs incurred by DISTRICT due to the erroneous claims by CONTRACTOR that the PROJECT is complete. Minor corrective items shall be identified in the final walk through of the PROJECT.

If CONTRACTOR fails to complete the minor corrective items prior to the expiration of the 35-day period immediately following recording of the Notice of Completion, DISTRICT shall withhold from the final payment an amount equal to 150%, as determined by DISTRICT, of the amount of each item until such time as the item is completed, pursuant to *Public Contract Code* Section 7107. At the end of the 35-day period, if there are items remaining to be corrected, DISTRICT may elect to proceed as provided in these General Conditions.

61) ADJUSTMENTS TO CONTRACT PRICE

If CONTRACTOR defaults or neglects to carry out the work in accordance with the PROJECT DOCUMENTS, or fails to perform any provision thereof, DISTRICT may, after ten days written notice to CONTRACTOR, and without prejudice to any other remedy it may have, make good such deficiencies.

DISTRICT shall adjust the total contract price by reducing the amount thereof by the cost of making good such deficiencies. If DISTRICT deems it inexpedient to correct work not done in accordance with the PROJECT DOCUMENTS, an equitable reduction in the contract price shall be made therefore.

62) CORRECTION OF WORK

CONTRACTOR shall promptly remove all work identified by DISTRICT as failing to conform to the PROJECT DOCUMENTS, whether incorporated or not. CONTRACTOR shall promptly replace and re-execute its own work to comply with the PROJECT DOCUMENTS without additional expense to DISTRICT and shall bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement.

If CONTRACTOR does not remove such work within a reasonable time, fixed by written notice, DISTRICT may remove it and may store the material at CONTRACTOR's expense. If CONTRACTOR does not pay expenses of such removal within ten days, DISTRICT may, upon 10 days written notice, sell such materials at auction or at private sale and shall account for net proceeds thereof, after deducting all costs and expenses that should have been borne by CONTRACTOR.

63) EXTENSION OF TIME - LIQUIDATED DAMAGES

CONTRACTOR and DISTRICT hereby agree that the exact amount of damages for failure to complete the work within the time specified is extremely difficult or impossible to determine. CONTRACTOR shall be assessed liquidated damages for each and every day the work required under the PROJECT DOCUMENTS remains unfinished past the time for completion, as set forth in the AGREEMENT, and any extensions of time granted by DISTRICT to CONTRACTOR under the terms of the PROJECT DOCUMENTS. CONTRACTOR will pay to DISTRICT, or DISTRICT may retain from amounts otherwise payable to CONTRACTOR, said amount for each day after failure to meet the requirements of the contract completion as scheduled in the AGREEMENT, pursuant to *Government Code* Section 53069.85. For purposes of this Article, the work shall be considered

“complete” in accordance with other provisions of these General Conditions, except that the work may be considered complete without formal acceptance by BOARD so long as BOARD, at its next regularly scheduled meeting, accepts the work.

CONTRACTOR shall not be charged for liquidated damages, as set forth above, because of any delays in completion of work which are not the fault or negligence of CONTRACTOR, including but not restricted to acts of God. CONTRACTOR shall, within ten days of beginning of any such delay, notify DISTRICT in writing of causes of delay. CONTRACTOR shall provide documentation and justification to substantiate the delay and its relation to the PROJECT’s critical path. DISTRICT shall ascertain the facts and extent of delay and grant extension of time for completing work when, in its judgment, the findings of fact justify such an extension. DISTRICT’s finding of fact thereon shall be final and conclusive on the Parties. Extension of time shall apply only to that portion of work affected by the delay, and shall not apply to other portions of work not so affected.

64) PAYMENTS WITHHELD

In addition to amount which DISTRICT may retain under other provisions of the PROJECT DOCUMENTS, DISTRICT may withhold a sufficient amount or amounts of any payment or payments otherwise due to CONTRACTOR, as in its judgment may be necessary to cover:

Payments which may be past due and payable for just claims against CONTRACTOR or any SUBCONTRACTORS, or against and about the performance of work on the PROJECT, including, without limitation, payments made pursuant to other provisions of the PROJECT DOCUMENTS.

The cost of defective work which CONTRACTOR has not remedied.

Liquidated damages assessed against CONTRACTOR.

Penalties for violation of labor laws.

The cost of materials ordered by DISTRICT pursuant to these General Conditions.

The cost of completion of this AGREEMENT if there exists a reasonable doubt that this AGREEMENT can be completed for the balance then unpaid to CONTRACTOR.

Damage to DISTRICT, another contractor, or SUBCONTRACTOR.

Site cleanup as provided in elsewhere in the PROJECT DOCUMENTS.

Payments to indemnify, defend, or hold harmless DISTRICT.

Any payments due to DISTRICT, including but not limited to payments for failed tests, utilities, or imperfections.

Extra services for ARCHITECT.

Extra services for the Inspector, including but not limited to re-inspection required due to CONTRACTOR’s failed tests or installation of unapproved or defective materials, CONTRACTOR’s requests for inspection, or CONTRACTOR’s failure to attend the inspection.

Failure of CONTRACTOR to submit on a timely basis, proper and sufficient documentation required by the PROJECT DOCUMENTS, including without limitation, monthly progress schedules, shop drawings, submittal schedules, schedule of values, product data and samples, proposed product lists, executed change orders, and verified reports.

Any other obligation of DISTRICT which DISTRICT is authorized or compelled by law to perform.

If the above grounds are in the opinion of DISTRICT removed by or at the expense of CONTRACTOR, payment shall be made for amounts withheld because of them.

DISTRICT may apply such withheld amount or amounts to payment of such claims or obligations at its discretion. In so doing, DISTRICT shall make such payments on behalf of CONTRACTOR. If any payment is so made by DISTRICT, then such amount shall be considered as a payment made under contract by DISTRICT to CONTRACTOR and DISTRICT shall not be liable to CONTRACTOR for such payments made in good faith. Such payments may be made without prior judicial determination of claim or obligations. DISTRICT will render CONTRACTOR an accounting of such funds disbursed on behalf of CONTRACTOR.

As an alternative to payment of such claims or obligations, DISTRICT, in its sole discretion, may reduce the total contract price as provided elsewhere in these General Conditions.

65) TAXES

CONTRACTOR will pay all applicable federal, state, and local taxes on all materials, labor, or services furnished by it, and all taxes arising out of its operations under the PROJECT DOCUMENTS.

If under federal excise tax law any transaction hereunder constitutes a sale on which a federal excise tax is imposed and the sale is exempt from such excise tax because it is a sale to a state or local government for its exclusive use, DISTRICT, upon request, will execute documents necessary to show (1) that DISTRICT is a political subdivision of the State for the purposes of such exemption and (2) that the sale is for the exclusive use of DISTRICT. No excise tax for such materials shall be included in any bid price.

66) NO ASSIGNMENT

CONTRACTOR shall not assign, transfer, convey, sublet, or otherwise dispose of the AGREEMENT, or of its rights, title, or interest in or to the AGREEMENT or any part thereof. If CONTRACTOR shall assign, transfer, convey, sublet, or otherwise dispose of the AGREEMENT or its right, title, or interest therein, or any part thereof, such attempted or purported assignment, transfer, conveyance, sublease, or other disposition shall be null, void, and of no legal effect whatsoever; and the AGREEMENT may, at the option of DISTRICT, be terminated, revoked, and annulled, and DISTRICT shall thereupon be relieved and discharged from any and all liability and obligations growing out of the same to CONTRACTOR, or to its purported assignee or transferee.

67) NOTICES

Any notice from one Party to the other, or otherwise under the AGREEMENT, shall be in writing and shall be dated and signed by Party giving such notice or by a duly authorized representative of

such Party. Any such notice shall not be effective for any purpose whatsoever unless served in one of the following manners:

If notice is given to DISTRICT, by personal delivery thereof to DISTRICT, or by depositing same in United States mail, enclosed in a sealed envelope addressed to DISTRICT, and sent by registered or certified mail with postage prepaid;

If notice is given to CONTRACTOR, by personal delivery thereof to said CONTRACTOR, or to CONTRACTOR's superintendent at the site of the PROJECT, or by depositing same in United States mail, enclosed in a sealed envelope addressed to said CONTRACTOR at its regular place of business or at such address as may have been established for the conduct of work under this AGREEMENT, and sent by registered or certified mail with postage prepaid;

If notice is given to surety or other persons, by personal delivery to such surety or other person, or by depositing same in United States mail, enclosed in a sealed envelope, addressed to such surety or person at the address of such surety or person last communicated by surety or other person to Party giving notice, and sent by registered or certified mail with postage prepaid.

68) NO WAIVER

The failure of DISTRICT in any one or more instances to insist upon strict performance of any of the terms of this AGREEMENT or to exercise any option herein conferred shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or option on any future occasion.

69) NON-UTILIZATION OF ASBESTOS MATERIAL

CONTRACTOR will be required to execute and submit the Certificate Regarding Non-Asbestos Containing Materials.

Should asbestos-containing materials be installed by CONTRACTOR in violation of this certification, or if removal of asbestos-containing materials is part of the PROJECT, decontaminations and removals will meet the following criteria:

Decontamination and removal of work found to contain asbestos or work installed with asbestos containing equipment shall be done only under the supervision of a qualified consultant, knowledgeable in the field of asbestos abatement and accredited by the Environmental Protection Agency ("EPA").

The asbestos removal CONTRACTOR shall be an EPA-accredited CONTRACTOR qualified in the removal of asbestos, and shall be chosen and approved by the asbestos consultant who shall have sole discretion and final determination in this matter.

The asbestos consultant shall be chosen and approved by DISTRICT who shall have sole discretion and final determination in this matter.

The work will not be accepted until asbestos contamination is reduced to levels deemed acceptable by the asbestos consultant.

Cost of all asbestos removal, including, but not necessarily limited to the cost of the asbestos removal CONTRACTOR, the cost of the asbestos consultant, analytical and laboratory fees, time delays, and additional costs as may be incurred by DISTRICT. shall be borne entirely by CONTRACTOR.

Hold Harmless: Interface of work for the PROJECT with work containing asbestos shall be executed by CONTRACTOR at its risk and at its discretion with full knowledge of the currently accepted standards, hazards, risks, and liabilities associated with asbestos work and asbestos containing products. By execution of the AGREEMENT, CONTRACTOR acknowledges the above and agrees to hold harmless DISTRICT, its trustees, employees, and agents, and ARCHITECT, for all asbestos liability which may be associated with this work. CONTRACTOR further agrees to instruct its employees with respect to the these standards, hazards, risks, and liabilities.

70) LEAD

Pursuant to the Lead-Safe Schools Protection Act, *Education Code* Sections 32240, *et seq.*) and other applicable law, CONTRACTOR shall not use lead-based paint, lead plumbing or solders, or other potential sources of lead contamination in its work on the PROJECT.

71) TOBACCO-FREE WORK SITE

CONTRACTOR understands, pursuant to the AGREEMENT, that neither CONTRACTOR nor its SUBCONTRACTORS, or any of its respective employees or agents, may smoke or use tobacco products anywhere on DISTRICT property. CONTRACTOR shall be responsible for the enforcement of this Article. CONTRACTOR understands and agrees that should any employee or agent of a SUBCONTRACTOR or CONTRACTOR violate this Article after having been warned, CONTRACTOR shall remove the individual for the duration of the PROJECT. CONTRACTOR shall not be entitled to any additional compensation or time for completing the PROJECT due to such removal.

72) GOVERNING LAW

The laws of the State of California shall govern the PROJECT and the AGREEMENT.

73) INSURANCE

See also Contractor Agreement insurance requirements. CONTRACTOR shall obtain and maintain, and shall require each of its Subcontractors of all tiers to obtain and maintain, the insurance coverage specified herein in a form and from insurance companies reasonably acceptable to DISTRICT. The insurance limits may be provided through a combination of primary and excess policies, including the umbrella form of policy. Each policy required herein, except the Workers' Compensation policy, shall name the DISTRICT, members of the Board of Trustees, and the officers, agents, employees, and volunteers of the District, the State Allocation Board, if applicable, the Architect, and the Architect's consultants, and any additional entities as DISTRICT may request as additional insureds. The additional insured endorsement shall state that the coverage provided to the additional insureds is primary and non-contributory with respect to any other insurance available to the additional insureds. CONTRACTOR shall provide certificates of insurance evidencing all required coverage prior to commencement of Work. The additional insured endorsement to the general liability policy

shall be provided by issuance of both ISO Form CG 2010 1001 and ISO Form CG 2037 1001 additional insured endorsements, or such other endorsement as acceptable to DISTRICT. Should any policy of insurance be canceled before Final Acceptance of the Work by the DISTRICT and the CONTRACTOR fails to immediately procure replacement insurance as required, the DISTRICT reserves the right to procure such insurance and to deduct the premium cost thereof and other costs incurred by the DISTRICT in connection therewith from any sum then or thereafter due the CONTRACTOR under the Contract Documents.

All insurance referred to herein to be carried by CONTRACTOR or any Subcontractor shall be maintained by such parties at their sole expense, with insurance carriers qualified to do business in California and having a rating of not less than A -; VI from A.M. Best & Co., unless DISTRICT, in writing, in its sole discretion, accepts a lower Best's rating.

DISTRICT reserves the right to require (1) higher limits and (2) additional insurance coverages if DISTRICT determines in its sole discretion that such higher limits and/or additional coverages are reasonably necessary for the protection of DISTRICT. Such additional coverages shall be in a form and with limits of liability, additional insured endorsements, and deductibles or self-insured retentions acceptable to DISTRICT.

Waiver of Subrogation. Where permitted by law, CONTRACTOR hereby waives all rights of recovery by subrogation because of deductible clauses, inadequacy of limits of any insurance policy, limitations or exclusions of coverage, or any other reason against DISTRICT, members of the Board of Trustees, and the officers, agents, employees, and volunteers of the District, the Architect, and the Architect's consultants, and any other Subcontractor performing Work or rendering services on behalf of DISTRICT in connection with the planning, development and construction of the Project. CONTRACTOR also agrees that all additional insurance maintained by CONTRACTOR or any Subcontractor shall include clauses providing that each insurer shall waive all of its rights of recovery by subrogation against DISTRICT, CONTRACTOR, or any Subcontractor. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

Prior to commencing work at the project, CONTRACTOR shall deliver to DISTRICT the endorsements and waivers of subrogation referred to herein, as well as certificates of insurance evidencing the coverages required herein. Promptly upon DISTRICT's request, CONTRACTOR shall deliver to DISTRICT a copy of any and all of the insurance policies and other insurance documents required hereunder. In the case of policies expiring while work is in progress, a renewal certificate with all applicable endorsements must be delivered to DISTRICT prior to the expiration of the existing policy or policies. Permitting CONTRACTOR or any Subcontractor to start work, or continue work, prior to compliance with these requirements shall not constitute a waiver of any of the requirements set forth herein. All certificates of insurance must provide DISTRICT with thirty (30) days advance written notice of cancellation, intent to non-renew, or adverse material change in or reduction of coverage. Failure or refusal to provide evidence of coverage as described herein may be deemed by the DISTRICT to be a default of a material obligation of the CONTRACTOR under the Contract Documents, and thereupon the DISTRICT may proceed to exercise any right or remedy provided for under the Contract Documents or at law.

74) STUDENTS

Considering the educational mission of DISTRICT, CONTRACTOR, in consultation with DISTRICT, shall make good faith efforts to provide employment and apprenticeship opportunities to students of the COLLEGES.

75) EMPLOYMENT OF DISTRICT RESIDENTS

In further recognition of DISTRICT's mission to serve its residents, CONTRACTOR agrees, to the fullest extent allowed by law, and so long as these workers have the requisite skills and qualifications, to use its best efforts to hire residents of the Coast Community College District as workers on the PROJECT, in terms of both employees of CONTRACTOR and employees of SUBCONTRACTORS.

BOARD may adopt a Resolution concerning specific local hiring goals, identifying the specific parameters of these hiring goals, including a breakdown of the percentages of workers to be residents Orange County and of the Coast Community College District, and this Resolution shall be applicable to CONTRACTOR.

76) HIRING VETERANS

CONTRACTOR and its SUBCONTRACTORS, to the fullest extent allowed by law, and so long as these workers have the requisite skills and qualifications, to use its best efforts to hire veterans as workers on the PROJECT, in terms of both employees of CONTRACTOR and employees of SUBCONTRACTORS.

77) PROJECT SAFETY

CONTRACTOR is solely responsible for all construction means, methods, safety, techniques, sequences, and procedures. Each subcontractor, of any tier, is responsible for all safety precautions and programs in connection with work under CONTRACTOR's agreement. The requirements of Cal/OSHA, state, county and city laws, statutes, regulations, codes, ordinances, and orders of those governing bodies having jurisdiction over the work, including the OCIP specific safety specifications listed below, establish the guidelines for this project that safety and loss prevention programs must meet or exceed. In the event of a conflict or inconsistency, the most stringent standard will govern.

Project Safety Team Monthly meetings. The Project Safety Team is a safety committee for the project. Each project shall have a committee comprised of CONTRACTOR, Subcontractor, Project Manager and/or DISTRICT Safety Representative. On a monthly basis the group shall meet to discuss the projects safety program. These meetings may be incorporated into project coordination meetings.

Safety Representative. Each Contractor/Subcontractor shall have a designated Safety Representative available at the site assigned the responsibilities of managing all aspects of safety related to employees under their direct control. These duties may be performed by a Field Superintendent or Foreman having the required training, experience and qualifications listed below. These employees may have duties other than safety provided appropriate adherence to State, Local Laws, Ordinances, Codes, Regulations and these Safety Specifications are followed by personal under their direct control.

CONTRACTOR/Sub-Contractor Safety Representative (CSR/SSR) must have the following minimum qualifications:

The CSR/SSR shall have a minimum of 3 -5 years of qualified project safety experience on similar type construction projects.

Evidence of completing the OSHA 10 or 30 Hour Construction Outreach Training or equivalent with the past 3 years.

Current First Aid/CPR certification provided by The American National Red Cross or equivalent training.

Ability to stop work in the event of a workplace hazard, until corrective action has been implemented.

Understanding of Federal and/or State Safety and OCIP Safety Regulations

Ability to conduct appropriate incident investigations.

Ability to communicate with field personal and project staff on relevant Health and Safety items.

Orientation. One of the requirements of all contractors/subcontractors and their safety representative or designees is to ensure that a complete basic safety orientation is conducted for all their employees new to the site. A Project Orientation by CONTRACTOR is required before an employee can receive a project ID and enter the field. At a minimum, the orientation shall include:

Employee safety requirements and policies.

Site Specific Safety and Health rules.

Permitting procedures, including work permits, excavation, confined space entry, lock-out, etc.

Hazard communication.

Emergency alarms and evacuation procedures.

All employees will complete and sign a Safety Orientation form supplied by CONTRACTOR. Upon successful the employee will receive a hard hat sticker with an identification number to be worn on the employees hard hat at all times while on the project.

Fall Protection. 100% Fall Protection shall be implemented by all trades for all fall exposures of six (6) feet or more. (Exception: Work from ladders and work around excavations, within Cal/OSHA specifications)

Excavation. Trenching or excavating activities must be under the supervision of a competent person

at all times.

PPE (Personal Protective Equipment):

Employees must at all times wear an ANSI Z89.1 approved hard hat on the jobsite.

Employers must supply all personal protective equipment.

Safety glasses with permanently affixed side shields are required at all times. All safety glasses, goggles, and face shields must have the ANSI-Z87 approval.

Sturdy work boots are required at all times on the jobsite. Employees on the jobsite shall not wear tennis or running shoes, street shoes, sandals or shoes of other thin material.

At minimum a Class II High Visibility reflective vest or equivalent shall be worn at all times while on-site.

Hazard Communication. CONTRACTOR shall maintain a copy of all Material Safety Data Sheets, *and* a chemical inventory list, for all hazardous substances used at the jobsite by their firm, as well as for all hazardous substances used at the jobsite by all Subcontractors regardless of tier.

Return to Work Program. Each Employing Contractor should have a written Early Return to Work Program that should be implemented on this project.

APPENDICES

Appendix A
Verification of Contractor and Subcontractor DIR Registration

I am the _____ of _____ (“Bidder”)
(Title/Position) (Bidder Name)

Submitting the accompanying Bid proposal for the work described as **Site Preparation for New Steel Building at OCC; Bid No. 2103.**

1. The bidder is currently registered as a contractor with the Department of Industrial Relations (DIR).
2. The Bidder’s DIR Registration Number is _____. The expiration date of the Bidder’s DIR Registration is June 30, 20____.
3. If the Bidder is awarded the contract for the work and the expiration date of the Bidder’s DIR Registration will occur: (i) prior to expiration of the Contract time for the Work; or (ii) prior to the Bidder completing all obligations under the Contract for the Work, the Bidder will take all measures necessary to renew the Bidder’s DIR Registration so that there is no lapse in the Bidder’s DIR Registration while performing Work under the Contract.
4. The Bidder, if awarded the Contract for the Work will remain a DIR registered contractor for the entire duration of the Work.
5. The Bidder has independently verified that each Subcontractor identified in the Subcontractors List submitted with the Bid Proposal of the Bidder is currently a DIR registered contractor
6. The Bidder has provided the DIR Registration Number for each subcontractor identified in the Bidder’s subcontractor’s list or within twenty-four (24) hours of the opening of Bid Proposals for the Work, the Bidder will provide the District with the DIR Registration Number for each subcontractor identified in the Bidder’s subcontractor list.
7. The Bidder’s solicitation of subcontractor bids included notice to prospective subcontractor that: (i) all sub-tier subcontractors must be DIR Registered contractors at all times during performance of the Work; and (ii) prospective subcontractors may only solicit sub-bids from and contract with lower-tier subcontractors who are DIR registered contractors.
8. If any of the statements herein are false or omit material facts rendering a statement to be false or misleading, the Bidder’s Bid Proposal is subject to rejection for non-responsiveness.
9. I have personal firsthand knowledge of all of the forgoing.

I declare under penalty of perjury under California law that the foregoing is true and correct.

Executed this ____ day of _____, 20____ at _____
(City and State)

(Signature)

(Name, typed or printed)

Appendix B
Certification of Certified Payroll Submittal To Labor Commissioner

I am the _____ for _____ in connection with
Project Manager) (Contractor)

Site Preparation for New Steel Building at OCC; Bid No. 2103

This Certification is submitted to the District concurrently with the Contractor's submittal of an Application for Progress Payment to the District, identified as Application for Progress Payment No. _____ ("the Pay Application").

1. The Pay Application requests the District's disbursement of a Progress Payment covering Work performed for the period between _____, 20__ and _____, 20__.
2. The Contractor has submitted Certified Payroll Records ("CPR") to the Labor Commissioner for all employees of the Contractor engaged in performance of Work subject to prevailing wage rate requirements for the period of time covered by the Pay Application.
3. All subcontractors who are entitled to any portion of payment to be disbursed pursuant to the Pay Application have submitted their CPRs to the Labor Commissioner for all of their employees performing Work subject to prevailing wage rate requirements for the period of time covered by the Pay Application. Copies of all CPRs submitted by Subcontractors to the Labor Commissioner relating to the Pay Application are attached hereto.
4. I have reviewed the Contractors' CPRs submitted to the Labor Commissioner; the CPRs submitted to the Labor Commissioner by the Contractor are complete and accurate for the period of time covered by the Pay Application.
5. I have reviewed the Subcontractors' CPRs submitted to the Labor Commissioner; the CPRs submitted to the Labor Commissioner by the Subcontractors are complete and accurate for the period of time covered by the Pay Application.
6. The copies of the Contractor's CPRs and Subcontractors' CPRs attached hereto are true and correct copies of the CPRs submitted to the Labor Commissioner for the period of time covered by the Pay Application.

I declare under penalty of perjury under California law that the forgoing is true and correct. I executed this Certification on the ____ day of _____, 20__ at _____.
(City and State)

By: _____
(Signature)

(Typed or Printed Name)

**COAST COMMUNITY COLLEGE DISTRICT
CONTRACTOR AGREEMENT
(Non-OCIP Projects)**

This Contractor Agreement ("Agreement") is made in the County of Orange, State of California, between the Owner, COAST COMMUNITY COLLEGE DISTRICT, a public educational agency, hereinafter referred to as "DISTRICT," and _____, a _____, hereinafter referred to as "CONTRACTOR." "DISTRICT" and CONTRACTOR are referred to herein as "Party" and collectively as "Parties."

WHEREAS, DISTRICT desires to obtain contractor services For the _____ ("PROJECT"); and

WHEREAS, CONTRACTOR warrants and represents to DISTRICT that CONTRACTOR is properly licensed (license no. _____) and has the requisite and necessary experience, expertise, and resources to successfully complete work on the PROJECT, and will provide timely contractor services in conformity direction from DISTRICT and in compliance with the laws of the State of California;

NOW, THEREFORE, the Parties agree as follows:

ARTICLE I – CONTRACTOR’S SERVICES AND RESPONSIBILITIES

1. By this AGREEMENT, CONTRACTOR accepts the relationship of trust and confidence established between CONTRACTOR and DISTRICT. CONTRACTOR covenants with DISTRICT to furnish its professional skill and judgment in accordance with the level of care and skill exercised by members of the profession or occupation currently practicing under similar conditions and in similar locations, and under California law applicable to those specializing in providing CONTRACTOR services for projects of the type, scope, and complexity of the PROJECT in performing all services under this AGREEMENT. CONTRACTOR shall use its best professional efforts to complete the PROJECT in an expeditious and economical manner consistent with the interests and goals of DISTRICT. DISTRICT expects that CONTRACTOR shall take all precautions necessary to protect CONTRACTOR’s employees, DISTRICT’s employees, and members of the public from risk of harm arising out the nature of the work.

2. CONTRACTOR, by this AGREEMENT, agrees to complete the PROJECT known as _____ Bid No. _____ according to all the terms and conditions set forth in the Project Documents, including, but not limited to, , following documents, as applicable to the PROJECT:

- | | | |
|-------------------------|-----------------------------------|---|
| Notice Calling for Bids | Workers’ Compensation Certificate | Guarantees |
| Information for Bidders | Faithful Performance Bond | Certificate Regarding Non-Asbestos Containing Materials |

Contractor Bid Form	Payment Bond	Contractor registration with DIR for Labor Compliance and prevailing wages
Bid Bond or Bid Security	Escrow Agreement, if applicable	General Conditions
Designation of Subcontractors	Drug-Free Workplace Certification	Special Conditions
Information Required of Bidder	Change orders	Drawings and specifications
All prequalification forms submitted pursuant to Public Contract Code 20111.5	Shop drawings and transmittals	Modifications, addenda, and amendments to any of the above documents
Noncollusion Affidavit	Insurance certificates and endorsements	

Collectively, the above documents shall be referred to as the PROJECT Documents. What is called for by any one shall be as binding as if called for by all and all and each shall constitute a part of this AGREEMENT. CONTRACTOR shall secure Performance and Payment Bonds as required by DISTRICT at DISTRICT'S sole discretion.

3. CONTRACTOR shall perform within the time set forth in Paragraph 4 of Article I of this AGREEMENT everything required to be performed, and shall provide, furnish, and pay for all the labor, materials, tools, expendable equipment, taxes, utilities, and transportation services required for construction of the Project. All of said work shall be performed and completed in a good workmanlike manner in strict accordance with the drawings, specifications, and all provisions of this AGREEMENT. CONTRACTOR shall be liable to DISTRICT for any damages arising as a result of a failure to fully comply with these obligations, and CONTRACTOR shall not be excused with respect to any failure to so comply by any act or omission of CONTRACTOR, engineers, inspectors, Division of State Architects, or representatives of any of them, unless such act or omission actually prevents CONTRACTOR from fully complying with the requirements of the Project Documents, and unless CONTRACTOR protests at the time of such alleged prevention that the act or omission is preventing CONTRACTOR from fully complying with the Project Documents. Such protest shall not be effective unless reduced to writing and filed with DISTRICT within three working days of the date of occurrence of the act or omission preventing CONTRACTOR from fully complying with the Project Documents.

4. CONTRACTOR's work shall be commenced on or before the fifteenth day after receiving DISTRICT'S Notice to Proceed and shall be completed within _____ consecutive calendar days from the date specified in the Notice to Proceed.

5. **TIME IS OF THE ESSENCE.** If the work is not completed in accordance with Paragraph 4 of Article I above, it is understood that DISTRICT will suffer damage. It being impractical and infeasible to determine the amount of actual damage, in accordance with Government Code Section 53069.85, it is agreed that CONTRACTOR shall pay to DISTRICT as fixed and liquidate damages, and not as a penalty, the sum of \$_____ for each calendar day of delay until work is

completed and accepted. Time extensions may be granted by DISTRICT as provided in the General Conditions. Liquidated damages shall be imposed as set forth in the General Conditions.

6. CONTRACTOR agrees that the work required to be performed by CONTRACTOR and each subcontractor on the Project shall be subject to the payment of general prevailing rates of per diem wages, as described in the Labor Code. CONTRACTOR is required to adhere to the requirements of California Labor Code Section 1725.5 (DIR Contractor Registration) as a prerequisite to any work being performed under this Agreement. CONTRACTOR shall adhere to the requirements of California Labor Code Sections 1771 through 1776, and to California Education Code Section 81704, as applicable. CONTRACTOR acknowledges that it shall register with the California Department of Industrial Relations (DIR) by utilizing DIR's on-line application registry link located at:

<http://www.dir.ca.gov/PublicWorks/PublicWorks.html>

CONTRACTOR understands that public works, for DIR registration purposes, refers to "construction, alteration, demolition and installation, or repair work (including maintenance) performed under a contract utilizing public funds that exceeds \$1,000.00.

7. CONTRACTOR warrants to DISTRICT that it is not now, nor has it or any of its officers been for five years preceding, been involved in arbitration or litigation concerning CONTRACTOR's professional performance or the furnishing of materials or services.

8. CONTRACTOR shall comply with all applicable federal, state, county, and city statutes, regulations, and ordinances, and shall maintain all necessary licenses and permits. CONTRACTOR represents that it is an equal opportunity employer and it shall not unlawfully discriminate against any employee or applicant for employment.

9. If CONTRACTOR is a corporation, the undersigned hereby represents and warrants that the corporation is duly incorporated and in good standing in the State of _____, and that _____, whose title is _____, is authorized to act to bind the corporation.

10. The General Conditions and other documents identified in Paragraph 2 of Article I of this AGREEMENT are incorporated herein by reference as though set forth at length and CONTRACTOR agrees to abide by all the terms and conditions contained therein. In the event of a conflict between the provisions of this AGREEMENT and the General Conditions or other documents, the provisions of this AGREEMENT shall govern.

11. DISTRICT may retain, or has retained, a construction manager ("CONSTRUCTION MANAGER") whose services, duties, and responsibilities will be described in a written Construction Management Agreement by and between DISTRICT and Construction Manager. CONSTRUCTION MANAGER is or will be DISTRICT's agent in providing the services specified in the Construction Management Agreement. CONTRACTOR must perform its services in cooperation with CONSTRUCTION MANAGER, consistent with this AGREEMENT and the Construction Management Agreement, and in accordance with the planning and scheduling requirements and budgetary restraints of the PROJECT as determined by DISTRICT and documented by the architect on the PROJECT ("ARCHITECT"). DISTRICT will provide to CONTRACTOR a copy of the Construction Management Agreement between DISTRICT and CONSTRUCTION MANAGER.

ARTICLE II – DISTRICT’S RESPONSIBILITIES

1. DISTRICT shall pay to CONTRACTOR, as full consideration for the faithful performance of this AGREEMENT, subject to any additions or deductions as provided in the Project Documents, the sum of \$ _____. No additional compensation shall be paid to CONTRACTOR without notice to DISTRICT prior to any additional work commencing. Additional compensation requires the approval of the DISTRICT’S governing board prior to commencement of additional work.
2. DISTRICT will make reasonable efforts to see that agreements between DISTRICT, ARCHITECT, and CONSTRUCTION MANAGER (when applicable), are compatible and consistent with this AGREEMENT. DISTRICT will provide a copy of this AGREEMENT to ARCHITECT and CONSTRUCTION MANAGER.
3. DISTRICT shall secure, submit, and pay for necessary approvals, easements, assessments, building permits and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities. CONSTRUCTION MANAGER shall assist, cooperate, and coordinate in DISTRICT’S efforts to obtain such approvals, easements, assessments, permits, and charges.
4. DISTRICT, its representatives, and consultants shall generally communicate with CONTRACTOR only through CONSTRUCTION MANAGER, if the PROJECT requires a CONSTRUCTION MANAGER.

ARTICLE III – TERM, TERMINATION, SUSPENSION, OR ABANDONMENT

1. This AGREEMENT shall commence on _____, and continue through final completion of the PROJECT, which shall include obtaining the Certificate of Beneficial Occupancy and the Certificate of Substantial Completion in accordance with the PROJECT documents and final acceptance by DISTRICT’S Board of Trustees.
2. DISTRICT shall have the right to suspend the PROJECT at any time at its sole discretion. If the PROJECT is suspended by DISTRICT for more than 90 consecutive days, CONTRACTOR shall be compensated for services performed prior to notice of such suspension and shall not be compensated for any unearned fees or costs or anticipated profits on non-performed services.
3. This AGREEMENT may be terminated by either Party upon not less than seven days written notice should the other Party fail substantially to perform in accordance with the terms of this AGREEMENT through no fault of the Party initiating the termination.
4. In the event CONTRACTOR defaults in the performance of the AGREEMENT as set forth in the General Conditions, or if there is a non-appropriation of funds or insufficient funds as set forth in the General Conditions, then this AGREEMENT shall terminate or be suspended as set forth in the General Conditions.
5. DISTRICT also shall have the right to terminate this AGREEMENT at any time in its sole discretion and without cause upon not less than seven days written notice to CONTRACTOR. In

that event, CONTRACTOR shall be compensated for services performed prior to notice of termination and shall not be compensated for any unearned fees, costs, or anticipated profits on non-performed services. Upon receipt of written notice from DISTRICT of such termination for DISTRICT's convenience, CONTRACTOR shall:

- a. Cease operations as directed by DISTRICT in the notice;
- b. Take any actions necessary, or that DISTRICT may direct, for the protection and preservation of the work; and
- c. Not terminate any insurance provisions required by the Project Documents.

6. In the event of termination due to the fault of CONTRACTOR, CONTRACTOR shall not be entitled to any unearned fees or costs and shall be liable for damages suffered by DISTRICT due to CONTRACTOR's failure to perform pursuant to this AGREEMENT.

7. In the event of termination of this AGREEMENT by either Party for any reason, DISTRICT reserves the right to receive, and CONTRACTOR shall promptly provide to DISTRICT, all drawings, specifications, models, and other documents and materials prepared by CONTRACTOR or others for the PROJECT. In the event of termination, any dispute regarding the amount to be paid shall not alter DISTRICT's unequivocal right to receive and use any such documents or materials upon termination.

ARTICLE IV – INDEMNITY AND INSURANCE

1. CONTRACTOR agrees, to the fullest extent permitted by law, to indemnify and hold harmless DISTRICT, and its officers, trustees, agents, and employees, against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by CONTRACTOR's negligent or wrongful performance of professional services under this AGREEMENT, or acts or omissions in connection with the PROJECT, or any actions of CONTRACTOR's consultants, subcontractors, or anyone for whom CONTRACTOR is legally liable.

2. The scope of CONTRACTOR's duties under Paragraph I of Article IV of this AGREEMENT shall include, without limitation, reasonable attorneys' fees and court costs incurred by DISTRICT, and shall survive the expiration or termination of this AGREEMENT.

3. CONTRACTOR's obligation to defend shall arise regardless of any claim or assertion that DISTRICT caused or contributed to the losses. CONTRACTOR's reasonable defense costs (including attorney and expert fees) incurred solely in providing a defense for DISTRICT shall be reimbursed by DISTRICT, except to the extent such defense costs arise, under principles of comparative fault, from CONTRACTOR's (a) negligent acts or omissions; (b) breach of any of the provisions of this AGREEMENT; or (c) willful misconduct.

4. Review, approval, or acceptance of CONTRACTOR's work whether by DISTRICT or others, and whether in the Construction Documents Phase, Bidding Phase, Construction Phase,

Guarantee to Repair Period, or otherwise, shall not relieve CONTRACTOR from responsibility for errors and omissions in CONTRACTOR's work.

5. Nothing in this AGREEMENT, including the provisions of this Article, shall constitute a waiver or limitation of any rights which DISTRICT may have under applicable law, including without limitation, the right to implied indemnity.

6. CONTRACTOR shall purchase and maintain during the term of this AGREEMENT, with insurance companies duly licensed by the State of California with a rating by Best's Insurance Rating Service of not less than AVII, policies of insurance which will protect CONTRACTOR and DISTRICT from claims which may arise out of or result from them, or by anyone for whose acts any of them may be liable.

The aforementioned insurance shall include coverage for:

a. Commercial bodily injury and property damage liability insurance in the combined single limit of not less than \$1,000,000.00 for each occurrence for personal injury or death and \$250,000.00 as to property damage including, but not limited to, personal injury liability, broad form property damage liability, blanket contractual liability and products liability, covering the activities of CONTRACTOR under this AGREEMENT, and shall provide DISTRICT with a Certificate of Insurance and Additional Insured Endorsement evidencing such policies. The insurance policies shall contain covenants by the issuing company that the policies shall not be cancelled without 30 days' prior written notice to DISTRICT. DISTRICT and DISTRICT'S Board of Trustees, shall be named as additional insureds under such policy of insurance to be maintained pursuant to this section, and such policy shall contain a cross-liability endorsement.

b. Worker's Compensation and Employers' Liability Insurance in the amounts required by law covering all personnel employed on the premises during the term of this AGREEMENT whether said personnel are employed by CONTRACTOR or supplied by persons or entities other than DISTRICT. CONTRACTOR shall maintain during the term of this AGREEMENT, Workers' Compensation insurance with an insurance company duly licensed and admitted by the State of California with a rating by Best's Insurance Rating Service of not less than AVII.

c. Comprehensive General and Auto Liability Insurance with an insurance company duly licensed and admitted by the State of California with a rating by Best's Insurance Rating Service of not less than AVII. Said insurance shall have limits of not less than \$1,000,000 combined single limit, bodily injury and property damage liability per occurrence with no annual aggregate limits, including:

- 1) Owned, Non-owned, and Hired Vehicles
- 2) Blanket Contractual
- 3) Broad Form Property Damage
- 4) Products/Completed Operation

5) Personal Injury

d. Insurance Covering Special Hazards: The following special hazards shall be covered by rider or riders to above-mentioned public liability insurance or property damage insurance policy or policies of insurance, or by special policies of insurance in amounts as follows: Automotive and truck where operated in amounts as above, and Material hoist where used in amounts as above.

e. Professional Liability insurance, including Contractual Liability, with limits of \$1,000,000. Such insurance shall be maintained during the term of this AGREEMENT and renewed for a period of at least five years thereafter. In the event that CONTRACTOR subcontracts or assigns any portion of its duties, it shall require any such subcontractor to purchase and maintain insurance coverage as provided in this subparagraph.

f. CONTRACTOR's Builder's Risk Insurance. CONTRACTOR shall obtain and maintain Builder's Risk "All Risk" Insurance, in accordance with Article 17 of the General Conditions; as set forth in the General Conditions; the coverage under CONTRACTOR's Builder's Risk Insurance shall include coverage for damage arising out of earthquakes.

g. Each policy of insurance required in subparagraphs "a" through "f" above (with the exception of Worker's Compensation) shall name DISTRICT and its trustees, officers, agents, and employees as additional insureds; shall state that, with respect to the operations of CONTRACTOR hereunder, such policy is primary and any insurance carried by DISTRICT is excess and non-contributing with such primary insurance, shall state that not less than 30 days written notice shall be given to DISTRICT prior to cancellation, and shall waive all rights of subrogation against DISTRICT and its trustees, agents, and employees. CONTRACTOR shall notify DISTRICT in the event of material change in, or failure to renew, each policy. **PRIOR TO COMMENCING WORK**, CONTRACTOR shall deliver to DISTRICT certificates of insurance and additional insured endorsements as evidence of compliance with the requirements herein to be attached hereto as EXHIBIT "C," or this AGREEMENT will automatically be canceled.

h. In the event CONTRACTOR fails to secure or maintain any policy of insurance required, DISTRICT may, at its sole discretion, secure such policy of insurance in the name of and for the account of CONTRACTOR and in such event, CONTRACTOR shall reimburse DISTRICT upon demand for the cost thereof.

7. DISTRICT's exercise of any of its rights or remedies prescribed in this AGREEMENT shall not relieve CONTRACTOR from responsibility for damages or other losses incurred or to be incurred by DISTRICT as a result of CONTRACTOR's breach of its obligations under this AGREEMENT.

8. Public Contract Code Section 22300 permits the substitution of securities for any retention monies withheld by DISTRICT to ensure performance under this AGREEMENT. At the request and expense of CONTRACTOR, securities equivalent to the amount withheld as retention shall be deposited with DISTRICT, or with a state or federally chartered bank in California as the escrow agent, who shall then pay such monies to CONTRACTOR. DISTRICT retains the sole discretion to approve the bank selected by CONTRACTOR to serve as escrow agent. Upon satisfactory completion of this AGREEMENT, the securities shall be returned to CONTRACTOR. Securities

eligible for investment shall include those listed in Government Code Section 16430 or bank or savings and loan certificates of deposit. CONTRACTOR shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.

In the alternative, under Public Contract Code Section 22300, CONTRACTOR may request DISTRICT to make payment of earned retention monies directly to the escrow agent at the expense of CONTRACTOR. Also at CONTRACTOR's expense, CONTRACTOR may direct investment of the payments into securities, and CONTRACTOR shall receive interest earned on such investment upon the same conditions as provided for securities deposited by CONTRACTOR. Upon satisfactory completion of the AGREEMENT, CONTRACTOR shall receive from the escrow agent all securities, interest, and payments received by escrow agent from DISTRICT pursuant to the terms of Public Contract Section 22300.

ARTICLE V – ALTERNATIVE DISPUTE RESOLUTION

Disputes arising from this AGREEMENT or related in any manner to the same shall be resolved as follows:

1. In the event of any dispute, claim, question, or disagreement arising out of or relating to this AGREEMENT, prior to initiating arbitration or any other legal action and as a condition precedent to being entitled to file such legal action or demand for arbitration, the Parties shall use their best good faith efforts to settle such disputes, claims, questions, or disagreements, consulting and negotiating with each other in good faith and recognizing their mutual interests in attempting to reach a just and equitable solution satisfactory to both Parties.

2. In the event that the Parties are unable to resolve their dispute through the meet and confer procedure provided for in Paragraph 1 of Article V of this AGREEMENT, any dispute arising under or relating to this AGREEMENT, whether based on contract, tort, statute, or other legal or equitable theory, will be submitted to arbitration in the County of Orange, State of California, before a retired California Superior Court Judge or retired California Appellate Court or Supreme Court Justice or before a retired Federal Court Judge or Justice. If the parties are unable to agree as to an arbitrator, the arbitration shall be submitted before the Judicial Arbitration and Mediation Services, Inc. ("JAMS"), or the American Arbitration Association ("AAA"). The Parties may agree on an arbitrator from the selected entity's panel. If they are unable to agree, the selected entity will provide a list of three available arbitrators and each Party may strike one. The arbitration tribunal shall select the arbitrator from the remaining names. The arbitration shall be held in accordance with the rules of the selected entity and California substantive law shall apply. The arbitrator shall award costs and attorneys' fees to the prevailing party. The Parties shall be entitled to only the following limited discovery:

- a. Each Party shall exchange all documents relevant to the subject matter of the dispute.
- b. Each Party shall be entitled to one deposition limited to four hours.
- c. Each Party may serve one set of interrogatories limited to 25 interrogatories, including subparts.

- d. Each Party may make application to the arbitrator to order the deposition of a witness to be taken for use as evidence and not for discovery if the witness cannot be compelled to attend the hearing or as such exceptional circumstances exist as to make it desirable in the interest of justice and with due regard to the importance of presenting the testimony of witnesses at the hearing to allow the deposition to be taken.
- e. Each Party shall advance one-half of the cost of the arbitration proceedings, including any administrative costs and arbitrator expenses subject to being reimbursed by an award of the arbitrator of costs.

3. If any claim arises under the construction contract documents for the PROJECT which is submitted to arbitration, and either CONTRACTOR or DISTRICT claims that the acts or omissions of CONTRACTOR are involved in whole or in part in any claim by or against DISTRICT, such may be asserted at the option of DISTRICT against CONTRACTOR in the same arbitration proceeding involving DISTRICT and CONTRACTOR which shall be conducted under the procedure specified in the General Conditions.

4. Concurrent disputes under this AGREEMENT shall be consolidated into a single arbitration unless the parties otherwise agree in writing and no hearing shall be held prior to final completion of the PROJECT, unless DISTRICT and CONTRACTOR otherwise agree in writing.

5. Any arbitration award shall be subject to confirmation, vacation or correction under the procedures and on the grounds specified in the California Code of Civil Procedure, including, without limitation, Section 1296.

ARTICLE VI – MISCELLANEOUS PROVISIONS

1. This AGREEMENT shall be interpreted and governed by the laws of the State of California.

2. An inducement to DISTRICT for entering into this AGREEMENT is the professional reputation and competence of CONTRACTOR and its employees. Neither this AGREEMENT nor any interest therein may be assigned by CONTRACTOR without the prior written consent of DISTRICT, which consent may be withheld by DISTRICT in its sole and absolute discretion. Any attempt by CONTRACTOR to assign this AGREEMENT shall be void and a material breach of this AGREEMENT and DISTRICT may immediately terminate this AGREEMENT.

3. CONTRACTOR warrants to DISTRICT that it is not now, nor has it, or any of its officers, for five years preceding this AGREEMENT, been involved in arbitration or litigation concerning CONTRACTOR's professional performance or the furnishing of materials or services relating thereto.

4. DISTRICT and CONTRACTOR, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other Party to this AGREEMENT and to the partners, successors, assigns, and legal representatives of such other Party with respect to all covenants of this AGREEMENT.

5. This AGREEMENT represents the entire and integrated agreement between DISTRICT and CONTRACTOR and supersedes all prior negotiations, representations or agreements, either written or oral. This AGREEMENT may be amended only by written instrument signed by both DISTRICT and CONTRACTOR and approved by DISTRICT's Board of Trustees. All change orders must be in writing and approved in writing by DISTRICT.

6. Nothing contained in this AGREEMENT shall create a contractual relationship with or a cause of action in favor of a third party against either DISTRICT or CONTRACTOR.

7. **TIME IS OF THE ESSENCE FOR THIS AGREEMENT.** CONTRACTOR acknowledges that all time limits stated in this AGREEMENT and in the project schedule ("PROJECT SCHEDULE") are of the utmost importance to DISTRICT. CONTRACTOR shall comply with the PROJECT SCHEDULE, which may be revised from time to time by mutual agreement, for completion of CONTRACTOR's services. The total time schedule for full completion of CONTRACTOR's services for each phase of the PROJECT shall not exceed the durations listed, unless mutually agreed upon in writing by CONTRACTOR and DISTRICT. The durations for DISTRICT review period listed in the PROJECT SCHEDULE shall be computed from the date on which a clear, complete submittal is received by DISTRICT. DISTRICT's failure to meet its commitment to provide written requested information or to review within the stipulated time frames shall be cause for an adjustment in the PROJECT SCHEDULE. However, submittals received for review which are rejected, in writing, as not meeting the deliverables required by submittal requirements of this AGREEMENT and the attachments thereto, shall not be cause for adjustment of the PROJECT SCHEDULE, and any such delay caused by such rejected submittals shall be the sole responsibility of CONTRACTOR.

8. Notwithstanding anything to the contrary, to the extent allowed by law, DISTRICT shall not be liable for any special, indirect, exemplary, punitive, consequential, or incidental damages, including, without limitation, lost revenues, anticipated revenues, or profits relating to the same arising from any claim relating directly or indirectly to this AGREEMENT whether a claim for such damages is based on warranty, contract or tort (including, without limitation, negligence or strict liability) even if the parties are advised of the likelihood or possibility of the same.

9. CONTRACTOR's sole and exclusive remedy in the event CONTRACTOR makes any claim for breach of this AGREEMENT or seeks damages under any theory of law whether based on warranty, contract or tort, including without limitation, negligence or strict liability, shall be against DISTRICT and not its trustees, agents or employees. No trustee, agent, or employee shall be sued or named as a party in any such suit or action and no judgment shall be taken against any trustee, agent, or employee. No writ of execution will be levied against the assets of any trustee, agent, or employee of DISTRICT pursuant to this AGREEMENT. This covenant and agreement contained in this Paragraph are enforceable by DISTRICT's trustees, agents, and employees.

10. CONTRACTOR, in the performance of this AGREEMENT, shall be and act as an independent contractor. CONTRACTOR understands and agrees that CONTRACTOR and all of CONTRACTOR's employees shall not be considered employees or agents of DISTRICT, and are not entitled to benefits of any kind or nature normally provided employees of DISTRICT or to which DISTRICT's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. CONTRACTOR assumes the full responsibility for the acts and/or omissions of CONTRACTOR's employees and agents as they relate to the services to be

provided under this AGREEMENT. CONTRACTOR shall assume full responsibility for payment of all federal, State, and local taxes or contributions, including unemployment insurance, social security, and income taxes for the respective CONTRACTOR's employees.

11. No changes or alterations to this AGREEMENT shall be made without a written request from CONTRACTOR and specific prior written approval by DISTRICT and in no event shall all proposed changes or alterations cumulatively exceed the sum of 10% of the amount of the original proposal and/or purchase order or exceed bid limits.

12. In case of a conflict between specifications and drawings and/or actual site conditions, work shall immediately cease until the conflict is resolved by DISTRICT representative. DISTRICT shall not be responsible for any cost/expenses incurred by CONTRACTOR due to any delays caused in whole, or part, by CONTRACTOR.

13. The Parties shall be excused from performance hereunder during the time and to the extent that they are prevented from obtaining, delivering, or performing by act of God, fire, strike, lock-out terrorism, commandeering of materials, products, plants, or facilities by the government. Satisfactory evidence shall be presented to DISTRICT or CONTRACTOR to establish that the non-performance is not due to the fault or neglect of the Party not performing.

14. Unless otherwise specified, CONTRACTOR shall submit invoices in duplicate for materials delivered or services performed under this AGREEMENT. DISTRICT shall make payment for materials, supplies, or other services furnished under this AGREEMENT within a reasonable and proper time after acceptance thereof by the authorized DISTRICT representative.

15. DISTRICT shall have the right to conduct periodic audits of CONTRACTOR'S records relating to CONTRACTOR'S Services and of the PROJECT. DISTRICT shall provide CONTRACTOR will no less than five days notice prior to the conduct of any audit. CONTRACTOR shall fully and promptly assist DISTRICT with any audit, including the production of records relating to CONTRACTOR'S Services and to the PROJECT.

16. This AGREEMENT shall be binding on and inure to the benefit of the successors and assigns of the Parties.

17. In the event of a conflict between the provisions of any exhibit to this AGREEMENT and this AGREEMENT, the provisions of this AGREEMENT shall govern.

ARTICLE VII – NOTICES

Any notice or communication required or permitted to be given hereunder or by law shall be in writing and served personally, delivered by courier, or sent by United States certified mail, postage prepaid with return receipt requested, addressed to the other party as follows:

TO DISTRICT:

Coast Community College District
Attn: Director, Risk Services
1370 Adams Avenue
Costa Mesa, CA 92626

Coast Community College DISTRICT
Attn: Sr. Director, Facilities, Planning and Construction
1370 Adams Avenue
Costa Mesa, CA 92626

TO CONTRACTOR:

Attn: _____
[Address] _____

Any such notices personally served or delivered by courier shall be effective when received. All notices sent by certified mail shall be effective 48 hours after being deposited in the U.S. mail. Each Party shall make a reasonable, good faith effort to ensure that it will accept or receive notices that are given in accordance with this Paragraph. A Party may change its address for purposes of this Paragraph by giving the other party written notice of a new address in the manner set forth above.

IN WITNESS WHEREOF, DISTRICT and CONTRACTOR have executed this AGREEMENT as of the date indicated below.

DISTRICT

CONTRACTOR

Chancellor, or President, Board of Trustees

[Name] _____
[Title] _____

Dated: _____

Dated: _____

CCCD Board Approval Date: _____