

ONTARIO-MONTCLAIR SCHOOL DISTRICT  
950 West D Street, Ontario, California 91762

PROPOSAL AND FIELD CONTRACT

Project: \_\_\_\_\_

THIS CONTRACT made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2021, by and between, \_\_\_\_\_ hereinafter called the "CONTRACTOR" and Ontario-Montclair School District, herein after called the "DISTRICT." WITNESSETH: The parties do hereby contract and agree as follows:

1. The CONTRACTOR shall complete all work related to the project in the following amount: \_\_\_\_\_
2. The term of this contract shall be \_\_\_\_ calendar days from issuance of Purchase Order.
3. Payment Schedule: Payments to be made upon satisfactory completion of and acceptance of work and receipt of invoice.
4. Inspection shall be performed by an assigned representative of the DISTRICT.
5. The Contract includes the terms and conditions as printed and set forth herein. The CONTRACTOR, by executing this Agreement, agrees to comply with such terms and conditions and Purchase Order.
6. The CONTRACTOR shall guarantee all labor and materials used in the performance of this contract for a period of 365 calendar days from the date of acceptance by the DISTRICT.
7. IN WITNESS WHEREOF, the parties hereto have subscribed to this Agreement, including all Contract documents indicated below:
  - Submission of unconditional waiver and release in substantially the form set forth in California Civil Code section 3262 must be submitted to the DISTRICT within three (3) calendar days from request by DISTRICT.
  - CONTRACTOR is required to provide a payment bond using the form provided by the DISTRICT for any project which exceeds \$25,000. Said bond must be from a California admitted surety insurer pursuant to California Civil Procedure Code section 995.120.**
  - For project which exceeds \$15,000, Contractor shall be paid a sum equal to ninety-five percent (95%) of the value of the work performed until Notice of Completion is filed by the District.**
  - Worker's Compensation Certificate (Must be submitted to DISTRICT prior to commencing work).
  - General Liability Insurance in amount of \$1,000,000.
  - Asbestos Hazard Emergency Response Act (AHERA) & Lead Based Paint compliance:**
    - Prior to starting any construction work at a District facility (including demolition, drilling/penetrating, cutting/tearing, screwing/unscrewing, sanding, scraping, or other similar activities) the following requirements must be met:**
      1. **Contact the Facilities Planning and Operations Department (909-418-6966) to discuss the project and the planned method of construction or installation to occur.**
      2. **Receive and review the District's Asbestos Hazard Emergency Response Act (AHERA) Management Plan Book that identifies the known location(s) of asbestos and/or lead-based paint containing materials for the subject site to confirm these materials will not be disturbed during the course of your work.**
      3. **Obtain authorization from the Facilities Planning and Operations Department.**
  - Proposal.
  - Drug Free Workplace certification form.
  - In accordance with the Subletting and Subcontractors Fair Practices Act, if CONTRACTORS use subcontractors which exceed one-half one percent of the contract amount are required to submit, with its proposal, a Designation of Subcontractors.
  - CONTRACTOR Fingerprinting Requirements Certification (Must be submitted to DISTRICT prior to commencing work).
  - Guarantee
  - Other: See paragraph 34 Hours of Work**
8. The undersigned certifies that all owners and employees who may come in contact with pupils and are required by California Education Code Section 45125.1 to submit or have their fingerprints submitted to the Department of Justice have now done so, that I have received and reviewed the report and that none of the foregoing have been convicted of a felony as defined in California Education Code Section 45122.1. The Ontario-Montclair School District is entitled to rely upon this representation. Contractor hereby agrees to indemnify Ontario-Montclair School District for any and all claims, damages, suits and liability that arise out of, relate to or is associated with a failure of Contractor to comply with California Education Code Section 45125.1 or with a failure to exercise reasonable care with respect to proper selection and/or supervision of Contractor's employees who may come in contact with pupils.
9. The undersigned hereby warrants that he/she has an appropriate license, in accordance with the CONTRACTORS' State License Law commencing at California Business and Professions Code section 7000; that such license will be in full force and effect throughout the duration of performance under this contract; and that any and all subcontractors to be employed will have appropriate licenses. Undersigned further certifies under penalty of Perjury in accordance with the State of California that all information submitted in connection with this Field Contract and all representations herein made are true and correct.

**CONTRACTOR**

**ONTARIO-MONTCLAIR SCHOOL DISTRICT**

By: \_\_\_\_\_ Date: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name & Title: \_\_\_\_\_

Print Name & Title: Brooke Murray

Address: \_\_\_\_\_

Title: Director, Facilities Planning & Operations

Phone Number: \_\_\_\_\_

Phone Number: 909-418-6366

Tax ID or SSN: \_\_\_\_\_

Contractor State License Number(s) & Expiration Date(s): \_\_\_\_\_

**ONTARIO-MONTCLAIR SCHOOL DISTRICT**  
**950 West D Street, Ontario, California 91762**

**TERMS AND CONDITIONS**

1. **EQUIPMENT AND LABOR:** The CONTRACTOR shall furnish all tools, equipment, apparatus, facilities, transportation, labor and material necessary to furnish the service herein described, the service to be performed at such times and places as directed by and subject to the approval of the authorized district representative indicated in the specifications.
2. **SUBCONTRACTOR:** Subcontractors, if any, engaged by the CONTRACTOR for this service shall be subject to the written approval of the DISTRICT prior to any such subcontractor performing any work. CONTRACTOR shall be held responsible for all operations of subcontractors and shall require them to maintain adequate Worker's Compensation and public liability insurance.
3. **SAFETY AND SECURITY:** It shall be the responsibility of the CONTRACTOR to ascertain from the DISTRICT, the rules and regulations pertaining to safety, security and driving on school grounds, particularly when children are present.
4. **DEFAULT BY CONTRACTOR:** Failure to comply with any of the terms and/or conditions of this contract shall constitute default by the CONTRACTOR.
5. **CONTRACT CHANGES:** No changes or alterations to this contract shall be made without specific prior approval by the DISTRICT; and in no event shall the change or alteration exceed 10% of Contract and/or Purchase Order.
6. **DOCUMENT CONFLICT:** In case of conflict between specifications and drawings and/or actual site conditions, work shall immediately cease until the conflict is resolved by a DISTRICT representative.
7. **WORKMEN:**
  - a. CONTRACTOR shall at all times enforce strict discipline and good order among his employees and shall not employ to work any unfit person or anyone not skilled in work assigned to him.
  - b. Any person in the employ of the CONTRACTOR whom the DISTRICT may deem incompetent or unfit shall be dismissed from work and shall not again be employed on it except with written consent of the DISTRICT.
8. **LABOR CODE:** CONTRACTOR shall comply with the applicable provisions of the Labor Code, Division 2, Part 7, Ch. 1, Articles 1-5, including the payment of the general prevailing rates. Copies of the prevailing rate of per diem wages are on file in the District's Purchasing Department located at 950 West D Street, Ontario, California 91762  
CONTRACTOR shall maintain for audit by the DISTRICT, certified payroll records applicable to this Contract, stating wage rates, trades, payments made and employee signatures. Copies of these records shall be furnished to the DISTRICT upon request.
9. **ANTI-DISCRIMINATION:** It is the Policy of the Ontario-Montclair School DISTRICT Board of Trustees that in connection with all work performed under Construction and Purchasing Contracts, there be no discrimination against any employee engaged in the work because of race, color, ancestry, sex, national origin, religious creed, physical disability, mental disability, medical condition or marital 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 subcontractors employed on the work by him.
10. **SUBSTITUTIONS:** No substitutions of materials specified shall be made without the prior approval of the DISTRICT.
11. **CONTRACTOR SUPERVISION:** CONTRACTOR shall provide competent supervision of personnel employed on the job, use of equipment and quality of workmanship.
12. **PROTECTION OF WORK & PROPERTY:** The CONTRACTOR shall erect and properly maintain at all times, as required by conditions and progress of work, all necessary safeguards, signs, barriers, lights and watchmen for protection of workmen and the public and shall post danger signs warning against hazards created by such features in the course of construction. 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 hereby permitted to act, at his discretion, to prevent such threatened loss or injury.
13. **ACCESS TO WORK:** DISTRICT representative shall at all times have access to work, wherever it is in preparation or progress. CONTRACTOR shall provide safe and proper facilities for such access.
14. **ASSIGNMENT OF CONTRACT AND/OR PURCHASE ORDER:** The CONTRACTOR shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of the DISTRICT.
15. **OCCUPANCY:** DISTRICT reserves the right to occupy buildings at any time before contract completion, and such occupancy shall not constitute final

acceptance of any part of the work covered by the Contract or Purchase Order, not shall such occupancy extend the date specified for completion of the work

16. **FORCE MAJEURE CLAUSE:** The parties to the Contract shall be excused from performance thereunder during the time and to the extent that they are prevented from obtaining, delivering or performing by act of God, fire, strike, loss or shortage of transportation facilities, lock-out, commandeering of materials, products, plants or facilities by the government, when satisfactory evidence thereof is presented to the DISTRICT, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the party not performing
17. **HOLD HARMLESS CLAUSE:** The CONTRACTOR agrees to and does hereby indemnify and hold harmless the DISTRICT, its officers, agents and employees from every claim or demand made, and every liability, loss damage or expense, of any nature whatsoever, which may be incurred by reason of:
  - a. Liability for damage for (1) death or bodily injury to persons, (2) injury to, loss or theft of property, or (3) any other loss, damage or expense arising under either (1) or (2) above, sustained by the CONTRACTOR or any person, firm or corporation employed by the CONTRACTOR upon or in connection with the work called for in this Agreement, except for liability resulting from the sole negligence or willful misconduct of the DISTRICT, its officers, employees, agents or independent CONTRACTORS who are directly employed by the DISTRICT; and
  - b. Any injury to or death of persons or damage to property caused by any act, neglect, default or omission of the CONTRACTOR, or any person, firm or corporation employed by the CONTRACTOR, either directly or by independent contract, including all damages due to loss or theft, sustained by any person, firm or corporation, including the DISTRICT, arising out of, or in any way connected with the work covered by this Agreement, whether said injury or damage occurs either on or off said DISTRICT property, if the liability arose from the negligence or willful misconduct of anyone employed by the CONTRACTOR, either directly or by independent contract.
  - c. Any liability which may arise from the furnishing or use of any copyrighted or uncopied composition, secret process or patented or unpatented invention, under the Contract or Purchase Order.
  - d. The CONTRACTOR, at his own expense, cost and risk, shall defend any and all actions, suits or other proceedings that may be brought or instituted against the DISTRICT, its officers, agents or employees, on any such claim, demand or liability, and shall pay or satisfy any judgment that may be rendered against the DISTRICT, its officers, agents or employees in any action, suit or other proceedings as a result thereof.
18. **INSURANCE:** The CONTRACTOR and every subcontractor shall be required to maintain workers' compensation insurance in accordance with California Labor Code section 3700. The CONTRACTOR shall also maintain public liability and property damage insurance in an amount not less than \$1,000,000 per occurrence (naming the DISTRICT as an additional insured) insuring against claims for damages for personal injury, including death, and damage to property, which may arise from the CONTRACTOR's operations under the Contract or Purchase Order. Such insurance shall be with an insurance company qualified to do business in California and rated "A" or better by Best's Key Rating Guide.  
The CONTRACTOR shall require its subcontractors, if any, to take out and maintain similar public liability and property damage insurance in like amounts.  
The CONTRACTOR shall not commence work nor shall it allow any subcontractor to commence work under the contract or Purchase Order until all required insurance, certificates and endorsements have been obtained, delivered and approved by the DISTRICT.
19. **PAYMENT:** Unless otherwise specified, the CONTRACTOR shall render invoices in duplicate for materials delivered or services performed under the Contract. The DISTRICT shall make payment for materials, supplies or other services furnished under this Contract within a reasonable and proper time after acceptance thereof by the authorized DISTRICT representative.
20. **PERMITS AND LICENSES:** The CONTRACTOR and all of his employees or agents shall secure and maintain in force such licenses and permits as are required by law, in connection with the furnishing of materials, supplies or services herein listed.
21. **CONTRACTOR NOT OFFICER, EMPLOYEE OR AGENT OF DISTRICT:** While engaged in carrying out the terms and conditions of the purchase order or contract, the CONTRACTOR is an independent CONTRACTOR, and not an officer, employee or agent of the DISTRICT.
22. **CLEAN-UP:** The CONTRACTOR shall be responsible for the removal of all debris from the premises. The CONTRACTOR shall ensure that the job-site is free of debris at all times when work is not actually being performed.

23. DISTRICT TOBACCO FREE POLICY: CONTRACTOR is hereby notified that this is a tobacco free DISTRICT. No tobacco products are permitted while on any DISTRICT site.
24. AUDIT Pursuant to an in accordance with the provisions of Government code section 8546.7, or any amendments thereto, all books, records and files of the DISTRICT, CONTRACTOR, or any subcontractor connected with the performance of the Contract or Purchase Order involving the expenditure of public funds in excess of \$10,000 including, but not limited to, the administration thereof, shall be subject to the examination and audit of the Office of the Auditor General of the State of California for a period of three (3) years after final payment is made under the contract or Purchase Order. The CONTRACTOR shall preserve and cause to be preserved such books, records and files for the audit period.
25. BREACH OF CONTRACT: If the CONTRACTOR refuses or fails to prosecute the work or any separable part thereof with such diligence as will ensure its completion within the time specified or any extension thereof, or otherwise breaches any material provision of the Contract, the DISTRICT may without prejudice to any other rights or remedies of the DISTRICT and after giving the CONTRACTOR and the CONTRACTOR'S surety, if any, seven (7) calendar days' written notice, terminate the Contract with the CONTRACTOR. Should the DISTRICT terminate the Contract, the CONTRACTOR shall not be entitled to receive further payment until the project is completed.
26. RESOLUTION OF CLAIMS All public works claims which may arise between the CONTRACTOR and the DISTRICT shall be subject to the settlement and arbitration provisions and procedures set forth in Public Contract Code section 20104 et seq. which provisions are incorporated herein by this reference. In the event of a dispute between the parties as to the performance of the work included in the project, the interpretation of the Contract or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute. Pending resolution of the dispute, the CONTRACTOR agrees to continue the work diligently to completion. If the dispute is not resolved, the CONTRACTOR agrees it will neither rescind the contract nor stop the progress of the work, but the CONTRACTOR'S sole remedy shall be to submit such controversy to determination by a court of the State of California, in san Bernardino county, having competent jurisdiction of the dispute, after the project has been completed, and not before.
27. CAUSES OF ACTION In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the CONTRACTOR or subcontractor offers and agrees to assign to the awarding body (District) all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Ch 2 (commencing with Section 16700) of Part 2 of Div. 7 of the Business and Professions Code), arising from the purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the CONTRACTOR, without further acknowledgement by the parties.
28. TRAVEL AND SUBSISTENCE PAYMENT: The CONTRACTOR shall pay and cause to be paid to each worker needed to execute the work on the project travel and subsistence payments, as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed with the Department of Industrial Relations in accordance with labor Code Section 1773.8.
29. PAYROLL RECORDS:
- Pursuant to the provisions of Section 1776 of the Labor Code, CONTRACTOR shall keep and shall cause each subcontractor performing any portion of the work under this Contract to keep an accurate payroll record, showing the name, address, social security number, work classification, and straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by CONTRACTOR in connection with the work.
  - Said payroll records enumerated in subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of CONTRACTOR on the following basis:
    - A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his or her authorized representative on request.
    - A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of DISTRICT, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.
    - A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by CONTRACTOR, subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of CONTRACTOR.
- c. The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by this division.
- d. Each CONTRACTOR shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within ten (10) days after receipt of a written request.
- e. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by DISTRICT, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated in a manner so as to prevent disclosure of an individual's name, address, and social security number. The name and address of CONTRACTOR awarded the Contract or performing the Contract shall not be marked or obliterated.
- f. CONTRACTOR shall inform DISTRICT of the location of the records, enumerated under subdivision (a), including the street address, city and county, and shall, within five (5) working days, provide a notice of change of location and address.
- g. CONTRACTOR shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects CONTRACTOR must comply with this Article. In the event that CONTRACTOR fails to comply within the ten (10) day period, he or she shall, as a penalty to the DISTRICT, forfeit twenty-five (\$25) for each calendar day, or portion thereof, for each worker until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due.
- h. It shall be the responsibility of CONTRACTOR to ensure compliance with the provisions of this Article and the provisions of Labor Code section 1776.
30. TRENCHES:
- As required by Labor Code Section 6705, if the Contract price exceeds \$25,000 and involves the excavation of any trench or trenches five feet or more in depth, CONTRACTOR shall, in advance of excavation, submit to DISTRICT or a registered civil or structural engineer employed by DISTRICT a detailed plan showing the design or shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If such plan varies from the Shoring System Standards established by the Construction Safety Orders of the Division of Industrial Safety, the plan shall be prepared by a registered civil or structural engineer, employed by CONTRACTOR, and all costs therefore shall be included in the price named in the Contract for completion of the work as set forth in the contract documents. Nothing in this Article shall be deemed to allow the use of a system less effective than that required by the Construction Safety Orders. No excavation of such trench or trenches shall be commenced until said plan has been accepted by DISTRICT or the person to whom authority to accept has been delegated by DISTRICT. Nothing in this Article shall be construed to impose tort liability on DISTRICT, ARCHITECT, nor any of their officers, agents, representatives, or employees.
  - As required by Public Contract Code Section 7104, if this Contract involves the digging of trenches or excavations that extend deeper than four feet below the surface, the following shall apply:
    - CONTRACTOR shall promptly, and before the following conditions are disturbed, notify DISTRICT, in writing, of any:
      - Material that CONTRACTOR believes may be material that is hazardous waste, as defined in 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.
      - Subsurface or latent physical conditions at the site different from those indicated.
      - Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in Work of the character provided for in the Contract.
    - That DISTRICT shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in CONTRACTOR'S cost of, or the time required for, performance of any part of the work shall issue a change order under the procedures described in the Contract.

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

31. SUBSTITUTIONS FOR SPECIFIED ITEMS:

- a. Whenever in specifications any materials, process, or article is indicated or specified by grade, patent, or proprietary name or by name of manufacturer, such specification shall be deemed to be used for the purpose of facilitating description of material, process or article desired and shall be deemed to be followed by the words "or equal" and CONTRACTOR may, unless otherwise stated, offer any material, process, or article which shall be substantially equal or better in every respect to that so indicated or specified. The provision authorizing submission of "or equal" justification data shall not in any way authorize an extension of time for performance of this Contract. If material, process or article offered by CONTRACTOR is not, in opinion of ARCHITECT, or DISTRICT, substantially equal or better in every respect to that specified, then CONTRACTOR shall furnish material, process, or article specified. No substitutions shall be made until approved, in writing, by both ARCHITECT and DISTRICT. Burden of proof as to equality of any material, process, or article shall rest with CONTRACTOR. CONTRACTOR shall submit request together with complete manufacturer's catalogs, brochures, drawings, samples, certified copies of test reports and other substantiating data for substitution of an "or equal" item within thirty-five (35) days after award of Contract. As part of the request, CONTRACTOR shall state the amount of credit to be extended to DISTRICT, if the substitute material is accepted. Provision authorizing submission of "or equal" justification data shall not in any way authorize an extension of time for performance of this Contract.
- b. With respect to the major equipment or material items listed in the bid, unless the bidder clearly indicates in its bid that it is proposing to use an "equal" product, its bid shall be considered as offering a product referred to by the brand name specified for the major equipment or material items listed in the bid. The brand name, if any, of the proposed substitute product shall be inserted in the space provided in the bid or shall be otherwise clearly identified in the bid. The awarding of this Contract to a bidder who has indicated in its bid that it is proposing to use an "equal" product shall not constitute an admission by DISTRICT of the equality of that product. It is expressly understood and agreed by the bidder that, in so awarding this Contract, DISTRICT reserves the right to reject any such proposed substituted product. It is further expressly understood and agreed by bidder that in the event DISTRICT rejects a proposed "equal" product, the bidder will then supply either a product designated by brand name in the specifications or a substitute therefore which meets with the approval of DISTRICT. With respect to articles or materials other than the major equipment or material items listed in the bid, whenever the specifications permit the substitution of a similar or equivalent material or article and the bidder wishes to substitute such a similar or equivalent product, it need not so indicate in its bid. However, within seven (7) days after the award of Contract, the bidder shall notify DISTRICT in writing of all proposed substitutions of such similar or equivalent materials or articles.

With respect to all proposed substitutions of "equal" products, both major items of equipment and materials listed in the bid and other non-listed items, the bidder to whom the Contract has been awarded shall submit all pertinent and appropriate data substantiating its request for substitutions within thirty-five (35) days after the award of the Contract. In this regard, bidders should note that neither DISTRICT nor ARCHITECT is responsible for locating or securing any information which is not included in such substantiating data. Bidders should further note that the burden of proof as to the quality or suitability of proposed alternative articles shall be borne by the bidder. ARCHITECT has reviewed the technical and aesthetic qualities of materials specified, and in no case will ARCHITECT accept a substitution of a product with a lower cost which does not extend credit to DISTRICT. ARCHITECT or his or her authorized representative shall be the sole judge as to the quality and suitability of proposed alternative articles or materials, and decisions of ARCHITECT, or that of his or her authorized representative, shall be final and conclusive. Unless extended by the mutual agreement of the parties, ARCHITECT or his or her authorized representative shall notify the successful bidder of the decision concerning the proposed substitution of "equal" items within thirty (30) days after the submission by the bidder of the bidder's substantiating data. Also such decisions by ARCHITECT or his or her authorized representative shall be in writing, and no proposed alternative product

shall be deemed approved unless the ARCHITECT or his or her authorized representative has so indicated in writing.

The time limitations contained in this Article shall be complied with strictly, and in no case will an extension of time for completion be granted because of CONTRACTOR'S failure to request the substitution of an alternative item at the times and in the manner set forth herein

- c. Contractor is to provide all services necessary to perform the contract and complete in a good workmanlike manner all of the work required, including sheeting, shoring and bracing, or equivalent method for protection of life and limb in trenches and open excavation in conformance with applicable safety orders, in connection with the work.
- d. In event CONTRACTOR furnishes material, process, or article more expensive than that specified, difference in cost of such material, process, or article so furnished shall be borne by CONTRACTOR.
- e. By making requests for substitutions, CONTRACTOR:
  - i. Represents that CONTRACTOR has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;
  - ii. Represents that CONTRACTOR will provide the same warranty for the substitution that CONTRACTOR would for that specified;
  - iii. Certifies that the cost data presented is complete and includes all related costs under this Contract except ARCHITECT'S redesign costs, and waives all claims for additional costs related to the substitution which subsequently become apparent;
  - iv. Will coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.

32. EXISTING UTILITY LINES; REMOVAL, RESTORATION:

- a. Pursuant to Government Code Section 4215, DISTRICT assumes the responsibility for removal, relocation, and protection of utilities located on the construction site at the time of commencement of construction under this Contract with respect to any such utility facilities which are not identified in the plans and specifications. CONTRACTOR shall not be assessed for liquidated damages for delay in completion of the project caused by failure of DISTRICT to provide for removal or relocation of such utility facilities. DISTRICT shall compensate CONTRACTOR for the costs of locating, repairing damage not due to the failure of CONTRACTOR to exercise reasonable care, and removing or relocating such utility facilities not indicated in the plans and specifications with reasonable accuracy, and for equipment necessarily idle during such work.
- b. This Article shall not be construed to preclude assessment against CONTRACTOR for any other delays in completion of the work. Nothing in this Article shall be deemed to require DISTRICT to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the site of the construction project can be inferred from the presence of other visible facilities, such as buildings, meter junction boxes, on or adjacent to the site of the construction.
- c. CONTRACTOR shall make its own investigation, including exploratory excavations, to determine the locations and type of work which could result in damage to such utilities. In accordance with Government Code section 4216, et seq., except in an emergency, CONTRACTOR shall contact the appropriate regional notification center, at least two (2) working days, but not more than fourteen (14) calendar days, prior to commencing that excavation, if the excavation will be conducted in an area which is known or reasonably should be known, to contain subservice installations and obtain an inquiry identification number from the regional notification center.
- d. If CONTRACTOR, while performing work under this Contract, discovers utility facilities not identified by DISTRICT in the Contract plans or specifications, CONTRACTOR shall immediately notify DISTRICT and the utility in writing.

33. HAZARDOUS MATERIALS:

Contractor declares under penalty of perjury under the laws of the State of California that to the best of his/her knowledge, information and belief, in completing the any work for the District no material furnished, installed or incorporated into the Project will contain, or in itself be composed of: 1) any asbestos, polychlorinated biphenyl (PCB), any material listed by the federal or state EPA or federal or state health agencies as a hazardous material; 2) lead paint; or 3) any other material defined as being hazardous under federal or state laws, rules or regulations.

34. HOURS OF WORK WILL BE AS FOLLOWS:

- a. Monday through Friday during non-instructional hours.
- b. With prior approval, Saturdays and Sundays, unless otherwise restricted by local ordinance.