

SC _____
ON-SITE PREVENTIVE MAINTENANCE AGREEMENT
Less Than \$50,000

This Agreement for On-Site Preventive Maintenance Services is made and entered into on _____
("Effective Date") by and between Grossmont-Cuyamaca Community College District a community college
district organized and operating under the laws of the state of California ("District"), and
_____ ("Contractor").

RECITALS

WHEREAS, the District desires to obtain services for preventive maintenance as defined in Public Contract Code("PCC") 20656, that are not a public project as defined in subdivision (c) of Section 22002.

WHEREAS, services are for routine, recurring, and usual work for the preservation, protection, and keeping of any publicly owned or publicly operated facility for its intended purposes in a safe and continually usable condition for which it was designed.

WHEREAS, services may include inspections, routine scheduled maintenance, preservation, protection, touchup paint, cleaning, and zero impact on building footprint. Work shall not alter, replace or repair.

WHEREAS, Parties desire by this Agreement to establish the terms for District to retain Contractor to provide the services described herein.

NOW, THEREFORE, IT IS HEREBY AGREED by the Parties as follows:

AGREEMENT

- 1. Project Scope of Work.** The Contractor shall provide all work, labor, materials, equipment and services necessary to perform and complete the scope of Work described as:

Project Name	
Project Location (Address and Building Description)	
Scope of Work:	
(Scope that exceeds this allotted space may be attached as Exhibit B)	

2. Agreement Sum and Payment.

The total Agreement sum amount payable by District to Contractor for the performance of work under the Agreement Documents unless modified in writing through a properly executed change order shall Not-to-Exceed _____ (\$ _____).
(Amount in words) (Dollars)

District shall pay for the services provided by Contractor in accordance with the rates set forth in Exhibit "B" attached hereto and hereby made a part of this Agreement.

Each month Contractor shall furnish District Representative with an original invoice for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by categories, including labor, travel, materials, equipment, supplies, sub-consultant charges and miscellaneous expenses. District shall independently review each invoice submitted to determine whether the work performed, and expenses incurred are in compliance with the provisions of this Agreement. In the event that no charges or expenses are disputed, the invoice shall be approved and paid according to the terms. In the event any charges or expenses are disputed, the original invoice shall be returned by District to Contractor for correction and resubmission.

Except as to any charges for work performed or expenses incurred by Contractor which are disputed by District, District will use its best efforts to cause Contractor to be paid within thirty (30) days of receipt of Contractor's invoice. Payment to Contractor for work performed pursuant to this Agreement shall not be deemed to waive any defects in the work performed by Contractor.

3. Term and Completion Deadline.

- a. The Contractor shall commence performance of the work in accordance with the schedule as stated below.

___ Schedule Option A Defined Project:

Approximate Start date:

Approximate End date: _____ or within ___ calendar days.

- b. ___ Schedule Option B On-going Annual Agreements:

Start Date: _____

End Date: _____

- c. The actual dates of work will be mutually agreed upon between the District Representative and the Contractor after receipt of an authorized Purchase Order issued by the District. The District Representative for the Work is Choose an item.

4. Contractor's License, DIR Registration and Compliance Monitoring.

- a. In accordance with Section 3300 of the Public Contract Code, Contractor has a Class" _____ " license number " _____ " which shall be maintained in good standing for the duration of Contractor's work on the Project. Public works projects, as defined by Labor Code, shall be subject to compliance monitoring, reporting, and enforcement by the Department of Industrial Relations. The District shall not enter into any contract without proof of the Contractor's current registration to perform public work under Labor Code section 1725.5.
- b. The Contractor shall not enter into any subcontract without proof of the subcontractor's current registration to perform public work under Labor Code section 1725.5. A contractor or subcontractor shall not be qualified to enter into, or engage in the performance of, any contract of public work (as defined by Division 2, Part 7, Chapter 1 (§§1720 et seq.) of the Labor Code) unless currently registered and qualified under Labor Code section 1725.5 to perform public work unless the Small Project Exemption is applicable.

5. Payment Bond.

a. Check below:

___ Bond is not applicable. (Not required for Projects less than \$25,000 inclusive of all changes)

If change orders increase the value of the Agreement over \$25,000 then District shall request bonds for Change Order(s) that materially changes the size and/or scope of work. The Contractor shall be required to provide payment bonds pursuant to California Civil Code sections 9550-9566.

___ Bond is applicable. (Required for Projects \$25,000 and greater)

Prior to commencing any portion of the work, the Contractor shall apply for and furnish District payment bond for its portion of the work which shall cover 100% payment of all obligations arising under this Agreement and/or guaranteeing the payment in full of all claims for labor performed and materials supplied for the work. Bond shall be provided by a corporate surety authorized and admitted to transact business in California and shall be executed on District issued forms.

b. To the extent, if any, that the Agreement Sum is increased in accordance with this Agreement, the Contractor shall cause the amount of the bond to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the District. To the extent available, the bond shall further provide that no change or alteration of this Agreement (including, without limitation, an increase in the Agreement Sum, 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 bond, the District may terminate this Agreement for cause.

c. Only bond executed by admitted Surety insurers as defined in Code of Civil Procedure section 995.120 shall be accepted. District reserves the right to approve or reject the surety insurers selected by Contractor and to require Contractor to obtain bond from surety insurers satisfactory to the District.

d. Project will be registered to DIR number _____.

6. Insurance Minimum Coverage Limits. Minimum coverage limits for policies of insurance the Contractor is required to maintain during the Project are as follows:

Policy of Insurance	Minimum Coverage Limit
Workers' Compensation Insurance	In accordance with state law (\$1,000,000)
Commercial General Liability and Property Insurance.	Per Occurrence: One Million Dollars (\$1,000,000)
	Aggregate: Two Million Dollars (\$2,000,000)
Automobile Liability Insurance	One Million Dollars (\$1,000,000)

7. Contract Documents. The Contract Documents consists of this Contract, the accompanying Contract Terms and Conditions, and the documents identified below.

Exhibit A: Tax Identification

Exhibit B: Rate Sheet

Exhibit C: Payment Bond if Applicable

8. Notices. Notices of the District and Contractor to the other shall be transmitted via e-mail **and** U.S. Mail, postage pre-paid, as set forth below.

<u>If to the District:</u> Attn: Sahar Abushaban Vice Chancellor – Business Services Grossmont-Cuyamaca Community College District 8800 Grossmont College Drive El Cajon, CA 92020 Sahar.Abushaban@gcccd.edu	<u>If to the Contractor:</u> Attn: _____ Title: _____ Contractor: _____ Address: _____ _____ Email: _____
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9. Lead-Based Paint. Notice to the Contractor that:

- (1) Contractor's work may disturb lead-containing building materials.

- (2) Contractor shall notify the District if any work may result in the disturbance of lead-containing building materials.
- (3) Contractor shall comply with the Renovation, Repair and Painting Rule, if lead-based paint is disturbed in a 6-square-foot or greater area indoors or a 20-square-foot or greater area outdoors.

a. Lead as a Health Hazard

Lead poisoning is recognized as a serious environmental health hazard facing children today. Even at low levels of exposure, much lower than previously believed, lead can impair the development of a child's central nervous system, causing learning disabilities, and leading to serious behavioral problems. Lead enters the environment as tiny lead particles and lead dust disburse when paint chips, chalks, peels, wears away over time, or is otherwise disturbed.

Ingestion of lead dust is the most common pathway of childhood poisoning; lead dust gets on a child's hands and toys and then into a child's mouth through common hand-to-mouth activity.

Exposures may result from construction or remodeling activities that disturb lead paint, from ordinary wear and tear of windows and doors, or from friction on other surfaces.

Ordinary construction and renovation or repainting activities carried out without lead-safe work practices can disturb lead-based paint and create significant hazards. Improper removal practices, such as dry scraping, sanding, or water blasting painted surfaces, are likely to generate high volumes of lead dust.

Because the Contractor and its employees will be providing services for the District, and because the Contractor's work may disturb lead-containing building materials, Contractor is hereby notified of the potential presence of lead-containing materials located within certain buildings utilized by the District. All school buildings built prior to 1978 are presumed to contain some lead-based paint until sampling proves otherwise.

b. Overview of California Law

Education Code section 32240 et seq. is known as the Lead-Safe Schools Protection Act. Under this act, the Department of Health Services is to conduct a sample survey of schools in the State of California for the purpose of developing risk factors to predict lead contamination in public schools. (Ed. Code, § 32241.)

Any school that undertakes any action to abate existing risk factors for lead is required to utilize trained and state-certified contractors, inspectors, and workers. (Ed. Code, § 32243, subd. (b).) Moreover, lead-based paint, lead plumbing, and solders, or other potential sources of lead contamination, shall not be utilized in the construction of any new school facility or the modernization or renovation of any existing school facility. (Ed. Code, § 32244.)

Both the Federal Occupational Safety and Health Administration ("Fed/OSHA") and the California Division of Occupational Safety and Health ("Cal/OSHA") have implemented safety orders applicable to all construction work where a contractor's employee may be occupationally exposed to lead.

The OSHA Regulations apply to all construction work where a contractor's employee may be occupationally exposed to lead. The OSHA Regulations contain specific and detailed requirements imposed on contractors subject to that regulation. The OSHA Regulations define construction work as work for construction, alteration, and/or repair, including painting and decorating. It includes, but is not limited to, the following:

- i. Demolition or salvage of structures where lead or materials containing lead are present;
- ii. Removal or encapsulation of materials containing lead;
- iii. New construction, alteration, repair, or renovation of structures, substrates, or portions thereof, that contain lead, or materials containing lead;
- iv. Installation of products containing lead;
- v. Lead contamination/emergency cleanup;
- vi. Transportation, disposal, storage, or containment of lead or materials containing lead on the site or location at which construction activities are performed; and
- vii. Maintenance operations associated with the construction activities described in the subsection.

Because it is assumed by the District that all painted surfaces (interior as well as exterior) within the District contain some level of lead, it is imperative that the Contractor, its workers and subcontractors fully and adequately comply with all applicable laws, rules and regulations governing lead-based materials (including title 8, California Code of Regulations, section 1532.1).

Contractor shall notify the District if any Work may result in the disturbance of lead-containing building materials. Any and all Work that may result in the disturbance of lead-containing building materials shall be

coordinated through the District. Assigned copy of this Certification shall be on file prior to beginning Work on the Project, along with all current insurance certificates.

c. Renovation, Repair and Painting Rule, Section 402(c)(3) of the Toxic Substances Control Act

The EPA requires lead safe work practices to reduce exposure to lead hazards created by renovation, repair and painting activities that disturb lead-based paint. Pursuant to the Renovation, Repair and Painting Rule (RRP), renovations in homes, childcare facilities, and Schools built prior to 1978 must be conducted by certified renovations firms, using renovators with training by an EPA-accredited training provider, and fully and adequately complying with all applicable laws, rules and regulations governing lead-based materials, including those rules and regulations appearing within title 40 of the Code of Federal Regulations as part 745 (40 CFR 745).

The RRP requirements apply to all contractors who disturb lead-based paint in a six- square-foot or greater area indoors or a 20-square-foot or greater area outdoors. If a DPH- certified inspector or risk assessor determines that a building constructed before 1978 is lead-free, the federal certification is not required for anyone working on that particular building.

d. Contractor's Liability

If the Contractor fails to comply with any applicable laws, rules, or regulations, and that failure results in a site or worker contamination, the Contractor will be held solely responsible for all costs involved in any required corrective actions, and shall defend, indemnify, and hold harmless the District, pursuant to the indemnification provisions of the Contract, for all damages and other claims arising therefrom.

If lead disturbance is anticipated in the Work, only persons with appropriate accreditation, registrations, licenses, and training shall conduct this Work.

It shall be the responsibility of the Contractor to properly dispose of any and all waste products, including, but not limited to, paint chips, any collected residue, or any other visual material that may occur from the prepping of any painted surface. It will be the responsibility of the Contractor to provide the proper disposal of any hazardous waste by a certified hazardous waste hauler. This company shall be registered with the Department of Transportation (DOT) and shall be able to issue a current manifest number upon transporting any hazardous material from any school site within the District.

The Contractor shall provide the District with any sample results prior to beginning Work, during the Work, and after the completion of the Work. The District may request to examine, prior to the commencement of the Work, the lead training records of each employee of the Contractor.

THE CONTRACTOR HEREBY ACKNOWLEDGES, UNDER PENALTY OF PERJURY, THAT IT:

1. HAS RECEIVED NOTIFICATION OF POTENTIAL LEAD-BASED MATERIALS ON THE DISTRICT'S PROPERTY;
2. IS KNOWLEDGEABLE REGARDING AND WILL COMPLY WITH ALL APPLICABLE LAWS, RULES, AND REGULATIONS GOVERNING WORK WITH, AND DISPOSAL, OF LEAD.

- 10. Entire Agreement.** This Contract, including the Scope of Work, Terms and Conditions, and the Contract Documents enumerated above, constitute the entire contract and understanding between District and Contractor relating to the subject matter hereof. This Contract and the Contract Documents replace and supersede all prior contracts or negotiations, whether written or oral relating to the subject matter hereof. The Contract Documents shall not be modified except in a writing signed by the District and Contractor.

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.

The Contractor and District have executed this Contract as of the date set forth above.

“District”
Grossmont-Cuyamaca Community College District

“Contractor”

By: _____

By: _____

Name: Sahar Abushaban
Title: Vice Chancellor – Business Services
Date: _____

Name: _____
Title: _____
Date: _____

ON-SITE PREVENTIVE MAINTENANCE AGREEMENT

Maintenance Less Than \$50,000

TERMS AND CONDITIONS

1. Contractor Responsibilities

1.1. Labor, Materials and Services. The Contractor shall furnish all tools, equipment, apparatus, facilities, transportation, labor, and material necessary to complete the Project in accordance with the Contract Documents. Except for existing utility services at the Site made available to the Contractor by the District, the Contractor shall furnish all utilities necessary to complete the Project, including temporary utility distributions. The Work shall be completed in a high quality, workmanlike manner at such times and places as directed by and subject to the approval of the District Representative. All of the Work shall conform to the requirements of the Contract Documents and applicable laws, ordinances, rules and regulations ("the Laws"). If there are conflicts between any portions of the Contract Documents, the Contractor shall furnish and install the more stringent or higher quality requirements.

1.2. Contractor Supervision.

1.2.1. Contractor Superintendent. The Contractor shall employ a Superintendent fluent in verbal and written English who shall be at the Site at all times during performance of Work at the Site. The Superintendent is the Contractor's Representative for the Project; directions, instructions or other communications to and with the Contractor's Superintendent are directions, instructions or communications to or with the Contractor.

1.2.2. Employee Competency and Discipline. The Contractor shall enforce strict discipline and good order among employees of the Contractor and Subcontractors at the Site. Personnel of the Contractor or any Subcontractor are subject to removal from the Site for violations of the Laws 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 to dismiss from their employment any person deemed by the District to be unfit or incompetent to perform assigned tasks. Identification badges are required for Site access. Personnel providing or performing any Work at the Site will be permitted access to the Site only if District-issued identification badges are worn.

1.2.3. Compliance With District Policies. All personnel of the Contractor and Subcontractors shall comply with District policies, including policies prohibiting use of or possession of: tobacco and tobacco products of any form, alcohol, illegal/controlled substances and weapons while on District property.

1.2.4. Certification of Compliance With Drug-Free Workplace Act. The Contractor and Subcontractors shall comply with the Drug-Free Workplace Act of 1990 (Government Code §8350 et seq.). The Contractor certifies to the District the Contractor's implementation of actions required by Government Code §8355.

1.3. Labor Code Requirements.

1.3.1. Prevailing Wage Rates; Hours of Work. The Contractor and all Subcontractors shall: (i) pay their respective workers wage rates not less than the prevailing wage rate established for the classification, trade or work performed by each worker; and (ii) maintain complete and accurate payroll records for workers engaged in the Work. 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 requirements or hours of work limits. Monitoring and enforcement of the prevailing wage laws and related

requirements will be performed by the Labor Commissioner/ Department of Labor Standards Enforcement (DLSE).

1.3.2. Certified Payroll Records. Pursuant to California Labor Code §1776, the Contractor and each Subcontractor shall maintain Certified Payroll Records for labor employed by them to complete Project Work including: name, address, social security number, wage rates, work classification/trades, straight time and overtime hours worked each day and week, actual per diem wages paid. The Contractor and Subcontractors shall furnish copies of Certified Payroll Records to the Department of Industrial Relations and others in accordance the Laws.

1.3.3. Apprentices. Apprentices, if any, engaged in performing the Work shall be in strict conformity with applicable the Laws, including without limitation, Labor Code §§1777.5 through 1777.7, which are incorporated herein by this reference.

1.4. Permits and Licenses. At all times when performing Work under this Contract, the Contractor and all Subcontractors shall obtain and maintain in a valid/good standing status all necessary permits, licenses and other similar approvals or authorizations for performing Work and completing other obligations under the Contract, when applicable.

1.5. Subcontractors. The Contractor is responsible for the acts, omissions and other conduct of Subcontractors and their employees, agents and representatives. Subcontracts between the Contractor and Subcontractors shall incorporate the Contract as far as such terms are applicable to the Subcontractor's work, including, without limitation, all indemnification, insurance, and warranty requirements. Subcontracts shall be made available to the District for review upon request of the District. All Subcontractors must comply with Labor Code §§ 1725.5 and 1771.1 and must be currently DIR registered Public Works Contractors and qualified to perform public works pursuant to Labor Code §1725.5 throughout the duration of the Project. Any Subcontractor who is not a DIR registered contractor shall be substituted in accordance with Labor Code §1771.1. Subcontractors identified in the Subcontractors List submitted by the Contractor with its Proposal shall not be replaced except in strict conformity with requirements of Public Contract Code §4107. The Contractor is responsible for all fees, costs or expenses (including attorneys' fees) incurred by the District to review, evaluate and respond to the Contractor's request to replace a listed Subcontractor. Subcontractors must be a California licensed contractor in the classification(s) required for the portions of the Project completed by the Subcontractor.

1.6. Property Damage. The Contractor is responsible for costs to repair, replace or correct damage or destruction to property arising during the Contractor's completion of Project Work, including without limitation, damage/destruction of other facilities/improvements, landscape materials and irrigation systems.

1.7. Correction of Defective/Non-Conforming Work. Contractor shall repair, replace or otherwise correct Work which is defective or not in conformity with Contract Documents requirements at the Contractor's sole cost and expense and without adjustment of the Contract Time or the Contract Price.

2. Project Site

2.1. Site Examination and Site Conditions. The Contractor has examined the Site and accepts conditions at the Site affecting the completion of the Project. By submitting a Proposal for the Project, the Contractor warrants and represents to the District that the Contractor has made all Site examinations that it deems necessary and that the pricing proposed in the Proposal is not subject to adjustment for conditions at the Site.

2.2. Safety and Security; Protection of Work and Property. The Contractor is solely responsible for safety at the Site and compliance

with Laws pertaining to Site safety, including personal safety requirements. Contractor shall comply with all District Board Policies and Administrative Regulations pertaining to safety, security and driving on school grounds, particularly when students are present. The Contractor shall implement safety measures such as fencing, barricades, signs, lights and other precautions to prevent injury or death to persons or damage to property. The Contractor is responsible for securing the Site and Work in place or in progress (including all personal property items situated at the Site) to prevent theft, loss or damage. The District and District employees, officers, agents or representatives are not liable for loss, theft, damage or destruction of personal property items. The risk of such loss, theft, damage or destruction is solely that of the Contractor. The Contract Price is not subject to adjustment for the Contractor's compliance with safety requirements.

2.3. Contractor Environmental/Hazardous Materials Responsibilities. The Contractor shall comply with Laws relating to construction waste management, materials re-use and/or recycling and the maintenance of records relating thereto. All activities of the Contractor relating to removal, transportation and/or disposal of any hazardous material shall be in strict compliance with the Laws, including compliance with requirements of manifests for the transportation and disposal of hazardous materials. The Contractor's failure to strictly comply with its obligations hereunder shall be a basis for the District's withholding of Contract Price disbursements until the Contractor has complied and performed its obligations hereunder. Upon completion of the Project, the Contractor shall complete, execute and submit to the District a certification of Asbestos and Hazardous Materials.

2.4. Clean-up. The Contractor shall remove and legally dispose of all waste materials and other debris from the Site. The Site shall be in maintained in a neat, orderly and "broom clean" condition. At completion of the Project, the Contractor shall: (i) remove all temporary facilities and installations; and (ii) clean all surfaces, fixtures, equipment at the Site. If the Contractor fails to complete clean up responsibilities, the District may do so, and all costs shall be charged to the Contractor; the District may deduct such costs from the Contract Price then or thereafter due the Contractor.

2.5. Occupancy. The District reserves the right to occupy existing facilities and improvements in, at or about the Site at any time before completion of the Project. The District's occupancy does not constitute acceptance or approval of any part of the Project and will not extend the Contract Time nor relieve the Contractor of any duties or responsibilities under this Contract.

2.6. Emergencies. In an emergency affecting life, life safety, property damage, the Work or adjoining property, Contractor, without special instruction or authorization from District, shall take such actions reasonably necessary to prevent such threatened loss or injury. Contractor shall immediately report in writing to the District Representative if such action is taken.

3. Project Requirements

3.1. District Site Access. The District and the District's employees, agents or representatives shall at all times have access to the Site and the Project. The Contractor shall provide safe and proper facilities for such access.

3.2. Construction Schedule. If the Contract Time is more than thirty (30) calendar days, the Contractor shall prepare a Construction Schedule in such form and format required 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 Contract Documents. 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 Project progress. The Contractor's

Construction Schedule shall be submitted to the District for review and acceptance. The Contractor shall complete Project Work in accordance with the District accepted Construction Schedule.

3.3. 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 seven (7) 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 is final. No substitution accepted by the District shall increase the Contract Price or the Contract Time. 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 is 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.

3.4. Contractor Warranty. If within one (1) year, or such other period set forth in the Contract Documents, any part of the Project or workmanship is found defective or not in compliance with the Contract Documents, the Contractor shall promptly correct, repair or replace such part of the Project 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.

3.5. Manufacturer Warranties. The Contractor shall, prior to the release of retention, provide the District Representative with hard copies of all manufacturer warranties for all equipment and materials furnished, installed and incorporated into the Project.

3.6. DSA. If the Project is subject to jurisdiction of the Division of State Architect ("DSA"), the Work is subject to the continuous observations of the Project Inspector and materials incorporated into the Work are subject to DSA required tests and/or inspections. The Project is subject to DSA PR13-01. The Contractor shall timely complete all actions required of the contractor under DSA PR 13-01. The Contractor shall timely complete all actions required of a contractor under DSA Regulations for submittal of Verified Reports.

3.7. Construction Materials Tests/Inspections. If construction materials incorporated into the Project are subject to tests/inspections by the Contract Documents or DSA, tests/inspections will be conducted by qualified consultants selected by the District. The Contractor shall comply and cooperate with the District to schedule and coordinate conduct of tests/inspections with the progress of Work. The Contractor is liable for costs, fees, expenses and other losses arising out of failure of any construction materials to comply with standards required by DSA and/or the Contract Documents upon completion of the initial test/inspection of such materials.

4. Contract Price.

4.1. Contract Time Less Than Thirty (30) Days. If the Contract Time is thirty (30) days or less, the District will make payment of the Contract Price upon completion of the Project, the Contractor's full performance of all other obligations under the Contract Documents and the Contractor's submission of a properly itemized invoice and duly executed Verification of Certified Payroll Records Submittal to Labor Commissioner. Upon receipt of thereof, the District Representative will promptly verify that the Project has been completed and that the Contractor has performed all other obligations hereunder. Within thirty (30) days of the District Representative confirmation of the completion of Work and the Contractor's performance of other

obligations hereunder, the District will make payment of the Contract Price.

4.2. Contract Time More Than Thirty (30) Days. If the Contract Time is thirty (30) days or more, the Contractor may submit invoices on a monthly basis for the value of Project 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 after District's approval of the Application for Payment, Contractor shall be paid a sum equal to ninety-five percent (95%) of the value of the Work performed (as verified by the District) up to the last day of the previous month, less the aggregate of previous payments and amount to be withheld. Within thirty (30) days of completion of all Project 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: (i) the Contractor's preparation of a Schedule of Values for review and acceptance by the District's Representative; (ii) 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 (iii) delivery of an executed Verification of Certified Payroll Records Submittal to Labor Commissioner by Contractor and Subcontractors.

4.3. Weather Delays. Contractor agrees that adverse weather conditions are normal and expected during the Contract period and that days have been included in the Contract period that shall account for delays caused by weather conditions. The Contractor is held to be familiar with weather conditions in the San Diego County area. When a claim for extension of the Contract Time based on abnormal and unforeseeable weather conditions, the request must include the U.S. Weather Bureau data for the past ten (10) years for the San Diego County, California area that substantiates the claim of abnormal and unforeseeable weather conditions. Each day of inclement weather is not, by itself, reason for an extension of the Contract Time. If the number of rain days during the project period exceeds the ten (10) year average number of rain days recorded by more than 20%, the contractor may be eligible to request a time extension due to excessive rainfall, defined as a day in which 0.10 inch of rain or more measured by the Weather Bureau.

5. Changes

5.1. District Authority. The District may direct Changes within the general scope of Project Work. Changes authorized or directed by the District shall be reduced to a written Change Order in the form and content prepared by or on behalf of the District. Adjustments to the Contract Price for District authorized Changes shall be limited to the actual costs of labor, materials, equipment or services necessary to complete the Change. All other costs associated with a Change, including without limitation profit, overhead/administrative costs and impacts are fully compensated by the mark-up established in the Contract Documents on direct costs of a Change. The Contractor shall provide the District with all information requested to substantiate the cost of a Change. The Contractor shall submit, prior to approval of a Change Order, its request for adjustment of the Contract Time (if any) along with data substantiating the Contractor's right to adjustment of the Contract Time and the extent of such adjustment. If Contractor fails to strictly comply with the preceding, the District's determination of the Contract Time and/or Contract Price adjustment on account of a Change shall be final and binding on the Contractor.

5.2. Construction Change Directive ("CCD"). The District may direct a Change prior to and without issuance of a Change Order by a Construction Change Directive ("CCD"). The Contractor shall: (i) promptly commence and complete changes incorporated into a CCD; and (ii) maintain detailed contemporaneous records of labor, materials and equipment incorporated into or consumed in completing a CCD.

Adjustment of the Contract Price or Contract Time on account of a CCD shall be determined in accordance with the Contract Documents and incorporated into a Change Order.

5.3. Mark-ups On Changes. The mark-up on direct costs for a Change directed or authorized by the District for all overhead (including home and field office overhead), general conditions costs, impacts of the Change and profit, shall not exceed the percentage of allowable direct actual costs for performance of the Change as set forth below.

5.3.1. Subcontractor Performed Changes. For the portion of a Change performed by Subcontractors, the mark-up on actual direct labor and materials costs incurred by the Subcontractors is Ten Percent (10%). In addition, the Contractor may add an amount equal to Five Percent (5%) of the Subcontractors actual direct labor and materials costs; the Contractor's mark-up shall not be applied to the Subcontractors mark-up.

5.3.2. Contractor Performed Changes. For the portion of any Change performed by the Contractor's own forces, the mark-up on the allowable actual direct labor and materials costs of such portion of a Change is Fifteen Percent (15%).

5.3.3. Exclusions from Mark-up Of Actual Costs. Mark-ups on the actual cost of materials/equipment incorporated into a Change or for purchase/rental of Construction Equipment shall not be applied to any portion of such costs which are for sales, use or other taxes arising out of the purchase of materials/equipment and/or for purchase/rental of Construction Equipment.

6. Insurance and Indemnity

6.1. Indemnification.

6.1.1. Contractor Indemnification. To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the District, members of District's Board of Trustees, officers, agents, employees, representatives, invitees, and volunteers (collectively "Indemnified Parties") from all claims, demands, causes of action, losses, damages or liabilities, including without limitation, attorneys' fees and other related legal fees, costs and expenses, which arise out of or are related in any manner to: (i) the Contract, Contract Documents or the Contractor's performance under the Contract Documents; or (ii) the negligent, grossly negligent or willful conduct of the Contractor, its Subcontractors or their respective employees, agents or representatives. The Contractor's obligations hereunder include without limitation: (i) injury to, or death of, persons; (ii) damage to property; (iii) theft or loss of property; (iv) Stop Payment Notice claims; and (v) other losses, damages or costs. The Contractor's obligations hereunder shall survive termination of the Contract and/or completion of the Work until barred by the applicable Statute of Limitations.

6.1.2. District Indemnification. The District will indemnify and hold harmless the Contractor from claims arising out of bodily injury or death of persons or damage to property which arise out of the negligent, grossly negligent or willful conduct of the District.

6.2. Insurance. The Contractor and its Subcontractors shall, at all times during the Work, maintain the policies of insurance in the minimum coverage limits set forth in the Contract. The Contractor's Commercial General Liability Insurance shall name the District as an Additional Named Insured, with the following specific verbiage: "Grossmont-Cuyamaca Community College District, its trustees, officers, agents, employees, representatives, invitees, and volunteers." 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 for the Contractor and its Subcontractors evidencing the required insurance coverages. Policies of insurance required of the Contractor and Subcontractors are primary; policies of insurance maintained by the District are excess and non-contributory to the Contractor/Subcontractor policies of insurance. All policies of insurance shall be issued by insurers AM Best rated at least VII/A. 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.

7. Termination and Suspension

7.1. Termination For Contractor Default. The Contractor's failure to fully and timely perform its obligations under the Contract Documents or to strictly comply with terms and conditions of the Contract Documents shall constitute defaults of the Contractor; in such event, the District may terminate the Contract upon written notice to the Contractor. The District shall have to the sole discretion to afford the Contractor the opportunity to cure the Contractor's default by establishing the required cure actions and the time for the Contractor's completion of the District established cure actions. Unless the Contractor commences, and diligently thereafter prosecutes to completion, all required actions to cure such default(s), the Contract is deemed terminated without further action of the District. If the District terminates the Contract for default of the Contractor, the Contractor is liable to the District for all losses, costs and damages arising out of the Contractor's default and costs to complete the Project Work which exceeds the remaining Contract Price at the time of termination.

7.2. District Termination For Convenience. The District may terminate the Contract, in whole or in part, 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; no payment shall be made or due from the District for the unperformed portion of the Project Work.

7.3. Suspension. The District may by written directive to the Contractor, suspend the Project Work, in whole or in part, for such time as determined by the District. Upon issuance of such directive, the Contractor shall take action as directed to protect work in place, materials/equipment at the Site and other actions relating to Project Work in place, in progress, in storage, in transit or in fabrication ("Contractor Suspension Activities"). The Contractor shall resume Project Work as directed by the District. The District's suspension of Project Work shall not result in adjustment of the Contract Price, except for the direct costs of the Contractor to comply with the Contractor Suspension Activities. The Contract Time will be equitably adjusted for District directed suspension of Project Work.

8. Miscellaneous

8.1. Claims Resolution.

8.1.1. Contractor Continuation of Work. Notwithstanding any claim, dispute, disagreement or other matter in controversy between the District and the Contractor relating to the Contract Documents or the Project Work, the Contractor shall continue to diligently prosecute and perform the Work, pending any final determination or decision regarding any such claim, dispute, disagreement or matter in controversy.

8.1.2. Public Contract Code §9204 Claims Resolution Procedures. Claims of the Contractor are subject to the non-binding dispute resolution procedures set forth in Public Contract Code §9204 ("Section 9204").

8.1.2.1. Contractor Claims. Contractor Claims are subject to the Section 9204 Procedures provided, however, that the Section 9204 Procedures are expressly subject to the Contractor's prior full and timely compliance with requirements and procedures of the Contract Documents relating to submittal and resolution of Claims, change orders, disputes and other matters in controversy under the Contract Documents. By this reference, the Section 9204 Procedures are incorporated herein.

8.1.2.2. Subcontractor Claims. Subcontractor Claims are subject to Section 9204 Procedures, as modified herein. The District's review of Subcontractor Claims is expressly subject to the Contractor's submittal of a duly completed and executed form of Contractor Certification of Subcontractor Claim certifying that the Contractor has thoroughly reviewed the Subcontractor Claim and based on the Contractor's review, certify that: (i) the Subcontractor Claim is made by the Subcontractor in good faith; (ii) the Subcontractor Claim is supported by reasonable documentation establishing entitlement to the relief requested and District liability therefor; and (iii) the Subcontractor Claim does not incorporate any request constituting a False Claim under applicable law, including the California False Claim Act (Government Code §12650 et seq.).

8.1.3. Contractor Compliance with Government Code Claims Procedures. Disputed Claims and other matters in controversy asserted by the Contractor against the District are a "suit for money or damages" and subject to Government Code §§945.4, 945.6 and 946 ("Government Code Claims Process"). An express condition precedent to the Contractor's initiation of §20104.4 Dispute Resolution Procedures is the Contractor's compliance with the Government Code Claims Process.

8.1.4. Disputed Claims. Claims not resolved by the Section 9204 Procedures are subject to the binding dispute resolution procedures of Public Contract Code §20104.4 (Section 20104.4 Dispute Resolution Procedures).

8.1.5. Section 20104.4 Dispute Resolution Procedures, Claims Less Than \$375,000. Disputed Claims of \$375,000 or less shall be resolved in accordance with the civil action procedures established in Public Contract Code §20104.4 ("Section 20104.4"). Mediation conducted pursuant to Section 9204 Procedures shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

8.2. Limitation On Special/Consequential Damages. In the event of the District's breach or default of its obligations under the Contract Documents, the damages, if any, recoverable by the Contractor are limited to general damages directly caused by the breach or default and shall exclude any and all special or consequential damages, if any. The Contractor expressly waives and relinquishes any recovery of special or consequential damages from the District.

8.3. Attorneys' Fees. Except as expressly provided for in the Contract Documents, or authorized by the Laws, neither the District nor the Contractor shall recover from the other any attorneys' fees or other costs associated with or arising out of any legal, administrative or other proceedings filed or instituted in connection with or arising out of the Contract Documents or the performance of either the District or the Contractor thereunder

8.4. Audit. The District shall have the right to review, audit, and to copy records and supporting documentation of the Contractor and Subcontractors relating to performance of the Contract. Contractor

agrees to maintain such records for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated or required by the Laws. Contractor shall allow District access to these records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Contractor agrees to include a similar right of the District to audit records and interview staff in any Subcontract.

8.5. Governing Law; Interpretation; Venue. This Contract is governed by the laws of the state of California and shall be interpreted as a whole and not in favor of the District or the Contractor. Jurisdiction for any legal proceeding shall be the Superior Court for the County in which the Site is situated and venue shall be the Superior Court branch situated closest to the Site.

Business Entities shall be registered with the California Secretary of State including foreign business entities. It is mutually understood that if Contractor is a Nonresident of California, which may include California Nonresidents, corporations, limited liability companies, non-profits, and partnerships that do not have a permanent place of business in the State of California, the District is obligated to abide by California Franchise Tax Board (FTB) withholding requirements. The District is required to withhold from all payments or distributions of California source income made to a Nonresident when payments or distributions are greater than One Thousand Five Hundred Dollars (\$1,500) for the calendar year unless the District receives authorization for a waiver or a reduced withholding rate from the Franchise Tax Board. As of January 1, 2008, the standard withholding amount for all payments to Nonresident California Contractors is Seven Percent (7%). District will deduct the amount ordered by the State of California from the payment hereunder and will pay such amount directly to the Contractor's California State Income Tax Account, settlement of which must be made by Contractor directly with the State of California through Withholding Coordinator, Franchise Tax Board, PO Box 651, Sacramento, California, 95812-0651; telephone 916-845-6500. Completion and submission of the appropriate form shall be the obligation of the Nonresident Contractor and Contractor shall defend, indemnify and hold harmless the District against any loss, expense, or liability arising out of Contractor's acts or omissions with respect to this nonresident requirement. Contractor shall provide all necessary documentation and information to help District comply with all tax requirements related to California nonresidents.

8.6. Force Majeure. The Contractor and District are excused from performance during the time and to the extent that they are prevented from obtaining, delivering, or performing by act of God, fire, strike, loss, or shortage of transportation facilities, lock-out, commandeering of materials, products, plants or facilities by the government, when satisfactory evidence thereof is presented to the other party, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the party not performing.

8.7. 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 by this Contract, any right or obligation hereunder or any portion thereof.

8.8. Days. Unless otherwise stated in the Contract, all references to "days" shall be deemed references to calendar days.

8.9. Time. Time is of the essence in performance and completion of obligations under the Contract.

8.10. Substantial Completion. The stage in the progress of the project when the work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the District can occupy or utilize the project for its intended use. Project must adhere

to applicable building codes and regulations, ensuring safety and compliance.

8.11. No Oral Modifications. The terms of the Contract shall be modified only by written instrument duly executed on behalf of the Contractor and District. No term or condition of the Contract shall be modified or amended except by a subsequent writing executed by the District and Contractor and approved or ratified by the District's Board. Verbal or oral modifications to the Contract are not enforceable.

8.12. No District Waiver. District's waiver or delayed enforcement of any term, condition, covenant or obligation of the Contractor under the Contract Documents shall not: (i) constitute the District's waiver or modification of such term, condition, covenant or obligation; or (ii) limit, restrict or impair the District's enforcement of such term, condition, covenant or obligation.

8.13. Provisions Required By The Laws Deemed Inserted. Provisions required by the Laws to be incorporated into the Contract Documents are deemed incorporated herein and the Contract Documents shall be read and enforced as though such provisions are incorporated herein.

8.14. Conflicts/Inconsistencies. In the event of conflict or inconsistency between the Contract and these Terms and Conditions ("Contract") and the terms of Contractor's Proposal, the terms of the Contract shall prevail over the Contractor's Proposal. It is further agreed that incorporation of the Contractor's Quote/Proposal into the Contract shall not constitute a modification, amendment or limitation of any term or condition of the Contract unless such term or condition is expressly set forth in writing in this Contract.

8.15. Severability. If any provision of this Contract is declared or determined by any court of competent jurisdiction to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining parts, terms and provisions shall not be affected thereby, and said illegal, unenforceable or invalid part, term or provision will be deemed not to be a part of this Contract.

8.16. Independent Contractor Status. While engaged in carrying out the terms and conditions of the Contract, the Contractor is an independent contractor, and not an officer, employee, agent, partner, or joint venture of the District.

8.17. Non-Discriminatory Employment Practices. The Contractor and Subcontractors shall comply with District Policies prohibiting discriminatory practices against employees or prospective employees based on race, color, ancestry, national origin, religious creed, sex, age, sexual preference, marital status or other classification protected by the Laws. Contractor agrees to abide by this policy and to comply with Laws prohibiting discriminatory employment practices, including the California Fair Employment Practice Act.

8.18. Entire Contract. The Contract Documents contain the entire agreement and understanding between the District and the Contractor concerning the subject matter hereof, and supersedes and replaces all prior negotiations, proposed contracts or amendments, whether written or oral.

[END OF SECTION]

EXHIBIT A: TAX IDENTIFICATION

Federal Regulations (26 CFR section 1.6041) requires non-corporate recipients of \$600.00 or more to furnish their taxpayer identification number to the payer. The regulations also provide that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these regulations, the District requires your federal tax identification number or Social Security Number, whichever is applicable. The District requires a valid copy of a W-9.

TYPE OF BUSINESS ENTITY

- ☐ Individual
- ☐ Sole Proprietorship
- ☐ Partnership
- ☐ Corporation
- ☐ Other

BUSINESS ENTERPRISE STATUS

- ☐ DBE: Disadvantaged Business Enterprise
- ☐ DVBE: Disabled Veteran Business Enterprise
- ☐ DVE: Disadvantaged Veteran Enterprise
- ☐ MBE: Minority Business Enterprise
- ☐ SBD: Small Disadvantaged Business
- ☐ SBE: Small Business Enterprise
- ☐ SDV: Service Disabled Veteran
- ☐ WOSB: Woman Owned Small Business

License No.

Classification:

Expiration Date:

DIR No.

Expiration Date

EXHIBIT B: RATE SHEET/ Additional Scope of Work

EXHIBIT C: LABOR AND MATERIALS PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS that we, _____, as Surety and _____, as Principal, are jointly and severally, along with their respective heirs, executors, administrators, successors and assigns, held and firmly bound unto **GROSSMONT-CUYAMACA COMMUNITY COLLEGE DISTRICT** ("the Oblige") for payment of the penal sum of _____ Dollars (\$_____) in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the Oblige, by resolution of its Board of Trustees has awarded to the Principal a Contract for the Work described as _____.

WHEREAS, the Principal, has entered into an Agreement with the Oblige for performance of the Work, the Agreement and all other Contract Documents set forth therein are incorporated herein by this reference and made a part hereof.

WHEREAS, by the terms of the Contract Documents, the Principal is required to furnish a bond for the prompt, full and faithful payment to any Claimant, as hereinafter defined, for all labor materials or services used, or reasonably required for use, in the performance of the Work.

NOW THEREFORE, if the Principal shall promptly, fully and faithfully make payment: (i) to any Claimant for all labor, materials or services used or reasonably required for use in the performance of the Work; (ii) of amounts due under the Unemployment Insurance Code for work or labor performed under the Contract; and (iii) of amounts required to be deducted, withheld and paid to the Employment Development Department from wages of the employees of the Principal and its Subcontractors under Section 13020 of the Unemployment Insurance Code with respect to work and labor under the Contract then this obligation shall be void; otherwise, it shall be, and remain, in full force and effect.

The term "Claimant" shall refer to any person, corporation, partnership, proprietorship or other entity including without limitation, all persons and entities described in California Civil Code §9100, providing or furnishing labor, materials or services used or reasonably required for use in the performance of the Work under the Contract Documents, without regard for whether such labor, materials or services were sold, leased or rented. This Bond shall inure to the benefit of all Claimants so as to give them, or their assigns and successors, a right of action upon this Bond.

In the event that suit is brought on this Bond by any Claimant for amounts due such Claimant for labor, materials or services provided or furnished by such Claimant, the Surety shall pay for the same and reasonable attorneys' fees pursuant to California Civil Code §9554.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, deletion, addition, or any other modification to the terms of the Contract Documents, the Work to be performed thereunder, the Specifications or the Drawings, or any other portion of the Contract Documents, shall in any way limit, restrict or otherwise affect its obligations under this Bond; the Surety hereby waives notice from the Oblige of any such change, extension of time, alteration, deletion, addition or other modification to the Contract Documents, the Work to be performed under the Contract

[CONTINUED NEXT PAGE]

Documents, the Drawings or the Specifications of any other portion of the Contract Documents.

IN WITNESS WHEREOF, the Principal and Surety have executed this instrument this _____ day of _____, 20__ by their duly authorized agent or representative.

(Bidder/Principal Name)	
By:	
	(Signature)
	(Typed or Printed Name)
Title:	
(Attach Notary Public Acknowledgement of Principal's Signature)	

(Surety Name)	
By:	
	(Signature of Attorney-In-Fact for Surety)
	(Typed or Printed Name of Attorney-In-Fact)
(Attach: (i) Attorney-In-Fact Certification; (ii) Notary Public Acknowledgment of Authorizing Signature on Attorney-Fact Certification; and (iii) Notary Public Acknowledgement of Attorney-In-Fact's Signature.)	

Contact name, address, telephone number and email address for notices to the Surety	
(Contact Name)	
(Street Address)	
(City, State & Zip Code)	
(_____) _____	(_____) _____
Telephone	Fax
(Email address)	