

SHORT FORM CONSTRUCTION CONTRACT
Tierra Buena Exterior/Interior Painting
Project No.: 311-01-18

This Agreement (“Contract”) is by and between _____ (“Contractor”) and Yuba City Unified School District (“District”). Contractor and District may be referred to herein individually as a “Party” or collectively as the “Parties”.

1. EFFECTIVE DATE

1.1. This Agreement shall take effect on _____ (“Effective Date”).

1.2. After the District has issued a Notice to Proceed, Contractor shall commence providing Services under this Agreement as soon as reasonably possible and shall diligently perform as required or requested by District as set forth in Exhibit A.

2. SCOPE OF WORK

After the District has issued a Notice to Proceed, Contractor shall furnish to the District the construction services described in Exhibit A (“Services” or “Work”), which is attached and incorporated by this reference.

3. COMPENSATION

Contractor shall furnish the Work to the District for a total price of that identified in Exhibit B attached hereto and incorporated by this reference (“Contract Price”). Payments shall be made as set forth in Exhibit A.

4. COSTS AND EXPENSES

Except as set forth in Exhibit B, District shall not be liable to Contractor for any costs or expenses paid or incurred by Contractor.

5. BONDS AND INSURANCE

Exhibit C, entitled Bonds and Insurance, is attached and incorporated by reference.

6. GENERAL TERMS AND CONDITIONS

Exhibit D, entitled General Terms and Conditions, is attached and incorporated by reference.

7. CLAIM RESOLUTION PROCEDURES

Exhibit E, entitled Claim Resolution Procedures, is attached and incorporated by reference.

8. CERTIFICATIONS AND BONDS

The following certifications and bonds attached as Exhibit F are incorporated by reference:

- 8.1. PREVAILING WAGE CERTIFICATION
- 8.2. WORKERS' COMPENSATION CERTIFICATION
- 8.3. CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION
- 8.4. ASBESTOS AND OTHER HAZARDOUS MATERIALS CERTIFICATION (AND HAZARDOUS MATERIALS PROCEDURES AND REQUIREMENTS)
- 8.5. LEAD-PRODUCT(S) CERTIFICATION
- 8.6. PERFORMANCE BOND
- 8.7. PAYMENT BOND

9. Inspection and acceptance of the Work shall be performed by the Director of Maintenance and Facilities of the District or his/her designee.

ACCEPTED AND AGREED. By signing this Agreement, Contractor certifies, under penalty of perjury, that all the information provided in the Agreement is true, complete, and correct:

Dated: _____

Dated: _____

Yuba City Unified School District

_____ **[Contractor]**

By: _____

By: _____

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: _____

SCOPE OF WORK

1. SCOPE OF WORK

Contractor shall provide all material and labor to perform surface preparation and the application of paint systems as per 09 91 13-CARB-VOC Exterior Painting (or approved equivalent) on exterior substrates as per Section 099113 Exterior Painting per buildings indicated on campus plan TB-P1. Also include, interior painting of walls, ceilings, doors and trim in the Multipurpose Room and restrooms per 09 91 23 –CARB-VOC Interior Painting (or approved equivalent) per Section 099123 – Interior Painting indicated on campus plan TB-P2. All exposed rock to be cleaned and sealed with Monochem Aquaseal® Wet Look (or approved equivalent) product.

2. Site. Contractor shall perform surface preparation and the application of paint systems on exterior and interior substrates at **Tierra Buena Elementary School 1794 Villa Avenue, Yuba City, California 95991.**

3. Contract Time and Liquidated Damages. Work shall be completed within established project schedule of June 11th to August 10th. (“Contract Time”) Contractor agrees that if the Work is not completed within the Contract Time and/or pursuant to the completion schedule, construction schedule, or project milestones developed pursuant to provisions of the Agreement, it is understood, acknowledged, and agreed that the District will suffer damage which is not capable of being calculated. Pursuant to Government Code section 53069.85, Contractor shall pay to the District, as fixed and liquidated damages for these incalculable damages, the sum of **Three Hundred Dollars (\$300)** per day for each and every calendar day of delay beyond the Contract Time or beyond any completion schedule, construction schedule, or Project milestones established pursuant to the Agreement.

4. Payment. On a monthly basis, Contractor shall submit an application for payment based upon the estimated value for materials delivered or services performed under the Agreement as of the date of submission (“Application for Payment”). Within thirty (30) days after District’s approval of the Application for Payment, Contractor shall be paid a sum equal to ninety percent (90%) of the value of the Work performed (as verified by Architect and Inspector and certified by Contractor) up to the last day of the previous month, less the aggregate of previous payments and amount to be withheld. The District may deduct from any payment an amount necessary to protect the District from loss because of: (1) liquidated damages which have accrued as of the date of the application for payment; (2) any sums expended by the District in performing any of Contractor’s obligations under the Agreement which Contractor has failed to perform or has performed inadequately; (3) defective Work not remedied; (4) stop notices as allowed by State law; (5) reasonable doubt that the Work can be completed for the unpaid balance of the Total Contract Price or by the scheduled completion date; (6) unsatisfactory prosecution of the Work by Contractor; (7) unauthorized deviations from the Agreement; (8) failure of the Contractor to maintain or submit on a timely basis proper and sufficient documentation as required by the Agreement or by District during the prosecution of the Work; (9) erroneous or false estimates by the Contractor of the value of the Work performed; (10) any sums representing expenses, losses, or damages, as determined by the District, incurred by the District for which Contractor is liable under the Agreement; and (11) any other sums which the District is entitled to recover from Contractor under the terms of the Agreement or pursuant to State law, including section 1727 of the California Labor Code. The failure by the District to deduct any of these sums from a progress payment shall not constitute a waiver of the District’s right to such sums. The District shall retain five percent (5%) from all amounts owing as retention. Retention shall be paid pursuant to Public Agreement Code sections 7107 and 7200.

EXHIBIT B
TO SHORT FORM CONSTRUCTION CONTRACT

PAYMENT

Contractor shall perform the Work for a total price of _____ Dollars
(\$ _____) (“Contract Price”).

EXHIBIT C
TO SHORT FORM CONSTRUCTION CONTRACT

BONDS AND INSURANCE

1. **Commercial General Liability and Automobile Liability Insurance.** Contractor shall procure and maintain, during the term of the Agreement, Commercial General Liability Insurance and Automobile Liability Insurance that shall protect Contractor, District, State, Construction Manager(s), Project Inspector(s), and Architect(s) from all claims for bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising from operations under the Agreement. This coverage shall be provided in a form at least as broad as the Insurance Services Office (ISO) standard form. Contractor shall ensure that Products Liability and Completed Operations coverage, Fire Damage Liability, and any Auto including owned, non-owned, and hired, are included within the above policies and at the required limits, or Contractor shall procure and maintain these coverages separately. Contractor's deductible or self-insured retention for its Commercial General Liability Insurance policy shall not exceed \$25,000 unless approved in writing by District.
2. **Umbrella Liability Insurance.** Contractor may procure and maintain, during the life of the Agreement, an Umbrella Liability Insurance Policy to meet the policy limit requirements of the required policies if Contractor's underlying policy limits are less than required. There shall be no gap between the per occurrence amount of any underlying policy and the start of the coverage under the Umbrella Liability Insurance Policy. Any Umbrella Liability Insurance Policy shall protect Contractor, District, State, Construction Manager(s), Project Manager(s), and Architect(s) in amounts that comply with all requirements for Commercial General Liability and Automobile Liability and Employers' Liability Insurance.
3. **Subcontractor(s):** Contractor shall require its Subcontractor(s), if any, to procure and maintain Commercial General Liability Insurance, Automobile Liability Insurance, and Umbrella Liability Insurance with minimum limits equal to the amounts required of the Contractor.
4. **Workers' Compensation and Employers' Liability Insurance.** In accordance with provisions of section 3700 of the California Labor Code, the Contractor and every Subcontractor shall be required to secure the payment of compensation to its employees. Contractor shall procure and maintain, during the life of this Agreement, Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees engaged in Work under the Agreement, on/or at the Site of the Project. This coverage shall cover, at a minimum, medical and surgical treatment, disability benefits, rehabilitation therapy, and survivors' death benefits. Contractor shall require its Subcontractor(s), if any, to procure and maintain Workers' Compensation Insurance and Employers' Liability Insurance for all employees of Subcontractor(s). Any class of employee or employees not covered by a Subcontractor's insurance shall be covered by Contractor's insurance. If any class of employee or employees engaged in Work under the Agreement, on or at the Site of the Project, are not protected under the Workers' Compensation Insurance, Contractor shall provide, or shall cause a Subcontractor to provide, adequate insurance coverage for the protection of any employee(s) not otherwise protected before any of those employee(s) commence work.
5. **Builder's Risk Insurance: Builder's Risk "All Risk" Insurance.** Contractor shall procure and maintain, during the life of this Agreement, Builder's Risk (Course of Construction), or similar first party property coverage acceptable to the District, issued on a replacement cost value basis. The cost shall be consistent with the total replacement cost of all insurable Work included within the Agreement. Coverage is to insure against all risks of accidental physical loss and shall include without limitation the perils of vandalism and/or malicious mischief (both without any limitation regarding vacancy or occupancy), sprinkler leakage, civil authority, theft, sonic disturbance, earthquake, flood, collapse, wind, fire, war, terrorism, lightning, smoke, and rioting. Coverage shall include debris removal, demolition, increased costs due to enforcement of all applicable ordinances and/or laws in the repair and replacement of damaged and undamaged portions of the property, and reasonable costs for the Architect's and engineering services and expenses required as a result of any insured loss upon the Work and Project, including completed Work and Work in progress, to the full insurable value thereof.
6. **Proof of Carriage of Insurance and Other Requirements: Endorsements and Certificates.** Contractor shall not commence Work nor shall it allow any Subcontractor to commence Work under the Agreement, until Contractor and its Subcontractor(s) have procured all required insurance and Contractor has delivered in duplicate to the District complete endorsements (or entire insurance policies) and certificates indicating the required coverages have been obtained, and the District has approved these documents.
 - 6.1. Endorsements, certificates, and insurance policies shall include the following:
 - 6.1.1. A clause stating:
 - 6.1.1.1. "This policy shall not be amended, canceled or modified and the coverage amounts shall not be reduced until notice has been mailed to District, Architect, and Construction Manager stating date of amendment, modification, cancellation or reduction. Date of

amendment, modification, cancellation or reduction may not be less than thirty (30) days after date of mailing notice.”

6.1.1.2. In lieu of receiving an endorsement with this clause, the District may, at its sole discretion, accept written notification from Contractor and its insurer to the District of any amendments, modifications, cancellations or reduction in coverage, not less than thirty (30) days prior to such coverage changes occur.

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

6.2. All endorsements, certificates and insurance policies shall state that District, its trustees, employees and agents, the State of California, Construction Manager(s), Project Manager(s), Inspector(s) and Architect(s) are named additional insureds under all policies except Workers’ Compensation Insurance and Employers’ Liability Insurance.

6.3. Contractor’s and Subcontractors’ insurance policy(s) shall be primary and non-contributory to any insurance or self-insurance maintained by District, its trustees, employees and/or agents, the State of California, Construction Manager(s), Project Manager(s), Inspector(s), and/or Architect(s).

6.4. All endorsements shall waive any right to subrogation against any of the named additional insureds. All policies shall be written on an occurrence form. All of Contractor’s insurance shall be with **admitted** insurance companies with an A.M. Best rating of no less than **A: VII**.

6.5. The insurance requirements set forth herein shall in no way limit the Contractor’s liability arising out or relating to the performance of the Work or related activities.

6.6. Failure of Contractor and/or its Subcontractor(s) to comply with the insurance requirements herein shall be deemed a material breach of the Agreement.

7. Insurance Policy Limits. The limits of insurance shall not be less than the following amounts:

Commercial General Liability	Combined Single Limit	\$1,000,000 per occurrence; \$2,000,000 aggregate
	Product Liability and Completed Operations	\$1,000,000 per occurrence; \$2,000,000 aggregate
Automobile Liability – Any Auto	Combined Single Limit	\$1,000,000 per occurrence; \$2,000,000 aggregate
Workers Compensation		Statutory limits pursuant to State law
Employers’ Liability		\$1,000,000
Builder’s Risk (Course of Construction)		Issued for the value and scope of Work indicated herein.

8. Contract Security – Bonds

8.1. Contractor shall furnish two surety bonds issued by a California admitted surety insurer as follows:

8.1.1. Performance Bond: A bond in an amount at least equal to one hundred percent (100%) of Contract Price as security for faithful performance of this Agreement.

8.1.2. Payment Bond: A bond in an amount at least equal to one hundred percent (100%) of the Contract Price as security for payment of persons performing labor and/or furnishing materials in connection with the Agreement.

8.2. Cost of bonds shall be included in the Bid and Contract Price.

8.3. All bonds related to the Project shall be in the forms set forth in the Agreement and shall comply with all requirements of the Agreement, including, without limitation, the bond forms.

EXHIBIT D
TO SHORT FORM CONSTRUCTION CONTRACT

GENERAL TERMS AND CONDITIONS TO AGREEMENT

1. **NOTICE TO PROCEED:** District shall provide a Notice to Proceed to Contractor pursuant to the Agreement, at which time Contractor shall proceed with the Work.
2. **SITE EXAMINATION:** Contractor has examined the Site and certifies that it accepts all measurements, specifications and conditions affecting the Work to be performed at the Site. By submitting its quote, Contractor warrants that it has made all Site examination(s) that it deems necessary as to the condition of the Site, its accessibility for materials, workers and utilities, and Contractor's ability to protect existing surface and subsurface improvements. No claim for allowance of time or money will be allowed as to any other undiscovered condition on the Site.
3. **EQUIPMENT AND LABOR:** The Contractor shall furnish all tools, equipment, apparatus, facilities, transportation, labor, and material necessary to furnish the Services; the Services to be performed at such times and places as directed by and subject to the approval of the authorized District representative indicated in the Work specifications attached hereto.
4. **SUBCONTRACTORS:** Contractor shall comply with the Subletting and Subcontracting Fair Practices Act (Public Agreement Code, section 4100 et. seq.). Contractor shall identify the name and location of the place of business of each subcontractor who will perform work or labor or render service in or about the construction of the Project in an amount in excess of One-Half of One Percent (1/2%) of the Contractor's Contract Price or Ten Thousand Dollars (\$10,000), whichever is greater. Subcontractors, if any, engaged by the Contractor for any Service or Work under this Agreement shall be subject to the approval of the District. Contractor agrees to bind every subcontractor by the terms of the Agreement as far as such terms are applicable to subcontractor's work, including, without limitation, all indemnification, insurance, bond, and warranty requirements. If Contractor subcontracts any part of this Agreement, Contractor shall be fully responsible to the District for acts and omissions of its subcontractor and of persons either directly or indirectly employed by itself. Nothing contained in the Agreement shall create any contractual relations between any subcontractor and the District.
5. **TERMINATION:** If Contractor fails to perform the Services and Contractor's duties to the satisfaction of the District, or if Contractor fails to fulfill in a timely and professional manner Contractor's obligations under this Agreement, or if Contractor violates any of the Terms or Provisions of this Agreement, the District shall have the right to terminate this Agreement effective immediately upon the District giving written notice thereof to the Contractor. District shall also have the right in its sole discretion to terminate the Agreement for its own convenience. Termination shall have no effect upon any of the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of termination.
6. **SAFETY AND SECURITY:** Contractor is responsible for maintaining safety in the performance of this Agreement. Contractor shall be responsible for complying with the District's the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.
7. **CHANGE IN SCOPE OF WORK:** Any change in the scope of the Work, method of performance, nature of materials or price thereof, or any other matter materially affecting the performance or nature of the Work, shall not be paid for or accepted by District unless such change, addition, or deletion is approved in advance and in writing by a valid change order executed by the District. Contractor specifically understands, acknowledges, and agrees that the District shall have the right to request any alterations, deviations, reductions, or additions to the Project or Work, and the cost thereof shall be added to or deducted from the amount of the Contract Price by fair and reasonable valuations. Contractor also agrees to provide the District with all information requested to substantiate the cost of any change order and to inform the District whether the Work will be done by the Contractor or a subcontractor. In addition to any other information requested, Contractor shall submit, prior to approval of any change order, its request for a time extension (if any), as well as all information necessary to substantiate Contractor's belief that such change will delay the completion of the Work. If Contractor fails to submit its request for a time extension or the necessary supporting information, it shall be deemed to have waived its right to request such extension.
8. **TRENCH SHORING:** If this Agreement is in excess of Twenty-Five Thousand Dollars (\$25,000) and is for the excavation of any trench deeper than five (5) feet, Contractor must submit and obtain District's approval and acceptance, in advance of excavation, of a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If the plan varies from the shoring system standards, the plan shall be prepared by a registered civil or structural engineer.
9. **EXCAVATIONS OVER FOUR FEET:** If this

Agreement includes excavations over four (4) feet, Contractor shall promptly, and before the following conditions are disturbed, notify the District, in writing, of any: (1) Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law; (2) Subsurface or latent physical conditions at the Site differing from those indicated; or (3) Unknown physical conditions at the Site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Agreement. The District shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the Work shall issue a change order under the procedures described in the Agreement. In the event that a dispute arises between the District and the Contractor regarding whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the work, the Contractor shall not be excused from any scheduled completion date provided for by the Agreement, but shall proceed with all Work. Contractor shall retain any and all rights provided either by Agreement or by law which pertain to the resolution of disputes and protests between the contracting parties.

10. **LEAD-BASED PAINT:** Pursuant to the Lead-Safe Schools Protection Act (Education Code Section 32240 et seq.) and other applicable law, no lead-based paint, lead plumbing and solders, or other potential sources of lead contamination shall be utilized on this Project, and only trained and State-certified Contractors, inspectors and workers shall undertake any action to abate existing risk factors for lead. Contractor must execute the Lead-Based Paint Certification, if applicable.
11. **WORKERS:** Contractor shall at all times enforce strict discipline and good order among its employees and the employees of its subcontractors and shall not employ or work any unfit person or anyone not skilled in work assigned to him or her. Any person in the employ of the Contractor or a subcontractor whom the District may deem incompetent or unfit shall be dismissed from the Site and shall not again be employed at Site without written consent from the District.
12. **DRUG-FREE / SMOKE-FREE POLICY:** No drugs, alcohol and/or smoking are allowed at any time in any buildings and/or grounds on District property. No students, staff, visitors, consultants or Contractors are to use drugs on these sites.
13. **CORRECTION OF ERRORS:** Contractor shall

perform, at its own cost and expense and without reimbursement from the District, any work necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care required herein.

14. **SUBSTITUTIONS:** No substitutions of material from those specified in the Work Specifications shall be made without the prior written approval of the District.
15. **CONTRACTOR SUPERVISION:** Contractor shall provide competent supervision of personnel employed on the job Site, use of equipment, and quality of workmanship.
16. **CLEAN UP:** Debris shall be removed from the Premises. The Site shall be in order at all times when work is not actually being performed and shall be maintained in a reasonably clean condition.
17. **ACCESS TO WORK:** District representatives shall at all times have access to the Work wherever it is in preparation or in progress. Contractor shall provide safe and proper facilities for such access.
18. **PROTECTION OF WORK AND PROPERTY:** Contractor shall erect and properly maintain at all times, as required by conditions and progress of the Work, all necessary safeguards, signs, barriers, lights, and security persons for protection of workers and the public, and shall post danger signs warning against hazards created by the Work. In an emergency affecting life and safety of life or of Work or of adjoining property, Contractor, without special instruction or authorization from District, is permitted to act at his discretion to prevent such threatened loss or injury.
19. **ASSIGNMENT OF AGREEMENT:** Contractor shall not assign or transfer in any way any or all of its rights, burdens, duties, or obligations under this Agreement without the prior written consent of the District.
20. **TIME IS OF THE ESSENCE:** Time is of the essence in the performance of and compliance with each of the provisions and conditions of this Agreement.
21. **OCCUPANCY:** District reserves the right to occupy buildings at any time before formal Agreement completion and such occupancy shall not constitute final acceptance or approval of any part of the Work covered by this Agreement, nor shall such occupancy extend the date specified for completion of the Work.
22. **FORCE MAJEUR CLAUSE:** Contractor shall be excused from performance hereunder during the time and to the extent that it is prevented from obtaining delivery, or performing by act of God, fire, strike, loss, or shortage of transportation facilities, lock-out, commandeering of materials, product, plant, or facilities by the government, when satisfactory evidence thereof is presented to the District, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of Contractor.
23. **INDEMNIFICATION / HOLD HARMLESS**

CLAUSE: To the furthest extent permitted by California law, Contractor shall defend, indemnify, and hold harmless the District, their agents, representatives, officers, consultants, employees, and volunteers (the “indemnified parties”) from any and all demands, losses, liabilities, claims, suits, and actions (the “claims”) of any kind, nature, and description, including, but not limited to, attorneys’ fees and costs, directly or indirectly arising from personal or bodily injuries, death, property damage, or otherwise arising out of, connected with, or resulting from the performance of this Agreement unless the claims are caused wholly by the sole negligence or willful misconduct of the indemnified parties. The District shall have the right to accept or reject any legal representation that Contractor proposes to defend the District.

24. **PERMITS AND LICENSES:** Contractor and all of its employees, agents, and subcontractors shall secure and maintain in force, at Contractor’s sole cost and expense, all licenses and permits as are required by law, in connection with the furnishing of materials, supplies, or Services herein listed.
25. **INDEPENDENT CONTRACTOR STATUS:** While engaged in carrying out the Services of this Agreement, the Contractor is an independent Contractor, and not an officer, employee, agent, partner, or joint venture of the District. Contractor shall be solely responsible for its own Worker’s Compensation insurance, taxes, and other similar charges or obligations. Contractor shall be liable for its own actions, including its negligence or gross negligence, and shall be liable for the acts, omissions, or errors of its agents or employees.
26. **ANTI-DISCRIMINATION:** It is the policy of the District that in connection with all work performed under Agreements there be no discrimination against any employee engaged in the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, and therefore the Contractor agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment Practice Act beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, the Contractor agrees to require like compliance by all its subcontractor(s).
27. **DISABLED VETERAN BUSINESS ENTERPRISES:** Section 17076.11 of the Education Code requires school districts using funds allocated pursuant to the State of California School Facility Program for the construction or modernization of a school building (SFP Funds) to have a participation of at least three percent (3%), per year, of the overall dollar amount expended each year by the school district, for disabled veteran business enterprises

(DVBE). If this Agreement uses School Facilities Program Funds, Contractor must submit, with its executed Agreement, appropriate documentation to the District identifying the steps Contractor has taken to solicit DVBE participation in conjunction with this Agreement.

28. **WARRANTY/QUALITY:** Unless a longer warranty is called for elsewhere in the Agreement, Contractor, manufacturer, or their assigned agents shall guarantee the workmanship, product or Services performed against defective workmanship, defects or failures of materials for a minimum period of one (1) year from District’s written approval of the Work. All workmanship and merchandise must be warranted to be in compliance with applicable California energy, conservation, environmental, and educational standards.
29. **CONFIDENTIALITY:** Contractor shall maintain the confidentiality of all information, documents, programs, procedures, and all other items that Contractor encounters while performing the Contractor’s Services to the extent allowed by law. This requirement shall be ongoing and shall survive the expiration or termination of this Agreement and specifically includes all student, parent, and disciplinary information.
30. **COMPLIANCE WITH LAWS:** Contractor shall give all notices and comply with all laws, ordinance, rules and regulations bearing on conduct of the Work as indicated or specified. If Contractor observes that any of the Work required by this Agreement is at variance with any such laws, ordinance, rules or regulations, Contractor shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Contractor’s receipt of a written termination notice from the District. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Contractor shall bear all costs arising therefrom.
31. **LABOR CODE REQUIREMENTS:** Provided that the Contract Price is more than One Thousand Dollars (\$1,000), and the Work is a “public works” under the Labor Code, the parties agree as follows:
 - 31.1. The Work is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
 - 31.2. District hereby provides notice of the requirements described in Labor Code § 1771.1(a) that a Contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, or engage in the performance of any Agreement for public work, unless currently registered and qualified to perform public work pursuant to Labor Code § 1725.5.
 - 31.3. Contractor acknowledges that all or a portion of

the Services under this Agreement are a public work, and that it and its subcontractors have complied with Labor Code § 1725.5, including, without limitation, the registration requirements thereof.

- 31.4. Contractor shall post all required job site notices and shall comply with all applicable requirements prescribed thereby, including but not limited to Labor Code § 1771.4.
- 31.5. Contractor shall comply with all applicable provisions of the Labor Code, Division 3, Part 7, Chapter 1, Articles 1-5, including, without limitation, the payment of the general prevailing per diem wage rates for public work projects of more than One Thousand Dollars (\$1,000).
- 31.6. Copies of the prevailing rate of per diem wages are on file with the District.
- 31.7. Contractor and each subcontractor shall comply with Chapter 1 of Division 2, Part 7 of the Labor Code, beginning with § 1720, and including §§ 1735, 1777.5 and 1777.6, forbidding discrimination, and §§ 1776, 1777.5 and 1777.6 concerning the employment of apprentices by Contractor or subcontractors. Willful failure to comply may result in penalties, including loss of the right to bid on or receive public works Agreements.
32. **PAYROLL RECORDS:** Contractor and its subcontractor(s) shall keep accurate certified payroll records of employees and make them available to the District immediately upon request.
33. **ANTI-TRUST CLAIM:** Contractor and its subcontractor(s) agree to assign to the District all rights, title, and interest in and to all causes of action they may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Agreement or a subcontract. This assignment shall be made and become effective at the time the District tenders final payment to the Contractor, without further acknowledgment by the Parties.
34. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of California with venue of any action in a in the county in which the District's administration office is located.
35. **PROVISIONS REQUIRED BY LAW DEEMED INSERTED:** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
36. **BINDING AGREEMENT:** This Agreement shall be binding upon the Parties hereto and upon their successors and assigns, and shall inure to the benefit of the Parties and their successors and assigns.
37. **DISTRICT WAIVER:** District's waiver of any term, condition, covenant or waiver of a breach of any term, condition or covenant shall not constitute the waiver of any other term, condition or covenant or the waiver of a breach of any other term, condition or covenant.
38. **INVALID TERM:** If any provision of this Agreement 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 valid part, term or provision will be deemed not to be a part of this Agreement.
39. **ENTIRE AGREEMENT:** This Agreement sets forth the entire Agreement between the Parties hereto and fully supersedes any and all prior agreements, understanding, written or oral, between the Parties hereto pertaining to the subject matter thereof. This Agreement may be modified only by a writing evidencing the Parties' mutual consent.

EXHIBIT E
TO SHORT FORM CONSTRUCTION CONTRACT

CLAIM RESOLUTION PROCEDURES

1. **Performance during Claim Resolution Process.** The Contractor shall diligently proceed with Work on the Project at the same time that Claims are addressed under this Article. It is the intent of District to resolve Disputes with the Contractor as close to the events giving rise to the Disputes as possible, and to avoid stale or late Claims and the late documenting of Claims. Contractor's failure to diligently proceed in accordance with the District's instructions or the Contract terms will be considered a material breach of this Agreement and a waiver of Contractor's rights under this Agreement.
2. **Waiver.** If Contractor fails to timely submit any written notices required under the terms of the Contract or in this Claims section, Contractor waives and releases its rights regarding further review of its Claim, unless Contractor and District mutually agree in writing to other time limits.
3. **Intention.** The Claims Resolution Process required herein are intended to provide a concise mechanism for resolving Claims as they arise during the Project, while requiring accurate documentation related to contested issues as to those Claims that are not contemporaneously resolved.
4. **Exclusive Remedy.** Compliance with the notice provisions of the Contract as well as the claim submission procedures described in this Claims section is an express condition precedent to Contractor's right to commence litigation, file a claim under the California Government Code, or commence any other legal action. The Contractor cannot bring assert or bring any Claim in any Government Code claim or subsequent legal action until that Claim has gone through the Claims Resolution Process herein. The District hereby exercises the power conferred upon it by Government Code Sections 930.2 and 930.4 to augment claims presentation procedures and create its own Claims Resolution Process as an exclusive remedy as indicated in this Claims section.
5. **Other Provisions.** If portions of the Contract, other than this Claims section establish a specific process regarding a specific subject, then that process shall govern and control the resolutions of any disagreements thereunder. Otherwise, the provisions in this Claims section shall control the resolution of all Claims.
6. **Subcontractors.** Contractor is responsible for providing this Claims section to its Subcontractors and for ensuring that all

Subcontractors or others who may assert Claims by and through Subcontractors and/or the Contractor are informed of the Claims resolution process in this Claims section. No Claim submitted by any party that fails to follow the provisions of this Claims section will be considered. Contractor shall indemnify, keep and hold harmless the District and its consultants, against all suits, claims, damages, losses, and expenses, including but not limited to attorney's fees, caused by, arising out of, resulting from, or incidental to, the failure to provide this Claims section to its Subcontractors or others who may assert Claims by and through Subcontractors and/or the Contractor.

7. **Claim Resolution Process**

7.1. **Claim, Defined.** As used herein, "Claim" means a separate demand by Contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

7.1.1. A time extension, including, without limitation, for relief from damages or penalties for delay assessed by District under this Agreement;

7.1.2. Payment by the District of money or damages arising from work done by, or on behalf of, Contractor pursuant to the Agreement and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled;

7.1.3. Payment of an amount that is disputed by the District.

7.2. **Claim Initiation.** Every Claim shall be stated with specificity in writing and signed by Contractor under penalty of perjury and presented to the District within ten (10) calendar days from the date Contractor discovers or reasonably should discover, that an act, error or omission of District, its agents or employees, or action, condition or other situation has occurred that may entitle Contractor to file a Claim. Contractor shall provide this writing even if Contractor has not yet been damaged, delayed, or incurred extra cost when Contractor discovers, or reasonably

should discover, the act, error, omission, action, condition or situation giving rise to the incidents giving rise to the Claim. The writing shall:

- 7.2.1.** Identify all of the issues, events, conditions, circumstances and/or causes giving rise to the Claim;
- 7.2.2.** Identify all pertinent dates and/or durations and all actual and/or anticipated effects on the Contract Price, milestones and/or Contract Time adjustments; and
- 7.2.3.** Identify in detail line-item costs if the Claim seeks money.
- 7.2.4.** If the Claim involves extra work, a detailed cost breakdown of the amounts the Contractor is seeking, including actual cost records (including without limitation, payroll records, material and rental invoices and the like) demonstrating that those costs have actually been incurred. To the extent costs have not yet been incurred at the time the Claim is submitted, actual cost records must be submitted on a current basis not less than once a week during any periods costs are incurred. A cost record will be considered current if submitted within seven (7) days of the date the cost reflected in the record is incurred. At the request of District, extra costs may be subject to further verification procedures (such as having an inspector verify the performance of alleged extra work on a daily basis).
- 7.2.5.** If the Claim involves an error or omission in the Agreement:
 - 7.2.5.1.** An affirmative representation under penalty of perjury by Contractor and any affected Subcontractors and suppliers that the error or omission was not discovered prior to submitting a proposal for the Work, and
 - 7.2.5.2.** A detailed statement demonstrating that the

error or omission reasonably should not have been discovered, by Contractor, its Subcontractors and suppliers, prior to submitting a proposal for the Work.

- 7.2.6.** Contractor shall not be entitled to compensation for escalation of materials costs unless Contractor demonstrates to the satisfaction of the District that such cost escalation is the result of unusual, unforeseeable market conditions, not the fault of the Contractor, and were not reasonably foreseeable at the time of the award of the Contract. Contractor shall provide evidence to District of the costs included in the Contract for those materials and that those costs were reasonable at the time and that Contractor timely ordered the materials at issue.
- 7.2.7.** The writing shall be accompanied by all documents substantiating Contractor's position regarding the Claim. A Claim that asserts an effect on any schedule milestones and/or Contract Time shall include all pertinent scheduling data demonstrating the impact(s) on the critical path(s), milestone(s) and/or Contract Time.
- 7.2.8.** Contractor acknowledges that its failure, for any reason, to give written notice (with supporting documentation to permit the District's review and evaluation) within the time frame required by the provisions in this Claims Article, or its actual or constructive knowledge of any instruction, request, Drawings, Specifications, action, condition, omission, default or other situation for which the Contractor believes there should an adjustment of the Contract Price or Contract Time shall be deemed Contractor's waiver, release, discharge and relinquishment of any right to assert, request, or

demand any entitlement to an adjustment of the Contract Time or the Contract Price on account of any such instruction, request, Drawings, Specifications, action, condition, omission, default or other situation. Contractor further acknowledged that strict compliance with the requirements of the provisions in this Claims Article is an express condition precedent to Contractor's right to arbitrate or litigate a claim. Contractor specifically agrees to assert no demands or claims in arbitration or litigation unless there has been strict compliance with the provisions in this Claims Article.

7.3. Response to Claim by District. Upon receipt of a Claim from Contractor, the District shall conduct a reasonable review of the Claim and, within a period not to exceed 45 days, shall provide the Contractor a written statement identifying what portion of the is disputed and what portion is undisputed. Upon receipt of a Claim, the District and Contractor may, by mutual agreement, extend the time period provided in herein.

7.3.1. Extension for Governing Board. If the District needs approval from its governing board to provide the Contractor a written statement identifying the disputed portion and the undisputed portion of the Claim, and the governing board does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a Claim sent by registered mail or certified mail, return receipt requested, the District shall have up to three days following the next duly publicly noticed meeting of the governing board after the 45-day period, or extension, expires to provide the Contractor a written statement identifying the disputed portion and the undisputed portion.

7.3.2. Payment of Undisputed Portion. Any payment due on

an undisputed portion of the 9204 Claim shall be processed and made within 60 days after the District issues its written statement. If the District fails to issue a written statement, the section of this Article bearing the heading *Failure to Respond, infra*, shall apply.

7.4. Meet and Confer Conference. If the Contractor disputes the District's written response, or if the District fails to respond to a Claim issued pursuant to this section within the time prescribed, the Contractor may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the District shall schedule a meet and confer conference within 30 days for settlement of the dispute.

7.5. Written Statement of Dispute by District and Nonbinding Mediation. Within 10 business days following the conclusion of the meet and confer conference, if the Claim or any portion of the Claim remains in dispute, the District shall provide the Contractor a written statement identifying the portion of the Claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after the District issues its written statement. Any disputed portion of the Claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the District and the Contractor sharing the associated costs equally. The District and Contractor shall mutually agree to a mediator within 10 business days after the disputed portion of the Claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the Claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the Claim remaining in dispute shall be subject to applicable procedures outside this section.

7.6. Failure to Respond. Failure by the District to respond to a Claim from Contractor within the time periods described in this Section 25.10 or to otherwise meet the time requirements of this Section 25.10 shall result in the Claim being deemed rejected in its entirety. A Claim that is denied by reason of the District's failure to have responded to a Claim, or its failure to otherwise meet the time requirements of this Section 25.10, shall not constitute an adverse finding with regard to the merits of the Claim or the responsibility or qualifications of the Contractor.

7.7. Litigation. If, after a mediation as indicated above, the parties have not resolved the Claim, the receiving party's decision made pursuant to mediation will be conclusive and binding regarding the Dispute unless the submitting party commences an action in a court of competent jurisdiction to contest such decision within ninety (90) days following the conclusion of such mediation or one (1) year following the accrual of the cause of action, whichever is later.

7.8. False Claims. The District shall be entitled to remedy any false claims, as defined in California Government Code section 12650 *et seq.*, made to the District by the Contractor or any Subcontractor under the standards set forth in Government Code section 12650 *et seq.* Any Contractor or Subcontractor who submits a false claim shall be liable to the District for three times the amount of damages that the District sustains because of the false claim. A Contractor or Subcontractor who submits a false claim shall also be liable to the District for (a) the costs, including attorney fees, of a civil action brought to recover any of those penalties or damages, and (b) a civil penalty of up to \$11,000 for each false claim.

8. Documentation of Resolution. If a Claim is resolved, the District shall determine if that resolution shall be documented in an Agreement and Release of Any and All Claims form or other document, as appropriate.

9. Claim Resolution Process – Non-Applicability. The procedures and provisions in this Claims section shall not apply to:

9.1. District's determination of what Work is or will be constructed, or whether the Work complies with the Agreement for purposes of accepting the Work;

9.2. District's rights and obligations as a public entity, such as, but without limitation, the revocation of pre-qualified or qualified status, barring a contractor from District contracts, the imposition of penalties or forfeitures prescribed by statute or regulation; provided, however, that penalties imposed against a public entity by statutes such as Section 7107 of the Public Contract Code, shall be subject to the mandatory dispute resolution provisions of this Claims section and the Contract;

9.3. Personal injury, wrongful death or property damage claims;

9.4. Latent defect or breach of warranty or guarantee to repair;

9.5. Stop notices or stop payment notices; or

9.6. Any other District rights as set forth herein.

10. Reprinting of Pub. Contract Code, § 9204.

Pub. Contract Code, § 9204 is reprinted below:

[Start Pub. Contract Code, § 9204] [Effective January 1, 2017]

(a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.

(b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.

(c) For purposes of this section:

(1) "Claim" means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) Payment of an amount that is disputed by the public entity.

(2) "Contractor" means any type of contractor within the meaning of Chapter 9 (commencing

with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.

(3)

(A) "Public entity" means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(B) "Public entity" shall not include the following:

(i) The Department of Water Resources as to any project under the jurisdiction of that department.

(ii) The Department of Transportation as to any project under the jurisdiction of that department.

(iii) The Department of Parks and Recreation as to any project under the jurisdiction of that department.

(iv) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(v) The Military Department as to any project under the jurisdiction of that department.

(vi) The Department of General Services as to all other projects.

(vii) The High-Speed Rail Authority.

(4) "Public works project" means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

(5) "Subcontractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier

subcontractor.

(d)

(1)

(A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

(B) The claimant shall furnish reasonable documentation to support the claim.

(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.

(2)

(A) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public

entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public

entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

(e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.

(f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

(g) This section applies to contracts entered into on or after January 1, 2017.

(h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

(i) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

[End Pub. Contract Code, § 9204]

EXHIBIT F
TO SHORT FORM CONSTRUCTION CONTRACT

CERTIFICATIONS AND BONDS

PREVAILING WAGE CERTIFICATION

I hereby certify that I will conform to the State of California Public Works Agreement requirements regarding prevailing wages, benefits, on-site audits with Forty-Eight (48) hours' notice, payroll records, and apprentice and trainee employment requirements, for all Work on the above Project.

Date: _____
Legal Name of Contractor: _____
Signature: _____
Print Name: _____
Title: _____

WORKERS' COMPENSATION CERTIFICATION

Labor Code section 3700 in relevant part 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 by 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, 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 employees.

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

Date: _____
Legal Name of Contractor: _____
Signature: _____
Print Name: _____
Title: _____

(In accordance with Article 5 - commencing at section 1860, chapter 1, part 7, division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any Work under this Agreement.)

CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION

The undersigned does hereby certify to the governing board of the District that (1) he/she is a representative of the Contractor, (2) he/she is familiar with the facts herein certified, (3) he/she is authorized and qualified to execute this certificate on behalf of Contractor; and (4) that the following is true and correct:

1. **Education Code.** Contractor has taken at least one of the following actions with respect to the Project (check all that apply):

_____ The Contractor has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Contractor's employees and all of its subcontractors' employees who may have contact with District pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of Contractor's employees and of all of its subcontractors' employees who may come in contact with District pupils during the course and scope of the Agreement is attached hereto; and/or

_____ Pursuant to Education Code section 45125.2, Contractor has installed or will install, prior to commencement of work, a physical barrier at the Project site, that will limit contact between Contractor's employees and District pupils at all times; and/or

_____ Pursuant to Education Code section 45125.2, Contractor certifies that all employees will be under the continual supervision of, and monitored by, an employee of the Contractor who the California Department of Justice has ascertained has not been convicted of a violent or serious felony. The name and title of the employee who will be supervising Contractor's employees and its subcontractors' employees is:

Name: _____ **Title:** _____

_____ The Work on the Agreement is at an unoccupied school site and no employee and/or subcontractor or supplier of any tier of Agreement shall come in contact with the District pupils.

2. **Megan's Law (Sex Offenders).** I have verified and will continue to verify that the employees of Contractor that will be on the Project site and the employees of the Subcontractor(s) that will be on the Project site are **not** listed on California's "Megan's Law" Website (<http://www.meganslaw.ca.gov/>).

Contractor's responsibility for background clearance extends to all of its employees, subcontractors, and employees of subcontractors coming into contact with District pupils regardless of whether they are designated as employees or acting as independent Contractors of the Contractor.

Date: _____

Print Name: _____

Contractor Legal Name: _____

Title: _____

Signature: _____

ASBESTOS AND OTHER HAZARDOUS MATERIALS CERTIFICATION

Contractor hereby certifies that no Asbestos, or Asbestos-Containing Materials, polychlorinated biphenyl (PCB), or any material listed by the federal or State Environmental Protection Agency or federal or State health agencies as a hazardous material, or any other material defined as being hazardous under federal or State laws, rules, or regulations (“New Material Hazardous”) shall be furnished, installed, or incorporated in any way into the Project or in any tools, devices, clothing, or equipment used to affect any portion of Contractor's work on the Project for District.

Contractor further certifies that it has instructed its employees with respect to the above-mentioned standards, hazards, risks, and liabilities.

Asbestos and/or asbestos-containing material shall be defined as all items containing but not limited to chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite. Any or all material containing greater than one-tenth of one percent (.1%) asbestos shall be defined as asbestos-containing material.

Any disputes involving the question of whether or not material is New Hazardous Material shall be settled by electron microscopy or other appropriate and recognized testing procedure, at the District’s determination. The costs of any such tests shall be paid by Contractor if the material is found to be New Hazardous Material.

All Work or materials found to be New Hazardous Material or Work or material installed with “New Hazardous Material” containing equipment will be immediately rejected and this Work will be removed at Contractor's expense at no additional cost to the District.

Contractor has read and understood the document Hazardous Materials Procedures and Requirements, and shall comply with all the provisions outlined therein.

Date: _____

Legal Name of Contractor: _____

Signature: _____

Print Name: _____

Title: _____

HAZARDOUS MATERIALS PROCEDURES AND REQUIREMENTS

1. **Summary.** This document includes information applicable to hazardous materials and hazard waste abatement.
2. **Notice of Hazardous Waste or Materials Conditions**
 - 2.1. Contractor shall give written notice to District, Construction Manager, and Architect promptly, before any of the following conditions are disturbed, and in no event later than twenty-four (24) hours after first observance, of any:
 - 2.1.1. Material that Contractor believes may be material that is hazardous waste or hazardous material, as defined in section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law;
 - 2.1.2. Other material that may present a substantial danger to persons or property exposed thereto in connection with Work at the Project Site.
 - 2.2. Contractor's written notice shall indicate whether the hazardous waste or material was shown or indicated in the Agreement to be within the scope of Work, and whether the materials were brought to the site by Contractor, its Subcontractors, suppliers, or anyone else for whom Contractor is responsible. As used in this section, the term "hazardous materials" shall include, without limitation, asbestos, lead, Polychlorinated biphenyl (PCB), petroleum and related hydrocarbons, and radioactive material.
 - 2.3. In response to Contractor's written notice, the District shall investigate the identified conditions.
 - 2.4. If District determines that conditions do not involve hazardous materials or that no change in terms of Contract is justified, District shall so notify Contractor in writing, stating reasons. If District and Contractor cannot agree on whether conditions justify an adjustment in Contract Price or Contract Time, or on the extent of any adjustment, Contractor shall proceed with the Work as directed by District.
 - 2.5. If after receipt of notice from District, Contractor does not agree to resume Work based on a reasonable belief it is unsafe, or does not agree to resume Work under special conditions, then District may order that portion of Work connected with the hazardous condition or affected area, be deleted from the Work, or performed by others, or District may invoke its rights to terminate the Contract in whole or in part. District will determine entitlement to or the amount or extent of an adjustment, if any, in Contract Price or Contract Time as a result of deleting such portion of Work, or performing the Work by others.
 - 2.6. If Contractor stops Work in connection with any hazardous condition and in any area affected thereby, Contractor shall immediately redeploy its workers, equipment, and materials, as necessary, to other portions of the Work to minimize delay and disruption.
3. **Additional Warranties and Representations**
 - 3.1. Contractor represents and warrants that it, its employees, and its subcontractors and their employees, shall at all times have the required levels of familiarity with the Project Site and the Work, training, and ability to comply fully with all applicable law and contract requirements for safe and expeditious performance of the Work, including whatever training is or may be required regarding the activities to be performed (including, but not limited to, all training required to address adequately the actual or potential dangers of Contract performance).
 - 3.2. Contractor represents and warrants that it, its employees, and its subcontractors and their employees, shall at all times have and maintain in good standing any and all certifications and licenses required by applicable federal, State, and other governmental and quasi-governmental requirements applicable to the Work.
 - 3.3. Contractor represents and warrants that it has studied carefully all requirements of the Specifications regarding procedures for demolition, hazardous waste abatement, or safety practices, specified in the Contract, and prior to submitting its bid, has either (a) verified to its satisfaction that the specified procedures are adequate and sufficient to achieve the results intended by the Agreement, or (b) by way of approved "or equal" request or request for clarification and written Addenda, secured changes to the specified procedures sufficient to achieve the

results intended by the Agreement. Contractor accepts the risk that any specified procedure will result in a completed Project in full compliance with the Agreement.

4. Monitoring and Testing

- 4.1. District reserves the right, in its sole discretion, to conduct air monitoring, earth monitoring, Work monitoring, and any other tests (in addition to testing required under the agreement or applicable law), to monitor Contract requirements of safe and statutorily compliant work methods and (where applicable) safe re-entry level air standards under State and federal law upon completion of the job, and compliance of the work with periodic and final inspection by public and quasi-public entities having jurisdiction.
- 4.2. Contractor acknowledges that District has the right to perform, or cause to be performed, various activities and tests including, but not limited to, pre-abatement, during abatement, and post-abatement air monitoring, that District shall have no obligation to perform said activities and tests, and that a portion of said activities and tests may take place prior to the completion of the Work by Contractor. In the event District elects to perform these activities and tests, Contractor shall afford District ample access to the Site and all areas of the Work as may be necessary for the performance of these activities and tests. Contractor will include the potential impact of these activities or tests by District in the Contract Price and the Scheduled Completion Date.
- 4.3. Notwithstanding District's rights granted by this paragraph, Contractor may retain its own industrial hygiene consultant at Contractor's own expense and may collect samples and perform tests including, but not limited to, pre-abatement, during abatement, and post-abatement personal air monitoring, and District reserves the right to request documentation of all such activities and tests performed by Contractor relating to the Work and Contractor shall provide that documentation immediately upon request, but in no event later than THREE (3) days upon request.

5. Compliance with Laws

- 5.1. Contractor shall perform safe, expeditious, and orderly work in accordance with the best practices and the highest standards in the hazardous waste abatement, removal, and disposal industry, the applicable law, and the Agreement, including, but not limited to, all

responsibilities relating to the preparation and return of waste shipment records, all requirements of the law, delivering of all requisite notices, and obtaining all necessary governmental and quasi-governmental approvals.

- 5.2. Contractor represents that it is familiar with and shall comply with all laws applicable to the Work or completed Work including, but not limited to, all federal, State, and local laws, statutes, standards, rules, regulations, and ordinances applicable to the Work relating to:

- 5.2.1. The protection of the public health, welfare and environment;

- 5.2.2. Storage, handling, or use of asbestos, PCB, lead, petroleum based products or other hazardous materials;

- 5.2.3. The generation, processing, treatment, storage, transport, disposal, destruction, or other management of asbestos, PCB, lead, petroleum, or hazardous waste materials or other waste materials of any kind; and

- 5.2.4. The protection of environmentally sensitive areas such as wetlands and coastal areas.

6. Disposal

- 6.1. Contractor has the sole responsibility for determining current waste storage, handling, transportation, and disposal regulations for the Project Site and for each waste disposal facility. Contractor must comply fully at its sole cost and expense with these regulations and any applicable law. District may, but is not obligated to, require submittals with this information for it to review consistent with the Agreement.
- 6.2. Contractor shall develop and implement a system acceptable to District to track hazardous waste from the Project Site to disposal, including appropriate "Hazardous Waste Manifests" on the EPA form, so that District may track the volume of waste deposited in each landfill and receive from each facility a certificate of receipt.
- 6.3. Contractor shall provide District with the name and address of each waste disposal facility prior to any disposal, and District shall have the right to reject any proposed disposal facility. Contractor shall not use any disposal facility to which District has objected. Contractor shall document actual disposal or destruction of waste at a designated facility by completing a disposal

certificate or certificate of destruction forwarding the original to District.

7. Permits

7.1. Before performing any of the Work, and at such other times as may be required by applicable law, Contractor shall deliver all requisite notices and obtain the approval of all governmental and quasi-governmental authorities having jurisdiction over the Work. Contractor shall submit evidence satisfactory to District that Contractor and any disposal facility:

7.1.1. have obtained all required permits, approvals, and the like in a timely manner both prior to commencement of the Work and thereafter as and when required by applicable law, and

7.1.2. are in compliance with all such permits, approvals and the regulations.

For example, before commencing any work in connection with the Work involving asbestos-containing materials, or PCBs, or other hazardous materials subject to regulation, Contractor agrees to provide the required notice of intent to renovate or demolish to the appropriate State or federal agency having jurisdiction, by certified mail, return receipt requested, or by some other method of transmittal for which a return receipt is obtained, and to send a copy of that notice to District. Contractor shall not conduct any Work involving asbestos-containing materials or PCBs unless Contractor has first confirmed that the appropriate agency having jurisdiction is in receipt of the required notification. All permits, licenses, and bonds that are required by governmental or quasi-governmental authorities, and all fees, deposits, tap fees, offsite easements, and asbestos and PCB disposal facilities expenses necessary for the prosecution of the Work, shall be procured and paid for by Contractor. Contractor shall give all notices and comply with the all applicable laws bearing on the conduct of the

Work as drawn and specified. If Contractor observes or reasonably should have observed that Plans and Specifications and other components of the Agreement are at variance therewith, it shall be responsible for promptly notifying District in writing of such fact. If Contractor performs any Work contrary to applicable laws, it shall bear all costs arising therefrom.

7.2. In the case of any permits or notices held in District's name or of necessity to be made in District's name, District shall cooperate with Contractor in securing the permit or giving the notice, but the Contractor shall prepare for District review and execution upon approval, all necessary applications, notices, and other materials.

8. Indemnification. To the extent permitted by law, the indemnity obligations, defense obligations, and limitations of liability expressed in the Agreement apply with equal force and effect to any claims or liabilities imposed or existing by virtue of the removal, abatement, and disposal of hazardous waste. This includes, but is not limited to, liabilities connected to the selection and use of a waste disposal facility, a waste transporter, personal injury, property damage, loss of use of property, damage to the environment or natural resources, or “disposal” and “release” of materials associated with the Work (as defined in 42 U.S.C. §§ 9601 et seq.).

9. Termination. District shall have an absolute right to terminate for default immediately without notice and without an opportunity to cure should Contractor knowingly or recklessly commit a material breach of the terms of the Agreement, or any applicable law, on any matter involving the exposure of persons or property to hazardous waste. However, if the breach of contract exposing persons or property to hazardous waste is due solely to an ordinary, unintentional, and non-reckless failure to exercise reasonable care, then the Agreement’ provisions related to termination for cause shall apply without modification.

LEAD-PRODUCT(S) CERTIFICATION

California Occupational Safety and Health Administration (CalOSHA), Environmental Protection Agency (EPA), California Department of Health Services (DHS), California Department of Education (CDE), and the Consumer Product Safety Commission (CPSC) regulate lead-containing paint and lead products. 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 1993 are presumed to contain some lead-based paint until sampling proves otherwise.

The CDE mandates that school districts utilize DHS lead-certified personnel when a lead-based hazard is identified. Examples of lead-certified personnel include: project designers, inspectors, and abatement workers. Furthermore, since 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**). Any and all Work which may result in the disturbance of lead-containing building materials must be coordinated through the District.

The California Education Code also prohibits the use or import of lead-containing paint, lead plumbing and solders, or other potential sources of lead contamination in the construction of any new school facility or in the modernization or renovation of any existing school facility. 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.

If failure to comply with these laws, rules, and regulations 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 Agreement, 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 UNDERSIGNED HEREBY ACKNOWLEDGES, UNDER PENALTY OF PERJURY, THAT HE OR SHE HAS RECEIVED NOTIFICATION OF POTENTIAL LEAD-BASED MATERIALS ON THE OWNER’S PROPERTY, AS WELL AS THE EXISTENCE OF APPLICABLE LAWS, RULES AND REGULATIONS GOVERNING WORK WITH, AND DISPOSAL OF, SUCH MATERIALS WITH WHICH IT MUST COMPLY. THE UNDERSIGNED ALSO WARRANTS THAT HE OR SHE HAS THE AUTHORITY TO SIGN ON BEHALF OF AND BIND THE CONTRACTOR.

Date: _____

Legal Name of Contractor: _____

Signature: _____

Print Name: _____

Title: _____

PERFORMANCE BOND

PERFORMANCE BOND (100% of Contract Price)

(Note: Contractors must use this form, NOT a surety company form.)

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the governing board (“Board”) of the Yuba City Unified School District (“District”) and _____ (“Principal”) have entered into a contract for the furnishing of all materials and labor, services and transportation, necessary, convenient, and proper to perform the following project:

Tierra Buena Exterior/Interior Painting
Project No.: 311-01-18

which Agreement dated _____ and all of the Contract Documents attached to or forming a part of the Agreement, are hereby referred to and made a part hereof, and

WHEREAS, said Principal is required under the terms of the Agreement to furnish a bond for the faithful performance of the Agreement;

NOW, THEREFORE, the Principal and _____ (“Surety”) are held and firmly bound unto the Board of the District in the penal sum of:

_____ (\$ _____),

lawful money of the United States, for the payment of which sum well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally, firmly by these presents, to:

- Perform all the work required to complete the Project; and
- Pay to the District all damages the District incurs as a result of the Principal’s failure to perform all the Work required to complete the Project.

The condition of the obligation is such that, if the above bounden Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, and agreements in the Agreement and any alteration thereof made as therein provided, on his or its part to be kept and performed at the time and in the intent and meaning, including all contractual guarantees and warranties of materials and workmanship, and shall indemnify and hold harmless the District, its trustees, officers and agents, as therein stipulated, then this obligation shall become null and void, otherwise it shall be and remain in full force and virtue.

As a condition precedent to the satisfactory completion of the Agreement, the above obligation shall hold good for a period equal to the warranty and/or guarantee period of the Agreement, during which time Surety’s obligation shall continue if Contractor shall fail to make full, complete, and satisfactory repair, replace, and totally protect the District from loss or damage resulting from or caused by defective materials or faulty workmanship. The obligations of Surety hereunder shall continue so long as any obligation of Contractor remains. Nothing herein shall limit the District’s rights or the Contractor’s or Surety’s obligations under the Agreement, law or equity, including, but not limited to, California Code of Civil

Procedure section 337.15.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Agreement or to the Work to be performed thereunder shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the Contract Documents or to the Work.

Any claims under this bond may be addressed to the Surety at the following address. This cannot be the Contractor’s broker for this bond, but must be an employee of the Surety or the Surety’s legal counsel:

Attention: _____

Telephone No.: (____) ____-_____

Fax No.: (____) ____-_____

E-mail Address: _____

IN WITNESS WHEREOF, two (2) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the _____ day of _____, 20____.

Principal

Surety

(Name of Principal)

(Name of Surety)

(Signature of Person with Authority)

(Signature of Person with Authority)

(Print Name)

(Print Name)

(Name of California Agent of Surety)

(Address of California Agent of Surety)

(Telephone Number of California Agent of Surety)

Contractor must attach a Notarial Acknowledgment for all Surety's signatures and a Power of Attorney and Certificate of Authority for Surety. The California Department of Insurance must authorize the Surety to be an admitted surety insurer.

PAYMENT BOND

Contractor's Labor and Material Bond (100% of Contract Price)
(Note: Contractors must use this form, NOT a surety company form.)

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the governing board (“Board”) of the Yuba City Unified School District (“District”) and _____ (“Principal”) have entered into a contract for the furnishing of all materials and labor, services and transportation, necessary, convenient, and proper to perform the following project:

Tierra Buena Exterior/Interior Painting
Project No.: 311-01-18

which Agreement dated _____, and all of the Contract Documents attached to or forming a part of the Agreement, are hereby referred to and made a part hereof, and

WHEREAS, pursuant to law and the Agreement, the Principal is required, before entering upon the performance of the work, to file a good and sufficient bond with the body by which the Agreement is awarded in an amount equal to 100 percent (100%) of the Contract Price, to secure the claims to which reference is made in sections 3179 through 3214 and 3247 through 3252 of the Civil Code of California, and division 2, part 7, of the Labor Code of California.

NOW, THEREFORE, the Principal and _____, (“Surety”) are held and firmly bound unto all laborers, material men, and other persons referred to in said statutes in the penal sum of:

_____ (\$ _____),

lawful money of the United States, being a sum not less than the total amount payable by the terms of Agreement, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns, jointly and severally, by these presents.

The condition of this obligation is that if the Principal or any of his or its subcontractors, of the heirs, executors, administrators, successors, or assigns of any, all, or either of them shall fail to pay for any labor, materials, provisions, provender, or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that the Surety will pay the same in an amount not exceeding the amount herein above set forth, and also in case suit is brought upon this bond, will pay a reasonable attorney's fee to be awarded and fixed by the Court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under sections 3179 through 3214 and 3247 through 3252 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void; otherwise it shall be and remain in full force and affect.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Agreement or to the Work to be performed thereunder shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the Contract Documents or to the Work.

IN WITNESS WHEREOF, two (2) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the _____ day of _____, 20__.

Principal

Surety

(Name of Principal)

(Name of Surety)

(Signature of Person with Authority)

(Signature of Person with Authority)

(Print Name)

(Print Name)

(Name of California Agent of Surety)

(Address of California Agent of Surety)

(Telephone Number of California Agent of Surety)

Contractor must attach a Notarial Acknowledgment for all Surety's signatures and a Power of Attorney and Certificate of Authority for Surety. The California Department of Insurance must authorize the Surety to be an admitted surety insurer.