

SECTION 00300

BID PROPOSAL FORM

PROJECT NUMBER / NAME: **L-612, Student Life Renovations**

CAMPUS / LOCATION: **Los Medanos College, 2700 East Leland Road, Pittsburg, CA 94565**

DISTRICT: **CONTRA COSTA COMMUNITY COLLEGE DISTRICT
500 Court St, Martinez, CA 94553**

Herein Referred to as "District"

1. INTRODUCTION

- A. The Bidder proposes to perform the Work for the Contract Sum and within the proposed Contract Time, based upon an examination of the site and the Bid and Contract Documents.
- B. The Bidder certifies this Bid is submitted in good faith.
- C. The Bidder agrees that the Contract Sum and other proposed terms will be considered in evaluating Bids and may be negotiated and adjusted before awarding of Contract.
- D. The signed copy of the Certification of the Visit to the Site shall be attached to the Bid Form Submittal.
- E. A fully executed Statement of Bidder's Qualifications signed by an authorized officer of the Bidder submitting the Bid shall be attached to the Bid Form.
- F. A fully executed Non-Collusion Affidavit signed by an authorized officer of the Bidder submitting Bid shall be attached to the Bid Form.
- G. The District shall award the contract to the lowest responsive and responsible Bidder. The evaluation of the low bid shall be based on the total of Item #3 Base Bid (which includes item 3.A, Allowance #1)**
- H. The District reserves the right to award the other Additive Alternates through change orders as budget allows.**

2. CONTRACT SUM

A. Total Bid Amount (Base Bid Including Allowance #1)

For labor, materials, bonds, fixtures, equipment, tools, transportation, services, sales taxes and other costs necessary to complete the general construction in accordance with the Contract Documents, for a stipulated Contract Sum in the amount of:

_____ Dollars (\$ _____)

3. BASE BID (Including Allowance #1. No Alternates included.)

For labor, materials, bonds, fixtures, equipment, tools, transportation, services, sales taxes and other costs necessary to complete the general construction in accordance with the Contract Documents, for a stipulated Contract Sum in the amount of:

_____ Dollars (\$ _____)

3.A ALLOWANCE #1

The Contractor recognizes that the amount of the Base Bid provided above includes a stipulated sum of \$15,000.00 reserved for costs associated with additional work, labor, and/or materials beyond that included in Contract Documents, which is to be utilized at the sole discretion of the District.

Contractor Authorized Signature: _____

4. ALTERNATES

A. Concrete Demolition and Replacement

Alternate #1, as shown in Sheet A-1.3, includes removal and replacement of existing asphalt concrete and redwood header boards; removal of sub base as required to install new 4" concrete sidewalk with expansion joints and control joints. Alternate also includes removal of decomposed granite walkway as required to install new 4" concrete sidewalk with expansion joints and control joints. Drawing reference sheet A-1.3 and 1.4.

Provide all labor, materials, bonds, fixtures, equipment, tools, transportation, services, sales taxes and other costs necessary to complete this Alternate construction in accordance with the Contract Documents:

_____ dollars \$ _____

B. Free Standing Bulletin Board

Alternate #2, as shown on Addendum #3, Drawing A-1.4, Detail #1. The free standing bulletin board shall include all labor and materials necessary to construct structure including but not limited to structure and foundation.

Provide all labor, materials, bonds, fixtures, equipment, tools, transportation, services, sales taxes and other costs necessary to complete this Alternate construction in accordance with the Contract Documents:

_____ dollars \$ _____

C. Landscape Work

Alternate includes the installation of all the landscape scope of work as shown in drawings L1-01.

Provide all labor, materials, bonds, fixtures, equipment, tools, transportation, services, sales taxes and other costs necessary to complete this Alternate construction in accordance with the Contract Documents:

_____ dollars \$ _____

5. COMPLETION TIME

- A. For establishing the Date of Final Completion the contract time for the Base Bids shall be 79 ***calendar days*** after date of the Notice To Proceed. This time may be subject to modification to facilitate the work as mutually agreed upon at a later date.
- B. The Bidder certifies that the Bid is based on the Contract Time for completion as stated above and in the Contract Documents. Bidder further certifies that the Base Bid amount is sufficient to cover all labor, materials, central office and construction site overhead, profit, and all other costs related to the completion of the Project for the entire Project construction time for both the General Contractor and all Subcontractors, as stated above in paragraphs 2 and 3.

6. ADDENDA

- A. The Bidder acknowledges receipt of the following Addenda, and certifies the Bid has provided for all modifications and considerations required therein.

None []

Addendum No.: _____ dated _____

Addendum No.: _____ dated _____

Addendum No.: _____ dated _____

Addendum No.: _____ dated _____

Addendum No.: _____ dated _____

Addendum No.: _____ dated _____

Addendum No.: _____ dated _____

Addendum No.: _____ dated _____

Addendum No.: _____ dated _____

Addendum No.: _____ dated _____

Addendum No.: _____ dated _____

Addendum No.: _____ dated _____

Addendum No.: _____ dated _____

Addendum No.: _____ dated _____

Addendum No.: _____ dated _____

B. List of Additional Addenda Attached: Yes [] No. [].

7. DESIGNATION OF SUBCONTRACTORS

- A. The Bidder has set forth a complete list indicating the type of work, name, and business address of each Subcontractor who will perform work in excess of one-half of one percent of the Contract Sum.
- B. Any portion of the work in excess of the specified amount having no designated Subcontractor shall be performed by the Bidder.
- C. Substitution of listed Subcontractors will not be permitted unless approved in advance by the District.
- D. Prior to signing the Contract, the District reserves the right to reject any listed Subcontractor.

	Type of Work	Subcontractor's	Business Address	License #
(1)	_____	_____	_____	_____
(2)	_____	_____	_____	_____
(3)	_____	_____	_____	_____
(4)	_____	_____	_____	_____
(5)	_____	_____	_____	_____

- D. Complete list of Subcontractors is attached: Yes [] No []
- E. Continuation list of Subcontractors is attached: Yes [] No []

8. ACCEPTANCE AND AWARD

- A. The District reserves the right to reject this Bid and to negotiate changes before or after execution of the Contract. This Bid shall remain open and shall not be withdrawn for a period of 90 days after Bid Opening date.
- B. If written notice of acceptance of this Bid is mailed or delivered to the Bidder within 90 days after the date set for the receipt of this Bid, or other time before it is withdrawn, the Bidder will execute and deliver to the District a Contract prepared by District with the required Surety Bonds and Certificates of Insurance, within 10 days after personal delivery or deposit in the mail of the notification of acceptance.
- C. Notice of acceptance or request for additional information may be addressed to the Bidder at the address provided.

9. BID SECURITY

- A. The required 10 percent (10%) Bid Security for this Bid is attached in the form of:
 - () Bid Bond Issued By: _____
 - () Certified or Cashier's Check No. _____
 - Issued by: _____

10. BIDDER'S BUSINESS INFORMATION

- A. **Individual []:** _____
 Personal Name: _____
 Business Name: _____
 Address: _____
 _____ Zip Code: _____
 Telephone: _____
 Fax Number: _____

- B. **Partnership []:** _____

Co-partners' Names: _____

Business Name: _____

Address: _____

_____ Zip Code: _____

Telephone: _____

Fax Number: _____

C. **Corporation []:** _____

Firm Name: _____

Address: _____

_____ Zip Code _____

Telephone: _____

Fax Number: _____

State of Incorporation: _____

President: _____

Secretary: _____

Treasurer: _____

Manager: _____

D. **Power of Attorney:** Name: _____

Title: _____

E. **Contractor License No.** _____ State of _____

F. Bidder is submitting this proposal on behalf of a Joint Venture. Names, license numbers, and relevant information are given on a separate attachment:

Yes [] No [].

G. Upon request, furnish appropriate documentation to substantiate and/or support the data given.

11. The undersigned hereby certifies under penalty of perjury under the laws of the State of California that all the information submitted by the Bidder in connection with this Bid and all the representations herein made are true and correct.

Executed this day of _____

Contractor's License No.

Expiration Date

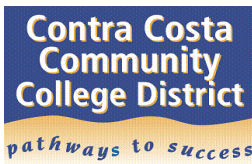
Firm Name

Signature

By (Print or Type Name)

Title

End of Section 00300



Section 00350

NONCOLLUSION AFFIDAVIT
(TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID)

State of California

County of Contra Costa

_____, 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 that the foregoing is true and correct.

Date: _____ Signature: _____

State of California
County of Contra Costa

On _____ before me _____ personally appeared

personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Date: _____ Signature: _____

END OF SECTION 00350

SECTION 00400

STATEMENT OF BIDDER'S QUALIFICATIONS

I, _____ being first duly sworn, depose and say:
(Name)

I am the _____ of _____
(Title) (Company / Entity)

1. Bidder's Organization

1.1 Form of Entity of Bidder, i.e., corporation, partnership, etc.:

1.1.1 If **Corporation**, state the following:

State of incorporation: _____
Date of incorporation: _____
President: _____
Secretary: _____
Treasurer: _____

1.1.2 If **Partnership**, state the following:

Date of organization: _____
Type of partnership: _____
Names of all general partners; if any of the general partners are not natural persons, provide the information for each such general partner requested by 1.1.1, 1.1.2 and 1.1.4 as appropriate: _____

1.1.3 If **Proprietorship**, state the following:

Names for all proprietors: _____

1.1.4 If **Joint Venture**, state the following:

Date of organization: _____
Names of all Joint Ventures; for each joint Venture, identify the form of entity and provide the information requested by 1.1.1, 1.1.2 and 1.1.3 above for each Joint Ventures, as appropriate:

1.1.5 If **Other** than listed above, describe type of organization and name all principals:

1.2 How many years has your organization been in business as a Contractor? _____

1.3 How many years has your organization been in business under its present name? _____

1.3.1 Identify any former names under which your organization has conducted business.

2.0 Financial

2.1 Attach current audited, reviewed or compiled Financial Statement of your organization prepared by a Certified Public Accountant licensed in the State of California utilizing generally accepted accounting practices applied in a consistent manner. The Financial Statement must include a current balance sheet and income statement showing: (i) current assets (i.e., cash accounts receivable, accrued income, deposits, material inventory, etc.); (ii) net fixed assets; (iii) others assets; (iv) current liabilities (i.e., accounts payable, accrued salaries, accrued payroll taxes, etc.); and (v) other liabilities (i.e., capital, capital stock, earned surplus and retained earnings).

2.2. Is the attached Financial Statement for the identical organization of the Bidder?

YES _____ NO _____

If NO, explain the relationship and financial responsibility of the organization whose financial statement of provided (i.e., parent/subsidiary, etc.)

3.0 Licensing

3.1 List all jurisdictions, other than the State of California, in which your organization is licensed to do business as a contractor, and for each jurisdiction listed, identify the class of license or description of the work permitted by the license.

3.2 California Contractor's License

3.2.1 License Number: _____

3.2.2 Expiration Date: _____

3.2.3 License Classification(s): _____

3.2.4 Responsible Managing Employee or Responsible Managing Officer:

- 3.3 Has a claim or other demand ever been made against your organization's California Contractor's License Bond?
NO _____ YES _____ (See Attached)

If YES, on a separate attachment state the following: (i) the name, address and telephone each such claimant; (ii) the date of each such claim or demand. (iii) the circumstances giving rise to each such claim or demand; and (iv) the disposition of each such claim or demand.

- 3.4 Has a complaint ever been filed against your organization's California Contractor's License with the California Contractor's License Board?
NO _____ YES _____ (See Attached)

If YES, for each such complaint, identify the name of the complainant, the date of the complaint and the disposition thereof, including without limitation, any disciplinary action imposed by the California Contractor's License Board.

- 3.5 Attach to this statement true and correct copies of the following:

3.5.1 Your organization's California Contractor's License (the copy must clearly and legibly show: (i) the licensee name; (ii) the expiration date; and (iii) the classification(s) of licensure).

3.5.2 The Contractor's License Bond posted by your organization in connection with your organization's California Contractor's License pursuant to California Business & Professions Code 7071.5 and 7071.6 (the copy must clearly and legibly show; (i) the Bond number or other information sufficient for identification; (ii) the name, address and telephone number of the Surety on the Bond; (iii) the signature of the individual executing the Bond on behalf of the Surety and if such individual's authority is conferred by a power of attorney or by such individual's authority is conferred by a power of attorney or by such individual's designation as an attorney in fact on behalf of the Surety, include a clear and legible copy of such power of attorney or attorney in fact designation; (iv) the principal on such Bond; and (v) the expiration date of such Bond).

3.5.3 If your organization's California Contractor's License is issued by virtue of the qualification of a responsible managing employee or responsible managing officer of your organization, the Qualifier's Bond, if required pursuant to California business & Professions Code 7071.9 (the copy must clearly and legibly show; (i) the bond number or other information sufficient for identification; (ii) the name, address and telephone number of the Surety on the Bond; (iii) the signature of the individual executing the Bond on behalf of the Surety and if such individual's authority is conferred by a power of attorney or by such individual's designation as an attorney in fact on behalf of the Surety, include a clear and legible copy of such power of attorney or attorney in fact designation; (iv) the principal on such Bond; and (v) the expiration date of such Bond).

4.0 Experience

4.1 List the categories of work your organization typically performs with its own forces.

4.2 Claims and suits (if you answer YES to any of the following, you must attach details).

4.2.1 Have any lawsuits or other proceedings ever been brought against your organization or any of its principals or officers in connection with any construction contract or construction project?

NO _____ YES _____

If YES, describe the circumstances, the amount or relief sought and the disposition of each such lawsuit or other proceeding.

4.2.2 Has your organization ever filed a lawsuit or initiated other proceedings in connection with any construction contract or construction project?

NO _____ YES _____

If YES, describe the circumstances, the amount or relief sought and the disposition of each such lawsuit or other proceeding.

4.2.3 Are there any judgments, orders or arbitration awards pending, outstanding or by which your organization or any of its officers or principals are bound by?

NO _____ YES _____

If YES, describe each such judgment, order or arbitration award and the present status of the satisfaction or discharge thereof.

4.3 On a separate attachment, list all construction projects your organization has in progress and for each project listed, state; (i) a general description of the work performed or to be performed by your organization; (ii) the owner's name, name of the owner's representative, the owner's address and telephone number; (iii) the project architect, address and telephone number; (iv) percent presently completed and (v) the scheduled completion date.

4.4 On a separate attachment, list all construction projects completed by your organization in the past five years and for each project, state: (i) a general description of the work performed by your organization on the project; (ii) the owner's name, name of the owner's representative, the owner's address and telephone number; (iii) contract amount;

(iv) date of completion; and (v) whether the project was completed within contract time and contract budget.

4.5 Has your organization ever refused to sign a contract awarded to it?

NO _____ YES _____

If YES, on a separate attachment state the following: (i) describe each such contract; (ii) the owner's name, address and telephone number; (iii) a description of the project; and (iv) the circumstances of the refusal to sign the contract.

4.6 Has your organization ever failed to complete a construction contract?

NO _____ YES _____

If YES, on a separate attachment state the following; (i) describe each such contract; (ii) the owner's name, address and telephone number; (iii) a description of the project; and (iv) the circumstances of the failure to complete.

4.7 Has your organization ever been declared in default of a construction contract?

NO _____ YES _____

If YES, on a separate attachment state the following: (i) describe each such contract; (ii) the owner's name, address and telephone number; (iii) a description of the project; and (iv) the circumstances of the declaration of default.

4.8 Has a claim or other demand ever been asserted against any Bid Bond, Performance Bond or Labor and Material Payment Bond posted by your organization in connection with any construction contract or your submittal of a proposal on a construction contract?

NO _____ YES _____

If YES, on a separate attachment state the following: (i) state the name, address and telephone number of each such claimant; (ii) the date of the claim; and (iii) the disposition thereof.

5.0 References

(Include Name, Contact Person, Telephone, Facsimile, and Address of each reference provided).

5.1 Trade References (3 minimum)

5.2 Bank References

5.3 Owner References (3 minimum)

5.4 Statement of Contractor Work Experience and Qualifications.

If any question listed below in this Section of the Statement of Bidder's Qualifications (entitled "Statement of Contractor Work Experience") is not answered by marking "Yes" in response to that question, the Bid Proposal with which that Statement of Qualifications is submitted may be deemed by the District to be non-responsive and rejected on that basis.

A. Is your organization currently in good standing with the California Contractor's State License Board?

____ Yes ____ No

B. Has your organization, under its current license, completed at least three (3) projects of similar size and complexity in an educational environment with a Two Hundred Thousand Dollar (\$200,000) contract minimum?

____ Yes ____ No

If so, attach a separate sheet of paper, referring to this numbered question, and state: (i) the name of each project upon which you base your response to this question; (ii) a general description of the work performed by your organization on the project; (iii) the Owner, name of the owner's representative and a current address and telephone number of the owner and the owner's representative; and (iv) the project architect's name, address, telephone number and contact person.

C. Has the site superintendent **and** project manager that your organization will employ for this project previously completed, in the same capacity, at least three projects of similar size and complexity in an educational environment with a Two Hundred Thousand Dollar (\$200,000) contract minimum?

____ Yes ____ No

SECTION 00450

CERTIFICATION OF SITE VISIT

The Governing Board of the
Contra Costa Community College District
500 Court Street
Martinez, California 94553

Gentlemen/Ladies:

I visited the **L-612 Student Life Renovations** job site,

on _____, 2011 at _____ A.M. P.M (Circle one)

to inspect the proposed work, which would be turned over to me in its present condition, with a representative of the Contra Costa Community College District in order to acquaint myself with the proposed work so that I might fully understand the facilities, difficulties, and restrictions attending the execution of the work under the contract, and acknowledge I had the opportunity to check the Record Drawing as-built drawings and/or previous Contract Documents, site conditions and Bid Documents with the authorized representative of the District.

Owner Representative:

_____, 2011
Project Manager – CCCCDC Facilities Date

or

Manager – Buildings & Grounds Date

Bidder:

Name of Firm or Company

Authorized Signatory

Address

Phone Number Fax Number

NOTE: Any bidder who fails to return this CERTIFICATION, fully executed, including signature of company representative AND a Contra Costa Community College District representative, with the proposal form, may have their bid rejected as non-responsive.

END OF SECTION 00450

SECTION 00500

BID SECURITY FORMS

- 1.1 The Bid Security Form to be used for this project:
Bid Bond, AIA Document A310, 1970 Edition
- 1.2 The Bid Security Form shall be considered part of this Project Manual as if bound herein.
- 1.3 The Performance Bond and the Payment Bond forms to be used for this project are included in the following pages:

**PAYMENT BOND
(CALIFORNIA PUBLIC WORK)**

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, the Contra Costa Community College District (sometimes referred to hereinafter as "Obligee") has awarded to _____ (hereinafter designated as the "Principal" or "Contractor"), an agreement for the work described as follows: _____ (hereinafter referred to as the "Public Work"); and

WHEREAS, said Contractor is required to furnish a bond in connection with said Contract, and pursuant to California Civil Code Section 3247;

NOW, THEREFORE, We, _____, the undersigned Contractor, as Principal; and _____, a corporation organized and existing under the laws of the State of _____, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the Contra Costa Community College District and to any and all persons, companies, or corporations entitled by law to file stop notices under California Civil Code Section 3181, or any person, company, or corporation entitled to make a claim on this bond, in the sum of _____ Dollars (\$_____), said sum being not less than one hundred percent (100%) of the total amount payable by said Obligee under the terms of said Contract, for which payment will and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, its heirs, executors, administrators, successors, or assigns, or subcontractor, shall fail to pay any person or persons named in Civil Code Section 3181; or fail to pay for any materials, provisions, 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 Unemployment Insurance Code Section 13020 with respect to work and labor thereon of any kind, then said Surety will pay for the same, in an amount not exceeding the amount herein above set forth, and in the event suit is brought upon this bond, also will pay such reasonable attorneys' fees as shall be fixed by the court, awarded and taxed as provided in California Civil Code Sections 3247 et seq.

This bond shall inure to the benefit of any person named in Civil Code Section 3181 giving such person or his/her assigns a right of action 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, or specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described; or pertaining or relating to the furnishing of labor, materials, or equipment therefor; nor by any change or modification of any terms of payment or extension of time for payment pertaining or relating to any scheme or work of improvement herein above 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 the Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the Obligee and the Contractor or on the part of any obligee named in such bond; that the sole condition of recovery shall be that the claimant is a person described in California Civil Code Sections 3110 and 3112, and who has not been paid the full amount of his or her claim; and that the Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 2011.

PRINCIPAL/CONTRACTOR:

By: _____

SURETY:

By: _____

Attorney-in-Fact

**CONTRACT PERFORMANCE BOND
(CALIFORNIA PUBLIC WORK)**

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, Contra Costa Community College District (sometimes referred to hereinafter as "Obligee") has awarded to _____ (hereinafter designated as the "Principal" or "Contractor"), an agreement for the work described as follows: _____ (hereinafter referred to as the "Public Work"); and

WHEREAS, the work to be performed by the Contractor is more particularly set forth in that certain contract for said Public Work dated _____, (hereinafter referred to as the "Contract"), which Contract is incorporated herein by this reference; and

WHEREAS, the Contractor is required by said Contract to perform the terms thereof and to provide a bond both for the performance and guaranty thereof.

NOW, THEREFORE, we, _____, the undersigned Contractor, as Principal, and _____, a corporation organized and existing under the laws of the State of _____, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the Contra Costa Community College District in the sum of _____ Dollars (\$_____), said sum being not less than one hundred percent (100%) of the total amount payable by said Obligee under the terms of said Contract, for which amount 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 the bounded Contractor, his or her heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, and agreements in said Contract and any alteration thereof made as therein provided, on his or her part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill guarantees of all materials and workmanship; and indemnify, defend and save harmless the Obligee, its officers and agents, as stipulated in said Contract, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

The Surety, for value received, hereby stipulates and agrees that it shall not be exonerated or released from the obligation of this bond (either by total exoneration or pro tanto) by any change, extension of time, alteration in or addition to the terms of the contract or to the work to be performed there under or the specifications accompanying the same, nor by any change or modification to any terms of payment or extension of time for any payment pertaining or relating to any scheme of work of improvement under the contract. Surety also stipulates and agrees that it shall not be exonerated or released from the obligation of this bond (either by total exoneration or pro tanto) by any overpayment or underpayment by the Obligee that is based upon estimates approved by the Architect. The Surety stipulates and agrees that none of the aforementioned

changes, modifications, alterations, additions, extension of time or actions shall in any way affect its obligation on this bond, and it does hereby waive notice of any such changes, modifications, alterations, additions or extension of time to the terms of the contract, or to the work, or the specifications as well notice of any other actions that result in the foregoing.

Whenever Principal shall be, and is declared by the Obligees to be, in default under the Contract, the Surety shall promptly either remedy the default, or shall promptly complete the Contract through its agents or independent contractors, subject to acceptance and approval of such agents or independent contractors by Obligees as hereinafter set forth, in accordance with its terms and conditions and to pay and perform all obligations of Principal under the Contract, including, without limitation, all obligations with respect to warranties, guarantees and the payment of liquidated damages; or, at Obligees's sole discretion and election, Surety shall obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Obligees of the lowest responsible bidder, arrange for a contract between such bidder and the Obligees and make available as Work progresses (even though there should be a default or succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the "balance of the Contract price" (as hereinafter defined), and to pay and perform all obligations of Principal under the Contract, including, without limitation, all obligations with respect to warranties, guarantees and the payment of liquidated damages. The term "balance of the Contract price," as used in this paragraph, shall mean the total amount payable to Principal by the Obligees under the Contract and any modifications thereto, less the amount previously paid by the Obligees to the Principal, less any withholdings by the Obligees allowed under the Contract.

Surety expressly agrees that the Obligees may reject any agent or contractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Principal. Unless otherwise agreed by Obligees, in its sole discretion, Surety shall not utilize Principal in completing the Contract nor shall Surety accept a bid from Principal for completion of the work in the event of default by the Principal.

No final settlement between the Obligees and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

The Contractor and Surety shall remain responsible and liable for all patent and latent defects that arise out of or are related to the Contractor's failure and/or inability to properly complete the Public Work as required by the Contract and the Contract Documents. The obligation of the Surety hereunder shall continue so long as any obligation of the Contractor remains.

Contractor and Surety agree that if the Obligees is required to engage the services of an attorney in connection with enforcement of the bond, Contractor and Surety shall pay Obligees's reasonable attorneys' fees incurred, with or without suit, in addition to the above sum.

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

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 2011.

PRINCIPAL/CONTRACTOR:

By: _____

SURETY:

By: _____

Attorney-in-Fact

The rate of premium on this bond is _____ per thousand.

The total amount of premium charged: \$_____ (This must be filled in by a corporate surety).

IMPORTANT: THIS IS A REQUIRED FORM.

Surety companies executing bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in California Insurance Code Section 105, and if the work or project is financed, in whole or in part, with federal, grant or loan funds, Surety's name must also appear on the Treasury Department's most current list (Circular 570 as amended).

Any claims under this bond may be addressed to:

(Name and Address of Surety)

(Name and Address of agent or representative for service for service of process in California)

Telephone: _____

Telephone: _____

STATE OF CALIFORNIA)
) ss.
COUNTY OF)

On _____ before me, _____
(insert name and title of the officer)

On _____, before me, _____, a Notary

Public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument as the Attorney-in-Fact of the _____ (Surety) and acknowledged to me that he/she/they subscribed the name of the _____ (Surety) thereto and his own name as Attorney-in-Fact on the executed instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public in and for said State

(SEAL)

Commission expires:_____

NOTE: A copy of the power-of-attorney to local representatives of the bonding company must be attached hereto.

END OF SECTION 00500

SECTION 00600

CONSTRUCTION AGREEMENT

CONTRACT NO. _____
(Construction Agreement)

=====

1. This Agreement shall not be enforceable until ratified and approved by the Contra Costa Community College District's Governing Board. The estimated board meeting date is _____, 2011.

(§1.1) Parties: (Public Agency) **CONTRA COSTA COMMUNITY COLLEGE DISTRICT**
500 Court St, Martinez, CA 94553

(Contractor) _____
Address: _____

(§1.2) Effective Date: _____

(§1.3) The Work: **L-612 Student Life Renovations**

(§1.4) Completion Time: _____ **Calendar Days** from the Notice to Proceed.

(§1.5) Liquidated Damages: \$_____ / per calendar day work is delayed

(§1.6) Public Agency's Agent: **CONTRA COSTA COMMUNITY COLLEGE DISTRICT ("District")**

(§1.7) Contract Sum: _____ **MILLION THOUSAND, HUNDRED DOLLARS and NO CENTS (\$00,000,000.00)**

2. WORK CONTRACT, CHANGES

- (a) By their signatures below, effective on the above date, these parties promise and agree as set forth in this Agreement, incorporating by these references labor and materials contained in Section 2, Scope of Work.
- (b) Contractor shall, at Contractor's own cost and expense, and in a workmanlike manner, fully and faithfully perform and complete the work; and will furnish all materials, labor, services, equipment, and transportation necessary, convenient and proper in order fairly to perform the requirements of this contract, all strictly in accordance with the Public Agency's plans, drawings and specifications.
- (c) The work can be changed only with Public Agency's prior written order specifying such change and its cost agreed to by the parties; and the Public Agency shall never have to pay more than specified in Section 1.7 without such an order.

3. TIME: NOTICE TO PROCEED AND ACCEPTANCE

- (a) Contractor shall start this work as directed in the specifications or the Notice to Proceed and shall complete it as specified in Section 1, Completion Time.

- (b) Partial Acceptance – If at any time during the prosecution of the project, the Contractor substantially completes the Phase of Work of the Project, the Contractor may request the District to make an inspection of the Phase of Work. If the District finds upon inspection that the Phase of Work has been satisfactorily completed in compliance with the contract, the District may accept that Phase of Work as being completed provided that the Contractor shall remain responsible for completion of any Remaining Work of such Phase of the Project. Phases of Work of the project eligible for the Partial Acceptance allowed in this paragraph shall be identified specifically in the Contract Documents as Phases of Work to be eligible for Partial Acceptance. Such Partial Acceptance shall in no way void or alter any of the terms of the Contract.
- (c) Remaining Work after Substantial Completion. If the Architect or District determines that the work required by the Contract is Substantially Complete during any inspection conducted pursuant to this Agreement or Specification Section 01770, Contract Closeout Procedures, the Contractor shall be notified of that determination and the District shall determine if there is Remaining Work. A list of Remaining Work shall be issued only by the District or the Architect and only after the District has certified Substantial Completion. The District or Architect shall give the Contractor the necessary instructions for correction or completion of the Remaining Work, and the Contractor shall immediately comply with and execute such instructions within the Contract Time. Upon completion of the Remaining Work, another inspection shall be made that shall constitute the Final Inspection, provided the Remaining Work has been completed to the satisfaction of the District. If the remaining work has been completed to the satisfaction of the District, the District shall make the final acceptance and notify the Contractor in writing of this acceptance as of the date of Final Inspection.
- (d) Final Acceptance – Upon due notice from the Contractor of completion of the entire project, the District shall make an inspection. If all construction provided for and contemplated by the contract is found to be completed to the District’s satisfaction then that inspection shall constitute the Final Inspection and the District shall notify the Contractor in writing of final acceptance effective as of the date of the Final Inspection.
- (e) Default for failure to Complete Remaining Work In the event the Contract Time expires before the Remaining Work is completed to the satisfaction of the District, the District may provide notice to the Contractor that the Remaining Work shall be completed by Contractor to the satisfaction of the District within ten consecutive calendar days from the date of such notice. The failure of the Contractor to satisfactorily complete the Remaining Work within the ten days shall entitle to District to declare Contractor in default and thereafter terminate the Contract. The ten-day notice provided under this paragraph shall not be construed as adding any time to the Contract Time and is a time period solely for the purposes of providing notice of default.
- (f) Application for Final Payment. After the Contractor has completed all Remaining Work to the satisfaction of the District and delivered all maintenance and operating instructions, schedules, guarantees, warranties, bonds, certificates of inspection, marked-up record documents and other documents as required by the Contract, and after the District or Architect has indicated that the work is acceptable, Contractor may make application for final payment following the Payments Procedures for progress payments. The final application for payment shall be accompanied by all documentation called for in the Contract Documents, together with complete and legally effective releases or waivers (satisfactory to the District) of all liens arising out of or filed in connection with the work on the project.
- (g) Final Payment and Acceptance. If the Architect determines that the work has been completed and the Contractor’s other obligations under the Contract have been fulfilled, the Architect shall, within ten working days after receipt of the final application for payment, indicate in writing the Architect’s recommendation of payment and present the application to District for payment. Thereupon the Architect shall prepare a Certificate of Final Completion. Otherwise, Architect shall return the application to

Contractor indicating in writing the reasons for refusing to recommend final payment. Contractor shall make the corrections identified in the Architect's refusal to recommend final payment. Thirty days after presentation to District of the application and accompanying documentation, with the Architect's recommendation and notice of acceptability of the work, the amount recommended by Architect shall be come due and payable by District to Contractor.

4. LIQUIDATED DAMAGES

4.1 LIQUIDATED DAMAGES - SUBSTANTIAL COMPLETION

If the Contractor fails to complete this contract and this Work or any part of Work within the time fixed therefore, allowance being made for contingencies as provided herein, Contractor becomes liable to the Public Agency for all its loss and damage there from; and because, from the nature of the case, it is and will be impracticable and extremely difficult to ascertain and fix the Public Agency's actual damage from any delay in performance hereof, it is agreed that Contractor will pay as liquidated damages to the Public Agency the reasonable sum specified in Section 1, the result of the parties' reasonable endeavor to estimate fair average compensation therefore, for each calendar day's delay in finishing said Work or Phase of Work; and if the same be not paid, Public Agency may, in addition to its other remedies, deduct the same from any money due or to become due Contractor under this Contract. If the Public Agency for any cause authorizes or contributes to a delay, suspension of work or extension of time, its duration shall be added to the time allowed for completion, but it shall not be deemed a waiver nor be used to defeat any right of the Agency to damages for non-completion or delay hereunder. Pursuant to Government Code Section 4215, the Contractor shall not be assessed liquidated damages for delay in completion of the work, when such delay was caused by the failure of the Public Agency or the owner of a utility to provide for removal or relocation of existing utility facilities.

4.2 LIQUIDATED DAMAGES-THE REMAINING WORK.

The Remaining Work, as such work is determined by the Public Agency or Public Agency's Representative, shall be completed within the Contract Time or any proper extension thereof granted by Public Agency. If the Contractor shall neglect, fail or refuse to complete the Remaining Work within the Contract Time or any proper extension thereof granted by the Public Agency, then the Contractor does hereby agree, as part consideration for the awarding of this Contract, to pay to the Public Agency the amount specified in the Contract, not as a penalty but as liquidated damages for the Remaining Work for each such breach of Contract set forth herein for each and every consecutive calendar day that the Contractor shall be in default after expiration of the Contract Time.

5. INTEGRATED DOCUMENTS

The plans, drawings and specifications and special provisions of the Public Agency's Notice Inviting Bids, and Contractor's accepted bid for this work are hereby incorporated into this Contract; and they are intended to cooperate, so that anything exhibited in the plans or drawings and not mentioned in the specifications or special provisions, or vice versa, is to be executed as if exhibited, mentioned and set forth in both, to the true intent and meaning thereof when taken all together; and differences of opinion concerning these shall be finally determined by the Public Agency.

6. PAYMENT

- (a) For strict and literal fulfillment of these promises and conditions, and full compensation for all this work, the Public Agency shall pay the Contractor the sum specified in Section 1, except that in unit price contracts the payment shall be for finished quantities at unit bid prices.
- (b) On or about the first day of each calendar month, the Contractor shall submit to the Public Agency a verified application for payment, supported by a statement showing all materials actually installed during the preceding month, the labor expended thereon, and the cost thereof; whereupon, after checking, the

Public Agency shall issue to Contractor a certificate for the amount determined to be due, minus ten (10%) percent thereof pursuant to the Public Agency’s General Terms and Conditions, but not until defective work and materials have been removed, replaced and made good.

7. PAYMENTS WITHHELD

- (a) The Public Agency or its agent may withhold any payment, or because of later discovered evidence nullify all or any certificate for payment, to such extent and period of time only as may be necessary to protect the Public Agency from loss because of:
 - (1) Defective work not remedied, or work not completed, or
 - (2) Claims filed or reasonable evidence indicating probable filing, or
 - (3) Failure to properly pay subcontractors or for material or labor, or
 - (4) Reasonable doubt that the work can be completed for the balance then unpaid, or
 - (5) Damage to another contractor, or
 - (6) Damage to the Public Agency, other than damage due to delays.
- (b) The Public Agency shall use reasonable diligence to discover and report to the Contractor, as the work progresses, the materials and labor which are not satisfactory to it, so as to avoid unnecessary trouble or cost to the Contractor in making good any defective work or parts.
- (c) Thirty-five (35) calendar days after Public Agency files its notice of completion of the entire work, it shall issue a certificate to the Contractor and pay the balance of the contract price after deducting all amounts withheld under this contract, provided the Contractor shows that all claims for labor and materials have been paid, no claims have been presented to the Public Agency based on acts or omissions of the Contractor, and no liens or withhold notices have been filed against the work or site, and provided there are not reasonable indications of defective or missing work or of late-recorded notices of liens or claims against Contractor.

8. INSURANCE

Before the commencement of the Work, the Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in California as admitted carriers with a financial rating of at least A status as rated in the most recent edition of Best’s Insurance Reports or as amended by the Supplementary General Conditions, such insurance as will protect the Public Agency from claims set forth below, which may arise out of or result from the Contractor’s operations under the Contract and for which the Contractor may be legally liable, whether such operations are by the Contractor, by a Subcontractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

- (a) Claims for damages because of bodily injury, sickness, disease, or death of any person District would require indemnification and coverage for employee claim;
- (b) Claims for damages insured by usual personal injury liability coverage, which are sustained by a person as a result of an offense directly or indirectly related to employment of such person by the Contractor or by another person;
- (c) Claims for damages because of injury or destruction of tangible property, including loss of use resulting therefrom, arising from operations under the Contract Documents;
- (d) Claims for damages because of bodily injury, death of a person, or property damage arising out of the ownership, maintenance, or use of a motor vehicle, all mobile equipment, and vehicles moving under their own power and engaged in the Work;

- (e) Claims involving contractual liability applicable to the Contractor's obligations under the Contract Documents, including liability assumed by and the indemnity and defense obligations of the Contractor and the Subcontractors; and
- (f) Claims involving Completed Operations, Independent Contractors' coverage, and Broad Form property damage, without any exclusions for collapse, explosion, demolition, underground coverage, and excavating. (XCU)
- (g) Claims involving sudden or accidental discharge of contaminants or pollutants.

Additional Insured Endorsement Requirement: The Contractor shall name, on any policy of insurance, the District, Architect, Inspector, the State of California, their officers, employees, agents and independent contractors as Additional Insured. Subcontractors shall name the Contractor, the District, Architect, Inspector, the State of California, their officers, employees, agents and independent contractors as Additional Insured.

The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the Additional Insured have other insurance which is applicable to the loss, such other insurance shall be on an excess or contingent basis. The insurance provided by the Contractor must be designated in the policy as primary to any insurance obtained by the Public Agency. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

Specific Insurance Requirement: Contractor shall take out and maintain and shall require all subcontractors, if any, whether primary or secondary, to take out and maintain:

- (a) Comprehensive General Liability Insurance with an aggregate of not less than \$2,000,000.00; Per occurrence, \$1,000,000.00
- (b) Automotive (any auto) where operated in amounts \$1,000,000.00
- (c) Workers' Compensation Insurance: \$1,000,000.00; Contractor is aware of and complies with Labor Code Section 3700 and the Worker's Compensation Law.

9. BONDS

Bond Requirements: Prior to commencing any portion of the Work, the Contractor shall furnish separate payment and performance bonds for its portion of the Work which shall cover 100% faithful performance of and payment of all obligations arising under the Contract Documents and/or guaranteeing the payment in full of all claims for labor performed and materials supplied for the Work. All bonds shall be provided by a corporate surety authorized and admitted to transact business in California as sureties.

To the extent, if any, that the Contract Price is increased in accordance with the Contract Documents, the Contractor shall, upon request of the Public Agency, cause the amount of the bonds to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the Public Agency. To the extent available, the bonds shall further provide that no change or alteration of the Contract Documents (including, without limitation, an increase in the Contract Price, as referred to above), extensions of time, or modifications of the time, terms, or conditions of payment to the Contractor will release the surety. If the Contractor fails to furnish the required bonds, the Public Agency may terminate the Contract for cause.

On signing this contract, Contractor shall deliver to Public Agency for approval good and sufficient bonds with sureties, in amount(s), specified in the specifications or special provisions, guaranteeing faithful performance of this contract and payment for all labor and materials hereunder.

10. FAILURE TO PERFORM

If the Contractor at any time refuses or neglects, without fault of the Public Agency or its agent(s), to supply sufficient materials or workers to complete this agreement and work as provided herein, for a period of ten days or more after written notice thereof by the Public Agency, the Public Agency may furnish same and deduct the reasonable expenses thereof from the contract price.

11. LAWS APPLY: General

Both parties recognize the applicability of various federal, state and local laws and regulations, especially Chapter 1 of Part 7 of the California Labor Code (beginning with Section 1720, and including Sections 1735, 1777.5, 1777.6, forbidding discrimination) and intend that this agreement complies therewith. The parties specifically stipulate that the relevant penalties and forfeitures provided in the Labor Code, especially in Sections 1775, 1776, and 1813, concerning prevailing wages and hours, shall apply to this agreement as though fully stipulated herein.

12. SUBCONTRACTORS

Public Contract Code Sections 4100-4113 are incorporated herein.

13. WAGE RATES

- (a) Pursuant to Labor Code Section 1773, the Director of the Department of Industrial Relations has ascertained the general prevailing rates of wages per diem, and for holiday and overtime work, in the locality in which this work is to be performed, for each craft, specified in the call for bids for this work and are on file with the Public Agency, and are hereby incorporated herein.
- (b) This schedule of wages is based on a working day of eight (8) hours unless otherwise specified; and the daily rate is the hourly rate multiplied by the number of hours constituting the working day. When less than that number of hours are worked, the daily wage rate is proportionately reduced, but the hourly rate remains as stated.
- (c) The Contractor, and all subcontractors, must pay at least these rates to all persons on this work, including all travel, subsistence, and fringe benefit payments provided for by applicable collective bargaining agreements. All skilled labor not listed above must be paid at least the wage scale established by collective bargaining agreement for such labor in the locality where such work is being performed. If it becomes necessary for the Contractor or any subcontractor to employ any person in a craft, classification or type of work (except executive, supervisory, administrative, clerical or other non-manual workers as such) for which no minimum wage rate is specified, the contractor shall immediately notify the Public Agency which shall promptly determine the prevailing wage rate therefore and furnish the Contractor with the minimum rate based thereon, which shall apply from the time of the initial employment of the person affected and during the continuance of such employment.

14. HOURS OF LABOR

Eight hours of labor in one calendar day constitutes a legal day's work, and no worker employed at any time on this work by the Contractor or by any subcontractor shall be required or permitted to work longer thereon except as provided in Labor Code Sections 1810-1815.

15. APPRENTICES

Properly indentured apprentices may be employed on this work in accordance with Labor Code Sections 1777.5 and 1777.6, forbidding discrimination.

16. PREFERENCE FOR MATERIALS

The Public Agency desires to promote the industries and economy of Contra Costa County, and the Contractor therefore promises to use the products, workers, laborers and mechanics of this County in every case where the price, fitness and quality are at least equal.

17. ASSIGNMENT

This agreement binds the heirs, successors, assigns, and representatives of the Contractor; but Contractor cannot assign it in whole or in part, nor any monies due or to become due under it, without the prior written consent of the Public Agency and the Contractor's surety or sureties, unless they have waived notice of assignment.

18. NO WAIVER BY PUBLIC AGENCY

Inspection of the work and/or materials, or approval of work and/or materials inspected, or statement by any officer, agent or employee of the Public Agency indicating the work or any part thereof complies with the requirements of this contract, or acceptance of the whole or any part of said work and/or materials, or payments therefore, or any combination of these acts, shall not relieve the Contractor of Contractor's obligation to fulfill this contract as prescribed; nor shall the Public Agency be thereby stopped from bringing any action for damages or enforcement arising from the failure to comply with any of the terms and conditions hereof.

19. HOLD HARMLESS AND INDEMNITY

- (a) Contractor promises to and shall hold harmless and indemnify from the liabilities as defined in this section.
- (b) The indemnities benefited and protected by this promise are the Public Agency and its elective and appointive boards, commissions, officers, agents and employees.
- (c) The liabilities protected against are any liability or claim for damage of any kind allegedly suffered, incurred or threatened because of actions defined below, including personal injury, death, property damage, inverse condemnation, or any combination of these, regardless of whether or not such liability, claim or damage was unforeseeable at any time before the Public Agency approved the improvement plan or accepted the improvements as completed, and including the defense of any suit(s) or action(s) at law or equity concerning these.
- (d) The actions causing liability are any act or omission (negligent or non-negligent) in connection with the matters covered by this contract and attributable to the contractor, subcontractor(s), or any officer(s), agent(s), or employee(s) of one or more of them.
- (e) Non-conditions: The promise and agreement in this section is not conditioned or dependent on whether or not any Indemnities has prepared, supplied, or approved any plan(s), drawing(s), specifications(s) or special provision(s) in connection with this work, has insurance or other indemnification covering any of these matters, or that the alleged damage resulted partly from any negligent or willful misconduct of any Indemnities.

20. EXCAVATION

Contractor shall comply with the provisions of Labor Code Section 6705, if applicable, by submitting to Public Agency 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 trench excavation.

21. GOVERNMENT CODE SECTION 10532

Contractor shall be subject to the examination and audit of the Auditor General for a period of three years after final payment under the contract.

22. WARRANTY

- (a) In addition to any other warranties or guaranties in the Contract Documents, the Contractor warrants, except as provided in paragraph (i) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.
- (b) This warranty shall continue for a period of 1 year from the date of final acceptance of the Work or Phase of Work, unless otherwise provided or extended in the Contract Documents. If the District takes possession of any part of the work before final acceptance, this warranty shall continue for a period of 1 year from the date the District takes possession.
- (c) The Contractor shall remedy at the Contractor’s expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor’s expense any damage to District-owned or controlled real or personal property, when that damage is the result of—
 - (1) The Contractor’s failure to conform to contract requirements; or
 - (2) Any defect of equipment, material, workmanship, or design furnished.
- (d) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor’s warranty with respect to work repaired or replaced will run for 1 year or as otherwise provided or extended from the date of repair or replacement.
- (e) The District shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.
- (f) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the District shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor’s expense.
- (g) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall—
 - (1) Obtain all warranties that would be given in normal commercial practice;
 - (2) Require all warranties to be executed, in writing, for the benefit of the District, if directed by the District; and
 - (3) Enforce all warranties for the benefit of the District, if directed by the District.
- (h) In the event the Contractor’s warranty under paragraph (b) of this clause has expired, the District may bring suit at its expense to enforce a subcontractor’s, manufacturer’s, or supplier’s warranty.
- (i) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by the District nor for the repair of any damage that results from any defect in District-furnished material or design.

- (j) This warranty shall not limit the District's rights under the Inspection and Acceptance clause of this contract with respect to latent defects, gross mistakes, or fraud.

23. CONSEQUENTIAL DAMAGES

The Contractor and Public Agency waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes:

- (a) Damages incurred by the Public Agency for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- (b) Damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination. Nothing contained in this subparagraph shall be deemed to preclude an award of liquidated direct damages, when applicable, in accordance with the requirements of the Contract Documents.

24. HAZARDOUS MATERIALS

- (a) If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos, lead or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Public Agency in writing.
- (b) The Public Agency shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless. The Public Agency shall furnish in writing to the Contractor the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written notification from the Public Agency and Contractor. The Contract Time shall be extended appropriately.

25. SAFETY

- (a) **Safety Programs.** In addition to and as required by other Sections of the Contract Documents, the Contractor shall be solely responsible for initiating, maintaining and supervising all safety programs required by applicable law, ordinance, regulation or governmental orders in connection with the performance of the Contract, or otherwise required by the type or nature of the Work. The Contractor's safety program shall include all actions and programs necessary for compliance with California or federally statutorily mandated workplace safety programs, including without limitation, compliance with the California Drug Free Workplace Act of 1990 (California Government Code §§8350 et seq.). Without limiting or relieving the Contractor of its obligations hereunder, the Contractor shall require that its Subcontractors similarly initiate and maintain all appropriate or required safety programs. Prior to

commencement of Work, the Contractor shall meet with the campus Buildings and Grounds Manager, Project Manager, and Construction Manager to review Contractor's safety precautions and implementation of safety programs during the Work.

- (b) **Safety Precautions.** In addition to and as required by other Sections of the Contract Documents, the Contractor shall be solely responsible for initiating and maintaining reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to: (i) employees on the Work and other persons who may be affected thereby; (ii) the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and (iii) other property or items at the site of the Work, or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction. The Contractor shall take adequate precautions and measures to protect existing roads, sidewalks, curbs, pavement, utilities, adjoining property and improvements thereon (including without limitation, protection from settlement or loss of lateral support) and to avoid damage thereto. Without adjustment of the Contract Price or the Contract Time, the Contractor shall repair, replace or restore any damage or destruction of the foregoing items as a result of performance or installation of the Work.
- (c) **Safety Signs, Barricades.** In addition to and as required by other Sections of the Contract Documents, the Contractor shall erect and maintain, as required by existing conditions and conditions resulting from performance of the Contract, reasonable safeguards for safety and protection of property and persons, including, without limitation, posting danger signs and other warnings against hazards, promulgating safety regulations and notifying Districts and users of adjacent sites and utilities.
- (d) **Safety Notices.** In addition to and as required by other Sections of the Contract Documents, the Contractor shall give or post all notices required by applicable law and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

26. SIGNATURES AND ACKNOWLEDGEMENT

Public Agency By: _____
Kindred Murillo, Vice Chancellor, Districtwide Administrative Services

Note to Contractor: (1) Execute acknowledgement form below, and (2) if a corporation, affix Corporate Seal.

Contractor, hereby also acknowledging awareness of and compliance with Labor Code S1861 concerning Worker's Compensation Law.

Contractor:
By: _____ (CORPORATE SEAL)
(Designate Official Capacity – **COMPANY NAME**)

Print NAME and TITLE

License Number

Federal ID Number

NOTARY PUBLIC

=====

State of California) ss. ACKNOWLEDGEMENT (By Corporation, Partnership or Individual)
County of Contra Costa)

The person(s) signing above for Contractor, known to me in individual and business capacity as stated, personally appeared before me today and acknowledged that he/she/they executed it and that the corporation or partnership named above executed it.

Dated: _____

(NOTARIAL SEAL)

END OF SECTION 00600