

AGREEMENT C-902
(Document 00530)
(District Standard Form)

1. **SPECIAL TERMS.** These special terms are incorporated into the Contract Documents.

(Sec. 2) **Parties:** (Public Agency or "District" or "Owner") Mt. Diablo Unified School District
(Contractor) TPA Construction, Inc.
Complete Legal Name

(Sec. 2) **Effective Date:** Upon Receipt of Notice to Proceed

(Sec. 3) **The Work:** To furnish all necessary labor, materials and equipment to provide the Exterior Wall Repairs at Bancroft, Highlands, Mt. Diablo, Valhalla and Valle Verde Elementary Schools, all in accordance with the terms, conditions, drawings and specifications of Bid No. 1578.

(Sec. 6) **Completion Date:** (Strike out (a) or (b) and "calendar" or "working")

(a) By (date) August 12, 2011

(b) ~~Within _____ calendar/working days from starting date.~~

(Sec. 8) **Liquidated Damages:** \$ 500.00 per calendar day/per site.

(Sec. 2) **Public Agency's Agent:** Jeff McDaniel, Maintenance & Operations (925) 825-7440 x3821

(Sec. 14) **Contract Price:** \$ 350,000.00 (for unit price contracts: more or less, in accordance with finished quantities at unit bid prices.) (Strike out parenthetical material if inapplicable). **Base Bid**

2. **SIGNATURES & ACKNOWLEDGMENT.**

Public Agency, By: _____ (President, Chairman or Other Designated Representative)

(Secretary)

Contractor, hereby also acknowledges awareness of and compliance with Labor Code Sec. 1861 concerning Worker's Compensation Law.

By: _____ (CORPORATE SEAL)
(Designate official capacity in the business)

By: _____
(Designate official capacity in the business)

Note to Contractor: (1) Execute acknowledgment form below, and (2) if a corporation, affix corporate seal.

State of California) **ACKNOWLEDGMENT** (by Corporation,
County of _____) Partnership, or Individual)

On _____ before me, (here insert name and title of the officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I Certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (Seal)

3. **The Work:** Contractor agrees to furnish all tools, equipment, apparatus, facilities, labor, and material necessary to perform and complete in a good and workmanlike manner, the work of

PROJECT: **Bid #1578:** Exterior Wall Repairs at Bancroft, Highlands, Mt. Diablo, Valhalla and Valle Verde Elementary Schools

for which the Drawings and Specifications are identified by the signature of the parties to this Agreement. It is understood and agreed that the Work shall be performed and completed as required in the Drawings and Specifications under the direction and supervision of, and subject to, the approval of the Superintendent of the District or its authorized representative.

4. **The Contract Documents:** The complete Contract consists of all Contract Documents as defined in the General Conditions and incorporated herein by this reference. Any and all obligations of the District and Contractor are fully set forth and described in the Contract Documents. All Contract Documents are intended to cooperate so that any Work called for in one and not mentioned in the other or vice versa is to be executed the same as if mentioned in all Contract Documents.
5. **Interpretation of Contract Documents:** Should any question arise concerning the intent or meaning of Contract Documents, including the Drawings or Specifications, the question shall be submitted to the District for interpretation. If a conflict exists in the Contract Documents, this Agreement shall control over the Special Conditions, which shall control over any Supplemental Conditions, which shall control over the General Conditions, which shall control over the remaining Division 0 documents, which shall control over Division 1 Documents which shall control over Division 2 through Division 18 documents, which shall control over figured dimensions, which shall control over large-scale drawings, which shall control over small-scale drawings. In no case shall a document calling for lower quality material or workmanship control. The decision of the District in the matter shall be final.
6. **Time for Completion:** It is hereby understood and agreed that the work under this contract shall be completed by August 12, 2011 (67) consecutive calendar days ("Contract Time") from the date specified in the District's Notice to Proceed.
7. **Completion-Extension Of Time:** Should the Contractor fail to complete this Contract, and the Work provided herein, within the time fixed for completion, due allowance being made for the contingencies provided for herein, the Contractor shall become liable to the District for all loss and damage which the District may suffer on account thereof. The Contractor shall coordinate its work with the Work of all other contractors. The District shall not be liable for delays resulting from Contractor's failure to coordinate its Work with other contractors in a manner that will allow timely completion of Contractor's Work. Contractor shall be liable for delays to other contractors caused by Contractor's failure to coordinate its Work with the work of other contractors.

8. **Liquidated Damages:** Time is of the essence for all work under this Agreement. It is hereby understood and agreed that it is and will be difficult and/or impossible to ascertain and determine the actual damage that the District will sustain in the event of and by reason of Contractor's delay; therefore, Contractor agrees that it shall pay to the District the sum of five hundred dollars (\$ 500.00) per day/per site as liquidated damages for each and every day's delay beyond the time herein prescribed in finishing the Work. It is hereby understood and agreed that this amount is not a penalty.

In the event any portion of the liquidated damages are not paid to the District, the District may deduct that amount from any money due or that may become due the Contractor under this Agreement. The District's right to assess liquidated damages is as indicated herein and in the General Conditions.

The time during which the Contract is delayed for cause as hereinafter specified may extend the time of completion for a reasonable time as the District may grant. This provision does not exclude the recovery of damages for delay by either party under other provisions in the Contract Documents.

9. **Loss Or Damage:** The District and its authorized representatives shall not in any way or manner be answerable or suffer loss, damage, expense, or liability for any loss or damage that may happen to the Work, or any part thereof, or in or about the same during its construction and before acceptance, and the Contractor shall assume all liabilities of every kind or nature arising from the Work, either by accident, negligence, theft, vandalism, or any cause whatever; and shall hold the District and its authorized representatives harmless from all liability of every kind and nature arising from accident, negligence, or any cause whatever.
10. **Insurance and Bonds:** Contractor shall provide all required certificates of insurance, and payment and performance bonds as evidence thereof.
11. **Prosecution of Work:** If the Contractor should neglect to prosecute the Work properly or fail to perform any provisions of this contract, the District, may, pursuant to the General Conditions and without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor.
12. **Assignment of Contract:** Neither the Contract, nor any part thereof, nor any moneys due or to become due thereunder, may be assigned by the Contractor without the written approval of the District, nor without the written consent of the Surety on the Contractor's Performance Bond (the "Surety"), unless the Surety has waived in writing its right to notice of assignment.

- 13. Classification Of Contractor's License:** Contractor hereby acknowledges that it currently holds valid Type **B** Contractor's license(s) issued by the State of California, Contractor's State Licensing Board, in accordance with division 3, chapter 9, of the Business and Professions Code and in the classification called for in the Contract Documents.
- 14. Contract Price:** That, in consideration of the foregoing covenants, promises, and agreements on the part of the Contractor, and the strict and literal fulfillment of each and every covenant, promise, and agreement, and as compensation agreed upon for the Work and construction, erection, and completion as aforesaid, the District covenants, promises, and agrees that it will well and truly pay and cause to be paid to the Contractor in full, and as the full Contract Price and compensation for construction, erection, and completion of the Work hereinabove agreed to be performed by the Contractor, the prices specified in the Contractor's Proposal dated **March 3, 2011** , on file in the office of the Superintendent of the District, in lawful money of the United States, which sum is to be paid according to the schedule provided by the Contractor and accepted by the District and subject to additions and deductions as provided in the Contract.