



CONTRACT
FOR
LABOR & MATERIALS AND PUBLIC WORKS PROJECTS

THIS CONTRACT made and entered into this _____ day of _____, 20____ by and between _____, hereinafter called the "CONTRACTOR" and the EAST SIDE UNION HIGH SCHOOL DISTRICT, hereinafter called the "DISTRICT".

WITNESSETH: The parties do hereby contract and agree as follows:

1. In consideration of payment not to exceed the sum of \$ _____ to be paid to Contractor by District, Contractor shall perform and complete the following work: _____

2. Location of the work to be done at: _____

3. The term of this contract shall begin _____ and be approximate completion by _____. (date) (date)

4. This contract includes the terms and conditions attached as numbers 1 thru 27. The Contractor, by executing this contract agrees to accept and comply with such terms and conditions.

5. District representative shall perform inspection and acceptance of work.

District Representative:

Name _____ Position _____
Dept _____ Phone: _____

6. All applicable laws and regulations of the Public Contract Code, Civil Code and Labor Code govern this Contract.

7. IN WITNESS WHEREOF, the parties hereunto have subscribed to this Agreement, including all Contract documents as indicated below, which must be on file with the District prior to the commencement of work.

Received by the Contractor:

Submitted by the Contractor:

_____ Drawings
_____ Specifications
P.O. # _____

_____ Liability Insurance Certificate
_____ Worker's Compensation Form Verification
_____ Affidavit of Compliance with Ed Code 45125.1
_____ DIR Registration #

CONTRACTOR:

ACCEPTED BY: _____ Date: _____ Title: _____

Proper Name of Contractor: _____

License Number: _____ Expiration Date: _____

Address: _____ Email Address: _____

Phone: (_____) _____ Fax: (_____) _____

DISTRICT:

ACCEPTED BY: _____ Date: _____

Marcus Battle, Associate Superintendent of Business Services

THIS AGREEMENT REQUIRES AN APPROVED PURCHASE ORDER PRIOR TO COMMENCEMENT OF SERVICES

EAST SIDE UNION HIGH SCHOOL DISTRICT
830 North Capitol Avenue, San Jose, CA 95133, Phone: 408-347-5079, Fax: 408-347-5075
TERMS AND CONDITIONS

1. **LABOR AND MATERIALS:** The Contractor shall furnish all labor, materials mechanical workmanship, transportation, equipment and services necessary for the completion of work described in this Contract and in accordance with the plan (if any) and other contract documents.
2. **SUB-CONTRACTORS:** Sub-contractors, if any, engaged by the Contractor for the service shall be subject to the approval of the District. Contractor shall be held responsible for all operations of subcontractors and shall require them to maintain adequate worker's compensation and public liability insurance, and comply with Labor Code, Division 2, Part 7, and all other applicable laws pertaining to prevailing wages.
3. **SAFETY AND SECURITY:** It shall be the responsibility of the Contractor to ascertain from, and comply with, the District's rules and regulations pertaining to safety, security, and driving on school grounds, particularly when students are present.
4. **DEFAULT BY CONTRACTOR:** Failure to comply with any of the terms and/or conditions of the Contract shall constitute default by the Contractor.
5. **GUARANTEES:** The Contractor shall guarantee all labor and materials used in the performance of this Contract for a period of one (1) year from the date of acceptance by the District. Date of acceptance shall be considered date of final payment.
6. **CONTRACT CHANGES:** No changes or alterations to this Contract shall be made without specific written prior approval by the District, and in no event shall the change or alteration exceed ten percent (10%) of Contract and/or Purchase Order.
7. **DOCUMENT CONFLICT:** In case of conflict between specifications and drawings and/or actual site conditions such conflict shall be immediately called to the attention of the designated District representative. Resolution of conflict shall be in writing as approved by the District representative.
8. **WORKERS:**
 - a. Contractor shall at all times enforce strict discipline and good order among employees and shall not employ on work any unfit person or anyone not skilled in work assigned.
 - b. Any person in the employ of the contractor as an employee or sub-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.
9. **SUBSTITUTION:** No substitutions for materials specified shall be made without the prior approval of the District.
10. **CONTRACTOR SUPERVISION:** Contractor shall provide competent supervision of personnel employed on the job and correct use of all equipment employed to do the work. Supervisor shall be on the site at all times.
11. **PROTECTION OF WORK & PROPERTY:** The Contractor shall erect and properly maintain at all times, as required by conditions and progress or work, all necessary safeguards, signs, barriers, lights and watchers for protection of workers and the public, and shall post danger signs warning against hazards created by such features in the course of construction. In an emergency, which is threatening to life or the safety of life, to progress of work, or endangers adjoining property, Contractor, with special instruction or authorization from District, is hereby permitted to act, at Contractor's discretion, to prevent such threatened loss or injury. District representative shall be advised immediately if such action has been necessary.
12. **ACCESS TO WORK:** District representatives shall at all-time have access to work, wherever and whenever it is in preparation or progress. Contractor shall provide safe and proper facilities for such access.
13. **OCCUPANCY:** District reserves the right to occupy buildings and/or use facilities at any time before Contract completion and such occupancy shall not constitute final acceptance of any part of work covered by this contract, nor shall such occupancy extend the date for completion of the work.
14. **ASSIGNMENT OF CONTRACT AND/OR PURCHASE ORDER:** The Contractor shall not assign or transfer by operations of law or otherwise any or all of its rights, burdens, duties, or obligations without the prior written consent of the District.
15. **FORCE MAJEURE CLAUSE:** The parties to this Contract shall be excused from performance there under 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, lockout, commandeering of materials, products, plants or facilities by the government, when satisfactorily established that the non-performance is not due to the fault or neglect of the party performing.
16. **HOLD HARMLESS CLAUSE:** The Contractor shall hold harmless and indemnify the District, its officers and employees from:
 - a. Any injury to person or property sustained by any person, firm or corporation, employed directly or indirectly by Contractor upon or in connection with performance under this Contract or Purchase Order, however caused;
 - b. Any injury to person or property sustained by any person, firm or corporation, arising by any means whatsoever from the act, default, or omission of any sub-contractor, person, firm or corporation, directly or indirectly employed by the Contractor in connection with performance under the contract and/or Purchase Order.
17. **INSURANCE:** The supplier shall maintain at all times adequate insurance to protect the District from claims under Worker's Compensation Acts, and from claims for damages for personal injury, including death, and damage to property, which may arise from operations under the Contract. The Contractor is required to file with the District certificates of insurance naming the East Side Union High School District, its Board, officers, employees, and agents as additional insured parties to the coverage, prior to the start of work for:
 - a. Worker's Compensation and Employer's Liability Insurance.
 - b. Broad form Comprehensive General Liability Insurance, occurrence coverage, with a combined single limit of liability not less than \$1,000,000.
18. **PAYMENTS:** The District shall pay for services performed or materials delivered under this Contract upon completion of said work and upon presentation of invoice in triplicate by the Contractor. District representative will provide written approval and acceptance, and payment shall be made within a reasonable and proper time, normally within thirty (30) days.
19. **RELEASE AGAINST LIENS OR CLAIMS:** Contractor shall promptly pay all claims of persons or firms furnishing labor, equipment, or materials used in performing the work hereunder. The District may require Contractor to submit satisfactory evidence of payment and releases of all such claims. If there is any evidence of any unpaid claim, the District may withhold any payment until contractor has furnished such evidence of payment and release, and shall indemnify and defend the District against any liability or loss arising from any such claim.
20. **PERMITS AND LICENSES:** The Contractor and all employees or agents shall secure and maintain in force such certificates, licenses and permits as are required for the work and by law, in connection with the furnishing of materials, supplies or services herein listed.
21. **ANTI-DISCRIMINATION:** It is the Policy of the East Side Union High School District Board of Education, 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, or religious creed, and therefore the Contractor agrees to comply with applicable Federal and California laws including but not limited to the California Fair Employment Practices Act.
22. **LABOR CODE:** Contractor shall comply with the applicable provisions of the Labor Code, Division 2, Part 7, Ch. 1, Article 1-5, including the payment of the general prevailing rate of per diem wages. Approved wage scales are on file in the District's Purchasing Office.
23. **CLEAN-UP:** Debris shall be removed from the premises. Job-site shall be free of debris at all times when work is not actually being performed.
24. **NO SMOKING:** East Side Union High School District has a NO SMOKING policy at all sites. Contractors are responsible to make sure that no one smokes on school property.
25. **CONTRACTOR'S SAFETY PROGRAM:** Each Contractor who will perform work at the site be responsible for the job safety program. The safety program, in addition to normal legislative requirements of a safe program, will address the additional requirements to provide for the safety of anyone using the school site, to separate the construction area from the remaining school property, and to prohibit the use of school facilities by Contractor's employees unless specifically permitted otherwise.
26. **SUBMITTALS:** Staff Names: Within seven (7) days of commencement of construction operations, submit a list of the Contractor's principal staff assignments, including the job superintendent. Identify individuals and their duties and responsibilities. List their addresses and telephone number.
27. **FINGERPRINTS:** The contractor certifies that he or she is aware of the provisions of Education Code section 45122.1 and will comply with such provisions before commencing performance of the work of this contract.



AFFIDAVIT OF COMPLIANCE WITH ED CODE 45125.1

Education Code Section 45125.1 in relevant part provides:

- A. If the employees of an entity which has a contract with the school district have more than limited contact with students as defined by the school district, those employees must have their fingerprints submitted to the Department of Justice;
- B. The department of Justice shall determine whether the individuals have been arrested or convicted of a crime and notify the employer of criminal history;
- C. An entity with a school district contract shall not permit an employee to come in contact with pupils until the Department of Justice ascertains that the employee has not been convicted of a felony as defined in Education Code Section 45122.1.
- D. The entity must certify that none of its employees who may come in contact with pupils have been convicted of a felony as defined in Education Code Sect 4512231.
- E. The entity must provide a list of names of employees who may come in contact with pupils.

More than limited contact as defined by ESUHSD:

In determining that a contract employee has more than limited contact with pupils, the ESUHSD considers the following circumstances:

- A. The contractor will be on school grounds for more than a limited length of time, or on numerous occasions.
- B. Pupils will be in proximity to the site where the contractor will be working.
- C. The contractor will be working by himself or herself, without other school employee's supervision.

Please check one:

- I certify that my employees or I will not have more than limited contact with pupils during terms of the agreement.
- I certify that my employees or I will have more than limited contact with pupils during terms of the agreement and that:
 - A. Each employee who may have contact with pupils has been fingerprinted;
 - B. The Department of Justice has provided a report on the criminal background of each employee;
 - C. No employee who may come in contact with pupils has been convicted of a crimes as defined in Education Code section 45122.2; and
 - D. Attached is a list of the names of each employee who may come in contact with pupils

Any changes to the above information will be forwarded to the District immediately.

ACCEPTED BY: _____ **Date:** _____ **Title:** _____

INSURANCE CERTIFICATE REGARDING WORKER'S COMPENSATION

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 in one or more insurers duly up thrust 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 requires every employer to be insured against liability for worker's 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 contract.

ACCEPTED BY: _____ **Date:** _____ **Title:** _____

Proper Name of Contractor: _____