

CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT

**ESTABLISHING THE ANNUAL LIST OF CONTRACTORS –
CY 2011**

Uniform Public Construction Cost Accounting Act

Pre-Qualification Packet Due:

November 30, 2010 at 4:00 P.M.



**Return To:
District Office
Facilities Planning & Management/Contracts Department
5020 Franklin Drive
Pleasanton, California 94588**

**Tel.: (925) 485-5287
Fax: (925) 485-5253**

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NOTICE CALLING FOR PRE-QUALIFICATIONS

California Uniform Public Construction Cost Accounting Act

DISTRICT	CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT
DESCRIPTION	ESTABLISHING THE ANNUAL LIST OF CONTRACTORS – CY 2011
LATEST TIME/DATE FOR SUBMISSION OF PRE-QUALIFICATIONS	TUESDAY, November 30, 2010 at 4:00 P.M.
LOCATION FOR SUBMISSION OF PRE-QUALIFICATIONS	District Office, Contracts Department 5020 Franklin Drive Pleasanton, California 94588
LOCATION FOR OBTAINING PRE-QUALIFICATION DOCUMENTS	Facilities Website: http://www.clpccd.org/bond/UPCCAA.php

Notice is hereby given that the Chabot – Las Positas Community College District invites all licensed trade contractors to be included on the District’s 2011 calendar year list of qualified trade contractors for informal bids for all trades on construction projects between \$30,000 and \$125,000 by submitting the following information:

1. Contractor name and address to which bid notices should be mailed;
2. Telephone number at which the contractor may be reached;
3. Type of Work in which the contractor is interested and currently licensed to perform;
4. Class of contractor’s license number(s) held;
5. Contractor’s license number(s) for each type of work;
6. Fax number at which the contractor may be reached; and
7. E-mail address at which the contractor may be reached.

A contractor may have his firm added to the District’s Contractors Bid List at any time by providing the required information on the Pre-Qualification Application and must be submitted by mail, fax or email. Application forms are available through the Chabot – Las Positas Community College District, Facilities Planning & Management Department. Please contact us at 5020 Franklin Drive, Pleasanton, California 94588. Phone: (925) 485-5287, FAX: (925) 485-5294, Attn: Victoria L. Lamica, Contract Manager, E-mail vlamica@clpccd.org and on-line at: <http://www.clpccd.org/bond/UPCCAA.php>

The Chabot – Las Positas Community College District reserves the right to accept or reject any or all informal bids, waive any non-material irregularities, and will be the sole judge of the responsiveness and responsibility of participating contractors.

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INSTRUCTIONS FOR PRE-QUALIFICATIONS

California Uniform Public Construction Cost Accounting Act

NOTICE IS HEREBY GIVEN that pursuant to Article 3. Public Projects: Alternative Procedures established under California Public Contract Code §§ 22030 et seq. CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT ("District"), acting by and through its Board of Trustees, will receive up to, but not later than the above-stated date and time, Pre-Qualifications for the Contract for the Work generally described as Construction Projects between \$30,000 and \$125,000.

1. **Preparation and Submittal of Pre-Qualification Application.** All submittals must be delivered on forms furnished by the District at or prior to the submittal date. All information required by the forms must be completely and accurately provided. Respondents are solely responsible for timely submission of Pre-Qualification to the District at the place designated in the Call for Pre-Qualifications. The District will place a date/time stamp machine in a conspicuous location at the place designated for submittals.
2. **Documents Accompanying Pre-Qualification Application.** Each Pre-Qualification Application Packet shall be accompanied by: (a) the Letter of Interest with required information; (b) Pre-Qualification Application Form; and (c) Non-Collusion Affidavit. Failure of a Respondent to submit each of the foregoing completed and executed as required, will result in disqualification of such Respondent's Submittal for non-responsiveness.
3. **Letter of Interest.** Each Respondent shall submit a Letter of Interest with the following information (a) Contractor name and address to which bid notices should be mailed, (b) Telephone number at which the contractor may be reached, (c) Type of Work in which the contractor is interested and currently licensed to perform, (d) Class of contractor's license number(s) held, (e) Contractor's license number(s) for each type of work, (f) Fax number at which the contractor may be reached, and (g) E-mail address at which the contractor may be reached. Failure of any Pre-Qualification to be accompanied without the Letter of Interest shall render such submittal to be non-responsive and rejected by the District.
4. **Pre-Qualification Application Form.** Each Bidder shall submit an accurate and complete Pre-Qualification Application Form (attached herein this document). The omission of any portion or item on the application form shall result in disqualification of Respondent's submittal for non-responsiveness.
5. **Non-Collusion Affidavit.** The form of Non-Collusion Affidavit included in the Pre-Qualification package must be completed and duly executed on behalf of the Respondent; failure of a Respondent to submit a completed and executed Non-Collusion Affidavit with its Pre-Qualifications will render the submittal as non-responsive.
6. **Prevailing Wage Rates.** Pursuant to California Labor Code §1773, the Director of the Department of Industrial Relations of the State of California has determined the generally prevailing rates of wages in the locality in which the Work is to be performed. These determinations, entitled "PREVAILING WAGE SCALE" may be viewed and obtained by accessing the Division of Labor Standards Enforcement databases at <http://www.dir.ca.gov/dirdatabases.html>. The Contractor awarded the Contract for the Work shall post a copy of all applicable prevailing wage rates for the Work at conspicuous locations at the Site of the Work. The Contractor and all Subcontractors performing any portion of the Work shall pay not less than the applicable prevailing wage rate for the classification of labor provide by their respective workers in prosecution and execution of the Work.

7. **Compliance with Immigration Reform and Control Act of 1986.** The Respondent is solely and exclusively responsible for employment of individuals for the Work of the Contract in conformity with the Immigration Reform and Control Act of 1986, 8 USC §§101 et seq. (the "IRCA"); the qualified Respondent shall also require that any person or entity employing labor in connection with any of the Work of the Contract shall so similarly comply with the IRCA.
8. **Anti-Discrimination.** It is the policy of the District that there is no discrimination against any prospective or active employee engaged in the Work because of race, color, ancestry, national origin, religious creed, sex, age or marital status. All Respondents agree to comply with the District's anti-discrimination policy and all applicable Federal and California anti-discrimination laws including but not limited to the California Fair Employment & Housing Act beginning with California Government Code §§12940 et seq. and California Labor Code §1735.
9. **Contractors License Classification.** Respondent must possess the appropriate classification(s) of California Contractors License at the time that the Contract for the Work is awarded. The Pre-Qualification of any Respondent not duly and properly licensed in accordance with the foregoing shall be rejected as non-responsive and the Respondent shall be subject to all penalties imposed by law as a result of not being properly licensed at the time of submitting its submittal.
10. **Public Records.** Submittals and other documents responding to the Annual Pre-Qualifications become the exclusive property of the District upon submittal to the District. Upon the District's issuance of the Qualifications, all submittals and other documents submitted in response to the Call for Pre-Qualifications shall thereupon be considered public records, except for information contained in such submittals deemed to be Trade Secrets (as defined in California Civil Code §3426.1). A Respondent that indiscriminately marks all or most of its submittal as exempt from disclosure as a public record, whether by the notations of "Trade Secret" "Confidential" "Proprietary" or otherwise, may render the submittal non-responsive and rejected. The District is not liable or responsible for the disclosure of such records, including those exempt from disclosure if disclosure is deemed required by law, by an order of Court, or which occurs through inadvertence, mistake or negligence on the part of the District or its If the District is required to defend or otherwise respond to any action or proceeding wherein request is made for the disclosure of the contents of any portion of a submittal deemed exempt from disclosure hereunder, the Respondent submitting the materials sought by such action or proceeding agrees to defend, indemnify and hold harmless the District in any action or proceeding from and against any liability, including without limitation attorneys' fees arising therefrom.
11. **Notice of Qualification.** Following the review of the Pre-Qualification submittals, the District will issue to the qualified and responsive Respondents who have timely submitted a Pre-Qualification Application Packet, a letter "Notifying Qualified Contractor" to whom the District intends to award a Labor and Materials Contract (Sample provided within this package).
12. **Contract and Bonds.** The Contract which the qualified Respondent, as a Contractor, will be required to execute along with the forms and amounts of the Labor and Material Payment Bond (if required), Performance Bond (if required) and other documents and instruments which will be required to be furnished are included in the Contract Documents and shall be carefully examined by the Bidder.
13. **Drug Free Workplace Certificate.** In accordance with California Government Code §§8350 et seq., the Drug Free Workplace Act of 1990, the qualified Contractor will be required to execute a Drug Free Workplace Certificate concurrently with execution of the Labor and Material Contract. The qualified Contractor will be required to implement and take the affirmative measures outlined in the Drug Free Workplace Certificate and in California Government Code §§8350 et seq. Failure of the qualified Contractor to comply with the measures outlined in the Drug Free Workplace Certificate and in California Government Code §§8350 et seq. may result in penalties, including without limitation, the termination of the Contract, the suspension of any payment of the Contract Price otherwise due

under the Contract Documents and/or debarment of the qualified Contractor.

14. **Workers' Compensation Insurance.** Pursuant to California Labor Code §3700, the qualified Contractor shall secure Workers' Compensation Insurance for its employees engaged in the Work of the Contract. The qualified Contractor shall sign and deliver to the District the form of Workers Compensation Insurance included with the Contract Documents.

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PRE-QUALIFICATION APPLICATION

1. Bidder's Organization

1.1 Form of entity of Bidder, i.e., corporation, partnership, etc. _____

1.1.1 If a corporation, state the following:

State of incorporation: _____

Date of incorporation: _____

President/Chief Executive Officer: _____

Secretary: _____

Treasurer/Chief Financial Officer: _____

1.1.2 If a partnership, state the following:

Type of partnership, i.e., general partnership, limited 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 Paragraphs 1.1.1, 1.1.2 and 1.1.4 as appropriate: _____

1.1.3 If a proprietorship, state the names of all proprietors: _____

1.1.4 If a joint venture, state the following

Date of organization: _____

Names of all joint venture members. For each member of the joint venture, provide the information requested by Paragraphs 1.1.1, 1.1.2 and 1.1.3 for each joint venture member, as applicable: _____

1.2 Number of years your organization has been in business as a contractor: _____

1.3 Number of years your organization has conducted business under its present name:

1.4 If your organization has conducted business under a name or name style different than your organization's present name in the past 10 years, identify all prior name(s) or name style(s):

1.5 Your organization's Federal Tax Identification Number: _____

2. Licensing

2.1 California Contractors License: Number: _____
Expiration Date: _____
Responsible Managing Employee/Officer: _____
License Classification(s): _____

2.2 Has a claim or other demand ever been made against your organization's California Contractors License Bond? _____ Yes _____ No
If yes, on a separate attachment, state the following: (i) the name, address and telephone number of each person or entity making claim or demand; (ii) the date of each claim or demand; (iii) the circumstances giving rise to each such claim or demand; and (iv) the disposition of each such claim or demand.

2.3 Has a complaint ever been filed against your organization's California Contractors License with the California Contractors State License Board? _____ Yes _____ No
If yes, on a separate attachment, state the following for each complaint: (i) the name, address and telephone number of each person or entity making the complaint; (ii) the date of each complaint; (iii) the circumstances giving rise to each such complaint; and (iv) the disposition of each such complaint, including without limitation, any disciplinary or other action imposed or taken by the California Contractors State License Board as a result of any such complaint.

3. Experience

3.1 Categories of work (other than management/supervision) your organization typically performs with your own forces _____

3.2 On a separate attachment, list a minimum of three (3) successful projects that are similar to the project to be bid and that were completed by your organization in the past five (5) years and for each project identified, state: (i) a general description of the work performed by your organization on the project; (ii) the dollar value of the work performed or to be performed by your organization; (iii) the project owner's name, name of the project owner's representative and the address and telephone number of the owner and the project owner's representative; and (iv) the project architect's name, address, telephone number and contact person.

3.3 On a separate attachment, list a minimum of two (2) successful educational facility construction projects similar to the project to be bid of your organization, for each, state: (i) a general description of the work performed by your organization on the project; (ii) the dollar value of the work performed or to be performed by your organization; (iii) the project owner's name, name of the project owner's representative and the address and telephone number of the project owner and the project owner's representative; (iv) the project

architect's name, address, telephone number and contact person; (v) percent presently complete; and (vi) the current scheduled completion date.

4. Performance History

- 4.1 Claims and lawsuits (if you answer yes to any of the following, you must attach details).
- 4.1.1 Have any lawsuits or other administrative, legal, arbitration or other proceedings, ever been brought or commenced against your organization or any of its principals, officers or equity owners in connection with any construction contract or construction project? Yes No
If so, describe the circumstances, the amount demanded or other relief demand and the disposition of each such lawsuit or other proceeding.
- 4.1.2 Has your organization ever filed a lawsuit or commenced other administrative, legal or other proceedings in connection with any construction contract or construction project? Yes No
If so, describe the circumstances, the amount demanded or other relief demand and the disposition of each such lawsuit or other proceeding.
- 4.1.3 Are there any judgements, orders, decrees or arbitration awards pending, outstanding against your organization or any of the officers, directors, employees or principals of your organization? Yes No
If so, describe each such judgement, order, decree or arbitration award and the present status of the satisfaction or discharge thereof.
- 4.2 Has your organization ever refused to sign a construction contract awarded to it?
 Yes No
If so, on a separate attachment, state the following: (i) describe each such contract; (ii) the owner's name, address, telephone number and contact person; and (iii) the circumstances of your refusal to sign such contract.
- 4.3 Has your organization ever failed to complete a construction contract?
 Yes No
If so, on a separate attachment, state the following: (i) describe each such contract; (ii) the owner's name, address, telephone number and contact person; and (iii) the circumstances of your failure to complete such contract.
- 4.4 Has your organization ever been declared in default of a construction contract?
 Yes No
If so, on a separate attachment, state the following: (i) describe each such contract; (ii) the owner's name, address, telephone number and contact person; and (iii) the circumstances of each such declaration of default.
- 4.5 Has any construction contract to which your organization is a party been terminated for the convenience of the project owner? Yes No
If so, identify the project and project owner along with a description of the circumstances under which the convenience termination occurred.

4.6 Has a claim or other demand ever been asserted against any Bid Bond, Performance Bond, or Payment Bond posted by your organization in connection with any construction contract or your submittal of a bid proposal for a construction contract?

_____ Yes _____ No

If so, on a separate attachment, state the following: (i) the name, address, telephone number and contact person for each claimant; (ii) the date upon which each such demand or claim was made; and (iii) the disposition of each such demand or claim.

4.7 Has your organization or any predecessor to your organization been charged with a violation of the California False Claims Act or similar federal statute within the past ten (10) years?

_____ Yes _____ No

If yes, on a separate attachment, provide the following: (i) a detailed description of the circumstances upon which charges were based; (ii) the public agency involved, including name, address, telephone and email address of contact person(s) at such public agency; and (iii) disposition of such charges.

4.8 Has any individual or entity who owns ten percent (10%) or more of the equity interest of your organization been an equity owner of ten percent (10%) or more of the equity interest of any other entity or organization, within the past ten (10) years, which has been charged with a violation of the California False Claims Act or similar federal statute within the past ten (10) years?

_____ Yes _____ No

If yes, on a separate attachment, provide the following: (i) the name(s) of each such other entity or organization; (ii) a detailed description of the circumstances upon which charges were based; (iii) the public agency involved, including name, address, telephone and email address of contact person(s) at such public agency; and (iv) disposition of such charges.

4.9 Has any individual or entity who owns ten percent (10%) or more of the equity interest of your organization been charged with a violation of the California False Claims Act or similar federal statute within the past ten (10) years?

_____ Yes _____ No

If yes, on a separate attachment, provide the following: (i) the name of such individual(s) or entity(ies); (ii) a detailed description of the circumstances upon which charges were based; (iii) the public agency involved, including name, address, telephone and email address of contact person(s) at such public agency; and (iv) disposition of such charges.

5. References (Include name, contact person, telephone/fax number and address for each reference provided):

5.1 Trade References (three (3) minimum)

5.2 Bank References

5.3 Public Works Inspectors of Record (K-12 or community college project)

5.4 Owner references (three (3) minimum, preferably California K-12 school districts and/or California community college districts)

6. Accuracy and Authority

The undersigned is duly authorized to execute this Statement of Bidders Qualifications under penalty of perjury on behalf of the Bidder. The undersigned warrants and represents that he/she has personal knowledge of each of the responses to this Statement of Bidder's Qualifications and/or that he/she has conducted all necessary and appropriate inquiries to determine the truth, completeness and accuracy of responses to this Statement of Bidder's Qualifications.

The undersigned declares and certifies that the responses to this Statement of Bidder's Qualifications are complete and accurate; there are no omissions of material fact or information that render any response to be false or misleading and there are no misstatements of fact in any of the responses.

Executed this ___ day of _____ 2010 at _____
(City and State)

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

(Signature)

(Typed or written name)

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NON-COLLUSION AFFIDAVIT

STATE OF CALIFORNIA
COUNTY OF _____

I, _____, being first duly sworn, deposes and says
(Typed or Printed Name)

that I am the _____ of _____,
(Title) (Bidder Name)

the party submitting the foregoing Bid Proposal ("the Bidder"). In connection with the foregoing Bid Proposal, the undersigned declares, states and certifies that:

1. The Bid Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization or corporation.
2. The Bid Proposal is genuine and not collusive or sham.
3. 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 other bidder or anyone else to put in sham bid, or to refrain from bidding.
4. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price, or that of any other bidder, or to fix any overhead, profit or cost element of the bid price or that of any other bidder, or to secure any advantage against the public body awarding the contract or of anyone interested in the proposed contract.
5. All statements contained in the Bid Proposal and related documents are true.
6. The bidder has not, directly or indirectly, submitted the 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 person, corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Executed this ____ day of _____, 2010 at _____.
(City, County and State)

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

Signature

(Address)

Name Printed or Typed

(City, County and State)

(_____) _____
(Area Code and Telephone Number)

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CONTRACT FOR LABOR AND MATERIALS

This Contract for Labor and Materials ("Contract") is entered into this ____ day of _____, 2011 by and between CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT ("District") and *Name of Contractor* ("Contractor") for the Work of the Project generally described as: *Project Description, Name of College Campus*. In consideration of the mutual covenants set forth herein, the Contractor and District agree as follows:

- A. In consideration of the payment of the sum of *State Dollars in Word Dollars (\$30,000 - 125,000.00)* ("the Contract Price"), the Contractor shall perform and complete the Work generally described as *Project Description, Name of College Campus* which includes the *description of scope of work*.
- B. Contractor shall commence the Work on the date indicated in the Notice to Proceed issued by or on behalf of the District and shall complete the Work by *Date*.
- C. The location of the Work is *Location of Project*, ("the Site").
- D. At all times during the Work, the Contractor and each Subcontractor shall obtain and maintain the following insurance coverages:

Contractor:

Workers Compensation	Per applicable law
Employer's Liability	\$1,000,000
Commercial General Liability	
Per Occurrence	\$2,000,000
Aggregate	\$2,000,000
Builder's Risk	Full Value of Work
Seismic Coverage	Not Required

Subcontractors:

Workers Compensation	Per applicable law
Employer's Liability	\$1,000,000
Commercial General Liability	
Per Occurrence	\$1,000,000
Aggregate	\$2,000,000

- E. The Contract Documents consists of this Contract for Labor and Materials, the attached Contract Terms and Conditions, the Bid Proposal and other documents submitted by the Contractor to the District as a Bidder and the documents identified below. By executing this Contract, the Contractor acknowledges its receipt and review of the Contract Documents; based upon this review, the Contractor confirms that the Work can be completed for the Contract Price and within the Contract Time. The Contract Documents consist of:

Contract for Labor and Materials
Terms and Conditions of Contract
Non-Collusion Affidavit
Bid Proposal
Drug-Free Workplace Certification
Certificate of Worker's Comp Insurance

CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD, P.O. BOX 2600, SACRAMENTO, CALIFORNIA 95826.

IN WITNESS WHEREOF, the District and Contractor have executed this Contract as of the date set forth above.

**“DISTRICT”
CHABOT-LAS POSITAS COMMUNITY
COLLEGE DISTRICT**

**“CONTRACTOR”
FIRM’S NAME**

By:

Mr. Lorenzo Legaspi
Vice Chancellor, Business Services

By:

Title:

By:

Mr. Jeffrey M. Kingston
Vice Chancellor
Facilities Planning & Management

**TERMS AND CONDITIONS OF
CONTRACT FOR LABOR AND MATERIALS**

1. **Labor and Materials.** The Contractor shall furnish and pay for all labor, materials, equipment and services necessary to complete the Work in accordance with the Contract Documents. Unless otherwise expressly provided for in the Contract Documents, all materials, equipment and other items incorporated into the Work shall be new and of the most suitable grade and quality for the purpose intended. The Work is subject to tests/inspections as required by the Contract Documents. The Contractor shall afford the District, the Project Inspector, the Architect and test/inspection services with access to the Work, wherever located and whether in place or in progress. All of the Work shall conform to the requirements of the Contract Documents and applicable laws, ordinances, rules and regulations.
2. **Submittals.** The Contractor shall submit to the District Representative or the Architect, as designated in the Contract Documents, shop drawings, product data and other submittals (collectively "Submittals") required by the Contract Documents promptly and in an orderly sequence while allowing sufficient time for review and comment. No portion of the Work requiring Submittals shall be performed until the required Submittals have been reviewed and accepted.
3. **Construction Schedule.** If required by the District, the Contractor shall prepare a Construction Schedule in such form and format as directed by the District. The Construction Schedule shall reflect all activities necessary to complete the Work and shall be in such detail as required by the District. If a schedule is required, the Contractor shall update the schedule monthly or more frequently as directed by the District or required by the circumstances of the Work.
4. **Changes.**
 - 4.1 **Changes to the Work.** The District may, by written order, make Changes to the Work, issue additional instructions and to add to or delete from the Work. No Change may be made without the prior written approval and direction of the District. Adjustments of the Contract Price or the Contract Time on account of a Change authorized hereunder will only be made by written Change Order duly executed by the Contractor and the District Representative. Adjustments to the Contract Price for authorized Changes shall be limited to the actual costs of labor and materials necessary to complete the Change plus a mark-up of _____ percent (___%) of the actual costs of labor and materials; it being agreed that the mark-up represents all compensation due the Contractor for profit, overhead/administrative costs and impacts of an authorized Change. Changes approved by the District shall be reduced to Change Order in the form and substance as set forth in Attachment A hereto.
 - 4.2 **Substitutions.** No substitution of any specified item, product, material or system ("Specified Items") will be considered unless the Contractor submits a request to substitute Specified Items along with data substantiating the equivalency of the proposed substitution with the Specified Items not more than thirty five (35) days after the date of award of the Contract to the Contractor. The Contractor shall reimburse the District for all costs and expenses incurred by the District to review a proposed substitution for Specified Items. The District's acceptance or rejection of a proposed substitution shall be final. No substitution accepted by the District shall increase the Contract Price or the Contract Time; provided, however, if the cost to furnish/install an approved substitution is less than the specified Item, the Contract Price shall be reduced by such cost difference. If any Specified Items are identified in any portion of the Contract Documents as "District Standard Materials/Equipment" "match existing in use" or similar words/phrases, in accordance with Public Contract Code §3400, the District shall be deemed to have made a

finding that such Specified Items are designated as “sole source” items designed to match existing and in use items. In accordance with Public Contract Code §3400, the District will not consider or accept alternatives or substitutions for any Specified Items so identified.

5. **Payment Bond; Performance Bond.** Prior to commencement of Work, the Contractor shall obtain and deliver to the District a Labor and Materials Payment Bond and a Performance Bond. Bonds required hereunder will be accepted by the District only if: (a) they are in the form and content included in the Contract Documents; (b) the Bonds are issued by and Admitted Surety Insurer under California law; and (c) in a penal sum equal to one hundred percent (100%) of the Contract Price.
6. **Safety; Security.** The Contractor shall comply with all applicable laws, ordinances, rules, or regulations pertaining to safety at the Site, including without limitation, implementation and enforcement of safety programs. The Contractor shall implement and maintain safety measures such as fencing, barricades, signs, lights and other precautions to prevent injury or death to persons or damage to property, as required or appropriate by the circumstances or the nature of the Work. The Contractor is responsible for securing the Site and Work in place or in progress (including materials/equipment/tools situated at the Site) to prevent theft, loss or damage.
7. **Labor.**
 - 7.1 **Prevailing Wage Rates; Hours of Work.** The Contractor and all Subcontractors shall: (a) pay their respective workers wage rates not less than the prevailing wage rate established for the classification, trade or work performed by each worker; (b) maintain complete and accurate payroll records for workers engaged in the Work; and (c) if requested by the District, provide Certified Payroll records as required by applicable laws. The Contractor and Subcontractors shall not permit any worker to provide more than eight (8) hours of work per day or forty (40) hours per week without additional compensation as mandated by law. The Contractor shall be subject to all penalties and assessments provided by law or regulation for violation(s) of the prevailing wage rate or hours of work requirements.
 - 7.2 **Apprentices.** Apprentices, if any engaged in performing any portion of the Work shall be in strict conformity with applicable laws, rules and regulations, including without limitation, Labor Code §§1777.5 through 1777.7, which are incorporated herein by this reference.
 - 7.3 **Competency and Discipline.** The Contractor shall enforce strict discipline and good order among the Contractor's employees, the employees of any Subcontractor and all other persons performing any part of the Work at the Site. Personnel of the Contractor or any Subcontractor shall be subject to removal from the Site for violations of applicable law or District policies. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them and shall dismiss from its employ and direct any Subcontractor or Sub-subcontractor to dismiss from their employment any person deemed by the District to be unfit or incompetent to perform Work.
 - 7.4 **Superintendent.** The Contractor shall employ a Superintendent fluent in verbal and written English who shall be in attendance at the Site at all times during performance of Work at the Site. The Superintendent shall be deemed the Contractor's Representative for the Work; directions, instructions or other communications to or with the Contractor's Superintendent shall be deemed directions, instructions or communications to or with the Contractor.
8. **Subcontractors.** The Work of each Subcontractor shall be set forth in a written Subcontract agreement incorporating by reference this Contract; Subcontracts shall be made available to the District for review upon request of the District. The Contractor is responsible to the District for the acts, omissions and other conduct of Subcontractors. Each Subcontractor shall maintain Workers

Compensation/Employers Liability Insurance and Commercial General Liability Insurance as required by the Contract for Labor and Materials.

- 9. Non-Discrimination.** The Contractor and its Subcontractors shall not discriminate against any active or prospective employee based upon race, color, ancestry, national origin, religion, sex, age, sexual preference or marital status. The Contractor and its Subcontractors shall comply with all applicable laws, ordinances, rules and regulations prohibiting workplace discrimination and/or discriminatory employment practices.
- 10. Payment of the Contract Price.** The District will make payment of the Contract Price upon completion of the Work, the Contractor's full performance of all other obligations under this Contract and the Contractor's submission of a properly itemized invoice. Upon receipt of the Contractor's invoice, the District Representative will promptly verify that the Work has been completed and that the Contractor has performed all other obligations hereunder. Within thirty (30) days of the District Representative's confirmation of the completion of Work and the Contractor's performance of other obligations hereunder, the District will make payment of the Contract Price. If the Contract Time is a duration of sixty (60) days or more, the Contractor may submit invoices on a monthly basis for the value of Work completed in the prior month, whereupon the District Representative will promptly verify that the Work has been completed as indicated in the Contractor's invoice. Within thirty (30) days of the date of such verification, the District will make payment equal to ninety percent (90%) of the value of the Work completed. Within sixty (60) days of completion of all Work and all other of the Contractor's obligations hereunder, amounts previously retained from prior invoices will be released to the Contractor. The District may, in its sole discretion, condition payment of the Contract Price, or any portion thereof, upon: (a) the Contractor's preparation of a Schedule of Values for review and acceptance by the District's Representative; (b) the submittal of executed Waivers and Releases (on Progress Payment or Final Payment, as applicable) for the Contractor and all Subcontractors receiving any portion of the Contract Price; and/or (c) delivery of Certified Payroll records of the Contractor and Subcontractors. The District may withhold payment of the Contract Price if: (a) there are claims or the probability of claims being submitted by Subcontractor, Material Suppliers or others in connection with the Work; (b) defective or non-conforming Work which is not remedied; or (c) there are any uncured Contractor defaults. Notwithstanding any provision of the Contract Documents to the contrary, no payment will be made to the Contractor upon completion of the Work unless the Contractor has completed and submitted the form of Asbestos and Other Hazardous Materials Certification set forth in Attachment B hereto.
- 11. Insurance.** The Contractor and its Subcontractors shall, at all times during the Work, maintain Workers Compensation, Employers Liability, and Commercial General Liability Insurance in the minimum coverage amounts set forth in the Contract. The Contractor's Commercial General Liability Insurance shall name the District as an Additional Insured. The Contractor shall maintain a policy of Builders Risk Insurance covering the full insurable value of the Work; if noted as a requirement in the Contract, the Builder's Risk Insurance shall include seismic coverage. All policies of insurance shall include provisions that the policy of insurance will not be materially modified, cancelled or allowed to expire without at least thirty (30) days advance notice to the District. Prior to commencing the Work, the Contractor shall deliver Certificates of Insurance of itself and its Subcontractors evidencing the required insurance coverages. No Work at the Site by the Contractor or any Subcontractor will be permitted unless the Contractor and Subcontractor, as applicable has/have submitted Certificates of Insurance evidencing the required insurance policies hereunder to the District Representative.

- 12. Indemnification.** Unless arising solely out of the active negligence or willful misconduct of the District, the Contractor shall indemnify, defend and hold harmless the District, the District's Board of Trustees and all members thereof and the District's employees, officers, agents and representatives from all claims, demands and liabilities, including without limitation, attorneys fees, which arise out of or related in any manner to this Contract or the Work. The Contractor's obligations hereunder include without limitation: (a) injury to, or death of, persons; (b) damage to property; (c) theft or loss of property; (d) Stop Notice claims; and (e) other losses, damages or costs arising out of, in whole or in part, of the acts, omissions or other conduct of the Contractor or Subcontractors. The Contractor's obligations hereunder shall survive termination of the Contract and/or completion of the Work, and are deemed incorporated into and made a part of the obligations of the Surety issuing the Performance Bond.
- 13. District Right to Terminate.** The Contractor's failure to comply with any term or condition of the Contract Documents shall constitute default of the Contractor; in such event, the District may terminate the Contract upon seven (7) days written notice to the Contractor. Unless the Contractor shall have commenced, and diligently thereafter prosecute to completion, all required actions to cure such default(s), this Contract shall be deemed terminated without further action of the District; such termination shall be effective the seventh (7th) day after the date of the District's written notice. If the District terminates the Contract for default of the Contractor, the Contractor and the Performance Bond Surety shall be liable to the District for all losses, costs and damages arising out of the Contractor's default and costs to complete the Work which exceeds the remaining Contract Price at the time of termination. In addition to the preceding, the District may terminate this Contract at any time for the convenience of the District by written notice to the Contractor, in which case, the payment of the Contract Price shall be limited to the value of the Work in place or in progress at the time of the termination for the District's convenience.
- 14. Warranty.** If within one (1) year, or such other period set forth in the Contract Documents, any of the Work or workmanship is found defective or not in compliance with the Contract Documents, the Contractor shall upon the District's demand, promptly take all measures necessary to correct, repair or replace such Work or workmanship. If the Contractor fails to do so, the District may take necessary action to correct, replace or repair such Work or workmanship at the cost and expense of the Contractor. The surety issuing the Performance Bond shall be liable to the District for correction, repair or replacement of defective/non-conforming Work if the Contractor fails or refuses to perform in accordance with the preceding.
- 15. Tests/Inspections of the Work.** The Work shall be subject to tests/inspections as required by the Contract Documents. The Contractor shall be liable excessive costs of tests/inspections which result from the Work not being ready for tests/inspections or the failure of the Work to comply with the applicable test/inspection standards. If the Work is subject to the jurisdiction of the Division of State Architect ("DSA"), all of the Work shall be subject to inspection/observation by the Project Inspector retained by the District under DSA regulations. The Project Inspector shall have access at all times to the Work, whether in place or in progress; the Contractor shall provide such access without adjustment of the Contract Price or the Contract Time.
- 16. Miscellaneous.**
- 16.1 Disputes.** Each dispute or claim of \$375,000 or less arising out of this Contract shall be resolved in accordance with Public Contract Code §20104 et seq. A dispute or claim exceeding \$375,000 shall be resolved by binding arbitration conducted under the auspices of the American Arbitration Association and its Construction Industry Arbitration Rules in effect at the time that a Demand for Arbitration is filed, except as modified herein. The

award rendered by the Arbitrator(s) (“Arbitration Award”) shall be final and binding upon the District and the Contractor only if the Arbitration Award is supported by applicable law and substantial evidence pursuant to California Code of Civil Procedure §1296 and includes findings of fact and conclusions of law in conformity with California Code of Civil Procedure §1296 and Rule R-43 of the AAA Construction Industry Arbitration Rules. Any Arbitration Award that does not conform to the foregoing shall be invalid and unenforceable. The District and Contractor hereby expressly agree that the Court shall, subject to California Code of Civil Procedure §§1286.4 and 1296, vacate the award if, after review of the award, the Court determines either that the Arbitration Award is not supported by substantial evidence or that it is based on an error of law. Notwithstanding any claim or dispute arising out of this Contract or the Work, the Contractor shall continue to diligently perform the Work and prosecute the same to completion.

- 16.2 Governing Law; Interpretation.** This Contract shall be governed by the laws of the State of California. This Contract shall be interpreted as a whole and not in favor of the District or the Contractor.
- 16.3 Successors.** This Contract shall be binding upon and inure to the benefit of the respective successors-in-interest of the District and the Contractor. The foregoing notwithstanding, the Contractor shall not assign this Contract, any right or obligation hereunder or any portion thereof.
- 16.4 Permits; Approvals.** Unless otherwise expressly provided in the Contract Documents, the Contractor shall obtain and pay for all fees, permits or approvals necessary to complete the Work.
- 16.5 Waiver of Consequential Special Damages.** Notwithstanding any right conferred by law or arising by operation of law, by executing the Agreement, the Contractor expressly waives and relinquishes any and all right or entitlement to assert or recover any damages, losses or liabilities from the District which are in the nature of special or consequential damages, losses or liabilities arising out of or related in any manner to the District’s breach or default of its obligations under the Contract Documents.
- 16.6 Days.** Unless otherwise stated in the Contract Documents, all references to “days” shall be deemed references to calendar days.
- 16.7 Severability.** If any term, condition or provision of this Contract is deemed invalid, illegal or unenforceable by a Court of competent jurisdiction, such term, condition or provision shall be deemed severed herefrom, but all other terms, conditions and provisions hereof shall remain unaffected and in full force and effect.
- 16.8 Entire Agreement.** This Contract and the Contract Documents enumerated herein constitute the entire agreement and understanding of the District and the Contractor concerning the subject matter hereof.

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DRUG-FREE WORKPLACE CERTIFICATION

I, _____, am the _____ of
(Print Name) (Title)

_____. I declare, state and certify to all of the following:
(Contractor Name).

1. I am aware of the provisions and requirements of California Government Code §§8350 et seq., the Drug Free Workplace Act of 1990.
2. I am authorized to certify, and do certify, on behalf of Contractor that a drug free workplace will be provided by Contractor 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 Contractor's workplace and specifying actions which will be taken against employees for violation of the prohibition;
 - B. Establishing a drug-free awareness program to inform employees about all of the following:
 - i. The dangers of drug abuse in the workplace;
 - ii. Contractor's policy of maintaining a drug-free workplace;
 - iii. The availability of drug counseling, rehabilitation and employee-assistance programs; and
 - iv. 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), above, and that as a condition of employment by Contractor in connection with the Work of the Contract, the employee agrees to abide by the terms of the statement.
 - D. Contractor agrees to fulfill and discharge all of Contractor's obligations under the terms and requirements of California Government Code §8355 by, inter alia, publishing a statement notifying employees concerning: (a) the prohibition of any controlled substance in the workplace, (b) establishing a drug-free awareness program, and (c) requiring that each employee engaged in the performance of the Work of the Contract be given a copy of the statement required by California Government Code §8355(a) and requiring that the employee agree to abide by the terms of that statement.
3. Contractor and I understand that if the District determines that Contractor has either: (a) made a false certification herein, or (b) violated this certification by failing to carry out and to implement the requirements of California Government Code §§8355, the Contract awarded herein is subject to termination, suspension of payments, or both. Contractor and I further understand that, should Contractor violate the terms of the Drug-Free Workplace Act of 1990, Contractor may be subject to debarment in accordance with the provisions of California Government Code §§8350, et seq.
4. Contractor and I acknowledge that Contractor and I are aware of the provisions of California Government Code §§8350, et seq. and hereby certify that Contractor and I will adhere to, fulfill, satisfy and discharge all provisions of and obligations under the Drug-Free Workplace Act of 1990.

I declare under penalty of perjury under the laws of the State of California that all of the foregoing is true and correct.

Executed at _____ this ____ day of _____, 2010
(City and State)

(Signature)

(Handwritten or Typed Name)

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WORKERS COMPENSATION CERTIFICATE

PROJECT: *Construction Projects between \$30,000 and \$125,000*

I, _____ the _____ of
(Name) (Title)

_____, declare, state and certify that:
(Contractor Name)

1. I am aware that California Labor Code §3700(a) and (b) provides:

“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 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.”

2. I am aware that the provisions of California Labor Code §3700 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 this Contract.

(Contractor Name)

By: _____
(Signature)

(Typed or printed name)