



Fountain Valley School District

BOARD OF TRUSTEES
REGULAR MEETING

A G E N D A

Board Room
10055 Slater Avenue
Fountain Valley, CA

April 13, 2017

- CALL TO ORDER: 5:30PM
- ROLL CALL
- APPROVAL OF AGENDA

M ____
2nd ____
V ____

BOARD WORKSHOP

1. SCHOOL CONSTRUCTION PRIORITIES

Assistant Superintendent of Business Services, Christine Fullerton, will be joined by architectural firm, Rachlin Partners, to review and discuss school construction priorities in regard to projects pertaining to Measure O.

- PUBLIC COMMENTS

Speakers may address the Board of Trustees on Closed Session Items. Please comply with procedures listed on the goldenrod form "For Persons Wishing to Address the Board of Trustees" and give the form to the Executive Assistant.

- CLOSED SESSION

The Board of Trustees will retire into Closed Session to address the following:

- Personnel Matters: *Government Code 54957 and 54957.1*
Appointment/Assignment/Promotion of employees; employee discipline/dismissal/release; evaluation of employee performance; complaints/charges against an employee; other personnel matters.
- Pupil Personnel: *Education Code 35146*
- Negotiations: *Government Code 54957.6*
Update and review of negotiations with the FVEA and CSEA Bargaining Units with the Board's designated representative, Cathie Abdel.

Our mission is to promote a foundation for academic excellence, mastery of basic skills, responsible citizenship, and a desire by students to achieve their highest potential through a partnership with home and community.

- OPEN SESSION: 7:00PM
- PLEDGE OF ALLEGIANCE will be led by Boy Scout Troop Number 1226.

SPECIAL PRESENTATIONS

2. RECOGNITION OF FOUNTAIN VALLEY SCHOOL DISTRICT TEACHER OF THE YEAR, BETH FOCKLER

The Board of Trustees is pleased to join our staff and community in celebrating Beth Fockler, ELA teacher at Fulton Middle School, as Fountain Valley School District's 2016-17 Teacher of the Year.

3. RECOGNITION OF ACSA ELEMENTARY PRINCIPAL OF THE YEAR, ERIN BAINS

The Board of Trustees is pleased to join our staff and community in celebrating ACSA Region XVII Elementary Principal of the Year, Gisler Elementary Principal, Erin Bains.

4. RECOGNITION OF ACSA BUSINESS SERVICES ADMINISTRATOR OF THE YEAR, CHRIS FULLERTON

The Board of Trustees is pleased to join our staff and community in celebrating ACSA Region XVII Business Services Administrator of the Year, Assistant Superintendent, Business, Chris Fullerton.

5. OUTSTANDING SERVICE AWARD PRESENTATION TO CHERYL NORTON

Each year, the Board of Trustees honors those volunteers who have made an outstanding contribution to education in the Fountain Valley School District. The Outstanding Service Award is based on service and leadership given beyond the local school and includes participation on district committees, councils, task forces, as well as local school service. Board President Sandra Crandall shall present the 2016-17 Outstanding Service Award to Cheryl Norton.

6. RECOGNITION OF GISLER SCHOOL PARENT VOLUNTEERS

It is an interest of the Board of Trustees to recognize outstanding parent volunteers who give generously of their time and talents to our schools. From Gisler School, the Board shall recognize and thank Sachi Josephson and Helen Platt.

7. RECOGNITION OF COX SCHOOL PARENT VOLUNTEERS

It is an interest of the Board of Trustees to recognize outstanding parent

volunteers who give generously of their time and talents to our schools. From Cox School, the Board shall recognize and thank Kelly Lopez, Fernando Chavarria and Azucena Chavarria.

8. RECOGNITION OF GISLER SCHOOL STUDENTS

It is an interest of the Board of Trustees to recognize students who display high achievement, improvement or extraordinary effort. The Board will recognize six outstanding students from Gisler School.

9. RECOGNITION OF COX SCHOOL STUDENTS

It is an interest of the Board of Trustees to recognize students who display high achievement, improvement or extraordinary effort. The Board will recognize six outstanding students from Cox School.

• **RECESS**

BOARD REPORTS AND COMMUNICATIONS

Board Members will make the following reports and communicate information to fellow Board Members and staff.

PUBLIC HEARING

10. TENTATIVE AGREEMENT BETWEEN FOUNTAIN VALLEY SCHOOL DISTRICT AND CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION, CHAPTER #358 FOR 2016-17 YEAR

The Board of Trustees will conduct a public hearing for the purpose of receiving public comment on the proposed tentative agreement for the 2016-17 school year between FVSD and CSEA, Chapter #358. Public input is welcome.

PUBLIC COMMENTS

Members of the community and staff are welcome to address the Board of Trustees on any item listed on the Agenda of Business or any other item of specific concern. Speakers are requested to limit their presentation to four minutes unless the time is waived by a majority of the Board Members present. If a member of the audience requests a response to their comments, the Board of Trustees may ask the Superintendent/Staff to respond to them personally or in writing after the meeting, or direct that additional information be provided to the Board on a future agenda.

*** BOARD MEMBERS WHO WISH TO DISCUSS WITH STAFF ANY ITEMS LISTED UNDER LEGISLATIVE SESSION SHOULD INFORM THE BOARD PRESIDENT AT THIS TIME.

LEGISLATIVE SESSION

- 11. APPROVE RESOLUTION 2017-16 AUTHORIZING THE ISSUANCE AND SALE OF MEASURE O GENERAL OBLIGATION BONDS, SERIES 2017, NOT TO EXCEED \$21,000,000 IN AGGREGATE PRINCIPAL**

M ____
2nd ____
V ____

On November 8, 2016, 64.2% of voters within the Fountain Valley School District voted to approve Measure O. At the March 9, 2017 Board meeting, the Board received an informational presentation on bond financing plan, and bond sale process, from the District's financial advisor, Government Financial Strategies.

Superintendent's Recommendation: It is recommended that the Board of Trustees adopts Resolution 2017-16 authorizing the issuance and sale of Measure O General Obligation Bonds, Series 2017, not to exceed \$21,000,000 in aggregate principal.

- 12. APPROVAL OF RESOLUTION 2017-17 DECLARING SURPLUS PROPERTY, AUTHORIZING OFFER OF DISTRICT PROPERTY FOR SALE TO PUBLIC ENTITIES, AND AUTHORIZING THE SALE OF PROPERTY**

M ____
2nd ____
V ____

In order for the District to sell its real property located at 265 S. Anita Drive, Orange, California, the District's Governing Board was first required to form a Surplus Property Advisory Committee to make recommendations to the Governing Board with respect to disposal of the Property. The District's Surplus Property Advisory Committee recommended that the District declare the Property surplus and sell it pursuant to applicable law. As the next step in the surplus property procedures, the District must formally declare the Property surplus and authorize the sale of the Property by way of adoption of a resolution by a two-thirds majority vote.

Superintendent's Recommendation: It is recommended that the Board of Trustees adopts Board Resolution 2017-17, entitled Resolution of the Board of Education of the Fountain Valley School District Declaring Surplus Property, Authorizing Offer of District Property For Sale to Public Entities, and Authorizing the Sale Of Property.

- 13. RESOLUTION 2017-21: APPROVING THE REQUEST FOR PROPOSAL FOR PRE-CONSTRUCTION AND LEASE-LEASE BACK SERVICES FOR MEASURE O PHASE 1 – SCHOOL MODERNIZATION AND AIR CONDITIONING**

M ____
2nd ____
V ____

Fountain Valley School District plans to construct various projects throughout the District using the lease-leaseback construction delivery method whereby the District will lease sites that the District owns, to contractors who will construct improvements thereon and lease the project and the underlying site back to the District.

Superintendent's Recommendation: It is recommended that the Board of Trustees adopts Resolution 2017-21 Approving the Request for Proposal for Pre-

Construction and Lease-Leaseback Services.

**14. BOARD POLICY 3470 DEBT ISSUANCE AND MANAGEMENT
(SECOND READING AND ADOPTION)**

M _____
2nd _____
V _____

Board Policy 3470 is a new policy, the need of which originated through the amendment of Government Code 8855.

Superintendent's Recommendation: It is recommended that the Board of Trustees approves new Board Policy 3470 Debt Issuance and Management for second reading and adoption, with necessary changes as indicated by the Board of Trustees.

**15. NEW BOARD POLICY 5116.2 INVOLUNTARY STUDENT TRANSFERS
(SECOND READING AND ADOPTION)**

M _____
2nd _____
V _____

Senate Bill 1343 authorizes districts to involuntarily transfer a student who has been convicted of a violent felony as defined in Penal Code 667.5(c) or a misdemeanor associated with possession of a firearm as specified in Penal Code 29805, whenever the student is enrolled at the same school as a student who was a victim of the crime. This policy is new, and is intended to outline the process the District will take in the process of involuntarily transferring students through our School Attendance Review Board process.

Superintendent's Recommendation: It is recommended that the Board of Trustees approves new Board Policy 5116.2 Involuntary Student Transfers for second reading and adoption, with necessary changes as indicated by the Board of Trustees.

**16. BOARD POLICY 4030 NON DISCRIMINATION IN EMPLOYMENT
(SECOND READING AND ADOPTION)**

M _____
2nd _____
V _____

The revisions noted in Board Policy 4030 reflect changes in regulations and laws related to the responsibility of the employer to provide a work environment free of discrimination.

Superintendent's Recommendation: It is recommended that the Board of Trustees approves the revisions to Board Policy 4030 Nondiscrimination in Employment for second reading and adoption, with necessary changes as indicated by the Board of Trustees.

**17. BOARD POLICY 4119.11 4219.11 4319.11 SEXUAL HARASSMENT
(FIRST READING)**

M _____
2nd _____
V _____

The revisions noted in Board Policy 4119.11 reflect changes in state regulations and laws which extend protections against sexual harassment to unpaid interns and volunteers, require districts to instruct supervisor to report complaints and revise

requirements pertaining to the training of supervisory employees.

Superintendent's Recommendation: It is recommended that the Board of Trustees approves the revisions to Board Policy 4119.11, 4219.11 and 4319.11 for first reading, with necessary changes as indicated by the Board of Trustees.

18. BOARD POLICY 6190 EVALUATION OF INSTRUCTIONAL PROGRAM (FIRST READING)

M ____
2nd ____
V ____

Board Policy 6190 Evaluation Of The Instructional Program reflects the inclusion of the local control and accountability plan as one of the required reports provided to the Board of Trustees and the community.

Superintendent's Recommendation: It is recommended that Board Policy 6190 Evaluation Of The Instructional Program be approved for first reading, with necessary changes as indicated by the Board of Trustees.

19. BOARD POLICY 0460 LOCAL CONTROL ACCOUNTABILITY PLAN (FIRST READING)

M ____
2nd ____
V ____

New Board Policy 0460 Local Control And Accountability Plan reflects new law, Proposition 58, which requires the local control and accountability plan (LCAP) development process to include solicitation of parent/guardian and community input on effective and appropriate instructional methods, including language acquisition programs. BP 0460 also reflects the State Board of Education's adoption of evaluation rubrics (the "California School Dashboard") that will assist districts in evaluating progress toward their LCAP goals.

Superintendent's Recommendation: It is recommended that Board Policy 0460 Local Control And Accountability Plan be approved for first reading, with necessary changes as indicated by the Board of Trustees.

20. PUBLIC DISCLOSURE OF COLLECTIVE BARGAINING AGREEMENT BETWEEN FOUNTAIN VALLEY SCHOOL DISTRICT AND CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION, CHAPTER #358 FOR 2016-17 SCHOOL YEAR

M ____
2nd ____
V ____

Attached is the Public Disclosure of Collective Bargaining Agreement between the Fountain Valley School District and the California School Employees Association, Chapter #358 for the 2016-17 year.

Superintendent's Recommendation: It is recommended that Board of Trustees approves the Public Disclosure of Collective Bargaining Agreement for the agreement between Fountain Valley School District and the California School Employees Association, Chapter #358 for the 2016-17 school year.

21. AGREEMENT BETWEEN CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION, CHAPTER #358 AND FOUNTAIN VALLEY SCHOOL

M ____
2nd ____

DISTRICT

V ____

On March 7, 2017, FVSD and CSEA, Chapter #358 reached a tentative agreement for the 2016-17 school year. The tentative agreement was ratified by CSEA, Chapter #358 on March 23rd and includes an additional 1.50 % increase to the 2015-16 salary schedule and a one-time 1.00% off schedule salary payment, for a total compensation increase of 2.5% for 2016-17.

Superintendent's Recommendation: It is recommended that the Board of Trustees approves the agreement between the Fountain Valley School District and California School Employees Association, Chapter #358 dated March 7, 2017.

22. APPROVAL FOR EMPLOYMENT CONTRACT FOR SUPERINTENDENTM ____
2nd ____
V ____

Superintendent's Recommendation: It is recommended that the Board of Trustees approves the employment contract for the position of Superintendent with Mark Johnson, Ed.D.

23. RESOLUTION 2017-18: RESOLUTION OF APPRECIATION TO OUR SCHOOL NURSES ON NATIONAL SCHOOL NURSE DAY, MAY 10, 2017M ____
2nd ____
V ____

The Board of Trustees joins staff and our community in saluting our nurses for their dedication and excellence in a challenging role and celebrates their ongoing commitment to the safety and health of Fountain Valley's children.

Superintendent's Recommendation: It is recommended that the Board of Trustees adopts Resolution 2017-18: Resolution of Appreciation to our School Nurses on National School Nurse Day, May 10, 2017.

24. RESOLUTION 2017-19: IN CELEBRATION OF MAY 10, 2017 AS CALIFORNIA'S DAY OF THE TEACHER AND MAY 8-12, 2017 AS TEACHER APPRECIATION WEEKM ____
2nd ____
V ____

The Board of Trustees joins staff and our community in saluting our teachers and thanking each and every one of them for their outstanding efforts to continuously imagine, inspire, and involve our students.

Superintendent's Recommendation: It is recommended that the Board of Trustees adopts Resolution 2017-19: In Celebration of May 10, 2017 as California's Day of the Teacher and May 8-12, 2017 as Teacher Appreciation Week.

25. RESOLUTION 2017-20: IN CELEBRATION OF FOUNTAIN VALLEY SCHOOL DISTRICT'S CLASSIFIED EMPLOYEE WEEK: MAY 15-19, 2017M ____
2nd ____
V ____

In celebration of our classified professionals who provide valuable services to the schools and students of the Fountain Valley School District, the District is

honored to celebrate May 15-19 as Classified Employee Week.

Superintendent's Recommendation: It is recommended that the Board of Trustees adopts Resolution 2017-20 in celebration of Fountain Valley School District's Classified Employee Week.

26. CONSENT CALENDAR/ROUTINE ITEMS OF BUSINESS

M ____
2nd ____
V ____

All items listed under the Consent Calendar and Routine Items of Business are considered by the Board of Trustees to be routine and will be enacted by the Board in one action. There will be no discussion of these items prior to the time the Board votes on the motion unless members of the Board, staff, or public request specific items to be discussed and/or removed from the Consent Calendar.

Superintendent's Recommendation: The Board of Trustees approves all items listed under the Consent Calendar and Routine Items of Business in one action.

Routine Items of Business

- 26-A.** Board Meeting Minutes from March 9 regular meeting
- 26-B.** Board Meeting Minutes from March 23 special meeting
- 26-C.** Board Meeting Minutes from March 30 special meeting
- 26-D.** Personnel Items (Employment Functions, Workshops/Conferences, and Consultants)
- 26-E.** Donations
- 26-F.** Warrants
- 26-G.** Purchase Order Listing
- 26-H.** Budget Adjustments

Consent Items

26-I. 2015/2016 PROGRAM EFFECTIVENESS

Superintendent's Comments: It is recommended that the Board of Trustees approves the 2015/2016 Program Effectiveness Results.

26-J. WILLIAMS QUARTERLY REPORT FOR THIRD QUARTER 2016-17

Superintendent's Comments: It is recommended that the Board of Trustees receives and approves the Williams Quarterly Report for the third quarter of the 2016-17 year and approve its submittal to the Orange County Department of Education.

SUPERINTENDENT'S COMMENTS/NEW ITEMS OF BUSINESS

The Board President will receive any announcements concerning new items of business from board members or the superintendent.

- **CLOSED SESSION**

- APPROVAL TO ADJOURN

**The next regular meeting of the Fountain Valley School District
Board of Trustees is on Thursday, May 18, 2017 at 7:00pm.**

A copy of the Board Meeting agenda is posted on the District's web site (www.fvsd.us). Materials related to this agenda submitted to the Board of Trustees less than 72 hours prior to the meeting are available for public inspection by contacting the Superintendent's Office at 10055 Slater Avenue, Fountain Valley, CA 92708 or call 714.843.3255 during normal business hours.

Regular Board meeting proceedings are tape recorded.

Reasonable Accommodation for any Individual with a Disability: Any individual with a disability who requires reasonable accommodation to participate in a board meeting may request assistance by contacting the Superintendent's office: 10055 Slater Avenue, Fountain Valley, CA 92708 or call (714) 843-3255 or FAX (714) 841-0356.

Board meeting of April 13, 2017



SO 16-17/B17-42
Fountain Valley School District
Superintendent's Office

M E M O R A N D U M

TO: Board of Trustees
FROM: Mark Johnson, Ed.D., Superintendent
SUBJECT: SCHOOL CONSTRUCTION PRIORITIES
DATE: April 7, 2017

Background:

Assistant Superintendent of Business Services, Christine Fullerton, will be joined by architectural firm, Rachlin Partners, to review and discuss school construction priorities in regards to projects pertaining to Measure O.

Board meeting of April 13, 2017



SO 16-17/B17-43
Fountain Valley School District
Superintendent's Office

M E M O R A N D U M

TO: Board of Trustees
FROM: Mark Johnson, Ed.D., Superintendent
SUBJECT: **RECOGNITION OF FOUNTAIN VALLEY SCHOOL DISTRICT
TEACHER OF THE YEAR, BETH FOCKLER**
DATE: April 7, 2017

Background:

The Board of Trustees is pleased to join our staff and community in celebrating Beth Fockler, ELA teacher at Fulton Middle School, as Fountain Valley School District's 2016-17 Teacher of the Year.

Board meeting of April 13, 2017



SO 16-17/B17-44
Fountain Valley School District
Superintendent's Office

M E M O R A N D U M

TO: Board of Trustees
FROM: Mark Johnson, Ed.D., Superintendent
SUBJECT: **RECOGNITION OF ACSA ELEMENTARY PRINCIPAL OF THE YEAR, ERIN BAINS**
DATE: April 7, 2017

Background:

The Board of Trustees is pleased to join our staff and community in celebrating ACSA Region XVII Elementary Principal of the Year, Gisler Elementary Principal, Erin Bains.

Board meeting of April 13, 2017



SO 16-17/B17-45
Fountain Valley School District
Superintendent's Office

M E M O R A N D U M

TO: Board of Trustees
FROM: Mark Johnson, Ed.D., Superintendent
SUBJECT: **RECOGNITION OF ACSA BUSINESS SERVICES
ADMINISTRATOR OF THE YEAR, CHRIS FULLERTON**
DATE: April 7, 2017

Background:

The Board of Trustees is pleased to join our staff and community in celebrating ACSA Region XVII Business Services Administrator of Tthe Year, Assistant Superintendent, Business, Chris Fullerton.

Board meeting of April 13, 2017



SO 16-17/B17-46
Fountain Valley School District
Superintendent's Office

M E M O R A N D U M

TO: Board of Trustees
FROM: Mark Johnson, Ed.D., Superintendent
SUBJECT: **OUTSTANDING SERVICE AWARD PRESENTATION TO
CHERYL NORTON**
DATE: April 7, 2017

Background:

Each year, the Board of Trustees honors those volunteers who have made an outstanding contribution to education in the Fountain Valley School District. The Outstanding Service Award is based on service and leadership given beyond the local school and includes participation on district committees, councils, task forces, as well as local school service. Board President Sandra Crandall shall present the 2016-17 Outstanding Service Award to Cheryl Norton.



SO 16-17/B17-41
Fountain Valley School District
Superintendent's Office

M E M O R A N D U M

TO: Board of Trustees
FROM: Mark Johnson, Ed.D., Superintendent
SUBJECT: **RECOGNITION OF PARENT VOLUNTEERS: GISLER SCHOOL**
DATE: April 7, 2017

Background:

It is an interest of the Board of Trustees to acknowledge parent volunteers from all our school sites. At this board meeting, parent volunteers from Gisler School will be recognized.

Volunteers are selected by the principal and/or Parent Teacher unit at the school and are honored for their diligent and loyal commitment to students and staff. Any of the following criteria may be considered when a school selects its volunteers for recognition by the Board of Trustees:

- The person selected has shown a consistent commitment to the school.
- The person selected is dependable.
- The person selected has performed acts of service which genuinely aid school staff such as: serving as room parent; performing bookkeeping or tallying for fund raising activities; serving as a volunteer for music, art or theater presentations; assisting in a classroom, the library or student store; or serving as a chaperone for school activities.
- The person selected can be counted on to see a project through to its conclusion.
- The person selected has regularly performed a service that provides special mentoring, support or motivation to one or more students.

I am proud to name the outstanding and deserving volunteers being recognized from Gisler School:

Gisler School

♥ Sachi Josephson
♥ Helen Platt



SO 16-17/B17-40
Fountain Valley School District
Superintendent's Office

M E M O R A N D U M

TO: Board of Trustees
FROM: Mark Johnson, Ed.D., Superintendent
SUBJECT: **RECOGNITION OF PARENT VOLUNTEERS: COX SCHOOL**
DATE: April 7, 2017

Background:

It is an interest of the Board of Trustees to acknowledge parent volunteers from all our school sites. At this board meeting, parent volunteers from Cox School will be recognized.

Volunteers are selected by the principal and/or Parent Teacher unit at the school and are honored for their diligent and loyal commitment to students and staff. Any of the following criteria may be considered when a school selects its volunteers for recognition by the Board of Trustees:

- The person selected has shown a consistent commitment to the school.
- The person selected is dependable.
- The person selected has performed acts of service which genuinely aid school staff such as: serving as room parent; performing bookkeeping or tallying for fund raising activities; serving as a volunteer for music, art or theater presentations; assisting in a classroom, the library or student store; or serving as a chaperone for school activities.
- The person selected can be counted on to see a project through to its conclusion.
- The person selected has regularly performed a service that provides special mentoring, support or motivation to one or more students.

I am proud to name the outstanding and deserving volunteers being recognized from Cox School:

Cox School

♥ Kelly Lopez

♥ Fernando & Azucena Chavarria



Fountain Valley School District
Educational Services

MEMORANDUM

TO: Board of Trustees
FROM: Steve McLaughlin, Ed.D., Assistant Superintendent, Educational Services
SUBJECT: **STUDENT RECOGNITION PROGRAM: GISLER**
DATE: March 27, 2017

Background:

One of the interests of the Board of Trustees is to broaden their recognition program to include students demonstrating improvement in a variety of areas and levels. Each elementary school will recognize one student per grade level and each middle school two students per grade level. Students will be selected by their principal and teachers based on the following criteria:

- extraordinary effort
- achievement
- improvement

At the Board Meeting on April 13, 2017, the following six students from **Gisler School** will be recognized:

Gisler School

Kindergarten
First Grade
Second Grade
Third Grade
Fourth Grade
Fifth Grade

Masen Le
Kelli Ma
Gavin Pajaro
Cole Salazar
Oscar Martinez
Hailey Sigmond



Fountain Valley School District
Educational Services

MEMORANDUM

TO: Board of Trustees
FROM: Steve McLaughlin, Ed.D., Assistant Superintendent, Educational Services
SUBJECT: **STUDENT RECOGNITION PROGRAM: COX**
DATE: March 27, 2017

Background:

One of the interests of the Board of Trustees is to broaden their recognition program to include students demonstrating improvement in a variety of areas and levels. Each elementary school will recognize one student per grade level and each middle school two students per grade level. Students will be selected by their principal and teachers based on the following criteria:

- extraordinary effort
- achievement
- improvement

At the Board Meeting on April 13, 2017, the following six students from **Cox School** will be recognized:

Cox School

Kindergarten
First Grade
Second Grade
Third Grade
Fourth Grade
Fifth Grade

Carter Ankeny
Jona Heck
Audrey Dinh
Chloe Nguyen
Ethan Kwong
Jenna Eidum

NOTICE OF PUBLIC HEARING

FOUNTAIN VALLEY SCHOOL DISTRICT

AGREEMENT BETWEEN FOUNTAIN VALLEY SCHOOL DISTRICT AND CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION, CHAPTER 358 (CSEA)

Notice is hereby given that the Board of Trustees of the
Fountain Valley School District, at its meeting to be held on
April 13, 2017 at 7:00 p.m. in the Board Room
located at 10055 Slater Avenue, Fountain Valley, CA, will conduct
a public hearing on the proposed agreement for the 2016-17 year
between the District and the California School Employees
Association, Chapter 358 (CSEA).

FOUNTAIN VALLEY SCHOOL DISTRICT

By: Isidro Guerra, Director, Fiscal Services



Fountain Valley School District
Business Service Division

M E M O R A N D U M

TO: Board of Trustees
FROM: Christine Fullerton, Assistant Superintendent Business Services
SUBJECT: **APPROVE RESOLUTION 2017-16 AUTHORIZING THE
ISSUANCE AND SALE OF MEASURE O GENERAL
OBLIGATION BONDS, SERIES 2017, NOT TO EXCEED
\$21,000,000 IN AGGREGATE PRINCIPAL**
DATE: April 7, 2017

Background:

On November 8, 2016, 64.2% of voters within the Fountain Valley School District voted to approve Measure O. At the March 9, 2017 Board meeting, the Board received an informational presentation on bond financing plan, and bond sale process, from the District's financial advisor, Government Financial Strategies.

The Board is asked to consider adoption of a Resolution authorizing the sale of the first series of Measure O Bonds in an amount not to exceed \$21,000,000. In addition, the Resolution:

- Authorizes the sale to an underwriter to be selected using a competitive selection process.
- Approves various financing documents in draft form, and authorizes certain District officials to execute the final versions of the documents with information from the sale.
- Prescribes certain terms and conditions of the Bonds, including the payment dates, the method of interest calculation, and bond redemption and defeasance procedures.

Fiscal Impact:

There is no impact to the District's General Fund. The bond sale and issuance will provide funds for the upgrade and modernization of the District's school sites.

Recommendation:

It is recommended that the Board of Trustees adopts Resolution 2017-16 authorizing the issuance and sale of Measure O General Obligation Bonds, Series 2017, not to exceed \$21,000,000 in aggregate principal.

RESOLUTION NO. 2017-16

RESOLUTION OF THE BOARD OF TRUSTEES OF THE FOUNTAIN VALLEY SCHOOL DISTRICT AUTHORIZING THE ISSUANCE AND SALE OF NOT TO EXCEED \$21,000,000 AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS OF FOUNTAIN VALLEY SCHOOL DISTRICT BY A NEGOTIATED SALE PURSUANT TO A BOND PURCHASE AGREEMENT, PRESCRIBING THE TERMS OF SALE, APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A PAYING AGENT AGREEMENT AND A CONTINUING DISCLOSURE CERTIFICATE, APPROVING THE FORM OF AND AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL STATEMENT FOR THE BONDS, AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND CERTIFICATES AND RELATED ACTIONS

WHEREAS, an election was duly called and regularly held in the Fountain Valley School District (the "District"), located in Orange County (the "County"), on November 8, 2016, under the procedures specified in Section 1(b)(3) of Article XIII A of the California Constitution, at which the following proposition (as abbreviated pursuant to Section 13247 of the California Elections Code) was submitted to the electors of the District (the "Bond Measure"):

"In order to repair and modernize aging classrooms and school facilities, including repairing deteriorating roofs, plumbing, electrical and air conditioning systems; upgrade classrooms, science labs, libraries, facilities and technology that support student achievement in reading, math, arts, science and technology; and improve student safety and campus security, shall Fountain Valley School District issue \$63 million in bonds at rates within legal limits, with independent citizen oversight, no money for administrators, and all money staying local"

WHEREAS, at least fifty-five percent (55%) of the votes cast on the proposition were in favor of issuing the bonds;

WHEREAS, the Board of the District deems it necessary and desirable to authorize and consummate the sale of a portion of the bonds, in a series designated the "Fountain Valley School District (Orange County, California) General Obligation Bonds (Election of 2016), Series 2017" (the "Bonds") in an aggregate principal amount not exceeding \$21,000,000, according to the terms and in the manner hereinafter set forth;

WHEREAS, pursuant to Article 4.5 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code (Sections 53506 through 53509.5) and relevant provisions of Section 15100 through 15288 of the California Education Code (together, the "Act"), the Bonds are authorized to be issued by the District for the purposes set forth in the ballot submitted to the voters;

WHEREAS, a form of bond purchase agreement, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution ("Bond Purchase Agreement") for the purchase of the Bonds, proposed to be entered into with an underwriter to be selected by a competitive process (the "Underwriter") has been prepared;

WHEREAS, Rule 15c2-12 promulgated under the Securities Exchange Act of 1934 ("Rule 15c2-12") requires that, in order to be able to purchase or sell the Bonds, the Underwriter must have reasonably determined that the issuer or other obligated person has

undertaken in a written agreement or contract for the benefit of the holders of the Bonds to provide disclosure of certain financial information and certain material events on an ongoing basis;

WHEREAS, in order to cause such requirement to be satisfied, the District desires to execute and deliver a continuing disclosure certificate, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution ("Continuing Disclosure Certificate"), a form of which has been prepared;

WHEREAS, a form of the Paying Agent/Bond Registrar/Costs of Issuance Agreement by and between the District and Zions Bank, a division of ZB, National Association ("Paying Agent") with such changes, insertions and omissions as are made pursuant to this Resolution ("Paying Agent Agreement") has been presented to this meeting;

WHEREAS, the Preliminary Official Statement to be distributed in connection with the public offering of the Bonds, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution ("Preliminary Official Statement") has been prepared;

WHEREAS, the Board has been presented with the form of each document referred to herein relating to the financing, and the Board has examined each document and desires to approve, authorize and direct the execution of such documents and the consummation of such financing;

WHEREAS, the District desires that the Controller of the County annually establish tax rates on taxable property within the District for repayment of the Bonds, pursuant to Sections 29100-29103 of the Government Code, that the Board of Supervisors of the County annually approve the levy of such tax, and that the Treasurer-Tax Collector of the County annually collect such tax and apply the proceeds thereof to the payment of principal of and interest on the Bonds when due, all pursuant to Education Code Section 15250 et seq.; and

WHEREAS, all acts, conditions and things required by the Constitution and laws of the State to exist, to have happened and to have been performed precedent to and in connection with the consummation of the actions authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the District is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such actions for the purpose, in the manner and upon the terms herein provided.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Fountain Valley School District, as follows:

Section 1. Recitals. All of the above recitals are true and correct and the Board so finds.

Section 2. Definitions. Unless the context clearly otherwise requires, the terms defined in this Section shall, for all purposes of this Resolution, have the meanings specified herein, to be equally applicable to both the singular and plural forms of any of the terms herein defined.

"Authorized Officers" means the President of the Board, the Superintendent of the District, and the Assistant Superintendent, Business Services of the District, or such other officer or employee of the District as such officers may designate.

"Board" means the Board of Trustees of the District.

"Bonds" means the bonds authorized and issued pursuant to this Resolution designated the "Fountain Valley School District (Orange County, California) General Obligation Bonds, Election of 2016, Series 2017."

"Bond Purchase Agreement" means the Bond Purchase Agreement relating to the sale of the Bonds by and between the District and the Underwriter in accordance with the provisions hereof.

"Cede & Co." means Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Bonds.

"Code" means the Internal Revenue Code of 1986.

"Continuing Disclosure Certificate" means the Continuing Disclosure Certificate executed and delivered by the District relating to the Bonds.

"County" means Orange County.

"District" means the Fountain Valley School District.

"DTC" means The Depository Trust Company, a limited-purpose trust company organized under the laws of the State of New York, and its successors as securities depository for the Bonds, including any such successor thereto appointed pursuant to Section 10 hereof.

"Financial Advisor" means Government Financial Strategies inc., the financial advisor to the District.

"Interest Date" means February 1 and August 1 of each year commencing on February 1, 2018, or such other dates as may be set forth in the Bond Purchase Agreement.

"Official Statement" means the Official Statement of the District relating to the Bonds.

"Opinion of Bond Counsel" means an opinion of counsel of nationally recognized standing in the field of law relating to municipal bonds.

"Owner" means, with respect to any Bond, the person whose name appears on the Registration Books as the registered Owner thereof.

"Paying Agent" means Zions Bank, a division of ZB, National Association, or any bank, trust company, national banking association or other financial institution appointed as Paying Agent to act as authenticating agent, bond registrar, transfer agent, costs of issuance administrator and paying agent for the Bonds in accordance with Section 8 hereof.

"Permitted Investments" means the County Investment Pool, the County Educational Investment Pool (or other investment pools of the County into which the District may

lawfully invest its funds), any investment authorized pursuant to Government Code Sections 16429.1, 53601 and 53635, or any investment authorized in the Official Statement.

"Preliminary Official Statement" means the Preliminary Official Statement of the District relating to the Bonds.

"Record Date" means, with respect to any Interest Date for the Bonds, the 15th day of the calendar month immediately preceding such Interest Date, whether or not such day is a business day, or such other date or dates as may be set forth in the Bond Purchase Agreement.

"Registration Books" means the books for the registration and transfer of the Bonds maintained by the Paying Agent in accordance with Section 8(e) hereof.

"State" means the State of California.

"Transfer Amount" means the aggregate principal amount thereof.

"Tax Certificate" means the Tax Certificate with respect to the Bonds executed by the District, dated the date of issuance of the Bonds.

"Underwriter" means the underwriter to be selected pursuant to a competitive process conducted by the Financial Advisor.

Section 3. Authorization and Designation of Bonds. The Bonds described herein shall be issued pursuant to the authority of the Act, and other applicable provisions of law, including applicable provisions of the Education Code. The Board hereby authorizes the issuance and sale of not to exceed \$21,000,000 aggregate principal amount of Bonds. The Bonds shall be designated "Fountain Valley School District (Orange County, California) General Obligation Bonds, Election of 2016, Series 2017." The Bonds shall be issued as current interest bonds as provided in Section 5 hereof. The proceeds of the Bonds, exclusive of any premium and accrued interest received, shall be applied to finance projects authorized to be financed under the Bond Measure.

Section 4. Form of Bonds: Execution.

(a) Form of Bonds. The Bonds shall be issued in fully registered form without coupons. The Bonds and the certificate of authentication and registration and the forms of assignment to appear on each of them, shall be in substantially the form attached hereto as Exhibit A, with necessary or appropriate variations, omissions and insertions as permitted or required by this Resolution.

(b) Execution of Bonds. The Bonds shall be signed by the manual or facsimile signatures of the President of the Board, and countersigned by the manual or facsimile signature of the Secretary of the Board. The Bonds shall be authenticated by a manual signature of a duly authorized signatory of the Paying Agent.

(c) Valid Authentication. Only such of the Bonds as shall bear thereon a certificate of authentication and registration as described in subsection (a) of this Section, executed by the Paying Agent, shall be valid or obligatory for any purpose or entitled to the benefits of this Resolution, and such certificate of authentication and registration shall be conclusive evidence that the Bonds so authenticated have been duly authenticated and delivered hereunder and are entitled to the benefits of this Resolution.

(d) Identifying Number. The Paying Agent shall assign each Bond authenticated and registered by it a distinctive letter, or number, or letter and number, and shall maintain a record thereof at its principal office, which record shall be available to the District and the County for inspection.

Section 5. Terms of Bonds.

(a) Date of Bonds. The Bonds shall be dated the date of their delivery, or such other date as shall be set forth in the Bond Purchase Agreement.

(b) Denominations. The Bonds shall be issued in denominations of \$5,000 principal amount or any integral multiple thereof.

(c) Maturity. The Bonds shall mature on the date or dates, in each of the years, in the principal amounts and in the aggregate principal amount as shall be set forth in the Bond Purchase Agreement. No Bond shall mature later than the date which is 30 years from the date of the Bonds, to be determined as provided in subsection (a) of this Section. No Bond shall have principal maturing on more than one principal maturity date. The Bonds may mature in the same year or years as any other Bonds, without limitation.

(d) Interest. The Bonds shall bear interest at an interest rate not to exceed 6.00% per annum, payable on the Interest Dates in each year computed on the basis of a 360-day year of twelve 30-day months. Each Bond shall bear interest from the Interest Date next preceding the date of authentication thereof, unless it is authenticated after the close of business on a Record Date and on or prior to the succeeding Interest Date, in which event it shall bear interest from such Interest Date, or unless it is authenticated on or before the Record Date preceding the first Interest Date, in which event it shall bear interest from its dated date; provided, however, that if, at the time of authentication of any Bond, interest is in default on any outstanding Bond, such Bond shall bear interest from the Interest Date to which interest has previously been paid or made available for payment on the outstanding Bonds.

Section 6. Payment of Bonds.

(a) Request for Tax Levy. The money for the payment of principal, redemption premium, if any, and interest on the Bonds shall be raised by taxation upon all taxable property in the District and provision shall be made for the levy and collection of such taxes in the manner provided by law and for such payment out of the Interest and Sinking Fund of the District, held by the County. The Board of Supervisors and officers of the County are obligated by statute to provide for the levy and collection of property taxes in each year sufficient to pay all principal and interest coming due on the Bonds in such year, and to pay, or cause to be paid, from such taxes all amounts due on the Bonds. The District hereby requests the Board of Supervisors of the County to annually levy a tax upon all taxable property in the District sufficient to pay the principal, redemption premium, if any, and interest thereon as and when the same become due.

In accordance with Education Code section 15232, the District hereby requests the Board of Supervisors of the County to include within the annual tax levy for the Bonds the fees and expenses payable to the Paying Agent.

The *ad valorem* tax revenues levied to pay the Bonds shall, when collected, be deposited into the Interest and Sinking Fund of the District. The foregoing Interest and

Sinking Fund and *ad valorem* tax revenues are irrevocably pledged, and the District hereby grants a lien and security interest therein, for the payment of the principal, redemption premium, if any, and interest on the Bonds when and as the same fall due. The moneys in the Interest and Sinking Fund, to the extent necessary to pay the principal, redemption premium, if any, and interest on the Bonds as the same become due and payable, shall be transferred by the County or the District, as the case may be, to the Paying Agent, as paying agent for the Bonds, as necessary to pay the principal, redemption premium, if any, and interest on the Bonds. The property taxes and amounts held in the Interest and Sinking Fund of the District shall immediately be subject to this pledge, and the pledge shall constitute a lien and security interest which shall be effective, binding, and enforceable against the District, its successors, creditors and all others irrespective of whether those parties have notice of the pledge and without the need of any physical delivery, recordation, filing, or further act. The pledge is an agreement between the District and the Owners of the Bonds in addition to any statutory lien that may exist, and the Bonds are being issued to finance one or more projects and not to finance the general purposes of the District.

Additionally, in accordance with Section 15251(b) of the California Education Code and Section 53515(a) of the California Government Code, the Bonds shall be secured by a statutory lien on all revenues received pursuant to the levy and collection of the tax for the Bonds. The lien shall automatically attach without further action or authorization by the District or the County. The lien shall be valid and binding from the time the Bonds are executed and delivered. The revenues received pursuant to the levy and collection of the tax shall be immediately subject to the lien, and the lien shall automatically attach to the revenues and be effective, binding, and enforceable against the District, its successors, transferees and creditors, and all others asserting rights therein, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act.

(b) Financial. The principal of the Bonds shall be payable in lawful money of the United States of America to the Owners thereof, upon the surrender thereof at the principal corporate trust office of the Paying Agent.

(c) Interest, Record Date. The interest on the Bonds shall be payable on each Interest Date in lawful money of the United States of America to the Owner thereof as of the Record Date preceding such Interest Date, such interest to be paid by check or draft mailed on such Interest Date (if a business day, or on the next business day if the Interest Date does not fall on a business day) to such Owner at such Owner's address as it appears on the Registration Books or at such address as the Owner may have filed with the Paying Agent for that purpose except that the payment shall be made by wire transfer of immediately available funds to any Owner of at least \$1,000,000 of outstanding Bonds who shall have requested in writing such method of payment of interest prior to the close of business on the Record Date immediately preceding any Interest Date.

(d) Interest and Sinking Fund. Principal and interest due on the Bonds shall be paid from the Interest and Sinking Fund of the District as provided in Section 15250 of the Education Code.

(e) Obligation of the District. No part of any fund or account of the County is pledged or obligated to the payment of the Bonds. The obligation for repayment of the Bonds is the sole obligation of the District.

Section 7. Redemption Provisions.

(a) Optional Redemption. The Bonds may be subject to redemption, at the option of the District, on the dates and terms as shall be designated in the Bond Purchase Agreement. The Bond Purchase Agreement may provide that the Bonds shall not be subject to optional redemption, and may provide separate and distinct redemption provisions for the Bonds.

(b) Selection. If less than all of the Bonds are subject to such redemption and are called for redemption, such Bonds shall be redeemed in inverse order of maturities or as otherwise directed by the District (or as otherwise set forth in the Bond Purchase Agreement), and if less than all of the Bonds of any given maturity are called for redemption, the portions of such Bonds of a given maturity to be redeemed shall be determined by lot (or as otherwise set forth in the Bond Purchase Agreement).

(c) Mandatory Sinking Fund Redemption. The Bonds, if any, which are designated in the Bond Purchase Agreement as term bonds shall also be subject to redemption prior to their stated maturity dates, without a redemption premium, in part by lot (or as otherwise set forth in the Bond Purchase Agreement), from mandatory sinking fund payments in the amounts and in accordance with the terms to be specified in such Bond Purchase Agreement. Unless otherwise provided in the Bond Purchase Agreement, the principal amount of each mandatory sinking fund payment of any maturity shall be reduced proportionately (unless otherwise specified by the District) by the amount of any Bonds of that maturity redeemed in accordance with subsection (a) or (b) of this Section prior to the mandatory sinking fund payment date. The Bond Purchase Agreement may provide that the Bonds shall not be subject to mandatory sinking fund redemption. The Controller of the County is hereby authorized to create such sinking funds or accounts for the term Bonds as shall be necessary to accomplish the purposes of this Section.

(d) Notice of Redemption. Notice of any redemption of the Bonds shall be mailed by the Paying Agent, postage prepaid, not less than 30 nor more than 60 days prior to the redemption date (i) by first class mail to the County and the respective Owners thereof at the addresses appearing on the Registration Books, and (ii) as may be further required in accordance with the Continuing Disclosure Certificate. Each notice of redemption shall state (i) the date of such notice; (ii) the name of the Bonds and the date of issue of the Bonds; (iii) the redemption date; (iv) the redemption price; (v) the dates of maturity or maturities of Bonds to be redeemed; (vi) in the case of Bonds redeemed in part only, the respective portions of the principal amount of the Bonds of each maturity to be redeemed; (vii) the CUSIP number, if any, of each Bond to be redeemed; (viii) a statement that such Bonds must be surrendered by the Owners at the principal corporate trust office of the Paying Agent, or at such other place or places designated by the Paying Agent; (ix) notice that further interest on such Bonds will not accrue after the designated redemption date; and (x) in the case of a conditional notice, that such notice is conditioned upon certain circumstances and the manner of rescinding such conditional notice.

(e) Effect of Notice. A certificate of the Paying Agent that notice of redemption has been given to Owners as herein provided shall be conclusive as against all parties. Neither the failure to receive the notice of redemption as provided in this Section, nor any defect in such notice shall affect the sufficiency of the proceedings for the redemption of the Bonds or the cessation of interest on the date fixed for redemption. When notice of redemption has been given substantially as provided for herein, and when the redemption price of the Bonds called for redemption is set aside for the purpose as described in subsection (h) of this Section, the Bonds designated for redemption shall become due and payable on the specified redemption date and interest shall cease to accrue thereon as of the redemption

date, and upon presentation and surrender of such Bonds at the place specified in the notice of redemption, such Bonds shall be redeemed and paid at the redemption price thereof out of the money provided therefor. The Owners of such Bonds so called for redemption after such redemption date shall be entitled to payment thereof only from the Interest and Sinking Fund or the trust fund established for such purpose. All Bonds redeemed shall be cancelled forthwith by the Paying Agent and shall not be reissued.

(f) Right to Rescind Notice. The District may rescind any optional redemption and notice thereof for any reason on any date prior to the date fixed for redemption by causing written notice of the rescission to be given to the owners of the Bonds so called for redemption. Any optional redemption and notice thereof shall be rescinded if for any reason on the date fixed for redemption moneys are not available in the Interest and Sinking Fund or otherwise held in trust for such purpose in an amount sufficient to pay in full on said date the principal of, interest, and any premium due on the Bonds called for redemption.

Notice of rescission of redemption shall be given in the same manner in which notice of redemption was originally given. The actual receipt by the owner of any Bond of notice of such rescission shall not be a condition precedent to rescission, and failure to receive such notice or any defect in such notice shall not affect the validity of the rescission.

(g) Funds for Redemption. Prior to or on the redemption date of any Bonds there shall be available in the Interest and Sinking Fund of the District, or held in trust for such purpose as provided by law, monies for the purpose and sufficient to redeem, at the redemption prices as in this Resolution provided, the Bonds designated in the notice of redemption. Such monies shall be applied on or after the redemption date solely for payment of principal of, interest and premium, if any, on the Bonds to be redeemed upon presentation and surrender of such Bonds, provided that all monies in the Interest and Sinking Fund of the District shall be used for the purposes established and permitted by law. Any interest due on or prior to the redemption date shall be paid from the Interest and Sinking Fund of the District, unless otherwise provided to be paid from such monies held in trust. If, after all of the Bonds have been redeemed and cancelled or paid and cancelled, there are monies remaining in the Interest and Sinking Fund of the District or otherwise held in trust for the payment of redemption price of the Bonds, the monies shall be held in or returned or transferred to the Interest and Sinking Fund of the District for payment of any outstanding bonds of the District payable from such fund; provided, however, that if the monies are part of the proceeds of bonds of the District, the monies shall be transferred to the fund created for the payment of principal of and interest on such bonds. If no such bonds of the District are at such time outstanding, the monies shall be transferred to the general fund of the District as provided and permitted by law.

(h) Defeasance of Bonds. If at any time the District shall pay or cause to be paid or there shall otherwise be paid to the Owners of any or all of the outstanding Bonds all or any part of the principal, interest and premium, if any, on the Bonds at the times and in the manner provided herein and in the Bonds, or as provided in the following paragraph, or as otherwise provided by law consistent herewith, then such Owners shall cease to be entitled to the obligation of the District as provided in Section 6 hereof, and such obligation and all agreements and covenants of the District and of the County to such Owners hereunder and under the Bonds shall thereupon be satisfied and discharged and shall terminate, except only that the District shall remain liable for payment of all principal, interest and premium, if any, represented by the Bonds, but only out of monies on deposit in the Interest and Sinking Fund or otherwise held in trust for such payment; and provided further, however, that the provisions of subsection (i) of this Section shall apply in all events.

For purposes of this Section, the District may pay and discharge any or all of the Bonds by depositing in trust with the Paying Agent or an escrow agent, selected by the District, at or before maturity, money or non-callable direct obligations of the United States of America (including zero interest bearing State and Local Government Series) or other non-callable obligations the payment of the principal of and interest on which is guaranteed by a pledge of the full faith and credit of the United States of America, in an amount which will, together with the interest to accrue thereon and available monies then on deposit in the Interest and Sinking Fund of the District, be fully sufficient to pay and discharge the indebtedness on such Bonds (including all principal, interest and redemption premiums) at or before their respective maturity dates.

(i) Unclaimed Monies. Any money held in any fund created pursuant to this Resolution, or by the Paying Agent or an escrow agent in trust, for the payment of the principal, redemption premium, if any, or interest on the Bonds and remaining unclaimed for two years after the principal of all of the Bonds has become due and payable (whether by maturity or upon prior redemption) shall be transferred to the Interest and Sinking Fund of the District for payment of any outstanding bonds of the District payable from the fund; or, if no such bonds of the District are at such time outstanding, the monies shall be transferred to the general fund of the District as provided and permitted by law.

Section 8. Paying Agent.

(a) Appointment, Payment of Fees and Expenses. This Board does hereby consent to and confirm the appointment of Zions Bank, a division of ZB, National Association, to act as the initial paying agent for the Bonds. All fees and expenses of the paying agent shall be the sole responsibility of the District, and to the extent not paid from the proceeds of sale of the Bonds, or from the Interest and Sinking Fund of the District, insofar as permitted by law, including specifically by Section 15232 of the Education Code, such fees and expenses shall be paid by the District.

(b) Resignation, Removal and Replacement of Paying Agent. The Paying Agent initially appointed or any successor Paying Agent may resign from service as Paying Agent and may be removed at any time by the District as provided in the Paying Agent's service agreement. If at any time the Paying Agent shall resign or be removed, the Board shall appoint a successor Paying Agent, which shall be any bank, trust company, national banking association or other financial institution doing business in and having a corporate trust office in California, with at least \$50,000,000 in net assets.

(c) Merger of Paying Agent. In the event of the merger or consolidation of the Paying Agent, so long as the successor entity of such merger or consolidation meets the requirements of this Resolution for serving as Paying Agent, such successor entity may continue to serve as Paying Agent unless removed by the Board in accordance with paragraph (a) of this section.

(d) Principal Corporate Trust Office. The initial Paying Agent, and any successor Paying Agent, shall designate each place or places where it will conduct the functions of transfer, registration, exchange, payment, and surrender of the Bonds, and any reference herein to the "principal corporate trust office" of the Paying Agent shall mean the office so designated for a particular purpose. If no office is so designated for a particular purpose, such functions shall be conducted at the office of the Paying Agent, in San Francisco, California, or the principal corporate trust office of any successor Paying Agent.

(e) Registration Books. The Paying Agent shall keep or cause to be kept at its principal corporate trust office sufficient books for the registration and transfer of the Bonds, which shall at all times be open to inspection by the District and the County, and, upon presentation for such purpose, the Paying Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred on the Registration Books, Bonds as provided in Sections 9 and 10 hereof. The Paying Agent shall keep accurate records of all funds administered by it and of all Bonds paid and discharged by it. Such records shall be provided, upon reasonable request, to the District in a format mutually agreeable to the Paying Agent and the District.

Section 9. Transfer Under Book-Entry System; Discontinuation of Book-Entry System.

(a) Unless otherwise specified in the Bond Purchase Agreement, DTC is hereby appointed depository for the Bonds and the Bonds shall be issued in book-entry form only, and shall be initially registered in the name of "Cede & Co.," as nominee of DTC. One bond certificate shall be issued for each maturity of the Bonds; provided, however, that if different CUSIP numbers are assigned to Bonds maturing in a single year or, if Bonds maturing in a single year are issued with different interest rates, additional bond certificates shall be prepared for each such maturity. Registered ownership of such Bonds of each such maturity, or any portion thereof, may not thereafter be transferred except as provided in this Section or Section 10 hereof:

(i) To any successor of DTC, or its nominee, or to any substitute depository designated pursuant to clause (ii) of this Section (a "substitute depository"); provided, however that any successor of DTC, as nominee of DTC or substitute depository, shall be qualified under any applicable laws to provide the services proposed to be provided by it;

(ii) To any substitute depository not objected to by the District, upon (1) the resignation of DTC or its successor (or any substitute depository or its successor) from its functions as depository, or (2) a determination by the District to substitute another depository for DTC (or its successor) because DTC or its successor (or any substitute depository or its successor) is no longer able to carry out its functions as depository; provided, that any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it; or

(iii) To any person as provided below, upon (1) the resignation of DTC or its successor (or substitute depository or its successor) from its functions as depository; provided that no substitute depository which is not objected to by the District can be obtained, or (2) a determination by the District that it is in the best interests of the District to remove DTC or its successor (or any substitute depository or its successor) from its functions as depository.

(b) In the case of any transfer pursuant to clause (i) or clause (ii) of subsection (a) of this Section, upon receipt of the outstanding Bonds by the Paying Agent, together with a written request of the District to the Paying Agent, a new Bond for each maturity shall be executed and delivered in the aggregate principal amount of such Bonds then outstanding), registered in the name of such successor or such substitute depository, or their nominees, as the case may be, all as specified in such written request of the District. In the case of any transfer pursuant to clause (iii) of subsection (a) of this Section, upon receipt of the outstanding Bonds by the Paying Agent together with a written request of the District to the Paying Agent, new Bonds shall be executed and delivered in such denominations, numbered

in the manner determined by the Paying Agent, and registered in the names of such persons, as are requested in such written request of the District, subject to the limitations of Section 5 hereof and the receipt of such a written request of the District, and thereafter, the Bonds shall be transferred pursuant to the provisions set forth in Section 10 hereof provided, however, that the Paying Agent shall not be required to deliver such new Bonds within a period of less than 60 days after the receipt of any such written request of the District.

(c) In the case of partial redemption or an advance refunding of the Bonds evidencing all or a portion of the principal amount then outstanding, DTC shall make an appropriate notation on the Bonds indicating the date and amounts of such reduction in principal.

(d) The District and the Paying Agent shall be entitled to treat the person in whose name any Bond is registered as the owner thereof, notwithstanding any notice to the contrary received by the District or the Paying Agent; and the District and the Paying Agent shall have no responsibility for transmitting payments to, communicating with, notifying, or otherwise dealing with any beneficial owners of the Bonds, and neither the District nor the Paying Agent shall have any responsibility or obligation, legal or otherwise, to the beneficial owners or to any other party, including DTC or its successor (or substitute depository or its successor), except for the Owner of any Bonds.

(e) So long as the outstanding Bonds are registered in the name of Cede & Co. or its registered assigns, the District and the Paying Agent shall cooperate with Cede & Co., as sole registered Owner, or its registered assigns in effecting payment of the principal of and interest on the Bonds by arranging for payment in such manner that funds for such payments are properly identified and are made immediately available on the date they are due.

Section 10. Transfer and Exchange.

(a) Transfer. Following the termination or removal of DTC or successor depository pursuant to Section 10 hereof, any Bond may, in accordance with its terms, be transferred, upon the Registration Books, by the Owner thereof, in person or by the duly authorized attorney of such Owner, upon surrender of such Bond to the Paying Agent for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the Paying Agent.

Whenever any Bonds shall be surrendered for transfer, the designated District officials shall execute and the Paying Agent shall authenticate and deliver, as provided in Section 5 hereof, new Bonds, of the same maturity and interest rate for a like aggregate principal amount. The Paying Agent may require the payment by any Owner of Bonds requesting any such transfer of any tax or other governmental charge required to be paid with respect to such transfer.

Neither the District nor the Paying Agent will be required to transfer any Bonds (a) during the period from the Record Date next preceding any Bond Payment Date to such Bond Payment Date, (b) during the period beginning with the opening of business on the 15th business day next preceding any date of selection of Bonds to be redeemed and ending with the close of business on the day on which the applicable notice of redemption is given, or (c) which have been selected or called for redemption in whole or in part.

(b) Exchange. The Bonds may be exchanged for Bonds of other authorized denominations of the same maturity and interest rate, by the Owner thereof, in person or by the duly authorized attorney of such Owner, upon surrender of such Bond to the Paying Agent for cancellation, accompanied by delivery of a duly executed request for exchange in a form approved by the Paying Agent.

Whenever any Bonds shall be surrendered for exchange, the designated District officials shall execute and the Paying Agent shall authenticate and deliver, as provided in Section 5 hereof, new Bonds of the same maturity and interest rate for a like aggregate principal amount. The Paying Agent may require the payment by the Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange.

Neither the District nor the Paying Agent will be required to exchange any Bonds (a) during the period from the Record Date next preceding any Bond Payment Date to such Bond Payment Date, (b) during the period beginning with the opening of business on the 15th business day next preceding any date of selection of Bonds to be redeemed and ending with the close of business on the day on which the applicable notice of redemption is given, or (c) which have been selected or called for redemption in whole or in part.

Section 11. Bond Purchase Agreement; Sale of Bonds. The form of Bond Purchase Agreement, in substantially the form submitted to this meeting and made a part hereof as though set forth herein, is hereby approved, and the Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the District, to execute and deliver a Bond Purchase Agreement in substantially said form, with such changes, insertions and omissions therein as the Authorized Officer executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided, however, that (a) the interest rate on the Bonds shall not exceed 6.00% per annum, (b) the minimum purchase price for the Bonds shall be not less than the aggregate principal amount thereof, (c) the Underwriter's discount for the sale of Bonds shall not exceed 2.00% of the principal amount of such Bonds, net of fee for bond insurance, if any; and (d) the Bonds shall otherwise conform to the limitations specified herein.

The Bond Purchase Agreement shall recite the aggregate principal amount of the Bonds and shall recite the date thereof, the maturity dates, principal amounts and annual rates of interest of each maturity thereof, the initial and semiannual Interest Dates thereof, and the terms of optional, extraordinary and mandatory sinking fund redemption thereof if any.

The Board hereby finds and determines pursuant to Government Code section 53508.9 that the negotiated sale of the Bonds to an Underwriter selected by a competitive bidding process to identify the lowest-cost bidder as contemplated herein, and by the Bond Purchase Agreement will provide more flexibility in the timing of the sale, and ability to implement the sale in a shorter time period. Estimated costs associated with the issuance of the Bonds, including underwriter's discount, is \$475,000.

The Authorized Officers are each hereby authorized to cause to be deposited in a costs of issuance account, which may be held by the Paying Agent as cost of issuance administrator, proceeds of the sale of the Bonds (exclusive of any premium or accrued interest received) in an amount not exceeding 2.00% of the principal amount of the Bonds sold, as shall be set forth in the Bond Purchase Agreement, for the purposes of paying the costs associated with the issuance of the Bonds.

The Authorized Officers are each hereby authorized to cause to be deposited in the Interest and Sinking Fund of the District proceeds of sale of the Bonds (in addition to any premium or accrued interest received) to fund (i) an annual reserve permitted by Section 15250 of the Education Code, and/or (ii) capitalized interest in an amount not exceeding the interest scheduled to become due on the Bonds for a period of two years from the date of issuance of the Bonds, as shall be set forth in the Bond Purchase Agreement, if any such a deposit is deemed by the Authorized Officer executing the same to be in the best interests of the District.

Section 12. Insurance. In the event bond insurance is obtained for the Bonds, and to the extent that a bond insurer makes payment of the principal, or interest of the Bonds, it shall become the Owner of such Bonds with the right to payment of principal or interest on the Bonds, and shall be fully subrogated to all of the Owners' rights, including the Owners' rights to payment thereof. To evidence such subrogation (i) in the case of subrogation as to claims that were past due interest components, the Paying Agent shall note the bond insurer's rights as subrogee on the registration books for the Bonds maintained by the Paying Agent upon receipt of a copy of the cancelled check issued by the bond insurer for the payment of such interest to the Owners of the Bonds, and (ii) in the case of subrogation as to claims for past due principal, the Paying Agent shall note the bond insurer as subrogee on the registration books for the Bonds maintained by the Paying Agent upon surrender of the Bonds by the Owners thereof to the bond insurer or the insurance trustee for the bond insurer.

Section 13. Continuing Disclosure Certificate. The Continuing Disclosure Certificate, in substantially the form submitted to this meeting and made a part hereof as though set forth herein, is hereby approved, and the Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the District, to execute and deliver a Continuing Certificate in substantially said form, as is necessary to cause the requirements of Rule 15c2-12 to be satisfied, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such determination, requirement or approval to be conclusively evidenced by the execution of the Continuing Disclosure Certificate by such Authorized Officer.

Section 14. Preliminary Official Statement. The Preliminary Official Statement to be distributed in connection with the public offering of the Bonds, in substantially the form submitted to this meeting and made a part hereof as though set forth herein, with such changes, insertions and omissions as may be approved by an Authorized Officer, is hereby approved, and the use of such Preliminary Official Statement in connection with the offering and sale of the Bonds is hereby authorized and approved. The Authorized Officers are each hereby authorized to certify on behalf of the District that such Preliminary Official Statement is deemed final as of its date, within the meaning of Rule 15c2-12 (except for the omission of certain final pricing, rating and related information as permitted by Rule 15c2-12).

Section 15. Official Statement. The preparation and delivery of an Official Statement with respect to the Bonds, and its use by the Underwriter in connection with the offering and sale of the Bonds, is hereby authorized and approved. Such Official Statement shall be in substantially the form of the Preliminary Official Statement distributed in connection with the public offering of the Bonds with such changes, insertions and omissions as may be approved by an Authorized Officer, such approval to be conclusively evidenced by the execution and delivery thereof. The Authorized Officers are each hereby authorized and directed, for and in the name of and on behalf of the District, to execute the final Official Statement with respect to the Bonds and any amendment or supplement thereto

and thereupon to cause such final Official Statement and any such amendment or supplement to be delivered to the Underwriter.

Section 16. Paying Agency, Registrar and Depository. The Paying Agent Agreement, in substantially the form submitted to this meeting and made a part hereof as though set forth herein, is hereby approved, and the Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the District, to execute and deliver the Paying Agent Agreement in substantially said form, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such determination, requirement or approval to be conclusively evidenced by the execution of the Paying Agent Agreement by such Authorized Officer. The Board hereby authorizes the delivery and performance of the Paying Agent Agreement.

Section 17. Application and Investment of Proceeds.

(a) Upon the sale of the Bonds and at the further written instruction of an Authorized Officer, the Treasurer is hereby directed to apply or deposit a portion of the net proceeds thereof, exclusive of accrued interest and any original issue premium, into the Building Fund of the District in the County Treasury. The District shall, from time to time, disburse or cause to be disbursed amounts from the Building Fund to pay Project Costs. Amounts in the Building Fund shall be invested so as to be available for the aforementioned disbursements. The District shall keep a written record of disbursements from the Building Fund. Any premium or accrued interest received by the District shall be deposited in the Interest and Sinking Fund of the District in the County Treasury.

(b) All funds held in the Building Fund and the Interest and Sinking Fund of the District shall be held in the County Treasury and invested at the sole discretion of the Treasurer of the County. Proceeds of the Bonds held by the Treasurer shall be invested at the sole Treasurer's discretion pursuant to law and the investment policy of the County. The Treasurer is hereby authorized and requested to invest any or all funds held hereunder at the Treasurer's discretion pursuant to law and the investment policy of the County, both of which may be amended or supplemented from time to time, and to the extent permitted by law, in Permitted Investments.

Section 18. Tax Covenants.

(a) The District shall not take any action, or fail to take any action, if such action or failure to take such action would adversely affect the exclusion from gross income of the interest payable on Bonds under Section 103 of the Code. Without limiting the generality of the foregoing, the District hereby covenants that it will comply with the requirements of the Tax Certificate with respect to the Bonds to be executed by the District on the date of issuance of such Bonds. The provisions of this subsection (a) shall survive payment in full or defeasance of the Bonds.

(b) In the event that at any time the District is of the opinion that for purposes of this Section it is necessary or helpful to restrict or limit the yield on the investment of any monies held by the Treasurer-Tax Collector on behalf of the District, in accordance with this Resolution or pursuant to law, the District shall so request of the Treasurer-Tax Collector in writing, and the District shall make its best efforts to ensure that the Treasurer-Tax Collector shall take such action as may be necessary in accordance with such instructions.

(c) Notwithstanding any provision of this Section, if the District shall provide to the Treasurer-Tax Collector an Opinion of Bond Counsel that any specified action required under

this Section is no longer required or that some further or different action is required to maintain the exclusion from federal income tax of interest on Bonds under Section 103 of the Code, the Treasurer-Tax Collector may conclusively rely on such Opinion of Bond Counsel in complying with the requirements of this Section and of the Tax Certificate with respect to the Bonds, and the covenants hereunder shall be deemed to be modified to that extent.

Section 19. Professional Services. Dannis Woliver Kelley shall serve as bond counsel to the District for the Bonds and Government Financial Strategies Inc. shall serve as Financial Advisor for the Bonds.

Section 20. Delegation of Authority. The Authorized Officers are hereby authorized and directed, jointly and severally, to do any and all things which they may deem necessary or advisable in order to consummate the transactions herein authorized and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution.

Section 21. Approval of Actions. All actions heretofore taken by the officers, employees and agents of the District with respect to the transactions set forth above are hereby approved, confirmed and ratified.

Section 22. Filing with County. The Superintendent and the Assistant Superintendent, Business Services, or such other officer or employee of the District as may be designated, are hereby authorized and directed to report to the Controller (or similar officer) of the County the final terms of sale of the Bonds, and to file with the Controller and with the Treasurer-Tax Collector of the County a copy of the executed Bond Purchase Agreement and this Resolution, and the schedule of amortization of the principal of the Bonds, and to file with the Treasurer-Tax Collector of the County a proposed schedule of draws on the Building Fund of the District, and this Resolution shall serve as the notice required to be given by Section 15140(c) of the Education Code and as the District's request to the Controller of the County and the Board of Supervisor of the County to propose and adopt in each year a tax rate applicable to all taxable property of the District for payment of the Bonds, pursuant to law; and to the other officers of the County to levy and collect said taxes for the payment of the Bonds, to pay in a timely manner to the Paying Agent on behalf of the Owners of the Bonds the principal, interest, and premium, if any, due on the Bonds in each year, and to create in the County Treasury to the credit of the District a Building Fund and an Interest and Sinking Fund pursuant to Section 15146 of the Education Code.

Section 23. Nonliability of County. Notwithstanding anything to the contrary contained herein, in the Bonds or in any other document mentioned herein, neither the County, nor its officials, officers, employees or agents shall have any liability hereunder or by reason hereof or in connection with the transactions contemplated hereby, the Bonds are not a debt of the County or a pledge of the full faith and credit of the County, and the Bonds and any liability in connection therewith shall be paid solely from *ad valorem* property taxes lawfully levied to pay the principal of or interest on the Bonds.

Section 24. The District shall reimburse the County for all costs and expenses incurred by the County, its officials, officers, agents and employees in issuing or otherwise in connection with the issuance of the Bonds.

Section 25. Effective Date. This Resolution shall take effect from and after its date of adoption.

PASSED AND ADOPTED this 13th day of April, 2017, at a meeting of the Board of Trustees by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

Clerk of the Board

**EXHIBIT A
FORM OF BOND**

**REGISTERED
NO.**

**REGISTERED
\$**

**FOUNTAIN VALLEY SCHOOL DISTRICT
(ORANGE COUNTY, CALIFORNIA)
GENERAL OBLIGATION BOND
Election of 2016, Series 2017**

INTEREST RATE:

____%

MATURITY DATE:

August 1, ____

DATED:

_____, 2016

CUSIP NO:

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The Fountain Valley School District (the "District") in Orange County, California, for value received, promises to pay to the Registered Owner named above, or registered assigns, the Principal Amount on the Maturity Date, each as stated above, and interest thereon until the Principal Amount is paid or provided for at the Interest Rate stated above, on February 1 and August 1 of each year (the "Bond Payment Dates"), commencing _____ 1, 201_. This bond will bear interest from the Bond Payment Date next preceding the date of authentication hereof unless it is authenticated as of a day during the period from the close of business on the 15th day of the calendar month preceding any Bond Payment Date (the "Record Date") to such Bond Payment Date, inclusive, in which event it shall bear interest from such Bond Payment Date, or unless it is authenticated on or before _____ 15, 201_, in which event it shall bear interest from the date of delivery. Principal and interest are payable in lawful money of the United States of America, without deduction for the paying agent services, to the person in whose name this bond (or, if applicable, one or more predecessor bonds) is registered (the "Registered Owner") on the Registration Books maintained by the paying agent (the "Bond Registrar"), initially _____ (the "Paying Agent"). Principal is payable upon presentation and surrender of this bond at the corporate trust office of the Paying Agent in _____. Interest is payable by check mailed by the Paying Agent on each Bond Payment Date to the Registered Owner of this bond (or one or more predecessor bonds) as shown and at the address appearing on the Registration Books on the Record Date. The Owner of Bonds in the aggregate principal amount of \$1,000,000 or more may request in writing to the Paying Agent that the Owner be paid interest by wire transfer to the bank and account number on file with the Paying Agent as of the Record Date.

This bond is one of a series of \$_____ of bonds approved for the purpose of repairing and modernizing aging classrooms and school facilities, including repairing deteriorating roofs, plumbing, electrical and air conditioning systems; upgrading classrooms, science labs, libraries, facilities and technology that support student achievement in reading, math, arts, science and technology; and improving student safety and campus security in connection therewith under authority of and pursuant to the laws of the State of California, and the requisite 55% vote of the electors of the District cast at a duly called election held on November 8, 2016, upon the question of issuing bonds in the amount of \$63,000,000, and the resolution of the Board of Trustees of the District adopted on April 13, 2017 (the "Resolution"). This bond and the issue of which this bond is one are payable as to both principal and interest from the proceeds of the levy of *ad valorem* taxes on all property subject to such taxes in the District, which taxes are unlimited as to rate or amount. The bonds of this issue are general obligations of the District and do not constitute an obligation of the County except as provided in the Resolution. No part of any fund of the County is pledged or obligated to the payment of the bonds of this issue.

This bond is exchangeable and transferable for bonds of like tenor, maturity and Transfer Amount (as defined in the Resolution) and in authorized denominations at the principal office of the Paying Agent, by the Registered Owner or by a person legally empowered to do so, upon presentation and surrender hereof to the Paying Agent as bond registrar, together with a request for exchange or an assignment signed by the Registered Owner or by a person legally empowered to do so, in a form satisfactory to the Paying Agent, all subject to the terms, limitations and conditions provided in the Resolution. All fees and costs of transfer shall be paid by the transferor. The District and the Paying Agent may deem and treat the Registered Owner as the absolute owner of this bond for the purpose of receiving payment of or on account of principal or interest and for all other purposes, and neither the District nor the Paying Agent shall be affected by any notice to the contrary.

Neither the District nor the Paying Agent will be required to transfer or exchange any bonds (a) during the period from the Record Date next preceding any Bond Payment Date to such Bond Payment Date, (b) during the period beginning with the opening of business on the 15th business day next preceding any date of selection of Bonds to be redeemed and ending with the close of business on the day on which the applicable notice of redemption is given, or (c) which have been selected or called for redemption in whole or in part.

The Bonds maturing on or after August 1, 20__, are subject to redemption at the option of the District, from any source of funds, as a whole or in part on any date on or after August 1, 20__, at a Redemption Price of the Principal Amount of the Bonds to be redeemed plus interest accrued thereon to the date fixed for redemption, without premium.

Reference is made to the Resolution for a more complete description of the provisions, among others, with respect to the nature and extent of the security for the bonds of this series, the rights, duties and obligations of the District, the Paying Agent and the Registered Owners, and the terms and conditions upon which the bonds are issued and secured. The Registered Owner of this bond assents, by acceptance hereof, to all of the provisions of the Resolution. Defined terms used in this Bond and not defined shall have the meaning ascribed thereto in the Resolution.

It is certified and recited that all acts and conditions required by the Constitution and laws of the State of California to exist, to occur and to be performed or to have been met precedent to and in the issuing of the bonds in order to make them legal, valid and binding obligations of the District, have been performed and have been met in regular and due form

as required by law; that payment in full for the bonds has been received; that no statutory or constitutional limitation on indebtedness or taxation has been exceeded in issuing the bonds; and that due provision has been made for levying and collecting *ad valorem* property taxes on all of the taxable property within the District in an amount sufficient to pay principal and interest when due.

This bond shall not be valid or obligatory for any purpose and shall not be entitled to any security or benefit under the Resolution until the Certificate of Authentication below has been signed.

IN WITNESS WHEREOF, the Fountain Valley School District, Orange County, California, has caused this bond to be executed on behalf of the District and in their official capacities by the manual or facsimile signatures of the President of the Board of Trustees of the District, and to be countersigned by the manual or facsimile signature of the Secretary of the Board of Trustees of the District, all as of the date stated above.

FOUNTAIN VALLEY SCHOOL DISTRICT

By: _____
President, Board of Trustees

COUNTERSIGNED:

By: _____
Secretary, Board of Trustees

CERTIFICATE OF AUTHENTICATION

This Bond is one of the bonds described in the Resolution referred to herein which has been authenticated and registered on _____, 2017.

_____, as Paying Agent

ASSIGNMENT

For value received, the undersigned sells, assigns and transfers to (print or typewrite name, address and zip code of Transferee): _____ this bond and irrevocably constitutes and appoints attorney to transfer this bond on the books for registration thereof, with full power of substitution in the premises.

Dated:

Signature Guaranteed:

Commercial bank, trust company
or member of a national
securities exchange.

Notice: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or any change whatever, and the signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

Social Security Number, Taxpayer Identification Number or other identifying number of Assignee: _____

DTC LEGEND

Unless this certificate is presented by an authorized representative of The Depository Trust Company to the issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

BOND PURCHASE AGREEMENT

\$ _____
Fountain Valley School District
(Orange County, California)
General Obligation Bonds, (Election of 2016) Series 2017

_____, 2017

Board of Trustees
Fountain Valley School District
10055 Slater Avenue
Fountain Valley, CA 92708

Ladies and Gentlemen:

The undersigned, _____ (the "Underwriter"), offers to enter into this Bond Purchase Agreement (the "Purchase Agreement") with the Fountain Valley School District (the "District"), which, upon your acceptance hereof, will be binding upon the District and the Underwriter. By execution of this Purchase Agreement, the District and the Underwriter acknowledge the terms hereof and recognize that they will be bound by certain of the provisions hereof, and to the extent binding thereupon, acknowledge and agree to such terms. This offer is made subject to the written acceptance of this Purchase Agreement by the District and delivery of such acceptance to us at or prior to 11:59 p.m., California time, on the date hereof.

Section 1. Purchase and Sale of the Bonds. Upon the terms and conditions and in reliance upon the representations, warranties and agreements herein set forth, the Underwriter (acting as principal and independent contractor and not as advisor or fiduciary) hereby agrees to purchase from the District for reoffering to the public, and the District hereby agrees to sell to the Underwriter for such purpose, all (but not less than all) of \$ _____ aggregate principal amount of the District's General Obligation Bonds, (Election of 2016) Series 2017 (the "Bonds"). The Bonds shall bear interest at the rates with the yields, shall mature in the years and shall be subject to redemption as shown on Exhibit A hereto, which is incorporated herein by this reference. The Underwriter shall purchase the Bonds at a price of \$ _____ (consisting of the aggregate principal amount of the Bonds of \$ _____ plus original issue premium of \$ _____ and less an Underwriter's discount of \$ _____).

The District acknowledges and agrees that:

- (a) the purchase and sale of the Bonds under this Purchase Agreement is an arm's-length commercial transaction between the District and the Underwriter;
- (b) in connection therewith and with the discussions, undertakings and procedures leading up to the consummation of such transaction, the Underwriter is and has been acting solely as principal and is not acting as a municipal advisor (as defined in

Section 15B(e)(4) of the Securities Exchange Act of 1934, as amended) or as the agent or fiduciary of the District;

(c) the Underwriter has not assumed a fiduciary responsibility in favor of the District with respect to: (i) the offering of the Bonds or the process leading thereto (whether or not the Underwriter, or any affiliate of the Underwriter, has advised or is currently advising the District on other matters); or (ii) any other obligation to the District except the obligations expressly set forth in this Purchase Agreement; and

(d) the District has consulted its own legal, financial and other advisors to the extent it has deemed appropriate in connection with this transaction.

Section 2. Good Faith Deposit. The Underwriter shall wire two hundred ten thousand dollars (\$210,000) to the District's account within two (2) business days hereof as security for the performance by the Underwriter of its obligation to accept and pay for the Bonds at the Closing. If the Underwriter complies with that obligation, the good faith deposit shall be credited toward the payment of the purchase price of the Bonds by the Underwriter at the Closing. If the District fails to deliver the Bonds at the Closing, or if the District shall be unable to satisfy the conditions of the obligation of the Underwriter to purchase and accept delivery of the Bonds as set forth in this Bond Purchase Agreement, or if the obligation of the Underwriter with respect to the Bonds shall be terminated for any reason permitted by this Bond Purchase Agreement, this Bond Purchase Agreement shall terminate and neither the Underwriter nor the District shall be under further obligation hereunder, except that the amount of the good faith deposit shall immediately be paid to the Underwriter and the respective obligations of the District and the Underwriter for the payment of expenses, as provided in Section 13 (Expenses), shall continue in full force and effect. If the Underwriter fails (other than for a reason permitted hereunder) to accept and pay for the Bonds at the Closing as herein provided, the amount of the good faith deposit shall be retained by the District as full liquidated damages for such failure and for any defaults hereunder on the Underwriter's part and shall constitute a full release and discharge of all claims and damages for such failure and for such defaults. The Underwriter understands that District's actual damages may be greater or may be less than the amount of the good faith deposit. Accordingly, the Underwriter hereby waives any right to claim that the District's actual damages are less than such sum, and the District's acceptance of this offer shall constitute a waiver of any right the District may have to additional damages from the Underwriter. Any interest or other income from the investment of the good faith deposit by the District shall belong to the District.

Section 3. The Bonds. The Bonds shall be dated as of their date of delivery and shall mature on August 1 in the years shown on Exhibit A hereto. The Bonds shall otherwise be as described in, and shall be issued and secured pursuant to the provisions of the Resolution of the Board of Trustees of the District, adopted on April 13, 2017 (the "Resolution"), this Purchase Agreement and Sections 53550 et seq. of the California Government Code (collectively, the "Act"). Certain provisions for the redemption of the Bonds, not otherwise specified in the Resolution, are shown in Exhibit A attached hereto and incorporated herein by reference, all as provided in the Resolution. The initial Paying Agent for the Bonds, as designated by the Resolution, shall be Zion's Bank, a division of ZB, National Association (the "Paying Agent").

The Bonds shall be executed and delivered under and in accordance with the provisions of this Purchase Agreement and the Resolution. The Bonds shall be in book-entry form, shall bear CUSIP numbers, shall be in fully registered form, registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC").

The proceeds of the Bonds will be applied by the District to finance certain capital improvements for the District as specified in the District bond proposition submitted at the November 8, 2016 election (the "Election").

Section 4. Use of Documents. The District hereby authorizes the Underwriter to use, in connection with the offering and sale of the Bonds, this Purchase Agreement, the Preliminary Official Statement (as defined herein), the Official Statement (as defined herein), the Resolution, and all information contained herein and therein and all of the documents, certificates or statements furnished by the District to the Underwriter in connection with the transactions contemplated by this Purchase Agreement (except as such documents otherwise expressly provide).

Section 5. Public Offering of the Bonds. The Underwriter agrees to make a bona fide public offering of all the Bonds at the initial public offering prices or yields to be set forth on the cover or inside cover page of the Official Statement. Subsequent to such initial public offering, the Underwriter reserves the right to change such initial public offering prices or yields as it deems necessary in connection with the marketing of the Bonds; provided that the Underwriter shall not change the interest rates set forth in Exhibit A. The Underwriter may offer and sell Bonds to certain dealers (including dealers depositing Bonds into investment trusts) and others at prices lower than the public offering prices stated in the Official Statement.

The Underwriter hereby represents to the District (a) that as of the date of sale, all of the Bonds purchased were expected to be reoffered in a bona fide public reoffering; (b) that as of the date of the certification at Closing (as defined herein), all of the Bonds purchased had actually been offered to the general public at the offering prices shown in Exhibit A; and (c) that the prices given in Exhibit A are the maximum initial bona fide offering prices at which a substantial amount (at least 10%) of each maturity of the Bonds purchased (or as otherwise indicated) was offered to the general public. The Underwriter agrees, upon request, to furnish to the District or to Bond Counsel, reasonable written verification of its compliance with this paragraph, in the form of a Certificate of Underwriter at Closing.

Section 6. Official Statement. The District has caused to be drafted and consents to the use of a Preliminary Official Statement, dated _____, 2017 (the "Preliminary Official Statement"), including the cover page and Appendices thereto, relating to the Bonds. The District represents that it has deemed the Preliminary Official Statement to be final as of its date, except for either revision or addition of the offering price(s), interest rate(s), yield(s) to maturity, selling compensation, aggregate principal amount, principal amount per maturity, delivery date, rating(s) and other terms of the Bonds which depend upon the foregoing as provided in and pursuant to Rule 15c2-12 of the Securities and Exchange Commission under the Securities and Exchange Act of 1934, as amended (the "Rule"). The Preliminary Official Statement has been prepared for use by the Underwriter in connection with the public offering, sale and distribution of the Bonds.

The Underwriter agrees that prior to the time the final Official Statement relating to the Bonds is available, the Underwriter will send to any potential purchaser of the Bonds, upon the request of such potential purchaser, a copy of the Preliminary Official Statement. Such Preliminary Official Statement shall be sent by first-class mail or electronic distribution (or other equally prompt means) not later than the first business day following the date upon which each such request is received.

The Underwriter hereby represents that it will provide, consistent with the requirements of MSRB Rule G-32, for the delivery of a copy of the Official Statement to each customer who purchases any Bonds during the underwriting period (as such term is defined in MSRB Rule G-11), and deliver a copy of the Official Statement to the MSRB in electronic format as prescribed by the MSRB on or before the Closing Date, and that they will otherwise comply with all applicable statutes and regulations in connection with the offering and sale of the Bonds, including, without limitation, MSRB Rule G-32 and G-36 and the Rule.

Section 7. Closing. At 9:00 a.m., California time, on June 1, 2017, or at such other time or on such other date as shall have been mutually agreed upon by the District and the Underwriter (the “Closing”), the District will deliver, or arrange to deliver, to the Underwriter, through the facilities of DTC utilizing DTC’s FAST delivery system, or at such other place as the parties may mutually agree upon, the Bonds in book-entry form, duly executed and registered as provided in Section 2 above, together with the other documents hereinafter mentioned; and the Underwriter will accept such delivery and pay the purchase price thereof in immediately available funds by wire transfer to an account or accounts within the United States designated by the District.

Section 8. Representations, Warranties and Agreements of the District. The District hereby represents, warrants and agrees with the Underwriter that:

(a) The District is a school district, duly organized and validly existing under the laws of the State of California, with the full legal right, power and authority to (i) issue the Bonds pursuant to the Act; (ii) enter into, execute and deliver this Purchase Agreement and the Continuing Disclosure Agreement appended to the Official Statement (the “Continuing Disclosure Agreement”); and (iii) adopt the Resolution.

(b) (i) At or prior to the Closing, the District will have taken all action required to be taken by it to authorize the issuance and delivery of the Bonds; (ii) the District has the legal right, power and authority to enter into this Purchase Agreement, to adopt the Resolution, to perform its obligations under each such document or instrument, and to carry out and effectuate the transactions contemplated by this Purchase Agreement and the Resolution; (iii) the execution and delivery or adoption of, and the performance by the District of the obligations contained in the Bonds, the Continuing Disclosure Agreement, the Resolution and this Purchase Agreement (collectively, the “District Documents”) have been duly authorized and such authorization shall be in force and effect at the time of the Closing; (iv) the District Documents constitute valid and legally binding obligations of the District enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws and to principles of equity relating to or affecting the enforcement of creditors’ rights; and (v)

the District has duly authorized the consummation by it of all transactions contemplated by this Purchase Agreement and by the Official Statement.

(c) No consent, approval, authorization, order, filing, registration, qualification, election or referendum, of or by any person, organization, court or governmental agency or public body whatsoever is required in connection with the issuance, delivery or sale of the Bonds or the consummation of the other transactions effected or contemplated herein or hereby, except for such actions which may qualify the Bonds for offer and sale under “Blue Sky” or other securities laws and regulations of such states and jurisdictions of the United States as the Underwriter may reasonably request, or which have not been taken or obtained; provided, however, that the District shall not be required to subject itself to service of process in any jurisdiction in which it is not so subject as of the date hereof.

(d) The District has complied, or will comply, with the requirements of the Internal Revenue Code of 1986, as amended (the “Code”), applicable to the Bonds.

(e) To the best knowledge of the District, the issuance of the Bonds, and the execution, delivery and performance of the District Documents, and the compliance with the provisions thereof and hereof do not conflict with or constitute on the part of the District a violation of or default under, the Constitution of the State of California or any existing law, charter, ordinance, regulation, decree, order or resolution and do not conflict with or result in a violation or breach of, or constitute a default under, any agreement, indenture, mortgage, lease or other instrument to which the District is a party or by which it is bound or to which it is subject.

(f) As of the time of acceptance hereof no action, suit, hearing or investigation is pending or, to the best knowledge of the District, threatened: (i) in any way affecting the existence of the District or in any way challenging the respective powers of the several offices or the titles of the officials of the District to such offices; or (ii) seeking to restrain or enjoin the sale, issuance or delivery of the Bonds, the application of the proceeds of the sale of the Bonds, or the collection or levy of taxes contemplated by the Resolution and available to pay the principal of and interest on the Bonds, or in any way contesting or affecting the validity or enforceability of the Bonds, this Purchase Agreement or the Resolution or contesting the powers of the District or its authority with respect to the Bonds, this Purchase Agreement or the Resolution; or (iii) in which a final adverse decision could (A) materially adversely affect the operations of the District or the consummation of the transactions contemplated by this Purchase Agreement or the Resolution, (B) declare this Purchase Agreement to be invalid or unenforceable in whole or in material part, or (C) adversely affect the exclusion of the interest paid on the Bonds from gross income for federal income tax purposes or the exemption of such interest on the Bonds from California personal income taxation.

(g) Between the date hereof and the Closing neither the District nor the County in the name and on behalf of the District, will have issued in the name and on behalf of the District, any bonds, notes or other obligations for borrowed money except for such borrowings as may be described in or contemplated by the Official Statement.

(h) Any certificates signed by any officer of the District and delivered to the Underwriter shall be deemed a representation and warranty by the District to the Underwriter, but not by the person signing the same, as to the statements made therein.

(i) In accordance with the requirements of the Rule, the District will enter into the Continuing Disclosure Agreement, upon or prior to the sale of the Bonds, in which the District will undertake, for the benefit of the Owners of the Bonds, to provide certain information as set forth therein. The District is not in default with respect to any continuing disclosure obligation it may have incurred prior to the date hereof in connection with the delivery or issuance of any debt instruments, bonds, notes or lease-purchase obligations. Except as otherwise described in the Official Statement, the District has not failed during the previous five years to comply in all material respects with any previous undertakings in a written continuing disclosure certificate or agreement under the Rule.

(j) The Preliminary Official Statement did not as of its date and the Official Statement does not as of its date and as of the date of Closing will not (excluding therefrom information relating to The Depository Trust Company, its book-entry system, and information provided by the Underwriter, the County or County officers) contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. The financial statements of, and other financial information regarding, the District contained in the Official Statement fairly represent the financial position and operating results of the District as of the dates and for the periods set forth therein. Prior to the Closing, there will have been no adverse change of a material nature in such financial position, results of operation or condition, financial or otherwise, of the District. The District is not a party to any litigation or other proceeding pending, or, to its knowledge, threatened which, if decided adversely to the District, would have a materially adverse effect on the financial condition of the District.

(k) The financial statements of, and other financial information regarding, the District contained in the Official Statement fairly represent the financial position and operating results of the District as of the dates and for the periods set forth therein. Since the date of the Preliminary Official Statement, there has been no adverse change of a material nature in such financial position, results of operation or condition, financial or otherwise, of the District. The District is not a party to any litigation or other proceeding pending or, to its best knowledge, threatened which, if decided adversely to the District, would have a materially adverse effect on the financial condition of the District.

Section 9. Covenants of the District. The District covenants and agrees with the Underwriter that:

(a) The District will furnish such information, execute such instruments, and take such other action in cooperation with the Underwriter if and as the Underwriter may reasonably request in order to qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations or such states and jurisdictions; provided, however,

that the District shall not be required to consent to service of process in any jurisdiction in which they are not so subject as of the date hereof.

(b) The District will apply the proceeds from the sale of the Bonds for the purposes specified in the Resolution.

(c) The District hereby agrees to deliver or cause to be delivered to the Underwriter, not later than the seventh business day following the date this Purchase Agreement is signed, copies of a final Official Statement substantially in the form of the Preliminary Official Statement, with only such changes therein as shall have been accepted by the Underwriter and the District (such Official Statement with such changes, if any, and including the cover page and all appendices, exhibits, maps, reports and statements included therein or attached thereto being herein called the "Official Statement") in such quantities as may be requested by the Underwriter, in order to permit the Underwriter to comply with paragraph (b)(4) of the Rule and with the rules of the MSRB. The District hereby authorizes the Underwriter to use and distribute the Official Statement in connection with the offering and sale of the Bonds.

(d) The District hereby agrees to notify the Underwriter of any event or occurrence that may affect the accuracy or completeness of any information set forth in the Official Statement relating to the District, respectively, until the date which is 90 days following the Closing.

(e) The District authorizes the Underwriter to file, to the extent required by the applicable rules promulgated by the Securities and Exchange Commission or the MSRB, and the Underwriter agrees to file or cause to be filed, the Official Statement with (i) the MSRB or its designee (including the MSRB's Electronic Municipal Market Access system); or (ii) other repositories approved from time to time by the Securities and Exchange Commission (either in addition to or in lieu of the filing referred to above). If an amended Official Statement is prepared in accordance with Section 8(g) of this Purchase Agreement during the "Primary Offering Disclosure Period" (as defined herein), and if required by an applicable Securities and Exchange Commission Rule or MSRB rule, the Underwriter also shall make the required filings of the amended Official Statement. The "Primary Offering Disclosure Period" is used as defined in MSRB Rule G-32 and shall end on the twenty-fifth day after the Closing Date.

(f) References herein to the Preliminary Official Statement and the final Official Statement include the cover page and all appendices, exhibits, maps, reports and statements included therein or attached thereto.

(g) During the period ending on the twenty-fifth day after the End of the Underwriting Period (or such other period as may be agreed to by the District and the Underwriter), the District (i) shall not supplement or amend the Official Statement or cause the Official Statement to be supplemented or amended without the prior written consent of the Underwriter; and (ii) shall notify the Underwriter promptly if any event shall occur, or information comes to the attention of the District, that is reasonably likely to cause the Official Statement (whether or not previously supplemented or amended) to

contain any untrue statement of a material fact or to omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. If, in the opinion of the Underwriter, such event requires the preparation and distribution of a supplement or amendment to the Official Statement, the District shall prepare and furnish to the Underwriter, at the District's expense, such number of copies of the supplement or amendment to the Official Statement, in form and substance mutually agreed upon by the District and the Underwriter, as the Underwriter may reasonably request. If such notification shall be given subsequent to the Closing, the District also shall furnish, or cause to be furnished, such additional legal opinions, certificates, instruments and other documents as the Underwriter may reasonably deem necessary to evidence the truth and accuracy of any such supplement or amendment to the Official Statement. For purposes of this Agreement, (i) the "End of the Underwriting Period" is used as defined in the Rule and shall occur on the later of (A) the Closing Date; or (B) when the Underwriter no longer retains an unsold balance of the Bonds; unless otherwise advised in writing by the Underwriter on or prior to the Closing Date, or otherwise agreed to by the District and the Underwriter, the District may assume that the End of the Underwriting Period is the Closing Date.

Section 10. Underwriter's Representations, Warranties and Agreements. The Underwriter represents, warrants to and agrees with the District that as of the date hereof and as of the date of Closing:

(a) The Underwriter is duly authorized to execute this Purchase Agreement through its officer as undersigned and is authorized to take any action(s) under this Purchase Agreement required to be taken by it.

(b) The Underwriter has, and has had, no financial advisory relationship with the District with respect to the Bonds, and no investment firm controlling, controlled by or under common control with the Underwriter has or has had any such financial advisory relationship with the District with respect to the Bonds, within the meaning of California Government Code Section 53590.

(c) The Underwriter has not paid or agreed to pay, nor will they pay or agree to pay, any entity, company, firm, or person (including, but not limited to, the District's financial consultants, or any officer, agent or employee thereof), other than a bona fide officer, agent or employee working for the Underwriter, any compensation, fee, gift or other consideration contingent upon or resulting from the award of or entering into this Purchase Agreement.

(d) The Underwriter has reasonably determined that the District's undertaking to provide continuing disclosure with respect to the Bonds pursuant to Section 10(e)(xv) hereof is sufficient to effect compliance with the Rule.

Section 11. Conditions to Closing. The Underwriter has entered into this Purchase Agreement in reliance upon the representations and warranties of the District contained herein and the performance by the District of its obligations hereunder and in reliance upon the representations, warranties and agreements to be contained in the documents and instruments to

be delivered at the date of Closing. Accordingly, the Underwriter's obligations under this Purchase Agreement to purchase, to accept delivery of and to pay for the Bonds are and shall be conditioned upon the performance by the District of its obligations to be performed hereunder and under such documents and instruments at or prior to the Closing, and shall also be subject at the option of the Underwriter, to the following further conditions, including the delivery by the District of such documents and instruments as are enumerated herein, in form and substance satisfactory to the Underwriter:

(a) The representations and warranties of the District contained herein shall be true, complete and correct in all material respects at the date hereof and at and as of the Closing, as if made at and as of the Closing, and the statements made in all certificates and other documents delivered to the Underwriter at the Closing pursuant hereto shall be true, complete and correct in all material respects on the date of the Closing; and the District shall be in compliance with each of the agreements made by them, individually, in this Purchase Agreement.

(b) At the time of the Closing, (i) the Official Statement, this Purchase Agreement and the Resolution shall be in full force and effect and shall not have been amended, modified or supplemented except as may have been agreed to in writing by the Underwriter; (ii) all actions under the Act which, in the opinion of Bond Counsel, shall be necessary in connection with the transactions contemplated hereby, shall have been duly taken and shall be in full force and effect; and (iii) the District shall perform or have performed all of its obligations required under or specified in the Resolution, this Purchase Agreement or the Official Statement to be performed at or prior to the Closing.

(c) No decision, ruling or finding shall have been entered by any court or governmental authority since the date of this Purchase Agreement (and not reversed on appeal or otherwise set aside), or to the best knowledge of the District, pending or threatened, which has any of the effects described in Section 8(f) hereof, or contesting in any way the completeness or accuracy of the Official Statement.

(d) Between the date hereof and the Closing, the market price for the Bonds, or the market for or marketability of the Bonds at the initial offering prices set forth in the Official Statement, or the ability of the Underwriter to enforce contracts for the sale of the Bonds, shall not have been materially adversely affected in the reasonable professional judgment of the Underwriter (evidenced by a written notice to the District terminating the obligation of the Underwriter to accept delivery of and pay for the Bonds) by reason of any of the following:

(i) legislation enacted by the Congress of the United States, or passed by either House of the Congress, or favorably reported for passage to either House of the Congress by any Committee of such House to which such legislation has been referred for consideration, or by the legislature of the State of California (the "State"), or introduced in the Congress or recommended for passage by the President of the United States, or a decision rendered by a court of the United States or the State or by the United States Tax Court, or an order, regulation (final, temporary or proposed) or official statement issued or made:

(A) by or on behalf of the United States Treasury Department, or by or on behalf of the Internal Revenue Service or other federal or State authority, which would have the purpose or effect of changing, directly or indirectly, the federal income tax consequences or State tax consequences of interest on obligations of the general character of the Bonds in the hands of the holders thereof; or

(B) by or on behalf of the Securities and Exchange Commission, or any other governmental agency having jurisdiction over the subject matter thereof, to the effect that the Bonds, or obligations of the general character of the Bonds, including any and all underlying arrangements, are not exempt from registration under the Securities Act of 1933, as amended;

(ii) the declaration of war or engagement in or material escalation of major military hostilities by the United States or the occurrence of any other national or international emergency or calamity or crisis relating to the effective operation of the government or the financial community in the United States;

(iii) the declaration of a general banking moratorium by federal, New York or State authorities having jurisdiction, or the general suspension of trading on any national securities exchange or fixing of minimum or maximum prices for trading or maximum ranges for prices for securities on any national securities exchange, whether by virtue of a determination by that exchange or by order of the Securities and Exchange Commission or any other governmental authority having jurisdiction;

(iv) the imposition by the New York Stock Exchange, other national securities exchange, or any governmental authority, of any material restrictions not now in force with respect to the Bonds, or obligations of the general character of the Bonds, or securities generally, or the material increase of any such restrictions now in force, including those relating to the extension of credit by, or the charge to the net capital requirements of, underwriters;

(v) an order, decree or injunction of any court of competent jurisdiction, or order, regulation or official statement by the Securities and Exchange Commission, or any other governmental agency having jurisdiction over the subject matter thereof, issued or made to the effect that the issuance, offering or sale of obligations of the general character of the Bonds, or the issuance, offering or sale of the Bonds, as contemplated hereby or by the Official Statement, is or would be in violation of the federal securities laws, as amended and then in effect;

(vi) there shall have occurred or any notice shall have been given of any intended review, downgrading, suspension, withdrawal, or negative change in credit watch status to any of the underlying ratings on the District's outstanding indebtedness;

(vii) any event occurring, or information becoming known which, in the reasonable judgment of the Underwriter, makes untrue in any material adverse respect any statement or information set forth in the Official Statement, or results in an omission to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading;

(viii) there shall have occurred since the date of this Purchase Agreement any materially adverse change in the affairs or financial condition of the District;

(ix) any state “Blue Sky” or securities commission, or other governmental agency or body, shall have withheld registration, exemption or clearance of the offering of the Bonds as described herein, or issued a stop order or similar ruling relating thereto;

(x) any amendment shall have been made to the federal or State Constitution or action by any federal or State court, legislative body, regulatory body, or other authority materially adversely affecting the tax status of the District, its property, income, securities (or interest thereon) or the validity or enforceability of the levy of taxes to pay principal of and interest on the Bonds; or

(xi) the purchase of and payment for the Bonds by the Underwriter, or the resale of the Bonds by the Underwriter, on the terms and conditions herein provided shall be prohibited by any applicable law, governmental authority, board, agency or commission.

(e) At or prior to the date of the Closing, the Underwriter shall receive three copies of the following documents, in each case dated as of the date of Closing and satisfactory in form and substance to the Underwriter:

(i) an approving opinion of Dannis Woliver Kelley, as Bond Counsel (“Bond Counsel”) to the District, addressed to the District, in substantially the form set forth in Appendix A to the Official Statement;

(ii) a reliance letter from Bond Counsel to the effect that the Underwriter may rely upon the approving opinion described in Section 10(e)(i) above;

(iii) a supplemental opinion from Bond Counsel, addressed to the Underwriter and the District, to the effect that:

(A) this Purchase Agreement has been duly authorized, executed and delivered by the District and, assuming due authorization, execution and delivery by the Underwriter, is a legally valid and binding agreement of the District, enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, moratorium, insolvency or other laws affecting creditors’ rights or remedies, and is

subject to general principles of equity (regardless of whether such enforcement is considered in equity or at law);

(B) the statements contained in the Official Statement in the sections thereof entitled: “INTRODUCTORY STATEMENT,” “THE BONDS,” and “TAX MATTERS” (excluding information related to DTC, its book-entry-only system, and certain statistical information), insofar as such statements purport to summarize certain provisions of the Bonds, the Resolution and the opinions of Bond Counsel, present a fair and accurate summary of such provisions; and

(C) the Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Resolution is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended;

(iv) a certificate signed by an appropriate official of the District to the effect that (A) such official is authorized to execute this Purchase Agreement; (B) the representations, agreements and warranties of the District herein are true and correct in all material respects as of the date of Closing; (C) the District has complied with all the terms of the Resolution and this Purchase Agreement to be complied with by the District prior to or concurrently with the Closing and such documents are in full force and effect; (D) such official has reviewed the Official Statement and on such basis certifies that the Official Statement does not contain any untrue statements of a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading; (E) the Bonds being delivered on the date of the Closing to the Underwriter under this Purchase Agreement substantially conform to the descriptions thereof contained in the Resolution; and (F) there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court or public body, pending or, to his or her knowledge, threatened against the District contesting in any way the completeness or accuracy of the Official Statement, the issuance of the Bonds by District or the due adoption of the Resolution;

(v) tax certificate(s) of the District in form(s) satisfactory to Bond Counsel;

(vi) Internal Revenue Service Form(s) 8038-G, as prepared for the Bonds;

(vii) evidence satisfactory to the Underwriter that the Bonds shall have been rated “___” by Standard & Poor’s Rating Services/Moody’s Investors Services (or such other equivalent rating as such rating agency may give) and that such rating has not been revoked or downgraded or placed under review or “Credit Alert”;

(viii) a certificate, together with fully executed copies of the Resolution, of the Clerk or Secretary of the Board of Trustees to the effect that:

(A) such copies are true and correct copies of the Resolution;
and

(B) that the Resolution was duly adopted and has not been modified, amended, rescinded or revoked and is in full force and effect on the date of the Closing;

(ix) a “deemed final” certificate of the appropriate official of the District with respect to the Preliminary Official Statement in accordance with the Rule;

(x) the Continuing Disclosure Agreement, signed by an appropriate official of the District and the Dissemination Agent, if any;

(xi) a certificate of the Paying Agent, signed by a duly authorized officer of the Paying Agent, and in form and substance satisfactory to the Underwriter, to the effect that, to the best of such officer’s knowledge, no litigation is pending or threatened (either in state or federal courts) (A) seeking to restrain or enjoin the delivery by the Paying Agent of any of the Bonds, or (B) in any way contesting or affecting any authority of the Paying Agent for the delivery of the Bonds or the validity or enforceability of the Bonds or any agreement with the Paying Agent;

(xii) a copy of the submitted Report of Proposed Debt Issuance and acknowledgement, together with the Report(s) of Final Sale to be submitted to the California Debt and Investment Advisory Commission;

(xiii) a Preliminary Official Statement, together with a final Official Statement executed by an authorized representative of the District;

(xiv) such additional legal opinions, certificates, proceedings, instruments, and other documents as the Underwriter may reasonably request in order to evidence compliance (A) by the District with legal requirements; (B) of the truth and accuracy, as of the time of Closing, of the representations of the District herein contained and of the Official Statement; and (C) of the due performance or satisfaction by the District at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by the District.

(f) ***Underwriter’s Certifications.*** At or prior to the date of the Closing, and contemporaneously with the acceptance and delivery of the Bonds and the payment of the purchase price therefore (as set forth herein), the Underwriter shall provide to the District:

(i) the receipt of the Underwriter, in form satisfactory to the District and signed by an authorized officer of the Underwriter, accepting the Bonds by the Underwriter and receipt of all documents required by the Underwriter pursuant to the terms hereof, and the satisfaction or waiver of all conditions and

terms of this Purchase Agreement by the District, and confirming to the District that as of the date of Closing all of the representations of the Underwriter contained in this Purchase Agreement are true, complete and correct in all material respects; and

(ii) the certification(s) of the Underwriter, signed by an authorized officer of the Underwriter, in form satisfactory to Bond Counsel, regarding the prices at which the Bonds have been reoffered to the public, as described in Section 4 hereof and such other matters relative to the Bonds as Bond Counsel may request.

(g) Notwithstanding anything to the contrary herein contained, if for any reason whatsoever, the Bonds shall not have been delivered by the District to the Underwriter for checking prior to the close of business, California Time, on a day no later than two Business Days prior to the Closing, then the obligation to purchase Bonds hereunder shall terminate and be of no further force or effect except with respect to the obligations of the District and the Underwriter under Section 13 hereof.

If the District shall be unable to satisfy the conditions to the Underwriter's obligations contained in this Purchase Agreement or if the Underwriter's obligations shall be terminated for any reason permitted by this Purchase Agreement, this Purchase Agreement may be cancelled by the Underwriter at, or at any time prior to, the time of Closing. Notice of such cancellation shall be given to the District in writing or by telephone or facsimile, confirmed in writing. Notwithstanding any provision herein to the contrary, the performance of any and all obligations of the District hereunder and the performance of any and all conditions contained herein for the benefit of the Underwriter may be waived by the Underwriter in writing at its sole discretion.

Section 12. Conditions to Obligations of the District. The performance by the District of its obligations under this Purchase Agreement is conditioned upon (a) the performance by the Underwriter of its obligations hereunder, and (b) receipt by the District and by the Underwriter of opinions and certificates being delivered at the Closing by persons and entities other than themselves.

Section 13. Expenses.

(a) The Underwriter shall pay all of the expenses that it incurs, including but not limited to:

(i) the fees and expenses of Underwriter's counsel (if any);

(ii) all expenses incurred by the Underwriter in connection with the public offering and distribution of the Bonds, including all advertising expenses and "blue sky" filing fees;

(iii) the cost of preparation and printing (and/or word processing and reproduction) of the "blue sky" and legal investment memoranda, if any;

(iv) the expense of providing immediately available funds in accordance with Section 7 (Closing);

(v) the fees of CUSIP and CDIAC in connection with the Bonds;

(vi) any MSRB or SIFMA fees in connection with the Bonds; and

(vii) the fees of The Depository Trust Company.

(b) The District shall pay any expenses incident to the performance of its obligations hereunder, including but not limited to the following:

(i) the fees and disbursements of the District's financial advisor and bond counsel;

(ii) the fees for bond rating;

(iii) the cost of the printing and distribution of the Preliminary Official Statement and the Official Statement;

(iv) the initial fees of the Paying Agent; and

(v) other fees and expenses incurred by the District incident to the issuance and sale of the Bonds.

Section 14. Notices. Any notice or other communication to be given under this Purchase Agreement (other than the acceptance hereof as specified in the first Section hereof) may be given by delivering the same in writing, if to the District, to the Superintendent of Fountain Valley School District, 10055 Slater Avenue, Fountain Valley, California 92708, or if to the Underwriter at _____.

Section 15. Parties In Interest; Survival of Representations and Warranties. This Purchase Agreement when accepted by the District in writing as heretofore specified shall constitute the entire agreement between the District and the Underwriter. This Purchase Agreement is made solely for the benefit of the District and the Underwriter. No person shall acquire or have any rights hereunder or by virtue hereof. All the representations, warranties and agreements of the District in this Purchase Agreement shall survive regardless of (a) any investigation of any statement in respect thereof made by or on behalf of the Underwriter, (b) delivery of and payment by the Underwriter for the Bonds hereunder, and (c) any termination of this Purchase Agreement.

Section 16. Severability. In the event any provision of this Purchase Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 17. Nonassignment. Notwithstanding anything stated to the contrary herein, neither party hereto may assign or transfer its interest herein, or delegate or transfer any of its obligations hereunder, without the prior written consent of the other party hereto.

Section 18. Entire Agreement. This Purchase Agreement, when executed by the parties hereto, shall constitute the entire agreement of the parties hereto, including their permitted successors and assigns, respectively.

Section 19. Execution in Counterparts. This Purchase Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same document.

Section 20. Applicable Law. This Purchase Agreement shall be interpreted, governed and enforced in accordance with the law of the State of California applicable to contracts made and performed in such State.

Very truly yours,

[Underwriter]

By _____
[Title]

FOUNTAIN VALLEY SCHOOL DISTRICT

By _____
[Title]

The foregoing is hereby agreed to and accepted as of the date first written above.

ACCEPTED at _____ p.m. Pacific Time
this ____ day of May, 2017.

EXHIBIT A

\$ _____
**FOUNTAIN VALLEY SCHOOL DISTRICT
GENERAL OBLIGATION BONDS, (ELECTION OF 2016) SERIES 2017**

<u>Maturity</u> <u>(August 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>Price</u>
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* Priced to first par call date of August 1, 2026.

TERMS OF REDEMPTION

Optional Redemption. The Bonds maturing on or prior to August 1, 2026 are not subject to redemption prior to their fixed maturity dates. The Bonds maturing on and after August 1, 2027 are subject to redemption prior to their stated maturity dates, at the option of the District, from any source of available funds, on any date on or after August 1, 2026, as a whole or in part, at a redemption price equal to the principal amount of the Bonds called for redemption, with interest accrued thereon to the date of redemption, without premium.

\$ _____
FOUNTAIN VALLEY SCHOOL DISTRICT
(Orange County, California)
General Obligation Bonds (Election of 2016), Series 2017

PAYING AGENT/BOND REGISTRAR/COSTS OF ISSUANCE AGREEMENT

THIS PAYING AGENT/BOND REGISTRAR/COSTS OF ISSUANCE AGREEMENT (this "Agreement"), is entered into as of June 1, 2017, by and between the FOUNTAIN VALLEY SCHOOL DISTRICT (the "District"), and Zions Bank, a division of ZB, National Association (the "Bank"), relating to the \$ _____ Fountain Valley School District (Orange County, California) General Obligation Bonds (Election of 2016) Series 2017 (the "Bonds"). The District hereby appoints the Bank to act as Paying Agent, Transfer Agent and Bond Registrar for the Bonds and as Custodian and Disbursing Agent for the payment of costs of issuance relating to the Bonds.

RECITALS

WHEREAS the District has duly authorized and provided for the issuance of the Bonds as fully registered bonds without coupons;

WHEREAS the District will ensure all things necessary to make the Bonds the valid obligations of the District, in accordance with their terms, will be done upon the issuance and delivery thereof;

WHEREAS the District and the Bank wish to provide the terms under which Bank will act as Paying Agent to pay the principal, redemption premium (if any) and interest on the Bonds, in accordance with the terms thereof, and under which the Bank will act as Registrar for the Bonds;

WHEREAS the District and the Bank also wish to provide the terms under which Bank will act as Custodian and Disbursing Agent for the payment of costs of issuance relating to the Bonds;

WHEREAS the Bank has agreed to serve in such capacities for and on behalf of the District and has full power and authority to perform and serve as Paying Agent, Transfer Agent and Bond Registrar for the Bonds and as Custodian and Disbursing Agent for the payment of costs of issuance relating to the Bonds;

WHEREAS the District has duly authorized the execution and delivery of this Agreement; and all things necessary to make this Agreement a valid agreement have been done.

NOW, THEREFORE, it is mutually agreed as follows:

ARTICLE ONE

DEFINITIONS

Section 1.01. Definitions.

For all purposes of this Agreement except as otherwise expressly provided or unless the context otherwise requires:

"*Bank*" means Zions Bank, a division of ZB, National Association, a national banking association organized and existing under the laws of the United States of America.

"*Bonds*" means any one or all of the \$_____ Fountain Valley School District (Orange County, California) General Obligation Bonds (Election of 2016), Series 2017.

"*Bond Register*" means the book or books of registration kept by the Bank in which are maintained the names and addresses and principal amounts registered to each Registered Owner.

"*Bond Resolution*" means the resolution of the District pursuant to which the Bonds were issued.

"*County Treasurer*" means the Office of the Treasurer-Tax Collector of the County of Orange.

"*Custodian and Disbursing Agent*" means the Bank when it is performing the function of custodian and disbursing agent for the payment of costs of issuance relating to the Bonds.

"*District*" means Fountain Valley School District.

"*District Request*" means a written request signed in the name of the District and delivered to the Bank.

"*Fiscal Year*" means the fiscal year of the District ending on June 30 of each year.

"*Paying Agent*" means the Bank when it is performing the function of paying agent for the Bonds.

"*Person*" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision of a government or any entity whatsoever.

"*Registered Owner*" means a Person in whose name a Bond is registered in the Bond Register.

"*Registrar*" means the Bank when it is performing the function of registrar for the Bonds.

"*Stated Maturity*" when used with respect to any Bonds means the date specified in the Bond Resolution as the date on which the principal of such Bonds is due and payable.

ARTICLE TWO

APPOINTMENT OF BANK AS PAYING AGENT, TRANSFER AGENT, BOND REGISTRAR AND CUSTODIAN AND DISBURSING AGENT

Section 2.01. Appointment and Acceptance. The District hereby appoints the Bank to act as Paying Agent and Transfer Agent with respect to the Bonds, to pay to the Registered Owners in accordance with the terms and provisions of this Agreement and the Bond Resolution, the principal of, redemption premium (if any), and interest on all or any of the Bonds.

The District hereby appoints the Bank as Registrar with respect to the Bonds. As Registrar, the Bank shall keep and maintain for and on behalf of the District, books and records as to the ownership of the Bonds and with respect to the transfer and exchange thereof as provided herein and in the Bond Resolution.

The District hereby appoints the Bank as Custodian and Disbursing Agent.

The Bank hereby accepts its appointment, and agrees to act as Paying Agent, Transfer Agent, Bond Registrar and Custodian and Disbursing Agent.

Section 2.02. Compensation. As compensation for the Bank's services as Paying Agent and Bond Registrar, the Bank shall send invoices for payment, along with a fee schedule approved by the District, to the County Treasurer.

The District agrees to reimburse the Bank, upon its request, for all reasonable and necessary out-of-pocket expenses, disbursements, and advances, including without limitation the reasonable fees, expenses, and disbursements of its agents and attorneys, made or incurred by the Bank in connection with entering into and performing under this Agreement and in connection with investigating and defending itself against any claim or liability in connection with its performance hereunder.

ARTICLE THREE

PAYING AGENT

Section 3.01. Duties of Paying Agent. As Paying Agent, the Bank, provided sufficient collected funds have been provided to it for such purpose by or on behalf of the District, shall pay on behalf of the District the principal of, and interest on each Bond in accordance with the provisions of the Bond Resolution.

Section 3.02. Payment Dates. The District hereby instructs the Bank to pay the principal of, redemption premium (if any) and interest on the Bonds on the dates specified in the Bonds.

ARTICLE FOUR

REGISTRAR

Section 4.01. Initial Delivery of Bonds. The Bonds will be initially registered and delivered to the purchaser designated by the District as one bond for each maturity. If such purchaser delivers a written request to the Bank not later than five business days prior to the date of initial delivery, the Bank will, on the date of initial delivery, deliver Bonds of

authorized denominations, registered in accordance with the instructions in such written request.

Section 4.02. Duties of Registrar. The Bank shall provide for the proper registration of transfer, exchange and replacement of the Bonds. Every Bond surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, the signature on which has been guaranteed by an eligible guarantor institution, in form acceptable to the Bank, duly executed by the Registered Owner thereof or his attorney duly authorized in writing. The Bank as Registrar may request any supporting documentation it deems necessary or appropriate to effect a re-registration.

Section 4.03. Unauthenticated Bonds. The District shall provide to the Bank on a continuing basis, an adequate inventory of unauthenticated Bonds to facilitate transfers. The Bank agrees that it will maintain such unauthenticated Bonds in safekeeping.

Section 4.04. Form of Bond Register. The Bank as Registrar will maintain its records as Registrar in accordance with the Bank's general practices and procedures in effect from time to time.

Section 4.05. Reports. The District may request the information in the Bond Register at any time the Bank is customarily open for business, provided that reasonable time is allowed the Bank to provide an up-to-date listing and to convert the information into written form.

The Bank will not release or disclose the content of the Bond Register to any person other than to the District at its written request, except upon receipt of a subpoena or court order or as may otherwise be required by law. Upon receipt of a subpoena or court order the Bank will notify the District.

Section 4.06. Cancelled Bonds. All Bonds surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the Bank, shall be promptly cancelled by it and, if surrendered to the District, shall be delivered to the Bank and, if not already cancelled, shall be promptly cancelled by the Bank. The District may at any time deliver to the Bank for cancellation any Bonds previously authenticated and delivered which the District may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly cancelled by the Bank. All cancelled Bonds held by the Bank for its retention period then in effect and shall thereafter be destroyed and evidence of such destruction furnished to the District upon its written request.

ARTICLE FIVE

CUSTODIAN AND DISBURSING AGENT

Section 5.01. Receipt of Moneys. The Bank, as Custodian and Disbursing Agent has received from _____, the purchaser of the Bonds, \$_____ to be deposited in a special account to be held and maintained by the Custodian and Disbursing Agent in the name of the District (the "Costs of Issuance Account") and \$_____ to be transferred to the Orange County Treasury to the credit of the building fund of the District.

Section 5.02. Investment. The Bank as Custodian and Disbursing Agent will hold and invest funds in the Costs of Issuance Account until _____, the 200th day following the date of issue of the Bonds, or upon prior written order of the District.

Section 5.03. Payment of Costs of Issuance. The Bank as Custodian and Disbursing Agent will pay costs of issuance of the Bonds as directed by the District from time to time via a written requisition of the District.

Section 5.04. Transfer of Remaining Amounts. Any balances remaining in the Costs of Issuance Account (including any earnings) on _____, will be transferred to the Orange County Treasurer-Tax Collector for deposit in the Debt Service Fund held by the County and maintained for the District.

Section 5.05. Limited Liability. The liability of the Bank as Custodian and Disbursing Agent is limited to the duties listed above. The Custodian and Disbursing Agent will not be liable for any action taken or neglected to be taken by it in good faith in any exercise of reasonable care and believed by it to be within the discretion of power conferred upon it by this Agreement.

ARTICLE SIX

THE BANK

Section 6.01. Duties of Bank. The Bank undertakes to perform the duties set forth herein. No implied duties or obligations shall be read into this Agreement against the Bank. The Bank hereby agrees to use the funds deposited with it for payment of the principal of and interest on the Bonds to pay the same as it shall become due and further agrees to establish and maintain such accounts and funds as may be required for the Bank to function as Paying Agent.

Section 6.02. Reliance on Documents, Etc.

(a) The Bank may conclusively rely, as to the truth of the statements and correctness of the opinions expressed therein, on certificates or opinions expressed therein, on certificates or opinions furnished to the Bank by the District.

(b) The Bank shall not be liable for any error of judgment made in good faith. The Bank shall not be liable for other than its negligence or willful misconduct in connection with any act or omission hereunder.

(c) No provision of this Agreement shall require the Bank to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers.

(d) The Bank may rely, or be protected in acting or refraining from acting, upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Bank need not examine the ownership of any Bond, but shall be protected in acting upon receipt of Bonds containing an endorsement or instruction of transfer or power of transfer which appears on its face to be signed by the Registered Owner or agent of the Registered Owner.

(e) The Bank may consult with counsel, and the written advice or opinion of counsel shall be full authorization and protection with respect to any action taken, suffered or omitted by it hereunder in good faith and reliance thereon.

(f) The Bank may exercise any of the powers hereunder and perform any duties hereunder either directly or by or through agents or attorneys and shall not be liable for the actions of such agent or attorney if appointed by it with reasonable care.

Section 6.03. Recitals of District. The recitals contained in the Bond Resolution and the Bonds shall be taken as the statements of the District, and the Bank assumes no responsibility for their correctness.

Section 6.04. May Own Bonds. The Bank, in its individual or any other capacity, may become the owner or pledgee of Bonds with the same rights it would have if it were not the Paying Agent and Registrar for the Bonds.

Section 6.05. Money Held by Bank. Money held by the Bank hereunder need not be segregated from other funds. The Bank shall have no duties with respect to investment of funds deposited with it and shall be under no obligation to pay interest on any money received by it hereunder.

Any money deposited with or otherwise held by the Bank for the payment of the principal, redemption premium (if any) or interest on any Bond and remaining unclaimed for two years after such deposit will be paid by the Bank to the District, and the District and the Bank agree that the Registered Owner of such Bond shall thereafter look only to the District for payment thereof, and that all liability of the Bank with respect to such moneys shall thereupon cease.

Section 6.06. Other Transactions. The Bank may engage in or be interested in any financial or other transaction with the District.

Section 6.07. Interpleader. The District and the Bank agree that the Bank may seek adjudication of any adverse claim, demand, or controversy over its person as well as funds on deposit, in a court of competent jurisdiction. The District and the Bank further agree that the Bank has the right to file an action in interpleader in any court of competent jurisdiction to determine the rights of any person claiming any interest herein.

Section 6.08. Indemnification. To the extent permitted by law, the District shall indemnify the Bank, its officers, directors, employees and agents ("Indemnified Parties") for, and hold them harmless against any loss, cost, claim, liability or expense arising out of or in connection with the Bank's acceptance or administration of the Bank's duties hereunder or under the Bond Resolution (except any loss, liability or expense as may be adjudged by a court of competent jurisdiction to be attributable to the Bank's negligence or willful misconduct), including the cost and expense (including its counsel fees) of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties under this Agreement. Such indemnity shall survive the termination or discharge of this Agreement or discharge of the Bonds.

ARTICLE SEVEN

MISCELLANEOUS PROVISIONS

Section 7.01. Amendment. This Agreement may be amended only by an agreement in writing signed by both of the parties hereto.

Section 7.02. Assignment. This Agreement may not be assigned by either party without the prior written consent of the other party.

Section 7.03. Notices. Any request, demand, authorization, direction, notice, consent, waiver or other document provided or permitted hereby to be given or furnished to

the District or the Bank shall be mailed or delivered to the District or the Bank, respectively, at the address shown herein, or such other address as may have been given by one party to the other by fifteen (15) days written notice.

Section 7.04. Electronic Mail/Facsimile. The Paying Agent agrees to accept and act upon instructions or directions pursuant to this Agreement sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that the County of Orange and the District shall provide to the Paying Agent an incumbency certificate listing designated persons authorized to provide such instructions, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the Orange County and the District elect to give the Paying Agent e-mail or facsimile instructions (or instructions by a similar electronic method) and the Paying Agent in its discretion elects to act upon such instructions, the Paying Agent's understanding of such instructions shall be deemed controlling. The Paying Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Paying Agent's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The County of Orange and the District agree: (i) to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Paying Agent, including without limitation the risk of the Paying Agent acting on unauthorized instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting instructions to the Paying Agent and that there may be more secure methods of transmitting instructions than the method(s) selected by the County of Orange and the District; and (iii) that the security procedures (if any) to be followed in connection with its transmission of instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances.

Section 7.05. Effect of Headings. The Article and Section headings herein are for convenience of reference only and shall not affect the construction hereof.

Section 7.06. Successors and Assigns. All covenants and agreements herein by the District and the Bank shall bind their successors and assigns, whether so expressed or not.

Section 7.07. Severability. If any provision of this Agreement shall be determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

Section 7.08. Benefits of Agreement. Nothing herein, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy or claim hereunder.

Section 7.09. Entire Agreement. This Agreement and the Bond Resolution constitute the entire agreement between the parties hereto relative to the Bank acting as Paying Agent, Transfer Agent and Bond Registrar for the Bonds and as Custodian and Disbursing Agent for the payment of costs of issuance relating to the Bonds.

Section 7.10. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement.

Section 7.11. Term and Termination. This Agreement shall be effective from and after its date and until the Bank resigns or is removed in accordance with the Bond Resolution; provided, however, that no such termination shall be effective until a successor has been appointed and has accepted the duties of the Bank hereunder.

The Bank may resign at any time by giving written notice thereof to Orange County and the District. If the Bank shall resign, be removed or become incapable of acting, Orange County, after consultation with the District, shall promptly appoint a successor Paying Agent and Registrar. If an instrument of acceptance by a successor Paying Agent and Registrar shall not have been delivered to the Bank within thirty 30 days after the Bank gives notice of resignation, the Bank may petition any court of competent jurisdiction at the expense of the District for the appointment of a successor Paying Agent and Registrar. In the event of resignation or removal of the Bank as Paying Agent and Registrar, upon the written request of Orange County or the District and upon payment of all amounts owing to the Bank hereunder the Bank shall deliver to Orange County on behalf of the District or its designee all funds and unauthenticated Bonds, and a copy of the Bond Register. The provisions of Section 2.02 and Section 6.08 hereof shall survive and remain in full force and effect following the termination of this Agreement.

Section 7.12. Governing Law. This Agreement shall be construed in accordance with and shall be governed by the laws of the State of California.

Section 7.13. Documents to be Filed with Bank. At the time of the Bank's appointment as Paying Agent and Registrar, the District shall file with the Bank the following documents: (a) a certified copy of the Bond Resolution and a specimen Bond; (b) a copy of the opinion of bond counsel provided to the District in connection with the issuance of the Bonds; and (c) a District Request containing written instructions to the Bank with respect to the issuance and delivery of the Bonds, including the name of the Registered Owners and the denominations of the Bonds.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

FOUNTAIN VALLEY SCHOOL DISTRICT

By _____
Name
Title

ZIONS BANK, A DIVISION OF ZB,
NATIONAL ASSOCIATION, as Paying
Agent

By _____
Name _____
Title _____

CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (this "Disclosure Certificate") is executed and delivered by the Fountain Valley School District (the "District") in connection with the execution and delivery of \$_____ aggregate principal amount of the District's General Obligation Bonds, Election of 2016, Series 2017 (the "Bonds"). The Bonds are being issued pursuant to a Resolution adopted by the Board of Trustees of the District on April 13, 2017 (the "Resolution"). Capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Resolution.

In consideration of the execution and delivery of the Bonds by the District and the purchase of such Bonds by the Underwriter described below, the District hereby covenants and agrees as follows:

SECTION 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the District for the benefit of the Bondholders and in order to assist the original purchaser in complying with Rule 15c2-12(b)(5) (the "Rule") adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended.

SECTION 2. Additional Definitions. In addition to the above definitions and the definitions set forth in the Resolution, the following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the District pursuant to, and as described in, Sections 4 and 5 of this Disclosure Certificate.

"Bondholder" or "Holder" means any holder of the Bonds or any beneficial owner of the Bonds so long as they are immobilized with DTC.

"Dissemination Agent" shall mean any Dissemination Agent, or any alternate or successor Dissemination Agent, designated in writing by the Superintendent (or otherwise by the District), which Agent has evidenced its acceptance in writing. Initially, the Dissemination Agent shall be the District.

"Listed Event" means any of the events listed in Section 6 of this Disclosure Certificate.

"Material Events Disclosure" means dissemination of a notice of a Material Event as set forth in Section 6.

"MSRB" shall mean the Municipal Securities Rulemaking Board, through its electronic municipal market access system, which can be found at <http://emma.msrb.org/>, or any repository of disclosure information that may be designated by the Securities and Exchange Commission for purposes of the Rule.

SECTION 3. CUSIP Numbers and Final Official Statement. The CUSIP Numbers for the Bonds have been assigned. The Final Official Statement relating to the Bonds is dated _____, 2017 ("Final Official Statement").

SECTION 4. Provision of Annual Reports.

(a) The District shall cause the Dissemination Agent, not later than 9 months after the end of the District's fiscal year (currently ending June 30), which date would

be March 31, commencing with the report for the fiscal year ending June 30, 2017, which would be due on March 31, 2018, to provide to the MSRB an Annual Report which is consistent with the requirements of Section 5 of this Disclosure Certificate. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 5 of this Disclosure Certificate; provided that the audited financial statements of the District may be submitted, when and if available, separately from the balance of the relevant Annual Report.

(b) If the District is unable to provide to the MSRB an Annual Report by the date required in paragraph (a) above, the District, in a timely manner, shall send a notice to the MSRB in substantially the form attached as Exhibit A.

(c) The Dissemination Agent shall:

(i) determine the name and address of the MSRB each year prior to the date established hereunder for providing the Annual Report; and

(ii) if the Dissemination Agent is other than the District or an official of the District, the Dissemination Agent shall file a report with the District certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, stating the date it was provided and listing all the Repositories to which it was provided.

SECTION 5. Content of Annual Report. The District's Annual Report shall contain or incorporate by reference the following:

(a) Financial information including the basic financial statements of the District for the preceding fiscal year, prepared in conformity with generally accepted accounting principles as prescribed by the Governmental Accounting Standards Board and the American Institute of Certified Public Accountants. If audited financial information is not available by the time the Annual Report is required to be filed pursuant to Section 4(a) hereof, the financial information included in the Annual Report may be unaudited, and the District will provide audited financial information to the MSRB as soon as practical after it has been made available to the District.

(b) Operating data, including the following information with respect to the District's preceding fiscal year (to the extent not included in the audited financial statements described in paragraph (a) above):

(i) Adopted general fund budget for the current fiscal year;

(ii) Assessed valuations, as shown on the most recent equalized assessment roll;

(iii) 20 largest local secured taxpayers as shown on the most recent equalized assessment roll; and

(iv) Secured tax charges and delinquencies, only if Orange County terminates or discontinues the Teeter Plan within the District.

(c) Any or all of the items listed above may be incorporated by reference from other documents, including official statements of debt issues of the District or related public entities, which have been submitted to each of the Repositories or to the Securities and Exchange Commission. If the document incorporated by reference is a final official statement,

it must be available from the MSRB. The District shall clearly identify each other document so incorporated by reference.

SECTION 6. Reporting of Significant Events.

(a) The District agrees to provide or cause to be provided to the MSRB, in readable PDF or other electronic format as prescribed by the MSRB, notice of the occurrence of any of the following events with respect to the Bonds not later than ten (10) Business Days after the occurrence of the event:

- (i) Principal and interest payment delinquencies.
- (ii) Unscheduled draws on any debt service reserves reflecting financial difficulties.
- (iii) Unscheduled draws on any credit enhancements reflecting financial difficulties.
- (iv) Substitution of or failure to perform by any credit provider.
- (v) Issuance by the Internal Revenue Service of proposed or final determination of taxability or of a Notice of Proposed Issue (IRS Form 5701 TEB);
- (vi) Tender Offers;
- (vii) Defeasances;
- (viii) Rating changes; or
- (ix) Bankruptcy, insolvency, receivership or similar event of the obligated person.

(b) The District shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Bonds, if material, not later than ten (10) Business Days after the occurrence of the event:

- (i) Unless described in paragraph 6(a)(v) hereof, adverse tax opinions or other material notices or determinations by the Internal Revenue Service with respect to the tax status of the Bonds or other material events affecting the tax status of the Bonds;
- (ii) Modifications of rights to Bondholders;
- (iii) Optional, unscheduled or contingent Bond calls;
- (iv) Release, substitution or sale of property securing repayment of the Bonds;
- (v) Non-payment related defaults;
- (vi) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a

definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms; or

(vii) Appointment of a successor or additional Paying Agent or Trustee or the change of name of a Paying Agent or Trustee.

(c) The District shall give, or cause to be given, in a timely manner, notice of a failure to provide the annual financial information on or before the date specified in Section 4 hereof, as provided in Section 4(b) hereof.

(d) Whenever the District obtains knowledge of the occurrence of a Listed Event described in Section 6(a) hereof, or determines that knowledge of a Listed Event described in Section 6(b) hereof would be material under applicable federal securities laws, the District shall within ten (10) Business Days of occurrence file a notice of such occurrence with the MSRB in electronic format, accompanied by such identifying information as is prescribed by the MSRB. Notwithstanding the foregoing, notice of the Listed Event described in subsections (a)(vii) or (b)(iii) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to Holders of affected Bonds pursuant to the Resolution.

SECTION 7. Termination of Reporting Obligation. The District's obligations under this Disclosure Certificate shall terminate when the District is no longer an obligated person with respect to the Bonds, as provided in the Rule, upon the defeasance, prior redemption or payment in full of all of the Bonds.

SECTION 8. Dissemination Agent. The Superintendent may, from time to time, appoint or engage an alternate or successor Dissemination Agent to assist in carrying out the District's obligations under this Disclosure Certificate, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent.

The Dissemination Agent shall be entitled to the protections, limitations from liability, immunities and indemnities provided to the Paying Agent as set forth in the Resolution which are incorporated by reference herein. The Dissemination Agent agrees to perform only those duties of the Dissemination Agent specifically set forth in the Agreement, and no implied duties, covenants or obligations shall be read into this Agreement against the Dissemination Agent.

The Dissemination Agent shall have no duty or obligation to review the Annual Report nor shall the Dissemination Agent be responsible for filing any Annual Report not provided to it by the District in a timely manner in a form suitable for filing. In accepting the appointment under this Agreement, the Dissemination Agent is not acting in a fiduciary capacity to the registered holders or beneficial owners of the Bonds, the District, or any other party or person.

The Dissemination Agent may consult with counsel of its choice and shall be protected in any action taken or not taken by it in accordance with the advice or opinion of such counsel. No provision of this Agreement shall require the Dissemination Agent to risk or advance or expend its own funds or incur any financial liability. The Dissemination Agent shall have the right to resign from its duties as Dissemination Agent under this Agreement upon thirty days' written notice to the District. The Dissemination Agent shall be entitled to compensation for its services as Dissemination Agent and reimbursement for its out-of-pocket expenses, attorney's fees, costs and advances made or incurred in the performance of its duties under this Agreement in accordance with its written fee schedule provided to the District, as such fee schedule may be amended from time to time in writing. The District agrees to indemnify and hold the Dissemination Agent harmless from and against any cost, claim, expense, cost

or liability related to or arising from the acceptance of and performance of the duties of the Dissemination Agent hereunder, provided the Dissemination Agent shall not be indemnified to the extent of its willful misconduct or negligence. The obligations of the District under this Section shall survive the termination or discharge of this Agreement and the Bonds.

SECTION 9. Amendment. Notwithstanding any other provision of this Disclosure Certificate, the District may amend this Disclosure Certificate under the following conditions, provided no amendment to this Agreement shall be made that affects the rights, duties or obligations of the Dissemination Agent without its written consent:

(a) The amendment may be made only in connection with a change in circumstances that arises from a change in legal requirements, change in law or change in the identity, nature or status of the obligated person, or type of business conducted;

(b) This Disclosure Certificate, as amended, would have complied with the requirements of the Rule at the time of the primary offering of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment does not materially impair the interests of Holders, as determined either by parties unaffiliated with the District or another obligated person (such as the Bond Counsel) or by the written approval of the Bondholders; provided, that the Annual Report containing the amended operating data or financial information shall explain, in narrative form, the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided.

SECTION 10. Additional Information. If the District chooses to include any information from any document or notice of occurrence of a Material Event in addition to that which is specifically required by this Disclosure Certificate, the District shall have no obligation under this Disclosure Certificate to update such information or to include it in any future disclosure or notice of occurrence of a Designated Material Event.

Nothing in this Disclosure Certificate shall be deemed to prevent the District from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Designated Material Event, in addition to that which is required by this Disclosure Certificate.

SECTION 11. Default. The District shall give notice to the MSRB of any failure to provide the Annual Report when the same is due hereunder, which notice shall be given prior to July 1 of that year. In the event of a failure of the District to comply with any provision of this Disclosure Certificate, any Bondholder may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the District to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an event of default under the Resolution, and the sole remedy under this Disclosure Certificate in the event of any failure of the District to comply with this Disclosure Certificate shall be an action to compel performance.

SECTION 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the District, the Dissemination Agent, the Underwriter and Holders from time to time of the Bonds, and shall create no rights in any other person or entity.

SECTION 13. Governing Law. This Disclosure Certificate shall be governed by the laws of the State, applicable to contracts made and performed in such State.

Dated: _____, 2017

FOUNTAIN VALLEY SCHOOL DISTRICT

By: _____
Superintendent

[Signature Page to Continuing Disclosure Certificate]

EXHIBIT A

NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: Fountain Valley School District

Name of Issue: \$_____ General Obligation Bonds, Election of 2016, Series 2017

Date of Issuance: _____, 2017

NOTICE IS HEREBY GIVEN that the above-named Issuer has not provided an Annual Report with respect to the above-named Bonds as required by Section 4(a) of the Continuing Disclosure Certificate dated _____, 2017. The Issuer anticipates that the Annual Report will be filed by _____.

Dated: _____

[ISSUER/DISSEMINATION AGENT]

NEW ISSUE

[RATING AGENCY] Rating: “__”

DTC BOOK-ENTRY ONLY

See “RATING” herein

In the opinion of Dannis Woliver Kelley, Bond Counsel to the District, under existing law, interest on the Bonds is exempt from personal income taxes of the State of California, and, assuming continuing compliance after the date of initial delivery of the Bonds with certain covenants contained in the Resolution authorizing the Bonds and subject to the matters set forth under “LEGAL MATTERS—Tax Matters” herein, interest on the Bonds for federal income tax purposes under existing statutes, regulations, published rulings, and court decisions will be excludable from the gross income of the owners thereof pursuant to section 103 of the Internal Revenue Code of 1986, as amended to the date of initial delivery of the Bonds, and will not be included in computing the alternative minimum taxable income of the owners thereof who are individuals or, except as described herein, corporations. See “LEGAL MATTERS—Tax Matters” herein.



\$21,000,000*
FOUNTAIN VALLEY SCHOOL DISTRICT
(ORANGE COUNTY, CALIFORNIA)
GENERAL OBLIGATION BONDS,
ELECTION OF 2016, SERIES 2017

DATED: Date of Delivery**DUE: August 1, as shown on the inside cover**

The Fountain Valley School District (Orange County, California) General Obligation Bonds, Election of 2016, Series 2017 in the aggregate principal amount of \$21,000,000* (the “Bonds”) are being issued by the Fountain Valley School District (the “District”) to (i) finance the specific school facilities projects set forth in the ballot measure approved by the District’s voters at an election held on November 8, 2016 and (ii) pay costs of issuance of the Bonds. See “PLAN OF FINANCE” herein.

The Bonds are general obligations of the District, payable solely from *ad valorem* property taxes levied and collected by Orange County (the “County”). The Board of Supervisors of the County is empowered and obligated to annually levy and collect *ad valorem* property taxes without limitation as to rate or amount on all taxable property in the District (except for certain personal property which is taxable at limited rates) for the payment of principal of and interest on the Bonds. See “SECURITY AND SOURCE OF PAYMENT” herein.

The Bonds are being issued as current interest bonds issuable in denominations of \$5,000 or any integral multiple thereof. The Bonds mature on August 1 in the years and amounts set forth on the inside page following this cover page. Interest on the Bonds accrues from the date of delivery and is payable semiannually on February 1 and August 1 of each year, commencing February 1, 2018. The Bonds are subject to redemption prior to their maturity. See “THE BONDS—Payment of Principal and Interest” and “—Redemption Provisions” herein.

The Bonds are being issued as fully registered bonds, without coupons, in book-entry form only. When delivered, the Bonds will be initially registered in the name of Cede & Co., as nominee of The Depository Trust Company (“DTC”), acting as securities depository for the Bonds. So long as Cede & Co. is the registered owner of the Bonds, payments of principal of and interest on the Bonds will be made by Zions Bank, a division of ZB, National Association as paying agent (the “Paying Agent”) to DTC for subsequent disbursement to DTC participants who will remit such payments to the Beneficial Owners. See “APPENDIX E—DTC BOOK-ENTRY ONLY SYSTEM” attached hereto.

THIS COVER PAGE CONTAINS CERTAIN INFORMATION FOR QUICK REFERENCE ONLY. IT IS NOT INTENDED TO BE A SUMMARY OF ALL FACTORS RELEVANT TO AN INVESTMENT IN THE BONDS. INVESTORS SHOULD READ THE ENTIRE OFFICIAL STATEMENT TO OBTAIN INFORMATION ESSENTIAL TO THE MAKING OF AN INFORMED INVESTMENT DECISION. CAPITALIZED TERMS USED ON THIS COVER PAGE NOT OTHERWISE DEFINED WILL HAVE THE MEANINGS SET FORTH HEREIN.

MATURITY SCHEDULE

See Inside Cover

The Bonds are being purchased for reoffering by _____ as underwriter of the Bonds (the “Underwriter”). The Bonds are offered when, as and if issued by the District and received by the Underwriter, subject to approval as to legality by Dannis Woliver Kelley, Bond Counsel to the District. It is anticipated that the Bonds, in definitive form, will be available for delivery through the facilities of DTC on or about June 1, 2017.

This Official Statement is dated _____, 2017.

*Preliminary, subject to adjustment.

MATURITY SCHEDULE

\$21,000,000^{*}
 FOUNTAIN VALLEY SCHOOL DISTRICT
 (ORANGE COUNTY, CALIFORNIA)
 GENERAL OBLIGATION BONDS
 ELECTION OF 2016, SERIES 2017

Maturity Date August 1	Principal Amount [*]	Interest Rate	Reoffering Yield	Price	CUSIP ⁺
2018	\$____,000	_____%	_____%	____.____%	
2019	____,000	____%	____%	____.____%	
2020	____,000	____%	____%	____.____%	
2021	____,000	____%	____%	____.____%	
2022	____,000	____%	____%	____.____%	
2023	____,000	____%	____%	____.____%	
2024	____,000	____%	____%	____.____%	
2025	____,000	____%	____%	____.____%	
2026	____,000	____%	____%	____.____%	
2027	____,000	____%	____%	____.____%	
2028	____,000	____%	____%	____.____%	
2029	____,000	____%	____%	____.____%	
2030	____,000	____%	____%	____.____%	
2031	____,000	____%	____%	____.____%	
2032	____,000	____%	____%	____.____%	
2033	____,000	____%	____%	____.____%	
2034	____,000	____%	____%	____.____%	
2035	____,000	____%	____%	____.____%	
2036	____,000	____%	____%	____.____%	
2037	____,000	____%	____%	____.____%	
2038	____,000	____%	____%	____.____%	
2039	____,000	____%	____%	____.____%	
2040	____,000	____%	____%	____.____%	
2041	____,000	____%	____%	____.____%	
2042	____,000	____%	____%	____.____%	
2043	____,000	____%	____%	____.____%	
2044	____,000	____%	____%	____.____%	
2045	____,000	____%	____%	____.____%	
2046	____,000	____%	____%	____.____%	

^{*} Preliminary; subject to adjustment

⁺ CUSIP is a registered trademark of the American Bankers Association. CUSIP data herein is provided by CUSIP Global Services, managed by S&P Capital IQ on behalf of The American Bankers Association. This data is not intended to create a database and does not serve in any way as a substitute for the CUSIP Services. Neither the District nor the Underwriter is responsible for the selection or correctness of the CUSIP numbers set forth herein.

Use of Official Statement. This Official Statement is submitted with respect to the sale of the Bonds referred to herein and may not be reproduced or used, in whole or in part, for any other purpose. This Official Statement is not to be construed as a contract with the purchasers of the Bonds.

No Securities Laws Registration. The Bonds have not been registered under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, in reliance upon exceptions therein for the issuance and sale of municipal securities. The Bonds have not been registered or qualified under the securities law of any state.

No Unlawful Offers of Solicitations. This Official Statement does not constitute an offer to sell nor the solicitation of an offer to buy nor shall there be any sale of the Bonds by a person in any jurisdiction in which it is unlawful for such person to make an offer, solicitation or sale.

No Offering Except by This Official Statement. No dealer, broker, salesperson or other person has been authorized by the District to give any information or to make any representations, other than those contained herein, and if given or made, such other information or representations must not be relied upon as having been authorized by the District.

Information in Official Statement. The information set forth herein has been furnished by the District and other sources that are believed to be reliable, but is not guaranteed as to accuracy or completeness. The information and expressions of opinion herein are subject to change without notice and neither delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the District since the date hereof.

Website. The District maintains a website; however, the information presented there is not a part of this Official Statement and should not be relied upon in making an investment decision with respect to the Bonds.

Estimates and Projections. Certain statements included or incorporated by reference in this Official Statement constitute “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995, Section 21E of the Securities Exchange Act of 1934, as amended, and Section 27A of the Securities Act of 1933, as amended. Such statements are generally identifiable by the terminology used such as “plan,” “expect,” “estimate,” “project,” “budget” or similar words. The achievement of certain results or other expectations contained in such forward-looking statements involves known and unknown risks, uncertainties and other factors which may cause actual results, performance or achievements described to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. The District does not plan to issue any updates or revisions to those forward-looking statements if or when its expectations or events, conditions or circumstances on which such statements are based change.

Statement of Underwriter. The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities under federal securities laws, as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

Stabilization of and Changes to Offering Prices. In connection with the offering, the Underwriter may over-allot or effect transactions that stabilize or maintain the market price of the Bonds offered hereby at a level above that which might otherwise prevail in the open market. Such stabilizing, if commenced, may be discontinued at any time. The Underwriter may offer and sell the Bonds to certain dealers, institutional investors, banks or others at prices lower or higher than the public offering prices stated on the inside cover page hereof, and such public offering prices may be changed from time to time by the Underwriter.

\$21,000,000^{*}
FOUNTAIN VALLEY SCHOOL DISTRICT
(ORANGE COUNTY, CALIFORNIA)
GENERAL OBLIGATION BONDS
ELECTION OF 2016, SERIES 2017

DISTRICT BOARD OF TRUSTEES

Sandra Crandall, President
Lisa Schultz, President Pro-Tem
Jim Cunneen, Clerk
Ian Collins, Member
Jeanne Galindo, Member

DISTRICT ADMINISTRATION

Mark Johnson, Ed.D., Superintendent
Christine Fullerton, Assistant Superintendent, Business Services
Steve McLaughlin, Ed.D., Assistant Superintendent, Educational Services
Cathie Abdel, Assistant Superintendent, Personnel

Fountain Valley School District
10055 Slater Avenue
Fountain Valley, California 92708
(714) 843-3200

MUNICIPAL ADVISOR

Government Financial Strategies inc.
1228 N Street, Suite 13
Sacramento, California 95814
(916) 444-5100

BOND COUNSEL

Dannis Woliver Kelley
750 B Street, Suite 2310
San Diego, California 92101
(619) 595-0202

PAYING AGENT

Zions Bank, a division of ZB, National Association
550 South Hope Street, Suite 2875
Los Angeles, California 90071
(213) 593-3155

^{*} Preliminary; subject to adjustment

\$21,000,000^{*}
FOUNTAIN VALLEY SCHOOL DISTRICT
(ORANGE COUNTY, CALIFORNIA)
GENERAL OBLIGATION BONDS
ELECTION OF 2016, SERIES 2017

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^{*} Preliminary; subject to adjustment

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JUNE 30, 2016

APPENDIX B—FORM OF CONTINUING DISCLOSURE CERTIFICATE

APPENDIX C—FORM OF OPINION OF BOND COUNSEL

APPENDIX D—ORANGE COUNTY TREASURER INVESTMENT POLICY STATEMENT

APPENDIX E—DTC BOOK-ENTRY ONLY SYSTEM

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OFFICIAL STATEMENT

\$21,000,000^{*}
FOUNTAIN VALLEY SCHOOL DISTRICT
(ORANGE COUNTY, CALIFORNIA)
GENERAL OBLIGATION BONDS
ELECTION OF 2016, SERIES 2017

INTRODUCTORY STATEMENT

General

The purpose of this Official Statement, which includes the cover page, inside cover page, table of contents and attached appendices (the “Official Statement”), is to provide certain information concerning the sale and delivery of the Fountain Valley School District (Orange County, California) General Obligation Bonds, Election of 2016, Series 2017 in the aggregate principal amount of \$21,000,000^{*} (the “Bonds”).

This INTRODUCTORY STATEMENT is not a summary of this Official Statement. It is only a brief description of and guide to this Official Statement. This INTRODUCTORY STATEMENT is qualified by more complete and detailed information contained in this entire Official Statement. A full review of this entire Official Statement should be made by a person interested in investing in the Bonds. The offering of the Bonds to potential investors is made only by means of this entire Official Statement.

The District

The Fountain Valley School District (the “District”), a political subdivision of the State of California (the “State”), is an elementary school district established in 1898. The District encompasses approximately nine square miles in Orange County (the “County”), serving a population of approximately 56,200 people residing in the City of Fountain Valley (the “City”) and a portion of the City of Huntington Beach. The District operates seven elementary schools and three middle schools, providing education to approximately 6,370 students in transitional kindergarten through eighth grade. The District is governed by a five-member Board of Trustees (the “District Board”). See “THE DISTRICT” and “DISTRICT FINANCIAL INFORMATION” herein.

Purpose of Issue

The Bonds are being issued by the District to (i) finance the specific school facilities projects set forth in the ballot measure approved by the District’s voters at an election held on November 8, 2016, and (ii) pay costs of issuance of the Bonds. See “THE BONDS—General Obligation Bond Election of 2016” herein.

^{*} Preliminary; subject to adjustment

Authority for Issuance

The Bonds are being issued by the District under and pursuant to the California Constitution (the “State Constitution”), certain provisions of the California Government Code (the “Government Code”) and the California Education Code (the “Education Code”), a resolution adopted by the District Board on April 13, 2017 (the “Resolution”) and a paying agent agreement dated June 1, 2017 (the “Paying Agent Agreement”) between the District and Zions Bank, a division of ZB, National Association as paying agent (the “Paying Agent”).

Description of the Bonds

The Bonds are being issued as fully registered bonds, without coupons, in book-entry form only. When delivered, the Bonds will be initially registered in the name of Cede & Co. as nominee of The Depository Trust Company (“DTC”). So long as Cede & Co. is the registered owner of the Bonds, payments of principal of and interest on the Bonds will be made by the Paying Agent to DTC for subsequent disbursement to DTC participants who will remit such payments to the beneficial owners of the Bonds (the “Beneficial Owners”). See “APPENDIX E—DTC BOOK-ENTRY ONLY SYSTEM” attached hereto.

The Bonds are being issued as current interest bonds in denominations of \$5,000 principal amount, or any integral multiple thereof. The Bonds are dated their date of delivery and mature on August 1 in each of the years and in the amounts set forth on the inside cover page hereof. Interest on the Bonds is computed on the basis of a 360-day year comprised of twelve 30-day months. Interest on the Bonds is payable on February 1 and August 1 of each year, commencing February 1, 2018. See “THE BONDS—Payment of Principal and Interest” herein.

The Bonds are subject to redemption prior to maturity. See “THE BONDS—Redemption Provisions” herein.

Source of Payment for the Bonds

The Bonds are general obligation bonds of the District payable solely from *ad valorem* property taxes, which the Board of Supervisors of the County (the “County Board”) is empowered and obligated to annually levy and collect, without limitation as to rate or amount, on all taxable property in the District (except for certain personal property which is taxable at limited rates) for the payment of principal of and interest on the Bonds. See “SECURITY AND SOURCE OF PAYMENT” herein.

Bond Insurance

The decision as to whether or not payment of debt service on the Bonds will be insured will be determined by the underwriter of the Bonds at the time of the sale of the Bonds.

Tax Matters

In the opinion of Dannis Woliver Kelley, Bond Counsel to the District, under existing law, interest on the Bonds is exempt from personal income taxes of the State of California, and, assuming continuing compliance after the date of initial delivery of the Bonds with certain covenants contained in the Resolution authorizing the Bonds and subject to the matters set forth under “LEGAL MATTERS—Tax Matters” herein, interest on the Bonds for federal income tax purposes under existing statutes, regulations, published rulings, and court decisions will be excludable from the gross income of the owners thereof pursuant to section 103 of the Internal Revenue Code of 1986, as amended to the date of initial delivery of the Bonds, and will not be included in computing the alternative minimum taxable income of the owners thereof who are individuals or, except as described herein, corporations. See “LEGAL MATTERS—Tax Matters” herein. A complete copy of the proposed opinion of Bond Counsel is included with this Official Statement. See “APPENDIX C—FORM OF OPINION OF BOND COUNSEL” attached hereto.

Continuing Disclosure

The District will covenant for the benefit of the Registered Owners (hereinafter defined) and Beneficial Owners to make available certain financial information and operating data relating to the District and to provide notices of the occurrence of certain enumerated events in compliance with Securities and Exchange Commission (the “SEC”) Rule 15c2-12(b)(5). The specific nature of the information to be made available and of the notices of certain enumerated events are set forth in “APPENDIX B—FORM OF CONTINUING DISCLOSURE CERTIFICATE” attached hereto. See also “CONTINUING DISCLOSURE” herein.

Professionals Involved

Government Financial Strategies inc., Sacramento, California, has acted as municipal advisor (the “Municipal Advisor”) to the District with respect to the sale and delivery of the Bonds. See “MUNICIPAL ADVISOR” herein. Certain proceedings in connection with the sale and delivery of the Bonds are subject to the approving legal opinion of Dannis Woliver Kelley as Bond Counsel. Zions Bank, a division of ZB, National Association will act as paying agent with respect to the Bonds. Dannis Woliver Kelley and Zions Bank, a division of ZB, National Association will receive compensation contingent upon the sale and delivery of the Bonds.

Other Information

This Official Statement may be considered current only as of its date that has been made a part of the cover page hereof, and the information contained herein is subject to change. A description of the Bonds and the District, together with summaries of certain provisions of the Resolution and other legal documents related to the Bonds (collectively, the “Legal Documents”) are included in this Official Statement. Such summaries do not purport to be comprehensive or definitive, and all references made herein to the Legal Documents approved by the District are qualified in their entirety by reference to such document, and all references herein to the Bonds are qualified in their entirety by reference to the form thereof included in the Legal Documents.

Information concerning this Official Statement, the Bonds, the District, the Legal Documents or any other information relating to the sale and delivery of the Bonds is available for public inspection and may be obtained by contacting Fountain Valley School District, 10055 Slater Avenue, Fountain Valley, California 92708, (714) 843-3200, Attention: Assistant Superintendent, Business Services, or by contacting the Municipal Advisor, Government Financial Strategies inc., 1228 N Street, Suite 13, Sacramento, California 95814-5609, telephone (916) 444-5100.

THE BONDS

Authority for Issuance

The Bonds are being issued by the District under and pursuant to the provisions of Article XIII A, Section 1 and Article XVI, Section 18 of the State Constitution, the provisions of Government Code Section 53506 *et seq.* and all laws amendatory to or supplemental thereof, the provisions of Education Code Section 15100 *et seq.* and all laws amendatory to or supplemental thereof, and pursuant to the provisions of the Resolution. The District may incur bonded indebtedness upon the vote of 55 percent or more of the qualified electors of the District voting on the proposition pursuant to Article XIII A, subject to the debt limitations set forth in Article XVI of the State Constitution and the Education Code.

General Obligation Bond Election of 2016

Pursuant to provisions of State law, the District Board adopted a resolution calling for an election to authorize the issuance of \$63.0 million in aggregate principal amount of general obligation bonds for authorized school purposes. On November 8, 2016, at an election duly held pursuant to the law (the “2016 Election”), more than 55 percent of the qualified voters within the boundaries of the District voted to approve “Measure O” as follows:

“In order to repair and modernize aging classrooms and school facilities, including repairing deteriorating roofs, plumbing, electrical and air conditioning systems; upgrade classrooms, science

labs, libraries, facilities and technology that support student achievement in reading, math, arts, science and technology; and improve student safety and campus security, shall Fountain Valley School District issue \$63 million in bonds at rates within legal limits, with independent citizen oversight, no money for administrators, and all money staying local?"

The Orange County Registrar of Voters certified the results of the election as follows:

**General Obligation Bond Election of 2016
Fountain Valley School District**

<u>Yes Votes</u>	<u>No Votes</u>
15,931 (64.23%)	8,871 (35.77%)

Source: Orange County Registrar of Voters.

The Bonds represent the first series of bonds to be issued by the District under the authorization of the 2016 Election. Upon the issuance of the Bonds, the District will have \$42.0 million^{*} in unissued authorization remaining under the 2016 Election. See "DISTRICT FINANCIAL INFORMATION—Long-Term Borrowings" herein.

Form and Registration

The Bonds are being issued as fully registered bonds, without coupons, in book-entry form only. Pursuant to the Resolution, the Paying Agent will keep and maintain for and on behalf of the District, at the principal corporate trust office of the Paying Agent, registration books (the "Registration Books") for recording the owners of the Bonds (the "Registered Owners"), the transfer and exchange of the Bonds, and the payment of the principal of and interest on the Bonds to the Registered Owners. All transfers and exchanges of the Bonds will be noted in the Registration Books.

The Bonds are initially issued and registered in the name of Cede & Co., as nominee of DTC acting as securities depository for the Bonds. Purchases of the Bonds by Beneficial Owners will be made by or through a DTC participant, and ownership interests in Bonds will be recorded as entries on the books of said participants. So long as Cede & Co. is the registered owner of the Bonds, payments of principal of and interest on the Bonds will be made by the Paying Agent to DTC for subsequent disbursement to Beneficial Owners by or through a DTC participant. Except in the event that use of this book-entry system is discontinued for the Bonds, Beneficial Owners will not receive physical certificates representing their ownership interests in the Bonds. See "APPENDIX E—DTC BOOK-ENTRY ONLY SYSTEM" attached hereto.

So long as the Bonds are registered in the name of Cede & Co., as nominee for DTC, references in this Official Statement to the Registered Owners means Cede & Co., and does not mean the purchasers or Beneficial Owners of the Bonds.

Payment of Principal and Interest

The Bonds are dated their date of delivery and mature on August 1 in each of the years and in the amounts set forth on the inside cover page hereof. The Bonds are being issued in denominations of \$5,000 principal amount, or any integral multiple thereof. Interest on the Bonds is computed from their dated date on the basis of a 360-day year comprised of twelve 30-day months. Interest on the Bonds is payable semiannually on February 1 and August 1 of each year (each, an "Interest Date"), commencing February 1, 2018, at the annual interest rates shown on the inside cover page hereof.

Each Bond bears interest from the Interest Date next preceding the date of authentication thereof, unless it is authenticated after the close of business on the fifteenth day of the calendar month immediately preceding such Interest Date whether or not

^{*} Preliminary; subject to adjustment

such day is a business day (the “Record Date”) and on or prior to the succeeding Interest Date, in which event it bears interest from such Interest Date, or unless it is authenticated on or before the Record Date preceding the first Interest Date, in which event it bears interest from its dated date; provided, however, that if, at the time of authentication of any Bond, interest is in default on any outstanding Bond, such Bond bears interest from the Interest Date to which interest has previously been paid or made available for payment on the outstanding Bonds.

The principal of and interest on the Bonds is payable in lawful money of the United States of America by wire transfer on each payment date to Cede & Co., so long as Cede & Co. is the sole Registered Owner. In the event the book-entry system is no longer in use, interest on the Bonds is payable on each Interest Date in lawful money of the United States of America to the Registered Owner thereof as of the Record Date preceding such Interest Date, such interest to be paid by check or draft mailed on such Interest Date (if a business day, or on the next business day if the Interest Date does not fall on a business day) to such Registered Owner at such Registered Owner’s address as it appears on the Registration Books or at such address as the Registered Owner may have filed with the Paying Agent, except that the payment will be made by wire transfer of immediately available funds to any Registered Owner of at least \$1,000,000 of outstanding Bonds who has requested in writing such method of payment of interest prior to the close of business on the Record Date immediately preceding any Interest Date. The principal of the Bonds is payable in lawful money of the United States of America to the Registered Owners thereof, upon the surrender thereof at the principal corporate trust office of the Paying Agent.

Redemption Provisions

Optional Redemption. The Bonds maturing on or before August 1, 2026 are not subject to redemption prior to their respective maturity dates. The Bonds maturing on or after August 1, 2027 are subject to redemption prior to their respective stated maturities, at the option of the District, as a whole or in part among maturities on such basis as shall be designated by the District and by lot within a maturity, from any source of available funds, on any date on or after August 1, 2026, at a redemption price equal to the principal amount of the Bonds called for redemption, plus accrued interest to the date fixed for redemption, without premium.

Mandatory Sinking Fund Redemption. The Bond maturing by its term on August 1, 20__ (the “20__ Term Bond”) is subject to mandatory redemption prior to its stated maturity, in part, by lot, from mandatory sinking fund payments on August 1 in the years, and in the amounts, as set forth in the following table, at a redemption price equal to 100 percent of the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption; provided, however, that if some but not all of the 20__ Term Bond has been optionally redeemed, the aggregate principal amount of the 20__ Term Bond to be redeemed will be reduced as specified by the District, or if not specified, on a *pro rata* basis in integral multiples of \$5,000.

Mandatory Sinking Fund Redemption Schedule 20__ Term Bond

Redemption Date (August 1)	Mandatory Redemption Payment
20__	\$ __, __
20__ ¹	\$ __, __

¹Indicates maturity of the \$ __, __ 20__ Term Bond.

Selection of Bonds for Redemption. If less than all of the Bonds are subject to such redemption and are called for redemption, such Bonds will be redeemed in inverse order of maturities or as otherwise directed by the District, and if less than all of the Bonds of any given maturity are called for redemption, the portions of such Bonds of a given maturity to be redeemed will be determined by lot.

Notice of Redemption. Notice of any redemption of the Bonds is required to be mailed by the Paying Agent, postage prepaid, not less than 30 nor more than 60 days prior to the redemption date (i) by first class mail to the County and the respective Registered Owners thereof at the addresses appearing on the Registration Books, and (ii) as may be further required in accordance with the continuing disclosure certificate of the District. See “APPENDIX B—FORM OF CONTINUING DISCLOSURE CERTIFICATE” attached hereto. Each notice of redemption will state (i) the date of such notice; (ii) the

name of the Bonds and the date of issue of the Bonds; (iii) the redemption date; (iv) the redemption price; (v) the dates of maturity or maturities of Bonds to be redeemed; (vi) in the case of Bonds redeemed in part only, the respective portions of the principal amount of the Bonds of each maturity to be redeemed; (vii) the CUSIP number, if any, of each Bond to be redeemed; (viii) a statement that such Bonds must be surrendered by the Registered Owners at the principal corporate trust office of the Paying Agent, or at such other place or places designated by the Paying Agent; (ix) notice that further interest on such Bonds will not accrue after the designated redemption date; and (x) in the case of a conditional notice, that such notice is conditioned upon certain circumstances and the manner of rescinding such conditional notice.

Effect of Notice. A certificate of the Paying Agent or the District that notice of redemption has been given to the Registered Owners will be conclusive as against all parties. Neither the failure to receive the notice of redemption nor any defect in such notice affects the sufficiency of the proceedings for the redemption of the Bonds or the cessation of interest on the date fixed for redemption. When notice of redemption has been given substantially as provided for in the Resolution, and when the redemption price of the Bonds called for redemption is set aside for such purpose, the Bonds designated for redemption will become due and payable on the specified redemption date and interest will cease to accrue thereon as of the redemption date, and upon presentation and surrender of such Bonds at the place specified in the notice of redemption, such Bonds will be redeemed and paid at the redemption price thereof out of the money provided therefor. The Registered Owners of such Bonds so called for redemption after such redemption date will be entitled to payment thereof only from the interest and sinking fund of the District (the "Interest and Sinking Fund") or the trust fund established for such purpose. All Bonds redeemed will be cancelled forthwith by the Paying Agent and will not be reissued.

Right to Rescind Notice. The District may rescind any optional redemption and notice thereof for any reason on any date prior to the date fixed for redemption by causing written notice of the rescission to be given to the owners of the Bonds called for redemption. Any optional redemption and notice thereof will be rescinded if for any reason on the date fixed for redemption moneys are not available in the Interest and Sinking Fund or otherwise held in trust for such purpose in an amount sufficient to pay in full on said date the principal, interest, and any premium due on the Bonds called for redemption. Notice of rescission of redemption will be given in the same manner in which notice of redemption was originally given. The actual receipt by the Registered Owner of any Bond of notice of such rescission will not be a condition precedent to rescission, and failure to receive such notice or any defect in such notice shall not affect the validity of the rescission.

Funds for Redemption. Prior to or on the redemption date of any Bonds, there shall be available in the Interest and Sinking Fund, or held in trust for such purpose as provided by law, moneys for the purpose and sufficient to redeem, at the redemption prices provided for in the Resolution, the Bonds designated in the notice of redemption. Such moneys will be applied on or after the redemption date solely for payment of principal of, interest and premium, if any, on the Bonds to be redeemed upon presentation and surrender of such Bonds, provided that all moneys in the Interest and Sinking Fund will be used for the purposes established and permitted by law. If, after all of the Bonds have been redeemed and cancelled or paid and cancelled, there are moneys remaining in the Interest and Sinking Fund or otherwise held in trust for the payment of redemption price of the Bonds, the moneys will be held or returned or transferred to the Interest and Sinking Fund for payment of any outstanding general obligation bonds of the District payable from such fund; provided however that if the moneys are part of the proceeds of general obligation bonds of the District, the moneys shall be transferred to the fund created for the payment of principal of and interest on such bonds. If no such general obligation bonds of the District are at such time outstanding, the moneys will be transferred to the general fund of the District (the "General Fund") as provided and permitted by law.

Transfer and Exchange

If the book-entry system as described herein is no longer used with respect to the Bonds, the provisions in the Resolution summarized below will govern the transfer and exchange of the Bonds. See "APPENDIX E—DTC BOOK-ENTRY ONLY SYSTEM" attached hereto.

Any Bond may be transferred upon the Registration Books by the person in whose name it is registered, in person or by his or her duly authorized attorney, upon surrender of such Bond for cancellation to the Paying Agent, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the Paying Agent. Bonds may be exchanged for Bonds of other authorized denominations of the same maturity and interest rate, by the Registered Owner thereof, in person or by the duly authorized attorney of such Registered Owner, upon surrender of such Bond to the Paying Agent for cancellation, accompanied by delivery of a duly executed request for exchange in a form approved by the Paying Agent.

Whenever any Bond or Bonds is surrendered for transfer or exchange, the District will execute and the Paying Agent will authenticate and deliver a new Bond or Bonds, of the same maturity and interest rate for a like aggregate principal amount.

The Paying Agent may require the payment by any Registered Owner of Bonds requesting any such transfer or exchange of any tax or other governmental charge required to be paid with respect to such transfer or exchange.

Neither the District nor the Paying Agent will be required to transfer or exchange any Bonds (i) during the period from the Record Date next preceding any Interest Date to such Interest Date, (ii) during the period beginning with the opening of business on the 15th business day next preceding any date of selection of Bonds to be redeemed and ending with the close of business on the day on which the applicable notice of redemption is given, or (iii) which have been selected or called for redemption in whole or in part.

Defeasance

The District may pay and discharge any or all of the Bonds by depositing in trust with the Paying Agent or an escrow agent, at or before maturity, money or non-callable direct obligations of the United States of America or other non-callable obligations the payment of the principal of and interest on which is guaranteed by a pledge of the full faith and credit of the United States of America, in an amount which will, together with the interest to accrue thereon and available moneys then on deposit in the Interest and Sinking Fund, be fully sufficient to pay and discharge the obligation of such Bonds, at or before their respective maturity dates.

If at any time the District pays or causes to be paid or there is otherwise paid to the Registered Owners of any or all of the outstanding Bonds all or any part of the principal, interest and premium, if any, on the Bonds at the times and in the manner provided in the Resolution and in the Bonds, or as provided in the preceding paragraph, or as otherwise provided by law, then all liability of the District in respect of such Bond will cease and be completely discharged, except only that the District will remain liable for payment of all principal, interest and premium, if any, represented by the Bonds, but only out of moneys on deposit in the Interest and Sinking Fund or otherwise held in trust for such payment.

Unclaimed Moneys

Any money held in any fund created pursuant to the Resolution, or held by the Paying Agent or an escrow agent in trust, for the payment of the principal of, redemption premium, if any, or interest on the Bonds and remaining unclaimed for two years after the principal of all of the Bonds has become due and payable, whether by maturity or upon prior redemption, will be transferred to the Interest and Sinking Fund for payment of any outstanding general obligation bonds of the District payable from the fund, or, if no such bonds of the District are at such time outstanding, the moneys will be transferred to the General Fund as provided and permitted by law.

PLAN OF FINANCE

Application and Investment of Bond Proceeds

A portion of the proceeds of the sale of the Bonds, exclusive of any premium, will be transferred to the Orange County Treasurer (the "County Treasurer") for deposit in the building fund of the District (the "Building Fund") to be created and established in the Orange County Treasury (the "County Treasury") pursuant to Education Code Section 15146(g) and accounted for, together with the proceeds of other bonds of the District, separately from all other District and County funds. Moneys deposited in the Building Fund will be used solely for the purpose for which the Bonds are authorized. Interest earned on moneys held in the Building Fund will be retained in the Building Fund. Any proceeds of the sale of the Bonds deposited in the Building Fund not needed for the purposes of the Bonds will be transferred to the Interest and Sinking Fund and applied to the payment of the principal of and interest on the Bonds.

A portion of the proceeds of the sale of the Bonds, exclusive of any premium, will be retained by the Paying Agent for deposit into a costs of issuance account (the "Costs of Issuance Account"), to be created and established with the Paying Agent, to pay costs associated with the issuance of the Bonds. Any proceeds of the sale of the Bonds deposited in the Costs of Issuance Account not needed to pay costs of issuance of the Bonds will be transferred by the Paying Agent to the County Treasurer for deposit in the Building Fund.

The premium, if any, received by the District from the sale of the Bonds will be transferred to the County Treasurer for deposit in the Interest and Sinking Fund. Moneys deposited in the Interest and Sinking Fund will be used solely for the payment of principal of and interest on the general obligation bonds of the District. Interest earned on moneys held in the Interest and Sinking Fund will be retained in the Interest and Sinking Fund. The County is empowered and obligated to levy *ad valorem* taxes upon all property subject to taxation by the District, without limitation as to rate or amount (except as to certain personal property which is taxable at limited rates), in order to provide sufficient funds for repayment of principal of and interest on the Bonds when due, and the proceeds of such tax when collected will be placed in the Interest and Sinking Fund. Any moneys remaining in the Interest and Sinking Fund after the principal of and interest on the Bonds have been paid will be used to pay other general obligation bonds of the District or, if there are no other general obligation bonds of the District outstanding, will be transferred to the General Fund pursuant to Education Code Section 15234.

Sources and Uses of Funds

The sources and uses of funds in connection with the sale and delivery of the Bonds are set forth in the following table.

Sources and Uses of Funds General Obligation Bonds, Election of 2016, Series 2017

SOURCES OF FUNDS	
Par Amount of Bonds	\$
Net Original Issue Premium	
 TOTAL SOURCES OF FUNDS	 \$
<hr/>	
USES OF FUNDS	
Building Fund	\$
Interest and Sinking Fund	
Costs of Issuance Account ¹	
Underwriter's Discount	
 TOTAL USES OF FUNDS	 \$

¹The Costs of Issuance Account will be used to pay costs of issuance of the Bonds including fees and expenses of Bond Counsel, the Municipal Advisor, the Paying Agent, the rating fee and certain other expenses related to the issuance of the Bonds.

Permitted Investments

Under State law, the District is generally required to pay all moneys received from any source into the County Treasury to be held on behalf of the District. All funds held by the County Treasurer in the Building Fund and the Interest and Sinking Fund are expected to be invested at the sole discretion of the County Treasurer, on behalf of the District, in such investments as are authorized by Government Code Sections 16429.1, 53601 and 53635 and following and the investment policy of the County (the "County Investment Policy") as either may be amended or supplemented from time to time. See "ORANGE COUNTY EDUCATIONAL INVESTMENT POOL" herein and "APPENDIX D—ORANGE COUNTY TREASURER INVESTMENT POLICY STATEMENT" attached hereto for a description of the permitted investments under the County Investment Policy.

Debt Service Schedule

Scheduled debt service on the Bonds (without regard to optional redemption) is shown in the following table.

Debt Service Schedule General Obligation Bonds, Election of 2016, Series 2017

<u>Date</u>	<u>Principal</u>	<u>Interest</u>	<u>Semiannual Debt Service</u>	<u>Annual Debt Service</u>
February 1, 2018	\$	\$	\$	\$
August 1, 2018				
February 1, 2019				
August 1, 2019				
February 1, 2020				
August 1, 2020				
February 1, 2021				
August 1, 2021				
February 1, 2022				
August 1, 2022				
February 1, 2023				
August 1, 2023				
February 1, 2024				
August 1, 2024				
February 1, 2025				
August 1, 2025				
February 1, 2026				
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August 1, 2038				
February 1, 2039				
August 1, 2039				
February 1, 2040				
August 1, 2040				
February 1, 2041				
August 1, 2041				
February 1, 2042				
August 1, 2042				
February 1, 2043				
August 1, 2043				
February 1, 2044				
August 1, 2044				
February 1, 2045				
August 1, 2045				
February 1, 2046				
August 1, 2046				
Total	\$	\$	\$	\$

SECURITY AND SOURCE OF PAYMENT

Introduction

The Bonds are general obligation bonds of the District, payable solely from *ad valorem* property taxes levied and collected by the County for the payment of principal of and interest on the Bonds. The County Board is empowered and is obligated to levy *ad valorem* taxes upon all property subject to taxation by the District, without limitation as to rate or amount (except as to certain personal property which is taxable at limited rates) in order to provide sufficient funds for repayment of principal of and interest on the Bonds when due. Although the County is obligated to levy and collect the *ad valorem* tax for the payment of the Bonds, the Bonds are not a debt of the County.

The proceeds of such *ad valorem* tax, when collected, will be placed in the Interest and Sinking Fund, which, together with the amounts on deposit in the Interest and Sinking Fund, are irrevocably pledged for the payment of principal of and interest on the Bonds when and as the same fall due. The County will levy such *ad valorem* tax in accordance with Education Code Section 15250 *et seq.* and cause the proceeds from such levy to be deposited into the Interest and Sinking Fund to pay the principal of and interest on the Bonds when due.

Various County officers are responsible for the performance of each function in the property taxation system. Property tax revenues result from the application of the appropriate tax rate to the total net assessed value of taxable property in the District. All property, including real, personal and intangible property, is taxable, unless granted an exemption by the State Constitution or United States law. Under the State Constitution, exempt classes of property include household and personal effects, intangible personal property (such as bank accounts, stocks and bonds), business inventories, and property used for religious, hospital, scientific and charitable purposes. The California Legislature (the "State Legislature") may create additional exemptions for personal property, but not for real property. Taxes on property in a school district with boundaries extending into more than one county are administered separately by each county in which the property is located (the District is located solely in the County).

Taxes on real property located within the District are assessed and collected by the County in the same manner, at the same time, and in the same installments as other *ad valorem* taxes on real property located in the County. In addition to general obligation bonds issued by the District, other entities with jurisdiction in or overlapping with the District may issue debt payable from *ad valorem* taxes also levied on parcels in the District. Such taxes have the same priority, become delinquent at the same times and in the same proportionate amounts, and bear the same proportionate penalties and interest after delinquency as *ad valorem* taxes levied for the payment of the Bonds and other general obligation bonds of the District.

In no event is the District obligated to pay principal of and interest and redemption premium, if any, on the Bonds from any source of funds other than *ad valorem* taxes. However, nothing in the Resolution prevents the District from making advances of its moneys, howsoever derived, to any use or purpose permitted by law.

Statutory Lien on Ad Valorem Tax Revenues (Senate Bill 222)

All general obligation bonds issued and sold by or on behalf of a local agency in the State, including the Bonds, are secured by a statutory lien on all revenues received pursuant to the levy and collection of the tax pursuant to Education Code Section 15251 and Government Code Section 53515, which became effective as of January 1, 2016 pursuant to Senate Bill 222. The lien automatically arises without the need for any action or authorization by the local agency or its governing board and is valid and binding from the time the bonds are executed and delivered. In addition, the revenues received pursuant to the levy and collection of the tax will be immediately subject to the lien, and the lien will automatically attach to the revenues and be effective, binding, and enforceable against the local agency, such as the District, as applicable, its successor, transferees, and creditors, and all others asserting rights therein, irrespective of whether those parties have notice of the lien and without the need for physical delivery, recordation, filing, or further tax.

Assessed Valuation of Property

The Orange County Assessor (the "County Assessor") must annually assess all taxable property in the County (except for "utility" property, assessed by the State) to the person, business or legal entity owning, claiming, possessing or controlling the property on January 1, the lien date. Property assessed by the County Assessor is subject to the reappraisal provisions set forth

in the State Constitution. See “CONSTITUTIONAL AND STATUTORY PROVISIONS AFFECTING DISTRICT REVENUES AND EXPENDITURES—Article XIII A of the State Constitution” herein. The duties of the County Assessor are to discover all assessable property, to inventory and list all taxable property, to value the property, and to enroll the property on the local assessment roll. Locally assessed taxable property is classified as either “secured” or “unsecured” and is listed accordingly on separate parts of the assessment roll. The secured roll contains real property sufficient, in the opinion of the County Assessor, to secure the payment of the taxes as a lien on real property. All other property is unsecured and assessed on the unsecured roll. The District can make no predictions as to the changes in assessed values that might result from pending or future appeals of assessed valuation by taxpayers or temporary reductions in assessed valuation allowed under the State Constitution. Any reduction in aggregate District assessed valuation will cause the tax rate necessary to repay the Bonds to increase accordingly. Any refund of paid taxes triggered by a successful assessment appeal will be debited against all taxing agencies receiving tax revenues, including the District.

The secured roll also includes certain “utility” property, entered on the utility roll, located in the County but assessed by the State Board of Equalization (the “SBE”) rather than the County Assessor. Such property includes property owned or used by State-regulated transportation and communications utilities such as railways, telephone and telegraph companies, companies transmitting or selling gas or electricity, and pipelines, flumes, canals and aqueducts lying within two or more counties. Property assessed by the SBE is not subject to the provisions of Proposition 13 (1978) and is annually reappraised at its market value as of January 1 and then allocated by formula among all the taxing jurisdictions in the County, including the District. The growth or decline in the assessed valuation of utility property is shared by all jurisdictions in the County. The District can make no predictions regarding the impact of the reorganization of regulated utilities and the transfer of electricity-generating property to non-utility companies on the amount of tax revenue collected. In general, the transfer of State-assessed property located in the District to non-utility companies will increase the assessed value of property in the District, since the property’s value will no longer be divided among taxing jurisdictions in the County; the transfer of property located and taxed in the District to a State-assessed utility will, in general, reduce the assessed value in the District, as the value is shared among the other jurisdictions in the County.

The greater the total assessed value of all taxable property in the District, the lower the tax rate necessary to generate taxes sufficient to pay scheduled debt service on the Bonds. Shown in the following table are 10 years of the District’s historical assessed valuation. Total secured assessed values include net local secured, secured homeowner exemption and utility values. Total unsecured assessed values include net local unsecured and unsecured homeowner exemption values.

**Historical Total Secured and Unsecured Assessed Valuation
Fountain Valley School District**

<u>Year Ended June 30</u>	<u>Total Secured Assessed Value</u>	<u>Total Unsecured Assessed Value</u>	<u>Total Assessed Value</u>	<u>Percentage Change</u>
2008	\$5,792,181,159	\$162,495,623	\$5,954,676,782	--
2009	5,850,958,623	169,988,261	6,020,946,884	1.11%
2010	5,920,870,103	165,917,241	6,086,787,344	1.09
2011	6,139,899,909	173,119,255	6,313,019,164	3.72
2012	6,229,258,088	203,208,573	6,432,466,661	1.89
2013	6,355,682,620	150,482,863	6,506,165,483	1.15
2014	6,536,606,157	145,271,533	6,681,877,690	2.70
2015	7,074,608,862	177,539,949	7,252,148,811	8.53
2016	7,512,615,808	156,524,668	7,669,140,476	5.75
2017	7,855,579,036	146,505,316	8,002,084,352	4.34

Source: Orange County Assessor.

The District may not issue bonds in excess of 1.25 percent of the assessed valuation of taxable property within its boundaries. The District's gross bonding capacity in fiscal year 2016-17 is approximately \$100.0 million. Upon issuance of the Bonds, the District will have remaining bonding capacity of approximately \$79.0 million*.

Shown in the following table is a distribution of taxable real property located in the District by principal purpose for which the land is used along with the local secured assessed valuation (excludes homeowners' exemption) and number of parcels for each use for fiscal year 2016-17.

**Assessed Valuation and Parcels by Land Use
Fountain Valley School District**

	2016-17 <u>Assessed Valuation</u> ¹	Percent of <u>Total</u>	Number of <u>Parcels</u>	Percent of <u>Total</u>
Non-Residential:				
Commercial/Office	\$1,127,786,969	14.36%	246	1.47%
Industrial	193,132,776	2.46	85	0.51
Government/Social/Institutional	0	0.00	143	0.85
Miscellaneous	68,856	0.00	3	0.02
Subtotal Non-Residential	\$1,320,988,601	16.82%	477	2.84%
Residential:				
Single Family Residence	\$6,074,554,249	77.33%	15,641	93.21%
Condominium	157,132,400	2.00	486	2.90
Mobile Home	78,590	0.00	4	0.02
2+ Residential Units/Apartments	<u>302,825,196</u>	<u>3.85</u>	<u>173</u>	<u>1.03</u>
Subtotal Residential	\$6,534,590,435	83.18%	16,304	97.16%
Total	\$7,855,579,036	100.00%	16,781	100.00%

¹Local secured assessed valuation, excluding tax-exempt property.
Source: California Municipal Statistics, Inc.

Tax Rates

The State Constitution permits the levy of an *ad valorem* tax on taxable property not to exceed one percent of the property's full cash value, plus the amount necessary to make annual payments due on general obligation bonds or other indebtedness incurred prior to July 1, 1978, any bonded indebtedness for the acquisition or improvement of real property approved by a two-thirds majority of voters on or after July 1, 1978, and certain bonded indebtedness for school facilities approved by 55 percent of the voters. The Orange County Auditor-Controller (the "County Auditor-Controller") computes the additional rate of tax necessary to pay such scheduled debt service and presents the tax rates for all taxing jurisdictions in the County to the County Board.

The tax rate necessary to pay debt service in a given year largely depends on the net assessed value of taxable property in that year. The net assessed value of taxable property may be affected by several factors, such as a general market decline in land values, reclassification of property to a class exempt from taxation, such as property owned by State and local agencies, or property used for certain educational, hospital, charitable or religious purposes, or the destruction of taxable property caused by natural or manmade disaster, such as earthquake, flood, fire, drought, toxic dumping, *etc.* Any of these instances could cause a reduction in the net assessed value of taxable property within the District, necessitating a corresponding increase in the annual tax rate to be levied to pay the principal of and interest on the Bonds. Issuance of additional authorized bonds in the future might also cause the tax rate to increase.

* Preliminary; subject to adjustment

One factor in the ability of taxpayers to pay additional taxes for general obligation bonds is the cumulative rate of tax. The following table shows *ad valorem* property tax rates per \$100 of assessed value for the last five years in a typical tax rate area of the District (TRA 21-002). The fiscal year 2016-17 assessed valuation of TRA 21-002 is \$4,775,196,240, approximately 59.67 percent of the total assessed value of taxable property in the District.

Typical Total Tax Rates per \$100 of Assessed Valuation
TRA 21-002
Fountain Valley School District

	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>	<u>2016-17</u>
General Tax Rate	\$1.000000	\$1.000000	\$1.000000	\$1.000000	\$1.000000
Coast Community College District	0.018810	0.028990	0.030150	0.030920	0.031160
Huntington Beach High School District	0.031430	0.024040	0.026470	0.025600	0.025430
Metropolitan Water District	<u>0.003500</u>	<u>0.003500</u>	<u>0.003500</u>	<u>0.003500</u>	<u>0.003500</u>
Total Tax Rate	\$1.053740	\$1.056530	\$1.060120	\$1.060020	\$1.060090

Source: California Municipal Statistics, Inc.

The more property (by assessed value) that is owned by a single taxpayer, the more tax collections are exposed to weakness in the taxpayer's financial situation and their ability or willingness to pay property taxes. In fiscal year 2016-17, no single taxpayer owned more than 2.37 percent of the total secured taxable property in the District. However, each taxpayer listed is a unique name on the tax rolls. The District cannot determine from assessment records whether individual persons, corporations or other organizations are liable for tax payments with respect to multiple properties held in various names that in aggregate may be larger than is suggested by the list of largest taxpayers identified in the following table.

The 20 taxpayers in the District with the greatest combined secured assessed valuation of taxable property on the fiscal year 2016-17 tax roll own property that comprises 10.60 percent of the local assessed valuation of secured property in the District. These taxpayers, ranked by aggregate assessed value of taxable property as shown on the fiscal year 2016-17 secured tax roll and the amount of each owner's assessed valuation for all taxing jurisdictions within the District are shown in the following table.

**Largest Taxpayers
Fountain Valley School District**

	<u>Property Owner</u>	<u>Primary Land Use</u>	<u>2016-17 Assessed Valuation</u>	<u>Percent of Total¹</u>
1.	Hyundai Motor America	Office Building	\$186,408,920	2.37%
2.	Orange Coast Memorial Medical Center	Medical Facilities	115,066,343 ²	1.46
3.	BEXAEW the Havens LP	Apartments	58,093,496	0.74
4.	Vermeulen Properties	Shopping Center	46,487,640	0.59
5.	Memorial Health Services	Office Building	44,035,479 ²	0.56
6.	Shea Center Crystal Springs LLC	Apartments	43,660,554	0.56
7.	Fountain Valley MHP Association	Mobile Home Park	36,120,479	0.46
8.	MTSC-Lake Elsinore Partners	Commercial	35,657,652	0.45
9.	Kawaguchi Enterprises LP	Shopping Center	34,779,691	0.44
10.	Shea Center Corte Bella LLC	Apartments	33,581,023	0.43
11.	Advanced Group 09-98	Apartments	25,712,554	0.33
12.	Carmel Village Partners LP	Assisted Living Facility	24,749,670	0.32
13.	Gluckstein FV Plaza 2 LP	Shopping Center	23,011,786	0.29
14.	Sukut Real Properties LLC	Industrial	22,398,680	0.29
15.	Towne House Plaza	Shopping Center	22,111,269	0.28
16.	FV Showroom Partners I LLC	Commercial	17,335,259	0.22
17.	Fong Seng Ching Trust	Shopping Center	16,878,599	0.21
18.	Brookhurst & Adams LLC	Shopping Center	16,866,866	0.21
19.	John R. Martineau Trust	Shopping Center	15,097,479	0.19
20.	Fountain Valley Plaza Properties LLC	Office Building	<u>14,563,303</u>	<u>0.19</u>
			\$832,616,742	10.60%

¹Local secured assessed valuation for fiscal year 2016-17: \$7,855,579,036.

²Net taxable value.

Source: California Municipal Statistics, Inc.

Another factor in the ability of taxpayers to pay additional taxes for general obligation bonds is the number of other taxes already imposed by other taxing jurisdictions in which a property is included. Contained within the District's boundaries are numerous overlapping local entities providing public services which may have outstanding long-term obligations in the form of general obligation, lease revenue and special assessment bonds. Such obligations generally are not payable from revenues of the District (except as indicated) nor are they necessarily obligations secured by land within the District. In many cases, long-term obligations issued by a public agency are payable only from the general fund or other revenues of such public agency.

The following table shows long-term obligations sold in the public credit markets by the public agencies listed. The first column in the table names each public agency which has outstanding debt as of May 1, 2017 and whose territory overlaps the District in whole or in part. The second column shows the percentage of each overlapping agency's assessed value located

within the boundaries of the District. This percentage, multiplied by the total outstanding debt of each overlapping agency (not shown) produces the amount shown in the third column, which is the apportionment of each overlapping agency's outstanding debt to taxable property in the District. Property owners within the District may be subject to other special taxes and assessments levied by other taxing authorities providing services within the District. Such non-*ad valorem* special taxes and assessments (which are not levied to fund debt service) are not represented in the statement of direct and overlapping bonded debt.

The statement of direct and overlapping bonded debt relating to the District set forth below was prepared by California Municipal Statistics, Inc. It has been included for general information purposes only. The District has not reviewed the statement for completeness or accuracy and makes no representations in connection with the statement.

Statement of Direct and Overlapping Bonded Debt (As of May 1, 2017)
Fountain Valley School District

<u>2016-17 Assessed Valuation:</u> \$8,002,084,352	Percent Applicable	Debt as of May 1, 2017
<u>DIRECT AND OVERLAPPING TAX AND ASSESSMENT DEBT:</u>		
Metropolitan Water District	0.309%	\$231,456
Coast Community College District	6.406	32,404,399
Huntington Beach Union High School District	16.261	31,396,738
Fountain Valley School District	100.000	--¹
TOTAL DIRECT AND OVERLAPPING TAX AND ASSESSMENT DEBT		\$64,032,593
<u>DIRECT AND OVERLAPPING GENERAL FUND DEBT:</u>		
Orange County General Fund Obligations	1.524%	\$1,280,785
Orange County Pension Obligation Bonds	1.524	6,492,812
Orange County Board of Education Certificates of Participation	1.524	226,162
Coast Community College District Certificates of Participation	6.406	231,257
Huntington Beach Union High School District Certificates of Participation	16.261	10,400,713
Fountain Valley School District General Fund Obligations	100.000	4,525,000
City of Fountain Valley Certificates of Participation	66.940	8,344,071
City of Fountain Valley Pension Obligation Bonds	66.940	10,707,053
City of Huntington Beach General Fund Obligations	6.081	2,835,359
TOTAL DIRECT AND OVERLAPPING GENERAL FUND DEBT		\$45,043,212
COMBINED TOTAL DEBT		\$109,075,805 ²
<u>Ratios to 2016-17 Assessed Valuation:</u>		
Total Overlapping Tax and Assessment Debt.....	0.80%	
Combined Direct Debt (\$4,525,000)	0.06%	
Combined Total Debt.....	1.36%	

¹Excludes the Bonds to be sold.

²Excludes tax and revenue anticipation notes, enterprise revenue, mortgage revenue and non-bonded capital lease obligations.
Source: California Municipal Statistics, Inc.

Tax Collections and Delinquencies

Property taxes are levied for each fiscal year on taxable real and personal property situated in the taxing jurisdiction assessed as of January 1, at which time the tax lien attaches. The Orange County Tax Collector (the "County Tax Collector") is presented with a tax roll created from the combined rolls of the County Assessor and the SBE. The County Tax Collector prepares and mails tax bills to taxpayers and collects the taxes.

Property taxes on the regular secured roll are due in two equal installments. The annual tax bill is mailed by November 1, and the first installment is due on December 10; delinquent accounts are subject to a ten percent penalty; the second installment is due on April 10; delinquent accounts are subject to a ten percent penalty and cost of \$23. If taxes remain unpaid by July 1, the

tax is deemed to be in default. After five years, the County generally has the power to sell tax-defaulted property that is not redeemed; proceeds from such sale are applied to the payment of the delinquent taxes.

Property taxes on the unsecured roll are due annually. The bill is mailed during July; taxes on the unsecured roll are due and, if unpaid, are delinquent on August 31 and thereafter subject to a ten percent penalty plus \$75 collection fee. Upon delinquency, the County may use the following collection methods: filing of liens, filing of summary judgments, or seizure and sale of personal property.

As long as the Teeter Plan, discussed below, remains in effect in the County, the District will be credited with the full amount of the tax levy no matter the delinquency rate within the District. See “— Alternative Method of Tax Apportionment” herein.

The following table shows a five-year history of real property tax collections and delinquencies in the District.

**Secured Tax Charges and Delinquencies
Fountain Valley School District**

Fiscal Year	Secured Tax Charge	Amount Delinquent As of June 30	Percent Delinquent As of June 30
2011-12	\$18,627,113.99	\$276,582.36	1.48%
2012-13	19,114,719.47	223,862.31	1.17
2013-14	19,874,391.84	211,567.89	1.06
2014-15	21,244,108.92	227,549.08	1.07
2015-16	22,741,272.26	565,116.90	2.48

¹One percent general fund apportionment.
Source: California Municipal Statistics, Inc.

Alternative Method of Tax Apportionment

The County Board approved implementation of the Alternative Method of Distribution of Tax Levies and Collections and of Tax Sale Proceeds (the “Teeter Plan”) pursuant to the California Revenue and Taxation Code (the “Revenue and Taxation Code”) Section 4701 *et seq.* The Teeter Plan guarantees distribution to each local agency an amount equal to 100 percent of the taxes levied on their behalf on the secured roll within the County, with the County retaining all penalties and interest affixed upon delinquent properties and redemptions of subsequent collections.

The cash position of the County Treasurer is protected by a special fund, known as the “Tax Loss Reserve Fund,” which accumulates moneys from interest and penalty collections. In any given fiscal year, when the amount in the Tax Loss Reserve Fund exceeds a specified amount as prescribed by law, such excess amounts may be credited for the remainder of the fiscal year to the County’s general fund. Amounts required to be maintained in the Tax Loss Reserve Fund may be drawn on to the extent of the amount of uncollected taxes credited to each agency in advance of receipt.

The Teeter Plan is to remain in effect unless the County Board orders its discontinuance or unless, prior to the commencement of any fiscal year of the County (which commences on July 1), the County Board receives a petition for its discontinuance from two-thirds of the participating revenue districts in the County. The County Board may also, after holding a public hearing on the matter, discontinue the procedures with respect to any tax levying agency or assessment levying agency in the County if the rate of secured tax delinquency in that agency in any year exceeds three percent of the total of all taxes and assessments levied on the secured rolls in that agency.

If the Teeter Plan were discontinued, only those secured property taxes actually collected would be allocated to political subdivisions, including the District. The District’s tax revenues would be subject to taxpayer delinquencies, and the District would realize the benefit of interest and penalties collected from delinquent taxpayers, pursuant to law.

ORANGE COUNTY EDUCATIONAL INVESTMENT POOL

This section provides a summary description of the County's investment policy, current portfolio holdings, and valuation procedures. Certain information has been obtained from the County for inclusion in this Official Statement. The District makes no representation as to the accuracy or completeness of such information. Further information may be obtained by contacting the County of Orange, Office of the Treasurer-Tax Collector, 625 North Ross Street, Building 11, Room G58, Santa Ana, California 92702, telephone (714) 834-7625.

The County Board approved the current Orange County Investment Policy Statement (the "Investment Policy") on November 22, 2016. See "APPENDIX D—ORANGE COUNTY TREASURER INVESTMENT POLICY STATEMENT" or ocgov.com/ocinvestments. (This reference is for convenience of reference only and not incorporated as part of this Official Statement.) The Investment Policy applies to all funds managed by the County Treasurer as delegated by the County Board, including the Orange County Investment Pool, the Orange County Educational Investment Pool, the John Wayne Airport Investment Pool and various other small non-Pooled investment funds. The primary goal is to invest public funds in a manner which will provide the maximum security of principal invested with secondary emphasis on providing adequate liquidity to Pool participants and lastly to achieve a market rate of return within the parameters of prudent risk management while conforming to all applicable statutes and resolutions governing the investment of public funds. The main investing objectives, in order of priority are: safety, liquidity and yield.

Oversight of the investments is conducted in several ways. First, the County Board established the County Treasury Oversight Committee (the "Committee") on December 19, 1995, pursuant to Government Code Section 27130 *et seq.* The Committee's primary responsibilities are as follows: to review and monitor the annual investment policy; cause an annual audit to be conducted to determine if the County Treasurer is in compliance with Government Code Sections 27130 to 27137, and to investigate any and all irregularities in the treasury operation that are reported. The County Treasurer nominates the public members and the County Board confirms the members of the Committee, which is comprised of the County Executive Officer, the County Auditor-Controller, the County Superintendent of Schools, and four public members. Next, the Auditor-Controller's Internal Audit Division audits the portfolio on a quarterly and annual basis pursuant to Government Code Sections 26920 and 26922. Finally, an annual compliance audit is also conducted annually as required by Government Code Sections 27134. All investment audit reports and the monthly County Treasurer's Investment Report are available on-line at ocgov.com/ocinvestments. (This reference is for convenience of reference only and not incorporated as part of this Official Statement.)

The District's funds held by the County Treasurer are invested in the Orange County Educational Investment Pool (the "Pool"), which pools all of the school districts' funds. As of February 28, 2017, the Pool has a weighted average maturity of 393 days and the year-to-date net yield is 0.74 percent.

The following represents the composition of the Pool as of February 28, 2017.

Securities by Type as of February 28, 2017 Orange County Educational Investment Pool

	<u>Market Value (000s)</u>	<u>Percent of Portfolio</u>
U.S. Government Agencies	\$2,519,397	62.44%
U.S. Treasuries	805,601	19.97
Medium Term Notes	333,245	8.26
Municipal Debt	225,631	5.59
Certificates of Deposit	116,696	2.89
Money Market Funds	30,748	0.76
Local Agency Investment Fund	<u>3,545</u>	<u>0.09</u>
Total	\$4,034,863	100.00%

Source: Orange County Treasurer.

Neither the District nor the Underwriter has made an independent investigation of the investments in the County Pool and has made no assessment of the current County Investment Policy. The value of the various investments in the Pool will fluctuate on a daily basis as a result of a multitude of factors, including generally prevailing interest rates and other economic conditions. Additionally, the County Treasurer, upon the approval by the County Board, may change the County Investment Policy at any time. Therefore, there can be no assurance that the values of the various investments in the County Pool will not vary significantly from the values described therein.

CITY AND COUNTY ECONOMIC PROFILE

The information in this section concerning the economy of the City and County is provided as supplementary information only, and is not intended to be an indication of security for the Bonds. The Bonds are payable from the proceeds of an ad valorem tax, approved by the voters of the District pursuant to applicable laws and State Constitutional requirements, and required to be levied by the County on all taxable property in the District in an amount sufficient for the timely payment of principal of and interest on the Bonds. See "SECURITY AND SOURCE OF PAYMENT" herein.

General Information

The County, incorporated in 1889, is located on the State's southern coast between the counties of San Diego to the south, Los Angeles to the north, and San Bernardino and Riverside to the east. Comprised of approximately 798 square miles, the County has 34 incorporated cities, several of which are situated along the Pacific coast. The County's principal industries include tourism at its beaches and amusement parks, business and professional services, and technology and biomedical industries. Based on data compiled by CoreLogic Inc., the median sale price of a single-family home in the County was \$645,000 in February 2017, an increase of approximately 5.7 percent from \$610,000 in February 2016.

The City, incorporated in 1957, is comprised of approximately nine square miles located in the northern portion of the County, approximately 30 miles southeast of the City of Los Angeles. Based on data compiled by CoreLogic, Inc., the median sale price of a single-family home in the City was \$738,000 in February 2017, an increase of approximately 15.5 percent from \$639,000 in February 2016.

Population

The following table displays estimated population data as of January 1 for the past five years for the City, County and State.

**Historical Population
City of Fountain Valley, County of Orange and the State of California**

	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
City of Fountain Valley	55,839	56,069	56,364	56,471	56,714
County of Orange	3,069,454	3,103,654	3,127,403	3,151,910	3,183,011
State of California	37,881,357	38,239,207	38,567,459	38,907,642	39,255,883

Source: State Department of Finance.

Personal Income

Total personal income includes income from all sources including net earnings, dividends, interest and rent, and personal current transfer receipts received by residents in the region. *Per capita* personal income (“PCPI”) was \$57,749 in the County in 2015, an increase of 4.1 percent from 2014 levels, compared to an increase of 5.4 percent Statewide and 3.7 percent nationally. The following table shows PCPI for the County as well as for the State for the past five years data is available.

Per Capita Personal Income **County of Orange and the State of California**

	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
County of Orange	\$51,383	\$54,893	\$53,321	\$55,470	\$57,749
State of California	45,820	48,312	48,471	50,988	53,741

Source: U.S. Department of Commerce, Bureau of Economic Analysis.

Labor Force and Employment

The following table contains a summary of the City’s historical unemployment data for the past four years and for the current year as of the most recent month available, not seasonally adjusted.

Historical Unemployment **City of Fountain Valley**

	<u>Annual</u> <u>2013</u>	<u>Annual</u> <u>2014</u>	<u>Annual</u> <u>2015</u>	<u>Annual</u> <u>2016</u>	<u>January</u> <u>2017¹</u>
Total Labor Force	28,500	28,500	28,900	29,000	28,800
Number of Employed	26,600	27,000	27,600	27,800	27,700
Number of Unemployed	1,800	1,500	1,300	1,100	1,100
Unemployment Rate	6.5%	5.4%	4.4%	3.9%	3.8%

¹Preliminary.

Source: State Employment Development Department.

The following table contains a summary of the County’s historical unemployment data for the past four years and for the current year as of the most recent month available, not seasonally adjusted.

Historical Unemployment **County of Orange**

	<u>Annual</u> <u>2013</u>	<u>Annual</u> <u>2014</u>	<u>Annual</u> <u>2015</u>	<u>Annual</u> <u>2016</u>	<u>January</u> <u>2017¹</u>
Total Labor Force	1,569,200	1,578,200	1,597,100	1,602,400	1,593,100
Number of Employed	1,465,900	1,491,800	1,525,600	1,538,000	1,531,400
Number of Unemployed	103,300	86,400	71,500	64,300	61,700
Unemployment Rate	6.6%	5.5%	4.5%	4.0%	3.9%

¹Preliminary.

Source: State Employment Development Department.

Employment by Industry

The following table shows the County's labor patterns by type of industry from 2012 through 2016 by annual average, not seasonally adjusted.

Historical Employment by Industry County of Orange

	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
Total, All Industries	1,425,600	1,464,100	1,498,200	1,545,200	1,582,600
Total Farm	2,800	2,900	2,800	2,500	2,800
Total Nonfarm	1,422,800	1,461,200	1,495,500	1,542,700	1,579,800
Total Private	1,274,900	1,312,500	1,343,200	1,386,400	1,419,700
Goods Producing	230,300	235,500	240,100	248,000	253,800
Mining, Logging, and Construction	71,900	77,500	82,700	91,100	97,400
Mining and Logging	600	600	700	700	500
Construction	71,300	76,800	82,000	90,400	96,900
Manufacturing	158,300	158,000	157,400	156,900	156,400
Service Providing	1,192,500	1,225,700	1,255,300	1,294,700	1,326,000
Private Service Providing	1,044,700	1,077,000	1,103,100	1,138,500	1,165,900
Trade, Transportation & Utilities	249,200	252,400	255,900	259,100	260,600
Information	24,300	25,000	24,500	25,500	26,000
Financial Activities	108,300	113,100	113,600	116,800	117,400
Professional & Business Services	260,600	267,300	276,600	285,400	296,200
Educational & Health Services	177,000	186,000	190,800	198,800	203,700
Leisure & Hospitality	180,600	187,800	194,500	204,000	211,800
Other Services	44,600	45,600	47,300	48,800	50,300
Government	147,900	148,700	152,200	156,200	160,100
Federal Government	11,100	11,000	10,900	11,100	11,300
State Government	28,700	29,100	29,900	30,800	31,400
Local Government	108,100	108,600	111,400	114,300	117,400

Figures may not foot due to rounding.

Source: State Employment Development Department.

Major Employers

The following table provides a list of the largest employers, corresponding number of employees and percent of total employment in the City for fiscal year 2015-16.

Major Employers City of Fountain Valley

<u>Employer</u>	<u>Number of Employees</u>	<u>Percent of Total County Employment</u>
Fountain Valley Regional Hospital	1,799	7.74%
Memorial Health Services	1,103	4.75
Orange Coast Memorial Med.	1,046	4.50
Hyundai Motor America, Inc.	1,034	4.45
Kingston Technology Corporation	626	2.69
Ceridian Tax Services, Inc.	266	1.14
Antech Diagnostics, Inc.	266	1.14
Surefire, Inc.	258	1.11
Spec Services, Inc.	224	0.96
Sam's Club #6615	209	0.90
Manor Care of Fountain Valley	180	0.77
Mobis Parts America, LLC	166	0.71
Total	7,177	30.86%

Source: City of Fountain Valley, Comprehensive Annual Financial Report for the Year Ended June 30, 2016.

The following table provides a list of the largest employers, corresponding number of employees and percent of total employment in the County for fiscal year 2014-15. Data for fiscal year 2015-16 is not yet available.

Major Employers County of Orange

<u>Employer</u>	<u>Number of Employees</u>	<u>Percent of Total County Employment</u>
Walt Disney Co.	27,000	1.69%
University of California, Irvine	22,385	1.40
County of Orange	18,135	1.13
St. Joseph Health System	12,227	0.76
Kaiser Permanente	7,000	0.44
Boeing Co.	6,890	0.43
Walmart	6,000	0.38
Memorial Health Care System	5,650	0.35
Bank of America	5,500	0.34
Target Corporation	5,400	0.34
Total	116,187	7.26%

Source: County of Orange, Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2015.

Commercial Activity

Total taxable sales during calendar year 2015 in the City were reported to be \$970,604,000, a 2.2 percent decrease from the total taxable sales of \$992,753,000 reported during calendar year 2014.

The number of establishments selling merchandise subject to sales tax and the valuation of taxable transactions in the City for the past five years is presented in the following table. Data for calendar year 2016 is not yet available.

Taxable Retail Sales City of Fountain Valley

	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Sales Tax Permits	1,620	1,615	1,643	1,657	n/a
Taxable Sales (000's)	\$947,178	\$976,496	\$985,852	\$992,753	\$970,604

Source: State Board of Equalization.

Total taxable sales during calendar year 2015 in the County were reported to be \$61,358,087,000, a 2.1 percent increase from the total taxable sales of \$60,097,128,000 reported during calendar year 2014.

The number of establishments selling merchandise subject to sales tax and the valuation of taxable transactions in the County for the past five years is presented in the following table. Data for calendar year 2016 is not yet available.

Taxable Retail Sales Orange County

	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Sales Tax Permits	92,207	93,183	94,862	97,943	110,717
Taxable Sales (000's)	\$51,731,139	\$55,230,612	\$57,591,217	\$60,097,128	\$61,358,087

Source: State Board of Equalization.

Construction Activity

Estimated new privately-owned residential housing units authorized by building permits and total construction costs in the County for the past five years are shown in the following table.

New Residential Building Permits County of Orange

	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Single Family Residential Units	1,822	2,271	3,670	3,714	3,809
Multi-Family Residential Units	<u>2,530</u>	<u>3,811</u>	<u>6,752</u>	<u>5,577</u>	<u>6,962</u>
Total New Building Permits	4,352	6,082	10,422	9,291	10,771
Total Construction Costs	\$820,240,781	\$1,143,571,418	\$2,288,094,326	\$1,923,310,682	\$2,227,918,712

Source: U.S. Bureau of the Census, Building Permit Estimates.

THE DISTRICT

The information in this section concerning the operations of the District and its finances is provided as supplementary information only, and it should not be inferred from the inclusion of this information in this Official Statement that the principal of or interest on the Bonds is payable from the General Fund. The Bonds are payable from the proceeds of an ad valorem tax, approved by the voters of the District pursuant to applicable laws and State Constitutional requirements, and required to be levied by the County on all taxable property in the District in an amount sufficient for the timely payment of principal of and interest on the Bonds. See “SECURITY AND SOURCE OF PAYMENT” herein.

General Information

The District, a political subdivision of the State, was established in 1898. Located in the southern portion of the State, the District encompasses approximately nine square miles and serves a population of approximately 56,200 people residing in the City and a small portion of the City of Huntington Beach.

The District operates seven elementary schools and three middle schools, providing education to approximately 6,370 students in transitional kindergarten through eighth grade,

The District Board of Trustees and Key Administrative Personnel

The District Board governs all activities related to public education within the jurisdiction of the District. The District Board has decision-making authority, the power to designate management, the responsibility to significantly influence operations and is accountable for all fiscal matters relating to the District.

The District Board consists of five members. Each District Board member is elected by the public for a four-year term of office. Elections for the District Board are held every two years, alternating between two and three positions available. A president of the District Board is elected by members each year.

The current members of the District Board, together with their office and the date their term expires, are set forth in the following table.

District Board of Trustees Fountain Valley School District

<u>Name</u>	<u>Title</u>	<u>Term Expires</u>
Sandra Crandall	President	December 2018
Lisa Schultz	President Pro-Tem	December 2018
Jim Cunneen	Clerk	December 2018
Ian Collins	Member	December 2020
Jeanne Galindo	Member	December 2020

The Superintendent of the District is appointed by and reports to the District Board. The Superintendent is responsible for managing the District’s day-to-day operations and supervising the work of other key District administrators. The current members of the District’s administration and positions held are set forth on page “iv” of this Official Statement.

Enrollment

Student enrollment determines to a large extent the amount of funding a State public school district receives for program, facilities and staff needs. Average daily attendance (“ADA”) is a measurement of the number of pupils attending classes of the District. The purpose of attendance accounting from a fiscal standpoint is to provide the basis on which apportionments of State funds are made to school districts. Enrollment can fluctuate due to factors such as population growth, competition from

private, parochial, and public charter schools, inter-district transfers in or out, and other causes. Losses in enrollment will cause a school district to lose operating revenues, without necessarily permitting the school district to make adjustments in fixed operating costs. The ADA as of the last day of the last full attendance month concluding prior to April 15 (“P-2 ADA”) is used by the State as the basis for State apportionments.

Set forth in the following table is the historical and projected ADA for the District.

**Average Daily Attendance
Fountain Valley School District**

	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>	<u>2016-17</u> ¹
Total P-2 ADA	6,151	6,177	6,146	6,197	6,197

¹Projected as of the fiscal year 2016-17 second interim report.

Charter Schools

To the extent charter schools draw students from school district schools and reduce school district enrollment, charter schools can adversely affect school district revenues. However, certain per-pupil expenditures of a school district also decrease based upon the number of students enrolled in charter schools. Pursuant to Proposition 39, school districts are required to provide facilities reasonably equivalent to those provided to regular district students for charter schools having a projected average daily attendance of at least 80 or more students from that district.

There are no charter schools operating in the District.

Pupil-to-Teacher Ratios

Set forth in the following table are the pupil-to-teacher ratios of the District in fiscal year 2016-17.

**Pupil-to-Teacher Ratios
Fountain Valley School District**

<u>Level</u>	<u>Pupil-to-Teacher Ratio</u>
Transitional Kindergarten – Third Grade	28 : 1
Fourth – Sixth Grade	28 : 1
Seventh – Eighth Grade	29 : 1

Employee Relations

State law provides that employees of public school districts of the State are to be divided into appropriate bargaining units which then may be represented by an exclusive bargaining agent. The District has two recognized bargaining units representing its non-management employees. The Fountain Valley Education Association (“FVEA”) is the exclusive bargaining unit for the non-management certificated personnel of the District. The California School Employees Association, Chapter #358 (“CSEA #358”) is the exclusive bargaining unit for the District’s classified, non-management employees.

Set forth in the following table are the District's bargaining units, number of full-time equivalents ("FTEs") budgeted for fiscal year 2016-17 as of the second interim report, and contract status.

**Bargaining Units, Number of Employees and Contract Status
Fountain Valley School District**

<u>Bargaining Unit</u>	<u>Full-Time Equivalents</u>	<u>Contract Status</u>
FVEA	271	Settled for fiscal year 2016-17
CSEA #358	211	Settled for fiscal year 2016-17

The District has an additional 47 FTEs not represented by a bargaining unit budgeted for fiscal year 2016-17 as of the second interim report.

Pension Plans

All full-time employees of the District, as well as certain part-time employees, are eligible to participate under defined benefit retirement plans maintained by agencies of the State. Qualified certificated employees are eligible to participate in the cost-sharing multiple-employer State Teachers' Retirement System ("STRS"). Qualified classified employees are eligible to participate in the cost-sharing multiple-employer Public Employees' Retirement Fund of the Public Employees' Retirement System ("PERS"), which acts as a common investment and administrative agent for participating public entities within the State.

The District accounts for its pension costs and obligations pursuant to *Governmental Accounting Standards Board* ("GASB") *Statement No. 67, Financial Reporting for Pension Plans* ("GASB 67") and *Statement No. 68, Accounting and Financial Reporting for Pensions* ("GASB 68") which replaced GASB Statements Nos. 25 and 27, respectively. GASB 68 requires an employer that provides a defined benefit pension, such as the District, to recognize and report its long-term obligation for pension benefits as a liability as it is earned by employees. The District implemented the new reporting standards as reflected in the District's financial statements for fiscal year 2014-15. See "APPENDIX A—THE FINANCIAL STATEMENTS OF THE DISTRICT AS OF AND FOR THE YEAR ENDED JUNE 30, 2016" attached hereto.

STRS—Description and Contributions. STRS operates under the Education Code sections commonly known as the State Teachers' Retirement Law. Membership is mandatory for all certificated employees of State public schools meeting the eligibility requirements. STRS provides retirement, disability and death benefits based on an employee's years of service, age and final compensation. Employees vest after five years of service and may receive early retirement benefits as early as age 50 or normal retirement either at age 60 or 62 depending on their hire date. Except as required for employees hired after January 1, 2013, STRS employee contribution rates are established by the State Legislature. The fiscal year 2016-17 contribution requirement for active plan members with an enrollment date prior to January 1, 2013 is 10.25 percent of salary. For active plan members with an enrollment date on or after January 1, 2013, the employee contribution rate is at least 50 percent of the total annual normal cost of their pension benefit each year as determined by an actuary (9.205 percent in fiscal year 2016-17). Because STRS contribution rates are established by statute, unlike typical defined benefit programs, the District's contribution rate does not vary annually to make up funding shortfalls or assess credits based on actuarial determinations.

State Assembly Bill 1469, signed into law as part of the fiscal year 2014-15 State budget (the "2014-15 State Budget"), established a plan to eliminate the unfunded STRS liability over a period of approximately 30 years through a combination of State funding and increased school district and employee payments. Employee contributions increase to 10.25 percent of pay by fiscal year 2016-17, employer contributions increase to 19.1 percent of eligible pay by fiscal year 2020-21, and State contributions increase by 4.311 percent by fiscal year 2016-17.

The District's STRS contributions for the past five years and projected contribution for fiscal year 2016-17 as of the second interim report are set forth in the following table.

**STRS Employer Contributions
Fountain Valley School District**

<u>Fiscal Year</u>	<u>District Contribution Rate</u>	<u>District Contributions¹</u>	<u>Total District Governmental Funds Expenditures</u>	<u>District Contributions as Percentage of Total Governmental Funds Expenditures</u>
2011-12	8.25%	\$1,896,870	\$52,342,309	3.62%
2012-13	8.25	1,848,541	55,243,414	3.35
2013-14	8.25	1,943,965	52,673,827	3.69
2014-15	8.88	2,152,765	56,932,961	3.78
2015-16	10.73	2,797,100	59,856,951	4.67
2016-17 ²	12.58	5,656,358 ³	64,941,433	8.71

¹In each instance equal to 100 percent of the required contribution.

²Projected as of the fiscal year 2016-17 second interim report.

³Includes State on-behalf payment of \$2,104,527. Excluding the State on-behalf payment would reduce the District contribution as percentage of total governmental funds expenditures in fiscal year 2016-17 to 5.47 percent.

PERS—Description and Contributions. All full-time classified employees of the District as well as certain part-time classified employees participate in PERS, which provides retirement and disability benefits, annual cost-of-living adjustments and death benefits to plan members and beneficiaries based on an employee's years of service, age and final compensation. Employees hired before January 1, 2013 fully vest after five years of service and may receive retirement benefits at age 50; employees hired after that date fully vest at age 52. These benefit provisions and all other requirements are established by State statute and District resolution. Active plan members with an enrollment date prior to January 1, 2013 are required to contribute seven percent of their salary, while active plan members with an enrollment date on or after January 1, 2013 are required to contribute the greater of 50 percent of normal costs or six percent of their salary. The District is required to pay an actuarially determined rate.

The District's PERS contributions for the past five years and projected contribution for fiscal year 2016-17 as of the second interim report are set forth in the following table.

**PERS Employer Contributions
Fountain Valley School District**

<u>Fiscal Year</u>	<u>District Contribution Rate</u>	<u>District Contributions¹</u>	<u>Total District Governmental Funds Expenditures</u>	<u>District Contributions as Percentage of Total Governmental Funds Expenditures</u>
2011-12	10.923%	\$1,043,319	\$52,342,309	1.99%
2012-13	11.417	1,090,514	55,243,414	1.97
2013-14	11.442	1,065,937	52,673,827	2.02
2014-15	11.771	1,127,546	56,932,961	1.98
2015-16	11.847	1,214,348	59,856,951	2.03
2016-17 ²	13.888	1,536,858	64,941,433	2.37

¹In each instance equal to 100 percent of the required contribution.

²Projected as of the fiscal year 2016-17 second interim report.

Unfunded Liabilities and Pension Expense Reporting. Both STRS and PERS have substantial statewide, unfunded liabilities. The amount of these liabilities will vary depending on actuarial assumptions, returns on investment, salary scales and participant contributions. The actuarial funding method used in the STRS Actuarial Valuation as of June 30, 2015 is the entry age normal cost method, and assumes, among other things, a 7.5 percent investment rate of return, 4.5 percent interest on member accounts, projected 3.0 percent inflation, and projected payroll growth of 3.75 percent.

The following table shows the statewide funding progress of the STRS plan for the past six years. Actuarial valuation data as of June 30, 2016 is not yet available.

**Funding Progress
California State Teachers' Retirement System (STRS)¹**

Actuarial Valuation Date as of June 30	Actuarial Value of Plan Assets	Actuarial Accrued Liability	Total Unfunded Actuarial Liability	Funded Ratio	Covered Payroll	Unfunded Liability as a Percentage of Payroll
2010	\$140,291	\$196,315	\$56,024	71%	\$26,275	213%
2011	143,930	208,405	64,475	69	26,592	242
2012	144,232	215,189	70,957	67	26,404	269
2013	148,614	222,281	73,667	67	26,483	278
2014	158,495	231,213	72,718	69	26,398	275
2015	165,553	241,753	76,200	69	28,640	266

¹Dollars in millions.

Source: California State Teachers' Retirement System, Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2016; California State Teachers' Retirement System, Defined Benefit Program Actuarial Evaluation for Fiscal Year Ended June 30, 2015.

Pursuant to Government Code Section 20840 *et seq.*, PERS is authorized to create risk pools for public agencies, combining assets and liabilities across employers in large risk-sharing pools to help reduce the large fluctuations in the employer's contribution rate caused by unexpected demographic events. The "Schools Pool" provides identical retirement benefits to nearly all classified school employees in the State. The actuarial funding method used in the PERS Schools Pool Actuarial Valuation as of June 30, 2015 is the individual entry age normal cost method, and assumes, among other things, a 7.5 percent investment rate of return and projected 2.75 percent inflation; projected payroll growth varies by entry age and service.

The following table shows the statewide funding progress of the PERS plan for the past six years. Actuarial valuation as of June 30, 2016 is not yet available.

**Funding Progress
Public Employees' Retirement System (PERS) Schools Pool¹**

<u>Actuarial Valuation Date as of June 30</u>	<u>Market Value of Plan Assets</u>	<u>Actuarial Accrued Liability</u>	<u>Total Unfunded Actuarial Liability</u>	<u>Funded Ratio</u>	<u>Covered Payroll</u>	<u>Unfunded Liability as a Percentage of Payroll</u>
2010	\$38,435	\$55,307	\$16,872	70%	\$11,283	150%
2011	45,901	58,358	12,457	79	10,540	118
2012	44,854	59,439	14,585	76	10,242	142
2013	49,482	61,487	12,005	81	10,424	115
2014	56,838	65,600	8,761	87	11,294	78
2015	56,814	73,325	16,510	78	12,098	136

¹Dollars in millions.

Source: California Public Employees' Retirement System, Schools Pool Actuarial Valuation as of June 30, 2015.

For the year ended June 30, 2016, the District's combined recognized pension expense was \$3,972,183. The District's total net pension liability as of June 30, 2016 was \$48,965,288.

The District's recognized pension expenses and net pension liability as reported financial statements for fiscal years 2014-15, the first year for which the data was provided, and 2015-16 are set forth in the following tables.

**Proportionate Share of the Net Pension Liability — STRS
Fountain Valley School District**

<u>Fiscal Year</u>	<u>Proportion of Net Pension Liability</u>	<u>Proportionate Share of Net Pension Liability¹</u>	<u>Covered Employee Payroll</u>	<u>Proportionate Share of Net Pension Liability as Percentage of Covered Employee Payroll</u>	<u>Fiduciary Net Position as Percentage of Total Pension Liability</u>
2014-15	0.0523%	\$30,561,889	\$23,545,335	129.80%	77%
2015-16	0.0537	36,134,647	24,242,849	149.05%	74

¹Excludes State's proportionate share of the net pension liability associated with the District.

**Proportionate Share of the Net Pension Liability — PERS
Fountain Valley School District**

<u>Fiscal Year</u>	<u>Proportion of Net Pension Liability</u>	<u>Proportionate Share of Net Pension Liability</u>	<u>Covered Employee Payroll</u>	<u>Proportionate Share of Net Pension Liability as Percentage of Covered Employee Payroll</u>	<u>Fiduciary Net Position as Percentage of Total Pension Liability</u>
2014-15	0.888%	\$10,082,902	\$9,305,851	108.38%	83%
2015-16	0.870	12,830,641	9,579,830	133.93	79

The District is unable to predict future amount of State pension liabilities and amount of required District contributions. Pension plan, annual contribution requirements and liabilities are more fully described in "APPENDIX A—THE FINANCIAL STATEMENTS OF THE DISTRICT AS OF AND FOR THE YEAR ENDED JUNE 30, 2016" attached hereto.

Other Postemployment Benefits (OPEB)

In addition to the pension benefits described above, the District provides postemployment health care benefits (known as “other postemployment benefits,” or “OPEB”), in accordance with District employment contracts, to retirees meeting certain eligibility requirements. The District provides medical, vision, and dental insurance benefits to eligible retirees and their spouses. As of June 30, 2016, the District was providing OPEB to 43 retirees and beneficiaries.

Governmental Accounting Standards Board Statement No. 45, Accounting and Financial Reporting by Employers for Post Employment Benefits Other Than Pensions (“GASB 45”) requires public agency employers providing healthcare benefits to retirees to recognize and account for the costs for providing these benefits on an accrual basis and provide footnote disclosure on the progress toward funding the benefits, in order to quantify a government agency’s current liability for future benefit payments. GASB 45 is directed at quantifying and disclosing OPEB obligations, and does not impose any requirement on public agencies to fund such obligations.

The District completed an actuarial study assessing the District’s OPEB liability as of May 1 2016. Based on the study, the District’s actuarial accrued liability (the “AAL”), which can also be considered to be the present value of all benefits earned to date assuming that an employee accrues retiree healthcare benefits ratably over his career, was \$7,055,817. The AAL is an actuarial estimate that depends on a variety of assumptions about future events, such as health care costs and beneficiary mortality. The remaining unamortized balance of the initial unfunded actuarial accrued liability (the “UAAL”) was \$6,526,698, leaving a residual UAAL of \$529,119. The District has not established an irrevocable trust to pay OPEB.

Every year, active employees earn additional future benefits, an amount known as the “normal cost,” which is added to the AAL. The annual required contribution (“ARC”) is the amount required if the District were to fund each year’s normal cost plus both the initial and residual UAAL, assuming the UAAL is fully funded over a 24-year period. If the amount budgeted and funded in any year is less than the ARC, the difference reflects the amount by which the UAAL is growing. The actuarial study calculated the ARC to be \$991,852 as of May 1, 2016.

The District funds its OPEB liability on a “pay-as-you go” basis. The District’s OPEB expenditures were \$643,928 in fiscal year 2014-15, were \$428,021 in fiscal year 2015-16, and are projected to be \$384,834 in fiscal year 2016-17 as of the second interim report. See “APPENDIX A—THE FINANCIAL STATEMENTS OF THE DISTRICT AS OF AND FOR THE YEAR ENDED JUNE 30, 2016” for additional information regarding the District’s OPEB.

DISTRICT FINANCIAL INFORMATION

The information in this section concerning the operations of the District and its finances are provided as supplementary information only, and it should not be inferred from the inclusion of this information in this Official Statement that the principal of or interest on the Bonds is payable from the General Fund. The Bonds are payable from the proceeds of an ad valorem tax, approved by the voters of the District pursuant to applicable laws and State Constitutional requirements, and required to be levied by the County on all taxable property in the District in an amount sufficient for the timely payment of principal of and interest on the Bonds. See “SECURITY AND SOURCE OF PAYMENT” herein.

Accounting Practices

The District accounts for its financial transactions in accordance with the policies and procedures of the State Department of Education’s *California School Accounting Manual*, which, pursuant to Education Code Section 41010, is to be followed by all school districts in the State. The accounting policies of the District conform to accounting principles generally accepted in the United States of America as prescribed by the Governmental Accounting Standards Board and the American Institute of Certified Public Accountants.

The District’s financial statements consist of government-wide statements and fund-based financial statements. Government-wide statements, consisting of a statement of net assets and a statement of activities, report all the assets, liabilities, revenue and expenses of the District and are accounted for using the economic resources measurement focus and accrual basis of accounting. The fund-based financial statements consist of a series of statements that provide information about the District’s major and non-major funds. Governmental funds, including the General Fund, special revenues funds, capital project funds

and debt service funds, are accounted for using the modified accrual basis of accounting. Under the modified accrual basis of accounting, revenues are recognized in the accounting period in which they become measurable and available, while expenditures are recognized in the period in which the liability is incurred, if measurable. Proprietary funds and fiduciary funds are accounted for using the economic resources measurement focus and accrual basis of accounting. See “NOTE 1” in “APPENDIX A” attached hereto for a further discussion of applicable accounting policies.

The independent auditor for the District in fiscal year 2015-16 was Vavrinek, Trine, Day & Co., LLP, Rancho Cucamonga, California (the “Auditor”). The financial statements of the District as of and for the year ended June 30, 2016, are set forth in “APPENDIX A” attached hereto. The District has not requested nor did the District obtain permission from the Auditor to include the audited financial statements as an appendix to this Official Statement. The Auditor has not performed any subsequent events review or other procedures relative to these audited financial statements since the date of its letter.

Budget and Financial Reporting Process

The General Fund finances the legally authorized activities of the District for which restricted funds are not provided. General Fund revenues are derived from such sources as federal and State school apportionments, taxes, use of money and property, and aid from other governmental agencies.

The District is required by provisions of the Education Code to maintain a balanced budget each year, where the sum of expenditures plus the ending fund balance cannot exceed revenues plus the carry-over fund balance from the previous year. The State Department of Education imposes a uniform budgeting format for all school districts.

The fiscal year for all State school districts is July 1 to June 30. The same calendar applies to county offices of education, although their budgets and reports are reviewed by the State Superintendent of Public Instruction (the “State Superintendent”). Because most school districts depend on State funds for a substantial portion of revenue, the State budget is an extremely important input in the school district budget preparation process. However, there is very close timing between final approval of the State budget (legally required by June 15), the adoption of the associated school finance legislation, and the adoption of local school district budgets. In some years, the State budget is not approved by the legal deadline which forces school districts to begin the new fiscal year with only estimates of the amount of funding they will actually receive.

The school district budgeting process involves continuous planning and evaluation. Within the deadlines, school districts work out their own schedules for considering whether or not to hire or replace staff, negotiating contracts with all employees, reviewing programs, and assessing the need to repair existing or acquire new facilities. Decisions depend on the critical estimates of enrollment, fixed costs, commitments in contracts with employees as well as best guesses about how much money will be available for elementary and secondary education. The timing of some decisions is forced by legal deadlines. For example, preliminary layoff notices to teachers must be delivered in March, with final notices in May. This necessitates projecting enrollments and determining staffing needs long before a school district will know either its final financial position for the current year or its revenue for the next year.

School districts must adopt an annual budget on or before July 1 of each year. The budget must be submitted to the county superintendent within five days of adoption or by July 1, whichever occurs first. The governing board of the school district must not adopt a budget before the governing board adopts a local control and accountability plan (the “LCAP”) for that budget year. See “FUNDING OF PUBLIC EDUCATION IN THE STATE” herein.

The county superintendent will examine the adopted budget for compliance with the standards and criteria adopted by the State Board of Education and identify technical corrections necessary to bring the budget into compliance, will determine if the budget allows the school district to meet its current obligations, will determine if the budget is consistent with a financial plan that will enable the school district to meet its multi-year financial commitments, and will determine if the budget ensures the fiscal solvency and accountability for the goals outlined in the LCAP. On or before September 15, the county superintendent will approve or disapprove the adopted budget for each school district within its jurisdiction based on these standards. The school district board must be notified by September 15 of the county superintendent’s recommendations for revision and reasons for the recommendations. The county superintendent may assign a fiscal advisor or appoint a committee to examine and comment on the superintendent’s recommendations. The committee must report its findings no later than September 20. Any recommendations made by the county superintendent must be made available by the school district for public inspection. The law does not provide for conditional approvals; budgets must be either approved or disapproved. No later than October 22, the county superintendent must notify the State Superintendent of all school districts whose budget may

be disapproved, and no later than November 8, the county superintendent must notify the State Superintendent of all school district budgets that have been disapproved or budget committees waived.

For school districts whose budgets have been disapproved, the school district must revise and readopt its budget by October 8, reflecting changes in projected income and expense since July 1, and responding to the county superintendent's recommendations. The county superintendent must determine if the budget conforms with the standards and criteria applicable to final school district budgets and not later than November 8, will approve or disapprove the revised budgets. If the budget is disapproved, the county superintendent will call for the formation of a budget review committee pursuant to Education Code Section 42127.1. Until a school district's budget is approved, the school district will operate on the lesser of its proposed budget for the current fiscal year or the last budget adopted and reviewed for the prior fiscal year.

Under the provisions of State Assembly Bill 1200, each school district is required to file interim certifications with the county office of education as to its ability to meet its financial obligations for the remainder of the then-current fiscal year and, based on current forecasts, for the subsequent two fiscal years. Each school district is required by the Education Code to file two interim reports each year—the first report for the period ending October 31 by not later than December 15, and the second report for the period ending January 31 by not later than March 15. Each interim report shows fiscal year-to-date financial operations and the current budget, with any budget amendments made in light of operations and conditions to that point. The county office of education reviews the certification and issues either a positive, negative or qualified certification. A positive certification is assigned to any school district that will meet its financial obligations for the current fiscal year and subsequent two fiscal years. A negative certification is assigned to any school district that will be unable to meet its financial obligations for the remainder of the fiscal year or subsequent fiscal year. A qualified certification is assigned to any school district that may not meet its financial obligations for the current fiscal year or subsequent two fiscal years. If either the first or second interim report is not positive, the county superintendent may require the school district to provide a third interim report by June 1 covering the period ending April 30. If not required, a third interim report is generally not prepared (though may be at the election of the school district).

The county superintendent must annually present a report to the governing board of the school district and the State Superintendent of Public Instruction regarding the fiscal solvency of any school district with a disapproved budget, qualified interim certification, or negative interim certification, or that is determined at any time to be in a position of fiscal uncertainty pursuant to Education Code Section 42127.6. Any school district with a qualified or negative certification must allow the county office of education at least 10 working days to review and comment on any proposed agreement made between its bargaining units and the school district before it is ratified by the school district board (or the state administrator). The county superintendent will notify the school district, the county board of education, the school district governing board and the school district superintendent (or the state administrator), and each parent and teacher organization of the school district within those 10 days if, in his or her opinion, the agreement would endanger the fiscal well-being of the school district. Also, pursuant to Education Code Section 42133, a school district that has a qualified or negative certification in any fiscal year may not issue, in that fiscal year or the next succeeding fiscal year, non-voter approved debt unless the county superintendent of schools determines that the repayment of that debt by the school district is probable.

The filing status of the District's interim reports for the past five years appears in the following table.

**Certifications of Interim Financial Reports
Fountain Valley School District**

<u>Fiscal Year</u>	<u>First Interim</u>	<u>Second Interim</u>
2012-13	Positive	Positive
2013-14	Positive	Positive
2014-15	Positive	Positive
2015-16	Positive	Positive
2016-17	Positive	Positive

Financial Statements

Figures presented in summarized form herein have been gathered from the District's financial statements. The audited financial statements of the District for the fiscal year ending June 30, 2016, have been included in the appendix to this Official Statement. See "APPENDIX A" attached hereto. Audited financial statements and other financial reports for prior fiscal years are on file with the District and available for public inspection during normal business hours. Copies of financial statements relating to any year are available to prospective investors and or their representatives upon request by contacting Fountain Valley School District, 10055 Slater Avenue, Fountain Valley, California 92708, (714) 843-3200, Attention: Assistant Superintendent, Business Services, or by contacting the Municipal Advisor, Government Financial Strategies inc., 1228 N Street, Suite 13, Sacramento, California 95814-5609, telephone (916) 444-5100.

The following table sets forth the District's audited General Fund balance sheet data for fiscal years 2012-13 through 2015-16.

General Fund Balance Sheet Fountain Valley School District

	2012-13	2013-14	2014-15	2015-16
	<u>Audited</u>	<u>Audited</u>	<u>Audited</u>	<u>Audited</u>
ASSETS				
Deposits and Investments	\$6,279,315	\$2,715,018	\$6,355,555	\$12,052,609
Receivables	5,678,555	8,363,991	2,409,460	2,418,887
Due from Other Funds	1,110,323	610,268	678,970	322,236
Prepaid Expenditures	1,199	0	8,569	5,082
Stores Inventories	<u>103,744</u>	<u>91,043</u>	<u>93,471</u>	<u>86,854</u>
TOTAL ASSETS	\$13,173,136	\$11,780,320	\$9,546,025	\$14,885,668
LIABILITIES AND FUND BALANCES				
LIABILITIES				
Accounts Payable	\$8,021,876	\$6,198,652	\$2,816,207	\$2,586,551
Due to Other Funds	6,375	5,169	676,715	318,603
Due to Other Governments	733,896	458,215	0	0
Unearned Revenue	<u>255,949</u>	<u>187,505</u>	<u>127,972</u>	<u>30,611</u>
TOTAL LIABILITIES	\$9,018,096	\$6,849,541	\$3,620,894	\$2,935,765
FUND BALANCES				
Nonspendable	\$139,943	\$126,043	\$137,040	\$126,936
Restricted	1,847,024	2,459,636	1,603,936	1,743,109
Assigned	0	329,843	357,989	4,965,022
Unassigned	<u>2,168,073</u>	<u>2,015,257</u>	<u>3,826,166</u>	<u>5,114,836</u>
TOTAL FUND BALANCES	<u>\$4,155,040</u>	<u>\$4,930,779</u>	<u>\$5,925,131</u>	<u>\$11,949,903</u>
TOTAL LIABILITIES AND FUND BALANCES	\$13,173,136	\$11,780,320	\$9,546,025	\$14,885,668

The following table sets forth the District's audited General Fund activity for fiscal years 2012-13 through 2015-16 and projected activity for fiscal year 2016-17 as of the second interim report.

**General Fund Activity
Fountain Valley School District**

	2012-13 <u>Audited</u>	2013-14 <u>Audited</u>	2014-15 <u>Audited</u>	2015-16 <u>Audited</u>	2016-17 <u>2nd Interim</u>
BEGINNING BALANCE	\$4,897,670	\$4,155,040	\$4,930,779	\$5,925,131	\$11,949,903
REVENUES					
Revenue Limit/LCFF	\$30,884,860	\$36,992,640	\$40,570,969	\$45,613,798	\$47,518,051
Federal Revenue	1,936,293	2,036,676	1,898,901	1,808,575	1,976,473
Other State Revenues	6,742,610	3,965,534	3,162,154	6,977,199	5,048,493
Other Local Revenues	<u>4,640,708</u>	<u>4,898,661</u>	<u>5,282,190</u>	<u>5,117,863</u>	<u>5,066,674</u>
TOTAL REVENUES	\$44,204,471	\$47,893,511	\$50,914,214	\$59,517,435	\$59,609,691
EXPENDITURES					
Certificated Salaries	\$22,471,189	\$23,710,079	\$24,524,884	\$26,652,619	\$28,024,681
Classified Salaries	8,849,735	8,822,270	9,038,089	9,447,948	9,697,047
Employee Benefits	9,554,103	9,326,457	9,684,319	11,095,902	12,820,066
Books and Supplies	1,329,935	1,766,687	2,515,950	2,070,479	2,764,756
Services and Operating Expenditures	3,399,092	3,350,946	3,302,269	3,064,719	4,627,137
Capital Outlay	0	0	0	147,955	780,082
Other Outgo	312,091	610,377	646,973	258,635	208,501
Debt Service	<u>30,956</u>	<u>30,956</u>	<u>30,956</u>	<u>30,956</u>	<u>0</u>
TOTAL EXPENDITURES	\$45,947,101	\$47,617,772	\$49,743,440	\$52,769,213	\$58,922,270
OTHER FINANCING SOURCES	\$1,000,000	\$500,000	(\$176,422)	(\$723,450)	(\$260,000)
NET INCREASE (DECREASE)	(\$742,630)	\$775,739	\$994,352	\$6,024,772	\$427,421
ENDING BALANCE	\$4,155,040	\$4,930,779	\$5,925,131	\$11,949,903	\$12,377,324

Totals may not foot due to rounding.

Revenues

The District categorizes its General Fund revenues into four primary sources: revenue limit / LCFF sources, federal revenues, other State revenues and other local revenues.

Revenue Limit / Local Control Funding Formula (LCFF). For nearly half a century, State school districts operated under general purpose revenue limit funding based on a district's average daily student attendance, much of which was restricted by category as to how each dollar could be spent. Revenue limit funding was calculated by multiplying a school district's ADA (using the greater of the current or prior year P-2 ADA) by the school district's revenue limit funding per ADA, with certain adjustments.

In landmark legislation effective fiscal year 2013-14, the State introduced a new formula, the local control funding formula ("LCFF"), to be phased in through fiscal year 2020-21. LCFF consolidates most categorical programs in order to give school districts more control over how to spend their revenues. At full implementation of LCFF, school districts will receive a uniform base grant per student based on grade span, a supplemental grant based on an unduplicated count of the targeted disadvantaged students ("unduplicated students") in the school district, and an additional concentration grant based on the

number of unduplicated students in the school district above 55 percent, with qualifying schools receiving an additional necessary small school allowance. Approximately 29.4 percent of the District's students were unduplicated students for fiscal year 2016-17, based on P-1 ADA. The base, supplemental, and concentration grant amounts per student were set in fiscal year 2012-13 and are subject to cost-of-living adjustments thereafter. School districts that would otherwise receive less funding at full implementation of LCFF than they did under the revenue-limit system are also guaranteed an additional Economic Recovery Target ("ERT") grant to restore funding to at or above their pre-recession funding, adjusted for inflation. The ERT add-on is paid incrementally over the LCFF implementation period. In fiscal year 2016-17, the District's LCFF funding at full implementation is calculated to be \$50,423,665, comprised of \$46,934,380 in base grant funding, \$2,755,049 in supplemental grant funding and \$734,236 in add-on funding.

To calculate LCFF funding during the phase-in period, school districts calculate their "funding gap," the difference between LCFF funding calculated at full implementation and their "funding floor," an amount based on fiscal year 2012-13 funding levels under the revenue limit system adjusted for prior LCFF phase-in adjustments. School districts receive their funding floor plus a percentage of their funding gap as specified in the State budget. In fiscal year 2016-17, the State has budgeted funding 54 percent of the remaining funding gap. In fiscal year 2016-17, the District is projected to receive \$45,926,386 as its floor entitlement and \$2,449,763 in gap funding under LCFF. See "FUNDING OF PUBLIC EDUCATION IN THE STATE" herein for more information about LCFF.

Set forth in the following table is the District's P-2 ADA by grade span, total enrollment, and the percentage of unduplicated student enrollment for fiscal years 2013-14 through 2016-17.

**ADA, Enrollment and Unduplicated Student Enrollment Percentage
Fountain Valley School District**

<u>Fiscal Year</u>	<u>P-2 ADA Grades TK-3</u>	<u>P-2 ADA Grades 4-6</u>	<u>P-2 ADA Grades 7-8</u>	<u>Total P-2 ADA</u>	<u>Total Enrollment¹</u>	<u>Unduplicated Student Enrollment Percentage²</u>
2013-14	2,510	2,135	1,531	6,177	6,337	27.42%
2014-15	2,515	2,115	1,516	6,146	6,305	29.59
2015-16	2,559	2,063	1,575	6,197	6,371	29.28
2016-17 ³	2,559	2,063	1,575	6,197	6,387	28.74

¹As of the October report submitted to the California Basic Educational Data System ("CBEDS").

²For purposes of calculating supplemental and concentration grants, a school district's fiscal year 2013-14 percentage of unduplicated students is determined solely as the percentage of its fiscal year 2013-14 total enrollment. For fiscal year 2014-15, the percentage of unduplicated students is based on the two-year average of unduplicated student enrollment in fiscal years 2013-14 and 2014-15. Beginning in fiscal year 2015-16, a school district's percentage of unduplicated student enrollment is based on a rolling average of such district's unduplicated student enrollment for the then-current fiscal year and the two immediately preceding fiscal years.

³Projected.

Set forth in the following table is the District's actual LCFF funding per ADA for fiscal years 2013-14 through 2015-16 and budgeted LCFF funding per ADA for fiscal year 2016-17.

**LCFF Funding per ADA
Fountain Valley School District**

<u>Fiscal Year</u>	<u>Funded ADA¹</u>	<u>Average LCFF Funding per ADA²</u>	<u>Average LCFF Funding per ADA at Full Implementation</u>
2013-14	6,199	\$6,418	\$7,883
2014-15	6,199	6,462	7,973
2015-16	6,206	7,350	8,007
2016-17 ³	6,206	7,737	8,055

¹Funded ADA is the greater of current year P-2 ADA and prior year P-2 ADA.

²Represents average LCFF funding per ADA across grade spans.

³Projected as of the second interim report.

Funding of the District's revenue limit and LCFF is accomplished by a mix of a) local taxes (composed predominantly of property taxes, and including miscellaneous taxes and community redevelopment funds, if any) and b) State apportionments. The majority of the District's revenue limit / LCFF funding comes from local taxes.

LCFF revenues were 79.7 percent of General Fund revenues in fiscal year 2014-15, were 76.6 percent of General Fund revenues in fiscal year 2015-16, and are projected to be 79.7 percent of General Fund revenues in fiscal year 2016-17 as of the second interim report.

Federal Revenues. The federal government provides funding for several District programs. These federal revenues, most of which historically have been restricted, were 3.7 percent of General Fund revenues in fiscal year 2014-15, were 3.0 percent of General Fund revenues in fiscal year 2015-16, and are projected to be 3.3 percent of General Fund revenues in fiscal year 2016-17 as of the second interim report.

Other State Revenues. In addition to apportionment revenues, the State provides funding to the District for categorical programs. Many categorical programs previously classified as other State revenues were incorporated under LCFF in fiscal year 2013-14, causing a reduction in other State revenues. These other State revenues were 6.2 percent of General Fund revenues in fiscal year 2014-15, were 11.7 percent of General Fund revenues in fiscal year 2015-16, and are projected to be 8.5 percent of General Fund revenues in 2016-17 as of the second interim report. Included in other State revenues are proceeds received from the State lottery.

Other Local Revenues. Revenues from other local sources were 10.4 percent of General Fund revenues in fiscal year 2014-15, were 8.6 percent of General Fund revenues in fiscal year 2015-16, and are projected to be 8.5 percent of General Fund revenues in fiscal year 2016-17 as of the second interim report. The District is not projected to receive pass-through payments from the dissolution of redevelopment agencies in fiscal year 2016-17 as of the second interim report. See "CONSTITUTIONAL AND STATUTORY PROVISIONS AFFECTING DISTRICT REVENUES AND EXPENDITURES—Community Redevelopment and Revitalization" herein.

Expenditures

The largest components of a school district's general fund expenditures are certificated and classified salaries and employee benefits. Changes in salary and benefit expenditures from year to year are generally based on changes in staffing levels, negotiated salary increases, and the overall cost of employee benefits. Even with no negotiated salary increases or changes in staffing levels, normal "step and column" advancements on the salary scale result in increased salary expenditures.

The District has completed negotiations with its classified and certificated bargaining units to finalize salary and benefit increases for fiscal year 2016-17. However, while salary and benefit increases for certificated staff are included in the fiscal year 2016-17 second interim report, increases for classified staff were not finalized until after the fiscal year 2016-17 second

interim report was prepared and are not included. Salary and benefit increases for classified staff are projected to increase expenditures by \$226,785 from the levels in the fiscal year 2016-17 second interim report.

Employee salaries and benefits were 86.9 percent of General Fund expenditures in fiscal year 2014-15, were 89.4 percent of General Fund expenditures in fiscal year 2015-16, and are projected to be 85.8 percent of General Fund expenditures in fiscal year 2016-17 as of the second interim report.

Short-Term Borrowings

The District has no short-term debt outstanding.

The District has in the past issued short-term tax and revenue anticipation notes. Proceeds from the issuance of notes by the District have been used to reduce inter-fund dependency and to provide the District with greater overall efficiency in the management of its funds. The District has never defaulted on any of its short-term borrowings.

Capitalized Lease Obligations

The District has made use of various capital lease arrangements under agreements that provide for title of items and equipment being leased to pass to the District upon expiration of the lease period. As of June 30, 2016, the District had \$6,612,629 in outstanding capital leases associated with the acquisition of solar panels. Lease payments on the capital lease arrangements were \$854,576 in fiscal year 2015-16.

Long-Term Borrowings

The District has no long-term debt currently outstanding and has never defaulted on any long-term obligations.

CONSTITUTIONAL AND STATUTORY PROVISIONS AFFECTING DISTRICT REVENUES AND EXPENDITURES

Background

From the Separation of Sources Act (1910) until Proposition 13 (1978), local governments had control over property tax rates and revenues within their jurisdiction. Voter approval was not required for most taxes, charges or fees imposed by local governments. Each school district in the State raised revenue by taxing local property owners according to a tax rate established by its governing board, subject to voter approval, and received some supplemental funds from the State. The State's role in providing for public education and education facilities was limited during this time. Local school districts relied largely on general obligation bonds as the primary source of funding for school facilities.

The passage of Proposition 13 brought this local property tax system to an end, fundamentally changing local government finance. Local government entities are no longer authorized to levy a general tax rate. Instead, they share in the revenues generated by Proposition 13's countywide tax rate. In the year following the passage of Proposition 13, local property tax revenue across the State fell approximately 60 percent. In order for school districts to continue operating, the State had to assume primary responsibility for public school funding, replacing the lost property tax revenue with moneys from the State general fund. As a result of Proposition 13, control over revenues shifted away from local school districts to the State government. Proposition 13 also eliminated the ability of school districts to issue bonds; for a decade, the State provided some of the cost of school facilities projects until the passage of Proposition 46 (1986) restored the ability of school districts to issue such bonds.

Article XIII A of the State Constitution

Article XIII A, added to the State Constitution by Proposition 13 and amended over time, limits the *ad valorem* tax rate that can be levied on real property to one percent of its "full cash value" except to pay debt service, discussed below. "Full cash value" is defined as the property's assessed value as of the fiscal year 1975-76 tax bill, annually increased by the lesser of

either two percent or the rate of inflation. Subsequently, the property is reappraised for tax purposes upon a change in ownership or new construction. Several types of changes in ownership and construction have been exempted from the reassessment requirement by amendment, including improvements for seismic retrofit, solar energy, fire prevention, disability access, certain purchases of replacement dwellings for persons over age 55 and by property owners whose original property is destroyed in a declared disaster, and certain transfers of property between family members.

In most years, the market value of a property increases at a rate greater than the maximum two percent increase a county is allowed to calculate. As amended by Proposition 8 (1978), Article XIII A allows for a county to temporarily reduce the assessed value to current market value when the market value of the property falls below the property's adjusted acquisition value due to an economic recession, natural disaster or other cause of damage. In years in which reduced reassessments are widespread, property tax revenue available to local governments such as school districts is reduced. Pursuant to interpretation of the Revenue and Taxation Code and upheld by State courts, once the market has rebounded or the property has been repaired to substantially its original condition, a county may increase the assessed value of the property at a rate greater than two percent annually until it has reached the property's pre-decline assessed value.

As a result of these laws, real property that has been owned by the same taxpayer for many years can have an assessed value that is much lower than the market value of the property and of similar properties more recently sold. Likewise, changes in ownership of property and reassessment of such property to market value commonly lead to increases in aggregate assessed value even when the rate of inflation or consumer price index would not permit the full two percent increase on any property that has not changed ownership. Any increase or decrease in assessed valuation is allocated among the various jurisdictions.

The one percent tax is levied and collected by each county, and the revenue is apportioned by the county to each local government agency in the taxing area roughly in proportion to the relative shares of taxes as levied prior to 1979. Local government agencies, including school districts, may not directly levy any *ad valorem* tax, unless the tax is levied to pay debt service (interest and redemption charges) on a local government's indebtedness approved by voters prior to July 1, 1978 or thereafter, as amended by Proposition 46 (1986), bonded indebtedness for the acquisition or improvement of real property approved by a two-thirds majority. In addition, Proposition 39 (2000) added a provision allowing for a lowered voter approval rate specifically for bonds to fund school facilities projects. A school district or community college district may levy *ad valorem* taxes in excess of one percent with 55 percent voter approval if the bonds will be used for the construction, reconstruction, rehabilitation or replacement of school facilities or the acquisition or lease of real property for school facilities. The measure must include the specific list of projects to be funded and certification that the school district's governing board has evaluated safety, class size reduction, and information technology needs in developing the list, and must conduct annual, independent financial and performance audits until all bond funds have been spent to ensure that the bond funds have been used only for the projects listed in the measure. Pursuant to legislation, the projected tax rate per \$100,000 of taxable property value levied as the result of any single election may be no more than \$60 in a unified school district, \$30 in a high school or elementary school district, or \$25 in a community college district.

Constitutional Protection For Owners of Municipal Securities

State law imposes a duty on the county tax collector to levy a property tax sufficient to pay debt service on voter-approved indebtedness as discussed above. The initiative power cannot be used to reduce or repeal the authority and obligation of a local government, such as a school district, to levy taxes pledged as security for payment of general obligation bonds or to otherwise interfere with performance of the duty of a local government, such as a school district, and the county with respect to such taxes. Although the initiative power may be used to reduce or repeal other types of charges or taxes imposed by local governments under Article XIII C, discussed below, the law may not be construed to mean that any owner or beneficial owner of a municipal security assumes the risk of or consents to any initiative measure that would constitute an impairment of contractual rights under the contracts clause of the U.S. Constitution.

Article XIII B of the State Constitution

Article XIII B, added to the State Constitution by Proposition 4 (1979) (the "Gann Limit"), amended by Proposition 111 (1990), limits the amount of certain funds, including tax revenues, that may be annually appropriated by the State and local governments, including school districts, to the amount appropriated the prior year, adjusted to reflect the rate of economic growth by measuring the change in *per capita* personal income and population. Certain payments are exempt from the appropriations limit calculation, including debt service payments; certain benefit payments, mandated expenses, State payments to school districts and community college districts, increases in revenues gained from fuel, vehicle and tobacco

taxes, emergency appropriations; and qualified capital outlay projects (projects involving fixed assets such as land or construction that have an expected life of more than 10 years and a value greater than \$100,000).

Tax revenues in excess of the appropriation limit are shared between increased education funding and taxpayer rebates. Calculated over two years, half of any excess is transferred to K-14 school districts and half is returned to taxpayers through a revision of tax rates within two fiscal years. Any such excess revenues transferred to K-14 school districts are not counted as part of the school districts' base expenditures for calculating their entitlement for State aid in the next year, nor is the State's appropriations limit increased by this amount. If a K-14 school district's revenues exceed its appropriations limit, the school district may increase its appropriations limit to equal its spending by borrowing from the State's appropriations limit.

Articles XIIC and XIID of the State Constitution

Articles XIIC and XIID, added to the State Constitution by Proposition 218 (1996) and amended over time, limit the ability of local governments, including school districts, to levy and collect non-*ad valorem* taxes, assessments, fees and charges. The law establishes that a tax must be either a "general" tax, requiring the approval of a simple majority of voters, the proceeds of which can only be used for general government purposes, or a "special" tax, requiring the approval of two-thirds of voters, the proceeds of which are used for a specific purpose, or if the tax is levied by a special-purpose government agency, including a school district. Any tax levied on property, other than the *ad valorem* tax governed by Article XIIC, is a special tax, requiring the approval of two-thirds of voters. Special-purpose government agencies, such as a school district, cannot levy general taxes.

The initiative power can be used to reduce or repeal most local taxes, assessments, fees and charges. Article XIID deals with assessments and property-related fees and charges and expressly cautions that its provisions shall not be construed to affect existing laws relating to the imposition of fees or charges as a condition of property development; however it is not clear whether the initiative power is available to repeal or reduce developer and mitigation fees imposed by the District. The District has no power to impose taxes except those property taxes associated with a general obligation bond election, following approval by 55 percent or two-thirds of the District's voters, depending upon the legal authority for the issuance of such bonds.

As amended by Proposition 26 (2010), the law defines any levy, charge, or exaction of any kind imposed by a local government as a tax requiring voter approval. The following exceptions do not require voter approval: a reasonable charge for a specific benefit, privilege, product or service that is received only by the payor of the charge; a reasonable charge for regulatory costs of issuing a license or permit, performing an inspection or audit, or enforcing an order; a charge for use, rental, or purchase of government property; a charge, fine or penalty for violation of law; and assessments and property-related fees imposed as a condition of property development. Although such fees and charges levied by one taxing jurisdiction do not directly impact the amount of revenue available to another taxing jurisdiction from *ad valorem* property taxes, if the ability to impose the fee or charge is restricted, it could indirectly impact such revenues.

Minimum Guarantee of State Funding for Education

Proposition 98 (1988), added Article XVI to the State Constitution, requiring that "from all State revenues there shall first be set apart the moneys to be applied by the State for support of the public school system and higher education." Known as the "minimum guarantee," funding for K-14 school districts, made up of a combination of State general fund income tax revenues and local property tax revenues, must be the greater of either the same percentage of State general fund revenues as was appropriated in fiscal year 1986-87, or the amount actually appropriated to such districts from the State general fund in the previous fiscal year, adjusted for increases in enrollment and changes in the cost of living. The minimum guarantee allocated each year, determined by a set of tests, is approximately 40 percent or more of State general fund revenues.

Test 1 (share of the State general fund) allocates approximately 41 percent of the State general fund revenue to K-14 school districts. Test 1 only applies if Test 2 or Test 3 (described below) does not result in additional funding for K-14 school districts. Test 1 has been used 4 times in the last 29 years, including fiscal year 2014-15. Test 2 (personal income) provides that K-14 school districts shall receive at least the same amount of combined State aid and local tax dollars as was received in the prior year, adjusted for the statewide growth in K-12 ADA and an inflation factor equal to the annual percentage change in *per capita* personal income. Test 2 is used if it results in more funding for K-14 school districts than Test 1 (unless Test 3 applies instead). Test 2 has been used in 14 of the past 29 years, including fiscal year 2015-16. Test 3 (available revenues) only applies in years in which the annual percentage change in *per capita* State general fund tax revenues plus one-half

percent is lower than the “Test 2” inflation factor (*i.e.*, the change in *per capita* personal income), in which case the inflation factor is reduced to the annual percentage change in *per capita* State general fund tax revenues plus one-half percent. Test 3 has been used 9 of the past 29 years, including fiscal year 2016-17.

In any year in which Test 3 is used, the difference between the amount appropriated and the amount that would have been appropriated under Test 2 is considered a “maintenance factor” credit to K-14 school districts, to be restored in future years when State revenue growth rebounds to exceed personal income. In years of economic hardship, the State Legislature can suspend the minimum guarantee for a year by a two-thirds vote, which also triggers the maintenance factor obligation, to be restored in later years. Such suspension has only occurred twice, in fiscal years 2004-05 and 2010-11. The State Legislature has the authority to spend more than the minimum guarantee, although any increase creates a higher minimum floor for the following year; this has occurred from time to time. At times, the State also has had outstanding one-time Proposition 98 obligations known as “settle-up” obligations. A settle-up obligation is created when the minimum guarantee increases midyear and the State does not make an additional payment within that fiscal year to meet the higher guarantee. The increased amount is used as the base for the following year’s minimum guarantee. Settle-up funds can be used for any educational purpose, including paying off other state one-time obligations, such as deferrals and mandates. In fiscal year 2016-17, the State is projected to reduce the outstanding maintenance factor obligation to approximately \$548 million.

Community Redevelopment and Revitalization

Beginning with the Community Redevelopment Act (1945) under Article XVI of the State Constitution, amended over time, until the termination and dissolution of the program in 2011, a local government could improve an economically depressed area by creating a redevelopment agency (an “RDA”) to pay for development projects with the future increase in property tax revenue, or “tax increment,” attributable to the growth in assessed value of taxable property within the project area when the project was complete. However, the allocation of the tax increment to the local RDA caused a reduction in the one percent countywide property tax levy for other local taxing agencies, including school districts, although *ad valorem* property taxes in excess of the one percent property tax levy collected for payment of debt service on school district bonds were not affected. Although a school district could negotiate with the RDA for “pass-through” payments of local tax revenues, because the State was replacing the school district’s lost tax revenue, there was little incentive for most school districts to negotiate for greater amounts of pass-through from the RDAs. The State’s share of reimbursements to such school districts soared into the hundreds of millions of dollars per year.

Facing economic crisis, Assembly Bill, First Extended Session 26 (“AB1X 26”) (2011), upheld by the State Supreme Court in *California Redevelopment Association v. Matosantos* (2011), was enacted to dissolve the more than 400 RDAs in the State to preserve funding for core public services at the local level. Successor agencies were established to facilitate the management of projects underway, making payments on enforceable obligations, and disposing of assets and properties. Senate Bill 107 (2015) streamlined the dissolution process and expanded the types of loans for which cities and counties can seek reimbursement. Some school districts receive pass-through payments during the dissolution process. See “DISTRICT FINANCIAL INFORMATION—Revenues” herein.

Assembly Bill 2 (“AB2”) (2015), the result of several legislative efforts to replace the redevelopment law in order to provide local government options for sustainable community economic development, is a limited version of the former law, targeting only the State’s most impoverished areas. AB2 allows a local government to create a community revitalization investment area (“CRIA”) if several conditions are met, including measures of unemployment, crime, and dilapidated infrastructure and residential structures, which are required to insure that the CRIA process is actually used for the intended purpose of alleviating blight. Significantly, school districts are prohibited from participating in the CRIA; because schools may not contribute their share of the tax increment to the project area, the funding impact to schools and the State is avoided. Assembly Bill 2492 (2016) was enacted that clarified implementation issues of AB2.

Limits on State Authority Over Local Tax Revenues

State and local governments’ funding and responsibilities are interrelated. Both levels of government share revenues raised by certain taxes such as sales and fuel taxes, and both also share in the costs for some programs such as health and social services. Although the State does not receive local property tax revenue, it has had authority over the distribution of these revenues among local agencies and school districts. Under Article XIII A, the State had the authority to permanently shift property taxes among local governments. At times, the State fulfilled some portion of the Proposition 98 minimum guarantee

by shifting some of the property tax revenues share belonging to cities, counties, other special districts and redevelopment agencies to K-14 school districts through an Educational Revenue Augmentation Fund (“ERAF”) established in each county.

Proposition 1A (2004) amended Articles XI and XIII of the State Constitution to require two-thirds approval of the State Legislature to shift property tax revenues allocation between local governments, preventing the State from reducing the property tax share allocated to cities, counties, and special districts. However, the State could still transfer property tax revenues to schools in the case of severe fiscal hardship and two-thirds approval of the State Legislature.

Proposition 22 (2010) amended Articles XIII and XIX of the State Constitution to further restrict the State’s control over local property taxes in order to stabilize local government revenue sources. Even during times of severe fiscal hardship, the State could not take revenue derived from locally imposed taxes, such as parcel taxes, hotel taxes, utility taxes, and sales taxes, for State purposes, nor could the State delay distribution of tax revenues to local governments, redirect redevelopment agency property tax revenue to other local governments such as school districts, or shift money to the school districts under an ERAF. As a result, the State would have to take other actions to balance its budget in some years, such as reducing State spending or increasing State taxes. Proposition 22’s restriction of the State’s ability to shift local funds made K-14 school districts more directly dependent on the State general fund for Proposition 98 funding.

Deferrals of Payments Owed to K-14 School Districts

Beginning fiscal year 2001-02, as a temporary budget solution, the State postponed, or deferred, payments owed to K-14 school districts for a few weeks, allowing the State to save money while school districts continued to operate by borrowing money or dipping into reserves. Because the deferral lasted only a matter of weeks, there was little impact on school district finances or operations. However, especially during the last recession, the State came to rely excessively on deferrals of payments to K-14 school districts to balance the State budget. As both the length and the amount of deferrals increased, the State withheld several billions of dollars from school districts, resulting in a financial crisis for K-14 school districts which could no longer borrow enough or find reserves to cover the funding shortfall, and program reduction and teacher layoffs ensued. State reliance on payment deferrals peaked in fiscal year 2011–12 when the State deferred approximately 20 percent of all K-14 school district funding. Increasing deferrals authorize school districts to spend at a level of programming the State cannot afford, making the State budget less transparent, and create large future obligations of the State to repay the deferrals. However, as the economy has rebounded, the State has made the repayment of deferrals a priority, and repayment of the deferrals was completed in fiscal year 2015-16.

Temporary State Tax Increases

From 2008 to 2012, the State eliminated more than \$56 billion from State and local funding for local services including education, police, fire, and health care. Proposition 30 (2012) allows the State to levy a temporary sales tax (lasting four years) and income tax on high-income earners (lasting seven years), the revenues of which are dedicated to increased education funding and to balance the State budget. Existing law requires that in years in which the State’s general fund revenues grow by a large amount funding for education must also be increased by a large amount. The tax revenues allocated to education as part of the minimum guarantee are deposited into the Education Protection Account (“EPA”), recalculated and distributed quarterly to K-14 school districts (89 percent to K-12 school districts and 11 percent to community college districts) as a continuing appropriation not subject to budget adoption. The funds are distributed in the same manner as existing unrestricted per-student funding. The Proposition 30 tax revenue is included in the Proposition 98 calculation, raising the guarantee by billions each year. The remaining Proposition 30 tax revenues will be used to balance the budget.

Proposition 55 (2016) extends the income tax increase on high-income taxpayers through the year 2030-31. Approximately half of the revenue raised by this measure is allocated to K-14 school districts. The measure also directs half of any excess revenues, up to a maximum of \$2 billion, for additional funding for Medi-Cal, if revenues exceed the constitutionally required education spending and the costs of government programs in place as of January 1, 2016. A portion would also be saved in reserves and spent on debt payments. Any remaining revenues would be available for any State purpose.

Enacted Budget Required for Disbursement of State Funds

In years in which the State Legislature has not been able to enact a budget by the required deadline, the fiscal year begins without an enacted budget, and the State has, in some cases, issued registered warrants, or IOUs, to pay certain State

employees' wages and State debts. In 1988, during such a budgetary impasse, a taxpayers' association argued that such warrants were not authorized without an enacted budget. In the case, known as *Jarvis v. Connell*, the State Court of Appeal held that without an enacted budget, State funds may not be disbursed unless the payment is authorized by the State Constitution, as a continuing appropriation, or by federal mandate.

This could affect school district budgets to the extent that, if there is neither an enacted budget nor emergency appropriation, State payments owed to school districts could be delayed unless they are required as a continuing appropriation or federal mandate. As upheld by the State Supreme Court in 2003, the State is not authorized to disburse funds without an enacted budget or other appropriation, but under federal law is required to pay State employees who are protected by federal wage laws under the Fair Labor Standards Act.

State and School District Budgetary Reserves

Proposition 58 (2004) amended Article IV of the State Constitution to require the State to enact a balanced budget, in which estimated revenues would meet or exceed estimated expenditures in each year, and that mid-year adjustments be made if the budget fell out of balance. The law established the Budget Stabilization Account ("BSA") in the State's general fund, which required a deposit of three percent of the State general fund each year.

Proposition 2 (2014) addressed the need for long-term financial stability in the State in the face of economic volatility by dedicating funds to pay down the State's debt, changing the State's reserve policies, and creating a separate budget reserve for K-14 school districts called the Public School System Stabilization Account ("PSSSA"). The law reduced legislative discretion over the timetable for the repayment of State debts and required that 1.5 percent of the State general fund be deposited into the BSA annually, plus an additional amount when the State experiences spikes in capital gains tax revenue in excess of eight percent of State general fund revenues. The PSSSA, also funded with capital gains spikes, is drawn upon when the Proposition 98 minimum guarantee exceeds available State general fund and property tax revenues. Through 2030, half of the funds deposited each year into the BSA must be used to pay fiscal obligations such as budget loans and unfunded State level pension plans. Funds may be withdrawn from BSA only for a disaster or if, over three years, spending does not rise above the highest level of spending. In the case of a recession, only half of the funds can be withdrawn. As a result, a large amount of incremental gains in the State's general fund revenues are allocated to building reserves and repaying debt.

The State has a constitutional obligation to ensure that school districts continue to operate even in times of financial difficulty so that the education of students in the State is not disrupted. The State requires school districts to maintain a minimum reserve in their general fund's Reserve for Economic Uncertainties to help school districts manage cash flow, address unexpected costs, save for large purchases, reduce costs of borrowing money, and mitigate the volatility in funding produced by the reliance on tax revenue funding sources. The minimum reserve amount required depends on the size of the school district's enrollment. Smaller school districts are required to keep a higher percentage of reserves because they are more easily overwhelmed by unexpected costs, such as a single major facility repair, which could deplete most of its reserves in a single year. School districts with enrollment of 300 or fewer students, which represent 25 percent of school districts in the State, must keep a minimum reserve of five percent of expenditures. School districts with enrollment of 301 to 1,000 students, which represent 17 percent of school districts in the State, must keep a minimum reserve of four percent. School districts with enrollment of 1,001 to 30,000 students, which represent 55 percent of school districts in the State, must keep a minimum reserve of three percent. School districts with enrollment of 30,001 to 400,000 students, which represent three percent of school districts in the State, must keep a minimum reserve of two percent. The one school district in the State with an enrollment of 400,001 or more students must keep a minimum reserve of one percent. Many school districts attempt to keep their reserve levels higher than State minimum requirements, from five percent to as much as 25 percent of expenditures. A 17 percent reserve is equal to approximately two months of expenditures and is a standard reserve level for local public agencies.

Senate Bill 858 (2014), enacted as trailing legislation to the State budget, requires school districts, in the event of a deposit by the State to the PSSSA, to reduce total assigned and unassigned reserves to no more than twice its minimum reserve for economic uncertainty, ranging from one to five percent of expenditures depending on the size of the school district. County education officials could exempt a school district from the cap if the school district demonstrates extraordinary fiscal circumstances, including undertaking multi-year infrastructure or technology projects. A smaller reserve could affect the school district's financial condition in the event of an economic downturn. The District cannot predict or when a deposit to the PSSSA might occur or whether future legislation will be enacted that changes this requirement.

School Facilities Funding

The Leroy F. Greene School Facilities Act (1998) established the State Facilities Program (“SFP”) to allocate funding grants based on proposals submitted by school districts for the new construction of or the modernization of existing school facilities, although the program has evolved to allow funding for other types of school facility needs including facility hardship, seismic mitigation, charter school facilities, relief of overcrowding, career technical education facilities, incentives for energy efficiency and high-performance architectural attributes, and joint-use programs with other government entities.

Funding for SFP grants comes from statewide general obligation bonds approved by the voters in the State. The State retires these bonds by making annual debt service payments. In fiscal year 2016-17, the State will pay \$2.4 billion in debt service on previously issued K-12 facilities bonds and \$300 million in debt service on community college facilities bonds. Proposition 1A (1998) provided \$9.2 billion (\$6.7 billion for K-12 facilities), Proposition 47 (2002) provided \$13.2 billion (\$11.4 billion for K-12 facilities), Proposition 55 (2004) provided \$12.3 billion (\$10 billion for K-12 facilities), Proposition 1D (2006) provided \$10.4 billion (\$7.3 billion for K-12 facilities), and Proposition 51 (2016), the first initiative facilities bond measure, provides \$9 billion (\$6 billion for K-12 facilities). The payment the State must make on Proposition 51 will average approximately \$500 million per year.

Proposition 51 amends the Education Code, prescribing the fiscal allocation and purpose of the \$9 billion bond and establishing the 2016 State School Facilities Fund and the 2016 California Community College Capital Outlay Bond Fund in the State Treasury. Of the total amount, \$6 billion is allocated to K-12 facilities (half for new construction and half for modernization), \$500 million for charter schools, \$500 million for career technical education programs, and \$2 billion to community colleges.

In most cases, K-12 school and community college districts that receive funding for approved projects must match the funding with local funding according to the type of project. Projects for the purchase of land and new construction are matched evenly. Modernization projects require a match of 40 percent local funding to 60 percent State funding. If no local funding is available, the school district can apply for additional grant funding. Community college projects do not have a specified contribution model and are determined individually. K-12 school and community college districts may sell local general obligation bonds to cover the school district’s share of the cost of facility projects. K-12 school districts may also raise funds for facilities by charging fees on new development (community college districts may not). Both K-12 school and community college districts may also raise funds by parcel taxes and other methods used less frequently.

Impact of Future Legislation

Laws affecting school district funding and the power of State and local governments to raise and spend revenue have been subject to many changes as voters and lawmakers react to economic and political cycles. The complex patchwork of the many different provisions at times results in uncertainty regarding their operation or interpretation. Many of the laws discussed above were enacted through the State’s initiative process. Initiative constitutional amendments may be changed only by another statewide initiative. Legislative constitutional provisions may be changed by a majority vote of both houses of the State Legislature and approval by the Governor of California (the “Governor”) if the change furthers the purposes of the provision. The District cannot predict whether or when the voters in the State or the State Legislature will approve further legislation that could restrict the District’s sources of revenue or its ability to spend that revenue, or require the District to appropriate additional revenue.

FUNDING OF PUBLIC EDUCATION IN THE STATE

Sources of Revenue for Public Education

There are four general sources of funding for K-12 public education in the State: the federal government, local property taxes, other local funding sources and State funding, the principal source of funding for most school districts. Proposition 13 eliminated the possibility of raising additional *ad valorem* property taxes above one percent for general-purpose school support, and the courts have declared that school districts may not charge fees for school-related activities, unless the charge is specifically authorized by law for a particular program or activity. See “CONSTITUTIONAL AND STATUTORY PROVISIONS AFFECTING DISTRICT REVENUES AND EXPENDITURES” herein.

State Funding. Many school districts in the State receive the majority of their funds from the State. In fiscal year 2016-17, State funds are expected to account for approximately 60 percent of State K-12 public education funding. There are three sources of State funds for K-12 public education: the Proposition 98 minimum guarantee, comprised of a combination of State general fund revenues and local property tax revenues, representing the majority (88 percent in fiscal year 2014-15) of State funding; additional State funds for targeted programs such as facilities and remaining categorical programs such as special education, nutrition, afterschool programs, and home-to-school transportation; and State lottery funds, a portion of which may only be used for instructional purposes. The Proposition 98 guaranteed minimum amount is set forth each year in the State budget. See “—The 2016-17 State Budget” and “—The Proposed 2017-18 State Budget” herein.

More than 60 percent of the State’s general fund revenue comes from personal income taxes, with capital gains taxes representing more than ten percent of the State’s general fund revenue, so a downturn in the stock market may significantly impact the State’s general fund. Because funding for education in the State depends on the amount of money available in the State general fund, the linkage can result in significant volatility in education funding. For instance, during the recent recession in fiscal year 2011-12, State general fund revenues available for education funding were approximately eight percent less than the amount available four years prior. Provisions added to the State Constitution and statutes in 2013 and 2014 attempt to provide funding stability to public education by capturing spikes in capital gains revenue to use for paying down debts and obligations and to create reserves. See “CONSTITUTIONAL AND STATUTORY PROVISIONS AFFECTING DISTRICT REVENUES AND EXPENDITURES” herein.

Revenue Limit Funding. The State Revenue Limit was instituted in fiscal year 1973-74 to provide a mechanism to calculate the total amount of general-purpose revenue a school district, community college district or county office of education is entitled to receive from combined State and local sources per average daily attendance, known as its “revenue limit,” and the funding from this calculation formed the bulk of school districts’ income, and was annually increased to adjust for changes in the cost of living. The revenue limit for each school district or county office of education was funded first by the property tax revenue available to that entity, with the remaining balance filled by State funds. “Basic aid” districts, whose local property tax revenues exceeded their calculated revenue limit, did not receive State revenue limit funding, although such districts did receive the constitutionally required minimum funding, or “basic aid” per pupil, and categorical State and federal aid that was restricted to specific programs and purposes.

Local Control Funding Formula (LCFF). In landmark legislation, the fiscal year 2013-14 State budget replaced revenue limit funding with the LCFF. The LCFF transfers control over spending decisions to local authorities, requiring community input about those spending decisions along with increased transparency and accountability for the outcomes of those decisions. The general-purpose funds for school districts are now funneled through LCFF, and funds received through categorical programs are greatly reduced. As under the revenue limit system, the amount a school district is entitled to receive for general-purpose LCFF funds is financed through the local property tax revenue available to the school district, with the remaining balance funded by the State.

Most public education funding from the State is provided through the LCFF, including approximately 80 percent of Proposition 98 funding for K-12 public education. As under the revenue limit, school districts continue to receive funds based on the greater of prior year or current year ADA figures. Under LCFF, school districts across the State receive the same base grants for each grade span, based on ADA. In fiscal year 2016-17, the base grants are \$7,820 for kindergarten through third grade, \$7,189 for fourth through sixth grade, \$7,403 for seventh through eighth grade, and \$8,801 for ninth through twelfth grade. These figures include increases for class size reduction for kindergarten through third grade and career technical education for ninth through twelfth grade.

School districts receive a supplemental grant of 20 percent of the base grant for each student in the school district who is low-income, English-learner, or foster youth. Enrollment counts are “unduplicated,” such that students may not be counted as both English-learner and low-income (foster youth automatically meet the eligibility requirements for free or reduced-price meals, and are therefore not discussed separately). School districts with more than 55 percent enrollment of unduplicated students receive a concentration grant, an additional 50 percent of the base grant for each unduplicated student above the threshold, intended to address the additional academic challenges faced by such students when their peers are similarly disadvantaged. The supplemental and concentration grants are allocated so that as a school district’s proportion of unduplicated students increases, so does its total funding allocation. A school district in which 100 percent of enrollment is unduplicated students will receive 42.5 percent more total funding than a school district with no unduplicated students. The supplemental and concentration grant amounts are based on the unduplicated count of pupils divided by the total enrollment in the school district, based on the fall P-1 certified enrollment report. School districts have broad discretion to decide how to spend the base grant. The supplemental and concentration grants must be used to increase or improve services to the population they are intended to serve, although some services may be provided district- or site-wide.

The implementation of LCFF began in fiscal year 2013-14, with full implementation planned by fiscal year 2020-21. Until full implementation has occurred, the difference between the actual amount districts receive in a year and the target amount they will receive as of full implementation is referred to as the “funding gap.” The funding gap is determined by the difference between the “funding floor,” or amount of funding a school district received the prior year, and the target amount of funding the school district will receive at full implementation. The funding floor consists of fiscal year 2012-13’s deficated revenue limit divided by ADA multiplied by current year ADA, plus the sum of any categorical funding. Sufficient funding was available to fund 12 percent of the funding gap in fiscal year 2013-14, 33 percent of the gap in fiscal year 2014-15; and 52 percent of the gap in fiscal year 2015-16; projected funding of 54 percent of the gap in fiscal year 2016-17, the fourth year of implementation of LCFF, will bring LCFF to 96 percent of full implementation.

Under the “hold harmless” provision, no school district will receive less State aid than it received in fiscal year 2012-13. Most districts will receive more funding at full implementation of LCFF than they did previously under the revenue-limit system. For some school districts, their per-pupil undeficated fiscal year 2012-13 funding was higher than their LCFF entitlement at full implementation. Such districts will have their undeficated funding level restored through a supplemental ERT add-on payment. School districts that are eligible for ERT funding will receive the difference between their LCFF target and their LEA’s fiscal year 2012-13 undeficated funding, adjusted for cost-of-living increases.

Basic aid districts continue to receive at least the amount of State funding they received in fiscal year 2012-13. Although basic aid districts do not receive LCFF funding grants, they must comply with the regulations and accountability requirements of LCFF. Basic aid districts also continue to receive the constitutionally guaranteed \$120 per-pupil minimum from under the revenue limit, as well the \$200 per-pupil minimum from the EPA pursuant to Proposition 30 as additional revenue. The District is not a basic aid district.

The State funds school districts in monthly installments based on calculations made in a series of three apportionments throughout the fiscal year. Each apportionment includes funding for the LCFF and for other State programs. The amount of each apportionment is based on calculations made by each school district and reviewed by its county office of education. The Advance Principal Apportionment (“Advance Apportionment”), certified by July 20, sets forth the amount the school district will receive for the year, paid in a series of installments from August through January. The First Principal Apportionment (“P-1 Apportionment”), certified by February 20, set forth a new calculation based on the school district’s first period ADA determined as of December, for installments that will be paid to the school district from February through June. The Second Principal Apportionment (“P-2 Apportionment”), certified July 2, based on second period ADA determined as of April, recalculates the amount of the final installment for the fiscal year paid to the school district in July. At the close of the fourth quarter, a final annual recalculation (“Annual Apportionment”) provides an updated estimate of the prior year’s adjustment. In addition, under the EPA established for the deposit of revenues from the tax increase under Proposition 30 and extended under Proposition 55, school districts receive a quarterly allocation of the tax revenue received from the temporary tax increase under Proposition 30. The funds in the EPA are allocated between K-14 school districts by 89 percent and 11 percent, respectively, in quarterly allocations made in September, December, March and June each year. The amount received by a school district under EPA is a reduction to the aid the school district receives from the State applied at each principal apportionment certification. See “CONSTITUTIONAL AND STATUTORY PROVISIONS AFFECTING DISTRICT REVENUES AND EXPENDITURES” herein.

The LCFF requires each school district to demonstrate that its spending decisions are producing the desired results of increased student performance as stated in each school district’s own LCAP. Each school district must create its own annually updated LCAP with input from teachers, parents and the community, including the parents or guardians of unduplicated students. School districts must review and share the results to determine whether spending achieved the goals stated in the LCAP, for each school site and for the school district as a whole. All school districts must use the State’s LCAP template beginning fiscal year 2014-15. The LCAP must include a description of the annual goals to be achieved for each student group for each State priority, including the content standards adopted by the State Board of Education. The LCAP of each school district is overseen and approved by the county superintendent.

Charter schools must comply with LCFF and receive mostly the same funds as public schools, although calculation of targeted disadvantaged students differs somewhat to prevent abuse of the system. There are also differences in the process of LCAP adoption and assessment. In the case of a charter school that fails to perform according to its LCAP, the State is not required to provide the same support that a public school district or county office of education receives, and its charter can be revoked.

Federal Funding. In fiscal year 2016-17, federal revenues account for less than ten percent of funding for school districts in the State. Most of these funds are designated for particular purposes. There are no unfunded federal education mandates; each

is conditioned on a state's voluntary decision to accept federal program funds. The primary source of federal supplemental education funding is the Elementary and Secondary Education Act ("ESEA") (1965), enacted to address inequality in education. The previous authorization of ESEA, the No Child Left Behind Act ("NCLB") (2001), expanded the federal government's role and increased testing requirements to measure improvement. Most recently reauthorized under the Every Student Succeeds Act ("ESSA") (2015), responsibility for school improvement has been shifted to the states. ESSA provides funding through six programs: Title I grants, tied to student assessment, to assist economically disadvantaged children; Title II grants for professional development; Title III grants for ancillary student services; Title IV grants for research and training; Title V grants for state departments; and Title VI grants for special education. Another significant source of federal funding for school districts is the Education for All Handicapped Children Act ("EHA") (1975), enacted to support special education and related services, reauthorized by the Individuals with Disabilities Education Act ("IDEA") (1990). The largest of the law's three sections, Part B, authorizes grants to states and local school districts to offset special education costs. As of fiscal year 2014, IDEA federal funding covered 16 percent of the estimated excess cost of educating students with disabilities; the shortfall is assumed by states and local school districts.

Local Property Tax Revenue. In fiscal year 2016-17, local property taxes are expected to account for approximately 25 percent of K-12 public education funding within the State. Property taxes are constitutionally limited to one percent of the property's value, except to repay voter-approved debt.

Other Local Funds. In fiscal year 2016-17, miscellaneous local sources are expected to account for approximately five percent of K-12 public education funding within the State. There are several types of revenue a school district may receive from other local sources, including developer fees, parcel taxes, property lease revenues, and private donations. A school district may levy developer fees on new residential or commercial development within the school district's boundaries to finance the construction or renovation of school facilities. A school district may, with two-thirds approval from local voters, levy special taxes on parcels to fund specific programs within the school district. A school district may lease or sell its unused sites or facilities as another source of revenue. A school district may also seek contributions, sometimes channeled through private foundations established to solicit donations from local families and businesses.

The State Budget Process

Under the State Constitution, money may be drawn from the California Centralized Treasury System (the "State Treasury") only by an appropriation authorized by law. The primary source of annual appropriations authorizations is the budget act approved by the State Legislature and signed by the Governor (the "Budget Act"), which can provide for projected expenditures only to the amount of projected revenues and balances available from prior fiscal years.

The annual budget cycle begins when the Governor releases a proposed budget in January for the next fiscal year, which starts each July 1 and ends June 30. The Governor releases a revised budget in May based on new projections regarding State revenues and feedback from the State Legislature and other constituents. The State Constitution requires that the State Legislature pass the Budget Act by June 15 by majority approval from both Houses. The Governor may reduce or eliminate specific line items in the Budget Act or any other appropriations bill without vetoing the entire bill. Such individual line-item vetoes are subject to override by a two-thirds majority vote of each House of the State Legislature.

Appropriations may also be included in legislation other than the Budget Act. Bills containing appropriations (including for K-14 education) must be approved by a majority vote in each House of the State Legislature, unless such appropriations require tax increases, in which case they must be approved by a two-thirds vote of each House of the State Legislature, and be signed by the Governor. The State Constitution or a State statute may also provide for continuing appropriations that are available without regard to fiscal year. Funds necessary to meet an appropriation need not be in the State Treasury at the time such appropriation is enacted; revenues may be appropriated in anticipation of their receipt.

The 2016-17 State Budget

On June 27, 2016, the Governor signed the 2016 Budget Act and associated trailer bills to enact the fiscal year 2016-17 State budget (the "2016-17 State Budget"), a \$170.9 billion spending plan that continues the effort to prepare the State for an expected recession by increasing investment in reserves and limiting spending increases. The 2016-17 State Budget features an additional \$2 billion investment in the reserve fund as well as limited one-time spending initiatives that implement the State minimum wage increase, build affordable housing, repair infrastructure and address effects of the drought.

The 2016-17 State Budget includes State general fund revenues of \$123.6 billion, representing a four percent increase from fiscal year 2015-16, and State general fund expenditures of \$122.5 billion, representing a six percent increase from fiscal year 2015-16. The State's general fund balance is budgeted to be \$2.7 billion at the end of fiscal year 2016-17. The 2016-17 State Budget funds the BSA to a total balance of \$6.7 billion by the end of fiscal year 2016-17, representing 54 percent of the funding goal.

The following table identifies historical and budgeted State general fund revenues, expenditures and fund balances.

**State General Fund
2016-17 State Budget**

	2014-15 <u>Revised</u> (Millions)	2015-16 <u>Revised</u> (Millions)	2016-17 <u>Budget</u> (Millions)
Prior-year Fund Balance	\$5,103	\$3,444	\$4,875
Revenues and Transfers	111,789	117,001	120,310
Expenditures	<u>113,448</u>	<u>115,571</u>	<u>122,468</u>
Ending Fund Balance	\$3,444	\$4,875	\$2,717
Encumbrances	966	966	966
Special Fund for Economic Uncertainties	2,478	3,909	1,751
Reserves			
Special Fund for Economic Uncertainties	\$2,478	\$3,909	\$1,751
Budget Stabilization Account	<u>1,606</u>	<u>3,420</u>	<u>6,714</u>
Total Reserves	\$4,084	\$7,329	\$8,465

Source: The State Legislative Analyst's Office.

Education Funding. The Proposition 98 minimum guarantee for K-14 education funding continues to increase after reaching a low of \$47.3 billion in fiscal year 2011-12. The 2016-17 State Budget provides a minimum guarantee of \$71.9 billion to K-14 education, an increase of \$3.5 billion from fiscal year 2015-16 levels. Combined with increases of \$1.5 billion and other one-time savings and adjustments in fiscal years 2014-15 and 2015-16, the 2016-17 State Budget provides a total increase of \$5.9 billion for K-14 education. K-12 education is budgeted to receive \$63.5 billion of the \$71.9 billion Proposition 98 minimum guarantee to K-14 education. Proposition 98 K-12 expenditures are budgeted to be \$10,657 per-pupil in fiscal year 2016-17, an increase of \$440 per-pupil, or 4.3 percent, from revised fiscal year 2015-16 levels. Since fiscal year 2011-12, Proposition 98 funding for K-12 education has grown by more than \$21.7 billion, representing an increase of more than \$3,600 per student.

The Proposition 98 maintenance factor, created in years in which revenue growth is slow or decreases, is the difference between the funding level that would have been budgeted had revenue growth been stronger and the lesser amount that is actually budgeted. The maintenance factor is carried over from year to year until the State's economy is strong enough to restore the difference by accelerating Proposition 98 funding and adjusted annually for changes in K-12 attendance and *per capita* personal income. The maintenance factor, which was approximately \$11 billion in fiscal year 2011-12, is projected to be reduced to an estimated \$908 million as of the end of fiscal year 2016-17.

LCFF Implementation: The 2016-17 State Budget provides an additional \$2.9 billion for LCFF spending, bringing total LCFF funding to \$55.8 billion, reaching approximately 96 percent of full implementation.

K-12 Mandates Backlog: The 2016-17 State Budget provides for \$1.3 billion to reimburse school districts for the costs of implementing State-mandated programs to substantially reduce outstanding mandate debt, for discretionary uses such as deferred maintenance, professional development or instructional materials. According to the State Legislative Analyst's Office, this reduces the fiscal year 2016-17 K-12 mandates backlog to approximately \$987 million.

The 2016-17 State Budget also provides for certain one-time increases in Proposition 98 general funds for preschool and K-12 educational programs, including:

Proposition 39 Energy Efficiency: \$398.8 million in grants for improved energy efficiency in schools.

College Readiness: \$200 million in block grants over three years to improve eligibility for college admission, allocated based on unduplicated student count in grades 9-12, with a minimum grant per district or charter school of \$75,000.

Child Care and State Preschool: \$137.5 million for increased childcare provider rates; \$7.8 million for almost 3,000 additional full-day State preschool slots for children of low-income families.

Teacher Workforce: \$25 million (plus \$10 million in non-Proposition 98 funds) to fund teacher recruitment and training.

California Collaborative for Educational Excellence: \$24 million for the agency to assist local educational agencies in implementing individual LCAP priorities.

Charter School Start-Up: \$20 million in grants to offset loss of federal funds.

Multi-tiered Systems of Support: \$20 million in grants to improve student outcomes by providing layers of support that address students' academic, behavioral, social and emotional needs.

Proposition 47 Safe Neighborhoods and Schools Act: \$18 million in grants for restorative justice programs to prevent truancy and reduce dropout rates.

Safe Drinking Water In Schools: \$9.5 million in grants to improve access to safe drinking water for students at isolated and economically disadvantaged schools.

The following table identifies historical and proposed Proposition 98 funding.

**Proposition 98 Funding
2016-17 State Budget**

	2014-15 <u>Actual</u> (Millions)	2015-16 <u>Revised</u> (Millions)	2016-17 <u>Budget Act</u> (Millions)
By Segment			
K-12 Schools			
General Fund	\$44,251	\$43,340	\$44,465
Local Property Tax Revenue	<u>14,810</u>	<u>16,759</u>	<u>18,057</u>
Subtotal	\$59,061	\$60,099	\$62,522
Community Colleges			
General Fund	\$5,025	\$5,415	\$5,528
Local Property Tax Revenue	<u>2,306</u>	<u>2,569</u>	<u>2,767</u>
Subtotal	\$7,331	\$7,983	\$8,295
Preschool ¹	\$664	\$885	\$975
Other Agencies ²	<u>90</u>	<u>82</u>	<u>83</u>
Total	\$67,146	\$69,050	\$71,874
By Fund Source			
General Fund	\$50,029	\$49,722	\$51,050
Local Property Tax Revenue	<u>17,117</u>	<u>19,328</u>	<u>20,824</u>
Total	\$67,146	\$69,050	\$71,874

¹Beginning in fiscal year 2015-16, includes \$145 million for wraparound care formerly funded with non-Proposition 98 State general fund.

²Includes State agencies providing direct instruction to K-12 students. Consists entirely of State general fund.

Source: The State Legislative Analyst's Office.

The Proposed 2017-18 State Budget

On January 10, 2017, the Governor released the proposed State budget for fiscal year 2017-18 (the "Proposed 2017-18 State Budget"). The \$179.5 billion budget proposal, comprised of \$122.5 billion general fund, \$54.6 billion special funds, and \$2.4 billion bond funds, reflects slowing revenue and uncertainty regarding future federal funding to the State as well as the possibility of an economic downturn. Projecting a \$1.6 billion deficit without corrective measures, the Governor proposes to eliminate certain planned spending increases to balance the budget, while preserving spending on education, the earned income tax credit, rising minimum wage, and extension of healthcare coverage and setting aside \$1.2 billion in the State's Budget Stabilization Account/ Rainy Day Fund (BSA). Assuming implementation of the proposed corrective measures, total State general fund revenues and transfers are projected to be \$118.8 billion for fiscal year 2016-17 and \$124.0 billion for fiscal year 2017-18. Under the proposal, the State general fund is budgeted to have a fiscal year 2016-17 ending reserve of \$6.8 billion, increasing to \$9.4 billion at the end of fiscal year 2017-18, of which \$7.9 billion is allocated to the BSA, reaching 63 percent of the constitutionally established target for the reserve during fiscal year 2017-18. The proposal projects that the top three sources of revenue for the State's general fund will consist of \$85.9 billion in personal income taxes, \$25.2 billion in sales and use taxes, and \$10.9 billion in corporation taxes.

The following table sets forth a summary of the State's general fund budget for fiscal years 2015-16, 2016-17 and 2017-18.

**State General Fund
Proposed 2017-18 State Budget**

	2015-16 <u>Revised</u> (Millions)	2016-17 <u>Revised</u> (Millions)	2017-18 <u>Budget</u> (Millions)
Prior-year Fund Balance	\$3,508	\$5,024	\$1,028
Revenues and Transfers	115,500	118,765	124,027
Expenditures	<u>113,983</u>	<u>122,761</u>	<u>122,520</u>
Ending Fund Balance	\$5,024	\$1,028	\$2,535
Encumbrances	980	980	980
Special Fund for Economic Uncertainties	4,044	48	1,555
Reserves			
Special Fund for Economic Uncertainties	\$4,044	\$48	\$1,555
Budget Stabilization Account	<u>3,529</u>	<u>6,713</u>	<u>7,869</u>
Total Reserves	\$7,574	\$6,761	\$9,424

Totals may not foot due to rounding.

Source: The State Legislative Analyst's Office.

Education Funding. Under the Proposed 2017-18 State Budget, \$52.2 billion of the general fund (42.6 percent of the State's general fund) and \$104 million in special funds (together, 29.2 percent of the State's total funds) would be spent on K-12 education. K-12 per pupil funding from all sources would be \$15,216 in fiscal year 2017-18 (\$10,910 from Proposition 98 general fund), an increase of approximately \$3,900 per pupil from fiscal year 2011-12 levels and approximately \$394 per pupil from fiscal year 2016-17 levels. The proposal provides a Proposition 98 minimum guarantee of \$73.5 billion in funding for K-14 education, an increase of \$26.2 billion (55 percent) over six years and \$2.1 billion from fiscal year 2016-17. Of the \$73.5 billion Proposition 98 minimum guarantee, \$64.0 billion would be allocated to K-12 education. According to current projections, Test 3 is operative in fiscal year 2017-18, as in the previous three years.

Compared to 2016-17 State Budget estimates, the Proposition 98 minimum guarantee has been revised downward by \$379 million in fiscal year 2015-16 and \$506 million in fiscal year 2016-17. These drops are primarily explained by reductions in estimated State revenue. State general fund tax revenue counting toward the Proposition 98 minimum guarantee has been revised downward by \$1.5 billion in fiscal year 2015-16 and \$1.6 billion in fiscal year 2016-17.

As a result of the lower revenue in fiscal year 2015-16, the State is no longer required to make the \$379 million maintenance factor payment included in the 2016-17 State Budget. In fiscal year 2016-17, the State creates a somewhat higher new maintenance factor obligation (\$838 million, as compared to the \$746 million obligation assumed in the 2016-17 State Budget). The Proposed 2017-18 State Budget creates a new maintenance factor obligation in fiscal year 2017-18 of \$219 million, bringing the total outstanding obligation to \$1.6 billion.

The Governor proposes to reduce Proposition 98 spending to match the lower revised estimates of the fiscal years 2015-16 and 2016-17 minimum guarantees. To reduce spending in fiscal year 2015-16, the Governor would shift \$310 million of previously appropriated discretionary school payments from fiscal year 2015-16 to fiscal year 2016-17. To accommodate this shift of payments and reduce spending in fiscal year 2016-17, the Governor would defer an \$859 million payment for LCFF from June 2017 to July 2017, such that local educational agencies would receive 12 monthly LCFF payments as well as an additional one-time payment, for a total of 13 LCFF payments in fiscal year 2017-18. This delay would allow the State to count the payment toward the fiscal year 2017-18 guarantee instead of the fiscal year 2016-17 guarantee.

The proposal includes an investment of more than \$744 million for the fifth year of implementation of LCFF, providing funding for a statutory 1.48 percent COLA. Added to the \$15.7 billion in LCFF funding provided over the prior four years, the proposal would maintain LCFF funding at 96 percent of full implementation. K-12 student attendance grew in fiscal year 2015-16 to 5,971,343, but is projected to decline in fiscal years 2016-17 and 2017-18 to 5,958,933 and 5,958,288, respectively.

The Proposed 2017-18 State Budget also includes the following proposals with respect to K-12 education:

Discretionary Funding: \$287 million in one-time funding to local educational agencies to be used for any purpose, to pay down K-12 mandates backlog of unpaid reimbursement claims for State-mandated programs.

Career Technical Education (CTE): \$200 million in one-time funding for the third and final year of the CTE grant incentive program established in the fiscal year 2015-16 State budget.

ADA Adjustments: A \$93 million increase for projected growth in charter school ADA, a \$4.9 million decrease for a projected decline in special education ADA, and a \$168.9 million decrease for fiscal year 2016-17 and \$63.1 million decrease for fiscal year 2017-18 as a result of projected declines in school district ADA.

Local Property Tax Adjustments: A \$149.2 million decrease in fiscal year 2016-17, and a \$922.7 million decrease in fiscal year 2017-18, for school districts and county offices of education to offset higher property tax revenues.

Categorical Programs: A \$58.1 million increase to support a 1.48 percent COLA for categorical programs not covered by the LCFF.

Proposition 39 Energy Efficiency: \$422.9 million in grants for improved energy efficiency in K-12 public schools.

Proposition 47 Safe Neighborhoods and Schools: \$10.1 million in grants for restorative justice programs to prevent truancy and reduce dropout rates.

Proposition 56 Tobacco Free Kids: \$29.9 million to fund tobacco and nicotine prevention programs in K-12 public schools provided by increased State sales tax on cigarettes.

Proposition 51 School Construction Bonds: \$594 million from the sale of school construction bonds for K-12 public schools.

Mandated Reporter: An \$8.5 million block grant for mandated reporter training of school employees.

Child Care and State Preschool: The proposal would largely suspend implementation of the increases, planned over four years, to childcare provider rates and additional full-day State preschool slots for children of low-income families initiated in the 2016-17 State Budget, extending implementation of the program through fiscal year 2020-21.

The following table identifies historical and proposed Proposition 98 funding under the Proposed 2017-18 State Budget.

**Proposition 98 Funding
Proposed 2017-18 State Budget**

	2015-16 <u>Revised</u> (Millions)	2016-17 <u>Budget Act</u> (Millions)	2017-18 <u>Budget Act</u> (Millions)
By Segment			
K-12 Schools			
General Fund	\$42,719	\$43,829	\$44,811
Local Property Tax Revenue	<u>17,052</u>	<u>18,236</u>	<u>19,200</u>
Subtotal	\$59,770	\$62,064	\$64,012
Community Colleges			
General Fund	\$5,304	\$5,443	\$5,465
Local Property Tax Revenue	<u>2,630</u>	<u>2,803</u>	<u>2,959</u>
Subtotal	\$7,933	\$8,246	\$8,424
Preschool ¹	\$885	\$975	\$995
Other Agencies ¹	<u>82</u>	<u>83</u>	<u>80</u>
Total	\$68,671	\$71,368	\$73,511
By Fund Source			
General Fund	\$48,989	\$50,330	\$51,351
Local Property Tax Revenue	<u>19,681</u>	<u>21,038</u>	<u>22,160</u>
Total	\$68,671	\$71,368	\$73,511

¹Consists entirely of State general fund.

Totals may not foot due to rounding.

Source: The State Legislative Analyst's Office.

Future Budgets

The District cannot predict what actions will be taken in the future by the State Legislature and the Governor to address changing State revenues and expenditures or the impact such actions will have on State revenues available in the current or future years for education. The State budget will be affected by national and State economic conditions and other factors over which the District will have no control. Certain actions could result in a significant shortfall of revenue and cash, and could impair the State's ability to fund schools as budgeted. State budget shortfalls in future fiscal years could have an adverse financial impact on the District.

For more information on the State budget, please refer to the State Department of Finance's website at www.dof.ca.gov and to the State Legislative Analyst's Office's website at www.lao.ca.gov. The District takes no responsibility for the continued accuracy of these Internet addresses or for the accuracy, completeness or timeliness of the information presented therein, and such information is not incorporated herein by such reference.

LEGAL MATTERS

No Litigation

There is no action, suit or proceeding known by the District to be pending or threatened restraining or enjoining the sale or delivery of the Bonds, or in any way contesting or affecting the validity thereof or any proceeding of the District taken with

respect to the issuance or sale of the Bonds, or the pledge or application of moneys or security provided for the payment of the Bonds, or the authority of the County to levy property taxes to pay principal of and interest on the Bonds when due.

Legal Opinion

The proceedings in connection with the authorization, sale, execution and delivery of the Bonds are subject to the approval as to their legality of Dannis Woliver Kelley as Bond Counsel. A copy of the legal opinion will be attached to each Bond, and a form of such opinion is attached hereto as “APPENDIX C—FORM OF OPINION OF BOND COUNSEL.”

Bond Counsel’s employment is limited to a review of the legal proceedings required for authorization of the Bonds and to rendering the aforementioned opinion. Bond Counsel has not undertaken any responsibility for the accuracy, completeness, or fairness of this Official Statement, and the opinion of Bond Counsel will not extend to any documents, agreements, representations, offering circulars, official statements or other material of any kind concerning the Bonds that are not referred to in the aforementioned opinion. The fees of Bond Counsel are contingent upon the issuance and delivery of the Bonds.

Limitations on Remedies; Amounts Held in the County Pool

The opinion of Bond Counsel with respect to the enforceability of the rights of the owners of the Bonds is qualified by reference to bankruptcy, insolvency and other laws relating to or affecting creditor’s rights. Bankruptcy proceedings, if initiated, could subject the owners of the Bonds to judicial discretion and interpretation of their rights in bankruptcy or otherwise, and consequently may entail risks of delay, limitation, or modification of their rights.

The County on behalf of the District is expected to be in possession of the annual *ad valorem* property taxes and certain funds to repay the Bonds and may invest these funds in the County Pool, as described under the caption “ORANGE COUNTY EDUCATIONAL INVESTMENT POOL” herein and in “APPENDIX D—ORANGE COUNTY TREASURER INVESTMENT POLICY STATEMENT” attached hereto. In the event the District or the County were to go into bankruptcy, a federal bankruptcy court might hold that the owners of the Bonds are unsecured creditors with respect to any funds received by the District or the County prior to the bankruptcy, which may include taxes that have been collected and deposited into the Interest and Sinking Fund, where such amounts are deposited into the County Pool, and such amounts may not be available for payment of the principal of and interest on the Bonds unless the owners of the Bonds can “trace” those funds. There can be no assurance that the Owners could successfully so “trace” such taxes on deposit in the Interest and Sinking Fund where such amounts are invested in the County Pool. The Resolution and the Government Code require the County to annually levy *ad valorem* property taxes upon all property subject to taxation by the District, without limitation as to rate or amount (except as to certain personal property which is taxable at limited rates) for the payment of the principal of and interest on the Bonds.

Tax Matters

The following discussion of federal income tax matters written to support the promotion and marketing of the Bonds was not intended or written to be used, and cannot be used, by a taxpayer for the purpose of avoiding federal tax penalties that may be imposed. Each taxpayer should seek advice based on the taxpayer’s particular circumstances from an independent tax advisor.

The delivery of the Bonds is subject to delivery of the opinion of Bond Counsel, to the effect that interest on the Bonds for federal income tax purposes under existing statutes, regulations, published rulings, and court decisions (1) will be excludable from the gross income, as defined in section 61 of the Internal Revenue Code of 1986, as amended to the date of initial delivery of the Bonds (the “Code”), of the owners thereof pursuant to section 103 of the Code, and (2) will not be included in computing the alternative minimum taxable income of the owners thereof. The delivery of the Bonds is also subject to the delivery of the opinion of Bond Counsel, based upon existing provisions of the laws of the State of California, that interest on the Bonds is exempt from personal income taxes of the State of California. The form of Bond Counsel’s anticipated opinion respecting the Bonds is included in APPENDIX C. The statutes, regulations, rulings, and court decisions on which such opinions will be based are subject to change.

Interest on the Bonds owned by a corporation will be included in such corporation’s adjusted current earnings for purposes of calculating the alternative minimum taxable income of such corporation, other than an S corporation, a regulated investment

company, a real estate investment trust or a real estate mortgage investment conduit. A corporation's alternative minimum taxable income is the basis on which the alternative minimum tax imposed by Section 55 of the Code will be computed.

In rendering the foregoing opinions, Bond Counsel will rely upon the representations and certifications of the District made in a certificate (the "Tax Certificate") of even date with the initial delivery of the Bonds pertaining to the use, expenditure, and investment of the proceeds of the Bonds and will assume continuing compliance with the provisions of the Resolution by the District subsequent to the issuance of the Bonds. The Tax Certificate contains covenants by the District with respect to, among other matters, the use of the proceeds of the Bonds and the facilities and equipment financed therewith by persons other than state or local governmental units, the manner in which the proceeds of the Bonds are to be invested, if required, the calculation and payment to the United States Treasury of any "arbitrage profits" and the reporting of certain information to the United States Treasury. Failure to comply with any of these covenants could cause interest on the Bonds to be includable in the gross income of the owners thereof from the date of the issuance of the Bonds.

Except as described above, Bond Counsel will express no other opinion with respect to any other federal, State or local tax consequences under present law, or proposed legislation, resulting from the receipt or accrual of interest on, or the acquisition or disposition of, the Bonds. Prospective purchasers of the Bonds should be aware that the ownership of tax-exempt obligations such as the Bonds may result in collateral federal tax consequences to, among others, financial institutions, life insurance companies, property and casualty insurance companies, S corporations with subchapter C earnings and profits, certain foreign corporations doing business in the United States, individual recipients of Social Security or Railroad Retirement benefits, individuals otherwise qualifying for the earned income tax credit, owners of an interest in a financial asset securitization investment trust, and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry, or who have paid or incurred certain expenses allocable to, tax-exempt obligations. Prospective purchasers should consult their own tax advisors as to the applicability of these consequences to their particular circumstances.

Bond Counsel's opinion is not a guarantee of a result, but represents its legal judgment based upon its review of existing statutes, regulations, published rulings and court decisions and the representations and covenants of the District described above. No ruling has been sought from the Internal Revenue Service ("IRS" or the "Service") or the State of California with respect to the matters addressed in the opinion of Bond Counsel, and Bond Counsel's opinion is not binding on the Service or the State of California. The Service has an ongoing program of auditing the tax status of the interest on municipal obligations. If an audit of the Bonds is commenced, under current procedures, the Service is likely to treat the District as the "taxpayer," and the Owners of the Bonds would have no right to participate in the audit process. In responding to or defending an audit of the tax-exempt status of the interest on the Bonds, the District may have different or conflicting interests from the owners of the respective Bonds. Public awareness of any future audit of the Bonds could adversely affect the value and liquidity of the Bonds during the pendency of the audit, regardless of its ultimate outcome.

Tax Accounting Treatment of Discount and Premium on Certain of the Bonds. The initial public offering price of certain of the Bonds (the "Discount Bonds") may be less than the amount payable on such Bonds at maturity. An amount equal to the difference between the initial public offering price of a Discount Bond (assuming that a substantial amount of the Bonds of that maturity are sold to the public at such price) and the amount payable at maturity constitutes original issue discount to the initial purchaser of such Discount Bond. The tax rules requiring inclusion in income annually by the holder of a debt instrument having original issue discount of the daily portion of original issue discount for each day during a taxable year in which such holder held such debt instrument is inapplicable to the Bonds. A portion of such original issue discount, allocable to the holding period of such Discount Bond by the initial purchaser, will, upon the disposition of such Discount Bond (including by reason of its payment at maturity), be treated as interest excludable from gross income, rather than as taxable gain, and will be added to the holder's basis in the Discount Bond, for federal income tax purposes, on the same terms and conditions as those for other interest on the bonds described above under "—Tax Matters." Such interest is considered to be accrued in accordance with the constant-yield-to-maturity method over the life of a Discount Bond taking into account the semiannual compounding of accrued interest at the yield to maturity on such Discount Bond, and generally will be allocated to an original purchaser in a different amount from the amount of the payment denominated as interest actually received by the original purchaser during the tax year.

However, such interest may be required to be taken into account in determining the alternative minimum taxable income of a corporation, for purposes of calculating a corporation's alternative minimum taxable income imposed by Section 55 of the Code, and the amount of the branch profits tax applicable to certain foreign corporations doing business in the United States, even though there will not be a corresponding cash payment. In addition, the accrual of such interest may result in certain other collateral federal income tax consequences to, among others, financial institutions, life insurance companies, property and casualty insurance companies, S corporations with subchapter C earnings and profits, individual recipients of Social Security or Railroad Retirement benefits, individuals otherwise qualifying for the earned income tax credit, and taxpayers who

may be deemed to have incurred or continued indebtedness to purchase or carry, or who have paid or incurred certain expenses allocable to, tax-exempt obligations. Moreover, in the event of the redemption, sale or other taxable disposition of a Discount Bond by the initial Owner prior to maturity, the amount realized by such Owner in excess of the basis of such Discount Bond in the hands of such Owner (adjusted upward by the portion of the original issue discount allocable to the period for which such Discount Bond was held) is includable in gross income.

Owners of Discount Bonds should consult with their own tax advisors with respect to the determination for federal income tax purposes of accrued interest upon disposition of Discount Bonds and with respect to the state and local tax consequences of owning Discount Bonds. It is possible that, under applicable provisions governing determination of state and local income taxes, accrued interest on Discount Bonds may be deemed to be received in the year of accrual even though there will not be a corresponding cash payment.

The initial offering price of certain Bonds (the “Premium Bonds”), may be greater than the amount payable on such bonds at maturity. An amount equal to the difference between the initial public offering price of a Premium Bond (assuming that a substantial amount of the Bonds of that maturity are sold to the public at such price) and the amount payable at maturity constitutes premium to the initial purchaser of such Premium Bonds. The basis for federal income tax purposes of a Premium Bond in the hands of such initial purchaser must be reduced each year by the amortizable bond premium, although no federal income tax deduction is allowed as a result of such reduction in basis for amortizable bond premium. Such reduction in basis will increase the amount of any gain (or decrease the amount of any loss) to be recognized for federal income tax purposes upon a sale or other taxable disposition of a Premium Bond. The amount of premium which is amortizable each year by an initial purchaser is determined by using such purchaser’s yield to maturity. Purchasers of the Premium Bonds should consult with their own tax advisors with respect to the determination of amortizable bond premium with respect to the Premium Bonds for federal income purposes and with respect to the state and local tax consequences of owning Premium Bonds.

Form of Bond Counsel Opinions. The form of the proposed opinion of Bond Counsel relating to the Bonds is attached to this Official Statement as APPENDIX C.

Legality for Investment in California

Under provisions of the California Financial Code, the Bonds are legal investments for commercial banks in the State to the extent that the Bonds, in the informed opinion of the investing bank, are prudent for the investment of funds of depositors. Under provisions of the Government Code, the Bonds are eligible security deposits of public moneys in the State.

RATING

_____ (“[RATING AGENCY]”) has assigned a municipal bond rating of “___” to the Bonds. Such rating reflects only the views of [RATING AGENCY], and an explanation of the significance of such rating may be obtained from [RATING AGENCY]. There is no assurance that any such rating will continue for any given period of time or that any such will not be revised downward or withdrawn entirely by the rating agency if, in the judgment of the rating agency, circumstances so warrant. Any such downward revision or withdrawal of any such rating may have an adverse effect on the market price of the Bonds.

MUNICIPAL ADVISOR

Government Financial Strategies inc. has been employed by the District to perform municipal advisory services in relation to the sale and delivery of the Bonds. Government Financial Strategies inc., in its capacity as Municipal Advisor, has read and participated in drafting this Official Statement. Government Financial Strategies inc. has not, however, independently verified nor confirmed all of the information contained within this Official Statement. Government Financial Strategies inc. will not participate in the underwriting of the Bonds. Fees charged by Government Financial Strategies inc. are not contingent upon the sale of the Bonds.

INDEPENDENT AUDITOR

The financial statements of the District as of and for the year ending June 30, 2016 have been audited by Vavrinek, Trine, Day & Co., LLP, Rancho Cucamonga, California. The audited financial statements of the District as of and for the year ended June 30, 2016, are set forth in "APPENDIX A—THE FINANCIAL STATEMENTS OF THE DISTRICT AS OF AND FOR THE YEAR ENDING JUNE 30, 2016" attached hereto. The District has not requested nor did the District obtain permission from the Auditor to include the audited financial statements as an appendix to this Official Statement. The Auditor has not performed any subsequent events review or other procedures relative to these audited financial statements since the date of its letter. Complete copies of past and current financial statements may be obtained from the District.

UNDERWRITING AND INITIAL OFFERING PRICE

The Bonds were sold to _____ (the "Underwriter") pursuant to a bond purchase agreement by and between the District and the Underwriter at a price of \$_____, being the principal amount of the Bonds of \$_____, plus a net original issue premium of \$_____, less an underwriting discount of \$_____, at a true interest cost (TIC) to the District of __ percent.

The Underwriter has certified the initial offering prices or yields stated on the inside cover page hereof. The Underwriter may offer and sell the Bonds to certain dealers (including dealers depositing Bonds into investment trusts), dealer banks, banks acting as agents and others at prices lower than said public offering prices. The reoffering prices may be changed from time to time by the Underwriter.

CONTINUING DISCLOSURE

The District has covenanted for the benefit of the holders and Beneficial Owners of the Bonds to provide certain financial information and operating data relating to the District (the "Annual Report"), by not later than nine months after the end of the fiscal year, commencing with the report for the 2016-17 fiscal year (which is due no later than March 31, 2018), and to provide notices of the occurrence of certain enumerated events. The Annual Report and notices of certain enumerated events will be filed by the District with the Municipal Securities Rulemaking Board (the "MSRB") through its Electronic Municipal Market Access ("EMMA") system. The specific nature of the information to be contained in the Annual Report or the notices are specified in "APPENDIX B—FORM OF CONTINUING DISCLOSURE CERTIFICATE" attached hereto. These covenants have been made in order to assist the Underwriter in complying with SEC Rule 15c2-12(b)(5) (the "Rule").

The District has not entered into any prior undertaking pursuant to the Rule.

ADDITIONAL INFORMATION

Additional information concerning the District, the Bonds or any other matters concerning the sale and delivery of the Bonds may be obtained by contacting Fountain Valley School District, 10055 Slater Avenue, Fountain Valley, California 92708, (714) 843-3200, Attention: Assistant Superintendent, Business Services, or by contacting the Municipal Advisor, Government Financial Strategies inc., 1228 N Street, Suite 13, Sacramento, California 95814-5609, telephone (916) 444-5100.

All of the preceding summaries of the Bonds, the Resolution and other documents are made subject to the provisions of such documents respectively, and do not purport to be complete statements of any or all of such provisions. Reference is hereby made to such documents on file with the District for further information in connection therewith. Further, this Official Statement does not constitute a contract with the purchasers of the Bonds, and any statements made in this Official Statement involving matters of opinion or of estimates, whether or not so expressly stated, are set forth as such and not as representations of fact, and no representation is made that any of the estimates will be realized.

The execution and delivery of this Official Statement by the District has been duly authorized by its District Board.

Fountain Valley School District

By: _____
Mark Johnson, Ed.D.
Superintendent

APPENDIX A

THE FINANCIAL STATEMENTS OF THE DISTRICT
AS OF AND FOR THE YEAR ENDED JUNE 30, 2016

[TO COME]

APPENDIX B

FORM OF CONTINUING DISCLOSURE CERTIFICATE

[TO COME]

APPENDIX C

FORM OF OPINION OF BOND COUNSEL

[TO COME]

APPENDIX D

ORANGE COUNTY TREASURER INVESTMENT POLICY STATEMENT

[TO COME]

APPENDIX E

DTC BOOK-ENTRY ONLY SYSTEM

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The following information concerning The Depository Trust Company, New York, New York (“DTC”) and DTC’s book-entry-only system has been provided by DTC for use in securities disclosure documents. The District takes no responsibility for the accuracy or completeness thereof. There can be no assurance that DTC will abide by its procedures or that such procedures will not be changed from time to time.

The following description includes the procedures and record-keeping with respect to beneficial ownership interests in the Bonds payment of principal and interest, other payments with respect to the Bonds to Direct Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interests in such Bonds, notices to beneficial owners and other related transactions by and between DTC, the Participants, and the Beneficial Owners. However, DTC, the Participants, and the Beneficial Owners should not rely on the following information with respect to such matters, but should instead confirm the same with DTC or the Direct Participants, as the case may be.

The Depository Trust Company, New York, New York (“DTC”) will act as securities depository for the securities (in this Appendix, the “Bonds”). The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Bond will be issued for each maturity of the Bonds, in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has a Standard & Poor’s rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com.

Purchases of the Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC’s records. The ownership interest of each actual purchaser of each Bond (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive Bonds representing their ownership interests in the Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Bond documents. For example, Beneficial Owners of Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the District as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions, and dividend payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the District or the Paying Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Paying Agent, or the District, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the District or Paying Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to the District or the Paying Agent. Under such circumstances, in the event that a successor depository is not obtained, Bonds are required to be printed and delivered.

The District may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the District believes to be reliable, but the District takes no responsibility for the accuracy thereof.

1228 N Street, Suite 13
Sacramento, CA 95814
(916) 444-5100





SO 16-17/B17-47
Fountain Valley School District
Superintendent's Office

M E M O R A N D U M

TO: Board of Trustees
FROM: Mark Johnson, Ed.D., Superintendent
SUBJECT: **APPROVAL OF RESOLUTION 2017-17 DECLARING SURPLUS PROPERTY, AUTHORIZING OFFER OF DISTRICT PROPERTY FOR SALE TO PUBLIC ENTITIES, AND AUTHORIZING THE SALE OF PROPERTY**
DATE: April 7, 2017

Background:

In order for the District to sell its real property located at 265 S. Anita Drive, Orange, California, known generally as the Crossroads Office Park (the "Property"), the District's Governing Board was first required to form a Surplus Property Advisory Committee to make recommendations to the Governing Board with respect to disposal of the Property. In accordance with this requirement, the District's Surplus Property Advisory Committee prepared a Final Report and Recommendation which recommended that the District declare the Property surplus and sell it pursuant to applicable law. On March 9, 2017, the Governing Board accepted the Advisory Committee's Final Report and Recommendation, and noted that it may take certain action related to the Property by way of separate future Board action. Pursuant to the Advisory Committee's Final Report and Recommendation, the Governing Board has now decided to declare the Property surplus and proceed to sell the Property pursuant to the surplus property procedures set forth in California law.

As the next step in the surplus property procedures, the District must formally declare the Property surplus and authorize the sale of the Property by way of adoption of a resolution by a two-thirds majority vote. Adoption of the proposed Board Resolution will allow the District to proceed with statutory requirements to first make written offers to various public agencies, and in the event that no agreement is reached with any such public agency regarding the terms and conditions of the sale of the Property, to offer the surplus Property to the highest bidder pursuant to the surplus property bid procedures. Adoption of the Resolution also sets minimum terms and conditions which govern the sale of the Property.

Recommendation:

It is recommended that the Board of Trustees adopts Board Resolution 2017-17, entitled **Resolution of the Board of Education of the Fountain Valley School District**

Declaring Surplus Property, Authorizing Offer of District Property For Sale to Public Entities, and Authorizing the Sale Of Property.

Resolution 2017-17

**RESOLUTION OF THE BOARD OF EDUCATION
OF THE FOUNTAIN VALLEY SCHOOL DISTRICT
DECLARING SURPLUS PROPERTY, AUTHORIZING OFFER OF DISTRICT
PROPERTY FOR SALE TO PUBLIC ENTITIES, AND
AUTHORIZING THE SALE OF PROPERTY**

(Crossroads Office Park Property)

WHEREAS, Fountain Valley School District (“District”) owns real property located at 265 S. Anita Drive, Orange, California, known generally as the Crossroads Office Park (the “Property”); and

WHEREAS, pursuant to the California Education Code and Government Code there are certain procedural requirements that the District must follow prior to declaring any real property surplus and offering such property for sale or lease; and

WHEREAS, pursuant to Education Code section 17388 et seq., the District formed an Advisory Committee which submitted to the District’s Governing Board (“Board”) a Final Report and Recommendation dated February 7, 2017 (“Report”) regarding the Property; and

WHEREAS, the Report included the recommendation that the Property be declared surplus and sold pursuant to California law at the Property’s highest and best use value, as well as other findings and recommendations; and

WHEREAS, the Board accepted the Report during its March 9, 2017 public meeting; and

WHEREAS, the District now desires to sell the Property, in a public sale, pursuant to Education Code Section 17466, et seq.; and

WHEREAS, prior to any sale to the public, the Property must be offered to specified public entities pursuant to Education Code section 17464 and Government Code section 54222; and

WHEREAS, after complying with Education Code section 17464 and Government Code section 54222, the District desires to sell the Property in a public bid auction, pursuant to Education Code section 17466 et seq.; and

WHEREAS, interested bidders for the purchase of the Property shall submit a bid proposal on a form supplied by the District.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Governing Board of Fountain Valley School District as follows:

Section 1. That the above recitals are true and correct.

Section 2. That the Board hereby declares the Property surplus, and hereby declares the Board's intention to offer the Property for sale.

Section 3. That, while the sale of the Property is not hereby limited to any particular development, the District will use its best efforts to ensure the sale of the Property at the Property's highest and best use valuation at public auction, pursuant to the Advisory Committee's recommendation.

Section 4. That the District's Superintendent or designee is authorized and directed to send written offers for the sale of the Property to public agencies pursuant to Education Code section 17464 and Government Code section 54222.

Section 5. That in the event that no public agencies discussed herein express an interest in the Property, the Board, pursuant to Education Code section 17466 et seq., does hereby announce its intention to receive and consider proposals for the sale of the Property.

Section 6. That the District's Superintendent or designee is authorized and directed to solicit proposals for the sale of the Property and advertise a bid hearing.

Section 7. That this Board, pursuant to Education Code section 17466, does hereby announce its intention to receive and consider proposals for the sale of the Property.

Section 8. That each bidder shall submit with its bid proposal a certified or cashier's check made payable to the Fountain Valley School District in the amount of Ten Thousand Dollars (\$10,000.00) as bid security for entering into the purchase agreement with the District. The deposit of the successful bidder will be retained by the District and applied towards the purchase of the Property pursuant to the purchase agreement. After execution of the purchase agreement by a successful bidder, or thirty (30) days, whichever comes first, all other deposits will be returned. If the successful bidder fails to negotiate in good faith the purchase agreement with the District, the District shall retain the successful bidder's bid security.

Section 9. That the sale of the Property shall be upon the following minimum terms and conditions:

a. The minimum bid for the purchase of the Property shall be no less than the appraised value or fair market value as determined by the Board, which minimum bid amount shall be described in a written set of bid package documents provided to interested parties.

b. The Property is sold in an "As-Is" condition, or as may otherwise be set forth in the bid package materials.

c. The purchaser shall bear all costs associated with recording fees, documentary and other transfer taxes, title insurance premiums, and other escrow costs, or as may otherwise be set forth in the bid package materials.

d. Any other terms upon which the Board may later approve prior to said public auction.

Section 10. The District will not pay a real estate commission for the sale of the Property.

Section 11. That Bid Proposal forms for the purchase of the Property may be obtained from the District Administration Office, located at 10055 Slater Avenue, Fountain Valley, California 92708. Although bidder may propose changes to the purchase agreement, unless otherwise agreed to by the District, the bidder shall agree that the existing terms and conditions of the purchase agreement will be binding upon the successful bidder. Any proposed changes to the purchase agreement must be submitted with the bid proposal. Any proposed material changes to the existing terms and conditions of the purchase agreement shall render such bid a counter offer, which counteroffer may not be accepted by the District should any written or oral offer be made at or greater than the terms and conditions set forth in the purchase agreement and the minimum terms set forth herein. If there are no written or oral offers that conform to the terms and conditions set forth in the Purchase Agreement, the District may accept counter offers.

Section 12. That the Bid Proposals shall be sealed and filed with the District Office of the Fountain Valley School District to be opened at a specified future date and time, which date and time shall be noticed pursuant to the surplus property procedures and the law of the State of California.

Section 13. That at the bid hearing to be held at the District board room at a date to be determined by the District, the sealed Bid Proposals shall be opened, examined and declared. The District's Superintendent or his authorized designee shall then call for oral bids. If, upon the call for oral bidding, any responsible person offers to enter into said purchase agreement, upon the terms and conditions specified and for a price exceeding by at least five percent (5%) the highest written proposal for the Property, then the oral bid, which is highest for the Property and that conforms to the terms of the purchase agreement, shall be finally accepted. Final acceptance shall not be made, however, until the oral bid is reduced to writing and signed by the offeror and bid security, as described herein, in the form of a certified or cashier's check payable to the District has been submitted.

Section 14. That final acceptance of the highest bid that conforms to the terms of the purchase agreement, either written or oral, will be made at the Board meeting, wherein the bids are opened or at any adjourned session of the same meeting held within ten (10) days. The Board may select the highest bid that conforms to the terms of the purchase agreement of any of the bids, a counter offer or if it deems such action to be for the best public interest, it may reject any and all bids. The highest successful bidder shall be required to execute the purchase agreement as a requirement for final acceptance by the Board. In the event that there are no written or oral bids made at or greater than the terms and conditions set forth in the purchase agreement that comply with all material terms set forth therein and in the Bid Package, the District may select a counteroffer.

Section 15. That the Superintendent or designee is hereby authorized and directed to give notice of the Board's intent to sell the Property by posting executed copies of the Resolution

in three (3) public places in the District not less than fifteen (15) days before the date of the bid hearing, and by publication of a Notice of Intent to Sell not less than once a week for three (3) consecutive weeks before the date of the bid hearing in a newspaper of general circulation published in the District or in the County in which the District or any part thereof is situated and having a general circulation in the County.

Section 16. That the Superintendent of the District or his designee is hereby authorized and directed to conduct the bid hearing at the date and time noticed pursuant to the intent of this resolution, and to report the results of such bid hearing to the Board at a scheduled board meeting thereafter so that a final determination regarding the success of any offer(s) or counter offer(s) received may be made by the Board.

Section 17. That this Resolution shall take effect upon adoption.

ADOPTED, SIGNED AND APPROVED this 13th day of April 2017.

President of the Governing Board for
the Fountain Valley School District

I, Jim Cunneen, Clerk of the Board of Fountain Valley School District, do hereby certify that the foregoing Resolution was adopted by the Board of said District at a meeting of said Board held on the 13th day of April 2017, and that it was so adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Clerk of the Governing Board of
Fountain Valley School District



Fountain Valley School District
Business Service Division

M E M O R A N D U M

TO: Board of Trustees
FROM: Christine Fullerton, Assistant Superintendent Business Services
SUBJECT: **RESOLUTION 2017-21 APPROVING THE REQUEST FOR PROPOSAL FOR PRE-CONSTRUCTION AND LEASE-LEASEBACK SERVICES FOR MEASURE O PHASE 1 – SCHOOL MODERNIZATION AND AIR CONDITIONING**
DATE: April 7, 2017

Background:

The lease-leaseback construction project delivery method is authorized under Education Code section 17406 and is one of the most widely used project delivery methods for public school construction in California. In the past five years, a number of lawsuits have been filed around the State challenging the generally accepted practice of awarding lease-leaseback contracts. For the most part, the majority of the grounds have been rejected by the courts except for the alleged conflict of interest that is allegedly created when the lease-leaseback contractor is first brought in to perform pre-construction services with the architect.

In wake of this litigation, the Legislature has passed AB2316 to address these allegations. The following is an outline of the lease-leaseback process as amended by AB2316 for all lease-leaseback contracts awarded after January 1, 2017:

1. Have the Board approve and adopt the proposed RFP to be issued and the required procedures and guidelines for evaluating the proposals that ensure the “best value” selection process is conducted in a fair and impartial manner. [Education Code section 17406(a)(2).] This should be done by formal action of the Board during a meeting pursuant to a properly noticed item on the Board’s agenda. All Board action and approvals set forth herein should not be performed as a consent item.
2. Publish notice of the RFP as required under Public Contract Code section 20112 as noted below. [Education Code section 17406(a)(2)(B).]
 - a. At least once a week for two weeks in some newspaper of general circulation published in the District, or if there is no such paper, then in some newspaper of general circulation, circulated in the county. The

District may also post the notice of the RFP on the District's website or through an electronic portal.

- b. The notice of the RFP must also be published in a trade paper of general circulation published in the county where the project is located.
 - c. The latest notice must be published at least 10 days before the date for receipt of the proposals.
3. All prime contractors and electrical, mechanical and plumbing subcontractors as defined in Public Contract Code section 20111.6 shall be prequalified in accordance with Public Contract Code section 20111.6 (b) – (m). A list of all prequalified general contractors and electrical, mechanical and plumbing subcontractors must be made available by the District to all proposers at least five business days before the date for receipt of the proposals. [Education Code section 17406(a)(2)(C).]
4. Evaluate proposals received solely upon the criteria and evaluation methodology set forth in the RFP. [Education Code section 17406(a)(2)(F)(ii).]
5. Assign a best value score to each proposal received and rank the proposers from the highest best value to the lowest best value to the District. [Education Code section 17406(a)(2)(F)(ii).]
6. Document the evaluation process and the assignment of the best value score to each proposal. The evaluation committee should use documents such as a scoring sheet with areas for comments and other notes. Documents must support the scores assigned to each proposal and must be able to satisfy an external audit. Therefore, a file should be kept with all information and documents supporting the evaluation process. [Education Code section 17406(a)(2)(F)(v).]
7. Award the contract to the responsive proposer whose proposal is determined to be the best value to the District. [Education Code section 17406(a)(2)(F)(iii).] This should be done by formal action of the Board during a meeting pursuant to a properly noticed item on the Board's agenda.
8. Upon the award of the contract, the Board shall publicly announce its award, identifying the entity awarded the contract, along with a statement regarding the basis of the award.[Education Code section 17406(a)(2)(F)(v).] This announcement should be written with assistance from legal counsel and read by the Board after the award of the contract.
9. If the selected proposer refuses or fails to execute the contract, the Board may award the contract to the proposer with the second highest best value score if

the Board deems it to be in the best interest of the District. If the second selected proposer refuses or fails to execute the contract, the Board may award the contract to the proposer with the third highest best value score if the Board deems it to be in the best interest of the District.[Education Code section 17406(a)(2)(F)(iv).]

10. The Board, in its discretion, may reject all proposals received and request new proposals.[Education Code section 17406(a)(2)(G).]
11. Following the award of a contract, and if the price to be provided pursuant to the RFP is not a lump sum amount:
 - a. The successful proposer shall provide the District with objectively verifiable information of its costs to perform the services requested in the contract;
 - b. The successful proposer shall select subcontractors not identified in the proposal pursuant to Education Code section 17406(a)(4);
 - c. Once preconstruction services are completed and subcontractors are selected, and upon approval of the plans and specifications by DSA (if required), the successful proposer and the District shall finalize the price for all services to be provided pursuant to the contract; and
 - d. The successful proposer shall provide the District with written rationale for the price and the District shall approve or reject the final price at a properly noticed Board meeting. The District's contract file shall include documentation sufficient to support the final price determination.

All of the above must be completed before the successful proposer may proceed with any further work under the contract. [Education Code section 17406(a)(3).]

12. Following the award of a contract, and if the price to be provided pursuant to the RFP is a lump sum amount, the successful proposer shall select subcontractors not identified in the proposal pursuant to Education Code section 17406(a)(4).
13. The successful proposer shall provide any required preconstruction services and shall proceed with construction of the project pursuant to the lease-leaseback contract documents.

Fiscal Impact:

The estimated budget in the Request for Proposal for Pre-Construction and Lease-Leaseback Services for Measure O Phase 1 – School Modernization and Air Conditioning

is \$20,000,000, using funds generated from the sale of Measure O General Obligation bonds.

Recommendation:

It is recommended that the Board of Trustees adopts Resolution 2017-21 approving the Request for Proposal for Pre-Construction and Lease-Leaseback Services for Measure O Phase 1 – School Modernization and Air Conditioning.

RESOLUTION NO. 2017-21

RESOLUTION OF THE BOARD OF EDUCATION OF THE FOUNTAIN VALLEY SCHOOL DISTRICT TO APPROVE REQUEST FOR PROPOSALS FOR PRE-CONSTRUCTION AND LEASE-LEASEBACK SERVICES

WHEREAS, the Fountain Valley School District (“District”) plans to construct various projects throughout the District using the lease-leaseback construction delivery method whereby the District will lease sites that the District owns, to contractors who will construct improvements thereon and lease the project and the underlying site back to the District;

WHEREAS, Education Code section 17406 authorizes the governing board of a school district to let to any person, firm or corporation any real property belonging to the District if the instrument by which the property is let requires the lessee therein to construct on the demised premises, or provide for the construction thereon of, a building or buildings for the use of the school district during the term of the lease, and provides that title to that building shall vest in the school district at the expiration of that term;

WHEREAS, any lease-leaseback contract pursuant to Education Code section 17406 shall be based on a competitive solicitation process and awarded to the proposer providing the “best value” (as defined in Education Code section 17400), taking into consideration the proposer’s demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required;

WHEREAS, Education Code section 17406(a)(2) requires the District’s Board of Education (“Board”) to adopt and publish required procedures and guidelines for evaluating qualification or proposers to ensure the best value selections by the District are conducted in a fair and impartial manner;

WHEREAS, in order to ensure that moneys sufficient to pay all costs will be available for a project, the District will appropriate funds for any lease-leaseback project from the current fiscal year the lease-leaseback contract is awarded;

WHEREAS, in order to construct a project using the lease-leaseback delivery method, it is necessary that the District enter into a site lease in which the site will be leased to a contractor, and a sublease which provides for the sublease of the site and the lease of the project by the contractor to the District, and that certain other action be taken and authorized;

WHEREAS, the sublease will include construction provisions with which contractor shall comply with respect to construction of a project (“Construction Services Agreement”);

WHEREAS, the Board has been presented with the form of each document referred to herein relating to the transaction contemplated hereby and the Board has examined and approved each document as to form and desires to authorize and direct evaluation of proposals in accordance with Education Code section 17406; and

WHEREAS, the District desires by a majority of the vote of the Board and pursuant to Education Code section 17604 and similar statutes, to delegate authority to the District's Superintendent to evaluate the qualifications of the proposers based solely upon the criteria and evaluation methodology set forth in the attached Request for Proposals, to assign a best value score to each proposal, and once the evaluation process is complete, to rank all responsive proposals from the highest best value to the lowest best value to the District, and to otherwise carry out the intent of this Resolution.

NOW, THEREFORE, THE BOARD OF EDUCATION OF THE FOUNTAIN VALLEY SCHOOL DISTRICT DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. Recitals. All of the recitals herein contained are true and correct.

Section 2. Request for Proposals. The form of the Request for Proposal to be issued to proposers meeting the requirements set forth in Education Code section 17406 and attached hereto as Exhibit "A" is hereby approved and adopted by the Board.

Section 3. Site Lease and Sublease. The form of agreements entitled "Site Lease," "Sublease" and "Construction Services Agreement," each attached to the Request for Proposals and presented during this meeting and each to be entered into by and between the District and the proposer providing the best value to the District, are hereby approved and adopted subject to any revisions which are acceptable to both District's Superintendent and District's legal counsel.

Section 4. Approval of Process. The Governing Board hereby approves the lease-leaseback process and the competitive solicitation process as set forth herein and the documents attached hereto as Exhibit "A."

Section 5. Other Acts; Delegation. The District's Board hereby approves a delegation of authority and appoints its Superintendent, or the designee of the Superintendent, who is/are hereby authorized and directed, to evaluate the qualifications of the proposers based solely upon the criteria and evaluation methodology set forth in the attached Request for Proposals, to assign a best value score to each proposal, and once the evaluation process is complete, to rank all responsive proposals from the highest best value to the lowest best value to the District, and to otherwise carry out the intent of this Resolution, all subject to ratification of the Board of Education. Said delegation shall be valid until otherwise rescinded by the Board.

Section 6. Effective Date. This Resolution shall take effect upon adoption.

APPROVED, PASSED AND ADOPTED by the Governing Board of the Fountain Valley School District this ____th day of April, 2017, by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAINED: _____

I, Sandra Crandall, President of Fountain Valley School District Governing Board, do hereby certify that the foregoing is a full, true, and correct copy of the resolution passed and adopted by said Board at a regularly scheduled and conducted meeting held on said date, which resolution is on file in office of said Board.

President of the Board of Education
Fountain Valley School District

I, Jim Cunneen, Clerk of the Board of Education of the Fountain Valley School District, do hereby certify that the foregoing Resolution was introduced and adopted by the Board of Education of the Fountain Valley School District at a regular meeting thereof held on the 13th day of April, 2017, by the following forgoing vote.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Fountain Valley School District this 13th day of April, 2017.

Clerk of the Board of Education
Fountain Valley School District

EXHIBIT “A”



**REQUEST FOR PROPOSALS
FOR
PRECONSTRUCTION AND LEASE-LEASEBACK
SERVICES FOR MEASURE O PHASE 1 -
SCHOOL MODERNIZATION AND AIR
CONDITIONING**

Proposal Deadline Date

Friday, June 7, 2017 at 4:00 PM

Submit to:

**Fountain Valley School District
10055 Slater Avenue
Fountain Valley, CA 92708
Attn: Christine Fullerton**

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I. PURPOSE OF THE RFP:

By way of this Request for Proposals (“RFP”), the Fountain Valley School District (“District”) seeks proposals from lease-leaseback contractors (“Contractor” or “Firm”) to provide preconstruction services and lease-leaseback construction services for the District’s Measure O Phase 1 – School Modernization and Air Conditioning Project (“Project”). The purpose of this RFP is to obtain information that will enable the District to select a lease-leaseback Contractor using the “best value” competitive procurement process under Education Code section 17400 et seq. that can assist the District with both preconstruction services and construction services. The “best value” competitive procurement process is an evaluation process whereby a Firm is selected by the District on the basis of objective criteria for evaluating the qualifications of Firms, with the selected Firm representing the best combination of price and qualifications. Each Contractor responding to this RFP should be prepared and qualified to provide the preconstruction services and lease-leaseback construction services described in this RFP to the District in an expeditious and timely manner and on relatively short notice so as to enable the District to meet critical time deadlines and schedules.

II. BACKGROUND ON THE PROJECT:

Fountain Valley School District is located in Orange County and serves approximately 6,300 students at ten campuses (seven elementary schools, and three middle schools) from Fountain Valley and Huntington Beach. On November 8, 2016, the voters passed bond Measure O, which authorizes the issuance of \$63,000,000 in general obligation bonds to repair and modernize aging classrooms and school facilities, including repairing deteriorating roofs, plumbing, electrical and air conditioning systems; upgrade classrooms, science labs, libraries, facilities and technology that support student achievement in reading, math, arts, science and technology; and improve student safety and campus security.

This Project will be constructed using the lease-leaseback project delivery method authorized by Education Code section 17400 et seq. The District has contracted with Rachlin Partners to be the Architect of Record for the Project, and the lease-leaseback Contractor will be expected to provide both preconstruction services and lease-leaseback construction services for the Project as described below:

The District’s Measure O School Modernization and Air Conditioning Project includes upgrades, at multiple sites, to the existing HVAC system to include air conditioning, as well as roof strengthening, updated gas lines and electrical mains, where appropriate to accommodate the new HVAC system. Roof replacement, window replacement, upgrade or repair of doors, ceilings, lighting, and fire safety alarms. The District may also include modernization projects such as interior and/or exterior painting, and updated flooring.

The estimated construction budget for this phase of the Project is **\$20,000,000** and the estimated performance period is **3 months in Pre Construction & 18 months in Construction.**

III. RFP TIMELINE:

Request for Proposals IssuedApril 17, 2017
Mandatory Project Walk-Through.....May 10, 2017
Deadline for Submittal of Prequalification.....May 22, 2017 by 4:00 pm
Deadline for Submittal of Questions.....May 24, 2017 by 4:00 pm
Responses to the Questions SubmittedMay 31, 2017
Due Date for Submittal of ProposalsJune 7, 2017 by 4:00 pm
Short List InterviewsJune 19, 2017*
Due Date for Fee Proposals.....June 19, 2017*
Anticipated Board Approval DateJuly 13, 2017*
Notification of Selected FirmJuly 17, 2017*

* Estimated deadlines subject to revision at the District's discretion.

IV. QUESTIONS AND CLARIFICATION OF THE RFP

All questions, requests for explanation or clarifications of any kind in regard to this RFP shall be made in written form, submitted via email to Christine Fullerton, at fullertonc@fvsd.us; by no later than **4:00 p.m., May 24, 2017**. A response will not be provided to any late questions, or requests for explanation or clarifications. All addenda and clarifications will be posted on the District's website, www.fvsd.us, and provided to those Firms that have registered with the District. Any interpretation, clarification, or correction of this RFP will only be made by addendum as noted above. No person or Firm is authorized to make any oral interpretation of any provision in this RFP, nor shall any oral interpretation be binding on the District.

V. PRECONSTRUCTION SERVICES

The District anticipates that the successful Contractor will provide preconstruction services including, but not limited to, reviewing the Project's plans and specifications during the design of the Project to identify and note all deficiencies, incongruities and inconsistencies that may affect constructability of the Project including, but not limited to, design and specification omissions, incomplete and/or inconsistent plans, details and specifications, and any lack of coordination, together with all other appropriate, necessary and/or required services to facilitate and prepare for the successful development and construction of the Project.

The preconstruction services will also include, but not be limited to, the following tasks: design meeting with the architects and engineers; review and validation of estimates prepared by the architect; preparation of a master critical path method schedule for the Project; preparation of cost estimates based on the final construction documents, including allowances, contingencies, general conditions, costs and fees; constructability reviews; value engineering; construction planning and phasing, and cost proposal strategies all with the goal that the DSA-approved plans and specifications for the Project will be complete such that the Project can be constructed by a competent licensed general building contractor in strict accordance with the DSA-approved plans and specifications without change orders, delays, or additional charges to District.

VI. DIR REGISTRATION AND PREVAILING WAGES

DIR Registration. Contractors and their subcontractors (of any tier) shall not be qualified to submit or be listed on a proposal, or engage in the performance of any contract for public work, as defined in the Labor Code, unless currently registered and qualified to perform public work pursuant to Section 1725.5 of the Labor Code. It is not a violation of this section for an unregistered contractor to submit a proposal that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 of the Labor Code at the time the contract is awarded.

Prevailing Wages. The Contractor and all subcontractors shall comply with the requirements set forth in Division 2, Part 7, and Chapter 1 of the Labor Code. Pursuant to Labor Code section 1770 et seq., the District has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which this work is to be performed for each craft, classification or type of worker needed to execute the contract. Copies are available from the District to any interested party on request and are also available from the Director of the Department of Industrial Relations.

VII. SUBCONTRACTOR DESIGNATIONS

Pursuant to Education Code section 17406(a)(4)(A), the District is granting the option to all Firms to identify and designate the subcontractors who will be performing more than one-half of one percent of the price allocable to the construction work on the Project. Each Firm shall list only one subcontractor for each scope of work as defined by the Contractor in its proposal. All subcontractors shall be properly licensed by the Contractors State License Board. All designated subcontractors in Attachment 3 will be afforded the protections of the Subletting and Subcontracting Fair Practices Act (Public Contract Code section 4100 et seq.)

After award of the lease-leaseback contract for the Project, and in accordance with Education Code section 17406(a)(4)(B), any subcontractor that was not identified in the Contractor's proposal and whose subcontract value exceeds one-half of one percent of the price allocable to construction work must be awarded a subcontract in accordance with the following process:

- A. Provide public notice of availability of work to be subcontracted in accordance with publication requirements applicable to the competitive bidding process of the District, including a fixed date and time on which qualifications statements, bids, or proposals will be due.
- B. Establish reasonable qualification criteria and standards.
- C. Award the subcontract either on a best value basis or to the lowest responsible bidder.

The process above may include prequalification or short-listing. The process shall not apply to subcontractors listed in the Contractor's original proposal. Subcontractors awarded subcontracts as set forth above shall be afforded all the protections of the Subletting and Subcontracting Fair Practices Act (Public Contract Code section 4100 et seq.)

All subcontractors (of any tier) performing any portion of the Work must comply with Labor Code sections 1725.5 and 1771.1 and must be properly and currently registered with the California Department of Industrial Relations and qualified to perform public works pursuant to Labor Code section 1725.5 throughout the duration of the Project.

VIII. CONTENTS OF THE PROPOSAL

Firms must submit one original, 5 hard copies and a digital copy (on a thumb drive) of the proposal. All proposals should address the requested information for each of the evaluation categories below. The proposal shall demonstrate the qualifications, competence, and capacity of the Firm:

- A. Cover Letter/Letter of Interest** - Include a cover letter, addressed to Christine Fullerton, Assistant Superintendent of Business Services, stating the eligibility of the Firm to respond to this RFP, a brief description and history of the Firm, and a statement of interest.
- B. Table of Contents** - The table of contents shall reflect the order stated herein and shall include section titles and page numbers.
- C. Evaluation Categories**
 - 1. Mandatory Requirements** – The following requirements are mandatory and must be satisfied. The mandatory requirements will be scored on a pass/fail basis. Failure to meet any one of the mandatory requirements specified in this Section VIII(C)(1) will disqualify your Firm from any further consideration for this RFP.
 - a. Lease-Leaseback Contractor and Subcontractor Prequalification** – All Firms submitting a proposal to this RFP must be prequalified with the District pursuant to Public Contract Code section 20111.6 (b)-(m) without exception prior to submitting a proposal. Any Firm that submits a proposal and is not prequalified will be deemed non-responsive and that Firm's proposal will be rejected and returned to the Firm unopened.

The prequalification process is web based and is available from a link found on the Fountain Valley School District website at www.fvsvd.us. Prequalification documents must be submitted by **Tuesday, May 22, 2017 by 4:00 PM**. Contractors will be notified by telephone, email, or mail of

their prequalification rating within a reasonable period of time after submission of their prequalification documents, but not less than five business days prior to the proposal submission deadline. **Contractors currently prequalified with the District for lease-leaseback projects will not need to submit another prequalification package. Provide a copy of your current prequalification status letter from the District with your proposal.**

All mechanical, electrical or plumbing (“MEP”) subcontractors (defined as contractors that **hold** a C-4, C-7, C-10, C-16, C-20, C-34, C-36, C-38, C-42, C-43 or C-46 license), and who must be designated and identified in the proposal as set forth in Attachment 3, must also be prequalified prior to submitting a proposal. This prequalification requirement applies even if the subcontractor will perform, or is designated and identified to perform, work that does not require one of the licenses listed above, but the subcontractor **holds** one of the licenses listed above.

MEP subcontractors (as defined above) that are NOT required to be designated and identified in the proposal as set forth in Attachment 3 must be prequalified prior to the award of their respective subcontract. A list of prequalified MEP subcontractors will be made available by the District upon request, but not less than five business days prior to the proposal submission deadline. However, it is the responsibility of the Contractor to ensure that all MEP subcontractors **holding** any of the licenses listed above are properly prequalified.

b. **Contractor Responsibility** – Identify if your Firm has ever had the following occur in the past seven (7) years. For the purposes of this paragraph, “Firm” shall include any present or past (over the last five years), officers, owners, principals, partners, or any qualifying individuals including any RME or RMO. Any occurrence of the following in the past seven (7) years shall render the Firm not qualified to submit a proposal:

- Found to be a non-responsible contractor by any public agency;
- Convicted for false claims;
- Firm’s license revoked or suspended;
- Debarred or otherwise ineligible to bid on or be awarded a public works contract;

- Terminated for cause or defaulted on a construction contract; or
- Convicted of a crime involving the awarding of a construction contract, or the bidding or performance of a construction contract.

- c. **License Requirements** – Pursuant to Business and Professions Code section 7028.15 and Public Contract Code section 3300, the Contractor must possess a California Contractor's **Class "B"** license at the time of submittal of its proposal, and for the duration of the contract, if awarded. Subcontractors must possess the appropriate license for the work to be performed on the Project.
- d. **Performance and Payment Bonds** – All Firms submitting a proposal to this RFP must be able to provide separate faithful payment and performance bonds, each in an amount equal to 100% of the total contract amount. All bonds must be issued by a California admitted surety as defined in California Code of Civil Procedure section 995.120. Firms must provide a letter from their surety indicating the Firm's current and overall bonding capacity, and the ability to meet the bond requirements in Section 35.13 of the Construction Services Agreement.
- e. **Insurance Requirements** - All Firms submitting a proposal to this RFP must have the ability to meet all of the insurance requirements set forth in Section 35.4 of the Construction Services Agreement. Firms must include a copy of their current certificate of insurance in their proposals evidencing the following minimum insurance requirements:

Comprehensive general liability insurance with a combined single limit per occurrence of not less than \$2,000,000.00 or commercial general liability Insurance (including automobile insurance) which provides limits of not less than:

- Per occurrence (combined single limit): \$1,000,000.00
- Project Specific Aggregate (for this Project only): \$2,000,000.00
- Products and Completed Operations: \$1,000,000.00
- Personal and Advertising Injury Limit: \$1,000,000.00

The following special hazards shall be covered by riders or riders to above mentioned public liability insurance or property damage insurance policy or policies of insurance, in amounts as follows:

- Automotive and truck where operated: \$1,000,000.00
- Material Hoist where used: \$1,000,000.00
- Explosion, Collapse and Underground (XCU coverage): \$1,000,000.00

Excess Liability Insurance coverage in the amount of Five Million Dollars (\$5,000,000.00).

Workers' Compensation Insurance shall be provided in accordance with the provisions of the California Labor Code adequate to protect any person, firm, or corporation employed directly or indirectly in connection with the work of the Contractor from claims under Workers' Compensation Acts which may arise for operations, whether such operations be by any person, firm, or corporation, employed directly or indirectly by the Contractor upon or in connection with the work.

Provide a letter from your insurance broker stating that you will be able to provide and meet the insurance requirements in Section 35.4 of the Construction Services Agreement.

2. **Firm Personnel, Capacity, and Methodology – Attachment 1.** Each Firm must completely answer all questions in Attachment 1 of the RFP. Note: **Questions may be answered in other sections of the proposal if clearly and conspicuously identified and referenced in the proposal.** The following shall be stated:

- a. **Description of Firm** – Include a description of the Firm's qualifications for providing preconstruction and lease-leaseback services on California school construction projects. Include information regarding the size of the Firm, location of the office from which the required services will be performed, nature of all work performed, and the number of years in this particular business. The Firm shall provide an affirmative statement that it is independent of the District as defined by generally accepted standards.
- b. **Firm's Personnel and Staffing Resources** – Submit resume(s) or profiles for each key staff who will be proposed to provide the requested services, including their qualifications and recent relevant experience providing similar services. Each resume shall include, without limitation, the following information; (a) education; (b) years of relevant experience; (c) professional registrations, certifications and affiliations (d) project-specific experience

with focus on public works projects and emphasis on K-12 projects providing preconstruction and lease-leaseback services, including dates and durations of each project listed and the name of the firm where employed. Include a discussion on the Firm's philosophy and approach for providing outstanding customer service.

- c. **Capacity & Methodology** – Describe how the Firm will provide services and fulfill the requirements and expectations of the District and this RFP. Use this section to address the ability of your Firm to undertake and accomplish the required scope of services while meeting deadlines, the Firm's record of meeting schedules and deadlines of other clients, advantages over other firms in the same industry, strength and stability as a business, and supportive client references. Describe the Firm's ability to provide preconstruction and lease-leaseback services exclusively and in a timely manner for the District and the Firm's commitment to providing experienced personnel assigned to District's Project.
- d. **Litigation** – Furnish and provide specific information on any termination for convenience, litigation settled or judgments entered within the last five (5) years, as well as any civil judgments within the last five (5) years. Identify if the Firm or any employee of the Firm is a party to an existing dispute with an owner, or owner's consultants, related to any project for which the Firm provided construction services. If so, please describe the nature of the dispute and its anticipated outcome.

Identify if the Firm has ever filed a petition for bankruptcy. If so, please provide the date the petition was filed and identify the jurisdiction in which it was filed.

- 3. **Relevant Experience and Past Performance** – Description of past performance and related experience. Each Firm is required to submit a list of its most relevant preconstruction and lease-leaseback services provided in the past five (5) years that are of the approximate size of the Project described in the RFP. The list shall include: (1) a description and size of the project, (2) scope of the work, (3) dates services were performed for preconstruction services and for lease-leaseback services, (4) total price for the project (please state amounts separately for preconstruction services and for lease-leaseback services, (5) client's name and address, and (6) client contact name and phone number. **The District may contact these references, including a visit in**

person to a completed work site, as part of the interview process.

4. **Preconstruction Services** – Describe your methodology in providing preconstruction services for the Project, specifically discussing value engineering, constructability review, estimating, and scheduling. Provide examples of constructability reviews that you performed that resulted in the identification of significant design conflicts or omissions, and of value engineering that resulted in significant savings of money or time.
5. **Labor Compliance/Skilled and Trained Workforce** – Describe your ability to comply with statutory requirements for the payment of prevailing wages, including the monitoring and enforcement of your subcontractor's payment of prevailing wages. Provide copies of any DIR Civil Wage and Penalty Assessment issued to you, explain the circumstances for the Civil Wage and Penalty Assessment, and the final resolution.

Further describe your plan and methodology to comply with the requirements for the use of a "skilled and trained workforce" as defined in Education Code section 17407.5 and Public Contract Code section 2600 et seq., for each apprenticeship occupation that will be used on the Project, including your subcontractors at any tier. Include in your discussion your plan and methodology to comply with the percentage requirements for the use of "skilled journeypersons" for each apprenticeship occupation. Finally, identify and discuss which apprenticeship occupation(s) will be the most difficult to meet the percentage requirements for skilled journeypersons on the Project and state why.

6. **Safety** – Discuss your plan to maintain a safe worksite. In your discussion, include whether your Firm has an Injury and Illness Prevention Program that complies with 8 CCR § 1509, whether your Firm has a safety program that meets Cal/OSHA requirements, and whether your Firm will provide a full-time person dedicated to safety on the Project.

Please state whether you have had any accidents in the past five years that resulted in a construction fatality on any of your projects and provide any details for each incident.

Please state whether you have had any recordable injuries in the past five years and provide the average total recordable injuries for the past five years.

Please provide an EMR verification from the State of California or an insurance company for each of the past five years.

7. **Local Business Outreach and Participation** - The District is vitally interested in promoting the growth of small and local businesses within the boundaries of the District, Orange County, and/or surrounding Southern California counties, by means of increasing the participation of these businesses in the District's purchase of goods and services. The District has a goal of ten (10) percent of all contracts for these services be awarded to local businesses. A locally-owned business, for purposes of satisfying the locality requirements of this provision, is one which holds a valid business license issued by the City and where the owner maintains an office. Describe the Firm's plan for inclusion of local businesses in the services to be provided for the District.
8. **Exceptions to the Preconstruction Agreement, and/or Lease-Leaseback Agreement** – The Form of both the Preconstruction Services Agreement, and Lease-Leaseback Agreement (Site Lease, Sublease, and Construction Services Agreement) are attached to this RFP as Attachment 4. Please review each agreement and provide any proposed exceptions to those agreements on Attachment 1, Firm Questionnaire, and Section E.

D. Fee Proposal – Preconstruction Fee, Lease-Leaseback Fee, and General Conditions – “Attachment 2”

DO NOT SUBMIT THIS FORM WITH THE PROPOSAL. ATTACHMENT 2 MUST BE BROUGHT TO THE INTERVIEW IN A SEALED ENVELOPE.

The fee proposal, “Attachment 2”, must be submitted in a separate, sealed envelope with your company name, proposal title, “Fee Proposal, Attachment 2”, labeled on the outside of the envelope and brought to the interview. **Only those Firms that are invited to interview will be required to complete the Fee Proposal (Attachment 2).**

Provide a lump sum fee to provide preconstruction services, the lease-leaseback fee, and a monthly general conditions fee on Attachment 2. The proposed fees should include all direct labor costs, fringe benefits, insurance, overhead, profit, and all other expenses the Contractor will incur in providing the preconstruction services and the lease-leaseback construction services.

IX. PREPARATION AND SUBMITTAL OF THE PROPOSAL

A. Proposal Submittal and Deadline

One original, 5 hard copies and a digital copy (on a thumb drive) of the proposal must be submitted under sealed cover by no later than **4:00 p.m. on June 7, 2017**. Label the outside of the sealed proposal envelope or box with your company name, proposal title and RFP deadline.

Proposals shall be delivered to the attention of:

Christine Fullerton
Assistant Superintendent of Business Services
Fountain Valley School District
10055 Slater Avenue
Fountain Valley, CA 92708

It is the sole responsibility of the Firm submitting the proposal to ensure that its proposal is actually received in the office prior to the deadline time and due date. Unless this RFP is extended by a written amendment, proposals received after the time on the due date will not be considered. Faxed or emailed proposals will not be accepted.

B. Proposal Completeness

Proposals shall be completed in all respects as required by the instructions herein. A proposal may be rejected if it is conditional or incomplete, or if it contains alterations of form or other irregularities of any kind. A proposal will be rejected if, in the opinion of the District, the information contained therein was intended to mislead the District in the evaluation of the proposal.

C. District Not Responsible For Preparation Costs

All costs incurred in the preparation, submission and/or presentation of Firms responding to the RFP, including but not limited to the Firm's travel expenses to attend any pre- conferences, oral presentations, long distance charges, and negotiation sessions, shall be the sole responsibility of the Firm and will not be reimbursed by the District.

The District shall not pay for any costs incurred for proposal or contract preparation as a result of termination of this RFP or termination of the contract resulting from this RFP.

D. Right to Use Ideas

All proposals and other materials submitted become the property of the District. District reserves the right to use any ideas presented in any response to the RFP. Selection or rejection of the proposal shall not affect this right.

E. Modification or Withdrawal Of Proposal

A Firm may modify or withdraw a proposal after submission by written request of withdrawal and re-submission, provided that the proposal withdrawal is prior to the due date deadline specified.

F. Amendments

Firms are advised that the District reserves the right to amend this RFP at any time. Amendments will be done formally by providing written amendments to all potential Firms known to have received a copy of the RFP and/or by publishing the amendment on the District's website.

G. Equal Opportunity

The Firm shall certify that it is an Equal Opportunity Employer and has made a good faith effort to improve minority employment and agrees to meet federal and state guidelines. Legal residents of the United States of America shall be used in providing all services under this RFP.

Firm shall not discriminate nor permit discrimination against any person because of race, color, religion, age, national origin, ancestry, creed, handicap, sexual orientation, or union membership in the performance of the work, including but not limited to preparation, manufacturing, fabrication, installation, erection and delivery of all supplies and equipment. In the event of receipt of such evidence of such discrimination by the Firm or its agents, employees or representatives, District shall have the right to rescind and terminate the Contract.

The successful Firm agrees to include the paragraph above with appropriate adjustments in all subcontracts, which are entered into for work to be performed pursuant to the Contract.

H. Waiver or Breach Thereof

No term or provision of this RFP shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by an individual authorized to so waive or consent. Any consent by either party to, or waiver of, a breach by the other, whether express or implied, shall not constitute a consent to, waiver of, or excuse for, any other breach or subsequent breach, except as may be expressly provided in the waiver or consent.

I. Covenant Against Gratuities

The Firm warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Firm or any agent or representative of the Firm, to any officer or employee or consultant of the District with a view toward securing the resultant contract or securing favorable treatment with respect to any determinations concerning the award of the contract. For breach or violation of this provision, the District shall have the right to terminate any negotiation or the resultant contract, either in whole or in part, and any loss or damage sustained by the District in procuring on the open market any items which the Firm agreed to supply shall be borne and paid for by the Firm. The rights and remedies of the District provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law.

J. Indemnification and Insurance

The Firm, at its own expense and without exception, shall indemnify, defend and pay all damages, costs, expenses, including attorney fees, and otherwise hold harmless the District, its employees and representatives, from any liability of any nature or kind in regard to the delivery of these services. (See, Construction Services Agreement Section 35.4 for insurance requirements and Section 36 for hold harmless and indemnify requirements.)

K. Conflict of Interest

The Firm is in agreement that it presently has no interest and will not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the services hereunder. The Firm further agrees that no person having any such known interest or conveyed an interest shall be employed, directly or indirectly, in the delivery of services under this RFP.

L. Independent Contractor

The Firm represents itself as an independent contractor offering such services to the general public and shall not represent him/herself or his/her employees to be an employee of the District. Therefore, the Firm shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, and other expenses.

M. Precedence of Documents

The contract between the District and the successful Firm(s) shall consist of (1) this Request for Proposals (RFP) and any amendments thereto, (2) the Agreement included herein to be executed with the successful Firm(s); and (3) the proposal submitted by the Firm to the District in response to the RFP. In the event of a conflict in language between the documents referenced above, the provisions and requirements set forth and/or referenced in the Agreement shall govern. However, the District reserves the right to clarify any contractual relationship in writing with the concurrence of the Firm, and such written clarification shall govern in case of conflict with the applicable requirements stated in the RFP or the Firm's proposal. In all other matters not affected by the written clarification, if any, the RFP shall govern.

N. Compliance with Laws

In connection with the furnishing of services or performance of work under this RFP, the Firm agrees to comply with the Fair Labor Standards Act, Equal Opportunity Employment Act, and all other applicable federal and state laws, regulations and executive orders to the extent that the same may be applicable.

X. PROPOSAL EVALUATION AND BEST VALUE SCORE

A. Proposal Evaluation Committee

The District's Proposal Evaluation Committee will consist of at least three (3) members and will score each proposal based on the evaluation categories and points set forth in the RFP (See, Section X.B.). Each Firm's proposal will be evaluated and scored only on the information that is included in the Firm's proposal. If any information is missing or incomplete in your proposal, you will not be provided the opportunity to supply the missing or incomplete information, nor will the District seek clarification of any information included in the proposals. Each proposal must be capable of being evaluated independently based solely on the information contained in the proposal.

B. Evaluation Categories, Points, and Scoring

Each member on the Proposal Evaluation Committee will independently score each proposal and each Firm's final score will be equal to the average score from the Evaluation Committee (i.e., the total number of points from the Evaluation Committee divided by the number of Evaluation Committee members: final score = sum total of points/number of committee members). The final score will be calculated to two decimal places.

The RFP contains eight (8) Evaluation Categories, as discussed in Section VIII.C., and the maximum number of points for each category is shown in the table below. There are 1000 possible points.

EVALUATION CATEGORY	POINTS
Mandatory Requirements	Pass/Fail
Firm Personnel, Capacity, and Methodology	300
Relevant Experience and Past Performance	350
Preconstruction Services	50
Labor Compliance/Skilled and Trained Workforce	150
Safety	50
Local Business Outreach and Participation	50
Exceptions to Preconstruction/LLB Agreements	50
MAXIMUM TOTAL SCORE	1000

C. Short List Interviews

After each Firm's final score is calculated, the Proposal Evaluation Committee, based on the final scores, will determine the short list of Firms that will be invited to interview with the Proposal Evaluation Committee. The interview will consist of a short presentation (15 minutes) followed by a question and answer period (30 minutes). After the interview, the Proposal Evaluation Committee will re-evaluate the scores for the

Firms invited to interview and make adjustments to the scores, if any, based on the information presented at the interviews. The re-evaluated final scores will be used to calculate the Best Value Scores in Section X.D. A Best Value Score will not be calculated for those Firms not invited to interview with the Proposal Evaluation Committee.

Firms invited to interview with the Proposal Evaluation Committee will be required to bring their fee proposal (Attachment 2) in a sealed envelope to the interview. The fee proposals will remain sealed until after the final scores are re-evaluated and finalized based on the interviews.

D. Fee Proposal and Best Value Score

The fee proposal (Attachment 2) will be used to calculate the Best Value Score. The Best Value Score will be determined by dividing the Firm's re-evaluated final score by the fee price to calculate a dollar per point score (Best Value Score = Total Fee Proposal/Final Score). **The Firm with the lowest dollar per point score will be the Best Value Score.**

The following example, for illustration purposes only, demonstrates the calculation of the final score and the Best Value Score.

Example Scoring and Best Value Scoring for Illustration Purpose Only –

FIRM #1

EVALUATION CATEGORY	Max.	#1	#2	#3	Ave.
Mandatory Requirements	P/F	P	P	P	P
Firm Personnel, Capacity, and Methodology	300	245	250	275	256.67
Relevant Experience and Past Performance	350	290	305	295	296.67
Preconstruction Services	50	50	50	50	50
Labor Compliance/Skilled and Trained Workforce	150	100	110	80	96.67
Safety	50	50	50	50	50
Local Business Outreach and Participation	50	25	45	40	36.67
Exceptions to Preconstruction/LLB Agreements	50	50	50	50	50
SCORE	1000	810	860	840	836.68

Example Fee Proposal – (assumes \$20,000,000 construction budget and an 18-month schedule)

Preconstruction Services - \$25,000

Lease-Leaseback Fee (overhead and profit) – 10% x \$20,000,000 = \$2,000,000

General Conditions (\$15,000/month x 18 months) – \$270,000

Total Fee = \$2,295,000

Firm 1 – Best Value Score – \$2,295,000/836.68 points = \$2,742.98/point

FIRM #2

EVALUATION CATEGORY	Max.	#1	#2	#3	Ave.
Mandatory Requirements	P/F	P	P	P	P
Firm Personnel, Capacity, and Methodology	300	240	245	225	236.67
Relevant Experience and Past Performance	350	285	295	285	288.33
Preconstruction Services	50	50	50	50	50
Labor Compliance/Skilled and Trained Workforce	150	100	90	125	105
Safety	50	50	50	50	50
Local Business Outreach and Participation	50	25	45	40	36.67
Exceptions to Preconstruction/LLB Agreements	50	50	50	50	50
SCORE	1000	800	825	825	816.67

Example Fee Proposal – (assumes \$20,000,000 construction budget and an 18 month schedule)

Preconstruction Services - \$40,000

Lease-Leaseback Fee (overhead and profit) – $12\% \times \$20,000,000 = \$2,400,000$

General Conditions (\$12,500/month x 18 months) – \$225,000

Total Fee = \$2,665,000

Firm 2 – Best Value Score – \$2,665,000/816.67 points = \$3,263.25/point

Based on this example, Firm 1 would be selected because Firm 1 has the lowest Best Value Score.

XI. GENERAL TERMS AND CONDITIONS

District Obligation

Receipt of proposals and responses to this RFP does not obligate the District in any way. The District reserves the right to accept or reject any or all proposals, and to waive any irregularities or informalities in any proposal or in the RFP process.

Award of Contract

This RFP implies no obligation to award contracts to any Firm. If it is in the best interest of the District, the District retains the sole and absolute right to select the Firm that best meets the District requirements. The award is subject to acceptance by the Governing Board of the Fountain Valley School District. The District also reserves the right to reject any or all proposals.

Approval to Start Work

The successful Firm may perform work once a Lease-Leaseback Agreement (Site Lease, Sublease, and Construction Services Agreement) has been fully executed and approved by both parties and all appropriate documentation has been received and approved by the District, and a purchase order has been issued. The District shall not

be responsible for work done, even in good faith, prior to approval of the agreement and purchase order issuance by the District.

Ownership of Documents

All proposals and materials submitted in response to this RFP shall become the property of the District and shall be considered a part of Public Records, unless exempted by law. In addition, all designs, drawings, specifications, notes and other work developed in the performance of any services resulting from this RFP shall be the sole property of District and may be used by District for any purposes without additional compensation to the selected Firms. Selected Firms agree not to assert any rights or to establish any claim under the design patent or copyright laws.

Joint Ventures

Where two or more Firms desire to submit a single response to this RFP, they should do so on a prime-subcontractor basis rather than as a joint venture or informal team. The District intends to contract with a single Firm and not with multiple Firms doing business as a joint venture.

Fingerprinting

Per the provisions of Education Code section 45125.1, the District has a zero tolerance policy for all Firms having any contacts with students without clearance from the State Department of Justice. All assigned personnel shall comply with the fingerprinting clearance law prior to providing services at the school sites.

ATTACHMENT 1 – FIRM QUESTIONNAIRE

The Respondent shall furnish all the following information accurately and completely for the Respondent and each of the proposed staff. Failure to comply with this requirement may cause rejection of the respondent's qualifications. Additional sheets may be attached if necessary. "You" or "your" as used herein refers to the respondent and/or any of its owners, officers, directors, shareholders, parties or principals.

If the same information is provided elsewhere in your qualification and qualification materials, then please clearly identify such in the following questions.

Please be advised that the District may request verbal or written clarifications, additional information, an interview or presentation at any time regarding this questionnaire.

SECTION A - GENERAL INFORMATION

- (1) Respondent name, address and contact information:

- (2) Telephone:_____ Facsimile:_____

Email and Internet Addresses:_____

- (3) Type of respondent: (check one)

Individual _____ Partnership _____ Corporation _____

- (4) Names and titles of all principals/officers of the respondent:

Name	Title	Phone Number
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(5) Please list any applicable certifications and licenses and their associated numbers:

(6) Have you or any of your principals ever conducted similar services under a different name or certification or different license number? _____.

(a) If yes, give other name, address and certification or license number.

Name _____

Address _____

License No. (if any) _____

(7) How many years has respondent been in business under its present business name?

(8) How many years of experience does respondent have providing similar services?

(9) For how many public agencies has respondent provided similar services?

(10) Please list the public agencies, including any school districts that respondent has provided similar services for:

(11) Please attach a short history of the respondent including whether it is local, national, or international as well as approximate number of employees. Also provide the number of offices and locations.

(12) Identify preconstruction and lease-leaseback construction services performed for other school districts in accordance with parameters described above.

- (13) Describe how respondent has successfully provided preconstruction and lease-leaseback construction services such as those described herein.
- (14) Describe the unique or innovative preconstruction and lease-leaseback construction services utilized on previous projects.

SECTION B – LEGAL

- (15) Have you or any of your principals been in litigation or arbitration of any kind on a question or questions relating to similar services involving a school or community college district during the prior five (5) years? _____.

(a) If yes, provide the name of the public agency and briefly detail the dispute:

- (16) Have you ever had a service agreement terminated for convenience or cause in the prior five (5) years? _____.

(a) If yes, provide details including the name of the other party:

- (17) Is respondent, owners, and/or any principal or manager involved in or is respondent aware of any pending litigation regarding professional misconduct, bad faith, discrimination, or sexual harassment? _____.

(a) If yes, provide details:

- (18) Is respondent, owners, and/or any principals or manager involved in or aware of any pending disciplinary action and/or investigation conducted by any local, state or federal agency? _____.

- (a) If yes, provide details:

- (20) Will respondent comply with all District, local, state and federal legal requirements, regulations and laws? _____.

SECTION C – ADDITIONAL INFORMATION

- (21) Please provide any other information that may assist the District in ascertaining your qualifications, capability and customer service under any resultant agreement.

SECTION D – CONFLICT OF INTEREST

- (22) Have you ever had any direct or indirect business, financial or other connection with any official, employee or consultant of the District? Identify any conflict of interest in (a):

- (a) Please elaborate and discuss any potential, apparent or actual conflict of interest:

SECTION E. Exceptions to Agreement Forms

The Firm is required to list any exceptions to terms in the Agreement Forms below.

I certify and declare under penalty of perjury under the laws of the State of California that the information provided in the foregoing Firm Questionnaire is true and correct.

Executed this ____ day of _____, 20__, at _____,
State of _____

Company Name

Signature

Title

Print Name

ATTACHMENT 2 – FEE PROPOSAL

DO NOT SUBMIT THIS FORM WITH THE PROPOSAL. ATTACHMENT 2 MUST BE BROUGHT TO THE INTERVIEW IN A SEALED ENVELOPE. The fee proposal, "Attachment 2", must be submitted in a separate, sealed envelope with your company name, proposal title, "Fee Proposal, Attachment 2", labeled on the outside of the envelope and brought to the interview. Only those Firms that are invited to interview will be required to complete the Fee Proposal (Attachment 2).

The Firm proposes the following fees:

1. The preconstruction fee should be expressed as a lump sum Firm-Fixed Price based on the construction budget, schedule, and description in Section II of the RFP.

Preconstruction Fee: [LUMP SUM] \$ _____

2. The Lease-Leaseback Fee shall include the Firm's overhead and profit and should be expressed as a percentage. For purposes of evaluating the fee proposals, the lease-leaseback fee percentage will be multiplied by the construction budget.

Lease-Leaseback Fee: [PERCENTAGE] _____%

3. The general conditions should be expressed as a lump sum based on the construction budget, schedule, and description in Section II of the RFP.

General Conditions: [MONTHLY RATE] \$ _____/month

4. Total Fee Proposal:

For purposes of scoring the fee proposals, the monthly fees will be multiplied by 12 months to calculate the total fee for evaluation purposes and the total fee will be used to calculate the Best Value Score. The actual Lease-leaseback Fee and General Conditions price for the Firm awarded the contract will be based on the final construction budget and term of the lease-leaseback contract.

1. Preconstruction Fee: = \$_____

2. Lease-leaseback Fee: ____ % x [construction budget] = _____

3. General Conditions: \$_____/month x [no. of months] = _____

TOTAL PROPOSED FEE: [1+2+3] State the total proposed fee in both numbers and words:

\$_____

Executed this ____ day of _____, 20__

Company Name

Signature

Title

Print Name

ATTACHMENT 3 — DESIGNATION OF SUBCONTRACTORS FORM

Description & Portion of Work	Name of Subcontractor	Location & Place of Business	License Type and Number	E-Mail & Telephone*	DIR Registration Number*

Description & Portion of Work	Name of Subcontractor	Location & Place of Business	License Type and Number	<i>E-Mail & Telephone*</i>	<i>DIR Registration Number*</i>

* This information must be provided with the proposals. Once submitted, Firms may not revise or amend any other information in this form submitted at the time of proposal are submitted. See Section VII of the RFP for information regarding the procurement of subcontractors not designated in the proposals.

Proper Name of Firm: _____

Date: _____

Name: _____

Signature of Firm
Representative: _____

Address: _____

Phone: _____

ATTACHMENT 4 – AGREEMENT FORMS

_____ **PROJECT**
SITE LEASE

Between
FOUNTAIN VALLEY SCHOOL DISTRICT
and

Dated as of _____

PROJECT

SITE LEASE

This SITE LEASE is dated as of _____ and is by and between the Fountain Valley School District, a school district duly organized and existing under the laws of the State of California (the “District”) as lessor and _____, a California corporation operating under the laws of the State of California (the “Lessee”).

WHEREAS, the District desires to provide for the construction of certain public improvements at the _____ School site (the “Project”); and

WHEREAS, the District’s governing board has determined that it is in the best interests of the District and for the common benefit of the citizens it serves to construct the Project by leasing to the Lessee land and existing buildings at the _____ School site at which the public improvements are to be constructed, as more specifically described in Exhibit “A,” (the “Site”), and subleasing from the Lessee the Site and the Project under a Sublease Agreement (the “Sublease”) attached hereto as Exhibit “B” and by this reference incorporated herein; and

WHEREAS, the Lessee has conducted Due Diligence of the Site and the Project to determine the suitability of the site, site conditions, utilities, hazardous substances, and other conditions for the construction of the Project (more fully detailed at **Article 5** of the Construction Services Agreement); and

WHEREAS, the District is authorized under Section 17406 of the California Education Code to lease the Site and its governing body has duly authorized the execution of this Site Lease; and

WHEREAS, pursuant to this Site Lease, the District and Lessee have agreed to the terms of the Sublease, which is incorporated and attached hereto as Exhibit “B,” by which the District will sublease the Site and retain beneficial use and occupancy of the Site during which term, improvements will be constructed by Lessee. As the constructed improvements are completed, the District shall receive full beneficial use and occupancy of the constructed improvements upon payment for such improvements by the District to the Lessee. As part of this Site Lease, the District and the Lessee have agreed to terms by which the Lessee will perform construction improvements on the Site during the term of the Sublease according to the terms of the Construction Services Agreement (“CSA”), which is incorporated and attached to the Site Lease as Exhibit “C,” to ensure that the improvements will meet the District’s expectations and comply with applicable law.

NOW THEREFORE, in consideration of the covenants hereinafter set forth, District and Lessee agree as follows:

1. **DEFINITIONS.** Unless the context otherwise requires, the terms defined in this Article shall, for all purposes of this lease, have the meanings as herein specified.
 - A. **“Commencement Date”** shall mean the Project commencement date found in the Notice to Proceed for the Project in accordance with the Construction Services Agreement.
 - B. **“Construction Services Agreement” (CSA)** means the Construction Services Agreement, together with any duly authorized and executed amendments hereto.
 - C. **“Construction Documents”** consist of the Plans and Specifications approved by DSA under Application Number _____, File Number _____, Allowances stipulated in the Contract Documents, and all Addendas, if any, issued prior to the entry into this Agreement. The Construction Documents shall include all Modifications generated after the Effective Date in accordance with the Contract Documents, including,

without limitation, a written amendment to the Contract signed by the Contractor and duly executed and approved by the District, a Change Order, a Construction Change Document, or a written order for a minor change in the Work issued by the Architect.

- D. **“Contract Documents”** means those documents which form the entire Contract by and between District and Contractor. As of the effective date of the Lease and Sublease, the Contract Documents consist of the Lease, the Sublease, any General, Supplementary and other Conditions, the Construction Services Agreement, including all exhibits and attachments hereto, and the Construction Documents. The Contract Documents collectively form the Contract. The Contract represents the entire and integrated Agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a written Modification. The Contract Documents shall be binding solely upon the District and Contractor, do not create a contractual relationship of any kind between the Architect and Contractor, between the District and any Subcontractor or Sub-subcontractor, or between any persons or entities other than the District and the Contractor, and are not intended to and do not create any third party beneficiary. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect’s duties. (See **Article 14** of the CSA).
- E. **“Day”** means a calendar day unless specifically designated as a business day.
- F. **“District”** means the Fountain Valley School District, a school district duly organized and existing under the laws of the State of California.
- G. **“Effective Date”** is the latter of the date upon which the District Board approves the Site Lease and the Sublease and Contractor has executed the Site Lease and Sublease.
- H. **“Lessee”** shall mean _____, and its successors and assigns.
- I. **“Project”** means the improvements and related work to be constructed and installed by the Contractor, as part of this Site Lease and in accordance with the Construction Services Agreement attached hereto as Exhibit “C”.
- J. **“Site”** refers to the grounds of the Project or in some cases may refer to multiple sites as defined in the Contract Documents and such adjacent lands as may be directly affected by the performance of the Work, more particularly described in Exhibit “A” attached hereto.
- K. **“Site Lease” or “Lease”** means this Site Lease together with any duly authorized and executed amendment hereto under which the District leases the Site to the Lessee.
- L. **“Sublease”** means the Sublease attached hereto and incorporated as Exhibit “B”, together with any duly authorized and executed amendment thereto.
- M. **“Sublease Payment”** means any payment required to be made by the District pursuant to Article 7 of the Sublease.
- N. **“Term of this Lease” or “Term”** means the time during which this Lease is in effect, as provided for in Article 3 of this Site Lease.

2. **SITE LEASE.**

The District leases to the Lessee, and the Lessee leases from the District, on the terms and conditions set forth herein, the Site situated in the City of Fountain Valley, County of Orange, State of California, more specifically described in Exhibit "A" attached hereto, including any improvements now or hereafter affixed thereto.

3. **TERM.**

The Term of this Site Lease shall become effective upon the authorized execution of this Site Lease and upon completion of Lessee's Due Diligence with regard to the Site and issuance of a Notice to Proceed. The Term of this Site Lease shall terminate as of the last day of the Sublease, unless sooner terminated as provided thereby. If on the scheduled date of termination of this Site Lease, Sublease Payments shall have therefore been abated at any time and for any reason, then the term of this Site Lease shall be subject to a Liquidated Damages cost as set forth in **Article 3.7** of the Construction Services Agreement and the Site Lease shall be extended until the date upon which all such Sublease Payments shall be fully paid. Without limiting any other term or provision of the Sublease Agreement or Construction Services Agreement between the parties, at the termination of this Site Lease, natural or otherwise, title to the Site, and any improvements constructed thereon by the Lessee, shall vest in the District in accordance with Education Code section 17406.

4. **REPRESENTATIONS, COVENANTS, AND WARRANTIES OF THE DISTRICT.**

The District represents, covenants and warrants to the Lessee that:

- A. The District has good and merchantable fee title to the Site and has authority to enter into and perform its obligations under this Site Lease;
- B. There are no liens on the Site other than Permitted Encumbrances;
- C. All taxes, assessments or impositions of any kind with respect to the Site, if applicable, except current taxes, have been paid in full;
- D. The Site is properly zoned (or subject to an exception from zoning) for the intended purpose and utilization of the Site ;
- E. The District is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to the Site;
- F. Except for Validation Actions concerning the Project, there is no litigation of any kind currently pending or threatened regarding the Site or the District's use of the Site for the purposes contemplated by this Site Lease;
- G. To the best of the District's knowledge, except for that which shall be disclosed by the District prior to the Project commencement date in the Notice to Proceed:
 - (1) no dangerous, toxic or hazardous pollutants, contaminants, chemicals, waste, materials or substances, as defined in or governed by the provisions of any State or Federal Law relating thereto (hereinafter collectively called "Environmental Regulations", and also including, but not limited to, urea-formaldehyde, polychlorinated biphenyls, asbestos, asbestos containing materials, nuclear fuel or waste, radioactive materials, explosives, carcinogens and petroleum products, or any other waste, material, substance, pollutant or contaminant which would subject the

owner of the Site or the Lessee or the Lessee's subcontractors to any damages, penalties or liabilities under any applicable Environmental Regulation (hereinafter collectively called "Hazardous Substances", are now or have been stored, located, generated, produced, processed, treated, transported, incorporated, discharged, emitted, released, deposited or disposed of in, upon, under, over or from the Site;

- (2) no threat exists of a discharge, release or emission of a Hazardous Substance upon or from the Site into the environment;
- (3) the Site has not been used as or for a mine, a landfill, a dump or other disposal facility, industrial or manufacturing facility, or a gasoline service station;
- (4) no underground storage tank is now located in the Site or has previously been located therein;
- (5) no violation of any Environmental Regulation now exists relating to the Site, no notice of any such violation or any alleged violation thereof has been issued or given by any governmental entity or agency, and there is not now any investigation or report involving the Site by any governmental entity or agency which in any way relates to Hazardous Substances;
- (6) no person, party or private or governmental agency or entity has given any notice of or asserted any claim, cause of action, penalty, cost or demand for payment or compensation, whether or not involving any injury or threatened injury to human health, the environment or natural resources, resulting or allegedly resulting from any activity or event described in (1) above;
- (7) there are not now any actions, suits, proceedings or damage settlements relating in any way to Hazardous Substances, in, upon, under over or from the Site;
- (8) the Site is not listed in the United States Environmental Protection Agency's National Priorities List of Hazardous Waste Sites or any other list of Hazardous Substance sites maintained by any federal, state or local governmental agency; and
- (9) the Site is not subject to any lien or claim for lien or threat of a lien in favor of any governmental entity or agency as a result of any release or threatened release-of any Hazardous Substance.

H. To the extent permitted by law, the District shall not abandon the Site for the use for which it is currently required by the District and further, shall not seek to substitute or acquire property to be used as a substitute for the uses for which the Site and Project are to be maintained under the Site Lease.

I. The term "Permitted Encumbrances" as used herein shall mean, as of any particular time:

- (1) liens for general ad valorem taxes and assessments, if any, not then delinquent;
- (2) this Site Lease; the Sublease; any right or claim of any mechanic, laborer, materialman, supplier, or vendor, if applicable, not filed or perfected in the manner prescribed by law; easements, rights of way, mineral rights, drilling rights, and other rights, reservations, covenants, conditions, or restrictions which exist of record as of the date of this Site Lease and which will not materially impair the use of the Site;

- (3) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions, or restrictions established following the date of recordation of this Site Lease and to which the Lessee and the District consent in writing which will not impair or impede the operation of the Site.

5. **REPRESENTATIONS AND WARRANTIES OF THE LESSEE.** The Lessee represents and warrants to the District that:

- A. The Lessee is duly organized in the State of California, and in good standing under the laws of the State of California, with full corporate power and authority to lease and own real and personal property;
- B. The Lessee has full power, authority and legal right to enter into and perform its obligations under this Site Lease, and the execution, delivery and performance of this Site Lease has been duly authorized by all necessary corporate actions on the part of the Lessee and does not require any further approvals or consents;
- C. Execution, delivery and performance of this Site Lease does not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which the Lessee is a party or by which it or its property is bound;
- D. There is no pending or, to the best knowledge of the Lessee, threatened action or proceeding before any court or administrative agency which will materially adversely affect the ability of the Lessee to perform its obligations under this Site Lease; and

6. **RENTAL.**

The Lessee shall pay to the District as and for advance rental hereunder \$1.00 per year or part thereof, or the aggregate sum of [\$1.00 x number of years of lease], on or before the date of commencement of the Term of this Site Lease. The Lessee shall have no obligation to make rental payments hereunder in the event the Commencement Date of this Site Lease does not occur as a result of the District's inability to issue a Notice to Proceed for the Project pursuant to the provisions of the Construction Services Agreement.

7. **PURPOSE.**

The Lessee shall use the Site solely for the purpose of constructing the Project thereon and for subleasing the Site and the Project to the District; provided, that upon the occurrence of an Event of Default by the District under the Sublease, the Lessee may exercise the remedies provided for in the Construction Services Agreement or the Sublease.

8. **TERMINATION.** The Lessee agrees, upon termination of this Site Lease or the end of the Term of this Site Lease:

- A. To quit and surrender the Site in the same good order and condition as it was in at the time of commencement of the Term hereunder, reasonable wear and tear excepted;
- B. To release and reconvey to the District any liens and encumbrances created or caused by the Lessee; and
- C. That any permanent improvements and structures existing upon the Site at the time of the termination of this Site Lease shall remain thereon and title thereto shall vest in the District.

Notwithstanding the District's foregoing rights in the event of termination, the Lessee shall retain the right to full compensation for all services rendered prior to the termination, including all rights they have under the Construction Services Agreement and the Sublease as well as all recourse provided by California law including common law, for the value of the work performed on the Site and/or the Project.

In the event the Construction Services Agreement is terminated pursuant to the provisions therein, this Site Lease shall immediately terminate.

9. **QUIET ENJOYMENT.**

Subject to the terms of the Sublease attached hereto as Exhibit "B", the District covenants and agrees that it will not take any action to prevent the Lessee's quiet enjoyment of the Site during the Term hereof; and, that in the event District's fee title to the Site is ever challenged so as to interfere with the Lessee's right to occupy, use and enjoy the Site, the District will use all governmental powers at its disposal, including the power of eminent domain, to obtain unencumbered fee title to the Site and to defend the Lessee's right to occupy, use, and enjoy the Site. The District, however, retains the right, throughout the Site Lease Term, to use the Site for District purposes, pursuant to the terms of the Sublease.

10. **NO LIENS.**

The District shall not mortgage, sell, assign, transfer or convey the Site or any part thereof to any person during the Term of this Site Lease, without the written consent of the Lessee. Nothing herein shall preclude the District from granting utility easements across the Site to facilitate the use and operation of the Project for which it is intended.

11. **RIGHT OF ENTRY.**

The District reserves the right for any of its duly authorized representatives to use the Project during the Term of this Site Lease or Sublease and enter upon the Site at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof, but in doing so shall not interfere with the Lessee's operations on the Project.

12. **ASSIGNMENT AND SUBLEASING.**

The Lessee will not assign or otherwise dispose of or encumber the Site or this Site Lease without the written consent of the District.

13. **NO WASTE.**

The Lessee agrees that at all times that it is in possession of the Site it will not commit suffer or permit any waste on the Site, and it will not willfully or knowingly use or permit the use of the Site for any illegal act or purpose.

14. **DEFAULT.**

In the event the Lessee shall be in default in the performance of any obligation on its part to be performed under the terms of the Construction Services Agreement and this Site Lease, which default continues for thirty (30) days following notice and demand for correction thereof to the Lessee, the District may exercise any and all remedies granted by law, except

that no merger of this Site Lease and of the Sublease shall be deemed to occur as a result thereof.

15. **TITLE.**

During the Term of this Site Lease, the District shall hold title to the Site and obtain title to the Project from the Lessee, including any and all additions which comprise improvements, fixtures, repairs, replacements or modifications, as such improvements are built and paid for pursuant to the Construction Services Agreement with full title vesting in the District to all improvements upon the end of the Term of this Site Lease.

16. **TAXES.**

The terms of this Site Lease may result in the creation of a possessory interest. If such a possessory interest is vested in a private party to this document, the private party may be subjected to the payment of personal property taxes levied on such interest. Pursuant to Section 107.6 of the California Revenue and Taxation Code, District hereby notifies Lessee that: (i) the property interest obtained by Lessee pursuant to the Site Lease may be subject to property taxation; and (ii) Lessee may be subject to the payment of property taxes levied on the property interest obtained by Lessee.

17. **EMINENT DOMAIN.**

In the event the whole or any part of the Site or the improvements thereon, including but not limited to the Project, is taken by eminent domain, the financial interest of the Lessee shall be recognized and is hereby determined to be the amount of all Sublease Payments and Retention Payment, as applicable, then due or past due, less any allowed withholdings or offsets, and unearned interest as of the date the Lessee receives payment in full. The balance of the award in such eminent domain action, if any, shall be paid to the District.

18. **LIQUIDATED DAMAGES.**

Pursuant to Lessee's Due Diligence, as further described in **Article 5** of the Construction Services Agreement, Lessee has determined the Term of this Site Lease which shall extend at least until the Punch List is completed under **Article 13** of the Construction Services Agreement. Pursuant to the Construction Services Agreement, Liquidated Damages shall apply if the Contract Time is exceeded.

19. **PARTIAL INVALIDITY.**

If any one or more of the terms, covenants or conditions of this Site Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site Lease shall be affected thereby, and each provision of this Site Lease shall be valid and enforceable to the fullest extent permitted by law.

20. **NOTICES.**

Any notices or filings required to be given or made under this Site Lease shall be served, given or made in writing upon the District or the Lessee, as the case may be, by personal delivery or registered mail to the respective addresses given below. Any change in the addresses noted shall not be binding upon the other party unless preceded by no less than

thirty (30) days prior written notice. Any such notices shall be deemed to have been received by the addressee if delivered to the person for whom they are intended or if sent by registered mail, return receipt requested, or by email, or fax followed by regular mail, addressed as follows:

If to Lessee:

Attn: _____
Email: _____

If to District:

FOUNTAIN VALLEY SCHOOL DISTRICT
10055 Slater Avenue
Fountain Valley, CA 92708
Attn: _____
Email: _____

21. **BINDING EFFECT.**

This Site Lease shall inure to the benefit of and shall be binding upon the District, the Lessee and its respective successors in interest and assigns.

22. **AMENDMENTS AND MODIFICATIONS.**

This Site Lease shall not be effectively amended, changed, modified, altered or terminated without the written agreement of the District and the Lessee.

23. **EXECUTION IN COUNTERPARTS.**

This Site Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

24. **LAWS, VENUE AND ATTORNEYS' FEES.**

The terms and provisions of this Site Lease shall be construed in accordance with the laws of the State of California. If any action is brought in a court of law to enforce any term of this Site Lease, the action shall be brought in a state court situated in the County of Orange, State of California, unless a court finds jurisdiction or venue is only proper in a federal court, or a court outside this county. In the event of any such litigation between the parties, the parties shall pay for their respective costs incurred, including attorneys' fees.

25. **INTEGRATION/MODIFICATION.**

This Site Lease represents the entire understanding of the District and Lessee as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered herein and shall not be amended, altered, or changed except by a written agreement signed by the parties hereto.

26. **HEADINGS.**

The captions or headings in this Site Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Site Lease.

27. **TIME.**

Time is of the essence in this Site Lease and each and all of its provisions.

IN WITNESS WHEREOF, the parties hereto have executed this Site Lease by their authorized officers as of the day and year first written above.

“DISTRICT”

“LESSEE”

FOUNTAIN VALLEY SCHOOL DISTRICT

BY: _____

BY: _____

EXHIBIT “A”
DESCRIPTION OF SITE

[TO BE INSERTED]

EXHIBIT “B”

SUBLEASE

[TO BE INSERTED]

EXHIBIT “C”
CONSTRUCTION SERVICES AGREEMENT

[TO BE INSERTED]

_____ **PROJECT**

SUBLEASE AGREEMENT

Between

FOUNTAIN VALLEY SCHOOL DISTRICT

and

Dated as of _____

_____**PROJECT**

SUBLEASE AGREEMENT

This SUBLEASE AGREEMENT ("Sublease") is dated as of _____, and is by and between the Fountain Valley School District, a school district duly organized and existing under the laws of the State of California ("District"), and _____, a California corporation and operating under the laws of the State of California ("Lessor" or "Contractor").

RECITALS:

WHEREAS, the District deems it essential for its own governmental purpose, to finance the construction of certain improvements as described in Exhibit "A" attached hereto (the "Project") and situated on the _____ School site described in Exhibit "B" attached hereto (the "Site"); and

WHEREAS, pursuant to Section 17400 *et seq.* of the Education Code, the District may enter into leases and agreements relating to real property and buildings used by the District; and

WHEREAS, pursuant to Section 17406 of the Education Code, the District is leasing the Site to Lessor under a lease agreement dated the date hereof (the "Site Lease") for the purpose of Lessor constructing improvements on the Site during the Term of the Site Lease on the terms and conditions the District finds to be in its best interest and set forth in this Sublease and the Construction Services Agreement attached as Exhibit "C" to the Site Lease; and

WHEREAS, the District owns the Site, and pursuant to the Construction Services Agreement, has prepared and adopted plans and specifications for the completion of improvements, which have been approved pursuant to law as required by Section 17402 of the Education Code; and

WHEREAS, the District and Lessor agree to mutually cooperate now or hereafter, to the extent possible, in order to sustain the intent of this Sublease and the bargain of both parties hereto, and to provide Sublease Payments to be made on the dates and in the amount set forth herein.

WITNESSETH:

In consideration of the mutual covenants hereinafter set forth, the District and Lessor parties hereto agree as follows:

1. **DEFINITIONS.** Unless the context otherwise requires, the terms defined in this Article shall, for all purposes of this Sublease, have the meanings as herein specified.
 - A. **"Commencement Date"** shall mean the Project commencement date found in the Notice to Proceed for the Project in accordance with the Construction Services Agreement.
 - B. **"Construction Costs"** means any and all costs incurred by the Lessor with respect to the construction and equipping, as the case may be, of the Project, whether paid or incurred prior to or after the date hereof, including, without limitation, costs for Site preparation, the removal or demolition of existing structures, the construction of the Project and related facilities and improvements, and all other work in connection therewith, security of the Site and Project, Lessor's overhead and supervision at the Project Site, all costs and expenses including any taxes or insurance premiums paid by the Lessor with respect to the Property, and administrative and other expenses necessary or incident to the Project, excluding Lessor's and Developer's home office overhead and profit. The term "Construction Costs" includes all

Lessor's costs associated with preparing or generating additional copies of any Construction Documents, as defined below, related to or required for the Project, including preparation or generation of additional plans and specifications for Lessor's subcontractors. In no event shall Construction Costs exceed the Guaranteed Maximum Price.

- C. **"Construction Services Agreement"** (CSA) means the Construction Services Agreement attached hereto, together with any duly authorized and executed amendments hereto.
- D. **"Construction Documents"** consist of the Plans and Specifications approved by DSA under Application Number _____, File Number _____, Allowances stipulated in the Contract Documents, and all Addendas, if any, issued prior to the entry into this Agreement. The Construction Documents shall include all Modifications generated after the Effective Date in accordance with the Contract Documents, including, without limitation, a written amendment to the Contract signed by the Contractor and duly executed and approved by the District, a Change Order, a Construction Change Document, or a written order for a minor change in the Work issued by the Architect.
- E. **"Contract Documents"** means those documents which form the entire Contract by and between District and Contractor. As of the effective date of the Lease and Sublease, the Contract Documents consist of the Lease, the Sublease, any General, Supplementary and other Conditions, the Construction Services Agreement, including all exhibits and attachments hereto, and the Construction Documents. The Contract Documents collectively form the Contract. The Contract represents the entire and integrated Agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a written Modification. The Contract Documents shall be binding solely upon the District and Contractor, do not create a contractual relationship of any kind between the Architect and Contractor, between the District and any Subcontractor or Sub-subcontractor, or between any persons or entities other than the District and the Contractor, and are not intended to and do not create any third party beneficiary. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties. (See **Article 14** of the CSA).
- F. **"Day"** means a calendar day unless specifically designated as a business day.
- G. **"District"** means the Fountain Valley School District, a school district duly organized and existing under the laws of the State of California.
- H. **"Effective Date"** is the latter of the date upon which the District Board approves the Site Lease and the Sublease and Contractor has executed the Site Lease and Sublease.
- I. **"Event of Default"** means one or more events of default as defined in Article 16 of this Sublease.
- J. **"Guaranteed Maximum Price" or "GMP"** means the Guaranteed Maximum Price established pursuant to **Article 5** of the CSA to be paid to Lessor for Lessor's construction of the Project hereunder, subject to any adjustments for Extra Work/Modifications as provided in **Article 17** of the CSA.
- K. **"Lessor"** shall mean _____, and its successors and assigns.
- L. **"Project"** means the improvements and related work to be constructed and installed by the Lessor, as more particularly described and/or referenced in Exhibit "A" attached hereto.

- M. **“Site”** refers to the grounds of the Project or in some cases may refer to multiple sites as defined in the Contract Documents and such adjacent lands as may be directly affected by the performance of the Work, particularly described in Exhibit “B” attached hereto.
- N. **“Site Lease” or “Lease”** means the Site Lease of even date herewith, by and between the District and the Lessor together with any duly authorized and executed amendment thereto under which the District leases the Site to the Lessor.
- O. **“Sublease”** means this Sublease together with any duly authorized and executed amendment hereto.
- P. **“Sublease Payment”** means any payment required to be made by the District pursuant to Article 7 of this Sublease.
- Q. **“Term of this Sublease” or “Term”** means the time during which this Sublease is in effect, as provided for in Article 3 of this Sublease.

2. **SUBLEASE.**

Lessor hereby leases and subleases to District, and District hereby leases and subleases from Lessor the Project and the Site, including any real property improvements now or hereafter affixed thereto in accordance with the provisions herein for the full Term of this Sublease. The leasing by the Lessor to the District of the Site shall not effect or result in a merger of the District’s leasehold estate pursuant to this Sublease and its fee estate as lessor under the Site Lease, and the Lessor shall continue to have and hold a leasehold estate in said Site pursuant to the Site Lease throughout the Term thereof and the Term of this Sublease.

3. **TERM OF THE SUBLEASE.**

- A. The Term of this Sublease shall become effective upon the authorized execution of this Sublease and issuance of a Notice to Proceed under the terms of the CSA and payment of the last Sublease Payment, unless otherwise terminated pursuant to this Sublease, the Site Lease, or the CSA.
- B. Termination of Term. Except as otherwise provided, the Term of this Sublease shall terminate upon the earliest of any of the following events:
 - (1) An Event of Default and the Lessor’s election to terminate this Sublease pursuant to the provisions of Articles 16 and 17, hereof;
 - (2) The arrival of the last day of the Term of this Sublease and payment of all Sublease Payments hereunder; or
 - (3) The exercise of the District’s option under Article 21 hereof.

4. **REPRESENTATIONS, WARRANTIES AND COVENANTS OF DISTRICT.** The District represents and warrants to Lessor that:

- A. District is a public school district, duly organized and existing under the Constitution and laws of the State of California with authority to enter into this Sublease and to perform all of its obligations hereunder;

- B. District's governing body has duly authorized the execution and delivery of this Sublease and further represents and warrants that all requirements have been met and procedures followed to ensure its enforceability;
- C. The execution, delivery and performance of this Sublease does not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which District is a party by which it or its property is bound;
- D. There is no pending or, to the knowledge of District, threatened action or proceeding before any court or administrative agency which will materially adversely affect the ability of District to perform its obligations under this Sublease;
- E. The Project and the Site are essential to District in the performance of its governmental functions and their estimated useful life to the District exceeds the Term of this Sublease;
- F. District shall take such action as may be necessary to include all Sublease Payments in its annual budget and annually to appropriate an amount necessary to make such Sublease Payments;
- G. District shall not abandon the Site for the use for which it is currently required by District and, to the extent permitted by law, District shall not seek to substitute or acquire property to be used as a substitute for the uses for which the site is maintained under the Sublease; and
- H. District shall not allow any Hazardous Substances (as such term is defined in the Site Lease and limited by that which shall be disclosed by the District prior to the Project commencement date in the Notice to Proceed) to be used or stored on, under or about the Site.

5. **REPRESENTATIONS AND WARRANTIES OF LESSOR.** Lessor represents and warrants to District that:

- A. Lessor is duly organized in the State of California, and in good standing as a corporation under the laws of the State of California, with full corporate power and authority to lease and own real and personal property;
- B. Lessor has full power, authority and legal right to enter into and perform its obligations under this Sublease, and the execution, delivery and performance of this Sublease has been duly authorized by all necessary corporate actions on the part of Lessor and does not require any further approvals or consents;
- C. The execution, delivery and performance of this Sublease does not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which Lessor is a party by which they or their property is bound;
- D. There is no pending or, to the knowledge of Lessor, threatened action or proceeding before any court or administrative agency which will materially adversely affect the ability of Lessor to perform their obligations under this Sublease; and
- E. Lessor will not mortgage or encumber the Site or the Sublease or assign this Sublease or their rights to receive Sublease Payments hereunder, except as permitted herein.

6. **APPROPRIATION OF FUNDS.**

- A. In order to ensure that moneys sufficient to pay all costs will be available for this purpose when required, District shall maintain on deposit, and shall annually appropriate funds sufficient to make all Sublease Payments which become due to Lessor under this Sublease Agreement.

7. **SUBLEASE PAYMENTS.**

- A. District shall pay Lessor sublease payments (the "Sublease Payments") for the improvements, use and occupancy of the Project and Site. The obligation of the District to pay Sublease Payments hereunder shall constitute a current expense of the District and shall not in any way be construed to be a debt of the District in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the District, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or moneys of the District. The Sublease Payments, which the parties acknowledge and agree, are good and sufficient consideration for the improvements and the District's use and occupancy of the Project and the Site.
- B. The District shall pay Lessor the portion of the GMP in accordance with the CSA. No Sublease Payment shall be made by the District in an amount that exceeds the aggregate cost approved in accordance with the CSA to the Lessor of the work on the Project completed to the date the Lessor submits an application for payment, less the aggregate amount of all Sublease Payments previously made by the District to the Lessor.
- C. In the event the District elects to exercise its option under Article 21.B below, the District's obligations under this Sublease including, but not limited to, the District's obligations to make Sublease Payments under this Article, shall thereupon cease and terminate.
- D. Except as specifically provided in this Article and in Article 9 hereof or as otherwise provided by law, the obligation of the District to make Sublease Payments when due and payable hereunder will be absolute and unconditional in all events and will not be subject to any set-off, defense, counterclaim, abatement or recoupment for any reason whatsoever.

8. **FAIR RENTAL VALUE.**

Sublease Payments shall be paid by District in consideration of the right of possession of, and the continued quiet use and enjoyment of, the Project and the Site during the Term, as well as payment for any tenant improvements made by the Lessor which title to the tenant improvements shall vest progressively in the District as such tenant improvements are built and paid for pursuant to the Construction Services Agreement. Full ownership of the Project shall occur at the end of the Term of this Sublease and payment of any amounts owed under this Sublease, unless this Sublease, the Site Lease or Construction Services Agreement is terminated in accordance with their respective terms and conditions. The parties hereto have agreed and determined that such total rental is not in excess of the fair rental value of the Project and the Site. In making such determination, consideration has been given to the fair market value of the Project and the Site, that title to the improvements completed and paid for by District as to which the District shall have the right to possess, occupy and use, the uses and purposes which may be served by the Project and the Site and the benefits therefrom which will accrue to the District and the general public, the ability of the District to make additions, and modifications and improvements to the Project and the Site which are not inconsistent with the Construction Services Agreement (Exhibit "C" to Site Lease) and which do not interfere with the Lessor's work on the Project and the Site.

9.

SUBLEASE ABATEMENT.

In addition to delay of Sublease Payments provided in Article 7, above, Sublease Payments due hereunder with respect to the Project and the Site shall be subject to abatement prior to the commencement of the use of the Project and the Site by the District or during any period in which, by reason of material damage to or destruction of the Project or the Site, there is substantial interference with the use and right of possession by the District of the Project and the Site or any substantial portion thereof. For each potential incident of substantial interference, decisions to be made on i) whether or not abatement shall apply; ii) the date upon which abatement shall commence; iii) the applicable portion of Sublease Payments to be abated and; iv) the concluding date of the particular abatement shall all be subject to determinations by the District. The amount of Sublease abatement shall be such that the Sublease Payments paid by the District during the period of Project and Site restoration do not exceed the fair rental value of the usable portions of the Project and Site. In the event of any damage or destruction to the Project or the Site, this Sublease shall continue in full force and effect.

10.

USE OF SITE AND PROJECT.

Subject to reasonable interference from construction operations by the Lessor under the terms of the Construction Services Agreement during the Term of this Sublease, Lessor shall provide the District with quiet use and enjoyment of the Site without suit, or hindrance from Lessor or their assigns, provided District is in compliance with its duties under this Sublease. District will not use, operate or maintain the Site or Project improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Sublease. District shall provide all permits and licenses, if any, necessary for the operation of the Project and Site. In addition, the District agrees to comply in all respects (including, without limitation, with respect to the time, maintenance and operation of the Project and Site) with laws of all jurisdictions in which its operations involving the Project and Site may extend and any legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Site or the Project; provided, however, that District may contest in good faith the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of Lessor, adversely affect the estate of Lessor in and to the Site or the Project or its interest or rights under this Sublease. Lessor acknowledges that at any time during the Term of this Sublease, District may access the Site to conduct District business. Lessor acknowledges and agrees to the District's use or occupation of the Site, so long as such use or occupation does not unreasonably interfere with construction of the Project. Upon substantial completion of the Project or severable portions hereof, the Lessor shall provide the District with quiet use and enjoyment of the Site without suit or hindrance from the Lessor or its assigns, subject to reasonable interference from ongoing construction operations on any remaining portion of the Site under construction by the Lessor. Notwithstanding any provision to the contrary in this Sublease or the Construction Services Agreement, the District shall, concurrent with any occupancy, use or possession of any portion of the Project, furnish property and loss liability insurance to cover any such portion of the Project or Site it occupies, uses or possesses. District shall provide certificates of insurance and additional insured endorsement naming Lessor.

11.

LESSOR'S INSPECTION/ACCESS TO THE SITE.

District agrees that Lessor and any of Lessor's representatives shall have the right at all reasonable times to enter upon the Site or any portion thereof to construct and improve the Project, to examine and inspect the Site or Project, to make repairs or service warranty obligations, and to exercise its remedies pursuant to the section in this Sublease entitled

“Remedies on Default.” District further agrees that Lessor and any of Lessor’s representatives shall have such rights of access to the Site as may be reasonably necessary to cause the proper maintenance of the Site and the Project in the event of failure by District to perform its obligations hereunder.

12. **PROJECT ACCEPTANCE.**

District shall acknowledge final inspection and completion of the Project by executing and recording a Notice of Completion. The validity of this Sublease will not be affected by any delay in or failure of completion of the Project.

13. **ALTERATIONS AND ATTACHMENTS.** All permanent additions and improvements that are made to the Project shall belong to and become the property of Lessor, subject to the provisions of this Sublease. Separately identifiable attachments added to the Project by the District shall remain the property of the District. At Lessor’s request, the District agrees to remove the attachments and restore the Project to substantially as good a condition as when acquired and constructed, normal wear and tear excepted, in the event of failure by the District to perform its obligations hereunder.

14. **MAINTENANCE AND UTILITIES.**

Until the date of beneficial occupancy by the District of the entire Project and Substantial Completion of the Project as defined in the CSA, Lessor shall, in its own name, contract for and pay the expenses of all utility services required for the Project. Upon beneficial occupancy of the entire Project and Substantial Completion of the Project, the District shall, in its own name, contract for and pay the expenses of all utility services including, but not limited to, all air conditioning, heating, electrical, gas, refuse collection, water, and sewer units. The District shall be responsible for all utilities and maintenance of only the portion of the Site occupied solely or beneficially by the District during construction of the Project by Lessor. Once the Project is accepted by the District as finally complete, the District shall have responsibility for maintenance and repair of the entire Project and the Site, except for warranty or other obligations of Lessor relating to the improvements as set forth in the Construction Services Agreement.

15. **TAXES.**

District shall keep the Project and the Site free and clear of all levies, liens, and encumbrances and shall pay all license fees, registration fees, assessments, charges, and taxes (municipal, state, and federal) if applicable, which may now or hereafter be imposed upon the ownership, leasing, renting, sale, possession, or use of the Project and the Site, excluding, however, all taxes on or measured by Lessor’s income.

16. **EVENTS OF DEFAULT.** The term “Event of Default,” as used in this Sublease means the occurrence of any one or more of the following events:

- A. The District fails to make any unexcused Sublease Payment (or any other payment) within fifteen (15) days after the due date thereof or the District fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder and such failure to either make the payment or perform the covenant, condition or agreement is not cured within ten (10) days after written notice thereof by Lessor;

- B. The Lessor discovers that any statement, representation or warranty made by the District in this Sublease, or in any document ever delivered by the District pursuant hereto or in connection herewith is misleading or erroneous in any material respect;
- C. The District becomes insolvent, is unable to pay its debts as they become due, makes an assignment for the benefit of creditors, applies or consents to the appointment of a receiver, trustee, conservator or liquidator of the District or of all or a substantial part of its assets, or a petition for relief is filed by the District under federal bankruptcy, insolvency or similar laws.

17. **REMEDIES ON DEFAULT.** Upon the happening of any Event of Default, Lessor may exercise remedies set forth below; provided, however, that notwithstanding anything herein to the contrary, there shall be no right under any circumstances to accelerate the Sublease Payments or otherwise declare any Sublease Payments not then in default to be immediately due and payable. The District shall continue to remain liable for the payment of Sublease Payments and damages for breach of this Sublease and the performance of all conditions herein such Sublease Payments and damages shall be payable to Lessor at the time and in the manner set forth in subsections (A) and (B) of this Article:

- A. In the event that Lessor does not elect to terminate this Sublease pursuant to subsection (B) below, the District agrees to and shall remain liable for the payment of Sublease Payments and the performance of all conditions herein and shall reimburse Lessor for the full amount of the Sublease Payments to the end of the Sublease Term.
- B. In the event of termination of this Sublease by Lessor at its option and in the manner hereinafter provided on account of default by the District, the District shall pay Lessor Sublease Payments then owing for past Sublease Payments due and not paid, not to exceed the approved costs for all labor, materials and services provided up to the date of Lessor's termination of the Sublease. Neither notice to pay Sublease Payments, nor to deliver up possession of the Project and the Site given pursuant to law, nor any proceeding in unlawful detainer taken by Lessor shall of itself operate to terminate this Sublease. In the event of any litigation between the parties, the parties shall pay for their respective costs incurred, including attorneys' fees.
- C. No right or remedy herein conferred upon or reserved to Lessor is exclusive of any other right or remedy herein, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time; provided, however, that notwithstanding any provisions to the contrary herein, Lessor shall not under any circumstances have the right to accelerate the Sublease Payments that fall due in future Sublease periods or otherwise declare any Sublease Payments not then in default to be immediately due and payable.

18. **NON-WAIVER.**

No covenant or condition to be performed by District or Lessor under this Sublease can be waived except by the written consent of the other party. Forbearance or indulgence by District or Lessor in any regard whatsoever shall not constitute a waiver of the covenant or condition in question. Until complete performance by the District or Lessor of said covenant or condition, the other party shall be entitled to invoke any remedy available to it under this Sublease or by law or in equity despite said forbearance or indulgence.

19.

ASSIGNMENT.

Without the prior written consent of the Lessor, which consent shall not be unreasonably withheld, the District shall not (a) assign, transfer, pledge, or hypothecate this Sublease, the Project and the Site, or any part thereof, or any interest therein, or (b) sublet or lend the use of the Project or any part thereof, except as authorized by the provisions of the California Civic Center Act, Education Code section 38130 *et seq.* However, District may lease, license or otherwise allow use or occupation of the Site for third party use so long as such use or occupation does not unreasonably interfere with construction of the Project. Consent to any of the foregoing prohibited acts applies only in the given instance and is not a consent to any subsequent like act by the District or any other person. The Lessor shall not assign its obligations under this Sublease with the exception of their obligation to issue default notices and to convey or re-convey their interest in the Project and Site to the District upon full satisfaction of the District's obligations hereunder; however, the Lessor may assign their right, title and interest in this Sublease, the Sublease Payments and other amounts due hereunder and the Project in whole or in part to one or more assignees or sub-assignees at any time upon written notice to the District. No assignment shall be effective as against the District unless and until the District is so notified in writing. The District shall pay all Sublease Payments due hereunder pursuant to the direction of Lessor or the assignee named in the most recent assignment or notice of assignment. During the Sublease Term, the District shall keep a complete and accurate record of all such assignments. Subject always to the foregoing, this Sublease inures to the benefit of, and is binding upon, the heirs, legatees, personal representatives, successors, and assigns of the parties hereto.

20.

OWNERSHIP.

During the Term of this Sublease, the District shall hold title to the Site and progressively obtain title to the Project from the Lessor, and any and all additions which comprise fixtures, repairs, replacements or modifications thereof, as Sublease Payments are made to Lessor. During the Term of this Sublease, the Lessor shall have a leasehold interest in the Site pursuant to the Site Lease. If the District prepays the Sublease Payments in full pursuant to Article 21 hereof or otherwise pays all required Sublease Payments, all remaining rights, title and interests of the Lessor, if any, in and to the Project and Site, shall be fully transferred to and vested in the District. Title shall be transferred to and vested in the District hereunder without the necessity for any further instrument of transfer. At the termination of this Sublease, title to the Site, and any improvements constructed thereon shall vest in the District.

21.

SUBLEASE PREPAYMENT/ PURCHASE OPTION.

- A. **Sublease Prepayments.** At any time during the term of this Sublease, the District may in its sole discretion, upon the request of the Lessor or on upon its own initiative, make Sublease Prepayments to the Lessor. No Sublease Prepayments requested by the Lessor may be made by the District in an amount exceeding the aggregate true cost to the Lessor of the work on the Project completed to the date the Lessor submits the request for a Sublease Prepayment less the aggregate amount of: (1) all Sublease Payments previously made by the District to the Lessor; (2) all Sublease Prepayments previously made by the District to the Lessor; (3) all amounts previously retained pursuant to Article 21(A)(3), below, from Sublease Prepayments previously made by the District to the Lessor; and (4) the retention for such Sublease Prepayment. Lessor must submit evidence that the conditions precedent set forth in Article 21(A)(1) below, have been met. In the event District elects to make Sublease Prepayments, the Prepayment Price, contemplated in Article 21(B), below, shall be adjusted accordingly.

- (1) The following are conditions precedent to any Sublease Prepayments made to the Lessor pursuant to a request of the Lessor and exercised by the District in its sole discretion:
 - a. Satisfactory progress of the work and construction pursuant to the approved schedule and "Contract Time" pursuant to **Article 9** of the Construction Services Agreement shall have been made as determined in Article 21(A)(2), below.
 - b. Lessor shall also submit to the District (i) duly executed conditional lien releases and waivers (in the form provided in California Civil Code section 8132) from the Lessor and all subcontractors, consultants and other persons retained by the Lessor in connection with the Project, whereby such persons conditionally waive all lien and stop notice rights against the District, the Project and the Project site with respect to the pending Sublease Prepayment to be made by the District, (ii) duly executed unconditional lien releases and waivers (in the form provided in California Civil Code section 8134) from the Lessor and all subcontractors, consultants and other persons retained by the Lessor in connection with the Project, whereby such persons unconditionally and irrevocably waive all lien and stop notice rights against the District, the Project and the Project site with respect to all previous Sublease Prepayments made by the District, and (iii) any other items that the Lessor may be required to collect and distribute to the District pursuant to the terms and provisions of the CSA. Lessor shall promptly pay all amounts due to each subcontractor, consultant and other person retained by Lessor in connection with the Project no later than ten (10) days after Lessor's receipt of a Sublease Prepayment from the District.
- (2) The determination of whether satisfactory progress of the Construction pursuant to the approved schedule and "Contract Time" has occurred shall be made by the Project Inspector hired by the District pursuant to **Article 10** of the CSA. If the Project Inspector determines that pursuant to the approved schedule and "Contract Time", the work required to be performed, as stated in the Lessor's Sublease Prepayment request has not been completed and approved, the Lessor shall not be eligible to receive the requested Sublease Prepayment.

- B. **Purchase Option.** If the District is not in default hereunder, the District shall be granted options to purchase not less than all of the Project in as-is condition. The Prepayment Price at any given time shall be an amount equal to the GMP, as it may be revised from time to time, less the sum of any Sublease Payments and/or Sublease Prepayments made by the District prior to the date on which the District elects to exercise its option under this Article.

22.

RELEASE OF LIENS.

- A. Notwithstanding Article 21 above, upon Substantial Completion of the Project as defined in the CSA and the recording of a Notice of Completion for the Project, Lessor or its assignee and the District shall release Lessor's leasehold interest in Project and the Site. However, District shall retain any and all claims and or warranties it may have under the CSA.
- B. Lessor shall authorize, execute and deliver to the District all documents reasonably requested by the District to evidence (i) the release of any and all liens created pursuant to the provisions of this Sublease and the Site Lease, and (ii) any other documents required to terminate the Site Lease and this Sublease.

23. **TERMINATION OF CONSTRUCTION SERVICES AGREEMENT.**

In the event the Construction Services Agreement is terminated pursuant to the provisions contained therein, this Sublease shall immediately terminate.

24. **SEVERABILITY.**

If any provision of this Sublease shall be held invalid or unenforceable by a court of competent jurisdiction, such holdings shall not invalidate or render unenforceable any other provision of this Sublease, unless elimination of such provision materially alters the rights and obligations embodied in this Sublease.

25. **INTEGRATION/MODIFICATION.**

This Sublease constitutes the entire agreement between Lessor and the District as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered herein, and it shall not be amended, altered, or changed except by a written agreement signed by the parties hereto.

26. **NOTICES.**

Services of all notices under this Sublease shall be sufficient if given personally or mailed to the party involved at its respective address hereinafter set forth or at such address as such party may provide in writing from time to time. Any change in the addresses noted shall not be binding upon the other party unless preceded by no less than thirty (30) days prior written notice. Any such notices shall be deemed to have been received by the addressee if delivered to the person for whom they are intended or if sent by registered mail, return receipt requested, or by email, or fax followed by regular mail, addressed as follows:

If to Lessor:

Attn: _____
Email: _____

If to District:

Fountain Valley School District
1001 S. East Street
Anaheim, CA 92805
Attn: _____
Email: _____

27. **TITLES.**

The titles to the Articles or sections of this Sublease are solely for the convenience of the parties and are not an aid in the interpretation thereof.

28. **TIME.**

Time is of the essence in this Sublease and each and all of its provisions.

29.

LAWS, VENUE AND ATTORNEYS' FEES.

The terms and provisions of this Sublease shall be construed in accordance with the laws of the State of California. If any action is brought in a court of law to enforce any term of this Sublease, the action shall be brought in a state court situated in the County of Orange, State of California, unless a court finds jurisdiction or venue is only proper in a federal court, or a court outside this county. In the event of any such litigation between the parties, each party shall bear its own attorney's fees.

IN WITNESS WHEREOF, the parties hereto have executed this Sublease by their authorized officers as of the day and year first written above.

DISTRICT

"LESSOR"

FOUNTAIN VALLEY SCHOOL DISTRICT

BY: _____

BY: _____

EXHIBIT A
DESCRIPTION OF PROJECT

[TO BE INSERTED]

EXHIBIT B
DESCRIPTION OF SITE

[TO BE INSERTED]

_____ **PROJECT**
CONSTRUCTION SERVICES AGREEMENT

Between

FOUNTAIN VALLEY SCHOOL DISTRICT

and

[_____]

Dated as of _____

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[_____] PROJECT

CONSTRUCTION SERVICES AGREEMENT

This Construction Services Agreement is made as of _____, by and between the Fountain Valley School District, a California School District organized and existing under the laws of the State of California (hereinafter called the "District"), and _____, a California corporation operating under the laws of the State of _____ ("Contractor").

General intent of agreement:

WHEREAS, the District entered into an agreement with _____ (the "Architect") to provide architectural services for the District for the purpose of developing Construction Documents for the construction of improvements at _____ School site (the "Project").

1. GENERAL INTENT

- 1.1 The Board of Education has reviewed the different methodologies available to deliver a public works project and has carefully considered the options of competitive bid to a general contractor who would be responsible for the entire project, a construction management managed multi-prime trade contract project, an at-risk construction management contract, turn-key delivery by another public entity or delivered by another public entity through a joint use project, but have through Board action and independent staff and Board review determined that there are benefits and detriments to each delivery method.
- 1.2 The Board of Education has also reviewed the lease-leaseback methodology under California Education Code section 17406 which permits the governing board of a school district to lease to any person, firm, or corporation any real property owned by the District if the instrument by which such property is leased requires the lessee to construct on the leased premises, or provide for the construction thereon, of a building for the use of the school district, during the term of the lease, and provides that title to that building shall vest in the school district prior to or at the expiration of the lease.
- 1.3 As part of the Board of Education's consideration of the possible methods of delivery, the Board has also reviewed available information from the Coalition of Adequate School Housing materials on delivery methods, California School Board Association, California Association of School Business Officials, Office of Public School Construction Meeting Minutes and SAB Implementation Committee meeting minutes and considered the benefits and detriments of the lease-leaseback delivery method.
- 1.4 Further, the Board of Education understands that unique to the lease-leaseback delivery method, the lease-leaseback Contractor will not only be undertaking the traditional due diligence of investigating existing Project related information, documents and the Project site, but now included as part of the Contractor's "Due Diligence" (as defined herein) as part of this lease-leaseback delivery method, the Contractor will be performing a review of the Construction Documents to visualize conflicts that may have not been located by the Architect as part of the Architect's constructability review when the Construction Documents were being prepared.
- 1.5 The Board of Education in its consideration of the substantial evidence that is available to the District staff and through the Board's own research has determined that this ability to work between the Contractor and the Architect to resolve a greater percentage of construction claims that would ordinarily arise through any of the other delivery methods addressed in Article 1.1 above also provides the ability of the Contractor to determine the likely level of errors and omissions, and provides a Guaranteed Maximum Price for the Project based on the Contractor's Due Diligence. The unique ability to determine with certainty the budget numbers for the Project

provides this Board of Education the ability to not only ensure that the District is best serving the community and its school children, but also provides the ability to focus resources towards future and simultaneous projects that could not be undertaken during any of the other delivery methods since a sizable contingency needs to be set aside for potential claims, litigation, arbitration, mediation, and delays that could jeopardize the ability to plan for occupancy of the building or the possibility of having to spend significant resources to procure alternative facilities.

- 1.6 As part of this lease-leaseback Construction Services Agreement, a site lease with Contractor (the "Site Lease"), for the Project has been entered into and attached as Exhibits to the Site Lease is a description of the site (the "Site") in order for Contractor to construct improvements to this existing school Site under the possessory interest of a lease with a greater degree of control over the overall Project, including ability to coordinate Site related items such as utilities, ability to insure both the Project and the Site against a broader range of risks, and greater primary control and oversight over Subcontractors and suppliers for the Project as the lessee of the Site.
- 1.7 In addition, the Contractor subleases the constructed portions of the Site and the Project back to the District pursuant to a Sublease Agreement (the "Sublease") under which the District will be required to make Sublease Payments as described therein; and
- 1.8 It is agreed that upon the expiration of the Site Lease and Sublease, title to the Project shall vest in the District; and
- 1.9 Contractor represents that Contractor is uniquely experienced in Construction of public schools and community colleges including, but not limited to, the specific requirements and regulations of the Field Act as administered by the Division of State Architect, working with the Division of State Architect, Office of Public School Construction, California Department of Education and work with the various applicable other State and local agencies that have jurisdiction over the Project, is duly licensed as a contractor in the State of California, and is prepared to analyze, synthesize and efficiently perform construction work for the District as more fully set forth in this Agreement
- 1.10 Contractor has thoroughly Due Diligence as defined in Articles 4 and 5 to establish a Guaranteed Maximum Price for the Project (which may include an Errors and Omissions Contingency and a Construction Contingency for Contractor's own errors and omissions) that will not be exceeded. Contractor has investigated the site conditions and reviewed the Construction Documents to establish that there are no known problems with respect to the site conditions or the Construction Documents and that Contractor can and will construct the Project for the Guaranteed Maximum Price as set forth in Article 3 and defined in Article 5 of this Construction Services Agreement, and Contractor will not seek any additional compensation whatsoever, including, without limitation, any requests based upon known site conditions, extensions on the Lease beyond the Lease period or any requests, except for such additional compensation provided for herein based upon unforeseen conditions and/or errors or omissions contained within the plans and specification or Construction Documents.
- 1.11 Since the Contractor has entered into a negotiated Lease and is performing this Construction Services Agreement as the Lessee of the Premises, Contractor understands and agrees that:
 - 1.11.1 Public Contract Code Section 4100 et seq. addressing subcontractor listing shall not apply except to the extent applicable under Education Code section 17406(a)(4). However, the District is requiring an open book accounting and the public selection of Subcontractors pursuant to Article 6.3 of this Agreement.
 - 1.11.2 Public Contract Code Section 20111 addressing competitive bidding does not apply to the Project pursuant to the specific language of Education Code Section 17406 which allows for the award of the lease-leaseback contract on the basis of the best value to the District.

- 1.11.3 Public Contract Code Section 3400 addressing proprietary specifications does not apply since the Contractor has entered into a negotiated Lease pursuant to which is obligated to build the Project. The Contractor agrees and acknowledges that it has had great opportunity throughout the Due Diligence process and negotiation of the Lease and related agreements to propose any changes or substitutions, and warranties that it shall propose no further changes or substitutions pursuant to Public Contract Code Section 3400. Substitutions and Value Engineering are allowed to address cost savings and to more efficiently build the Project at Articles 5.3 and 16.
- 1.11.4 The requirements in Public Contract Code section 22300 shall not apply.
- 1.12 Prequalification of Contractor and MEP Subcontractors. In accordance with California Public Contract Code section 20111.6, the Contractor is required to submit to the District a completed set of prequalification documents on forms provided by the District and be deemed prequalified by the District prior to entering into the Contract for the Project. In addition, all mechanical, electrical or plumbing (“MEP”) Subcontractors of any tier (contractors that hold C-4, C-7, C-10, C-16, C-20, C-34, C-36, C-38, C-42, C-43 or C-46 licenses), must also be prequalified. It is the responsibility of the bidder to ensure that all MEP Subcontractors holding any of the licenses listed above are properly prequalified. This prequalification requirement for MEP Subcontractors applies even if the subcontractor will perform, or is designated to perform, work that does not require one of the licenses listed above, but the subcontractor holds one of the licenses listed above.

2. TITLE 24 RESPONSIBILITIES – GENERAL INTENT OF THE CSA

Contractor accepts the contractual relationship established between it and District by this Construction Services Agreement, and Contractor covenants with District to furnish reasonable skill and judgment in constructing the Project as set forth in the Construction Documents, as defined in Article 4 for the Project which are described and/or set forth herein as Exhibit “A.” Contractor agrees to furnish efficient business administration, coordination review of the Construction Documents, coordination of the work of the Subcontractors and vendors and superintendence to furnish at all times an adequate supply of professionals, workers, and materials and to perform the work appropriately, expeditiously, economically, and consistent with the Construction Services Agreement and Construction Documents as defined in Article 14, below.

- 2.1 **Title 24 Responsibilities.** The Contractor shall continually supervise and direct the Work using the Contractor’s best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, procedures; and shall coordinate all portions of the Work in conformance with the Contract Documents. Specific duties of the Contractor shall include those set out in Section 43 of Title 21 of the California Code of Regulations and Section 4-343 of Title 24 of the California Code of Regulations. These duties include, but are not limited to the following:
 - 2.1.1 *Responsibilities.* It is the duty of the Contractor to complete the Work covered by his or her Contract in accordance with the approved Construction Documents. The Contractor in no way is relieved of any responsibility by the activities of the Architect, Engineer, Inspector or DSA in the performance of their duties.
 - 2.1.2 *Performance of the Work.* The Contractor shall carefully study the approved Construction Documents and shall plan its schedule of operations well ahead of time. If at any time it is discovered that work is being done which is not in accordance with the approved Construction Documents, the Contractor shall correct the Work immediately.
 - 2.1.3 *Inconsistencies.* All inconsistencies or timing or sequences which appear to be in error in the Construction Documents shall promptly be called to the attention of the Architect or, Engineer, for interpretation or correction. Local conditions which may

affect the structure shall be brought to the Architect's attention at once. In no case, shall the instruction of the Architect be construed to cause work to be done which is not in conformity with the approved plans, specifications, change orders, construction change documents, and as required by law. (See Title 24 Section 4-343)

- 2.1.4 *Verified Reports.* The Contractor shall make and submit to the office from time to time, verified reports as required in Title 24 Section 4-366. As part of the Close-Out of the Project (see Article 13.16), Contractor shall be required to execute a Form 6-C as required under Title 24 Sections 4-343.
- 2.1.5 *Reporting Requirements.* Contractor shall fully comply with any and all reporting requirements of Education Code Sections 17315, et seq., in the manner prescribed by Title 24, as applicable.
- 2.1.6 *Contractor Responsibility.* The Contractor shall be responsible to the District for acts and omissions of the Contractor's employees, Subcontractors, material and equipment suppliers, and their agents, employees, invitees, and other persons performing portions of the Work under direct or indirect contract with the Contractor or any of its Subcontractors.
- 2.1.7 *All Work is performed Under the Direction of Inspector.* Pursuant to Title 24 requirements, the Contractor shall not carry on Work except with the knowledge of the Inspector. (See Title 24 generally)
- 2.1.8 *Contractor to Establish Timing and Protocol with Inspector.* Contractor shall establish a protocol for requesting inspection with Inspector so as to not delay the Work and provide adequate time for the Inspector to perform inspection. If such a protocol is not established ahead of time, Inspector may utilize the time criteria set by Title 24 of 48 hours in advance of submitting form DSA 156 for each new area. DSA requirements under PR 13-01 specifically gives the Special Inspector fourteen (14) days to post to the DSA website. Contractor is responsible for delays and for failure to plan.
- 2.1.9 *Conformance with Approved Submittals.* This conformance includes performing all Work only in conformance with approved Submittals, Shop Drawings, and Samples or the Inspector may be required to issue a DSA Form 154 Notice of Deviation from approved DSA Contract Documents.
- 2.1.10 *Incremental Assemblies.* For some Projects, there may be a need to incrementally install certain assemblies. It is up to Contractor to identify areas and assemblies that may be constructed incrementally. Contractor must identify and establish incremental areas of construction and establish protocols with Inspector for DSA 152 approvals so they may be presented to DSA. See PR-13 item 2.1.10 for further discussion.
- 2.1.11 *Coordination with Outside Contractors.* If any of the Work for the Project is known to include Work performed by contractors retained directly by the District, Contractor shall be responsible for the coordination and sequencing of the Work of those other contractors so as to avoid any impact on the Project Schedule.

3. **CONTRACT INFORMATION**

- 3.1 District: Fountain Valley School District
10055 Slater Avenue
Fountain Valley, CA 92708
714-843-3200

- 3.2 Notices: _____, Director of Facilities
e-mail _____
- 3.3 Contractor: _____ [Name] _____
_____[Address] _____
_____[City] _____
_____[Telephone] _____
- 3.4 Notices: _____
_____[e-mail] _____

The following are established through Contractor's review of the Program, Contract Documents and through Contractor's Due Diligence prior to entering into this Agreement:

- 3.5 Contract Time is _____ Days.
- 3.6 Liquidated Damages for overstaying Lease (Art. 18) is \$_____ per calendar day.
- 3.7 Guaranteed Maximum Price (Art. 5) is \$_____.
- 3.7.1 Construction Contingency (within GMP) is \$_____.
- 3.7.2 Errors and Omissions Contingency (within GMP) is \$_____.
- 3.8 The only exception to the GMP is Unforeseen Underground Conditions, and District Contingency for Owner requested extras as follows:
- 3.8.1 District's Contingency (Art. 8) is \$_____.
District Contingency is carried outside of the GMP.
- 3.8.2 Unforeseen Allowance is \$_____.
Unforeseen Allowance is carried outside of the GMP.
- 3.9 The Contractor's fee for this Project is _____ percent (___%) and is included in the GMP.

4. DEFINITIONS

- 4.1 Action of the Governing Board is a vote of a majority of the District's Governing Board.
- 4.2 Allowances are separate from the Unforeseen Allowance and mean budgets established for specific scopes of the Work which cannot be fully defined in the Construction Documents at the time that the GMP is established. Allowances may only be drawn upon pursuant to a Change Order issued pursuant to Article 17. In the event that an Allowance is included, the Contractor shall provide all services, work, labor and materials reasonably implicit in the description of the Allowance for the amount stated for the Allowance, all in accordance with the Construction Documents. Contractor acknowledges and agrees that it has had ample time and consideration to fully assess any Allowance(s) and to negotiate the description and amount of the Allowance(s), such that Contractor fully accepts and shall bear the entire risk and responsibility of providing all services, work, labor and materials required for the Allowance(s) under this Agreement. Expenditures from the GMP will either arise from Construction Contingency or Errors and Omissions Contingency and shall be submitted pursuant to Article 17 addressing Change Orders.

The amount of the Change Order shall reflect the difference between actual costs approved by the District and the allowance amounts established in the GMP.

- 4.3 As-Builts are a set of Construction Documents maintained by the Contractor clearly showing all changes, revisions, substitutions, field changes, final locations, and other significant features of the Project. The As-Builts shall be maintained continuously throughout the Work for the Project and is both a prerequisite to the issuance of Pay Application and a requirement for Contract Close-Out. See Article 13.14.
- 4.4 Architect means the architect, engineer, or other design professional engaged by the District to design and perform general observation of the work of construction and interpret the drawings and specifications for the Project.
- 4.5 Beneficial Occupancy is the point in time when a building or buildings are fit for occupancy is fit for occupancy and its intended use. Basic requirements are the building is safe, at or near Substantial Completion, and all life safety is operational. The fact that a building is occupied does not mean that the building is ready for Beneficial Occupancy if there are elements that are unsafe or if life safety items are not operational. Taking occupancy on a structure that is under a fire watch is not considered Beneficial Occupancy. Beneficial Occupancy is not to be used by the Contractor as a basis to request Retention Payment unless the entire Project is Substantially Complete in accordance with Article 4.45.
- 4.6 Claims. A Claim is a request for payment, supported by back-up documentation which includes, invoices, time sheets, or other documents substantiating legitimacy or entitlement that is submitted during the Project or immediately following the Project made prior to the Application for Retention Payment and prior to Final Completion of the Project. A "Claim" means a separate demand by the Contractor for (1) time extension, (2) payment of money or damages arising from Work done by or on behalf of the Contractor pursuant to the Contract and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or (3) and amount the payment of which is disputed by the District. See Article 20.
- 4.7 Close-Out means the process for Final Completion of the Project, but also includes the requirements for the DSA Certification that the Project is Complete (See DSA Certification Guide). See Article 13.16.
- 4.8 Commencement Date shall mean the Project commencement date found in the Notice to Proceed for the Project in accordance with Article 4.28 of this Construction Services Agreement.
- 4.9 Complete/ Final Completion means that all Work in the Contract Documents is finished, the requirements of the Contract Documents have been met, successful testing, startup and satisfactory operation of the Project as a total unit has been accomplished in substantial conformance with the Contract Documents, the Project is completed, all Work has ceased on the Project and the Project has been accepted by the District's Board. This may also be referred to as Final Completion. In most cases, the recording of a Notice of Completion shall represent Completion of the Project. Beneficial Occupancy or Substantial Completion does not mean the Work is Complete.
- 4.10 Completion Date is the date when all Work for the Project shall be Substantially Complete and is the date assigned at the end of the Contract Time for the Project.
- 4.11 Construction Change Document (CCD). A Construction Change Document is a DSA term that is utilized to address changes to the DSA approved Construction Documents. There are two types of Construction Change Documents. (1) DSA approved CCD Category A (DSA Form 140) for work affecting Structural, Access or Fire-Life Safety of the Project which will require a DSA approval; and, (2) CCD Category B (DSA Form 140) for work NOT affecting Structural Safety, Access Compliance or Fire and Life Safety that will not require a DSA approval (except to confirm that no approval is required). See Article 17.4.

- 4.12 Construction Services Agreement (CSA) means this Construction Services Agreement, together with any duly authorized and executed amendments hereto.
- 4.13 Construction or Construction Services means all labor and services necessary for the construction of the Project, and all materials, equipment, tools, supplies and incidentals incorporated or to be incorporated in such construction as fully described in the Contract Documents.
- 4.14 Construction Costs means any and all costs incurred by the Contractor with respect to the construction and equipping, as the case may be, of the improvements performed, whether paid or incurred prior to or after the date hereof, including, without limitation, costs for Site preparation, the removal or demolition of existing structures, the construction of the Project and related facilities and improvements, and all other work in connection therewith, security of the Site and Project, Contractors' overhead and supervision at the Project Site, all costs and expenses including any taxes or insurance premiums paid by the Contractor with respect to the Property, and administrative and other expenses necessary or incident to the Project, excluding Contractors' and Developers' home office overhead and profit. The term "Construction Costs" includes all Contractor's costs associated with preparing or generating additional copies of any Construction Documents, as defined below, related to or required for the Project, including preparation or generation of additional Plans and/or Specifications for Contractor's Subcontractors. In no event shall Construction Costs exceed the Guaranteed Maximum Price.
- 4.15 Construction Documents comprise the Plans and Specifications approved by DSA under Application Number _____, File Number _____, Allowances stipulated in the Contract Documents, and all Addenda, if any, issued prior to the entry into this Agreement. The Construction Documents shall include all Modifications generated after the Effective Date in accordance with the Contract Documents, including, without limitation, a written amendment to the Contract signed by the Contractor and duly executed and approved by the District, a Change Order, a Construction Change Document, or a written order for a minor change in the Work issued by the Architect.
- 4.16 Contract Documents means those documents which form the entire Contract by and between District and Contractor. The Contract Documents consist of the Site Lease, Sublease, General, Supplementary and other Conditions, this Construction Services Agreement, including all exhibits and attachments hereto, and the Construction Documents. The Contract Documents collectively form the Contract. The Contract represents the entire and integrated Agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a written Modification. The Contract Documents shall be binding solely upon the District and Contractor, do not create a contractual relationship of any kind between the Architect and Contractor, between the District and any Subcontractor or Sub-subcontractor, or between any persons or entities other than the District and the Contractor, and are not intended to and do not create any third party beneficiary. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.
- 4.17 Contract Time is the time period specified in the Contract Documents in which the Project shall be completed. This is sometimes referred to a Contract Duration, or "time in which the Contractor has to Complete the Project". See Article 9.
- 4.18 Day means a calendar day unless specifically designated as a business day.
- 4.19 Drawings or Plans are graphic and pictorial portions of the Contract Documents prepared for the Project and approved changes thereto, wherever located and whenever issued, showing the design, location, and scope of the Work, generally including plans, elevations, sections, details, schedules, and diagrams as drawn or approved by the Architect. Sometimes Drawings will also be included in Addenda, Change Orders, and Specifications.

- 4.20 Due Diligence is the review and analysis of as-built documents, title documents, any prior design documents for the Project or Site, geotechnical reports, surveys, site investigations and other documents and information provided by the District, and synthesizing of information utilized to determine the components of the GMP. Requirements for Due Diligence are further addressed at Article 5.
- 4.21 DSA is the Division of State Architect. DSA is the agency that provides design and construction oversight for K-12 Schools, Community Colleges, and State Funded Charter School Projects. DSA is the responsible agency for this Project and Contractor has submitted a bid for the Project since Contractor is familiar with Contractor's responsibilities under the DSA requirements more thoroughly set forth at Title 24 of the California Code of Regulations. Contractor agrees to abide by the jurisdiction of DSA and shall construct the Project to conform with the approved plans, specifications, Addenda, and Change Orders (inclusive of approved CCD's and ICD's issued by the District pending CCD approval). The DSA website is at <http://www.dgs.ca.gov/dsa>.
- 4.22 Effective Date is the latter of the date upon which the District Board approves the Site Lease and the Sublease and Contractor has executed the Site Lease and Sublease
- 4.23 Float the total number of days an activity may be extended or delayed without delaying the Completion Date shown in the schedule. Float will fall into three categories: (1) Rain Days; (2) Governmental Delays; and, (3) Project Float. See Article 9.2.
- 4.24 Immediate Change Directive (ICD) is a written order prepared by the Architect and signed by the District and the Architect, directing a change in the Work where the Work must proceed immediately and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both. See Article 17.4.1.2
- 4.25 Inspector of Record (IOR) or Project Inspector (PI) is the individual retained by the District in accordance with Title 24 of the California Code of Regulations who will be assigned to the Project
- 4.26 Guaranteed Maximum Price or GMP means the Guaranteed Maximum Price established pursuant to Article 5 to be paid to Contractor for Contractor's construction of the Project hereunder, subject to any adjustments for Extra Work/Modifications as provided in Article 17.
- 4.27 Notice of Non-Compliance (DSA Form 154) is a document issued by the Inspector if there is a deviation from the DSA approved Plans, Specifications, and Change Orders. See Article 17.2.
- 4.28 Notice to Proceed. After execution of this Construction Services Agreement and the Site Lease(s) and Sublease(s) between the parties, the District shall issue a notice to the Contractor to proceed with the Project ("Notice to Proceed"), which Notice to Proceed shall include the date upon which commencement for the Project shall commence.
- 4.29 Plans are that portion of the Construction Documents consisting of the drawings and other pictorial or other graphic expression of requirements for the work of improvement to be completed by Contractor, including, without limitation, services, work, material, equipment, construction systems, instructions, quality assurance standards, workmanship, and performance of related services.
- 4.30 Project means the improvements to be constructed and installed by the Contractor, as more particularly described and/or referenced in Exhibit "A" attached hereto.
- 4.31 Provide shall include "provide complete in place," that is "furnish and install complete."
- 4.32 Punch List is a list of minor repair items, prepared after the issuance of a Certificate of Substantial Completion, by the Inspector and Architect of Work required in order to complete the Contract Documents and ensure compliance with the DSA Approved Plans so the Project may be Closed

Out. Issuance of the Retention Payment is dependent upon the proper completion of the Punch List. See Article 13.16 and Article 29.

- 4.33 Request for Information (RFI) is a written request prepared by the Contractor requesting the Architect to provide additional information necessary to clarify or amplify an item which the Contractor believes is not clearly shown or called for in the drawings or specifications, or to address problems which have arisen under field conditions.
- 4.34 Schedule is the Contractor's view of the practical way in which the Work will be accomplished. In this Agreement there is a requirement for a Baseline Schedule and regular Schedule Updates that show all Work to be completed during the Contract Time and shall include all items listed under Article 9.3.
- 4.35 Schedule of Values is a detailed breakdown of the Contract Price for each Project, building, Phase of Work or Site as determined by the District. This Schedule of Values shall adequately detail the price for the Work so that the status of the construction of any improvements can be meaningfully reviewed by the Inspector, Architect of Record, Engineer of Record, and District. (See Article 13.12)
- 4.36 Separate Contracts are Contracts that the District may have with other Contractors, vendors, suppliers, or entities to perform Work on the Project. This may include, but is not limited to Multi-Prime Trade Contractors, furniture installers, testing agencies, clean-up contractors, or network or low voltage contractors. Contractor shall plan for certain other contractors that may also be working on the Project site and address these other contractors in Contractor's Schedule. See Article 32.
- 4.37 Site refers to the grounds of the Project or in some cases may refer to multiple sites as defined in the Contract Documents and such adjacent lands as may be directly affected by the performance of the Work.
- 4.38 Site Lease and/or Lease means the Site Lease(s) of even date herewith, by and between the District and the Contractor together with any duly authorized and executed amendment thereto under which the District leases the Site to the Contractor.
- 4.39 Specifications are that portion of the Construction Documents consisting of the written requirements for the work of improvement to be completed by Contractor, including, without limitation, services, work, material, equipment, construction systems, instructions, quality assurance standards, workmanship, and performance of related services.
- 4.40 Standards, Rules, and Regulations referred to are recognized printed standards and shall be considered as one and a part of these specifications within limits specified. Federal, state and local regulations are incorporated into the Contract Documents by reference.
- 4.41 Stop Work Order, or an Order to Comply is issued when either (1) the Work proceeds without DSA approval; (2) the Work proceeds without a DSA Project Inspector, or (3) where DSA determines that the Work is not being performed in accordance with applicable rules and regulations, and would compromise the structural integrity of the Project or would endanger lives. If a Stop Work Order is issued, the Work in the affected area shall cease until DSA withdraws the Stop Work Order. Pursuant to Education Code Section 17307.5(b) and Education Code Section 81133.5, the District shall not be held liable in any action filed against the District for any delays caused by compliance with the Stop Work Order.
- 4.42 Subcontractor means any person or entity, including trade contractors, who have a contract with Contractor to perform any work or supply materials for the Project.

- 4.43 Sublease(s) means the Sublease(s) of even date herewith by and between the District and Contractor together with any duly authorized and executed amendment hereto under which the District subleases the Site from the Contractor.
- 4.44 Sublease Payment means any payment required to be made by the District pursuant to Section 7 of the Sublease.
- 4.45 Substantial Completion is not reached unless and until each of the following four (4) conditions have been met: (1) all contractually required items have been installed with the exception of only minor and Incomplete Punch Items (See Article 13.16); (2) All Fire/Life Safety Systems have been installed, and are working and signed off on the DSA Form 152 Inspection Card, all building systems including mechanical, electrical and plumbing are all functioning; (3) all other items on the DSA Form 152 Inspection Card for the Project have been approved and signed off; and (4) the Project is fit for occupancy and its intended use, as certified by the Architect pursuant to the Certificate of Substantial Completion set forth in the Division 1 Forms attached hereto.
- 4.46 Substitution is a change in product, material, equipment, or method of construction from those required by the Construction Documents proposed by the Contractor. Specific requirements for substitutions are set forth at Article 16.
- 4.47 Unforeseen Allowance means the budget established for hazardous substances and underground conditions that differ from representations in the Contract Documents or Due Diligence Documents and meet the requirements under Article 13.15.5 and 18.4. The Unforeseen Allowance may also include other costs as allocated in the District's sole and absolute discretion related to the Project. The District, in its sole and absolute discretion, may use the District Contingency to fund any costs allowed under the Unforeseen Allowance. Any funds remaining in the Unforeseen Allowance at the completion of the Project shall remain unspent and allocated to the District as the District sees fit to use.
- 4.48 Work shall include all labor, materials, services and equipment necessary for the Contractor to fulfill all of its obligations pursuant to the Contract Documents. It shall include extension of Contractor's obligations to Subcontractor to perform Subcontractor Due Diligence including, but not limited to, visiting the Site of the proposed Work (a continuing obligation after the commencement of the Work), fully acquainting and familiarizing itself with the conditions as they exist and the character of the operations to be carried out under the Contract Documents, and make such investigation as it may see fit so that it shall fully understand the facilities, physical conditions, and restrictions attending the Work under the Contract Documents. Each such Contractor or Subcontractor shall also thoroughly examine and become familiar with the Drawings, Specifications, and associated Contract Documents.
- 4.49 Workers include laborers, workers, and mechanics.

5. ESTABLISHMENT OF GUARANTEED MAXIMUM PRICE "GMP"

- 5.1 Guaranteed Maximum Price (GMP) is the amount agreed upon between the District and Contractor that shall not be exceeded for the Construction of the Project within the Contract Time based on Contractor's thorough review of the Contract Documents, Due Diligence in investigation of all aspects of the Project. The GMP includes the costs for the Sublease Payments being paid by the District as Progress Payments and Retention Payment during construction in accordance with the terms of this Construction Services Agreement. Any references to Progress Payments shall also mean Sublease Payments. A Construction Contingency (Article 5.2.1) and an Errors and Omissions Contingency (Article 5.2.2) is contained within the GMP. Costs that are outside of the GMP shall be as follows:
- 5.1.1 Owner requested additional work (See Article 8) to be paid under the District Contingency.

5.1.2 Unforeseen underground soil conditions or unforeseen hazardous materials that meet the requirements of Article 13.15.5 and 18.4 to be paid under the Unforeseen Allowance.

5.2 GMP. As a result of the Due Diligence of Contractor, the GMP for the Project is set forth under Article 3. The GMP is based upon all Due Diligence performed, the approved Construction Documents, and all other Contract Documents existing and reviewed by the Contractor at the time this Construction Services Agreement is entered into as more fully described and referenced in the Scope of Work set forth in Exhibit "A." Contractor's detailed line item costing of the Project, or Master Budget, totaling the GMP is attached hereto as Exhibit "B." Furthermore, the District and Contractor represent and warrant that the GMP is separate and distinct from the Sublease Payments to be paid by the District under the Sublease. District represents and warrants and Contractor acknowledges that: 1) the total amount of Sublease Payments and any optional Prepayment under the Sublease include the total rental for the Project, which total does not exceed the fair market value for the Project, 2) said rental amount is separate and distinct from Progress Payments and Retention, and 3) said rental amount shall be paid by the District with District non-local match contribution local funds.

The GMP is an "all inclusive" price for the construction of the Project that is calculated after Due Diligence and shall not be exceeded except as set forth in this Agreement. Contractor has taken on all contingencies and calculated those contingencies out in the form of the Construction Contingency. Contractor specifically agrees that once the Construction Contingency is fully exhausted, that Contractor can and shall Complete the Project pursuant to the terms of this Agreement within the Contract Time. No disputes concerning compensation, extras, or application of Contingencies shall be utilized as grounds to slow down or to stop work. The following two contingencies have been calculated through the Due Diligence of the Contractor and shall be calculated against the contingency amounts based on application of the Change Order language of Article 17.

5.2.1 *Construction Contingency.* The Construction Contingency set forth at Article 3.8.1 is for the use of the Contractor, as approved by the District, to pay for miscellaneous work items which are required to complete the Project including to cover trade scope gaps, missed work, areas of damage that may occur between trades during construction, Subcontractor coordination problems, and Contractor coordination errors. The Contractor shall not use the Construction Contingency to pay for costs related to the following: (a) errors or omissions in the Construction Documents; (b) discrepancies with the Construction Documents pertaining to applicable building code requirements; and/or (c) enhancements or additions to the Scope of Work desired by the District. The Contractor shall obtain written approval from the District prior to using the Construction Contingency. The following may be considered, at the District's sole discretion, valid Construction Contingency items: 1) overtime and premium time, 2) costs to address safety items, 3) Contractor coordination issues and errors, 4) scope gaps, 5) trade damage, and 6) for other items requested by the Contractor if approved by the District and in the District's sole discretion. If on Final Completion of the Project, funds are remaining in the Construction Contingency, such funds shall remain unspent and allocated to the District as the District sees fit to use.

5.2.2 *Errors and Omissions Contingency.* Within the GMP shall be a line item amount to cover errors and omissions in the Construction Documents ("Errors and Omissions Contingency"). The Errors and Omissions Contingency at Article 3.7.2 is calculated based on coordination review of the Construction Documents and coordination meetings that have been held with the Subcontractors and Architect. Specifically, it is the coordination items that could not be addressed through coordination meetings and a factor determined based on the coordination review that has been performed by Contractor. The Errors and Omissions Contingency is created from Contractor's Due Diligence and based on Contractor's experience on similar projects. As a result,

Contractor agrees that Contractor shall not seek to charge District for Errors and Omissions in excess of the Errors and Omissions Contingency. In other words, the Errors and Omissions Contingency is the maximum sum available to compensate the Contractor for Errors and Omissions on the part of the Architect and Architect's Consultants and is the maximum amount that can be charged. Contractor shall bear all costs for Errors and Omissions that exceed the Errors and Omissions Contingency.

Contractor shall notify the District under the Change Order Provisions of the need for such work and specifically identify the Work as Errors and Omissions by submitting to the District for its consideration and approval or disapproval, a written request for the work before such work is performed. If District approves such request in writing, the costs of the work, shall be added to or deducted from the Errors and Omissions Contingency within the GMP. Any funds remaining in the Errors and Omissions Contingency at the completion of the Project shall remain unspent and allocated to the District as the District sees fit to use, except for any portions of Savings added to the Errors and Omissions Contingency, which Savings shall be allocated between the parties as provided in Article 7 below.

5.3 Due Diligence **[REVIEW AND REVISE TO REFLECT ACTUAL DUE DILIGENCE PERFORMED BY THE CONTRACTOR]**

5.3.1 *Documents Reviewed.* Contractor has visited the site, entered and evaluated the structures on the site, reviewed all as-built information, environmental reports, Asbestos Hazard Emergency Response Act of 1986 reports applicable to the Project, lead reports, reports on any other hazardous substances, reviewed environmental impact reports, reviewed applicable mitigation measures for the Project, reviewed and observed the current site conditions, reviewed available records from City and/or County Records on the Project. All documents provided or reviewed by the Contractor shall be referred to collectively as the Due Diligence Documents.

5.3.2 *Review of Existing Conditions.* Contractor must have performed basic confirmation of the As-Built information that exists as part of the Due Diligence process. This basic confirmation shall include:

5.3.3 Confirmation of overall dimensions of major column lines, location of elements where coordination of new construction to existing construction is to occur, confirmation that the rooms noted are located on the drawings, review and confirmation that rooms have not been reconfigured.

5.3.3.1 Confirmation of location for utilities and supporting infrastructure. Contractor shall review the utilities and confirm that the infrastructure from the As-Built and Contract Documents are consistent with the actual As-Built Conditions of the Project site.

5.3.3.2 Confirmation that fire/life safety elements are consistent with expectations of the Contract Documents. Specifically, confirmation of the integrity of one-hour corridors, fire separations, working fire sprinklers, working fire alarms, communications systems, EMS systems, and other systems that are to remain in use and relied upon as part of the anticipated Project.

5.3.3.3 Review of the Environmental Documents (Asbestos, Lead, PCB's, etc.) and general confirmation that the scope of hazardous substances is consistent with that which is shown on the environmental reports that are provided.

- 5.3.3.4 Confirmation of Working hours and specific conditions which will affect the ability to work. Contractor shall check requirements for the local city and county and confirm working hours and days, testing schedules at the District for days when work shall not occur, other critical days when work cannot occur, mitigation measures in the EIR or Negative Declaration that may affect the ability to Work on the Project. This review shall help Contractor build a working schedule for the Project.
- 5.3.4 *Review of Construction Documents.* Contractor has performed a complete and diligent review of all plans, specifications, addenda, bulletins or other documents provided as the Construction Documents or otherwise mentioned in the Construction Documents. The Contractor has written and submitted RFIs to address potential design issues prior to the GMP development to obtain a comprehensive GMP that addresses design and constructability issues.
- 5.3.5 *Inconsistencies.* All inconsistencies, timing or sequences which appear to be in error in the Construction Documents shall promptly be called to the attention of the Architect or, Engineer, for interpretation or correction. Local conditions which may affect the structure shall be brought to the Architect's attention at once. In no case, shall the instruction of the Architect be construed to cause work to be done which is not in conformity with the approved plans, specifications, change orders, construction change documents, and as required by law. (See Title 24 Section 4-343)
- 5.3.6 *Coordination Review.* Contractor shall perform a constructability review of the Construction Documents as part of its Due Diligence to determine the level of Errors and Omissions that should be included in the Errors and Omissions Contingency.
- 5.3.7 *Price Fluctuations.* As part of Contractor's Due Diligence responsibilities, Contractor is required schedule and plan to order, obtain, and store materials and equipment sufficiently in advance of its Work at no additional cost to assure that there will be no delays. Contractor understands that this may be a multi-year contract and that materials fluctuate in value and shall have adequately addressed market fluctuations through agreements with Contractor vendors or by other means. Contractor further understands and incorporates into Contractor's bid or proposal cost any wage rate increases during the Project for the Contractor's labor force as well as all other subcontractor and vendor labor forces. Contractor also understands the length of the Project schedule and has incorporated an appropriate budget to include labor, material, and equipment escalation costs into the GMP. At no time will the District accept any costs associated with these increases. District shall not be responsible for market fluctuations in costs or labor rate increases during the Project. Contractor further has incorporated any and all cost increases in areas of Work where there may be schedule variations so that cost increases are not passed through to the District.
- 5.3.8 *Coordination Review.* Contractor has thoroughly reviewed the plans, specifications, and other Due Diligence Documents and satisfied itself that the Construction Contingency is adequate to complete the Project for the GMP.
- 5.3.9 *Due Diligence Determinations.* Contractor has utilized all the available Due Diligence information to verify that the contingencies are adequate and that the Project can be constructed without exceeding the GMP:
- 5.3.9.1 Construction Contingency. Based on review of the scope of work submitted from each Subcontractor, Contractor's Due Diligence and review shall be utilized to determine the size of the Construction Contingency to cover unforeseen conditions (other than noted in Article

5.1), cover trade scope gaps, missed work, areas of damage that may occur between trades during construction, Subcontractor coordination problems, Contractor coordination errors, and miscellaneous work items.

5.3.9.2 Errors and Omission Contingency. Based on a thorough review of the available Construction Documents and information located pursuant to the Due Diligence performed, a set-aside has been made for an Errors and Omissions Contingency that may be utilized to compensate for construction work to correct Errors and Omissions in the Construction Documents.

5.3.9.3 District Contingency (sometimes called Owner Contingency). District Contingency is a sum that is set aside by the District to address any additional services. In the District's sole discretion, design errors or omissions as determined by the District (to the extent the Errors and Omissions Contingency is exhausted) and unforeseen conditions as approved by the District, may be allocated to the District Contingency. Specifics on application of the Owner Contingency are set forth at Article 8.

5.3.9.4 Unforeseen Allowance. Unforeseen Allowance is a sum set aside for unforeseen conditions that differ from representations in the Contract Documents or Due Diligence Documents or meet the requirements under Article 13.15.5 and 18.4. The Unforeseen Allowance may also include other costs as allocated in the District's sole and absolute discretion related to the Project.

5.3.10 *Schedule.* Contractor's Due Diligence will also be critical to the Contractor's determination of the number of days required to complete the Project. Contractor will determine if the suggested number of days from the District and Architect can be performed and shall also consider whether the Project requires Governmental or Rain day float that exceeds that set forth in Article 9. If Contractor does not note any concerns with the suggested Contract Time, then it is presumed that Contractor is in agreement with the proposed completion date the Contractor, by entering into this Agreement, has determined for itself that the Project Contract Time is realistic, reasonable and includes all required Float under Article 9.

6. OPEN BOOK ACCOUNTING AND SELECTION OF SUBCONTRACTORS

6.1 Open Book Accounting. The Contractor's GMP shall be based on actual procured quotes and bids from Subcontractors, vendors, and suppliers or based on estimated costs. In addition, Contractor shall include an estimated overhead and profit line item along with the cost for Contractor supplied labor. This total construction cost, or Base Cost, shall be added to Subcontractor, vendor and supplier contingencies and the Construction Contingency (which includes an Errors and Omissions Contingency) to form the entire GMP. As costs are incurred during the course of the Project, the Job Cost Accounting shall be updated to include actual costs incurred. A report on costs shall be prepared as part of the GMP process and shall be provided on a regular basis to the District.

6.1.1 *Purpose.* While competitive bidding is often viewed as the lowest price, utilizing the lowest bid neither results in the best contractor, efficient construction, or a properly completed product. In some cases, the Project becomes significantly more expensive because competitive bid contractors either don't understand the drawings, aren't qualified to build the Project, or are seeking to utilize the legal process to make money by bringing claims against the District. The lease leaseback methodology provides the

ability to negotiate for the most qualified competent contractor and allow coordination and interaction between the Contractor, Architect and District to alleviate unnecessary problems or areas that would result in claims. However, in exchange for this flexibility and reduction in claims, it is in the District's best interests, as a public entity, to ensure that the Project accounting information is available for review and the financial aspects of the Project can be fully reviewed. Thus, Contractor agrees that all job cost information shall be kept in an "open book" manner, shall show the actual transactions that occurred for the Project and shall be disclosable to the State if State funds are being utilized.

6.1.2 *State Allocation Board Issues.* The Office of Public School Construction, the administering agency for the State Allocation Board, audits the costs for construction under the general authority of Education Code Section 17076.10 and under the specific authority of Regulation Section 1859.100 et seq. governing program accountability audit, material inaccuracy, and expenditure audits. Given the fact the State has approved the lease-leaseback delivery method, and the likelihood that the records of the Project will be audited if there are State Funds involved, a permanent record of all the financial transactions for the construction of the Project shall be available through an Open Book Accounting of the Project expenditures of both hard and soft costs including, but not limited to labor, material and services costs, including the subcontract and material costs that were utilized to build the Project.

6.1.3 *Value Engineering During the Project.* In addition to Value Engineering addressed at Article 7 below, Contractor may have occasion where better pricing can be obtained from Subcontractors or suppliers. This better pricing shall be treated as part of Savings under Article 7.

6.2 Scope Reduction Not Savings. The District at all times shall have the right to reduce the scope of the Project. If the District reduces the scope of the Project, the GMP shall be reduced to reflect the reduced Scope of Work, pursuant to the provisions of Article 17. To the extent possible, it is the mutual goal of the District and Contractor to maximize the Scope of Work as allowed by the GMP. Reductions in scope are not considered Savings.

6.3 Selection of Subcontractors.

6.3.1 If identified or requested in the District's Request for Proposal/ Qualifications ("RFP/RFQ"), the Contractor must use any Subcontractors identified and included in the Contractor's response to the District's RFP/RFQ pursuant to Education Code section 17406(a)(4). All Subcontractors identified and included in the Contractor's response to the District's RFP/RFQ shall be afforded the protections of the Subletting and Subcontracting Fair Practices Act (Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code).

6.3.2 Following the award of the Contract to the Contractor by the District's Board of Education, and for all Subcontractors not identified in the Contractor's response to the District's RFP/RFQ, the Contractor shall proceed as follows in awarding construction Subcontracts with a value exceeding one-half of one percent of the price allocable to construction work:

6.3.2.1 Provide public notice of availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the District, including a fixed date and time on which qualifications statements, bids, or proposals will be due.

6.3.2.2 Establish reasonable qualification criteria and standards.

- 6.3.2.3 Award the subcontract either on a best value basis or to the lowest responsible bidder. The process may include prequalification or short-listing. The process shall not apply to Subcontractors identified and included in the Contractor's response to the District's RFP/RFQ. Subcontractors awarded construction subcontracts under this Article 6.3.2 shall be afforded all the protections of the Subletting and Subcontracting Fair Practices Act (Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code).
- 6.3.2.4 All MEP Subcontractors must be prequalified as set forth in Article 1.12 above.
- 6.3.3 In no case will the Contractor award any subcontracts until the District has concurred to the scope and price of the subcontracted services.
- 6.3.4 All subcontractors (of any tier) performing any portion of the Work must comply with the Labor Code sections 1725.5 and 1771.1 and must be properly and currently registered with the California Department of Industrial Relations and qualified to perform public works pursuant to Labor Code section 1725.5 throughout the duration of the Project.
- 6.3.5 Contractor shall provide the District with full documentation regarding the bids or competitive quotes received by Contractor. In no event shall such documentation be redacted or obliterated. In the event the Contractor does not comply with this provision, the District may terminate this Construction Services Agreement in accordance with the provisions of Article 19 below.
- 6.3.6 Compliance with Disabled Veteran Business Enterprise (DVBE) contracting goals is required under this Construction Services Agreement. In accordance with Education Code section 17076.11 the District has a DVBE participation goal of 3% per year of the overall dollar amount of state funds allocated to the District pursuant to the Leroy F. Greene School Facilities Act of 1998, and expended each year by the District. The District is seeking DVBE participation under this Construction Services Agreement. The Contractor must require Subcontractors to make a good faith effort to contact and utilize DVBE contractors and suppliers in securing bids for performance of the Project. Their efforts shall be documented on the DVBE Good Faith Effort Form attached as Exhibit "C".

7. SAVINGS AND VALUE ENGINEERING

- 7.1 General Intent. The purpose of Savings is to minimize the expenditure of funds for the construction of the Project on items that exceed the minimum criteria required without a corresponding benefit to the District. The District also wishes to eliminate any excess quality levels or performance criteria provided in the Construction Documents so long as such elimination does not alter the design, aesthetics, safety standards or configuration or space, and does not increase future maintenance and operation costs. The District and the Contractor shall work cooperatively with each other, in good faith, to identify appropriate opportunities to reduce the Project costs and promote Savings. There are two stages when Savings may be generated. They are (1) Value Engineering when establishing the GMP and (2) Savings generated through changes, reductions, or Subcontractor negotiations that may occur after the GMP is established.
 - 7.1.1 *Value Engineering* is a review of systems so excess quality, unnecessary design elements, reconfiguration for efficiency, or other changes may be made to reduce the cost of a project. Sometimes, timing and sequences or re-use of materials that are unique to a project or area may generate savings. For example, if export soil is generated on a site which may have a substantial cost for transportation and removal

could be sold to offset the costs incurred then a savings may be generated for the Project. Similarly, if concrete is ground, it may be sold for aggregate rather than as demolished construction materials.

7.1.2 *Other Savings* generated over the course of the Project through Subcontractor negotiations, replacement of Subcontractors, or through other means shall be calculated as part of the overall costs for the Project as part of the “Open Accounting” of the Project and shall be counted towards Project Savings.

7.2 Sharing and Calculation for Return of Savings. If Contractor realizes a Savings on an aspect of the Project, including but not limited to, Value Engineering or other Savings after the GMP is established and after execution of this Construction Services Agreement, such Savings shall be divided in the following proportion: Seventy Five Percent (75%) of any Savings shall be returned to the District and Twenty Five Percent (25%) of any Savings shall be returned to the Contractor. Calculation of Savings shall be determined by adding all expenses for the Project (excluding Change Orders and Owner and Construction Contingency Expenses), separating out overhead costs and either using the actual overhead costs, or the percentage set for overhead in the Article 5.3, whichever is higher an applying the percentage for profit against the GMP (less Change orders, Owner and Construction Contingency). Any remaining money shall be considered Savings. If the Project expenses exceed the GMP, then there are no Savings for the Project and the GMP shall apply. A separate calculation of whether there are savings associated with Change Orders under the Owner and Construction Contingency may be performed to determine if there are any savings that remain on these areas and applied to the overall savings calculation

7.3 Savings Determined Through Audit. District may, at its own costs, have an audit conducted of the Project related job costs to determine Savings as further outlined in Article 21.

8. DISTRICT CONTINGENCY

8.1 The District Contingency is an allowance for use by the District that can be used to pay the Contractor to perform additional services (“Additional Services”) not described in this Construction Services Agreement. This District Contingency is outside of the GMP, is not part of the original bond, except to the extent that District contingency is utilized as a Change to the Contract under Article 17, and may be used for Owner requested additions, revisions to the Project, moving furniture or equipment, and other District unforeseen items. Contractor shall provide a cost estimate and a written description of the Additional Services required to perform such work. The District shall set aside a contingency amount outside the GMP, defined at Article 5 (“District Contingency”) in the amount set forth at Article 3, which District Contingency shall be used for such Additional Services. Compensation for such Additional Services shall be negotiated and agreed upon in writing, in advance of Contractor’s performing or contracting for such Additional Services. Nothing in this Construction Services Agreement shall be construed as limiting the valuation and amount to be paid to Contractor for such Additional Services or its implementation should a written agreement for such services be executed. Contractor shall not be entitled to compensation for Additional Services required as a result of Contractor’s acts, errors or omissions. Further any Architectural Errors and Omissions shall not come out of District Contingency unless agreed upon in writing by the District in its sole discretion.

8.2 Additionally, while District is in no way limited by the manner in which it decides to utilize the District Contingency, said District Contingency shall not be used for any costs associated with errors or omissions in the Construction Documents until such time, if ever, the Errors and Omissions Contingency has been fully exhausted. Any funds remaining in the District Contingency at the completion of the Project shall remain unspent and remain allocated to the District.

9. SCHEDULE

- 9.1 Contract Time: Contractor shall perform and reach Substantial Completion (See Article 4.45) within the time specified in the Agreement. Moreover, Contractor shall proceed on a properly developed and approved CPM Master Baseline Schedule, which represents the Contractor's view of the practical way in which the Work will be accomplished. Note that Contract Time includes and incorporates all Float and other Baseline inclusions as noted in Article 9.3 and as otherwise specifically noted in Article 9
- 9.2 Float is the total number of days an activity may be extended or delayed without delaying the Completion Date shown in the schedule. Float will fall into three categories: (1) Rain Days; (2) Governmental Delays; and (3) Project Float. Project Float and Rain Days are owned by the Project and may be utilized as necessary for critical path delays once the days become available for consumption (i.e. the rain day arrives and is not utilized since rain did not occur or Work was performed on the interior of a building). However, Governmental Delay float shall not be utilized for purposes other than to address critical path delays that arise due to approvals, Inspector approvals or verifications on governmental forms.
- 9.2.1 *Governmental Delay Float.* Given DSA requirements for submission and approval of CCD's prior to a DSA Form 152 sign off on areas of Work that deviate from approved Construction Documents, and the anticipated delays that may arise from this CCD procedure, no less than **twelve (12) days** per calendar year shall be set aside as Governmental Float to be utilized on critical path delays. A pro-rated number of days shall be calculated based on length of Contract Time. (For example, a two (2) year Contract Time shall require **twenty-four (24) days** of Governmental Float. If the Contract Time is 182 days, then the Contract Time shall require **six (6) days** of Governmental Float) This Governmental Delay float must be incorporated into the schedule and should be incorporated in each critical activity as Contractor deems fit. Specifically, major categories of Work under the DSA 152 (Project Inspection Card) should be allocated Governmental Delay Float at the Contractor's discretion. Governmental Delay Float on the Project may exceed **12 days** per one (1) year period, but Contractor is required to include not be less than **12 days** of Governmental Delay Float during each one (1) year period. **[ADJUST NUMBER OF DAYS AS NEEDED]**
- 9.2.2 *Inclement Weather (Rain Days).* The Contractor will only be allowed a time extension for unusually severe weather if it results in precipitation or other conditions which in the amount, frequency, or duration is in excess of the norm at the location and time of year in question as established by the National Oceanic and Atmospheric Administration (NOAA) weather data. No less than 22 calendar days for each Calendar year for Southern California. The NOAA weather related days (22 days in Southern California) shall be set aside as float within the Baseline Schedule. Additional days beyond the NOAA shall be considered under the same criteria that weather days are granted below.
- 9.2.3 *Granting of Days beyond those Anticipated.* A Rain Day shall be granted by Architect or CM if the weather prevents the Contractor from beginning Work at the usual daily starting time, or prevents the Contractor from proceeding with seventy-five (75%) of the normal labor and equipment force towards completion of the day's current controlling item on the accepted schedule for a period of at least five hours, and the crew is dismissed as a result thereof, the Architect will designate such time as unavoidable delay and grant one (1) critical path activity calendar-day extension if there is no available float for the calendar year.
- 9.2.4 *Project Float* is all remaining float, including extra days included in a particular activity.

- 9.3 Inclusions in Baseline. In addition to Scheduling requirements set forth at Article 9, Contractor is specifically directed to include in Contractor's Baseline Schedule and all Schedule updates that provide for the following items required pursuant to this CSA, including but not limited to:
- 9.3.1 *Rain Day Float (excluding inclement weather) as required under Article 9.2.2.* For example, if the NOAA provides 22 days of rain days, all 22 days must be incorporated and noted in the schedule. Further, any days required to clean-up or dry out shall be included for operations that are likely to require a clean-up or dry out period. Days that are not utilized shall be considered float owned by the Project.
 - 9.3.2 *Governmental Delay Float under Article 9.2.1.* This Governmental Delay Float shall only be utilized for Governmental Delays and shall not be considered available float owned by the Project. This float shall be distributed to the Project as granted and approved by the District, and shall be used to offset liquidated damages for overstaying the Lease, and shall not generate compensable delays.
 - 9.3.3 Submittal and Shop drawing schedule under Article 9.6 and 15.6.
 - 9.3.4 Deferred Approvals under Article 15.3 and 15.6
 - 9.3.5 Time for separate contractors, including furniture installation and start up activities, under Article 32.
 - 9.3.6 Coordination and timing of any drawings, approvals, notifications, permitting, connection, and testing for all utilities for the Project. Article 13.15.2 .
 - 9.3.7 Testing, special events, or District activities.
- 9.4 Schedule Updates. Contractor shall update the schedule each month to address actual start dates and durations, the percent complete on activities, actual completion dates, estimated remaining duration for the Work in progress, estimated start dates for Work scheduled to start at future times and changes in duration of Work items
- 9.4.1 *Listing of Items Causing Delays.* Schedule Updates shall provide a listing of activities which are causing delay in the progress of Work and a narrative shall be provided showing a description of problem areas, anticipated delays, and impacts on the Construction Schedule. Simply stating "District Delay" or "Architect Delay" shall be an inadequate listing.
 - 9.4.2 *Recovery Schedule.* In addition to providing a schedule update every thirty (30) days, the Contractor, shall take the steps necessary to improve Contractor's progress and demonstrate to the District and Architect that the Contractor has seriously considered how the lost time, the Completion Date, or the milestones that are required to be met within the terms of the Contract. Contractor shall provide a Recovery Schedule showing how Milestones and the Completion Date will be met.
 - 9.4.2.1 Failure to Provide a Recovery Schedule. Shall subject Contractor to the assessment of Liquidated Damages for failure to meet the Contract Time.
- 9.5 Time of the Essence. Time limits stated in the Contract Documents are of the essence to the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work
- 9.6 Time for Preparing Submittals Must Be Incorporated in Schedule: Contractor shall include Submittals as line items in the Baseline Schedule. Time for preparing and coordinating Submittals

shall not delay the Work, Milestones, or the Completion Date, and shall be in conformance with Article 15.6.

10. INSPECTION OF WORK/ INSPECTOR AND ARCHITECT

10.1 Inspection of Work/Inspector. The District shall hire its own Division of State Architect Inspector as required by law. District, District's Representatives, and the Division of the State Architect shall at all times have access to the work whether it is in preparation or progress, and Contractor shall provide proper facilities for such access and for inspection.

10.1.1 *General.* One or more Project Inspectors employed by the District and approved by the Division of the State Architect will be assigned to the Work in accordance with the requirements of Title 24 of the California Code of Regulations. The Inspector(s) duties are as specifically defined in Title 24 Section 4-333 and 4-342 and in DSA IR A-8.

10.1.2 *Inspector's Duties and DSA Noted Timelines for Inspection.* All Work shall be under the observation of the Inspector. Contractor shall establish a protocol for requesting inspection with Inspector so as to not delay the Work and provide adequate time for the Inspector to perform inspection. If such a protocol is not established ahead of time, Inspector may utilize the time criteria set by Title 24 of 48 hours in advance of submitting form DSA 156 for each new area. The Inspector shall have free access to any or all parts of the Work at any time. The Contractor shall furnish the Inspector such information as may be necessary to keep the Inspector fully informed regarding progress and manner of Work and character of materials. Such observations shall not, in any way, relieve the Contractor from responsibility for full compliance with all terms and conditions of the Contract, or be construed to lessen to any degree the Contractor's responsibility for providing efficient and capable superintendence. The Inspector is not authorized to make changes in the drawings or specifications nor shall the Inspector's approval of the Work and methods relieve the Contractor of responsibility for the correction of subsequently discovered defects, or from its obligation to comply with the Contract Documents.

10.1.3 *Electronic Posting.* Inspector shall electronically post DSA required documents on the DSA electronic posting website. It is the Contractor's responsibility to determine the status of posting and determine if all the criteria for sign off of a category of Work on the Project Inspection Card (Form DSA 152) as defined more thoroughly in the most current version of the DSA 152 manual posted on the DSA website.

10.1.4 *Incremental Approvals under PR-13.* Inspector may collaborate with Contractor about approval of areas that may be constructed and approved incrementally under the DSA 152 card pursuant to the guidelines of PR-13. Inspector shall work with Contractor to present incremental approval proposals to DSA.

10.1.5 *Inspector's Authority to Reject or Stop Work.* The Inspector shall have the authority to reject Work whenever provisions of the Contract Documents are not being complied with, and Contractor shall instruct its Subcontractors and employees accordingly. In addition, the Inspector may stop any Work that poses a probable risk of harm to persons or property. The Contractor shall instruct its employees, Subcontractors, material and equipment suppliers, etc., accordingly. The absence of any Stop Work Order or rejection of any portion of the Work shall not relieve the Contractor from any of its obligations pursuant to the Contract Documents.

10.1.6 *Inspector's Facilities.* Within seven (7) days after notice to proceed, the Contractor shall provide the Inspector with the temporary facilities as required. More specific

requirements for the Inspector facilities may be further described under Division 1 of the Specifications.

- 10.1.7 *Testing Times.* The District will provide inspection and testing at its cost during the normal eight (8) hour day Monday through Friday (except holidays). Work by the Contractor outside of the normal eight (8) hour day shall constitute an authorization from the Contractor to the District to provide inspection and testing as required outside of the normal eight (8) hour day. Contractor shall provide adequate time for inspections so as to not delay the Work. An advanced timing protocol may be established pursuant to Article 10. If the Contractor is behind Schedule then it is incumbent on the Contractor to provide advance forecast through look ahead of the anticipated date for inspection so the Inspector may plan their activities so as to not delay the Project. Contractor shall reimburse District for any additional costs associated with inspection and testing (including re-inspection and re-testing) outside the normal eight-hour day and for any retests caused by the Contractor pursuant to Article 10.4.
- 10.1.8 *Contractor Is Required to Coordinate Testing and Inspections.* It is the Contractor's responsibility to request special inspections with sufficient time so all testing may be timely completed and posted so work may proceed and the Inspector's signature is attached to the Project Inspection Card (Form 152). Specifically, timely request for special inspection under the DSA Verified Report Forms 291 (laboratory), DSA Verified Report Form 292 (Special Inspection), and DSA Verified Report 293 (geotechnical) since DSA requirements under PR 13-01 specifically gives the Special Inspections 14 days to post to the DSA website. It is the Contractor's responsibility to timely schedule and pay (if applicable) for Special Inspections as to not delay the Project, and any failure or resulting delay is not considered Governmental Delay Float under Article 9.2.1.
- 10.1.9 *Special Inspection Out of State, Out of Country or Remote from Project.* If Contractor has a Subcontractor or supplier that requires in plant or special inspections or tests that are out of the country, out of state or a distance of more than 200 miles from the Project site, the District shall provide the Special Inspector or individual performing tests time for inspection and testing during normal work hours. Contractor, however, is responsible for the cost of travel, housing, food, out of area premiums that may be in the Inspector/Testing Agreement with District, or other expenses necessary to ensure proper inspection or testing is provided by a DSA Certified Inspector, Special Inspector, or individual performing tests. In some cases all three (DSA Inspector, Special Inspector, and Testing) may be required. In addition, if the DSA Certified Inspector, Special Inspector, or individual performing test has contractual travel clauses or special rates for out of town inspection, Contractor is responsible for all costs associated with the contractual travel costs in addition to all other costs. Arrangements for inspection and/or testing shall be made far enough in advance so as to not delay the Work.
- 10.2 **STOP WORK ORDER.** DSA may issue a Stop Work Order, or an Order to Comply, when either (1) the Work proceeds without DSA approval; (2) the Work proceeds without a DSA Project Inspector, or (3) where DSA determines that the Work is not being performed in accordance with applicable rules and regulations, and would compromise the structural integrity of the Project or would endanger lives. If a Stop Work Order is issued, the Work in the affected area shall cease until DSA withdraws the Stop Work Order. Pursuant to Education Code Section 17307.5(b) and Education Code Section 81133.5, the District shall not be held liable in any action filed against the District for any delays caused by compliance with the Stop Work Order, except to the extent that an error or omission by the District is the basis for the issuance of the Stop Work Order.

10.3 Inspector's Field Office. Contractor shall provide for the use of inspector a separate trailer or temporary private office of not less than seventy five square feet of floor area to be located as directed by District and to be maintained until removal is authorized by District. The Office shall be of substantial waterproof construction with adequate natural light and ventilation. Door shall have a key type lock or padlock hasp. The Inspector's field office shall have heating and air-conditioning and shall be equipped with a telephone, internet connection, working computer, a fax machine and use of an on-site copier at Contractor's expense. A table satisfactory for the study of plans and two chairs shall be provided by Contractor. Contractor shall provide and pay for adequate electric lights, and adequate heat and air conditioning for the field office until authorized removal.

10.4 RESPONSIBILITY FOR ADDITIONAL CHARGES INCURRED BY THE DISTRICT FOR PROFESSIONAL SERVICES

10.4.1 If at any time prior to the completion of the requirements under the Contract Documents, the District is required to provide or secure additional professional services (including CM, Inspection, Architect, Engineering and Special Consultant Services) for any reason by any act of the Contractor, the District may seek a Deductive Change Order for any costs incurred for any such additional services, which costs shall be deducted from the next scheduled Progress Payment. A Deductive Change Order shall be independent from any other District remedies and shall not be considered a waiver of any District rights or remedies. If payments then or thereafter due to the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the District. Additional services shall include, but shall not be limited to, the following:

- a) Services made necessary by the default of the Contractor (Article 19 or Article 12.2).
- b) Services made necessary due to the defects or deficiencies in the Work of the Contractor.
- c) Preparation of a CCD or ICD to correct a Contractor Deficiency, or Contractor Caused Notices of Non-Compliance (Article 17.2)
- d) Services required by failure of the Contractor to perform according to any provision of the Contract Documents.
- e) Services in connection with evaluating substitutions of products, materials, equipment, Subcontractors' proposed by the Contractor, and making subsequent revisions to drawings, specifications, obtaining DSA approvals, DSA costs for review of CCD's, other governmental agency review costs, and providing other documentation required (except for the situation where the specified item is no longer manufactured or available). (Article 16
- f) Services for evaluating and processing Claims or Disputes submitted by the Contractor in connection with the Work outside the established Change Order or Claims or Disputes process.
- g) Services required by the failure of the Contractor to prosecute the Work in a timely manner in compliance within the specified time of completion.
- h) Services in conjunction with the testing, adjusting, balancing and start-up of equipment other than the normal amount customarily associated for the type of Work involved.

- i) Services in conjunction with more than one (1) re-review of Submittals of Shop Drawings, product data, samples, RFI's etc.

11. ARCHITECT

- 11.1 Architect's Status. In general and where appropriate and applicable, the Architect shall observe the progress and quality of the work on behalf of the District. The Architect shall have the authority to act on behalf of District only to the extent expressly provided in this Construction Services Agreement. After consultation with the Inspector and after using his/her best efforts to consult with the District, the Architect shall have authority to stop work whenever such stoppage may be necessary in his reasonable opinion to insure the proper execution of the Construction Services Agreement. Contractor further acknowledges that the Architect shall be, in the first instance, the judge of the performance of this Construction Services Agreement
- 11.2 Architect's Decisions. Contractor shall promptly notify District in writing if the Architect fails within a reasonable time to make decisions on all claims of the District or Contractor and on all other matters relating to the execution and progress of the Project.

12. DISTRICT RESPONSIBILITIES

- 12.1 District Site Representations. District warrants and represents that, District has, and will continue to retain at all times during the course of construction, legal title to the Site and that said land is properly subdivided and zoned so as to permit the construction and use of said Site. District further warrants and represents that title to said land is free of any easements, conditions, limitation, special permits, variances, agreements or restrictions which would prevent, limit, or otherwise restrict the construction or use of said facility. However, in the event easements for permanent structures or permanent changes in existing facilities are necessary, they shall be secured and paid for by District, unless otherwise specified. Reference is made to the fact that District has provided information on the Site to Contractor. Such information shall not relieve the Contractor of its responsibility; and the interpretation of such data regarding the Site, as disclosed by any borings or other preliminary investigations, is not warranted or guaranteed, either expressly or implicitly, by the District. The Contractor shall be responsible for having ascertained pertinent local conditions such as location, accessibility and general character of the Site and for having satisfied itself as to the observable, known or documented conditions under which the work is to be performed.
- 12.2 Partial Default: District Right to Take Over Work (Two (2) day notice to Cure and Correct). If the Contractor Defaults or neglects to carry out the Work in accordance with the Contract Documents, the District may provide a two (2) business day written notice to cure (a shorter period of time in the case of Emergency or a critical path delay) Contractor's Partial Default in a specific segregated area of work. The District's right to issue a Partial Default of the Contractor's Work and take over that segregated area of Work includes, but is not limited to:
 - a) Failure to supply adequate workers on the entire Project or any part thereof;
 - b) Failure to supply a sufficient quantity of materials;
 - c) Failure to perform any provision of this Contract;
 - d) Failure to comply with safety requirements, or due to Contractor is creation of an unsafe condition;
 - e) Cases of bona fide emergency;
 - f) Failure to order materials in a timely manner;

- g) Failure to prepare deferred-approval items or Shop Drawings in a timely manner;
- h) Failure to comply with Contractor's Baseline or Update Schedule, meet critical Milestones which would result in a Delay to the Critical Path, or Delay the Contract Time;
- i) Failure to comply with the Subcontractor selection and award requirements under Education Code section 17406(a)(4);
- j) Failure to meet the requirements of the American's with Disabilities Act;
- k) Failure to complete Punch List work; or
- l) Failure to proceed on an Immediate Change Directive.

12.2.1 *Failure to correct a Notice of Deviation.* If during the two (2) business day period, the Contractor fails to Cure and correct the deficiency noted in the notice of Partial Default with diligence and promptness, the District may correct such deficiencies without prejudice to other remedies the District may have, including a Termination for Cause as set forth in Article 19.

12.2.2 *Service of Notice of Partial Default with Right to Cure.* A written notice of Partial Default and right to Cure under Article 12.2("Article 12.2 Notice" or "Notice of Partial Default") shall be served by facsimile (with a copy provided by e-mail to the e-mail address provided and copied to the Project Superintendent).

12.2.3 *Shortened Time for Partial Default in the Case of Emergencies.* In an Emergency situation, the District may correct any of the deficiencies described in Article 12.2 without prejudice to other remedies by providing service of written notice of Emergency requiring a shortened time for Partial Default specifying the time given to Cure, if any.

12.2.4 *Shortened Time for Partial Default in the Case of Critical Path Delay.* In the case of critical path delay, the District may correct any of the deficiencies described in Article 12.2 without prejudice to other remedies providing service of written notice of Critical Path Delay to the Contractor with a specific description of the critical path delay items noting the line item or area of Work that is on the Critical Path and prescribe the length of shortened time to Cure, if any.

12.2.5 *Written Notice of Partial Default to be Deducted by Deductive Change Order.* The District shall have the right to determine the reasonable value of the Article 12.2 Partial Default Work, or if there is an actual value for the Work, shall use that value and issue a Deductive Change Orders under Article 17.6.

13. CONTRACTOR RESPONSIBILITIES.

- 13.1 Full Time Supervision. Contractor shall keep on the Work at all times during its progress a competent, English speaking construction Superintendent satisfactory to the District. The Superintendent shall be present on a full-time basis, shall be dedicated exclusively to the Project and shall not share superintendency duties with another project or job. The Superintendent shall not be replaced except with written consent of the District. The Superintendent shall represent the Contractor in its absence and shall be fully authorized to receive and fulfill any instruction from the Architect, the Inspector, the District or any other District representative (including CM in the cases where the District has a CM representative). All Requests for Information shall be originated by the Superintendent and responses thereto shall be given to the Superintendent. No Work shall begin on any day by any Subcontractor or other person on the Project site until the

Superintendent has arrived, or shall any Work continue during the day after the Superintendent has departed from the Project site. The Superintendent shall have authority to bind Contractor through the Superintendent's acts. The Superintendent shall represent the Contractor, and communications given to the Superintendent shall be binding on the Contractor. Before commencing the Work, Contractor shall give written notice to District (and CM representative) and Architect of the name and a Statement of Qualifications of such superintendent. Superintendent shall not be changed except with written consent of District, unless a superintendent proves to be unsatisfactory to Contractor and ceases to be in its employ, in which case, Contractor shall notify District and Architect in writing. Contractor shall provide a replacement superintendent approved by the District prior to performing additional work.

- 13.2 Staff. Notwithstanding other requirements of the Contract Documents, the Contractor and each Subcontractor shall: (1) furnish a competent and adequate staff as necessary for the proper administration, coordination, supervision, and superintendence of its portion of the Work; (2) organize the procurement of all materials and equipment so that the materials and equipment will be available at the time they are needed for the Work; and (3) keep an adequate force of skilled and fit workers on the job to complete the Work in accordance with all requirements of the Contract Documents.
- 13.3 Contractor shall notify District and Architect, in writing, when Contractor desires to change the Project Manager for the Project, and shall provide the information specified above. The new Project Manager cannot serve on the Project until approved by District. District shall have the right, at any time, to direct a change in Contractor's Project Manager if performance is unsatisfactory, as determined by District, in its sole discretion.
- 13.4 Contractor shall give efficient supervision to the work, using its skill and attention and shall cause working drawings and specifications to be prepared and submitted to the District. Following agreement by Contractor and District with respect to said working drawings and specifications, it shall be Contractor's responsibility to perform the work described in said working drawings and specifications in substantial compliance with the Construction Documents.
- 13.5 Right to Remove. District shall have the right, but not the obligation, to require the removal from the Project of any superintendent, staff member, agent, or employee of any Contractor, Subcontractor, material or equipment supplier.
- 13.6 Discipline. The Contractor shall enforce strict discipline and good order among the Contractor's and Subcontractor's employees, and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. As used in this subsection, "unfit" includes any person who the District concludes is improperly skilled for the task assigned to that person, who fails to comply with the requirements of this Article, or who creates safety hazards which jeopardize other persons and/or property.
- 13.7 Labor and Materials
- 13.7.1 *Contractor to Provide.* Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, material, equipment, tools, construction equipment and machinery, water, heat, air conditioning, utilities, transportation, and other facilities, services and permits necessary for proper execution and completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.
- 13.7.2 *Quality.* Unless otherwise specified, all materials and equipment to be permanently installed in the Project shall be new and shall be of the highest quality or as specifically stated in the Contract Documents. The Contractor shall, if requested, furnish satisfactory evidence as to kind and quality of all materials and equipment within ten (10) days of a written request by the District, including furnishing the

District with bona fide copies of invoices for materials or services provided on the Project. All labor shall be performed by workers skilled in their respective trades, and shall be of the same or higher quality as with the standards of other public school construction.

- 13.7.3 *Replacement.* Any work, materials, or equipment, which do not conform to these requirements or the standards set forth in the Contract Documents, may be disapproved by the District, in which case, they shall be removed and replaced by the Contractor at no additional cost or extension of time to the District.
- 13.8 Pre-Construction Orientation/Construction Meetings. The Contractor, in conjunction with the District and the Architect, shall conduct pre construction orientation conferences for the benefit of Subcontractors to orient the Subcontractors to the various reporting procedures and site rules prior to the commencement of actual construction. These Pre-Construction meetings shall include coordination of the Subcontractor Work to help reduce Errors and Omissions and Construction Contingency requests and shall incorporate the Constructability Due Diligence review done by Contractor.
- 13.9 Owner Meetings. The Contractor shall conduct construction and progress meetings with District Representatives, and Construction Managers that occur at least weekly and as otherwise requested by the District, to discuss such matters as procedures, progress problems and scheduling. The Contractor shall prepare and promptly distribute official minutes of such meetings to all parties in attendance including Architect, District and Inspector.
- 13.10 Budget/Cash Flow Reports. The Contractor shall incorporate approved changes as they occur, and develop cash flow reports and forecasts for submittal to the District on a monthly basis. The Contractor shall provide regular monitoring of the approved estimates of Construction Costs, showing actual costs for activities in progress, and estimates for uncompleted tasks. The Contractor shall identify variances between actual and budgeted or estimated costs, and advise the District and the Architect whenever Project costs exceed budgets or estimates. The Contractor shall maintain cost accounting records on authorized additional services or work performed under unit costs, additional work performed on the basis of actual costs of labor and materials, or other work requiring accounting records.
- 13.11 Progress Reports. The Contractor shall record the progress of the Project, and shall submit monthly written progress reports to the District and the Architect including information on the entire Project, showing percentages of completion and the number and amounts of proposed Extra Work/Modifications and their effect on the Construction Costs as of the date of the report. The Contractor shall also keep a daily log containing a record of weather, Contractors, work on the site, number of workers, work accomplished, problems encountered, and other similar relevant data as the District may require. The Contractor shall make the log available to the District and the Architect. The District shall be promptly informed of all anticipated delays. In the event that the Contractor determines that a schedule modification is necessary, the Contractor shall promptly submit a revised Schedule for approval by the District
- 13.12 Schedule of Values.
- 13.12.1 *Break Down of Schedule of Values.* Schedule of Values shall be broken down by Project, site, building, milestone, or other meaningful method to measure the level of Project Completion as determined by the District. The schedule of values shall include, but not be limited, to Subcontractor costs, the costs for the Submittals, Punch Lists, Commissioning and Start-Up, Close Out Submittals, and As-Builts.
- 13.12.2 *Based on Contractor Costs.* The Schedule of Values shall be based on the costs from Contractor to the District. However, the submission of the Schedule of Values shall not be front loaded so the Contractor is paid a greater value than the value of the Work

actually performed and shall not shift funds from parts of the Project that are later to Work that is performed earlier.

- 13.12.3 *Largest Dollar Value for Each Line Item.* Identify Subcontractors and materials suppliers proposed to provide portions of Work equal to or greater than ten thousand dollars (\$10,000) or one-half (1/2) of one percent (1%) of their Contract Price, whichever is less, or as otherwise approved in writing by the District.
- 13.12.4 *Allowances.* Any Allowances provided for in the Contract shall be a line item in the Schedule of Values.
- 13.12.5 *Labor and Materials Shall Be Separate.* Labor and Materials shall be broken into two separate line items unless specifically agreed in writing by the District.
- 13.12.6 *District Approval Required.* The District shall review all submissions of Schedule of Values received pursuant to this Article in a timely manner. All submissions must be approved by the District before becoming the basis of any payment.
- 13.13 Scheduling. Contractor shall complete the construction pursuant to the CPM Schedule as required under Article 9.
- 13.14 As-Builts. Throughout the duration of the Project, Contractor shall maintain on a current basis an accurate and complete set of As-Built Drawings (and Annotated Specifications) clearly showing all changes, revisions to specifications and substitutions during construction, including, without limitation, field changes and the final location of all electrical and mechanical equipment, utility lines, ducts, outlets, structural members, walls, partitions, and other significant features. In case a specification allows Contractor to elect one of several brands, makes, or types of material or equipment, the annotations shall show which of the allowable items the Contractor has furnished. The Contractor will update the As-Built Drawings and Annotated Specifications as often as necessary to keep them current, but no less often than weekly.
 - 13.14.1 *Updates.* Contractor shall update As-Built Drawings with complete information on an area of Work at or near the time when the Work is being performed and prior to any DSA 152 sign off and prior to any Work being covered.
 - 13.14.2 *Storage.* The As-Built Drawings and Annotated Specifications shall be kept at the Site and available for review and inspection by the District and the Architect. Failure to maintain and update the As-Built Drawings is a basis to withhold scheduled Progress Payments pursuant to Article 29.4.
 - 13.14.3 *Upon Beneficial Occupancy.* Contractor shall obtain and pay for reproducible plans upon Beneficial Occupancy. Contractor shall deliver Plans to District Representative (Construction Manager if one is hired for the Project).
 - 13.14.4 *As-Builts at Completion of Work.* On completion of the Work and prior to and as a condition precedent to the Application for Retention Payment, the Contractor will provide one neatly prepared and complete set of As-Built Drawings and Annotated Specifications to the District. Contractor shall certify the As-Builts as a complete and accurate reflection of the actual construction conditions of the Work by affixing a Stamp indicating the Drawings are As-Builts and Certifying Accuracy on the final set of As-Builts.
 - 13.14.5 *Log of Control and Survey Documentation.* Contractor shall complete and maintain an accurate log or all control and survey documentation for the Project as the Work progresses. All reference and control points shall be recorded on the As-Built

drawings. The basis of elevations shall be one of the established benchmarks that must be maintained on the As-Builts.

- 13.14.6 *Record Coordinates for Key Items.* Contractor shall record, by coordinates, all utilities on-site with top of pipe elevations, major grade and alignment changes, rim, grate or top of curb and flow line elevations of all drainage structures and sewer manholes. Contractor shall update record information at or near the time when work is occurring in an area and prior to DSA 152 sign off on any category of Work and prior to covering the Work.

13.15 Miscellaneous Obligations of Contractor

- 13.15.1 *District Permit and Other Obligations.* It is expressly understood that the District shall pay the DSA for the DSA inspector, soils testing, DSA fees, special testing, etc. If additional review or permits become necessary for reasons not due to Contractor's fault or because of DSA requirements or regulations implemented after the date the GMP is established and not reasonably anticipated at the time the GMP is established, Contractor may seek compensation only for the direct cost (without mark up or added fees) of that review, as an additional cost. In the alternative, District may pay such costs directly to DSA. (Offsite costs and additional inspection costs)
- 13.15.2 *Contractor Permit Obligations.* Contractor shall pay for all remaining general building permits and ancillary permits and licenses not paid by District prior to the commencement of this Construction Services Agreement. Contractor shall also be responsible for arranging and overseeing all necessary inspections and tests, including inspections by the DSA, permits and occupancy permits, and ensure compliance with any Federal and State laws. All municipal charges for permanent utilities including, but not limited to, sewer, electrical, phone, gas, water, and irrigation shall be paid for by District. Contractor shall be responsible for arranging the payment of such fees by District at least one (1) week in advance of when the payment is due. Contractor may either request reimbursement from District for such fees (at direct cost only), or obtain the funds from District prior to paying such fees.
- 13.15.3 *Protection.* The Contractor shall establish procedures for the protection of all existing structures, equipment, utilities, and other existing improvements, both on site and off site.
- 13.15.4 *Nuisance Abatement.* The Contractor shall develop a mutually agreed upon documented program with the District to abate and minimize noise, dust, and disruption to normal activities at the existing facilities on the Site, including procedures to control on site noise, dust, and pollution during construction.
- 13.15.5 *Site Mitigation and Remediation.* Contractor shall be required to undertake Site mitigation or remediation at its sole cost for items identified in the Due Diligence Documents provided to Contractor. For hazardous substances and underground conditions that differ from representations in Contract Documents or Due Diligence Documents, Contractor shall provide notice within five (5) days after the discovery of the occurrence of the unforeseen conditions. If Due Diligence Documents and information provided to Contractor does not provide notice of the unforeseen condition, then the costs for such work shall be added as an extra pursuant to Article 17. Costs shall be allocated to the Unforeseen Allowance. However, to the extent Unforeseen Allowance is exceeded, District may, in its sole and absolute discretion, allocate any costs that exceed the Unforeseen Allowance arising from unforeseen underground conditions and hazardous substances that are not documented in the Construction Documents or in the Due Diligence Documents reviewed to the District Contingency.

- 13.15.6 *Utilities.* The Contractor shall perform and pay for all temporary utility hook ups and connections; the District shall pay for use of utilities during construction, as well as any fees owed to utility suppliers for connection to existing mainline facilities. Buildings shall be connected to water, gas, sewer, and electric services, complete and ready for use. Service connections shall be made and existing services reconnected.
- 13.15.7 *Sanitary Facilities.* The Contractor shall provide a sanitary temporary toilet building as directed by the inspector for the use of all workers. The building shall be maintained in a sanitary condition at all times and shall be left at the site until the inspector directs removal. Use of toilet facilities in the work under construction shall not be permitted except by approval of the Inspector.
- 13.15.8 *Layout and Field Engineering.* All field engineering required for laying out this work and establishing grades for earthwork operations shall be furnished by the Contractor at its expense. Such work shall be done by a qualified civil engineer or land surveyor licensed in California and approved by the Architect. Any required "as built" drawings of site development shall be prepared by a qualified civil engineer or land surveyor licensed in California and approved by the Architect.
- 13.15.9 *Cutting and Patching.* Contractor shall do all cutting, fitting, or patching of work as required to make its several parts come together properly and fit it to receive or be received by work of other contractors showing upon, or reasonably implied by, the drawings and specifications for the completed structure. Contractor shall make good after them as Architect may direct. All cost caused by defective or ill-timed work shall be borne by party responsible therefore. Contractor shall not endanger any work by cutting, excavating, or otherwise altering work and shall not cut or alter work of any other contractor without consent or at the direction of Architect.
- 13.15.10 *Documents on the Project Site.* Contractor shall keep one copy of all Contract Documents, including addenda, change orders, Division I, Title 21 of the California Code of Regulations, Parts 1-5 and 12 of Title 24, and Title 22 of the California Code of Regulations, and the prevailing wage rates applicable to the Project, which are a part of Contract Documents, on job at all times. Said documents shall be kept in good order and shall be available to District representative, Architect and his representatives. Contractor shall be acquainted with and comply with the provisions of said Titles 21, 22 and 24 as they relate to this Project. (See particularly Duties of the Contractor, Title 24 California Code of Regulations, Section 4-343.) Contractor shall also be acquainted with and comply with all California Code of Regulations provisions relating to this Project, particularly Titles 17, 19, 21, 22 and 24.) Contractor shall also make available all books, records, accounts, contracts, bids, etc. upon request of District.
- 13.15.11 *Contractor to Bind Subcontractors to the Provisions of this Contract.* Contractor shall ensure that Subcontractors are bound to the same extent as Contractor is bound to District.
- 13.15.12 *Contractor Responsible for Means and Methods.* Contractor shall be solely responsible for the construction means, methods, techniques, sequences, procedures, and coordinating all portions of the work under the Contract Documents, unless the Contract Documents give other specific instructions concerning these matters. Contractor shall be responsible to see that the finished work complies accurately with the Contract Documents. Contractor shall not perform the work without utilizing the Contract Documents or, where required, approved shop drawings, product data, or samples for any such portion of the work.

13.15.13 *Contractor Responsible for Acts and Omissions of Employees.* Contractor shall be responsible to District for acts and omissions of Contractor's employees, Subcontractors, material and equipment suppliers, and their agents, employees, invitees, and other persons performing portions of the work under direct or indirect contract with Contractor or any of its Subcontractors.

13.15.14 *General DSA Compliance.* During the entire term of this Agreement, Contractor shall coordinate its services with the District, Architect, Project Inspector, and other parties to ensure that all requirements set forth in the DSA's Inspection Card (Form 152) and any subsequent revisions or updates thereto issued or required by DSA, or any other/alternate processes are being met in compliance with DSA requirements. Contractor shall take all action necessary as to not delay progress in meeting any DSA requirements. Contractor shall meet any applicable requirements set forth in DSA's Construction Oversight Process Procedure (PR 13-01) and any subsequent revisions or updates thereto issued or required by DSA. Any references to DSA requirements for the Project shall be deemed to include and incorporate any revisions or updates thereto.

13.16 Close Out

13.16.1 *All DSA Close-Out requirements (See DSA Certification Guide).* Contractor is also specifically directed to the DSA Certification Guide and the applicable certificates for the DSA-311 form.

13.16.2 *Punch List Is Prepared Only After the Project Is Substantially Complete.* The Inspector and Architect shall prepare a Punch List of items which is an inspection report of the Work, if any, required in order to complete the Contract Documents and ensure compliance with the DSA Approved Plans so the Project may be Completed by the Contractor and a final DSA Close-Out is approved. When all Work for the Project is Complete, including Punch Lists and all Work complies with the approved Contract Documents and Change Orders, the Project has reached Final Completion.

13.16.3 *Time for Completion of Punch List.* Contractor shall only be given a period of no more than thirty (30) days to complete the Punch List on Project. During the Punch List period Contractor Superintendent and Project Manager shall remain engaged in the Project and shall not be removed or replaced. If the Punch List is not completed at the end of the Punch List time then Contractor shall issue a valued Punch List within 5 days after the date the Punch List time ends. If Contractor does not issue such a list, the Owner or Architect may issue a valued Punch List to the Contractor and withhold up to 150% of the value of the Punch List Work.

13.16.4 *As-Builts Up to Date and Complete.* The intent of this procedure is to obtain an exact "As-Built" record of the Work upon completion of the Project. The following information shall be carefully and correctly drawn on the prints and all items shall be accurately located and dimensioned from finished surfaces of building walls on all As-Built drawings:

13.16.4.1 The exact location and elevations of all covered utilities, including valves, cleanouts, etc. must be shown on As-Builts

13.16.4.2 Contractor is liable and responsible for inaccuracies in As-Built drawings, even though they become evident at some future date.

13.16.4.3 Upon completion of the Work and as a condition precedent to approval of release of the Retention Payment, Contractor shall obtain the Inspector's approval of the "As-Built" information. When completed,

Contractor shall deliver corrected sepias and/or a Diskette with an electronic file in a format acceptable to the District.

- 13.16.4.4 District may withhold the cost to hire a draftsman and potholing and testing service to complete Record As-Built Drawings at substantial cost if the Contractor does not deliver a complete set of Record As-Built Drawings. This shall result in withholding of between \$10,000 to \$20,000 per building that does not have a corresponding Record As-Built Drawing.
- 13.16.5 *Any Work not installed* as originally indicated on drawings
- 13.16.6 *All DSA Close-Out requirements* (See DSA Certification Guide). Contractor is also specifically directed to the DSA Certification Guide and the applicable certificates for the DSA-311 form.
- 13.16.7 *Submission of Form 6-C.* Contractor shall be required to execute a Form 6-C as required under Title 24 Sections 4-343. The Contractor understands that the filing with DSA of a Form 6-C is a requirement to obtain final DSA Approval of the Construction by Contractor and utilized to verify under penalty of perjury that the Work performed by Contractor complies with the DSA approved Contract Documents.
- 13.16.8 *Contractor shall be Responsible for All Costs to Certify the Project.* The District may Certify the Project complies with Approved Construction Documents by utilizing the procedures under the Project Certification Guide (Located at the DSA website at http://www.documents.dgs.ca.gov/dsa/plan_review_process/project_certification_guide_updated_03-15-13.pdf). All costs for professionals, inspection, and testing required for an alternate Project Certification shall be the Contractor's responsibility and the District reserves its right to institute legal action against the Contractor and Contractor's Surety for all costs to certify the Project and all costs to correct Non-Compliant Work that is discovered during the Alternate Certification Process.
- 13.16.9 *ADA Work that must be corrected* to receive DSA certification. See Article 41.
- 13.16.10 *Maintenance Manuals.* At least thirty (30) days prior to final inspection, three (3) copies of complete operations and maintenance manuals, repair parts lists, service instructions for all electrical and mechanical equipment, and equipment warranties shall be submitted. All installation, operating, and maintenance information and drawings shall be bound in 8½" x 11" binders. Provide a table of contents in front and all items shall be indexed with tabs. Each manual shall also contain a list of Subcontractors, with their addresses and the names of persons to contact in cases of emergency. Identifying labels shall provide names of manufactures, their addresses, ratings, and capacities of equipment and machinery.
- 13.16.11 Maintenance manuals shall also be delivered in electronic media for the Project. Any demonstration videos shall also be provided on electronic media.
- 13.17 Correction of Work: Warranty. Neither a Progress Payment, Sublease Payment nor any provision in the Contract Documents shall relieve Contractor of responsibility for faulty materials or workmanship incorporated in the Project. Contractor warrants that all work under this Construction Services Agreement will be free of faulty materials or workmanship and hereby agrees, within ten (10) days upon receiving notification from District, to remedy, repair or replace, without cost to District, all defects which may appear as a result of faulty materials or workmanship in the Project, at any time, or from time to time, during a period beginning with commencement of the Project and ending one (1) years after the date of completion of the Project,

as defined in Article 18 hereof. The foregoing warranty of Contractor also applies to the remedy, repair or replacement of defects which may in the documents prepared by Contractor and/or any party retained by, through or under Contractor in connection with the Project, but the foregoing warranty of Contractor does not guarantee against damage to the Project sustained by use, wear, intentional acts, accidents, or lack of normal maintenance or as a result of changes or additions to the Project made or done by parties not directly responsible to Contractor, except where such changes or additions to the Project are made in accordance with Contractor's directions. No guarantee furnished by a party other than Contractor with respect to equipment manufactured or supplied by such party shall relieve Contractor from the foregoing warranty obligation of Contractor. The warranty period set forth herein above shall not apply to latent defects appearing in the Project, and with respect to such defects, the applicable statute of limitations shall apply. Contractor agrees to provide the District with all equipment and materials warranties provided by manufacturers to District but has no obligation to assist in processing such warranty claims after said one (1) year warranty period.

13.17.1 *Assignment of Subcontracts.* Upon the Completion of the Warranty period, Contractor shall assign to the District all subcontracts with Subcontractors, material suppliers or other vendors that provided Work for the Project. This assignment shall include all purchase orders and any change orders or addenda that were executed with the assigned Subcontractor.

13.17.1.1 Documents to be Provided to District. Contractor shall provide the following documents to the District as part of Close Out of the Project:

- a. *Subcontractor Warranty.* Contractor shall provide any warranty documents, including warranties consistent with the requirements of this Contract and the Contract Documents.
- b. *Contracts.* Contractor shall provide copies of all subcontracts, amendments, change orders and other documents associated with the Subcontractor's scope of work and price for work on the Project.
- c. *Subcontractors Bound to the Same Extent as Contractor.* The Subcontractors shall be bound to the same extent as the Contractor is bound by this CSA and Subcontractors shall be required to include assignment of their contracts to the District.
- d. *Bonds Assignable.* Contractor shall ensure that Subcontractor performance and payment bonds are assignable and can be assigned to the District.
- e. *Unconditional Releases.* Contractor shall provide as part of the Close Out of the Project, Unconditional Releases for each Subcontractor and Material supplier that provided Work for the Project.
- f. *Project Files.* Contractor shall provide the District a copy of the entire Subcontractor file, including any submittals or shop drawings that were provided by Subcontractor.
- g. *District Reserves the Right to Assume Subcontractor Contracts Prior to the End of the Warranty Period.* District reserves the right to take assignment of Subcontractor contracts prior to the end of the warranty period.

- 13.18 Assignment of Anti-Trust Claims. The Contractor offers and agrees to assign to the District all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 USC 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 purchase of goods, services, or materials pursuant to the Construction Services Agreement. This assignment shall become effective at the time the District tenders the final Sublease Payment to Contractor, without further acknowledgment by the parties.

14. CONTRACT DOCUMENTS AND INTERPRETATIONS

- 14.1 The Contract Documents shall be executed, and/or initialed as appropriate, in duplicate by District and Contractor. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. The intention of the Contract Documents is to include all labor, services and materials reasonably necessary for the proper execution of the work.
- 14.2 It is not intended that work and/or services not covered under any heading, section, branch, class or trade of the specifications shall be supplied, unless it is required elsewhere in the Contract Documents or is reasonably inferable therefrom as being necessary to produce the intended results, in which case such work and/or services shall be supplied by Contractor. Words which have well known technical or trade meanings are used herein in accordance with such recognized meanings. Mutual agreement shall be reached with respect to words which do not have a well-known technical or trade meaning and the definition of which come into question.
- 14.3 Plans and Specifications are intended to be fully cooperative and to agree. All Plan and Specification changes shall be dated and sequentially recorded. All modifications to Plans and Specifications shall be interpreted in conformity with the Contract Documents, which shall govern, unless otherwise specified.

15. SUBMITTALS

15.1 Definitions

- 15.1.1 *Deferred Approvals.* Approval of certain aspects of the construction may be deferred until the construction Contract has been awarded. To facilitate the design process, DSA grants deferred approval to the design and detailing of certain elements of the Project at the request of the Architect or Engineer of Record. Design elements that may be deferred may include, but are not limited to Access floors, Bleachers, Elevator guide rails and related elevator systems, Exterior wall systems - precast concrete, glass fiber reinforced concrete, etc., Skylights, Window wall systems, storefronts, Stage rigging, and other systems as noted in the Contract Documents. (Also see Article 15.3 and 15.6).
- 15.1.2 *Shop Drawings.* The term "Shop Drawings" as used herein means drawings, diagrams, equipment or product schedules, and other data, which are prepared by Contractor, Subcontractors, manufacturers, suppliers, or distributors illustrating some portion of the Work, and includes: illustrations; fabrication, erection, layout and setting drawings; manufacturer's standard drawings; schedules; descriptive literature, instructions, catalogs, and brochures; performance and test data including charts; wiring and control diagrams; and all other drawings and descriptive data pertaining to materials, equipment, piping, duct and conduit systems, and methods of construction as may be required to show that the materials, equipment, or systems and their position conform to the requirements of the Contract Documents.
- 15.1.3 *Manufactured* applies to standard units usually mass-produced, and "Fabricated" means items specifically assembled or made out of selected materials to meet individual design requirements. Shop drawings shall: establish the actual detail of all

manufactured or fabricated items, indicate proper relation to adjoining work, amplify design details of mechanical and electrical systems and equipment in proper relation to physical spaces in the structure, and incorporate minor changes of design or construction to suit actual conditions.

15.1.4 *Submittals* is a term used interchangeably and sometimes refers to Shop Drawings, Product Data, and Samples since all Subcontractor submissions are tracked in a Submittal Log and may include any of the noted items. However, generally, a Submittal is a manufacturer's product information and product data including description, characteristics, size, physical characteristics, and requirements to prepare the jobsite for receiving of the particular manufactured item.

15.1.5 *Samples.* The term "samples" as used herein are physical examples furnished by Contractor to illustrate materials, equipment, or quality and includes natural materials, fabricated items, equipment, devices, appliances, or parts thereof as called for in the Specifications, and any other samples as may be required by the Architect to determine whether the kind, quality, construction, finish, color, and other characteristics of the materials, etc., proposed by the Contractor conform to the required characteristics of the various parts of the Work. All Work shall be in accordance with the approved samples.

15.2 Shop Drawings.

15.2.1 *When Shop Drawings Are Required.* Shop drawings are required for prefabricated components and for installation and coordination of these prefabricated components into the Project. In addition, Shop Drawings, are prepared to address the actual size and installation of components from various Subcontractors and provides an opportunity for the Contractor to coordinate and address conflicts between the subcontracting trades. In some cases, each Subcontractor or trade will provide Shop Drawings in a format agreed upon by District.

15.2.2 *Purpose for Shop Drawings.* Shop drawings are the Contractor's manufacturer, Subcontractor, supplier, vendor or the Contractor's detailed drawings showing particularized method for assembly, specifics to a manufacturer, manufacturer component installation requirements, specifics as to a manufactured item, alterations to a manufactured, a custom created item, or drawn version of more detailed information expanding on the Architect's design shown in the Contract Documents. The Shop Drawings address the appearance, performance, size, weight, characteristics and prescriptive descriptions associated with the Contractor or Contractor's Subcontractor's plan for installation or assembly based on the design in the specifications and Contract Documents. The shop drawing often is more detailed than the information shown in the Contract Documents to give the Architect and Engineer the opportunity to review the fabricator's version of the product (along with particulars specific to that particular product), prior to fabrication. References to the Contract Documents, Construction Documents, Drawings, Plans, and Specifications assist the Architect and Engineer in their review of the Shop Drawings. Attachment of manufacturer's material specifications, "catalog cut sheets," and other manufacturer's information may be provided to accompany Shop Drawings. Because Shop Drawings facilitate the Architect's and Engineer's approval of the system, they should be as clear and complete as possible so they may be reviewed by Architect or Engineer for the Project.

15.2.3 *Shop Drawing Requirements.* The Contractor shall obtain and submit with Shop Drawings all seismic and other calculations and all product data from equipment manufacturers. "Product data" as used herein are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information

furnished by the Contractor to illustrate a material, product, or system for some portion of the Work.

- 15.2.4 *Not a Reproduction of Architectural or Engineering Drawings.* The shop drawing are not a reproduction of the architectural or engineering drawings. Instead, they must show more detail than the Construction Documents and details the fabrication and/or installation of the items to the manufacturer's production crew or Contractor's installation crews.
- 15.2.5 *Shop Drawings Engineering Requirements:* Some shop drawings require an engineer stamp to be affixed on the drawings and calculations. In such cases, a current and valid engineering stamp shall be affixed by a California registered engineer. No out of State engineers shall stamp Shop Drawings. (See DSA IR A-18). In most cases, an engineer means California registered mechanical, structural, electrical or plumbing engineer. California Registered Civil Engineers will not be accepted for structural details unless specifically approved by DSA.
- 15.2.6 *DSA Approvals Required Prior to Work.* No work on a Shop Drawing that requires DSA approval may proceed until DSA approval is received. Contractor has provided DSA approval time and allowed adequate time for corrections in Contractor's Schedule as required pursuant to Article 9.
- 15.2.7 *Shop Drawing Identification.* All Shop Drawings must be properly identified with the name of the Project and dated, and accompanied by a letter of transmittal referring to the name of the Project and to the Specification section number for identification of each item clearly stating in narrative form, as well as "clouding" all qualifications, departures, or deviations from the Contract Documents. Shop drawings, for each section of the Work shall be numbered consecutively and the numbering system shall be retained throughout all revisions. All Subcontractor submissions shall be made through the Contractor. Each drawing shall have a clear space for the stamps of Architect and Contractor.
- 15.3 Deferred Approvals. Deferred approvals shall be submitted and processed to ensure all DSA and other governmental approvals are secured so as to not delay the Project. There may be additional requirements for deferred approvals in Division 1 of the Specifications. All deferred approvals shall be prepared by Contractor or Contractor's agent early enough so as to not delay the Project. Contractor is aware that Title 24 California Code of Regulations Section 4-317 has specific requirements for deferred approvals as to governing agencies and as to the Architect and Engineer for the Project. As a result, any delay associated with the time for approval by applicable agencies or by the Architect or Architect's consultants shall be Contractor's. Contractor is required to comply with inclusion of Deferred Approvals in the Schedule as required under Article 9
 - 15.3.1 *DSA Approvals Required Prior to Work.* No work on a deferred approval item may proceed on the components until DSA approval is received. Contractor has provided DSA approval time and allowed adequate time for any DSA revisions in Contractor's Schedule as required pursuant to Article 9.
- 15.4 Submittals and Samples
 - 15.4.1 *Information Required With Submittals:* Manufacturer, trade name, model or type number and quantities: Information provided must be of sufficient detail to allow Architect and Engineer to compare the submitted item with the specified products and acceptable products listed, in the specification and addenda.
 - 15.4.2 *Description of Use and Performance Characteristics:* Information should be furnished describing the normal use and expected performance of the product. The Architect and

Contractor review this information to confirm that the product is appropriate for the intended use.

- 15.4.3 *Size and Physical Characteristics:* The size and physical characteristics, such as adjustment capabilities, which is reviewed by both the Contractor and Architect. The Contractor has the most available information for comparing adjoining materials and equipment. The Contractor also needs to know the size and weight of the equipment for lifting and handling considerations.
- 15.4.4 *Finish Characteristics:* The Architect reviews the available finishes and selects the appropriate finish, if the finish was not previously specified in the documents. The Contractor should confirm that finish requirements in the specification are being met by the product.
- 15.4.5 *Contractor Responsible for Jobsite Dimensions:* Some material is custom-fabricated to job conditions, requiring dimensions from the jobsite. These jobsite dimensions are provided by the Contractor as part of the Contractor's responsibilities for the Project and shall be provided prior to release of the product for manufacture. Contractor shall not rely on Architect or Engineers to provide jobsite dimensions.
- 15.4.6 *Full Range of Samples Required (When Specific Items Not Specified).* Except in cases where the exact color and type of item is specified since the District is utilizing items Standardized or pre-selected by District, the full range of color, graining, texture, or other characteristics are anticipated for review in finished products, a sufficient number of samples of the specified materials shall be furnished by the Contractor to indicate the full range of characteristics which will be present in the finished products. Products delivered or erected without Submittal and approval without providing a full range of samples shall be subject to rejection. Except for range samples, and unless otherwise called for in the various sections of the Specifications, samples shall be submitted in duplicate.
- 15.4.7 *Labeling of Samples.* All samples shall be marked, tagged, or otherwise properly identified with the name of the submitting party, the name of the Project, the purpose for which the samples are submitted and the date.
- 15.4.8 *Transmittal letter.* All samples shall be accompanied by a letter of transmittal containing similar information, together with the Specification section number.
- 15.4.9 *Labels and Instructions.* All samples of materials shall be supplied with the manufacturer's descriptive labels and application instructions. Each tag or sticker shall have clear space for the review stamps of Contractor and Architect.
- 15.4.10 *Architect's Review.* The Architect will review and, if appropriate, approve submissions and will return them to the Contractor with the Architect's stamp and signature applied thereto, indicating the timing for review and appropriate action in compliance with the Architect's (or District's) standard procedures. In the cases where a CM is hired by the District, CM may be the party that receives and performance logging and initial processing of the Samples. CM may, in some cases, reject samples that are not in conformance with Contract requirements.

15.5 Submittal Submission Procedure

- 15.5.1 *Transmittal Letter and Other Requirements.* All Submittals must be properly identified with the name of the Project and dated, and each lot submitted must be accompanied by a letter of transmittal referring to the name of the Project and to the Specification section number for identification of each item clearly stating in narrative

form, as well as “clouding” on the submissions, all qualifications, departures, or deviations from the Contract Documents. Shop drawings, for each section of the Work shall be numbered consecutively and the numbering system shall be retained throughout all revisions. All Subcontractor submissions shall be made through the Contractor. Each drawing shall have a clear space for the stamps of Architect and Contractor. In the case where a CM is hired on the Project, the CM may be designated to receive the Submittals for the Project, log the Submittals, and in some cases reject Submittals that do not conform to Contract requirements.

- 15.5.2 *Copies Required.* Each Submittal shall include one (1) legible, reproducible (if electronic is available, electronic copies shall also be provided) and five (5) legible prints of each drawing or schedule, table, cut sheet, etc., including fabrication, erection, layout and setting drawings, and such other drawings as required under the various sections of the Specifications, until final acceptance thereof is obtained. Subcontractor shall submit copies, in an amount as requested by the Contractor, of: (1) manufacturers’ descriptive data for materials, equipment, and fixtures, including catalog sheets showing dimensions, performance, characteristics, and capacities; (2) wiring diagrams and controls; (3) schedules; (4) all seismic calculations and other calculations; and (5) other pertinent information as required by the District or Architect.
- 15.5.3 *Corrections.* The Contractor shall make all corrections required by Architect, District or CM and shall resubmit, as required by Architect or CM, corrected copies of Shop Drawings or new samples until approved. Contractor shall direct specific attention in writing or on resubmitted Shop Drawings to revisions other than the corrections required by the Architect on previous submissions. Professional services required for more than one (1) re-review of required Submittals of Shop Drawings, product data, or samples are subject to charge to the Contractor pursuant to Article 10.4.
- 15.5.4 *Approval Prior to Commencement of Work.* No portion of the Work requiring a shop drawing or sample submission or other Submittal shall be commenced until the submission has been reviewed by Contractor and Architect (and CM, if applicable) and approved by Architect (and CM where applicable) unless specifically directed in writing by the Architect. All such portions of the Work shall be in accordance with approved Shop Drawings and samples.
- 15.5.5 *District’s Property.* All Submittals, Shop Drawings, computer disks, constructability reviews, schedules, annotated specifications, samples and other Submittals shall become the District’s property upon receipt by the District or Architect.
- 15.6 Schedule Requirements for Submittals. Contractor shall obtain and shall submit all required Submittals (i.e. Shop Drawings, Deferred Approvals, Samples, etc.), in accordance with Contractor’s “Schedule for Submission of Shop Drawings and Samples” as required in the scheduling portion of the CSA at Article 9 and the Specifications (as long as the Specifications do not conflict with CSA. In the case of conflict, the conflicting provision shall be controlled by the CSA and the remaining specification sections shall be interpreted as if the CSA language is inserted) with such promptness as to cause no delay in its own Work or in that of any other contractor or Subcontractor but in no event later than thirty five (35) days after the Notice to Proceed is issued except in the specific cases noted as an exception as set forth below. No extensions of time will be granted to Contractor or any Subcontractor because of its failure to have Shop Drawings and samples submitted in accordance with this Article 15 and the Schedule. Each Subcontractor shall submit all Shop Drawings, samples, and manufacturer’s descriptive data for the review of the District, the Contractor, and the Architect through the Contractor.
- 15.6.1 *Consideration of Schedule.* Contractor has considered lead times, DSA or other agency governmental review times, Architect or Engineer review times,

manufacturing seasons, and specific long lead procurement concerns for all submittals for the Project.

15.6.1.1 All Submittals for the Project except those specifically agreed upon by District and Architect, in writing, shall be specifically incorporated into the Submittal section of the Schedule so as to not delay the Work. The agreement to allow a later Submittal does not mean that Article 15.6 is waived. Contractor shall order materials and ensure prices are honored and secured for the Project.

- a. Structural Steel may be included as a Submittal later than 35 days if Structural Steel is a significant portion of the Work, at least one or some of the Project is a structural steel structural system, or as specifically agreed upon by the Architect or District.
- b. It is specifically agreed that submissions of structural steel Submittals shall not be piecemeal (unless some portion is requested separately by the Owner or Architect), shall provide complete designs, shall be stamped by the Structural Steel Subcontractor, Contractor, and Structural Steel Subcontractor's structural engineer at time of submission and as further addressed in this Article.
- c. In no case shall the submission of Structural Steel Drawings delay the critical path for the schedule. If a Milestone is provided for submission of complete structural steel Shop Drawings then the date shall be no later than as set forth in the Milestone

15.6.1.2 Exceptions to Submittal Within Thirty-Five (35) Days by Written Agreement. A written request detailing the specific reasons for a submission later than 35 days due to complexity of design, or non-critical path status of the Submittal shall be submitted at the time the Baseline Schedule is submitted. The Baseline Schedule shall not include a delayed Submittal until written agreement is provided. In addition to the request for providing a Submittal after the thirty-five (35) day period, a copy of the Contract with the Subcontractor who shall be performing the Submittal, a written statement from the Subcontractor verifying that work has commenced on the Submittal and providing Subcontractor's own schedule of milestones and completion dates, and a corresponding Submittal designation in the Schedule as required under Article 9

- a. Approval of a delayed Submittal shall not result in any increase in the Contract Price or result in an extension of time for the completion of the Project.

15.6.1.3 Piecemeal Submissions of Submittals. Piecemeal Submittals mean providing portions of Shop Drawings or Submittals as they are being completed. The submission of piecemeal Submittals results in the appearance of a submission when there is inadequate information for the Architect or Engineer to adequately review a submission. Piecemeal differs from submission of complete buildings or phases of buildings or complete assemblies. The Architect may agree to allow

submission of single buildings or areas as long as the Submittals are complete.

15.7 General Submittal Requirements

15.7.1 *Contractor Submittal Representations.* By submitting Shop Drawings, product data, samples, etc., the Contractor represents that it has determined and verified all materials, field measurements, catalog numbers, related field construction criteria, and other relevant data in connection with each such submission, and that it has checked, verified, and coordinated the information contained within such Submittals with the requirements of the Work and of the Contract Documents, including the construction schedule.

15.7.2 *Contractor Coordination.* By submitting Shop Drawings, Submittals, product data, samples, etc., the Contractor represents that it has determined and verified all materials, field measurements, catalog numbers, related field construction criteria, and other relevant data in connection with each such submission, and that it has checked, verified, and coordinated the information contained within such Submittals with the requirements of the Work and of the Contract Documents, including the construction schedule. Contractor shall stamp, sign, and date each Submittal indicating its representation that the Submittal meets all of the requirements of the Contract Documents and evidence Contractor's review through execution of the following stamp to be placed on each Shop Drawings:

“The [contractor] has reviewed and approved the field dimensions and the construction criteria, and has also made written notation regarding any information in the Shop Drawings and Submittals that does not conform to the Contract Documents. This Shop Drawing or Submittal has been coordinated with all other Shop Drawings and Submittals received to date by me as Contractor and this duty of coordination has not been delegated to Subcontractors, material suppliers, the Architect, or the Engineers on this Project.

Signature of Contractor and date

15.7.3 *No Deviation from Contract Documents.* The submission of the Shop Drawings, product data, samples, etc., shall not deviate from the requirements of the Contract Documents including detailing and design intent which is specifically outlined in Contract Documents except as specifically authorized by the Architect or through an accepted substitution pursuant to Article 16. All deviations from the Contract Documents shall be narratively described in a transmittal accompanying the Shop Drawings. However, Shop Drawings shall not be used as a means of requesting a substitution, the procedure for which is defined in Article 16, “Substitutions.”

15.7.4 *Contractor Responsibility for Shop Drawings Conformance to Contract Documents.* Review by District and Architect shall not relieve the Contractor or any Subcontractor from its responsibility in preparing and submitting proper Shop Drawings in accordance with the Contract Documents.

15.7.5 *Incomplete Submittals.* Any submission, which in Architect's opinion is incomplete, contains errors, or has been checked superficially will be returned unreviewed by the Architect for resubmission by the Contractor.

15.7.6 *Shop Drawings and Submittals Shall Not Be Used as a Method to Make a Substitution.* Shop drawings and Submittals shall not be used as a means of

requesting a substitution or to make changes in the Contract Documents. If changes are made to the Contract Documents through the Shop Drawings, the Architect shall have the right to reject the Submittal. If the Architect does not note the deviation from the approved Construction Documents, the Contractor is still responsible for the change and the Architect or the District may require the Shop Drawings be revised to properly reflect the approved Contract Documents. The Architect or District may also require that the Contractor bear all costs under Article 10.4 and consequential damages associated with a CCD to revise Construction Documents to accommodate the deviation from approved Construction Documents.

- 15.7.7 *Extent of Review.* In reviewing Shop Drawings, the Architect will not verify dimensions and field conditions. The Architect will review and approve Shop Drawings, product data, samples, etc., for aesthetics and for conformance with the design concept of the Work and the information in the Contract Documents. The Architect's review shall neither be construed as a complete check which relieves the Contractor, Subcontractor, manufacturer, fabricator, or supplier from responsibility for any deficiency that may exist or from any departures or deviations from the requirements of the Contract Documents unless the Contractor has, in writing, called the Architect's attention to the deviations at the time of submission. The Architect's review shall not relieve the Contractor or Subcontractors from responsibility for errors of any sort in Shop Drawings or schedules, for proper fitting of the Work, coordination of the differing Subcontractor trades and Shop Drawings and Work which is not indicated on the Shop Drawings at the time of submission of Shop Drawings. Contractor and Subcontractors shall be solely responsible for any quantities which may be shown on the Submittals or Contract Documents.

16. REQUEST FOR SUBSTITUTIONS

- 16.1 For purposes of this provision the term "substitution" shall mean a change in product, material, equipment, or method of construction from those required by the Construction Documents proposed by the Contractor.
- 16.2 Public Contract Code section 3400 does not apply to this agreement since the materials, services, and equipment used has been investigated as part of the Due Diligence investigation by Contractor and incorporated in the overall GMP.
- 16.3 Contractor may submit requests together with substantiating data for substitution of any "or equal" material, process or article. Any savings generated from the substitution shall be considered Project Savings under Article 7. The District shall not be responsible for any costs of Contractor associated with "or equal" substitution requests. The District has the complete and sole discretion to determine if a material, process or article is an "or equal" material, process or article that may be substituted. The data required to substantiate requests for substitutions of an "or equal" material, process or article data shall include a signed affidavit from the Contractor stating that the substituted "or equal" material, process or article is equivalent to that specified in the specification in every way except as listed on the affidavit. Substantiating data shall also include:
1. Is equal in quality/service/ability to the Specified Item;
 2. Will entail no changes in detail, construction, and scheduling of related work;
 3. Will be acceptable in consideration of the required design and artistic effect;
 4. Will provide no cost disadvantage to the District;
 5. Will require no excessive or more expensive maintenance, including adequacy and availability of replacement parts; and

6. Will required no change of the construction schedule
- 16.4 Failure to submit all the needed substantiating data, including the signed affidavit, to the Architect in a timely fashion so that the substitution can be adequately reviewed may result in the rejection of the proposed substitution. The District is not obligated to review multiple substitution submittals for the same product or item due to the Contractor's failure to submit a complete package initially.
- 16.5 Contractor shall bear the costs of all architectural and engineering work, DSA CCD review fees, and other costs associated with the review of submittals for substitution. See Article 10.4.
- 16.6 Contractor agrees to include the provisions of this Article in all Subcontractor contracts.
17. **EXTRA WORK/MODIFICATIONS (INCLUSION OF CCD COSTS, DSA COSTS, AND AN ICD PROCESS)**
- 17.1 **No Changes Without Authorization.** There shall be no change whatsoever in the drawings, specifications, or in the Work without an executed Change Order, Change Order Request, Immediate Change Directive, or order by the Architect for a minor change in the Work as herein provided. District shall not be liable for the cost of any extra work or any substitutions, changes, additions, omissions, or deviations from the Drawings and Specifications unless authorized District representative has approved the cost in writing by Change Order or executed Construction Change Document. No extension of time for performance of the Work shall be allowed hereunder unless claim for such extension is made at the time changes in the Work are ordered, and such time duly adjusted in writing in the Change Order. The provisions of the Contract Documents shall apply to all such changes, additions, and omissions with the same effect as if originally embodied in the Drawings and Specifications. Notwithstanding anything to the contrary in this Article 17, all Change Orders shall be prepared and issued by the Architect and shall become effective when executed by the authorized District representative (utilizing either a Construction Contingency Amount or a District Contingency Amount), the Architect, and the Contractor.
- CONTRACTOR UNDERSTANDS, ACKNOWLEDGES, AND AGREES THAT THE REASON FOR THIS NOTICE REQUIREMENT IS SO THAT DISTRICT MAY HAVE AN OPPORTUNITY TO ANALYZE THE WORK AND DECIDE WHETHER THE DISTRICT SHALL PROCEED WITH THE CHANGE ORDER OR ALTER THE PROJECT SO THAT SUCH CHANGE IN WORK BECOMES UNNECESSARY AND TO AVOID THE POSSIBLE DELAYS ASSOCIATED WITH THE ISSUANCE OF A NOTICE OF NON-COMPLIANCE.
- 17.2 **Notices of Non-Compliance.** Contractor deviation or changes from approved Construction Documents may result in the issuance of a Notice of Non-Compliance (See DSA Form 154). Contractor is specifically notified that deviations from the Construction Documents, whether major or minor, may result in the requirement to obtain a DSA Construction Change Document to correct the Notice of Non-Compliance. (See Article 17.4.1.1 for Definition of CCD). In some cases, the lack of a DSA approved CCD AND verification from the Inspector that a Notice of Non-Compliance has been corrected may result in a critical path delay to the next stage of Work on the Project. Specifically, a deviation from approved Construction Documents may prevent approval of the category of Work listed in the DSA 152 Project Inspection Card. Any delays that are caused by the Contractor's deviation from approved Construction Documents shall be the Contractor's responsibility.
- 17.3 **Architect Authority.** The Architect will have authority to order minor changes in the Work that do not involve DSA Approval not involving any adjustment in the Contract Sum, or an extension of the Contract Time.
- 17.4 CONSTRUCTION CHANGE DOCUMENT (CCD Category A, and CCD Category B) and IMMEDIATE CHANGE DIRECTIVE (ICD)

17.4.1 *Definitions*

17.4.1.1 Construction Change Document (CCD). A Construction Change Document is a DSA term that is utilized to address changes to the DSA approved Construction Documents. There are two types of Construction Change Documents. (1) DSA approved CCD Category A (DSA Form 140) for Work affecting Structural, Access or Fire-Life Safety of the Project which will require a DSA approval; and, (2) CCD Category B (DSA Form 140) for work NOT affecting Structural Safety, Access Compliance or Fire and Life Safety that will not require a DSA approval (except to confirm that no Approval is required);

17.4.1.2 Immediate Change Directive (ICD). An Immediate Change Directive is a written order to the Contractor prepared by the Architect and signed by the District (and CM if there is a CM on the Project) and the Architect, directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both. The District may by ICD, without invalidating the Contract, direct immediate changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions within. If applicable, the Contract Sum and Contract Time will be adjusted accordingly.

In the case of an Immediate Change Directive being issued, Contractor must commence Work immediately or delays from failure to perform the ICD shall be the responsibility of Contractor and the failure to move forward with Work immediately shall also be grounds for Termination under Article 19 or determination of partial default under Article 12.2.

An ICD does not automatically trigger an Article 20 Dispute or Claim. Contractor must timely follow the procedures outlined at Article 20 and this Article where applicable.

Refer to Forms for a copy of the proposed Immediate Change Directive form.

17.4.1.3 Use to Direct Change. An ICD shall be used to move work forward immediately and to avoid delay. In some cases, an ICD shall be issued in the absence of agreement on the terms of an Extra, or RFP. A copy of an ICD form is provided in the Forms included with this CSA. The anticipated not to exceed price for the Work will be inserted into the ICD. In the case of an ICD issued to correct Contractor Deficiencies or to correct a Contractor caused Notice of Non-Compliance, the ICD may be issued with \$0 and 0 time. Contractor may prepare an Extra associated with the ICD pursuant to Article 17. However, Contractor shall proceed with all Work required under an Approved ICD immediately upon issuance. Failure to proceed with the Work under an ICD shall be grounds for Termination for Cause under Article 19 or take over the Work under Article 12.2.

If adequate time exists, an ICD may be subject of an RFP for pricing and determination if any time that may be required. However, if an RFP is not completed, Contractor shall immediately commence Work when an ICD is issued. If the RFP is incomplete, it may still be completed to be submitted for Pricing Purposes as long as the PR is

submitted within the timeline provided by the PR, or within 10 days following issuance of the ICD.

17.4.1.4 ICD Issued Over a Notice of Non-Compliance or to Cover Work Subject to a DSA 152 Sign Off. In some cases, an ICD shall be for the purpose of proceeding with Work to keep the Project on Schedule and as an acknowledgement by the District that Contractor is proceeding with Work contrary to a Notice of Non-Compliance, prior to issuance of a DSA approved CCD Category A, or to direct the covering of Work which has not yet received a DSA 152 Inspection Approval to move forward.

- a. *Contractor Compliance with all Aspects of an ICD.* Contractor is to undertake the ICD and comply with all aspects of the Work outlined in the ICD. Inspector is to inspect the Work pursuant to the ICD. Failure to follow the ICD may result in deduction of the ICD Work under Article 12.2 or Termination of the Contractor pursuant to Article 19.
- b. *Exception in the Case of DSA Issued Stop Work Order.* Contractor must proceed with an ICD even if a CCD has not been approved by DSA except in the case of a DSA issued Stop Work Order. If a DSA Stop Work Order is issued, Contractor must stop work and wait further direction from the District.
- c. *ICD Due to Contractor Deficiency or Contractor Caused Notice of Non-Compliance.* If an ICD is issued to correct a Contractor Deficiency or a Contractor caused notice of Non-Compliance, Contractor specifically acknowledges responsibility for all consequential damages associated with the Contractor Deficiency or Contractor Caused Notice of Non-Compliance and all consequential damages and costs incurred to correct the deficiency under Article 10.4.

17.5 Extras Request. Extra work or a modification or reduction of requirements or of methods of performing the Construction which differ from the work or requirements set forth in the Construction Documents ("Extra Work/Modifications"); and for such purposes, the District may at any time during the life of this Construction Services Agreement by written order, make such changes as it shall find necessary from Construction Contingency if District approves such request in writing. The costs of the Extra Work/Modifications, as established pursuant to this Article, shall be deducted from the Construction Contingency as mutually agreed in writing or the Errors and Omissions Contingency or the Unforeseen Allowance as determined by the District, and shall not affect the GMP.

17.5.1 *Format.* The following format shall be used, as applicable by the District and the Contractor to communicate proposed additions and deductions to the Contract. A copy of a proposed Construction Change Document form is provided in Division 1 of the Specifications. The most stringent guidelines will apply to all forms.

EXTRA

CREDIT

	<u>EXTRA</u>	<u>CREDIT</u>
(a) Material (attach itemized quantity and unit cost plus sales tax)	_____	_____
(b) Equipment (attach invoices)	_____	_____
(c) Labor Not to Exceed Applicable Prevailing Wage Rates (attach itemized hours and rates)	_____	_____
(d) Subtotal (a-d)	_____	_____
(e) If Subcontractor performed work, add Subcontractor's overhead and profit to portions performed by Subcontractor, not to exceed 10% of item (d).	_____	_____
(f) Subtotal	_____	_____
(g) Contractor's Overhead and Profit: Not to exceed 10% of Item (d) if Contractor performed the work. No more than 5% of Item (d) if Subcontractor performed the work. If work was performed by Contractor and Subcontractors, portions performed by Contractor shall not exceed 10% if Item (d), and portions performed by Subcontractor shall not exceed 10% of Item (d)	_____	_____
(h) Subtotal	_____	_____
(i) Bond not to exceed one percent (1%) of Item (h)	_____	_____
(j) TOTAL	_____	_____
(k) Time/ Days	_____	_____

The undersigned Contractor approves the foregoing Extra Work as to the changes, if any, and the contract price specified for each item and as to the extension of time allowed, if any, for completion of the entire work on account of said Extra Work, and agrees to furnish all labor, materials and service and perform all work necessary to complete any additional work specified therein, for the consideration stated herein. It is understood that said Extra Work shall be effective upon approval from the District's Designee if such amounts are against the GMP and if Owner Contingency is used when approved by the Governing Board of the District.

It is expressly understood that the value of such extra Work or changes, as determined by any of the aforementioned methods, expressly includes any and all of the Contractor's costs and expenses, both direct and indirect, resulting from additional time required on the Project or resulting from delay to the Project. Any costs, expenses, damages or time extensions not included are deemed waived.

The Contractor expressly acknowledges and agrees that any change in the Work performed shall not be deemed to constitute a delay or other basis for claiming additional compensation based on theories including, but not limited to, acceleration, suspension or disruption to the Project.

- 17.5.2 Should Contractor claim that any instruction, request, drawing, specification, action, condition, omission, default, or other situation (i) obligates the District to pay additional compensation to the Contractor; or (ii) obligates the District to grant an extension of time for the completion of the Construction Services Agreement; or (iii) constitutes a waiver of any provision in this Construction Services Agreement, CONTRACTOR SHALL NOTIFY THE DISTRICT, IN WRITING, OF SUCH CLAIM AS SOON AS POSSIBLE, BUT IN NO EVENT WITHIN MORE THAN TEN (10) BUSINESS DAYS FROM THE DATE CONTRACTOR HAS ACTUAL OR CONSTRUCTIVE NOTICE OF THE CLAIM. CONTRACTOR SHALL ALSO PROVIDE DISTRICT WITH SUFFICIENT WRITTEN DOCUMENTATION SUPPORTING THE FACTUAL BASIS OF THE CLAIM under Article 20. Contractor shall be required to certify under penalty of perjury the validity and accuracy of any claims submitted. The Contractor's failure to notify the District within the ten (10) business day period shall be deemed a waiver and relinquishment of the claim against the District. If such notice be given within the specified time, the procedure for its consideration shall be as stated above in this Section.
- 17.5.3 All costs associated with the Extra Work/Modification may be in terms of time, money or both.
- 17.6 Deductive Change Orders
- 17.6.1 All Deductive Change Order(s) must be prepared utilizing the form under Paragraph 17.5 (a)-(d) only setting forth the actual costs incurred. Except in the case of an Article 12.2 or 29.4 Deductive Change Order where no mark-up shall be allowed, Contractor will be allowed a maximum of 5% total profit and overhead.
- 17.6.2 For Unilateral Deductive Change Orders, or where credits are due from Contractor for Allowances, Deductive Items, Inspection, Damage, DSA CCD review costs, Architect or Inspector costs for after hours or corrective services, Work removed from the Agreement under Article 12.2 or Article 29.4, there shall be no mark-up.
- 17.6.3 District may, at any time, after a Deductive Change Order is presented to Contractor by District for items under Article 12.2 or Article 29.4 of if there is disagreement as to the Deductive Change Order, issue a unilateral Deductive Change Order on the Project and deduct the Deductive Change Order from a Progress Payment or the Retention Payment.

18. TIME OF COMPLETION

- 18.1 ONCE THE DISTRICT HAS ISSUED A NOTICE TO PROCEED, CONTRACTOR SHALL PROCEED WITH THE CONSTRUCTION OF THE PROJECT WITH REASONABLE DILIGENCE. CONTRACTOR AGREES THAT THE PROJECT WILL BE SUBSTANTIALLY COMPLETE WITHIN THE CALENDAR DAYS DESIGNATED IN ARTICLE 3 FROM THE NOTICE TO PROCEED. SAID CONTRACT TIME MAY BE EXTENDED FOR SUCH PERIODS OF TIME AS ALLOWED UNDER THE CONTRACT DOCUMENTS. IF THE PROJECT IS NOT SUBSTANTIALLY COMPLETED IN ACCORDANCE WITH THE FOREGOING, IT IS UNDERSTOOD THAT THE DISTRICT WILL SUFFER DAMAGE SINCE CONTRACTOR HAS OVERSTAYED ITS LEASE TERM. IT BEING IMPRACTICAL AND INFEASIBLE TO DETERMINE THE AMOUNT OF ACTUAL DAMAGE, IT IS AGREED THAT CONTRACTOR'S EXTENSION OF THE LEASE SHALL RESULT IN LIQUIDATED DAMAGES, AND NOT AS A PENALTY, THE SUM SET FORTH IN ARTICLE 3 FOR EACH CALENDAR DAY OF DELAY UNTIL WORK IS SUBSTANTIALLY COMPLETED. CONTRACTOR AND ITS SURETY SHALL BE LIABLE FOR THE AMOUNT THEREOF. ANY MONEY DUE OR TO BECOME DUE THE CONTRACTOR MAY BE RETAINED BY THE DISTRICT TO COVER SAID LIQUIDATED DAMAGES FOR

OVERSTAYING THE LEASE. SHOULD SUCH MONEY NOT BE SUFFICIENT TO COVER SAID LIQUIDATED DAMAGES, THE DISTRICT SHALL HAVE THE RIGHT TO RECOVER THE BALANCE FROM THE CONTRACTOR OR ITS SURETIES, WHO WILL PAY SAID BALANCE FORTHWITH.

- 18.2 Within five (5) business days after the Project commencement date in the District's Notice to Proceed, Contractor shall furnish District with a Baseline CPM (Critical Path) Schedule pursuant to Article 9. The Contractor shall include the District's occupancy requirements showing portions of the Projects having occupancy priority.
- 18.3 Contractor shall not be charged for liquidated damages, as set forth in the Agreement, for materially differing underground soil conditions than those outlined in the soils report and from hazardous substances that are encountered that are not documented in the Contract Documents or in the Due Diligence Documents provided to Contractor.
- 18.3.1 In case of encountering such unforeseen conditions noted above, Contractor shall notify the District in writing immediately and no later than seven (7) days following encountering the unforeseen condition. After providing written notice, Contractor shall test and provide District with Test results (unless District chooses to test) and shall proceed with Work based on the Test results. A Change Order pursuant to Article 17 shall be submitted. All time and expenses shall be verified with the Inspector or District Designee either on the day the extra work occurs, but no later than 10 am the following business day.
- 18.3.2 Change Orders associated with approved unforeseen conditions shall be billed as Change Order Work and allocated to the Unforeseen Allowance, and if the Unforeseen Allowance is exceeded, the District, in its sole and absolute discretion, may allocate such costs to the District Contingency to the extent unforeseen conditions as defined in this Article are encountered.
- 18.4 Contractor shall within ten (10) calendar days of beginning of any such delay notify District in writing of causes of delay. Thereupon District shall ascertain the facts and extent of delay and grant extension of time for completing work when, in its judgment, the findings of fact justify such an extension. District's findings of fact thereon shall be final and conclusive on the parties hereto. Extension of time shall apply only to that portion of work affected by the delay, and shall not apply to other portions of work not so affected. Contractor agrees that the extension of time granted under this Article shall be its sole and exclusive remedy for the consequences of any delay described above. For any such delay resulting from the actions or inactions of Architect, District, or their officers, agents, and employees, or changes to the scope of the Work which impact the schedule, Contractor shall be entitled to reimbursement for its reasonable additional costs resulting from such delay, but not any additional profit or fee.
- 18.5 Contractor acknowledges the extreme importance of promptly notifying and thoroughly documenting any request for time extension and further specifically acknowledges that District will suffer extreme prejudice should Contractor fail in any way to comply with this requirement. Failure to comply with the procedures and time limits established in this Article shall constitute a waiver of such request. Evidence presented by Contractor that District had actual notice of the time extension request, that District was not prejudiced by Contractor's failure to comply with this requirement, and/or that District considered Contractor's request despite Contractor's failure to strictly comply with this provision shall not render this requirement unenforceable.
- 18.6 Contractor is required to order, obtain, and store materials and equipment sufficiently in advance of its work at no additional cost or advance payment from District to assure that there will be no delays. An extension of time will not be granted for a delay caused by a shortage of materials.

- 18.7 Contractor shall not be entitled to additional compensation for delays within its control. Contractor is aware that governmental agencies, such as the Department of General Services, gas companies, electrical utility companies, water districts and other agencies may have to approve Contractor-prepared drawings or approve a proposed installation. In the event of delays to the Project from such agencies for which Contractor has no control, provided such delays are not caused by Contractor's or any Subcontractor's acts or omissions, Contractor may be entitled to a time extension for such delays, but shall not be allowed additional compensation for the costs of such delays not impacting the Project's critical path.
- 18.8 District reserves the right to occupy any building or portion thereof or use any improvement contemplated by the Contract Documents prior to the completion of the entire Project. A list of work to be completed and corrected by Contractor, if any, shall be prepared and agreed to between District and Contractor before any such occupancy or use. Such occupancy or use shall not operate as an acceptance of any part of the Project but shall start the guaranty-warranty period on the structure or portion thereof so occupied or improvement or equipment so used; provided, however, that such occupancy or use shall not start the guaranty-warranty period as to items appearing on the list of work yet to be completed and corrected or as to structures or improvements (or portions thereof) that are not occupied or used. No such occupancy or use shall be deemed to have occurred unless and until District has given Contractor written notice of its intention to so occupy or use any particular structure or improvement specifying the portion or portions of the structure, improvement or equipment which will be deemed so occupied or used. District and Contractor shall take reasonable steps to obtain the consent of Contractor's insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse of or reduction of such insurance. Such occupancy or use by District shall relieve Contractor of (and District shall assume) the responsibility for injury or damage to said occupied or used portions of the Project resulting from use by District or the public or from the action of the elements or from any other cause, except injury or damage resulting from the operations, negligence or intentional acts of Contractor, any Subcontractors or materialmen of any tier, or their officers, employees or agents.

19. TERMINATION OF AGREEMENT

19.1 Termination for Breach.

- 19.1.1 If the Contractor refuses or fails to proceed with the construction of the Project or any separable part thereof with such diligence as will insure its completion within the time specified by this Construction Services Agreement or any extension thereof, or fails to Complete the Project within the Contract Time, or if the Contractor should be adjudged bankrupt, or if it should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, or the Contractor or any of its Subcontractors should violate any of the provisions of this Construction Services Agreement, the District may serve written notice upon the Contractor and its Surety of the District's intention to terminate this Construction Services Agreement. This notice of intent to terminate shall contain the reasons for such intention to terminate this Construction Services Agreement and a statement to that effect that the Contractor's right to perform work on the Project shall cease and terminate upon the expiration of ten (10) days unless such violations have ceased and arrangements satisfactory to the District have been made for correction of said violations.
- 19.1.2 In the event that the District serves such written notice of termination upon the Contractor and the Surety, the Surety shall have the right to take over and perform this Construction Services Agreement. If the Surety does not: (1) give the District written notice of Surety's intention to take over and commence performance of this Construction Services Agreement within fifteen (15) days of the District's service of

said notice of intent to terminate upon Surety; and (2) actually commence performance of this Construction Services Agreement within thirty (30) days of the District's service of said notice upon Surety; then the District may take over the Project and prosecute the same to completion by separate contract(s) or by any other method it may deem advisable for the account and at the expense of the Contractor.

- 19.1.3 In the event that the District elects to obtain an alternative performance of the Construction Services Agreement as specified above: (1) the District may, without liability for so doing, take possession of and utilize in completion of the Project such materials, appliances, plants and other property belonging to the Contractor that are on the site and reasonably necessary for such completion; and (2) Surety shall be liable to the District for any cost or other damage to the District necessitated by the District securing an alternate performance pursuant to this Article.

19.2 Termination for Convenience.

- 19.2.1 The District may terminate performance of the Project called for by the Contract Documents in whole or, from time to time, in part, if the District determines that a termination is in the District's interest.
- 19.2.2 The District shall terminate all or any part of the Project upon delivery to the Contractor of a "Notice of Termination" specifying that the termination is for the convenience of the District, the extent of termination, and the effective date of such termination.
- 19.2.3 After receipt of Notice of Termination, and except as directed by the District's Representative, the Contractor shall, regardless of any delay in determining or adjusting any amounts due under this Termination for Convenience clause, immediately proceed with the following obligations:
1. Stop Work as specified in the Notice of Termination.
 2. Complete any work specified in the Notice of Termination in a least cost/shortest time manner while still maintaining the quality called for under the Contract Documents.
 3. Leave the Property upon which the Contractor was working and upon which the facility (or facilities) forming the basis of the Contract Documents is situated in a safe and sanitary manner such that it does not pose any threat to the public health or safety.
 4. Terminate all subcontracts to the extent that they relate to the portions of the work terminated.
 5. Place no further subcontracts or orders, except as necessary to complete the continued portion of the Construction Services Agreement.
 6. Submit to the District's Representative, within ten (10) days from the Project termination date found in the Notice of Termination, all of the usual documentation called for by the Contract Documents to substantiate all costs incurred by the Contractor for labor, materials and equipment through the Project termination date, including termination costs related to demobilizing and closing out the Project, found in the Notice of Termination. Any documentation substantiating costs incurred by the Contractor solely as a result of the District's exercise of its right to terminate this Construction Services Agreement pursuant to this clause, which costs the Contractor is

authorized under the Construction Services Agreement to incur, shall: (i) be submitted to and received by the District no later than thirty (30) days after the Project termination date found in the Notice of Termination; (ii) describe the costs incurred with particularity; and (iii) be conspicuously identified as "Termination Costs occasioned by the District's Termination for Convenience."

19.2.4 Termination of the Construction Services Agreement shall not relieve the Surety of its obligation for any just claims arising out of or relating to the work performed on the Project.

19.2.5 In the event that the District exercises its right to terminate this Construction Services Agreement pursuant to this clause, the District shall pay the Contractor, upon the Contractor's submission of the documentation required by this provision, and other applicable provisions of the Construction Services Agreement the following amounts not already paid to Contractor:

1. All actual costs incurred according to the provisions of this Construction Services Agreement including but not limited to insurance costs incurred in connection with the Project.
2. A reasonable allowance for profit on the cost of the work on the Project performed and not otherwise paid for the District, provided Contractor establishes to the satisfaction of the District, that it is reasonably probable that the Contractor would have made a profit had the Construction Services Agreement been completed and provided further, that the profit allowed shall in no event exceed five percent (5%) of costs. In no event shall the total amount exceed GMP.
3. A reasonable allowance for Contractor's administrative costs in determining the amount payable due to termination of the Construction Services Agreement under this Article.

19.3 Termination of Agreement by Contractor. The Contractor may terminate the Construction Services Agreement upon ten (10) days written notice to the District, whenever: (1) there is a substantial failure of performance on the part of the District; or (2) the District shall elect not to appropriate funds and/or not to make two (2) successive Sublease Prepayments (if exercised by the District in its sole discretion) following the receipt by District of a request from the Contractor in its capacity as Lessor for each such Sublease Prepayment pursuant to Article 21 of the Sublease. In the event of such termination, the Contractor shall have no claims against the District except for payment for the value of the work performed on the Project as of the date of termination.

19.4 Assignment of Subcontractors and Suppliers. If the Contract is Terminated, Contractor shall provide District copies of all subcontracts, purchase orders, addenda, invoices, payment records, and Project files associated with each Subcontractor and Material Supplier. The District shall have the option to assume any Subcontracts, contracts or purchase orders the District chooses. To the extent that vendors are not paid in full for the labor, materials, or services provided, Contractor shall provide an accounting statement showing the amounts paid and the amounts due to the Subcontractor and a statement on the anticipated payment status associated with the Termination.

19.5 Continuation of Work During Disputes. In the event of a dispute between the parties as to performance of the work or the interpretation of this contract, or payment dispute, the parties shall attempt to resolve the dispute. Pending resolution of this dispute, Contractor agrees to continue the work diligently to completion and shall neither rescind nor terminate the agreement.

20. RESOLUTION OF AGREEMENT CLAIMS

20.1 Decision of Architect. “Disputes” or “Claims” as defined in Article 20.9.1.1 between District and Contractor involving money or time, including those alleging an error or omission by the Architect shall be referred initially to the Architect for action as provided in Article 20.2 within ten (10) days after Contractor’s Article 17 request for extra work/ modification is denied. If there is a CM, the CM shall receive the Dispute and may review and also assemble opinions and documents to assist the Architect. A decision by the Architect, as provided in Article 20.5, shall be required as a condition precedent to proceeding with remedies set forth in Article 20.9 as to all such matters arising prior to the date Retention Payment Application is due, regardless of whether such matters relate to execution and progress of the Work, or the extent to which the Work has reached Final Completion.

The condition precedent of an Architect decision shall be waived if: (1) the position of Architect is vacant; (2) the Architect has failed to take action required under Article 20.5 within the time periods required therein; or (3) the Dispute or Claim relates to a stop notice claim not arising from any extra Change Order or Immediate Change Directive for which approval has not been provided.

20.2 Architect’s Review. The Architect (and CM) will review the Dispute and take one or more of the following preliminary actions upon receipt of a Dispute: (1) request additional supporting data from the claimant; (2) submit a schedule to the parties indicating when the Architect expects to take action; (3) reject the Dispute in whole or in part, stating reasons for rejection; (4) recommend approval of the Dispute; or (5) suggest a compromise. The Architect may also, but is not obligated to, notify the Surety, if any, of the nature and amount of the Dispute..

20.2.1 *Architectural Immunity.* Architect review of Disputes and Claims shall be impartial and meant to resolve Disputes and Claims. Pursuant to the case, Huber, Hunt & Nichols, Inc. v. Moore (1977) 67 Cal.App.3d 278, the Architect is provided a quasi-judicial immunity for interpreting and deciding Disputes and Claims between the District and Contractor.

20.3 Documentation if Resolved. If a Dispute has been resolved, the Architect (and/or CM) will prepare a Change Order or obtain appropriate documentation to document the terms for Board approval.

20.4 Actions if Not Resolved. If a Dispute has not been resolved and all documentation requested pursuant to Article 20.2 has been provided, the Contractor shall, within ten (10) days after the Architect’s initial response, assemble all the documents involved in the Dispute including copies of all back-up documentation of costs and the basis for the Dispute and take one or more of the following actions: (1) modify the initial Dispute; (2) notify the Architect that the initial Dispute stands; or (3) supplement with additional supporting data and re-submit to the Architect under Article 20.2.

20.5 Architect’s Written Decision. If a Dispute has not been resolved after consideration of the foregoing and of other evidence presented by the parties or requested by the Architect, the Architect (or Architect through CM) shall provide a written decision twenty (20) days after compliance with Article 20.4. Upon expiration of such time period, the Architect (or Architect through CM) will render to the parties its written decision relative to the Dispute, including any change in the Contract Sum or Contract Time or both. The Architect may also request reasonable additional time to complete Architect’s written decision.

If the resolution of the Dispute by the Architect is not satisfactory to the Contractor and copies of all back-up documentation of costs and the basis for the Dispute is fully articulated in a package of material that is complete, the Contractor may then submit a Claim to the District under Article 20.9.

- 20.6 Continuing Contract Performance. Pending final resolution of a Dispute or Claim, including, negotiation, mediation, arbitration, or litigation, the Contractor shall proceed diligently with performance of the Contract, and the District shall continue to make any undisputed payments in accordance with the Contract (less any withholdings or offsets). If the Claim is not resolved, Contractor agrees it will neither rescind the Contract nor stop the progress of the work, but Contractor's sole remedy shall be to submit such controversy to determination by a court of competent jurisdiction in the county where the Project is located, after the Project has been completed, and not before.
- 20.6.1 *District's Option to Submit Individual Disputes to Arbitration during Claims and Disputes Process.* At the District's sole option, in order to more efficiently resolve Claims during the Project and prior to the completion of the Claims Process, pursuant to Government Code section 9201, the District may submit individual Disputes or Claims for binding arbitration and Contractor agrees to the resolution of for each individual Dispute or Claim by an Arbitrator, including resolution of time and delays. If binding arbitration is utilized for individual Disputes or Claims, such resolution is full and final as to that particular Dispute or Claim. THIS INDIVIDUAL DISPUTE ARBITRATION PROCESS IS NOT AN ARBITRATION CLAUSE AND SHALL NOT BE CONSTRUED AS AN AGREEMENT TO ARBITRATE. THIS INDIVIDUAL DISPUTES ARBITRATION PROCESS IS FOR THE SOLE PURPOSE OF STREAMLINING AND RESOLVING DISPUTES OR CLAIMS DURING CONSTRUCTION AND SHALL BE REQUESTED ON SPECIFIC INDIVIDUAL ITEMS BY THE DISTRICT PRIOR TO RETENTION PAYMENT (EVEN IF THERE ARE DEDUCTIONS MADE FROM RETENTION PAYMENT) WHICH REPRESENTS THE FINAL COMPLETION OF THE PROJECT.
- 20.6.1.1 If there is no Retention remaining on the Project, individual Disputes initiated prior to Project Final Completion shall continue until a final disposition of the Arbitration or resolution of the individual Claim or Dispute.
- 20.6.1.2 The Arbitration process shall not toll the Disputes or Claims process under Article 20 or the requirement to submit Claims to Court under Article 20.13.
- 20.7 Claims for Concealed Trenches or Excavations Greater Than Four Feet Below the Surface. When any excavation or trenching extends greater than four feet below the surface:
- 20.7.1 *Immediately upon discovery,* The Contractor shall promptly, and before the following conditions are disturbed, notify the District, by telephone and in writing of any:
- 20.7.1.1 Subsurface or latent physical conditions at the Site differing from those indicated in the Drawings, Specifications, or pursuant to the documents and information from Contractor's Due Diligence or Due Diligence Documents.
- 20.7.1.2 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.
- 20.7.1.3 Hazardous waste condition, except, if Contractor's bid includes removal or disposal of hazardous substances, or is part of Contractor's Due Diligence or Due Diligence Documents. Material that the Contractor believes may be a material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, is required to

be removed to a Class I, Class II, or Class III disposal site in accordance with the provisions of existing law. In such case, the notice procedures and requirements of Article 17.5.2 shall apply.

- 20.7.2 *The District shall investigate the conditions*, and if District finds that the conditions do materially so differ, 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 or Construction Change Document under the procedures described in the Contract.
- 20.7.3 *In the event that a dispute arises between a public entity or District and the Contractor whether the conditions materially differ, 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 Contract, but shall proceed with all Work to be performed under the Contract. The 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.*
- 20.8 Dispute Concerning Extension of Time. If Contractor and District cannot agree upon an extension of time, whether compensable or not, then Contractor must have first completed the procedures set forth in Article 18. Upon completion of the procedures set forth under Article 18, Contractor must then comply with the requirements in this Article including those set forth under Article 20.9.
- 20.9 Claims Procedures. Pursuant to the remedies under Public Contract Code Section 9201 and Government Code Section 930.2, Contractor, through execution of this Agreement, also agrees to comply with the Claims requirements under Article 20 to quickly and efficiently resolve disputes. Further, to provide a level of accuracy to the records submitted, the District shall have the right to audit books and records pursuant to Article 21 based on the actual costs incurred and to reduce the uncertainty in resolving disputes with limited information.
- 20.9.1 *Procedure Applicable to all Claims*
- 20.9.1.1 Definition of Claim: A "Claim" is where a Dispute between the parties rises to the level where backup documentation is assembled and provided to the District as a separate demand by the Contractor for: (1) a time extension, including, without limitation, for relief from damages or penalties for delay assessed by the District under the Contract; (2) payment by the District of money or damages arising from Work done by, or on behalf of, the Contractor pursuant to the Contract and payment for which is not otherwise expressly provided for or to which the Contractor is not otherwise entitled to; or (3) an amount of payment disputed by the District. If the Claim is for damages associated with a DSA Stop Work Order, the Contractor shall not be entitled to a request for Compensation, but shall be entitled to utilize Governmental Delay Float (See Article 9.2.1.)
- 20.9.1.2 Filing Claim Is Not Basis to Discontinue Work: The Contractor shall promptly comply with Work under the Contract or Work requested by the District even though a written Claim has been filed. The Contractor and the District shall make good faith efforts to resolve any and all Claims that may arise during the performance of the Work covered by this Contract.
- 20.9.1.3 Claim Notification: The Contractor shall within seven (7) calendar days after the written decision of the Architect, or if the time period for Architect's decision has passed under Article 20.5, submit a notification in writing sent by registered mail or certified mail with

return receipt requested, with the District (and the District's CM) stating clearly the basis for the Claim and including all relevant and required documents. If the notification is not submitted within seven (7) days after the written decision of the Architect or the passage of time under Article 20.5, the Contractor shall be deemed to have waived all right to assert the Claim, and the Claim shall be denied. Claims submitted after the Retention Payment date shall also be considered null and void by the District. All Claims shall be reviewed pursuant to Articles 20.1 through 20.5.

20.9.1.4 The Formal Notification of Claim must be presented as follows:

- a. The term "Claim" must be at the top of the page in no smaller than 20 point writing.
- b. All documentation submitted pursuant to Article 20 to the Architect shall be submitted with the title "claim."
- c. A stack of documents, copy of all Project documents, or the submission of random documents shall not constitute an adequate reference to supporting documentation
- d. Any additional or supporting documentation that Contractor believes is relevant should be submitted at this time.

20.9.1.5 Reasonable Documents to Support Claim: The Contractor shall furnish reasonable documentation to support the Claim. The Contractor shall provide all written detailed documentation which supports the Claim, including but not limited to: arguments, justifications, cost, estimates, Schedule analysis and detailed documentation. The format of the required reasonable documentation to support the Claim shall include, without limitation:

- a. Cover letter.
- b. Summary of factual basis of Claim and amount of Claim.
- c. Summary of the basis of the Claim, including the specific clause and section under the Contract under which the Claim is made.
- d. Documents relating to the Claim, including:
 1. Specifications sections in question.
 2. Relevant portions of the Drawings
 3. Applicable Clarifications (RFI's)
 4. Other relevant information, including responses that were received.
 5. Contractor Analysis of Claim merit.
 - (a) Contractor's analysis of any Subcontractor vendor claims that are being passed through.
 - (b) Any analysis performed by outside consultants.

- (c) Any legal analysis that Contractor deems relevant.
- e. Breakdown of all costs associated with the Claim.
- f. For Claims relating to time extensions, an analysis and supporting documentation evidencing any effect upon the critical path in conformance with the requirements of Article 9 and a chronology of events and related correspondence.
- g. Chronology of events and related correspondence.
- h. Applicable daily reports and logs.
 - 1. If the daily reports or logs are not available, lost or destroyed, there shall be a presumption that the lost documentation was unfavorable to the Contractor. See California Civil Jury Instruction 204.
- i. For Claims involving overhead, cost escalation, acceleration, disruption or increased costs, a full version of job costs reports organized by category of work or Schedule of Values with budget information tracked against actual costs. Any and all supporting back-up data, including the original bid or cost documents (and associated original unaltered metadata).
 - 1. The metadata and bid or cost information shall be provided confidentially and subject to a protective order to prevent dissemination to other contractors or to the public. However, the bid or cost documentation should remain intact and available for review and inspection in case of this type of increased cost Claim.
 - 2. This data on the bid or cost information shall be made available to any District attorneys or experts and shall also be utilized as evidence for any legal proceedings.
 - 3. If the bid or cost documentation is not available, lost or destroyed, there shall be a presumption that the lost bid or cost documentation was unfavorable to the Contractor. See California Civil Jury Instruction 204.
- j. Certification: The Contractor (and Subcontractors, if applicable) shall submit with the claim a certification under penalty of perjury:
 - 1. That the Contractor has reviewed the Claim and that such Claim is made in good faith;
 - 2. Supporting data are accurate and complete to the best of the Contractor's knowledge and belief;
 - 3. The amount requested accurately reflects the amount of compensation for which the Contractor believes the District is liable.

4. That the Contractor is familiar with Government Code Sections 12650 et seq. and Penal Code Section 72 and that false claims can lead to substantial fines and/or imprisonment.
- k. Signature of Certification: If the Contractor is not an individual, the certification shall be executed by an officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.
- l. Upon receipt of a Claim and all supporting documents as required above, 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 Claim 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 this paragraph.
- m. 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.
- n. 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. If the District fails to issue a written statement, paragraph t below shall apply.
- o. If the Contractor disputes the District's written response, or if the District fails to respond to a Claim issued pursuant to Article 20.9 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 Claim.
- p. 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 in Article 20.13.

- q. For purposes of Article 20.9, 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.
- r. Unless otherwise agreed to by the District and the Contractor in writing, the mediation conducted pursuant to Article 20.9 shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.
- s. This Claims process does not preclude the District from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under Article 20.9 does not resolve the parties' Claim. This Claims process does not preclude the District from submitting individual Disputes or Claims to binding arbitration pursuant to Article 20.12 below.
- t. Failure by the District to respond to a Claim from the Contractor within the time periods described in this subdivision or to otherwise meet the time requirements of Article 20.9 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 Article 20.9, shall not constitute an adverse finding with regard to the merits of the Claim or the responsibility or qualifications of the Contractor.
- u. If a subcontractor or a lower tier subcontractor lacks legal standing to assert a Claim against a District because privity of contract does not exist, the Contractor may present to the District 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 District 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 District and, if the Contractor did not present the Claim, provide the subcontractor with a statement of the reasons for not having done so.

- v. 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.
- w. The Contractor's Claim shall be denied if it fails to follow the requirements of this Article.

- 20.10 District (through CM or District's Agent or Attorney) May Request Additional Information. Within thirty (30) days of receipt of the Claim and the information under this Article, the District may request in writing any additional documentation supporting the Claim or documentation relating to defenses to the Claim which the District may assert. If additional documents are required, the time in which the Claim is evaluated may be extended by a reasonable time so the Claim and additional documents may be reviewed.
- 20.11 Claims Procedures in Addition to Government Code Claim. Nothing in the Claims procedures set forth in Article 20 of the CSA shall act to waive or relieve the Contractor from meeting the requirements set forth in Government Code section 900 et seq.
- 20.12 Binding Arbitration of Individual Claim Issues. To expedite resolution of Claims pursuant to Public Contract Code Section 9201, at the District's sole option, the District may submit individual Claims to Arbitration prior to Retention Payment consistent with the requirements of Article 20.6.1.
- 20.13 Resolution of Claims in Court of Competent Jurisdiction. If Claims are not resolved under the procedure set forth and pursuant to Article 20.9, such Claim or controversy shall be submitted to a court in the County of the location of the Project after the Project has been completed, and not before
- 20.14 Warranties, Guarantees and Obligations. The duties and obligations imposed by this CSA and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon Contractor by the Contract Documents and amendments thereto; and all of the rights and remedies available to District and Architect thereunder, are in addition to, and are not to be construed in any way as a limitation of any rights and remedies available to any or all of them which are otherwise imposed or available by laws or regulations by special warranty or guarantee or by other provisions of the Contract Documents, and the provisions of this Article will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right and remedy to which they apply.

21. MAINTENANCE OF RECORDS; AUDIT/OWNERSHIP OF DOCUMENTS

- 21.1 State Audit. Pursuant to and in accordance with the provisions of Government Code § 10532, or any amendments thereto, all books, records, and files of the District, the Contractor, or any Subcontractor connected with the performance of this Contract involving the expenditure of state funds in excess of Ten Thousand Dollars (\$10,000.00), 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 five (5) years after Retention Payment is made or a Notice of Completion is Recorded, whichever occurs first. Contractor shall preserve and cause to be preserved such books, records, hard drives, electronic media, and files for the audit period.

- 21.2 District Audit. Pursuant to the remedies under Public Contract Code Section 9201 and Government Code Section 930.2, Contractor, through execution of this Agreement, also agrees the District shall have the right to review and audit, upon reasonable notice, the books and records of the Contractor concerning any monies associated with the Project. The purpose of this Audit is to quickly and efficiently resolve disputes based on the actual costs incurred and to reduce the uncertainty in resolving disputes with limited information. The District shall perform any audits at its own cost and any such audit shall be performed by an independent auditor, having no direct or indirect relationship with the functions or activities being audited or with the business conducted by the Contractor or District. In the event the independent auditor determines that Change Orders, Response to Request for Proposals, Claims, Appeal of Claims, or other requests for payment the Auditor shall report the results of the Audit findings to the District and provide a copy to the Contractor after giving the District Board the opportunity for at least 10 days review. If the Contractor disputes the findings of the independent auditor, such dispute shall be handled in the manner set forth under Article 20 entitled Disputes.
- 21.3 Failure to Produce Books or Records. If Contractor having agreed to the terms of this Contract fails to produce books or records requested by Auditor, such failure to produce books or records that were required to be preserved for audit, it shall be presumed that the information contained in the withheld books or records were unfavorable to the Contractor and the Auditor shall note this refusal in the results of the Audit findings for further evaluation by the District and the District's Board. The refusal to release records that are concerning monies associated with the Project may be used as a grounds to Debar the Contractor from future Projects for failure to preserve records under this Article and the failure to produce required audit records may also be used as a grounds for a negative finding against the Contractor depending on the significance of the records that are withheld by Contractor. Failure to produce Job Cost Data tied to Job cost categories and budgets shall be presumed an intentional failure to produce key audit records. Similarly, failure to produce daily time records (prepared at or near the time of the Work actually took place shall be presumed an intentional failure to produce key audited records.
- 21.4 Inefficiency, Acceleration or Delay Claims. If Contractor is seeking costs for inefficiency, home office overhead, or unanticipated increased costs due to delays or acceleration, Contractor shall also produce copies of the original bid or cost tabulation utilized in submitting Contractor's cost for the Project. This document shall be considered confidential and shall not be subject to disclosure through a Public Records Act and shall not be distributed to anyone other than the District and the District's counsel. This bid or cost tabulation shall only be used in litigation, arbitration, evaluation of Claims or Disputes, Audit, and trial. If the records for the bid or cost tabulation are kept on a computer, the Contractor shall also produce all metadata (in native format) that accompanies the bid or cost tabulation for inspection to prove the authenticity of the underlying bid or cost tabulation. Failure to produce the bid or cost tabulation for review of inefficiency, home office overhead, or unanticipated increased costs due to delays or accelerations shall be considered material evidence that the bid or cost tabulation was not favorable to the Contractor. This evidence shall be entered as a jury instruction for trial that the bid or cost tabulation was not produced and the bid or cost tabulation information was unfavorable to the Contractor. The evidence may also be used in Debarment Proceedings, and noted as an exception to an Audit Findings.
- 21.5 Upon notification of Contractor concerning the results of the audit and a reasonable time has passed for Contractor to respond to Audit Findings and if either there is no Dispute of the Audit findings under this Article or if the result after utilizing the Disputes Clause confirms the Audit findings, the District may seek any Savings that have not been accounted for with District and may also seek reimbursement for overstated Claims, Change Orders, or Appeal of Claims.
- 21.6 Ownership of Drawings. Notwithstanding any provision of this Agreement, all drawings, specifications, and copies thereof furnished by District are its property. They are not to be used on other work and with exception of signed contract sets, are to be returned to District on request at completion of work.

22. PREVAILING RATES OF WAGES; RECORDS, APPRENTICES

22.1 Wage Rates. Pursuant to the provisions of Article 2 (commencing at § 1720), Chapter 1, Part 7, Division 2, of the Labor Code, the District has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which this public works project is to be performed for each craft, classification, or type of worker needed for this Project from the Director of the Department of Industrial Relations (“Director”). These rates are on file at the administrative office of the District and are also available from the Director of the Department of Industrial Relations. Copies will be made available to any interested party on request. The Contractor shall post a copy of such wage rates at appropriate, conspicuous, weatherproof points at the Site.

Any worker employed to perform Work on the Project, but such Work is not covered by any classification listed in the published general prevailing wage rate determinations or per diem wages determined by the Director of the Department of Industrial Relations, shall be paid not less than the minimum rate of wages specified therein for the classification which most nearly corresponds to the employment of such person in such classification.

22.2 Holiday and Overtime Pay. Holiday and overtime work, when permitted by law, shall be paid for at the rate set forth in the prevailing wage rate determinations issued by the Director of the Department of Industrial Relations or at least one and one-half (1½) times the specified basic rate of per diem wages, plus employer payments, unless otherwise specified in the Contract Documents or authorized by law

22.3 Wage Rates Not Affected by Subcontracts. The Contractor shall pay and shall cause to be paid each worker engaged in the execution of the Work on the Project not less than the general prevailing rate of per diem wages determined by the Director, regardless of any contractual relationship which may be alleged to exist between the Contractor or any Subcontractor and such workers.

22.4 Per Diem Wages. The Contractor shall pay and shall cause to be paid to each worker needed to execute the Work on the Project per diem wages including, but not limited to, employer payments for health and welfare, pensions, vacation, travel time and subsistence pay as provided for in Labor Code §1773.1.

22.5 Forfeiture and Payments. Pursuant to Labor Code §1775, the Contractor shall forfeit to the District, not more than Two Hundred Dollars (\$200.00) for each calendar day, or portion thereof, for each worker paid less than the prevailing wages rates as determined by the Director of the Department of Industrial Relations, for the work or craft in which the worker is employed for any Work done under the Agreement by the Contractor or by any Subcontractor under it. The amount of the penalty shall be determined by the Labor Commissioner and shall be based on consideration of: (1) whether the Contractor or Subcontractor’s failure to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily correct upon being brought to the attention of the Contractor or Subcontractor; and (2) whether the Contractor or Subcontractor has a prior record of failing to meet its prevailing wage obligations.

23. RECORDS OF WAGES PAID

23.1 Payroll Records

23.1.1 Pursuant to §1776 of the Labor Code, each Contractor and Subcontractor shall 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 him or her in connection with the Project.

- 23.1.2 All payroll records shall be certified and submitted to the District with each application for payment, but not less than once per month or as otherwise requested by the District. All payroll records shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:
- 23.1.3 A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.
- 23.1.4 A certified copy of all payroll records shall be made available for inspection or furnished upon request to a representative of District, the Division of Labor Standards Enforcement or the Division of Apprenticeship Standards of the Department of Industrial Relations.
- 23.1.5 A certified copy of all payroll records 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 the District, 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) above, the requesting party shall, prior to being provided the records, reimburse the costs, according to law for the preparation by the Contractor, Subcontractor(s), and the entity through which the request was made. The public shall not be given access to such records at the principal office of the Contractor.
- 23.1.6 Unless required to be furnished directly to the Labor Commissioner in accordance with Labor Code section 1771.4, 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 the Division of Labor Standards Enforcement.
- 23.1.7 The Contractor or Subcontractor(s) shall file a certified copy of all payroll records with the entity that requested such records within 10 calendar days after receipt of a written request.
- 23.1.8 Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the District, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor awarded the Contract or the Subcontractor(s) performing the Contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (Section 175a of Title 29 of the United States Code) shall be marked or obliterated only to prevent disclosure of an individual's name and social security number. Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided non-redacted copies of certified payroll records.
- 23.1.9 The Contractor shall inform the District of the location of all payroll records, including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.
- 23.1.10 The Contractor or Subcontractor(s) shall have ten (10) calendar days in which to comply subsequent to receipt of a written notice requesting payroll records. In the event that the Contractor or Subcontractor(s) fails to comply within the 10-day period,

the Contractor or Subcontractor(s) shall, as a penalty to the District, forfeit One Hundred Dollars (\$100.00) 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 or Retention Payment then due.

23.1.11 Responsibility for compliance with this Article shall rest upon the Contractor.

23.2 Withholding of Payments & Penalties

23.2.1 The District may withhold or delay Progress Payments to the Contractor or a Sublease Payment or Retention if:

23.2.1.1 The required prevailing rate of per diem wages determined by the Director of the Department of Industrial Relations is not paid to all workers employed on the Project; or

23.2.1.2 The Contractor or Subcontractor(s) fail to submit all required certified payroll records with each application for payment, but not less than once per month; or

23.2.1.3 The Contractor or Subcontractor(s) submit incomplete or inadequate payroll records; or

23.2.1.4 The Contractor or Subcontractor(s) fail to comply with the Labor Code requirements concerning apprentices; or

23.2.1.5 The Contractor or Subcontractor(s) fail to comply with any applicable state laws governing workers on public works projects.

24. APPRENTICES

24.1 Apprentice Wages and Definitions. All apprentices employed by the Contractor to perform services under the Contract shall be paid the standard wage paid to apprentices under the regulations of the craft or trade for which he or she is employed, and as determined by the Director of the Department of Industrial Relations, and shall be employed only at the craft or trade to which he or she is registered. Only apprentices, as defined in §3077 of the Labor Code, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprenticeship agreements under Chapter 4 (commencing with §3070) of Division 3, are eligible to be employed under this Contract. The employment and training of each apprentice shall be in accordance with the apprenticeship standards and apprentice agreements under which he or she is training, or in accordance with the rules and regulations of the California Apprenticeship Council.

24.2 Employment of Apprentices. Contractor agrees to comply with the requirements of Labor Code §1777.5. The Contractor awarded the Project, or any Subcontractor under him or her, when performing any of the Work under the Contract or subcontract, employs workers in any apprenticeable craft or trade, the Contractor and Subcontractor shall employ apprentices in the ratio set forth in Labor Code §1777.5. The Contractor or any Subcontractor must apply to any apprenticeship program in the craft or trade that can provide apprentices to the Project site for a certificate approving the contractor or subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the Contractor or Subcontractor, shall arrange for the dispatch of apprentices to the Contractor or Subcontractor upon the Contractor's or Subcontractor's request. "Apprenticeable craft or trade"

as used in this Article means a craft or trade determined as an apprenticeable occupation in accordance with the rules and regulations prescribed by the California Apprenticeship Council. The ratio of work performed by apprentices to journeyman employed in a particular craft or trade on the Project shall be in accordance with Labor Code §1777.5.

- 24.3 Submission of Contract Information. Prior to commencing Work on the Project, the Contractor and Subcontractors shall submit contract award information to the applicable apprenticeship program(s) that can supply apprentices to the Project and make the request for the dispatch of apprentices in accordance with the Labor Code. The information submitted shall include an estimate of journeyman hours to be performed under the Contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the District if requested. Within sixty (60) days after concluding Work on the Project, the Contractor and Subcontractors shall submit to the District, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the Project.
- 24.4 Apprentice Fund. The Contractor or any Subcontractor under him or her, who, in performing any of the Work under the Contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the Director determines is the prevailing amount of apprenticeship training contributions in the area of the Project. The Contractor and Subcontractors may take as a credit for payments to the California Apprenticeship Council any amounts paid by the Contractor or Subcontractor to an approved apprenticeship program that can supply apprentices to the Project. The Contractor and Subcontractors may add the amount of the contributions in computing its bid or costs for the Contract.
- 24.5 Prime Contractor Compliance. The responsibility of compliance with this Article 13 §1777.5 of the Labor Code for all apprenticeable occupations is with the Prime Contractor. Any Contractor or Subcontractor that knowingly violates the provisions of this Article or Labor Code §1777.5 shall be subject to the penalties set forth in Labor Code §1777.7.
- 24.6 WHEN DETERMINING GMP, CONTRACTOR SHALL INCLUDE TO THE EXTENT POSSIBLE ANTICIPATED GENERAL PREVAILING WAGE RATES FOR THE TIME WHEN WORK ON THE PROJECT WILL ACTUALLY BE PERFORMED.

25. REGISTRATION WITH DEPARTMENT OF INDUSTRIAL RELATIONS

- 25.1 Strict compliance with all DIR registration requirements in accordance with Labor Code sections 1725.5 and 1771.1 is a material obligation of the Contractor and all of its subcontractors (of any tier) under the Contract Documents. The foregoing includes, without limitation, compliance with DIR registration requirements at all times during performance of the Work by the Contractor and all of its subcontractors of any tier. The failure of the Contractor and all subcontractors of any tier to be properly registered with DIR at all times during performance of the Work is a material breach of the Contract Documents and subject to termination for cause.
- 25.2 An affirmative and ongoing obligation of the Contractor under the Contract Documents is the verification that all subcontractors of any tier are at all times during performance of the Work are in full and strict compliance with the DIR registration requirements. The Contractor shall not permit or allow any subcontractor of any tier to perform any Work without the Contractor's verification that all subcontractors are in full and strict compliance with the DIR registration requirements. Any subcontractors of any tier not properly registered with DIR shall be substituted in accordance with Labor Code section 1771.1. Contractor or its subcontractors of any tier shall not be entitled to any additional costs or time arising from or in any way related to compliance with the DIR registration requirements.

- 25.3 The Contractor and all subcontractors shall furnish certified payroll records as required pursuant Labor Code section 1776 directly to the Labor Commissioner in accordance with Labor Code section 1771.4 on at least on a monthly basis (or more frequently if required by the District or the Labor Commissioner) and in a format prescribed by the Labor Commissioner. The District reserves the right to withhold Progress Payments or Retention Payment if the District is notified, or determines as the result of its own investigation, that Contractor is in violation of any of the requirements set forth in Labor Code section 1720 et seq. at no penalty or cost to the District. Monitoring and enforcement of the prevailing wage laws and related requirements will be performed by the Labor Commissioner/ Department of Labor Standards Enforcement (DLSE).
- 25.4 The Labor Commissioner and the Division of Labor Standards Enforcement (DLSE) may conduct various compliance monitoring and enforcement activities including, but not limited to, confirming the accuracy of payroll records, conducting worker interviews, conducting audits, requiring submission of itemized statements prepared in accordance with Labor Code section 226, and conducting random in-person inspections of the Project site ("On-Site Visits"). On-Site Visits may include inspections of records, inspections of the Work site and observation of work activities, interviews of workers and others involved with the Project, and any other activities deemed necessary by the Labor Commissioner/DLSE to ensure compliance with prevailing wage requirements. The Labor Commissioner/DLSE shall have free access to any construction site or other place of labor and may obtain any information or statistics pertaining to the lawful duties of the Labor Commissioner/DLSE.
- 25.5 Any lawful activities conducted or any requests made by the Labor Commissioner/DLSE shall not be the basis for any delays, claims, costs, damages or liability of any kind against the District by the Contractor. Contractor and all Subcontractors shall cooperate and comply with any lawful requests by the Labor Commissioner's office. The failure of the Labor Commissioner, DLSE, or any other part of the Department of Industrial Relations to comply with any requirement imposed by the California Code of Regulations, Title 8, Chapter 8 shall not of itself constitute a defense to the failure to pay prevailing wages or to comply with any other obligation imposed by Division 2, Part 7, Chapter 1 of the Labor Code.
- 25.6 Prior to commencing any Work on the Project, the Contractor shall post the notice/poster required under the California Code of Regulations and Labor Code section 1771.4 in both English and Spanish at a conspicuous, weatherproof area at the Project site. The required notice/poster is available on the Labor Commissioner's website.

26. HOURS OF WORK

- 26.1 Eight (8) hours of work shall constitute a legal day's work. The Contractor and each subcontractor shall forfeit, as penalty to the District, twenty five dollars (\$25) for each worker employed in the execution of work on the Project by the Contractor or any subcontractor under him for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any calendar week in violation of the provisions of the Labor Code, and in particular, Section 1810 to Section 1815, thereof, inclusive, except that work performed by employees of the Contractor and his subcontractors in excess of eight hours per day at not less than one and one half times the basic rate of pay, as provided in Labor Code section 1815.
- 26.2 Generally, construction work on the Project shall be accomplished on a regularly scheduled eight (8) hour per day work shift basis, Monday through Friday, between the hours of 7:00 a.m. and 5:00 p.m., however nothing herein shall prevent Contractor from working weekends and after school hours in order to complete the Project so long as not otherwise prohibited by law or local ordinances or regulations.

- 26.3 Any work necessary to be performed after regular working hours, or on Sundays or other holidays shall be performed and included within the GMP, unless otherwise agreed to in writing before the work in question is commenced pursuant to Article 9, Extra Work/Modifications.

27. SKILLED AND TRAINED WORKFORCE

- 27.1 Contractor and all Subcontractors of any tier must comply with the requirements set forth in Education Code section 17407.5, including providing an enforceable commitment that the Contractor and all Subcontractors of any tier will use a “Skilled and Trained Workforce” as defined in Education Code section 17407.5 (b)(3). Contractor and all Subcontractors are to carefully review all requirements set forth in Education Code section 17407.5 before entering into the Contract for the Project.
- 27.2 The Contractor’s commitment that a Skilled and Trained Workforce will be used to perform Work on the Project and the Contract shall be established by the following:
- 27.2.1 Contractor shall include in all of its subcontracts, and Subcontractors shall require in its subcontracts of any tier, mandatory compliance with Education Code section 17407.5.
- 27.2.2 Contractor shall provide to the District’s Governing Board, on a monthly basis while the Project or Contract is being performed, a written report demonstrating that the Contractor and all Subcontractors of any tier are complying with the requirements set forth in Education Code section 17407.5. If the Contractor fails to provide this monthly report, the District shall immediately cease making payments (Sublease Payments or Retention Payment) to the Contactor.
- 27.2.3 The monthly report provided to the District’s Governing Board as required above shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), and shall be open to public inspection.
- 27.2.4 Contractor’s commitment that a Skilled and Trained Workforce will be used to perform Work on the Project and the Contract may also be established by the Contractor providing evidence and any other information or documents reasonably requested by the District showing that the Contractor has entered into a project labor agreement that includes the requirements of Education Code section 17407.5(c) that will bind the Contractor and all its Subcontractors of any tier performing Work on the Project or Contract.
- 27.3 If the District’s Governing Board has entered into a project labor agreement that will bind all contractors and subcontractors performing Work on this Project or Contract that includes the requirements of Education Code section 17407.5(c), the Contractor’s agreement that it will become a party to that project labor agreement shall satisfy the requirements under Education Code section 17407.5(c).
- 27.4 If the Contractor or Subcontractor of any tier is not in compliance with all of the requirements set forth in Education Code section 17407.5, the District shall exercise any rights or remedies allowed under Education Code section 17407.5 or other applicable law.

28. PROTECTION OF PERSONS AND PROPERTY

- 28.1 Fingerprinting. If any portion of the work for the Project is to be performed at an operating school, Contractor shall comply with the applicable requirements of Education Code Sections 45125.1 and 45125.2 with respect to fingerprinting of employees who may have contact with District’s pupils. Contractor shall also ensure that its Subcontractors on the Project comply with

the applicable requirements of Sections 45125.1 and 45125.2. To this end, Contractor and its Subcontractors must provide for the completion of the Fingerprint Certification form attached as Exhibit "F" and incorporated herein by this reference prior to commencing work on the Project. In no event shall any employees of Contractor or its Subcontractors come into contact with District's pupils before the certification is completed. Contractor's failure to comply with this law shall be considered a material breach of the Agreement upon where the Agreement may be terminated, at District's sole discretion, without any further compensation to Contractor. Contractor and Subcontractor personnel on Site shall not have been convicted of any criminal offense which may have a discernible adverse impact on District or its students. Contractor shall advise its employees of these requirements before they enter on the Site and shall immediately remove from the Site any employee in violation of these requirements as determined by Contractor or by District. Contractor shall impose these requirements on its Subcontractors.

- 28.2 Contractor has been advised and is aware that District has adopted a Board Policy which prohibits the use of tobacco products, including smokeless tobacco, anywhere on District property. Contractor shall be responsible for the enforcement of District's tobacco-free policy among all Contractor's employees and Subcontractors while on District property. Contractor understands and agrees that should any employee or Subcontractor of Contractor violate the Board Policy, after having already been warned once for violating District's tobacco-free policy, Contractor shall remove the individual for the duration of the Project. Contractor shall not be entitled to any additional compensation and/or time in completing the Project as a result of such removal.
- 28.3 Contractor shall take all steps necessary to insure that employees of Contractor or any of its Subcontractors' employees do not use, consume, or work under the influence of alcohol or illegal drugs while on the Project. Contractor shall prevent any of its employees or its Subcontractors' employees from playing any recorded music devices or radios or wearing any radio headphone devices for entertainment while working on the Project. Contractor shall also prevent its employees or Subcontractors' employees from bringing any animal onto the Project.
- 28.4 Contractor shall be responsible for all damages to persons or property that occur as a result of its fault or negligence in connection with the prosecution of this Contract and shall take all necessary measures and be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance by District.
- 28.5 Contractor shall take, and require Subcontractors to take, all necessary precautions for safety of workers on the work and shall comply with all applicable federal, state, local and other safety laws, standards, orders, rules, regulations, and building codes to prevent accidents or injury to persons on, about, or adjacent to premises where work is being performed and to provide a safe and healthful place of employment. In addition to meeting all requirements of OSHA, Cal-OSHA, state, and local codes, Contractor shall furnish, erect and properly maintain at all times, as directed by District or required by conditions and progress of work, all necessary safety devices, safeguards, construction canopies, signs, audible devices for protection of the blind, safety rails, belts and nets, barriers, lights, and watchmen for protection of workers and the public and shall post danger signs warning against hazards created by such features in the course of construction. Contractor shall designate a responsible member of its organization on the work, whose duty shall be to post information regarding protection and obligations of workers and other notices required under occupational safety and health laws, to comply with reporting and other occupational safety requirements, and to protect the life, safety and health of workers. Name and position of person so designated shall be reported to District by Contractor. Contractor shall correct any violations of safety laws, rules, orders, standards or regulations. Upon the issuance of a citation or notice of violation by the Division of Occupational Safety and Health, such violation shall be corrected promptly.
- 28.6 In an emergency affecting safety of life or of work or of adjoining property, Contractor, without special instruction or authorization from District, is hereby permitted to act, at its discretion, to prevent such threatened loss or injury; and Contractor shall so act if so authorized or instructed by

District. Any compensation claimed by Contractor on account of emergency work shall be determined by agreement.

- 28.7 Contractor shall provide such heat, covering, and enclosures as are necessary to protect all work, materials, equipment, appliances, and tools against damage by weather conditions.
- 28.8 Contractor shall take adequate precautions to protect existing roads, sidewalks, curbs, pavements, utilities, adjoining property and structures (including, without limitation, protection from settlement or loss of lateral support), and to avoid damage thereto, and repair any damage thereto caused by construction operations. All permits, licenses, or inspection fees required for such repair work shall be obtained and paid for by Contractor.
- 28.9 Trenches Five Feet or More in Depth. The Contractor shall submit to the District, in advance of excavation, 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 any trench or trenches five feet or more in depth. The Contractor shall also submit a copy of its annual trench/excavation permit approved by CAL-OSHA. The plan shall be prepared by a registered civil or structural engineer. As part of the plan, a note shall be included stating that the registered civil or structural engineer certifies that the plan complies with CAL OSHA Construction Safety Orders, or stating that the registered civil or structural engineer certifies that the plan is not less effective than the shoring, bracing, sloping, or other provisions of the Safety Orders.
- 28.9.1 All shoring submittal shall include surcharge loads from adjacent embankments, construction loads and spoil bank. Submittal shall indicate minimum horizontal distance from top of trench to edge of all surcharge loads for all cases of shoring and side slopes.
- 28.9.2 Nothing in this Section shall relieve Contractor of the full responsibility for providing shoring, bracing sloping, or other provisions adequate for worker protection. If such plan varies from the shoring system standards established by the Construction Safety Orders, the plan shall be prepared by a registered civil or structural engineer and shall be approved by CAL-OSHA. No excavation of such trench or trenches shall be commenced until said plan has been accepted by the District or the person to whom authority to accept has been delegated by the District.
- 28.10 Contractor shall (unless waived by District in writing):
- 28.10.1 When performing construction on existing sites, become informed and take into specific account the maturity of the students on the site; and when performing work which may interfere with the school routine before, during or after school hours, enclose working area with a substantial barricade, and arrange work to cause minimum amount of inconvenience and danger to students and faculty in their regular school activities.
- 28.10.2 Not allow any person, other than workers on the Project, or individuals authorized by District to come upon any portion of the premises where work is being performed. Contractor shall require all workers on the Project to be conspicuously identified either by a firm logo on their clothing, or by means of a prominent identification badge.
- 28.10.3 Provide substantial barricades around any shrubs or trees indicated to be preserved.
- 28.10.4 Deliver materials to building area over route designated by District.
- 28.10.5 Take preventive measures to eliminate dust.

- 28.10.6 Confine apparatus, the storage of materials, and the operations of workers to limits indicated by law, ordinances, permits, or directions of District; and shall not interfere with the work or unreasonably encumber premises or overload any structure with materials; and enforce all instructions of District regarding signs, advertising, fires, smoking, the presence of liquor, and the presence of firearms and require that all workers comply with all regulations while on construction site.
- 28.10.7 Take care to prevent disturbing or covering any survey markers, monuments, or other devices marking property boundaries or corners. If such markers are disturbed by accident, they shall be replaced by an approved land surveyor or civil engineer at no cost to District.
- 28.10.8 Not allow personal radios on the work site
- 28.10.9 Where the Project involves work at an operating school, inform and take such preventive measures necessary to insure that all employees, Subcontractors and other individuals authorized on the Project site refrain from any personal contact or conversations with the students on site.
- 28.10.10 Contractor shall not impose structural loading upon any part of the work under construction or upon existing construction on or adjacent to the Site in excess of safe limits, or loading such as to result in damage to the structural, architectural, mechanical, electrical, or other components of the work. The design of all temporary construction equipment and appliances used in construction of the work and not a permanent part thereof, including, without limitation, hoisting equipment, cribbing, shoring, and temporary bracing of structural steel, is the sole responsibility of Contractor. All such items shall conform with the requirements of governing codes and all laws, ordinances, rules, regulations, and orders of all authorities having jurisdiction. Contractor shall take reasonable and customary precautions, such as shoring of masonry walls and temporary tie bracing of structural steel work, to prevent possible wind damage during construction of the work. The installation of such bracing or shoring shall not damage the work in place or the work installed by others. Any damage which does occur shall be promptly repaired by Contractor at no cost to District.
- 28.10.11 Contractor shall require that Subcontractors participate in, and enforce, the safety and loss prevention programs established by Contractor for the Project, which will cover all work performed by Contractor and its Subcontractors. All Subcontractors and material or equipment suppliers shall cooperate fully with Contractor, District, and all insurance carriers. Subcontractors shall immediately, within twenty four (24) hours, report in writing to Contractor all accidents whatsoever arising out of, or in connection with, the performance of the work, whether on or off the Site, which caused death, personal injury, or property damage, giving full details and statements of witnesses. Contractor shall thereafter immediately, within two (2) days, report the facts in writing to District giving full details of the accident.
- 28.10.12 Contractor and Subcontractors shall use only those ingress and egress routes designated by District, observe the boundaries of the Site designated by District, park only in those areas designated by District, which areas may be on or off the Site, and comply with any parking control program established by District, such as furnishing license plate information and placing identifying stickers on vehicles.
- 28.10.13 Contractor shall be responsible for providing security services for the Site as needed for the protection of the Site and as determined in District's reasonable discretion.

- 28.10.14 Contractor shall, for all contracts involving state funds, submit a “Drug-Free Workplace Certification.” Contractor shall take all reasonable steps necessary to ensure that any employees of Contractor or any of its Subcontractors’ employees report for work in a manner fit to do their job. Such employees shall not be under the influence of or in possession of any alcoholic beverage or of any controlled substance (except a controlled substance as prescribed by a physician so long as the performance or safety at the Project Site is not affected thereby). Contractor shall advise its employees of these requirements before they enter on the Site and shall immediately remove from the site any employee in violation of these requirements as determined by Contractor or by the District. Contractor shall impose these requirements on its Subcontractors.
- 28.10.15 Contractor and Subcontractors shall at all times enforce strict discipline and good order among their employees and other persons carrying out the Contract and shall not employ on work any unfit person or anyone not skilled in work assigned to such person. It shall be the responsibility of Contractor to ensure compliance with this Article. Any person in the employ of Contractor or Subcontractors whom District may deem incompetent, unfit, intemperate, troublesome or otherwise undesirable shall be excluded from the work Site and shall not again be employed on it except with written consent of District. Contractor must sign and cause all Subcontractors to sign the Conduct Rules for Contractors form attached as Exhibit “I” and incorporated herein by this reference prior to commencing work on the Project.
- 28.11 Contractor shall be at all times during the performance of work hereunder in full compliance with the provisions of the Immigration Reform and Control Act of 1986 (“IRCA”) in the hiring of its employees, and Contractor shall indemnify, hold harmless and defend District against any and all actions, proceedings, penalties or claims arising out of Contractor’s failure to comply strictly with the IRCA.

29. PAYMENTS AND RETENTION

The Construction Cost of the Project shall not exceed the GMP, except as otherwise provided in this Construction Services Agreement and Sublease. During the progress of construction, Contractor will provide monthly progress payment applications for the total scheduled value of the work completed under the GMP set forth in Section 3.7. District shall pay to Contractor a monthly progress payment comprising a sum equal to ninety-five percent (95%) of the scheduled value of the work approved and completed up to the last day of the previous month, less aggregate of previous payments (“Progress Payment”). If all of the necessary information is submitted and accurate (including the schedule of values), District shall approve the Progress Payments within fifteen (15) days after District’s receipt of the periodic estimate for partial payment and District shall pay such payments within fifteen (15) days after the District’s approval of the periodic estimate for partial payment. Progress Payments shall be made on the basis of monthly estimates which shall be prepared by Contractor on a form approved by District and certified by Architect and Project Inspector, or any other approved representative of the District, and filed before the fifth day of the month during which payment is to be made. Work completed as estimated shall be an estimate only and no inaccuracy or error in said estimate shall release Contractor or any bondsman from such work or from enforcing each and every provision of this document and District shall have the right subsequently to correct any error made in any estimate for payment. Contractor shall not be entitled to have any payment estimates processed or be entitled to have any payment made for work performed so long as any lawful or proper direction concerning non-complying work or any portion thereof given by the District lacks correction by Contractor. District shall withhold from the Progress Payments 150% of the estimated value of non-complying work unless satisfactorily corrected or remedied. Contractor shall, at a minimum, provide the following documents as part of its request for a Progress Payment: (1) Schedule of Values, (2) Project Contingency Trackers, (3) Project Allowance Trackers, (4) Project Savings Reports (Refer

to the Project Savings Section for the Project Savings Items) including the budget versus actual costs of Project Management and General Condition Expenses , (5) Project Daily Reports (Contractor and Subcontractor), (6) Project Safety Reports, (7) Monthly Lien Releases Unconditional and Conditional Waivers (all contractors), and (8) Monthly Schedule Update and Narratives (with Recovery Schedules as needed).

29.1 The District shall retain five percent (5%) "Retention" from Progress Payments and release Retention as required in this CSA and specifically, not until after Close-Out under Article 13.16.

29.2 In no event shall the cumulative total of the Progress Payments/ Sublease Payments and Retention ever exceed the GMP as defined herein, unless specifically allowed under Article 5.

29.2.1 Title to new materials and/or equipment for the work of this contract, on a continuous basis while the Project is being completed, shall vest in the District. However, responsibility for such new material and/or work of this contract shall remain with the Contractor until incorporated into the work and accepted by District; no part of said materials and/or equipment shall be removed from its place of storage except for immediate installation in the work of this contract; and Contractor shall keep an accurate inventory of all said materials and/or equipment in a manner satisfactory to the owner or his authorized representative.

Notwithstanding anything to the contrary stated above, the Contractor may include in its request for payment the value of any structural steel, glue laminated beams, trusses, bleachers and other such custom-made materials prepared specifically for the Project and unique to the Project so long as all of the following requirements are satisfied:

29.2.1.1 The aggregate cost of materials stored off-site shall not exceed Twenty Five Thousand Dollars (\$25,000) at any time or as otherwise agreed to be District in writing;

29.2.1.2 Title to such materials shall be vested in the District as evidenced by documentation satisfactory in form and substance to the District, including, without limitation, recorded financing statements, UCC filings and UCC searches;

29.2.1.3 With each request for payment, the Contractor shall submit to the District a written list identifying each location where materials are stored off-site (which must be a bonded warehouse) and the value of the materials at each location. The Contractor shall procure insurance satisfactory to the District (in its reasonable discretion) for materials stored off-site in an amount not less than the total value thereof;

29.2.1.4 The consent of any Surety shall be obtained to the extent required prior to payment for any materials stored off-site;

29.2.1.5 Representatives of the District shall have the right to make inspections of the storage areas at any time; and

29.2.1.6 Such materials shall be (1) protected from diversion, destruction, theft and damage to the reasonable satisfaction of the District; (2) specifically marked for use on the Project; and (3) segregated from other materials at the storage facility.

29.3 Reasons to Withhold Payment. The District may withhold any payment, in whole, or in part, to such extent as may be necessary to protect the District from loss because of, but not limited to:

1. Defective Work not remedied;
2. Stop Notices served upon the District;
3. Liquidated damages assessed against the Contractor;
4. The cost of completion of the Contract if there exists reasonable doubt that the Work can be Completed for the unpaid balance of any Contract Price or by the completion date;
5. Damage to the District or other contractor;
6. Unsatisfactory prosecution of the Work by the Contractor;
7. Failure to store and properly secure materials;
8. Failure of the Contractor to submit on a timely basis, proper and sufficient documentation required by the Contract Documents, including, without limitation, acceptable monthly progress schedules, Shop Drawings, Submittal schedules, schedule of values, product data and samples, proposed product lists, executed Change Order, Construction Change Documents, and verified reports;
9. Failure of the Contractor to maintain As-Built drawings;
10. If, in the District's opinion, the representations to the District required pursuant to Article 9.4 cannot be made;
11. Erroneous estimates by the Contractor of the value of the Work performed, or other false statements in an application for payment;
12. Unauthorized deviations from the Contract Documents (including but not limited to Unresolved Notices of Deviations (DSA Form 154));
13. Failure of the Contractor to prosecute the Work in a timely manner in compliance with established progress schedules and completion dates;
14. Failure to properly pay prevailing wages as defined in Labor Code section 1720, et seq.;
15. Failure to properly maintain or clean up the Site;
16. Payments to indemnify, defend, or hold harmless the District;
17. Any payments due to the District including, but not limited to, payments for failed tests, or utilities changes or permits;
18. Failure to submit an acceptable schedule in accordance with Article 9;
19. Failure to pay Subcontractor or suppliers;
20. Failure to secure warranties, including the cost to pay for warranties
21. Failure to provide release from material suppliers or Subcontractors when requested to do so
22. Items deducted pursuant to Article 17.6
23. Incomplete Punch List items under Article 13.6 which have gone through the Article 12.2 process

24. Allowances that have not been used

- 29.4 Reallocation of Withheld Amounts. District may, in its discretion, apply any withheld amount to payment of outstanding claims or obligations. In so doing, District shall make such payments on behalf of Contractor. If any payment is so made by District, then such amount shall be considered as a payment made under this CSA to Contractor and District shall not be liable to Contractor for such payments made in good faith. Such payments may be made without prior judicial determination of claim or obligation. District will render Contractor an accounting of such funds disbursed on behalf of Contractor.

If Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents or fails to perform any provision thereof, District may, after ten (10) calendar days written notice to the Contractor and without prejudice to any other remedy make good such deficiencies. The District shall adjust the total Contract price by reducing the amount thereof by the cost of making good such deficiencies. If District deems it inexpedient to correct Work which is damaged, defective, or not done in accordance with Contract provisions, an equitable reduction in the Contract price (of at least 150% of the estimated reasonable value of the nonconforming Work) shall be made therefor.

- 29.5 Payment After Cure. When the grounds for declining approval are removed, payment shall be made for amounts withheld because of them. No interest shall be paid on any retention or amounts withheld due to the failure of the Contractor to perform in accordance with the terms and conditions of the Contract Documents.

30. NONCONFORMING WORK

Contractor shall promptly remove from premises all Work identified by District as failing to conform to the Contract whether incorporated or not. Contractor shall promptly replace and re-execute its own Work to comply with the Contract without additional expense to District and shall bear the expense of making good all Work of other contractors destroyed or damaged by such removal or replacement.

If Contractor does not remove such Work which has been identified by District as failing to conform to the Contract Documents within a reasonable time, fixed by written notice, District may remove it and may store the material at Contractor's expense. If Contractor does not pay expenses of such removal within ten (10) calendar days' time thereafter, District may, upon ten (10) calendar days' written notice, sell such materials at auction or at private sale and shall account for net proceeds thereof, after deducting all costs and expenses that should have been borne by Contractor.

31. SUBCONTRACTOR PAYMENTS

- 31.1 Payments to Subcontractors. No later than ten (10) days after receipt, or pursuant to Business and Professions Code Section 7108.5, the Contractor shall pay to each Subcontractor, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.
- 31.2 No Obligation of District for Subcontractor Payment. The District shall have no obligation to pay, or to see to the payment of, money to a Subcontractor except as may otherwise be required by law.
- 31.3 Payment Not Constituting Approval or Acceptance. An approved request for a Progress Payment, a Certificate of Substantial Completion, or partial or entire use or occupancy of the Project by the District shall not constitute acceptance of Work that is not in accordance with the Contract Documents.

- 31.4 Joint Checks. District shall have the right, if necessary for the protection of the District, to issue joint checks made payable to the Contractor and Subcontractors and material or equipment suppliers. The joint check payees shall be responsible for the allocation and disbursement of funds included as part of any such joint payment. In no event shall any joint check payment be construed to create any contract between the District and a Subcontractor of any tier, any obligation from the District to such Subcontractor, or rights in such Subcontractor against the District. The District may choose to issue joint checks at District's sole discretion and only after all the requirements of that particular school district and county are specifically met. Some school districts cannot issue joint checks, so the ability to issue joint checks will depend on the District and the specific circumstances.

32. SEPARATE CONTRACTS

- 32.1 Reservation of Rights to have other Contractors on Site. District reserves the right to let other contractors enter the Site to perform work as part of its use of the Site. Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate the Project with the work of such Contractors. Such contractors shall comply with all applicable State safety laws and regulations and shall provide a certificate of insurance naming Contractor as additional insured
- 32.2 Notice of Coordination of Work. If the proper execution of any part of the Contractor's work on the Project depends upon the work of any such contractors, Contractor shall inspect and promptly report to District any patent defects or other problems it identifies in such work that render it unsuitable for such proper execution and results. Contractor is only required to inspect the work of such other contractors prior to commencing its own further work in connection with or in relation to that other work. Further, Contractor is only expected to identify patent defects or other problems, and is not required to do any destructive testing or to monitor the progress of such work by other contractors prior to its completion. In no event shall the work of such other contractors be covered by the warranty given by Contractor to the District, nor shall Contractor be required to provide insurance for such work.

33. USE OF PREMISES/SAFETY

Contractor shall confine operations at the Site to areas permitted by law, ordinances, permits and the Construction Documents and shall not unreasonably encumber the Site or existing facilities on the Site with any materials or equipment. Contractor shall not load or permit any part of the work to be loaded with a weight so as to endanger the safety of persons or property at the Site. The Contractor shall maintain emergency first aid treatment for his employees which complies with the Federal Occupational Safety and Health Act of 1970 (29 USC, section 651 et seq.).

34. CLEANING UP

- 34.1 Contractor's Responsibility to Clean Up. Contractor at all times shall keep premises free from debris such as waste, dust, excess water, storm water runoffs, rubbish, and excess materials and equipment. Contractor shall not leave debris under, in, or about the premises, but shall promptly remove same from the premises and dispose of it in a lawful manner. Disposal receipts or dump tickets shall be furnished to the Architect within five (5) days of request.

Contractor shall remove rubbish and debris resulting from the Work on a daily basis. Contractor shall maintain the structures and Site in a clean and orderly condition at all times until acceptance of the Project by the District. Contractor shall keep its access driveways and adjacent streets, sidewalks, gutters and drains free of rubbish, debris and excess water by cleaning and removal each day. All concrete, sidewalks, and paths of travel shall be broom cleaned daily.

34.2 General Final Clean-Up. Upon completion of Work, Contractor shall employ experience workers or professional cleaners for final cleaning. Clean each surface to the condition expected in a normal, commercial, building cleaning and maintenance program.

1. Clean interior and exterior of buildings, including fixtures, equipment, walls, floors, ceilings, roofs, window sills and ledges, horizontal projections, and any areas where debris has collected, so surfaces are free from foreign material or discoloration;
2. Clean the Project site. The grounds should be cleared of any Contractor equipment, raked clean of debris and trash removed. Sweep paved areas broom clean.
3. Repair or replace any damaged materials. Replace any chipped or broken glass.
4. Remove any and all stains.
5. Remove labels that aren't permanent labels.
6. Clean and polish all glass, plumbing fixtures, equipment, finish hardware and similar finish surfaces. Remove any glazing compounds
7. Remove temporary utilities, fencing, barricades, planking, sanitary facilities and similar temporary facilities from Site.
8. Remove temporary film that remains on any hardware, doors or other surfaces.
9. Seal the bottom and tops of all doors
10. Special Clean-Up.
11. In addition to the general cleaning, the following special cleaning shall be done at the completion of the Work in accordance with the specifications including, but not limited to:
 - a. Remove putty stains from glazing, then wash and polish glazing.
 - b. Remove marks, stains, fingerprints and other soil or dirt from painted, stained or decorated work.
 - c. Remove temporary protection and clean and polish floors and waxed surfaces.
 - d. Clean and polish hardware and plumbing trim; remove stains, dust, dirt, plaster and paint
 - e. Wipe surfaces of mechanical and electrical equipment.
 - f. Remove spots, soil, plaster and paint from tile work, and wash tile.
 - g. Clean all fixtures and equipment, remove excess lubrication, clean light fixtures and lamps, polish metal surfaces.
 - h. Vacuum-clean carpeted surfaces.
 - i. Remove debris from roofs, down spout and drainage system.

34.3 Failure to Cleanup. If the Contractor fails to clean up as provided in the Contract Documents, the District may do so, and the cost thereof shall be the responsibility of the Contractor pursuant to Article 12.2 and seek a Deductive Change Order.

35. INSURANCE

35.1 Insurance Requirements. Before the commencement of the Work, the Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in California as admitted carriers with a financial rating of at least an A status as rated in the most recent edition of Best's Insurance Reports or as otherwise amended in these Contract Documents, such insurance as will protect the District from claims set forth below, which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations are by the Contractor, by a Subcontractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

1. Claims for damages because of bodily injury, sickness, disease, or death of any person District would require indemnification and coverage for employee claim;
2. Claims for damages insured by usual personal injury liability coverage, which are sustained by a person as a result of an offense directly or indirectly related to employment of such person by the Contractor or by another person;
3. Claims for damages because of injury or destruction of tangible property, including loss of use resulting therefrom, arising from operations under the Contract Documents;
4. Claims for damages because of bodily injury, death of a person, or property damage arising out of the ownership, maintenance, or use of a motor vehicle, all mobile equipment, and vehicles moving under their own power and engaged in the Work;
5. Claims involving contractual liability applicable to the Contractor's obligations under the Contract Documents, including liability assumed by and the indemnity and defense obligations of the Contractor and the Subcontractors; and
6. Claims involving Completed Operations, Independent Contractors' coverage, and Broad Form property damage, without any exclusions for collapse, explosion, demolition, underground coverage, and excavating. (XCU)
7. Claims involving sudden or accidental discharge of contaminants or pollutants.

35.2 Subcontractor Insurance Requirements. The Contractor shall require its Subcontractors to take out and maintain similar public liability insurance and property damage insurance required under this Article in like amounts. A "claims made" or modified "occurrence" policy shall not satisfy the requirements of this Article without prior written approval of the District.

35.3 Additional Insured Endorsement Requirements. The Contractor shall name, on any policy of insurance required under this Article, the District, Architect, Inspector, the State of California, their officers, employees, agents and independent contractors as additional insureds. Subcontractors shall name the Contractor, the District, Architect, Inspector, the State of California, their officers, employees, agents and independent contractors as additional insureds. The Additional Insured Endorsement included on all such insurance policies shall be an ISO CG 20 33 (04/813), or an ISO CG 20 38 (04/13) and ISO CG 20 37 (04/13) or their equivalent as determined by the District in its sole discretion, and must state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be on an excess or contingent basis. The insurance provided by the Contractor pursuant to this Article must be designated in the policy as primary to any insurance obtained by the District. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

35.4 Specific Insurance Requirements

- 35.4.1 Contractor shall take out and maintain and shall require all Subcontractors, if any, whether primary or secondary, to take out and maintain:
- 35.4.2 Comprehensive General Liability Insurance with a combined single limit per occurrence of not less than \$2,000,000.00 or Commercial General Liability Insurance (including automobile insurance) which provides limits of not less than:
1. Per occurrence (combined single limit) \$1,000,000.00
 2. Project Specific Aggregate (for this Project only) \$2,000,000.00
 3. Products and Completed Operations \$1,000,000.00
 4. Personal and Advertising Injury Limit \$1,000,000.00
- 35.4.3 Insurance Covering Special Hazards. The following Special hazards shall be covered by riders or riders to above mentioned public liability insurance or property damage insurance policy or policies of insurance, in amounts as follows:
1. Automotive and truck where operated in amounts \$1,000,000.00
 2. Material Hoist where used in amounts \$1,000,000.00
 3. Explosion, Collapse and Underground (XCU coverage) \$1,000,000.00
 4. In addition, provide Excess Liability Insurance coverage in the amount of Five Million Dollars (\$5,000,000.00).

35.5 Workers' Compensation Insurance. During the term of this Contract, the Contractor shall provide workers' compensation insurance for all of the Contractor's employees engaged in Work under this Contract on or at the Site of the Project and, in case any of the Contractor's Work is subcontracted, the Contractor shall require the Subcontractor to provide workers' compensation insurance for all the Subcontractor's employees engaged in Work under the subcontract. Any class of employee or employees not covered by a Subcontractor's insurance shall be covered by the Contractor's insurance. In case any class of employees engaged in Work under this Contract on or at the Site of the Project is not protected under the Workers' Compensation laws, the Contractor shall provide or cause a Subcontractor to provide adequate insurance coverage for the protection of those employees not otherwise protected. The Contractor shall file with the District certificates of insurance and in comply with Labor Code § 3700.

35.6 Builder's Risk/All Risk

- 35.6.1 *Course-of-Construction Insurance Requirements.* The Contractor, during the progress of the Work and until final acceptance of the Work by District upon completion of the entire Contract, shall maintain Builder's Risk, Course of Construction or similar first party property coverage issued on a replacement value basis consistent with the total replacement cost of the structures where work is being performed inclusive of all Work for the Project included within the Contract Documents. Coverage is to insure against all risks of accidental direct physical loss, and must include, by the basic grant of coverage or by endorsement, the perils of vandalism, malicious mischief (both without any limitation regarding vacancy or occupancy), fire, sprinkler leakage, civil authority, sonic boom, earthquake, flood, collapse, wind, lightning, smoke and riot. The coverage must include debris removal, demolition, increased costs due to enforcement of building ordinance and law in the repair and replacement of damage 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 which is the subject of the Contract Documents, including the

underlying structure where Work is being performed, completed Work and Work in progress, to the full insurable value thereof. Such insurance shall include the District and the Architect as additional named insureds, and any other person with an insurable interest as designated by the District.

The Contractor shall submit to the District for its approval all items deemed to be uninsurable. The risk of the damage to the Work due to the perils covered by the "Builder's Risk/All Risk" Insurance, as well as any other hazard which might result in damage to the Work, is that of the Contractor and the surety, and no claims for such loss or damage shall be recognized by the District nor will such loss or damage excuse the complete and satisfactory performance of the Contract by the Contractor.

- 35.7 Fire Insurance. Before the commencement of the Work, the Contractor shall procure, maintain, and cause to be maintained at the Contractor's expense, fire insurance on all Work subject to loss or damage by fire. The amount of fire insurance shall be sufficient to protect the Project against loss or damage in full until the Work is accepted by the District.
- 35.8 Other Insurance. The Contractor shall provide all other insurance required to be maintained under applicable laws, ordinances, rules, and regulations.
- 35.9 Proof of Insurance. The Contractor shall not commence Work nor shall it allow any Subcontractor to commence Work under this Contract until all required insurance and certificates have been obtained and delivered in duplicate to the District for approval subject to the following requirements:
- 35.9.1 Certificates and insurance policies shall include the following clause:
1. "This policy shall not be non-renewed, canceled, or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District. Date of cancellation or reduction may not be less than thirty (30) days after the date of mailing notice."
 2. Certificates of insurance shall state in particular those insured, the extent of insurance, location and operation to which the insurance applies, the expiration date, and cancellation and reduction notices.
 3. Certificates of insurance shall clearly state that the District and the Architect are named as additional insureds under the policy described and that such insurance policy shall be primary to any insurance or self-insurance maintained by District.
 4. The Contractor and its Subcontractors shall produce a certified copy of any insurance policy required under this Article upon written request of the District.
- 35.10 Compliance. In the event of the failure of Contractor to furnish and maintain any insurance required by this Article 34, the Contractor shall be in default under the Contract. Compliance by Contractor with the requirement to carry insurance and furnish certificates or policies evidencing the same shall not relieve the Contractor from liability assumed under any provision of the Contract Documents, including, without limitation, the obligation to defend and indemnify the District and the Architect.
- 35.11 No Waiver Created through Payments. The making of any payments under this CSA or the Sublease shall not be construed as creating an insurable risk interest by or for the District or be construed as relieving the Contractor or his Subcontractors of responsibility for loss from any direct physical loss, damage, or destruction occurring prior to Completion of the Project.

- 35.12 Waiver of Subrogation. Contractor waives (to the extent permitted by law) any right to recover against the District for damages to the Work, any part thereof, or any and all claims arising by reason of any of the foregoing, but only to the extent that such damages and/or claims are covered by property insurance and only to the extent of such coverage (which shall exclude deductible amounts) by insurance actually carried by the District.

The provisions of this section are intended to restrict each party to recovery against insurance carriers only to the extent of such coverage and waive fully and for the benefit of each, any rights and/or claims which might give rise to a right of subrogation in any insurance carrier. The District and the Contractor shall each obtain in all policies of insurance carried by either of them, a waiver by the insurance companies thereunder of all rights of recovery by way of subrogation for any damages or claims covered by the insurance.

35.13 Performance and Payment Bonds

- 35.13.1 *Bond Requirements.* Prior to commencing any portion of the Work, the Contractor shall furnish separate payment and performance bonds for its portion of the Work which shall cover 100% faithful performance of and payment of all obligations arising under the Contract Documents and/or guaranteeing the payment in full of all claims for labor performed and materials supplied for the Work. All bonds shall be provided by a corporate surety authorized and admitted to transact business in California as sureties.

To the extent, if any, that the Contract Price is increased in accordance with the Contract Documents, the Contractor shall, upon request of the District, cause the amount of the bonds to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the District. To the extent available, the bonds shall further provide that no change or alteration of the Contract Documents (including, without limitation, an increase in the Contract Price, as referred to above), extensions of time, or modifications of the time, terms, or conditions of payment to the Contractor will release the surety. If the Contractor fails to furnish the required bonds, the District may terminate the Contract for cause.

- 35.13.2 *Surety Qualification.* Only bonds executed by admitted Surety insurers as defined in Code of Civil Procedure § 995.120 shall be accepted. Surety must be a California-admitted surety and listed by the U.S. Treasury with a bonding capacity in excess of the Project cost.
- 35.13.3 *Alternate Surety Qualifications.* If a California-admitted surety insurer issuing bonds does not meet these requirements, the insurer will be considered qualified if it is in conformance with § 995.660 of the California Code of Civil Procedure and proof of such is provided to the District.
- 35.13.4 Contractor is hereby authorized to obtain a performance and payment bond from any Subcontractors selected by Contractor at its discretion and cost. Any bonds required by this subsection shall comply with the requirements set forth above.

36. HOLD HARMLESS AND INDEMNITY

Contractor shall defend, indemnify and hold harmless District, Architect, Construction Manager, Inspector, the State of California and their officers, employees, agents and independent contractors from all liabilities, claims, actions, liens, judgments, demands, damages, losses, costs or expenses of any kind arising from death, personal injury, property damage or other cause based or asserted upon any act, omission, or breach connected with or arising from the progress of Work or performance of service under this Agreement or the Contract Documents. As part of this indemnity, Contractor shall protect and defend, at its own expense, District, Architect, Inspector, the State of

California and their officers, employees, agents and independent contractors from any legal action including attorney's fees or other proceeding based upon such act, omission, breach or as otherwise required by this Article.

Furthermore, Contractor agrees to and does hereby defend, indemnify and hold harmless District, Architect, Inspector, the State of California and their officers, employees, agents and independent contractors from every claim or demand made, and every liability, loss, damage, expense or attorney's fees of any nature whatsoever, which may be incurred by reason of:

- 36.1.1 Liability for (1) death or bodily injury to persons; (2) damage or injury to, loss (including theft), or loss of use of, any property; (3) any failure or alleged failure to comply with any provision of law or the Contract Documents; or (4) any other loss, damage or expense, sustained by any person, firm or corporation or in connection with the Work called for in this Agreement or the Contract Documents, except for liability resulting from the sole or active negligence, or the willful misconduct of the District.
- 36.1.2 Any bodily injury to or death of persons or damage to property caused by any act, omission or breach of Contractor or any person, firm or corporation employed by Contractor, either directly or by independent contract, including all damages or injury to, loss (including theft), or loss of use of, any property, sustained by any person, firm or corporation, including District, arising out of or in any way connected with Work covered by this Agreement or the Contract Documents, whether said injury or damage occurs either on or off District property, but not for any loss, injury, death or damages caused by the sole or active negligence or willful misconduct of the District.
- 36.1.3 Any dispute between Contractor and Contractor's Subcontractors/supplies/sureties, including, but not limited to, any failure or alleged failure of the Contractor (or any person hired or employed directly or indirectly by the Contractor) to pay any Subcontractor or Materialman of any tier or any other person employed in connection with the Work and/or filing of any stop notice or mechanic's lien claims.

Contractor, at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings that may be brought or instituted against the District, its officers, agents, Architect or CM, or employees, on account of or founded upon any cause, damage, or injury identified herein 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.

Contractor shall ensure that its contract with each of its Subcontractors contains provisions requiring the Subcontractors to defend, indemnify and hold harmless the District, Architect, Inspector, the State of California to a minimum level as set forth in this Article and consistent with the language of this Article.

The Contractor's and Subcontractors' obligation to defend, indemnify and hold harmless the District, Architect, Inspector, the State of California and their officers, employees, agents and independent contractors hereunder shall include, without limitation, any and all claims, damages, and costs for the following: (1) any damages or injury to or death of any person, and damage or injury to, loss (including theft), or loss of use of, any property; (2) breach of any warranty, express or implied; (3) failure of the Contractor or Subcontractors to comply with any applicable governmental law, rule, regulation, or other requirement; (4) products installed in or used in connection with the Work; and (5) any claims of violation of the Americans with Disabilities Act ("ADA") claims arising from failure to comply with the Construction Documents.

37. SUBSTITUTION OF SECURITY

In accordance with Public Contract Code section 22300, the District will permit the substitution of securities for any moneys withheld by the District to ensure performance under the Construction Services Agreement. At the request and expense of the Contractors, securities equivalent to the amount withheld shall be deposited with the District, or with a state or federally chartered bank as the escrow agent, who shall then pay such moneys to the Contractor.

Upon satisfactory completion of the Construction Services Agreement the securities shall be returned to the Contractor.

38. TITLE TO WORK

Title to all work completed and in the course of construction paid for by District and title to all materials on account of which payment has been made by District to Contractor shall vest in District pursuant to the applicable provisions of the Sublease.

39. COMPLIANCE WITH STATE STORM WATER PERMIT FOR CONSTRUCTION

The Contractor shall be required to comply with all conditions of the State Water Resources Control Board (State Water Board) National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity (Permit) for all construction activity which results in the disturbance of in excess of one acre of total land area or which is part of a larger common area of development or sale. The Contractor shall be responsible for filing the Notice of Intent and for obtaining the Permit. The Contractor shall be solely responsible for preparing and implementing a Storm Water Pollution Prevention Plan (SWPPP) prior to initiating Work. The Contractor's Qualified SWPPP Developer (QSD) shall work with the Architect and its engineers in preparing an approved SWPPP and revising it as necessary or required. It shall be the Contractor's responsibility to evaluate the cost of procuring the Permit and preparing the SWPPP as well as complying with the SWPPP and any necessary revision to the SWPPP. The Contractor shall employ a Qualified SWPPP Practitioner (QSP) to implement the approved SWPPP during construction. The Contractor shall comply with all requirements of the State Water Resources Control Board. The Contractor shall include all costs of compliance with specified requirements in the GMP.

Contractor shall be responsible for procuring, implementing and complying with the provisions of the Permit and the SWPPP, including the standard provisions, monitoring and reporting requirements as required by the Permit. Contractor shall provide copies of all reports and monitoring information to the District, Architect and the District's third party SWPPP consultant.

The Contractor shall comply with the lawful requirements of any applicable municipality, the County, drainage district, and other local agencies regarding discharges of storm water to separate storm drain system or other watercourses under their jurisdiction, including applicable requirements in municipal storm water management programs.

Failure to comply with the Permit is in violation of federal and state law. The Contractor hereby agrees to indemnify and hold harmless the District, its Board members, officers, agents, employees and authorized volunteers from and against any and all claims, demands, losses or liabilities of any kind or nature which the District, its Board members, officers, agents, employees and authorized volunteers may sustain or incur for noncompliance with the Permit arising out of or in connection with the Project, except for liability resulting from the sole negligence, willful misconduct or active negligence of the District, its Board members, officers, agents, employees or authorized volunteers. District may seek damages from the Contractor for delay in completing the Project caused by the Contractor's failure to comply with the Permit.

40. EQUAL OPPORTUNITY CLAUSE

The Contractor herein agrees not to discriminate in its recruiting, hiring, promotion, demotion or termination practices on the basis of race, religious creed, color, national origin, ancestry, sex, age or physical handicap in the performance of this Construction Services Agreement and to comply with the provisions of the following laws:

- 40.1 California Fair Employment and Housing Act (Gov. Code 12900 et seq., prohibiting discrimination in employment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex, and prohibiting harassment of an employee or applicant because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or age);

- 40.2 Federal Civil Rights Act of 1964 (42 USC '2000e et seq., prohibiting discrimination in employment on the basis of race, color, national origin, religion, or sex); Title I of the Americans With Disabilities Act of 1990 (42 USC 12101 et seq., prohibiting discrimination against qualified individuals with a disability in hiring and employment practices);
- 40.3 The Age Discrimination in Employment Act (29 USC 621 et seq., prohibiting age discrimination in employment against individuals who are at least forty years of age);
- 40.4 California Labor Code section 1102.1 (prohibiting discrimination in any aspect of employment or opportunity for employment based on actual or perceived sexual orientation);
- 40.5 Sexual orientation;
- 40.6 American with Disabilities Act (ADA) (See Article 41); and
- 40.7 Any other laws or regulations prohibiting discrimination as may be applicable to Contractor.

41. SPECIAL NOTICE OF AMERICAN'S WITH DISABILITIES ACT

Some of the requirements in the Construction Documents are meant to comply with the American's with Disabilities Act ("ADA"). The requirements of the ADA are technical in nature and may appear to be minor in nature (i.e. whether a walkway or ramp has a 2% cross-slope). Contractor is warned that even the slightest deviation from the specific requirements from the ADA is considered a Civil Rights Violation and subjects the District to fines of three times actual damages sustained by a handicap individual or up to \$4,000 per violation and attorney's fees required to enforce the ADA violation. As a result of the significant liability and exposure associated with ADA aspects of the Contract, Contractor shall take special care to meet all ADA requirements detailed in the Construction Documents. Failure to comply with ADA rules that results in a Notice of Non-Compliance shall be repaired to meet ADA requirements promptly. In addition, any ADA violations that are not identified by Inspector or Architect that are later identified shall be repaired and charged back to the Contractor through a Deductive Change Order.

- 41.1 Indemnification of ADA Claims. ADA claims arising from failure to comply with Construction Documents shall be indemnified, held harmless and defended by Contractor. Further, any withholdings for ADA violations in Article 29.4 shall include potential redesign costs and an accelerated repair costs due to the potential for ADA claims arising from DSA posting of ADA violations on the Project.

42. PATENTS, ROYALTIES, AND INDEMNITIES

The Contractor shall hold and save the District and its officers, agents, and employees harmless from liability of any nature or kind, including cost and expense, for or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of this Construction Services Agreement, including its use by the District, except to the extent a method or means was specifically required by the Contract Documents.

43. EXCISE TAX

If under federal excise tax law any transaction hereunder constitutes a sale on which a federal excise tax is imposed and the sale is exempt from such excise tax because it is a sale to a state or local government for its exclusive use, the District, upon request, will execute a certificate of exemption which will certify (1) that the District is a political subdivision of the state for the purposes of such exemption and (2) that the sale is for the exclusive use of the District. No excise tax for such materials shall be included in the GMP.

44. PROHIBITED INTERESTS

No official of District and no District representative who is authorized in such capacity and on behalf of District to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with construction

of Project, shall be or become directly or indirectly interested financially in this Construction Services Agreement or any part thereof. No officer, employee, architect, attorney, engineer or inspector of or for District who is authorized in such capacity and on behalf of District to exercise any executive, supervisory or other similar functions in connection with construction of Project, shall become directly or indirectly interested financially in this Construction Services Agreement or in any part thereof.

45. COMPLIANCE WITH DTSC GUIDELINES – IMPORTED SOIL/SOILS INSPECTION

- 45.1 If the Project requires the use of imported soils, the Contractor shall be responsible to use and shall certify that the imported material it uses is free of any hazardous and/or toxic substance or material of any nature or type as defined in accordance with California Law and the California Health and Safety Code. The District reserves the right to reject any imported material that has come from agricultural or commercial land uses. Contractor must notify the District of the source of material and comply with the applicable Regional Water Quality Control Board Resolution and when applicable, with the guidelines of the Department of Toxic Substances Control (DTSC).
- 45.2 Unless otherwise provided, when a soils investigation report obtained from test holes at the site is available, such report shall not be a part of this contract. Nevertheless, with respect to any such soils investigation and/or geotechnical report regarding the site, it shall be the responsibility of the Contractor to review and be familiar with such report. Any information obtained from such report or any information given on drawings as to subsurface soil condition or to elevations of existing grades or elevations of underlying rock is approximate only, is not guaranteed, and does not form a part of the contract, unless otherwise specifically provided. Contractor is required to make a visual examination of site and must make whatever tests it deems appropriate to determine the underground condition of the soil. Limited soil tests and subsurface investigations, if any, are available for review and consideration by Contractor and were conducted for the purpose of design only. Subsurface investigation information is made available by District solely as a matter of convenience and general information for Contractor and Contractor is expected to review and be familiar with such information. No representation is made by District or Architect that information provided is completely representative of all conditions and materials which may be encountered. If such a report is referenced in the Contract Documents for performance of the Project, such reference shall be to establish minimum requirements only. Further, no representation is made by District or Architect that information provided is solely adequate for purposes of construction. District disclaims responsibility for interpretations by Contractor of soil and subsurface investigation information, such as in protecting soil-bearing values, rock profiles, presence and scope of boulders and cobbles, soil stability and the presence, level and extent of underground water. Contractor shall determine means, methods, techniques and sequences necessary to achieve required characteristics of completed Work. Conditions found after execution of the Construction Services Agreement to be materially different from those reported and which are not customarily encountered in the geographic area of the Project shall be governed by provisions of this Construction Services Agreement for unforeseen conditions.

46. HAZARDOUS WASTE AND UNKNOWN PHYSICAL CONDITIONS

Contractor shall promptly, and before the following conditions are disturbed, notify the District, in writing, of any:

1. 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.
2. Subsurface or latent physical conditions at the Site differing from those indicated, including geological, soils, and or water table issues which impede construction or increase Construction Costs.
3. Unknown physical conditions at the Site (not including structures or improvements) of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Construction Services Agreement.

- 46.1 District shall promptly investigate the conditions, and if it finds that the conditions materially so differ, and the materials that are not on reports or documents supplied or reviewed as part of Contractor's Due Diligence shall be submitted as a Change Order under Article 17 and, upon approval, shall be allocated to the Unforeseen Allowance.
- 46.2 In the event that a dispute arises between District and Contractor whether the conditions materially differ from Due Diligence Documents reviewed for hazardous substances, or 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 this Construction Services Agreement but shall proceed with all work to be performed under the Construction Services Agreement.

47. NO ASBESTOS CERTIFICATION

- 47.1 Asbestos Free Installation Certification: Contractor shall execute and submit an "Asbestos Free Materials Certification," and further, is aware of the following
- 47.1.1 Should asbestos containing materials be installed by the Contractor in violation of this certification, or if removal of asbestos containing materials is part of the Project, decontaminations and removals will be performed in accordance with the requirements of all applicable laws and will meet the following criteria:
- 47.1.1.1 Decontamination and removal of work found to contain asbestos or work installed with asbestos containing equipment shall be done only under the supervision of a qualified consultant, knowledgeable in the field of asbestos abatement and accredited by the Environmental Protection Agency (EPA).
- 47.1.1.2 The asbestos removal contractor shall be an EPA accredited contractor qualified in the removal of asbestos and shall be chosen and approved by the asbestos consultant who shall have sole discretion and final determination in this matter.
- 47.1.1.3 The asbestos consultant shall be chosen and approved by the District which shall have sole discretion and final determination in this matter.
- 47.1.1.4 The work will not be accepted until asbestos contamination is reduced to levels deemed acceptable by the asbestos consultant.
- 47.1.2 If removal of asbestos containing materials is part of the Project, the cost of all asbestos removal, including, but not necessarily limited to the cost of the asbestos removal contractor, the cost of the asbestos consultant, analytical and laboratory fees, time delays and additional costs that may be incurred by the District shall be borne entirely by the Contractor.
- 47.1.3 Hold Harmless: Interface of work for the Project with work containing asbestos shall be executed by the Contractor at his/her risk and at his/her discretion with full knowledge of the currently accepted standards, hazards, risks and liabilities associated with asbestos work and asbestos containing products. By execution of the Construction Services Agreement the Contractor acknowledges the above and agrees to the fullest extent permitted by law to hold harmless the District, its Board and each member of the Board, its officers, employees, agents, representatives, including its Architect and assigns, for all asbestos liability which may be associated with this work. The Contractor further agrees to instruct his/her employees with respect to the above mentioned standards, hazards, risk and liabilities.

48. LAWS AND REGULATIONS

Contractor shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on conduct of work as indicated and specified. If Contractor observes that drawings and specifications are at variance therewith, it shall promptly notify Architect in writing and any necessary changes shall be adjusted as provided in this Construction Services Agreement for changes in work. If Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the District's Architect, it shall bear all costs arising therefrom.

49. AGREEMENT MODIFICATIONS

No waiver, alteration or modification of any of the provisions of this Construction Services Agreement shall be binding upon either District or Contractor unless the same shall be in writing and signed by both District and Contractor.

50. NOTICES

All communications in writing between District and Contractor, including without limitation, applications for payment, shall be deemed to have been received by the addressee if delivered to the person for whom they are intended or if sent by registered mail, return receipt requested, or by telex, telegram, or fax followed by regular mail, addressed pursuant to the Notice Section of Article 3.

51. THIRD-PARTY CLAIMS

Pursuant to Public Contract Code section 9201(b) and (c), District shall provide Contractor with timely notification of the receipt of any third-party claim, relating to the Contract. District is entitled to recover its reasonable costs incurred in providing such notification.

52. ASSIGNMENT

Except Contractor's responsibility to assign Subcontractors and material suppliers to District upon Project Completion and the running of the Warranty Period, Contractor shall not assign or sublet the Lease, Sublease or this Construction Services Agreement, nor shall Contractor assign any monies due or to become due to it hereunder. Contractor has unique abilities and understanding of the Project from negotiations and the Due Diligence that has been undertaken and, thus, any assignment will not transfer to the assignee the specific understanding associated with Contractor on this Project.

53. HEADINGS

The headings herein contained are inserted only as a matter of convenience and reference and are not meant to define, limit or describe the scope or intent of the Contract Documents or in any way to affect the terms and provisions set forth herein.

54. INTEGRATION/MODIFICATION

This Construction Services Agreement represents the entire understanding of District and Contractor as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered herein, and it shall not be amended, altered or changed except by a written agreement signed by the parties hereto.

55. APPLICABLE LAW/ PROVISIONS REQUIRED BY LAW DEEMED INSERTED

The terms and provisions of this Construction Services Agreement shall be construed in accordance with the laws of the State of California. If any action is brought in a court of law to enforce any term of this Construction Services Agreement the action shall be brought in a state court situated in the County where the District is located, State of California, unless a court finds jurisdiction or venue is only proper in a federal court, or a court outside this county.

In the event of any such litigation between the parties, the parties shall pay for their respective costs incurred, including attorneys' fees.

Each and every provision of law and clause required by law to be inserted in this Construction Services Agreement shall be deemed to be inserted herein and the Construction Services Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon application of either party, the Construction Services Agreement shall forthwith be physically amended to make such insertion or correction.

56. SUCCESSION OF RIGHTS AND OBLIGATIONS

All rights and obligations under this Construction Services Agreement shall inure to and be binding upon the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have, by their duly authorized representatives, executed this Construction Services Agreement, in duplicate, as of the day and year first above written.

CONTRACTOR

DISTRICT:

FOUNTAIN VALLEY SCHOOL DISTRICT

By: _____
Name
Title

By: _____
Assistant Superintendent, Business Services

DATE: _____

DATE: _____

EXHIBIT “A”

SCOPE OF WORK / CONSTRUCTION DOCUMENTS

[TO BE INSERTED]

EXHIBIT “B”
MASTER BUDGET
[TO BE INSERTED]

EXHIBIT “C”
DVBE REQUIREMENTS

EXHIBIT "D"
PAYMENT BOND
(CALIFORNIA PUBLIC WORK)

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, the FOUNTAIN VALLEY SCHOOL DISTRICT (sometimes referred to hereinafter as "Obligee") has awarded to _____ (hereinafter designated as the "Principal" or "Contractor"), an agreement for the work described as follows: _____ (hereinafter referred to as the "Public Work"); and

WHEREAS, said Contractor is required to furnish a bond in connection with said Contract, and pursuant to California Civil Code Section 9550;

NOW, THEREFORE, We, _____, the undersigned Contractor, as Principal; and _____, a corporation organized and existing under the laws of the State of _____, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the FOUNTAIN VALLEY SCHOOL DISTRICT and to any and all persons, companies, or corporations entitled by law to file stop notices under California Civil Code Section 9100, or any person, company, or corporation entitled to make a claim on this bond, in the sum of _____ Dollars (\$ _____), such sum being not less than one hundred percent (100%) of the total amount payable by said Obligee under the terms of said Contract, for which payment will and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, its heirs, executors, administrators, successors, or assigns, or subcontractor, shall fail to pay any person or persons named in Civil Code Section 9100; or fail to pay for any materials, provisions, 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 Code, with respect to work or labor thereon of any kind; or shall fail to deduct, withhold, and pay over to the Employment Development Department, any amounts required to be deducted, withheld, and paid over by Unemployment Insurance Code Section 13020 with respect to work and labor thereon of any kind, then said Surety will pay for the same, in an amount not exceeding the amount herein above set forth, and in the event suit is brought upon this bond, also will pay such reasonable attorneys' fees as shall be fixed by the court, awarded and taxed as provided in California Civil Code Section 9550 et seq.

This bond shall inure to the benefit of any person named in Civil Code Section 9100 giving such person or his/her assigns a right of action in any suit brought upon this bond.

It is further stipulated and agreed that the Surety of this bond shall not be exonerated or released from the obligation of the bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, or specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described, or pertaining or relating to the furnishing of labor, materials, or equipment therefor; nor by any change or modification of any terms of payment or extension of time for payment pertaining or relating to any scheme or work of improvement herein above described; nor by any rescission or attempted rescission of the contract, agreement or bond; nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond; nor by any fraud practiced by any person other than the claimant seeking to recover on the bond; and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given; and under no circumstances shall the Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the Obligee and the Contractor or on the part of any obligee named in such bond; that the sole condition of recovery shall be that the claimant is a person described in California Civil Code Section 9100, and who has not been paid the full amount of his or her claim; and that the Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned.

IN WITNESS WHEREOF this instrument has been duly executed by the Principal and Surety above named, on the _____ day of _____, 20____.

PRINCIPAL/CONTRACTOR:

By: _____

SURETY:

By: _____

Attorney-in-Fact

IMPORTANT: THIS IS A REQUIRED FORM.

Surety companies executing bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in California Insurance Code Section 105, and if the work or project is financed, in whole or in part, with federal, grant or loan funds, Surety's name must also appear on the Treasury Department's most current list (Circular 570 as amended).

Any claims under this bond may be addressed to:

(Name and Address of Surety)

(Name and Address of agent or representative for
service for service of process in California)

Telephone: _____

Telephone: _____

A notary public or other office completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF)

On _____, before me, _____, personally
appeared _____, who proved 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) as the Attorney-in-Fact of
_____ (Surety) and acknowledged to me that by his/her/their signature(s) on the
instrument the person(s), or the entity upon behalf of which the person(s) 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.

Notary Public in and for said State

(SEAL)

Commission expires: _____

NOTE: A copy of the power-of-attorney to local representatives of the bonding company must be attached hereto.

EXHIBIT "E"
CONTRACT PERFORMANCE BOND
(CALIFORNIA PUBLIC WORK)

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, the FOUNTAIN VALLEY SCHOOL DISTRICT (sometimes referred to hereinafter as "Obligee") has awarded to _____ (hereinafter designated as the "Principal" or "Contractor"), an agreement for the work described as follows: _____ (hereinafter referred to as the "Public Work"); and

WHEREAS, the work to be performed by the Contractor is more particularly set forth in that certain contract for said Public Work dated _____, (hereinafter referred to as the "Contract"), which Contract is incorporated herein by this reference; and

WHEREAS, the Contractor is required by said Contract to perform the terms thereof and to provide a bond both for the performance and guaranty thereof.

NOW, THEREFORE, we, _____, the undersigned Contractor, as Principal, and _____, a corporation organized and existing under the laws of the State of _____, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the FOUNTAIN VALLEY SCHOOL DISTRICT in the sum of _____ Dollars (\$ _____), said sum being not less than one hundred percent (100%) of the total amount payable by said Obligees under the terms of said Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the bounded Contractor, his or her 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 said Contract and any alteration thereof made as therein provided, on his or her part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill guarantees of all materials and workmanship; and indemnify, defend and save harmless the Obligees, its officers and agents, as stipulated in said Contract, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

The Surety, for value received, hereby stipulates and agrees that it shall not be exonerated or released from the obligation of this bond (either by total exoneration or pro tanto) by any change, extension of time, alteration in or addition to the terms of the contract or to the work to be performed there under or the specifications accompanying the same, nor by any change or modification to any terms of payment or extension of time for any payment pertaining or relating to any scheme of work of improvement under the contract. Surety also stipulates and agrees that it shall not be exonerated or released from the obligation of this bond (either by total exoneration or pro tanto) by any overpayment or underpayment by the Obligees that is based upon estimates approved by the Architect. The Surety stipulates and agrees that none of the aforementioned changes, modifications, alterations, additions, extension of time or actions shall in any way affect its obligation on this bond, and it does hereby waive notice of any such changes, modifications, alterations, additions or extension of time to the terms of the contract, or to the work, or the specifications as well notice of any other actions that result in the foregoing.

Whenever Principal shall be, and is declared by the Obligees to be, in default under the Contract, the Surety shall promptly either remedy the default, or shall promptly take over and complete the Contract through its agents or independent contractors, subject to acceptance and approval of such agents or independent contractors by Obligees as hereinafter set forth, in accordance with its terms and conditions and to pay and perform all obligations of Principal under the Contract, including, without limitation, all obligations with respect to warranties, guarantees and the payment of liquidated damages; or, at Obligees's sole discretion and election, Surety shall obtain a bid or bids for

completing the Contract in accordance with its terms and conditions, and upon determination by Obligees of the lowest responsible bidder, arrange for a contract between such bidder and the Obligees and make available as Work progresses (even though there should be a default or succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the "balance of the Contract price" (as hereinafter defined), and to pay and perform all obligations of Principal under the Contract, including, without limitation, all obligations with respect to warranties, guarantees and the payment of liquidated damages. The term "balance of the Contract price," as used in this paragraph, shall mean the total amount payable to Principal by the Obligees under the Contract and any modifications thereto, less the amount previously paid by the Obligees to the Principal, less any withholdings by the Obligees allowed under the Contract. Obligees shall not be required or obligated to accept a tender of a completion contractor from the Surety.

Surety expressly agrees that the Obligees may reject any agent or contractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Principal. Unless otherwise agreed by Obligees, in its sole discretion, Surety shall not utilize Principal in completing the Contract nor shall Surety accept a bid from Principal for completion of the work in the event of default by the Principal.

No final settlement between the Obligees and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

The Surety shall remain responsible and liable for all patent and latent defects that arise out of or relate to the Contractor's failure and/or inability to properly complete the Public Work as required by the Contract and the Contract Documents. The obligation of the Surety hereunder shall continue so long as any obligation of the Contractor remains.

Contractor and Surety agree that if the Obligees are required to engage the services of an attorney in connection with enforcement of the bond, Contractor and Surety shall pay Obligees' reasonable attorneys' fees incurred, with or without suit, in addition to the above sum.

In the event suit is brought upon this bond by the Obligees and judgment is recovered, the Surety shall pay all costs incurred by the Obligees in such suit, including reasonable attorneys' fees to be fixed by the Court.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this ____ day of _____,
20____.

PRINCIPAL/CONTRACTOR:

By: _____

SURETY:

By: _____

Attorney-in-Fact

The rate of premium on this bond is _____ per thousand.

The total amount of premium charged: \$_____ (This must be filled in by a corporate surety).

IMPORTANT: THIS IS A REQUIRED FORM.

Surety companies executing bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in California Insurance Code Section 105, and if the work or project is financed, in whole or in part, with federal, grant or loan funds, Surety's name must also appear on the Treasury Department's most current list (Circular 570 as amended).

Any claims under this bond may be addressed to:
(Name and Address of Surety)

(Name and Address of agent or representative for
service for service of process in California)

Telephone: _____

Telephone: _____

A notary public or other office completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF)

On _____, before me, _____, personally appeared _____, who proved 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) as the Attorney-in-Fact of _____ (Surety) and acknowledged to me that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) 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.

Notary Public in and for said State

(SEAL)

Commission expires:_____

NOTE: A copy of the power-of-attorney to local representatives of the bonding company must be attached hereto.

EXHIBIT "F"

CONTRACTOR FINGERPRINTING REQUIREMENTS

CONTRACTOR CERTIFICATION

With respect to the Contract dated _____ 20__ by and between the Fountain Valley School District ("District") and _____ ("Contractor") Contractor hereby certifies to the District's governing board that it has completed the criminal background check requirements of Education Code section 45125.1 and that none of its employees that may come in contact with District's pupils have been convicted of a violent felony listed in Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c).

Contractor's Representative _____

Date: _____

CONTRACTOR EXEMPTION

Pursuant to Education Code sections 45125.1 and 45125.2, the Fountain Valley School District ("District") as determined that _____ ("Contractor") is exempt from the criminal background check certification requirements for the contract dated _____ 20__ by and between the District and Contractor ("Contract") because:

- ☐ The Contractor's employees will have limited contact with District students during the course of the Contract;
- ☐ Emergency or exceptional circumstances exist; or
- ☐ With respect to Contractors constructing, reconstructing, rehabilitating or repairing a school facility, as provided in Section 45125.2, the Contractor has agreed to ensure the safety of pupils at the school facility by the following method(s) specified in Section 45125.2:
 - ☐ The installation of a physical barrier at the worksite to limit contact with pupils.
 - ☐ Continual supervision and monitoring of all employees of the entity by an employee of the entity whom the Department of Justice has ascertained has not been convicted of a violent or serious felony.

School District Official: _____

Date: _____

EXHIBIT "F" (CONT.)

SUBCONTRACTOR FINGERPRINTING REQUIREMENTS

SUBCONTRACTOR'S CERTIFICATION

The Fountain Valley School District ("District") entered into a contract for services with _____ ("Contractor") on or about _____, 20____ ("Contract"). This certification is submitted by _____, a subcontractor to the Contractor for purposes of that Contract ("Subcontractor"). Subcontractor hereby certifies to the District's governing board that it has completed the criminal background check requirements of Education Code section 45125.1 and that none of its employees that may come in contact with District pupils have been convicted of a violent felony listed in Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c).

Subcontractor's Representative: _____

Date: _____

SUBCONTRACTOR'S EXEMPTION

The Fountain Valley School District ("District") entered into a contract for services with _____ ("Contractor") on or about _____, 20____ ("Contract"). Pursuant to Education Code sections 45125.1 and 45125.2, the District has determined that _____, a subcontractor to the Contractor for purposes of that Contract ("Subcontractor") is exempt from the criminal background check certification requirements for the Contract because:

- ☐ The Subcontractor's employees will have limited contact with District students during the course of the Contract;
- ☐ Emergency or exceptional circumstances exist; or
- ☐ With respect to Contractors constructing, reconstructing, rehabilitating or repairing a school facility, as provided in Section 45125.2, the Contractor has agreed to ensure the safety of pupils at the school facility by the following method(s) specified in Section 45125.2:
 - ☐ The installation of a physical barrier at the worksite to limit contact with pupils.
 - ☐ Continual supervision and monitoring of all employees of the entity by an employee of the entity whom the Department of Justice has ascertained has not been convicted of a violent or serious felony.

School District Official: _____

Date: _____

EXHIBIT “G”

CONTRACTOR’S CERTIFICATE REGARDING WORKERS’ 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 authorized to write compensation insurance in this State.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, either as an individual employee or as one employer in a group of employers, 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 Construction Services Agreement.

Contractor _____

Title _____

Date _____

(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 Construction Services Agreement.)

EXHIBIT "H"

DRUG-FREE WORKPLACE CERTIFICATION

This Drug-Free Workplace Certification form is required from all successful bidders pursuant to the requirements mandated by Government Code Sections 8350 et seq., the Drug-Free Workplace Act of 1990. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract or grant for the procurement of any property or service from any State agency must certify that it will provide a drug-free workplace by performing certain specified acts. In addition, the Act provides that each contract or grant awarded by a State agency may be subject to suspension of payments or termination of the contract or grant, and the Contractor or grantee may be subject to debarment from future contracting, if the contracting agency determines that specified acts have occurred.

Pursuant to Government Code Section 8355, every person or organization awarded a contract or grant from a State agency shall certify that it will provide a drug-free workplace by doing all of the following:

1. Publishing a statement, notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace, and specifying actions which will be taken against employees for violations of the prohibition.
2. Establishing a drug-free awareness program to inform employees about all of the following:
 - a. The dangers of drug abuse in the workplace;
 - b. The person's or organization's policy of maintaining a drug-free workplace;
 - c. The availability of drug counseling, rehabilitation and employee-assistance programs; and
 - d. The penalties that may be imposed upon employees for drug abuse violations;
3. Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

I, the undersigned, agree to fulfill the terms and requirements of Government Code Section 8355 listed above and will (a) publish a statement notifying employees concerning the prohibition of controlled substance at the workplace, (b) establish a drug-free awareness program, and (c) require each employee engaged in the performance of the contract be given a copy of the statement required by section 8355(a) and require such employee agree to abide by the terms of that statement.

I also understand that if the District determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of Section 8355, that the contract awarded herein is subject to termination, suspension of payments, or both. I further understand that, should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of Sections 8350 et seq.

I acknowledge that I am aware of the provisions of Government Code Sections 8350 et seq. and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

DATE: _____

CONTRACTOR

By: _____
Signature

EXHIBIT "T"

CONDUCT RULES FOR CONTRACTORS

Each contractor/subcontractor, when performing work on Fountain Valley School District property, in addition to complying with the provisions of the Construction Services Agreement, shall adhere to the following rules of conduct:

1. Professional and courteous conduct is expected and will be displayed at all times.
2. Interaction with students, staff, and/or other visitors is prohibited with the exception of designated administrators.
3. The use of profanity and/or disparaging language will not be tolerated.
4. All contractors/subcontractors shall wear a means of identification on site when school is in session which must be approved by the District prior to commencement of work.
5. All contractors/subcontractors shall remain in the vicinity of his/her work and will not stray to other areas of the property not involved in the Project, including student and staff toilet facilities.
6. Pursuant to Government Code Section 8350 et seq., the Fountain Valley School District is a drug-free workplace. This policy shall be strictly enforced.
7. Alcoholic beverages are prohibited from being consumed or brought on any District property.
8. The use of any tobacco products on District property is strictly prohibited.
9. Any lewd, obscene or otherwise indecent acts, words, or behavior by any contractor/subcontractor shall not be tolerated.
10. All contractors/subcontractors shall conform to a dress code whereby:
 - A. No clothing that contains violent, suggestive, derogatory, obscene, or racially-biased material may be worn.
 - B. Garments, accessories or personal grooming artifacts with slogans, graphics, or pictures promoting drugs, alcohol, tobacco, or any other controlled substances which are prohibited to minors will not be allowed.
11. No firearms are allowed on campuses/District property.
12. All contractors/subcontractors shall comply with Education Code section 45125 et seq. with respect to all fingerprinting requirements.

Non-compliance with any of the above-stated rules of conduct by any contractor/subcontractor may be sufficient grounds for immediate removal from the job site and termination of the contract.

I acknowledge that I am aware of the above-stated rules of conduct and hereby certify that all of my Company's employees, consultants, suppliers, and/or any subcontractors will adhere to these provisions.

Date

Authorized Signature

Print Name

Company

Division 1 Forms

IMMEDIATE CONSTRUCTION CHANGE DIRECTIVE NO.

PROJECT: _____

TO: _____

You are hereby directed to provide the extra work necessary to comply with this ICD.

DESCRIPTION OF CHANGE: _____

COST (This cost shall not be exceeded): _____

TIME FOR COMPLETION: _____

NOTE:

Pursuant to Article 17.4.1.2 An Immediate Change Directive is a written order to the Contractor prepared by the Architect and signed by the District (and CM if there is a CM on the Project) and the Architect, directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both. The District may by ICD, without invalidating the Contract, direct immediate changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions within. If applicable, the Contract Sum and Contract Time will be adjusted accordingly. CONTRACTOR SHALL PROCEED WITH WORK SET FORTH IN THIS ICD IMMEDIATELY UPON RECEIPT OR THE DISTRICT MAY EITHER HOLD THE CONTRACTOR IN EITHER PARTIAL DEFAULT PURSUANT TO ARTICLE 12.2 OR TOTAL DEFAULT PURSUANT TO ARTICLE 19.

Architect

District

CERTIFICATE OF SUBSTANTIAL COMPLETION

PROJECT: _____

TO: _____

As the Architect for the Project described above, the Project has reached Substantial Completion. Substantial Completion is not reached unless and until each of the following three (3) conditions have been met: (1) all contractually required items have been installed with the exception of only minor and Incomplete Punch Items (See Article 13.16 of the Construction Services Agreement); (2) All Fire/Life Safety Systems have been installed, and are working and signed off on the DSA Form 152 Inspection Card, all building systems including mechanical, electrical and plumbing are all functioning; and (3) the Project is fit for occupancy and its intended use

I certify that the Project has reached Substantial Completion as defined above on the following date: _____.

Architect



Fountain Valley School District
Business Services Division

M E M O R A N D U M

TO: Board of Trustees
FROM: **Christine Fullerton, Assistant Superintendent Business Services**
SUBJECT: **BOARD POLICY 3470 DEBT ISSUANCE AND MANAGEMENT
(SECOND READING AND ADOPTION)**
DATE: April 7, 2017

Background:

In the continued effort to maintain a set of current board policies, it is necessary to bring policies to the Board of Trustees for revision due to changes in Education Code or statute. The California School Boards Association or the Orange County Department of Education informs the District of mandated changes through alerts. Board Policy 3470 is a new policy, the need of which originated through the amendment of Government Code 8855.

Government Code 8855, as amended by SB 1029, mandates that the Governing Board adopt a debt management policy prior to issuing any debt, such as general obligation bonds, tax and revenue anticipation notes (TRANs), and certificates of participation. The policy must include (1) the purposes for which the debt proceeds may be used; (2) the types of debt that may be issued; (3) the relationship of the debt to, and integration with, the district's capital improvement program or budget, if applicable; (4) policy goals related to the district's planning goals and objectives; and (5) internal control procedures to ensure that the proceeds of the proposed debt issuance will be directed to the intended use.

Board Policy 3470 Debt Issuance and Management was approved by the Board of Trustees for first reading on March 9, 2017.

Fiscal Impact:

There is no fiscal impact associated with the revision of Board Policy 3470 Debt Issuance and Management.

Recommendation:

It is recommended that the Board of Trustees approves the revisions to Board Policy 3470 Debt Issuance and Management for second reading and adoption, with necessary changes as indicated by the Board of Trustees.

DEBT ISSUANCE AND MANAGEMENT

The Governing Board is committed to long-term capital and financial planning and recognizes that the issuance of debt is a key source for funding the improvement and maintenance of school facilities and managing cash flow. Any debt issued by the district shall be consistent with law and this policy.

(cf. 3000 - Concepts and Roles)

(cf. 3460 - Financial Reports and Accountability)

(cf. 7110 - Facilities Master Plan)

(cf. 7210 - Facilities Financing)

The district shall not enter into indebtedness or liability that in any year exceeds the income and revenue provided for such year, unless two-thirds of the voters approve the obligation or one of the exceptions specified in law applies. (California Constitution, Article 16, Section 18)

When the Board determines that it is in the best interest of the district, the Board may issue debt or order an election to issue debt. The Superintendent or designee shall make recommendations to the Board regarding appropriate financing methods for capital projects or other projects that are authorized purposes for debt issuance. When approved by the Board and/or the voters as applicable, the Superintendent or designee shall administer and coordinate the district's debt issuance program and activities, including the timing of issuance, sizing of issuance, method of sale, structuring of the issue, and marketing strategies.

The Superintendent or designee shall retain a financial advisor, municipal advisor, investment advisor, and other financial services professionals as needed to assist with the structuring of the debt issuance and to provide general advice on the district's debt management program, financing options, investments, and compliance with legal requirements. Contracts for services provided by such advisors may be for a single transaction or for multiple transactions, consistent with the contracting requirements in Education Code 17596. In the event that the district issues debt through a negotiated sale, underwriters may be selected for multiple transactions if multiple issuances are planned for the same project. In addition, the district shall select a legal team on an as-needed basis to assist with debt issuances or special projects.

(cf. 3312 - Contracts)

(cf. 3600 - Consultants)

(cf. 9270 - Conflict of Interest)

DEBT ISSUANCE AND MANAGEMENT (continued)

Goals

The district's debt issuance activities and procedures shall be aligned with the district's vision and goals for providing adequate facilities and programs that support student learning and well-being. When issuing debt, the district shall ensure that it:

1. Maintains accountability for the fiscal health of the district, including prudent management and transparency of the district's financing programs
2. Attains the best possible credit rating for each debt issue in order to reduce interest costs, within the context of preserving financial flexibility and meeting capital funding requirements
3. Takes all practical precautions and proactive measures to avoid any financial decision that will negatively impact current credit ratings on existing or future debt issues
4. Maintains effective communication with rating agencies and, as appropriate, credit enhancers such as bond insurers or other providers of credit or liquidity instruments in order to enhance the creditworthiness, liquidity, or marketability of the debt
5. Monitors the district's statutory debt limit in relation to assessed valuation within the district and the tax burden needed to meet long-term debt service requirements
6. When determining the timing of debt issuance, considers market conditions, cash flows associated with repayment, and the district's ability to expend the obtained funds in a timely, efficient, and economical manner consistent with federal tax laws
7. Determines the amortization (maturity) schedule which will fit best within the overall debt structure of the district at the time the new debt is issued
8. Considers the useful lives of assets funded by the debt issue, as well as repair and replacement costs of those assets to be incurred in the future
9. Preserves the availability of the district's general fund for operating purposes and other purposes that cannot be funded by the issuance of voter-approved debt
10. Meets the ongoing obligations and accountability requirements associated with the issuance and management of debt under state and federal tax and securities laws

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 7000 - Concepts and Roles)

DEBT ISSUANCE AND MANAGEMENT (continued)

Authorized Purposes for the Issuance of Debt

The district may issue debt for any of the following purposes:

1. To pay for the cost of capital improvements, including acquiring, constructing, reconstructing, rehabilitating, replacing, improving, extending, enlarging, and/or equipping district facilities
2. To refund existing debt
3. To provide for cash flow needs

(cf. 3100 - Budget)

(cf. 3110 - Transfer of Funds)

Pursuant to Government Code 53854, general operating costs, including, but not limited to, items normally funded in the district's annual operating budget, shall not be financed from debt payable later than 15 months from the date of issuance. The district may deem it desirable to finance cash flow requirements under certain conditions so that available resources better match expenditures within a given fiscal year. To satisfy both state constitutional and statutory constraints, such cash flow borrowing shall be payable from taxes, income, revenue, cash receipts, and other moneys attributable to the fiscal year in which the debt is issued.

Authorized Types of Debt

The Superintendent or designee shall recommend to the Board potential financing method(s) that result in the highest benefit to the district, with the cost of staff and consultants considered. Potential financing sources may include:

1. Short-Term Debt
 - a. Short-term debt, such as tax and revenue anticipation notes (TRANs), when necessary to allow the district to meet its cash flow requirements (Government Code 53850-53858)
 - b. Bond anticipation notes (BANs) to provide interim financing for capital bond projects that will ultimately be paid from general obligation bonds (Education Code 15150)

DEBT ISSUANCE AND MANAGEMENT (continued)

- c. Grant anticipation notes (GANs) to provide interim financing pending the receipt of grants and/or loans from the state or federal government that have been appropriated and committed to the district (Government Code 53859-53859.08)
 - 2. Long-Term Debt
 - a. General obligation bonds for projects approved by voters (California Constitution, Article 13A, Section 1; Education Code 15100-15262, 15264-15276; Government Code 53506-53509.5)
- (cf. 7214 - General Obligation Bonds)*
- 3. Lease financing, including certificates of participation (COPs)
 - a. Lease financing to fund the highest priority capital equipment purchases when pay-as-you-go financing is not feasible (Education Code 17450-17453.1)
 - b. Lease financing to fund facilities projects when there is insufficient time to obtain voter approval or in instances where obtaining voter approval is either not feasible or unavailable (Education Code 17400-17429)
 - 4. Special financing programs or structures offered by the federal or state government, such as Qualified Zone Academy Bonds or other tax credit obligations or obligations that provide subsidized interest payments, when the use of such programs or structures is determined to result in sufficiently lower financing costs compared to traditional tax-exempt bonds and/or COPs
 - 5. Temporary borrowing from other sources such as the County Treasurer

COPs, TRANs, revenue bonds, or any other non-voter approved debt instrument shall not be issued by the district in any fiscal year in which the district has a qualified or negative certification, unless the County Superintendent of Schools determines, pursuant to criteria established by the Superintendent of Public Instruction, that the district's repayment of that indebtedness is probable. (Education Code 42133)

DEBT ISSUANCE AND MANAGEMENT (continued)

Relationship of Debt to District Facilities Program and Budget

Decisions regarding the issuance of debt for the purpose of financing capital improvement shall be aligned with current needs for acquisition, development, and/or improvement of district property and facilities as identified in the district's facilities master plan or other applicable needs assessment, the projected costs of those needs, schedules for the projects, and the expected resources.

The cost of debt issued for major capital repairs or replacements shall be evaluated against the potential cost of delaying such repairs and/or replacing such facilities.

Structure of Debt Issues

The district shall consider the overall impact of the current and future debt burden of the financing when determining the duration of the debt issue.

The district shall design the financing schedule and repayment of debt so as to take best advantage of market conditions, ensure cost effectiveness, provide flexibility, and, as practical, recapture or maximize its debt capacity for future use. Principal amortization will be structured to meet debt repayment, tax rate, and flexibility goals.

For new money debt issuances for capital improvements, the district shall size the debt issuance with the aim of funding capital projects as deemed appropriate by the Board, as long as the issuance is consistent with the overall financing plan, does not exceed the amount authorized by voters, and, unless a waiver is sought and received from the state, will not cause the district to exceed the limitation on debt issuances specified in the California Constitution or Education Code 15106.

To the extent practicable, the district shall also consider credit issues, market factors, and tax law when sizing the district's bond issuance. The sizing of refunding bonds shall be determined by the amount of money that will be required to cover the principal of, any accrued interest on, and any redemption premium for the debt to be paid on the call date and to cover appropriate financing costs.

Any general obligation bond issued by the district shall mature within 40 years of the issuance date or as otherwise required by law. (California Constitution, Article 16, Section 18; Government Code 53508.6)

The final maturity of equipment or real property lease obligations will be limited to the useful life of the assets to be financed but, with respect to a lease purchase of equipment, no longer than a period of 10 years. (Education Code 17452)

DEBT ISSUANCE AND MANAGEMENT (continued)

Method of Sale

For the sale of any district-issued debt, the Superintendent or designee shall recommend the method of sale with the potential to achieve the lowest financing cost and/or to generate other benefits to the district. Potential methods of sale include:

1. A competitive bidding process through which the award is based on, among other factors, the lowest offered true interest cost
2. Negotiated sale, subject to approval by the district to ensure that interest costs are in accordance with comparable market interest rates
3. Private placement sale, when the financing can or must be structured for a single or limited number of purchasers or where the terms of the private placement are more beneficial to the district than either a negotiated or competitive sale

The district shall actively manage the proceeds of debt issued for public purposes in a manner that is consistent with state law governing the investment of public funds and with the permitted securities covenants of related financing documents executed by the district. Where applicable, the district's official investment policy and legal documents for a particular debt issuance shall govern specific methods of investment of bond-related proceeds. Preservation of principal shall be the primary goal of any investment strategy, followed by the availability of funds and then by return on investment.

(cf. 3430 - Investing)

Investment of Proceeds

With regard to general obligation bonds, the district shall invest new money bond proceeds in the county treasury pool as required by law. (Education Code 15146)

The management of public funds shall enable the district to respond to changes in markets or changes in payment or construction schedules so as to ensure liquidity and minimize risk.

Refunding/Restructuring

The district may consider refunding or restructuring outstanding debt if it will be financially advantageous or beneficial for debt repayment and/or structuring flexibility. When doing so, the district shall consider the maximization of the district's expected net savings over the life of the debt issuance and, when using a general obligation bond to refund an existing bond, shall ensure that the final maturity of the refunding bond is no longer than the final maturity of the existing bond.

DEBT ISSUANCE AND MANAGEMENT (continued)

Internal Controls

The Superintendent or designee shall establish internal control procedures to ensure that the proceeds of any debt issuance are directed to the intended use. Such procedures shall assist the district in maintaining the effectiveness and efficiency of operations, properly expending funds, reliably reporting debt incurred by the district and the use of the proceeds, complying with all laws and regulations, preventing fraud, and avoiding conflict of interest.

(cf. 3314 - Payments for Goods and Services)

(cf. 3400 - Management of District Assets/Accounts)

The district shall be vigilant in using bond proceeds in accordance with the stated purposes at the time such debt was incurred as defined in the text of the voter-approved bond measure. (Government Code 53410)

When feasible, the district shall issue debt with a defined revenue source in order to preserve the use of the general fund for general operating purposes.

The district shall annually conduct a due diligence review to ensure its compliance with all ongoing obligations applicable to issuers of debt. Such a review may be conducted by general legal counsel or bond counsel. Any district personnel involved in conducting such reviews shall receive periodic training regarding their responsibilities.

In addition, the Superintendent or designee shall ensure that the district completes, as applicable, all performance and financial audits that may be required for any debt issued by the district, including disclosure requirements applicable to a particular transaction.

Records/Reports

At least 30 days prior to the sale of any debt issue, the Superintendent or designee shall submit a report of the proposed issuance to the California Debt and Investment Advisory Commission (CDIAC). Such report shall include a self-certification that the district has adopted a policy concerning the use of debt that complies with law and that the contemplated debt issuance is consistent with that policy. (Government Code 8855)

On or before January 31 of each year, the Superintendent or designee shall submit a report to the CDIAC regarding the debt authorized, the debt outstanding, and the use of proceeds of the issued debt for the period from July 1 to June 30. (Government Code 8855)

The Superintendent or designee shall provide initial and any annual or ongoing disclosures required by 17 CFR 240.10b-5 and 240.15c2-12 to the Municipal Securities Rulemaking Board, investors, and other persons or entities entitled to disclosure, and shall ensure that the district's disclosure filings are updated as needed.

DEBT ISSUANCE AND MANAGEMENT (continued)

The Superintendent or designee shall maintain transaction records of decisions made in connection with each debt issuance, including the selection of members of the financing team, the structuring of the financing, selection of credit enhancement products and providers, and selection of investment products. Each transaction file shall include the official transcript for the financing, interest rates and cost of issuance on the day when the debt was sold ("final number runs"), and a post-pricing summary of the debt issue. In addition, documentation evidencing the expenditure of proceeds, the use of debt-financed property by public and private entities, all sources of payment or security for the debt, and investment of proceeds shall be kept for as long as the debt is outstanding, plus the period ending three years after the financial payment date of the debt or the final payment date of any obligations or series of bonds issued to refund directly or indirectly all of any portion of the debt, whichever is later.

The Superintendent or designee shall annually report to the Board regarding debts issued by the district, including information on actual and projected tax rates, an analysis of bonding capacity, ratings on the district's bonds, market update and refunding opportunities, new development for California bond financings, and the district's compliance with post-issuance requirements.



Fountain Valley School District
Support Services Department

M E M O R A N D U M

TO: Board of Trustees
From: Cara Robinson, Director Support Services
SUBJECT: NEW BOARD POLICY 5116.2 INVOLUNTARY STUDENT TRANSFERS (SECOND READING AND ADOPTION)
DATE: April 10, 2017

Background:

In the continued effort to maintain a set of current board policies, it is necessary to bring policies to the Board of Trustees for revision due to changes in Education Code or statute. The California School Boards Association or the Orange County Department of Education informs the District of mandated changes through alerts.

Senate Bill 1343 authorizes districts to involuntarily transfer a student who has been convicted of a violent felony as defined in Penal Code 667.5(c) (including, but not limited to, attempted murder, rape, assault, kidnapping, and robbery) or a misdemeanor associated with possession of a firearm as specified in Penal Code 29805, whenever the student is enrolled at the same school as a student who was a victim of the crime.

This policy is new, and is intended to outline the process the District will take in the process of involuntary transferring students through our School Attendance Review Board process.

BP 5116.2 was brought to the Board of Trustees for first reading at the March 9, 2017 regular meeting.

Fiscal Impact:

There is no fiscal impact associated with the revision of Board Policy 5116.2 Involuntary Student Transfers.

Recommendation:

It is recommended that the Board of Trustees approves new Board Policy 5116.2 Involuntary Student Transfers for second reading and adoption, with necessary changes as indicated by the Board of Trustees.

INVOLUNTARY STUDENT TRANSFERS

The Governing Board desires to enroll students in the school of their choice, but recognizes that circumstances sometimes necessitate the involuntary transfer of some students to another school or program in the district. The Superintendent or designee shall develop procedures to facilitate the transition of such students into their new school of enrollment.

(cf. 5113.1 - Chronic Absence and Truancy)
(cf. 5116.1 - Intradistrict Open Enrollment)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
(cf. 6173.3 - Education for Juvenile Court School Students)

As applicable, when determining the best placement for a student who is subject to involuntary transfer, the Superintendent or designee shall review all educational options for which the student is eligible, the student's academic progress and needs, the enrollment capacity at district schools, and the availability of support services and other resources.

Whenever a student is involuntarily transferred, the Superintendent or designee shall provide timely written notification to the student and his/her parent/guardian and an opportunity for the student and parent/guardian to meet with the Superintendent or designee to discuss the transfer.

Students Convicted of Violent Felony or Misdemeanor

A student may be transferred to another district school if he/she is convicted of a violent felony, as defined in Penal Code 667.5(c), or a misdemeanor listed in Penal Code 29805 and is enrolled at the same school as the victim of the crime for which he/she was convicted. (Education Code 48929)

Before transferring such a student, the Superintendent or designee shall attempt to resolve the conflict using restorative justice, counseling, or other such services. He/she shall also notify the student and his/her parents/guardians of the right to request a meeting with the principal or designee. (Education Code 48929)

(cf. 5138 - Conflict Resolution/Peer Mediation)
(cf. 5144 - Discipline)
(cf. 6164.2 - Guidance and Counseling Services)

Participation of the victim in any conflict resolution program shall be voluntary, and he/she shall not be subjected to any disciplinary action for his/her refusal to participate in conflict resolution.

The principal or designee shall submit to the Superintendent or designee a recommendation as to whether or not the student should be transferred. If the Superintendent or designee

INVOLUNTARY STUDENT TRANSFERS (continued)

determines that a transfer would be in the best interest of the students involved, he/she shall submit such recommendation to the Board for approval.

The Board shall deliberate in closed session to maintain the confidentiality of student information, unless the parent/guardian or adult student submits a written request that the matter be addressed in open session and doing so would not violate the privacy rights of any other student. The Board's decision shall be final.

(cf. 9321 - Closed Session Purposes and Agendas)

The decision to transfer a student shall be subject to periodic review by the Superintendent or designee.

The Superintendent or designee shall annually notify parents/guardians of the district's policy authorizing the transfer of a student pursuant to Education Code 48929. (Education Code 48980)

(cf. 5145.6 - Parental Notifications)

Other Involuntary Transfers

Students may be involuntarily transferred under either of the following circumstances:

If a student is expelled from school for any reason, is probation-referred pursuant to Welfare and Institutions Code 300 or 602, or is referred by a school attendance review board or another formal district process, he/she may be transferred to a community day school. (Education Code 48662)

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

(cf. 6185 - Community Day School)



Fountain Valley School District
Personnel Department

M E M O R A N D U M

TO: Board of Trustees
FROM: Cathie Abdel, Assistant Superintendent, Personnel
SUBJECT: **Board Policy 4030 NON DISCRIMINTAION IN EMPLOYMENT
(SECOND READING AND ADOPTION)**
DATE: April 7, 2017

Background:

In the continued effort to maintain a set of current board policies, it is necessary to bring policies to the Board of Trustees for revision due to changes in Education Code or statute. The California School Boards Association or the Orange County Department of Education informs the District of mandated changes through alerts. Board Policy 4030 Non Discrimination in Employment was presented to and approved by the Board for first reading at their meeting on March 9, 2017.

The revisions noted in Board Policy 4030 reflect changes in regulations and laws related to the responsibility of the employer to provide a work environment free of discrimination.

Fiscal Impact:

There is no fiscal impact associated with the revision of Board Policy 4030 Nondiscrimination in Employment.

Recommendation:

It is recommended that the Board of Trustees approves the revisions to Board Policy 4030 Nondiscrimination in Employment for second reading and adoption, with necessary changes as indicated by the Board of Trustees.

NONDISCRIMINATION IN EMPLOYMENT

The Board of Trustees desires to provide district employees, interns, volunteers, and job applicants a safe, positive environment where they are assured of full and equal employment access and opportunities, protection from harassment or intimidation, and freedom from any fear of reprisal or retribution for asserting their employment rights in accordance with law. This policy shall apply to all district employees and, to the extent required by law, to interns, volunteers, and job applicants.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 4032 - Reasonable Accommodation)

(cf. 4033 - Lactation Accommodation)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)

(cf. 4154/4254/4354 - Health and Welfare Benefits)

(cf. 5145.7 - Sexual Harassment)

No district employee shall be discriminated against or harassed by any coworker, supervisor, manager, or other person with whom the employee comes in contact in the course of employment, on the basis of the employee's actual or perceived race, religious creed, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, military and veteran status, gender, gender identity, gender expression, sex, or sexual orientation or his/her association with a person or group with one or more of these actual or perceived characteristics.

Discrimination in employment based on the characteristics listed above is prohibited in all areas of employment and in all employment-related practices, including the following:

1. Discrimination in hiring, compensation, terms, conditions, and other privileges of employment
2. Taking of an adverse employment action, such as termination or the denial of employment, promotion, job assignment, or training

(cf. 4151/4251/4351 - Employee Compensation)

(cf. 4154/4254/4354 - Health and Welfare Benefits)

3. Unwelcome conduct, whether verbal, physical, or visual, that is so severe or pervasive as to adversely affect an employee's employment opportunities, or that has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment
4. Actions and practices identified as unlawful or discriminatory pursuant to Government Code 12940 or 2 CCR 11006-11086, such as:

NONDISCRIMINATION IN EMPLOYMENT (continued)

a. Sex discrimination based on an employee's pregnancy, childbirth, breastfeeding, or any related medical condition or on an employee's gender, gender expression, or gender identity, including transgender status

(cf. 4033 - Lactation Accommodation)

(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

b. Religious creed discrimination based on an employee's religious belief or observance, including his/her religious dress or grooming practices, or based on the district's failure or refusal to use reasonable means to accommodate an employee's religious belief, observance, or practice which conflicts with an employment requirement.

c. Disability discrimination based on a district requirement for a medical or psychological examination of a job applicant, or an inquiry into whether a job applicant has a mental or physical disability or a medical condition or as to the severity of any such disability or condition, without the showing of a job-related need or business necessity

(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease) d. Disability discrimination based on the district's failure to make reasonable accommodation for the known physical or mental disability of an employee or to engage in a timely, good faith, interactive process with an employee, to determine effective reasonable accommodations for the employee, when he/she has requested reasonable accommodation for a known physical or mental disability or medical condition

(cf. 4032 - Reasonable Accommodation)

The Board also prohibits retaliation against any district employee who opposes any discriminatory employment practice by the district or its employees, agents, or representatives or who complains, testifies, assists, or in any way participates in the district's complaint process pursuant to this policy. No employee who requests an accommodation for any protected characteristic listed in this policy shall be subjected to any punishment or sanction, regardless of whether the request was granted. (Government Code 12940)

Complaints concerning employment discrimination, harassment, or retaliation shall immediately be investigated in accordance with procedures specified in the accompanying administrative regulation.

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment shall report the incident to the Superintendent or designated district coordinator as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately. The district shall protect any employee who reports such incidents from retaliation.

NONDISCRIMINATION IN EMPLOYMENT (continued)

The Superintendent or designee shall use all appropriate means to reinforce the district's nondiscrimination policy. He/she shall provide training and information to employees about how to recognize harassment, discrimination, or other related conduct, how to respond appropriately, and components of the district's policies and regulations regarding discrimination. The Superintendent or designee shall regularly review the district's employment practices and, as necessary, shall take action to ensure district compliance with the nondiscrimination laws.

The Superintendent or designee shall regularly publicize, within the district and in the community, the district's nondiscrimination policy and the availability of complaint procedures. Such publication shall be included in each announcement, bulletin, or application form that is used in employee recruitment. (34 CFR 100.6, 106.9)

The district's policy shall be posted in all district schools and offices including staff lounges. (5 CCR 4960)

In addition, the Superintendent or designee shall post, in a conspicuous place on district premises, the California Department of Fair Employment and Housing publication on workplace discrimination and harassment issued pursuant to 2 CCR 11013.

Any district employee who engages in prohibited discrimination, harassment, or retaliation or who aids, abets, incites, compels, or coerces another to engage or attempt to engage in such behavior in violation of this policy shall be subject to disciplinary action, up to and including dismissal.

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

The following position is designated as Coordinator for Nondiscrimination in Employment:

Assistant Superintendent, Personnel
10055 Slater Avenue
Fountain Valley, CA 92708
(714) 843-3231

Any employee or job applicant who believes that he/she has been or is being discriminated against or harassed in violation of district policy should, as appropriate, immediately contact his/her supervisor, the Coordinator, or the Superintendent who shall advise the employee or applicant about the district's procedures for filing, investigating, and resolving any such complaint.

NONDISCRIMINATION IN EMPLOYMENT (continued)

Complaints regarding employment discrimination or harassment shall immediately be investigated in accordance with AR 4031 - Complaints Concerning Discrimination in Employment.

(cf. 4031 - Complaints Concerning Discrimination in Employment)

Policy
adopted:

FOUNTAIN VALLEY SCHOOL DISTRICT
Fountain Valley, California



Fountain Valley School District
Personnel Department

M E M O R A N D U M

TO: Board of Trustees
FROM: Cathie Abdel, Assistant Superintendent, Personnel
SUBJECT: **Board Policy 4119.11, 4219.11 and 4319.11 SEXUAL HARASSMENT
(FIRST READING)**
DATE: April 7, 2017

Background:

In the continued effort to maintain a set of current board policies, it is necessary to bring policies to the Board of Trustees for revision due to changes in Education Code or statute. The California School Boards Association or the Orange County Department of Education informs the District of mandated changes through alerts.

The revisions noted in Board Policy 4119.11 reflect changes in state regulations and laws which extend protections against sexual harassment to unpaid interns and volunteers, require districts to instruct supervisors to report complaints and revise requirements pertaining to the training of supervisory employees.

Fiscal Impact:

There is no fiscal impact associated with the revision of Board Policy 4119.11, 4219.11 and 4319.11 Sexual Harassment.

Recommendation:

It is recommended that the Board of Trustees approves the revisions to Board Policy 4119.11, 4219.11 and 4319.11 for first reading, with necessary changes as indicated by the Board of Trustees.

All Personnel

BP 4119.11(a)

4219.11

SEXUAL HARASSMENT

4319.11

The Board of Trustees prohibits sexual harassment of district employees and job applicants. The Board also prohibits retaliatory behavior or action against district employees or other persons who complain, testify or otherwise participate in the complaint process established pursuant to this policy and administrative regulation. **This policy shall apply to all district employees and, when applicable, to interns, volunteers, and job applicants.**

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 4030 - Nondiscrimination in Employment)

The Superintendent or designee shall take all actions necessary to ensure the prevention, investigation, and correction of sexual harassment, including but not limited to:

1. Providing training to employees in accordance with law and administrative regulation
2. Publicizing and disseminating the district's sexual harassment policy to staff

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

3. Ensuring prompt, thorough, and fair investigation of complaints
4. Taking timely and appropriate corrective/remedial action(s), which may require interim separation of the complainant and the alleged harasser and subsequent monitoring of developments

All complaints and allegations of sexual harassment shall be kept confidential to the extent necessary to carry out the investigation or to take other subsequent necessary actions.—~~(5 CCR 4964)~~ **(2 CCR 11023)**

Any district employee or job applicant who feels that he/she has been sexually harassed or who has knowledge of any incident of sexual harassment by or against another employee, a job applicant or a student, shall immediately report the incident to his/her supervisor, the principal, district administrator or Superintendent.

A supervisor, principal or other district administrator who receives a harassment complaint shall promptly notify the Superintendent or designee.

Complaints of sexual harassment shall be filed in accordance with AR 4031 - Complaints Concerning Discrimination in Employment. An employee may bypass his/her supervisor in filing a complaint where the supervisor is the subject of the complaint.

(cf. 4031 - Complaints Concerning Discrimination in Employment)

BP 4119.11(b)
4219.11
4319.11

SEXUAL HARASSMENT (continued)

Any district employee who engages or participates in sexual harassment or who aids, abets, incites, compels, or coerces another to commit sexual harassment against a district employee, job applicant, or student is in violation of this policy and is subject to disciplinary action, up to and including dismissal.

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Policy
adopted: _____

FOUNTAIN VALLEY SCHOOL DISTRICT
Fountain Valley, California

All Personnel

AR 4119.11(a)

4219.11

SEXUAL HARASSMENT

4319.11

Definitions

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the work or educational setting when: (Education Code 212.5; ~~5 CCR 4916~~) **Government Code 12940, 2 CCR 11034**)

1. Submission to the conduct is made explicitly or implicitly a term or condition of the individual's employment.
2. Submission to or rejection of such conduct by the individual is used as the basis for an employment decision affecting him/her.
- ~~3. The conduct has the purpose or effect of having a negative impact upon the individual's work or has the purpose or effect of creating an intimidating, hostile, or offensive work environment. Regardless of whether or not the alleged harasser was motivated by sexual desire, the conduct is sufficiently severe, persistent, pervasive, or objectively offensive as to create a hostile or abusive working environment or to limit the individual's ability to participate in or benefit from an education program or activity.~~
- 4- 3. Submission to or rejection of the conduct by the other individual is used as the basis for any decision affecting him/her regarding benefits, services, honors, programs, or activities available at or through the district.

Prohibited sexual harassment also includes conduct which, regardless of whether or not it is motivated by sexual desire, is so severe or pervasive as to unreasonably interfere with the victim's work performance or create an intimidating, hostile, or offensive work environment.

Other examples of actions that might constitute sexual harassment, whether committed by a supervisor, a co-worker, or a non-employee, in the work or educational setting, include, but are not limited to:

1. Unwelcome verbal conduct such as sexual flirtations or propositions; graphic comments about an individual's body; overly personal conversations or pressure for sexual activity; sexual jokes or stories; unwelcome sexual slurs, epithets, threats, innuendoes, derogatory comments, sexually degrading descriptions, or the spreading of sexual rumors
2. Unwelcome visual conduct such as drawings, pictures, graffiti, or gestures; sexually explicit emails; displaying sexually suggestive objects

SEXUAL HARASSMENT (continued)

3. Unwelcome physical conduct such as massaging, grabbing, fondling, stroking, or brushing the body; touching an individual's body or clothes in a sexual way; cornering, blocking, leaning over, or impeding normal movements

~~*Prohibited sexual harassment may also include any act of retaliation against an individual who reports a violation of the district's sexual harassment policy or who participates in the investigation of a sexual harassment complaint.*~~

Training

The Superintendent or designee shall ensure that all employees receive training regarding the district's sexual harassment policies when hired and periodically thereafter. Such training shall include the procedures for reporting and/or filing complaints involving an employee, employees' duty to use the district's complaint procedures, and employee obligations when a sexual harassment report involving a student is made to the employee.

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

(cf. 5145.7 - Sexual Harassment)

Every two years, the Superintendent or designee shall ensure that supervisory employees receive at least two hours of classroom or other effective interactive training and education regarding sexual harassment. All such newly hired or promoted employees shall receive training within six months of their assumption of the new position. (Government Code 12950.1)

A supervisory employee is any employee with the authority to hire, transfer, suspend, lay off, promote, discharge, assign, reward, or discipline other employees, or **the responsibility to direct them, adjust their grievances, or to effectively recommend such action, when the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment.** (Government Code 12926)

The district's sexual harassment training and education program for supervisory employees ~~shall include the provision of~~ **be aimed at assisting them in preventing and effectively responding to incidents of sexual harassment, as well as implementing mechanisms to promptly address and correct wrongful behavior. The training shall include, but is not limited to, the following:** (Government Code 12950.1; 2 CCR ~~11023~~ **11024**)

1. Information and practical guidance regarding federal and state laws on the prohibition against and the prevention and correction of sexual harassment, and the remedies available to the victims of sexual harassment in employment

SEXUAL HARASSMENT (continued)

2. **The types of conduct that constitute sexual harassment and practical examples which illustrate sexual harassment, discrimination, and retaliation using training modalities such as role plays, case studies, and group discussions, based on factual scenarios taken from case law, news and media accounts, and hypotheticals based on workplace situations and other sources**
~~Practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation~~
3. **A supervisor's obligation to report sexual harassment, discrimination, and retaliation of which he/she becomes aware and what to do if the supervisor himself/herself is personally accused of harassment**
~~A component on the prevention of abusive conduct that addresses the use of derogatory remarks, insults, or epithets, other verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, and the gratuitous sabotage or undermining of a person's work performance~~
4. **Strategies for preventing harassment, discrimination, and retaliation and appropriate steps to ensure that remedial measures are taken to correct harassing behavior, including an effective process for investigation of a complaint**
5. **The essential elements of the district's anti-harassment policy, including the limited confidentiality of the complaint process and resources for victims of unlawful sexual harassment, such as to whom they should report any alleged sexual harassment, and how to use the policy if a harassment complaint is filed**
6. A copy of the district's sexual harassment policy and administrative regulation, which each participant shall acknowledge in writing that he/she has received
7. **The definition and prevention of abusive conduct that addresses the use of derogatory remarks, insults, or epithets, other verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating and the gratuitous sabotage or undermining of a person's work performance**
- ~~5. All other contents of mandated training specified in 2 CCR 11023~~

The Superintendent or designee shall retain for at least two years the records of any training provided to supervisory employees. Such records shall include the names of trained employees, date of the training, the type of training, and the name of the training provider. (2 CCR 11023)

SEXUAL HARASSMENT (continued)

Notifications

A copy of the Board policy and this administrative regulation shall: (Education Code 231.5)

1. Be displayed in a prominent location in the main administrative building, district office, or other area of the school where notices of district rules, regulations, procedures, and standards of conduct are posted
2. Be provided to every district employee at the beginning of the first quarter or semester of the school year or whenever a new employee is hired

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

3. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures, and standards of conduct

All employees shall receive either a copy of information sheets prepared by the California Department of Fair Employment and Housing (DFEH) or a copy of district information sheets that contain, at a minimum, components on: (Government Code 12950)

1. **The illegality of sexual harassment**
2. **The definition of sexual harassment under applicable state and federal law**
3. **A description of sexual harassment, with examples**
4. **The district's complaint process available to the employee**
5. **The legal remedies and complaint process available through DFEH and the Equal Employment Opportunity Commission (EEOC)**
6. **Directions on how to contact DFEH and the EEOC**
7. **The protection against retaliation provided by 2 CCR 11021 for opposing harassment prohibited by law or for filing a complaint with or otherwise participating in an investigation, proceeding, or hearing conducted by DFEH and the EEOC**

In addition, the district shall post, in a prominent and accessible location, DFEH's poster on discrimination in employment and the illegality of sexual harassment. (Government Code 12950)

Regulation
approved: _____

FOUNTAIN VALLEY SCHOOL DISTRICT
Fountain Valley, California



Fountain Valley School District
Educational Services

M E M O R A N D U M

TO: Board of Trustees
FROM: Julianne Hoefer, Director, Educational Services
SUBJECT: **BOARD POLICY 6190 EVALUATION OF THE INSTRUCTIONAL PROGRAM (FIRST READING)**
DATE: April 7, 2017

Background

In the continued effort to maintain a set of current board policies, it is necessary to bring policies to the Board of Trustees for revision due to changes in Education Code or statute. The California School Boards Association or the Orange County Department of Education informs the District of mandated changes through alerts.

Board Policy 6190 Evaluation Of The Instructional Program reflects the inclusion of the local control and accountability plan as one of the required reports provided to the Board of Trustees and the community.

Fiscal Impact:

There is no fiscal impact involved in the approval process.

Recommendation:

It is recommended that Board Policy 6190 Evaluation Of The Instructional Program be approved for first reading, with necessary changes as indicated by the Board of Trustees.

EVALUATION OF THE INSTRUCTIONAL PROGRAM

The Board of Trustees recognizes that it is accountable to students, parents/guardians, and the community for the effectiveness of the district's educational program in meeting district goals for student learning. The Superintendent or designee shall conduct a continual evaluation of the curriculum and the instructional program in order to improve student achievement.

(cf. 0200 - Goals for the School District)

(cf. 0500 - Accountability)

(cf. 6000 - Concepts and Roles)

(cf. 6141 - Curriculum Development and Evaluation)

(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

(cf. 9000 - Role of the Board)

The Superintendent or designee shall provide the Board and the community with regular reports on student progress toward Board-established standards of expected achievement at each grade level in each area of study. In addition, he/she shall evaluate and report data for each district school and for every numerically significant **student** subgroup ~~of the student population~~, including, but not limited to, school and subgroup performance on statewide achievement indicators **and progress toward goals specified in the district's local control and accountability plan (LCAP).**

(cf. 0460 - Local Control and Accountability Plan)

(cf. 0510 - School Accountability Report Card)

(cf. 6011 - Academic Standards)

(cf. 6162.5 - Student Assessment)

(cf. 6162.51 - State Academic Achievement Tests)

(cf. 6162.52 - High School Exit Examination)

(cf. 6173.1 - Education for Foster Youth)

(cf. 6174 - Education for English Language Learners)

Based on these reports, the Board shall take appropriate actions to maintain the effectiveness of programs and to improve the quality of education that district students receive.

Annual Monitoring of Consolidated Application Programs

The Board and the Superintendent or designee shall annually determine whether the district's categorical programs funded through the state's consolidated application are effective in meeting the needs of the students they are intended to serve. As a basis for this evaluation, the Superintendent or designee shall recommend for Board approval the specific, measurable criteria that shall be used at each school and at the district level. These criteria may include, but are not necessarily limited to, the progress of all students and of each numerically significant subgroup toward goals contained in the district's LCAP, the school's single plan for student achievement, Title I local educational agency plan, and/or other applicable district or school plans.

EVALUATION OF THE INSTRUCTIONAL PROGRAM ~~(continued)~~

Federal Program Monitoring

To ensure that the district's categorical programs comply with applicable legal requirements, the Superintendent or designee shall, on an ongoing basis, conduct a district self-evaluation which may utilize tools developed by the district or the California Department of Education (CDE).

When the district is selected by the CDE for a Federal Program Monitoring (FPM) compliance review, the Superintendent or designee shall gather and submit all documentation and data required for the review and shall cooperate with CDE staff to facilitate program monitoring.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 0420 - School Plans/Site Councils)
(cf. 0520.2 - Title I Program Improvement Schools)
(cf. 0520.3 - Title I Program Improvement Districts)
(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 1312.4 - Williams Uniform Complaint Procedures)
~~*(cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)*~~
(cf. 4131 - Staff Development)
(cf. 5020 - Parent Rights and Responsibilities)
(cf. 5148 - Child Care and Development Programs)
(cf. 5148.2 - Before/After School Programs)
(cf. 5148.3 - Preschool/Early Childhood Education)
(cf. 6020 - Parent Involvement)
(cf. 6142.7 - Physical Education and Activity)
(cf. 6171 - Title I Programs)
(cf. 6173 - Education for Homeless Children)
(cf. 6175 - Migrant Education Program)
~~*(cf. 6178 - Career Technical Education)*~~
~~*(cf. 6178.1 - Work-Based Learning)*~~
~~*(cf. 6200 - Adult Education)*~~

In the event that the FPM review results in a finding of noncompliance in relation to any program, the Superintendent or designee shall submit a proposed resolution to the CDE within 45 days of the date the district was notified of the finding. The resolution shall be implemented in accordance with the terms and timeframe specified in the resolution agreement with the CDE.

The Superintendent or designee shall report to the Board regarding the results of the review process.



Fountain Valley School District
Educational Services

M E M O R A N D U M

TO: Board of Trustees
FROM: Julianne Hoefer, Director, Educational Services
SUBJECT: **BOARD POLICY 0460 LOCAL CONTROL AND
ACCOUNTABILITY PLAN (FIRST READING)**
DATE: April 7, 2017

Background

In the continued effort to maintain a set of current board policies, it is necessary to bring policies to the Board of Trustees for revision due to changes in Education Code or statute. The California School Boards Association or the Orange County Department of Education informs the District of mandated changes through alerts.

New Board Policy 0460 Local Control And Accountability Plan reflects new law, Proposition 58, which requires the local control and accountability plan (LCAP) development process to include solicitation of parent/guardian and community input on effective and appropriate instructional methods, including language acquisition programs. BP 0460 also reflects the State Board of Education's adoption of evaluation rubrics (the "California School Dashboard") that will assist district in evaluating progress toward their LCAP goals.

Fiscal Impact:

There is no fiscal impact involved in the approval process.

Recommendation:

It is recommended that Board Policy 0460 Local Control And Accountability Plan be approved for first reading, with necessary changes as indicated by the Board of Trustees.

LOCAL CONTROL AND ACCOUNTABILITY PLAN**Philosophy, Goals, Objectives and Comprehensive Plans**

The Governing Board desires to ensure the most effective use of available funding to improve outcomes for all students. A community-based, comprehensive, data-driven planning process shall be used to identify annual goals and specific actions and to facilitate continuous improvement of district practices.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

The Board shall adopt a districtwide local control and accountability plan (LCAP) that addresses the state priorities and any local priorities adopted by the Board. The LCAP shall be updated on or before July 1 of each year and, like the district budget, shall cover the next fiscal year and subsequent two fiscal years.

(cf. 3100 - Budget)

The LCAP shall focus on improving outcomes for all students, particularly those who are "unduplicated students" and other underperforming students.

Unduplicated students include students who are eligible for free or reduced-price meals, English learners, and foster youth and are counted only once for purposes of the local control funding formula.

(cf. 3553 - Free and Reduced Price Meals)

(cf. 6173.1 - Education for Foster Youth)

(cf. 6174 - Education for English Language Learners)

The Superintendent or designee shall review the single plan for student achievement (SPSA) submitted by each district school to ensure that the specific actions included in the LCAP are consistent with strategies included in the SPSA.

(cf. 0420 - School Plans/Site Councils)

The LCAP shall also be aligned with other district and school plans to the extent possible in order to minimize duplication of effort and provide clear direction for program implementation.

(cf. 0400 - Comprehensive Plans)

(cf. 0440 - District Technology Plan)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 5030 - Student Wellness)

(cf. 6171 - Title I Programs)

(cf. 7110 - Facilities Master Plan)

Any complaint that the district has not complied with legal requirements pertaining to the LCAP may be filed pursuant to AR 1312.3 - Uniform Complaint Procedures.

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

(cf. 1312.3 - Uniform Complaint Procedures)

Plan Development

The Superintendent or designee shall gather data and information needed for effective and meaningful plan development and present it to the Board and community. Such data and information shall include, but not be limited to, data regarding the number of students in student subgroups, disaggregated data on student achievement levels, and information about current programs and expenditures.

The Board shall consult with teachers, principals, administrators, other school personnel, employee bargaining units, parents/guardians, and students in developing the LCAP. Consultation with students shall enable unduplicated students and other numerically significant student subgroups to review and comment on LCAP development and may include surveys of students, student forums, student advisory committees, and/or meetings with student government bodies or other groups representing students.

(cf. 1220 - Citizen Advisory Committees)

(cf. 4140/4240/4340 - Bargaining Units)

(cf. 6020 - Parent Involvement)

Public Review and Input

The Board shall establish a parent advisory committee to review and comment on the LCAP. The committee shall be composed of a majority of parents/guardians and shall include at least one parent/guardian of an unduplicated student as defined above.

Whenever district enrollment includes at least 15 percent English learners, with at least 50 students who are English learners, the Board shall establish an English learner parent advisory committee composed of a majority of parents/guardians of English learners.

The Superintendent or designee shall present the LCAP to the committee(s) before it is submitted to the Board for adoption, and shall respond in writing to comments received from the committee(s).

The Superintendent or designee shall notify members of the public of the opportunity to submit written comments regarding the specific actions and expenditures proposed to be included in the LCAP. The notification shall be provided using the most efficient method of notification possible, which may not necessarily include producing printed notices or sending notices by mail. All written notifications related to the LCAP shall be provided in the primary language of parents/guardians when required.

(cf. 5145.6 - Parental Notifications)

As part of the parent and community engagement process, the district shall solicit input on effective and appropriate instructional methods, including, but not limited to, establishing language acquisition programs to enable all students, including English learners and native

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

English speakers, to have access to the core academic content standards and to become proficient in English.

The Board shall hold at least one public hearing to solicit the recommendations and comments of members of the public regarding the specific actions and expenditures proposed to be included in the LCAP. The public hearing shall be held at the same meeting as the budget.

(cf. 9320 - Meetings and Notices)

Adoption of the Plan

The Board shall adopt the LCAP prior to adopting the district budget, but at the same public meeting. This meeting shall be held after the public hearing described above, but not on the same day as the hearing.

The Board may adopt revisions to the LCAP at any time during the period in which the plan is in effect, provided the Board follows the process to adopt the LCAP and the revisions are adopted in a public meeting.

Submission of Plan to County Superintendent of Schools

Not later than five days after adoption of the LCAP, the Board shall file the LCAP with the County Superintendent of Schools.

If the County Superintendent sends, by August 15, a written request for clarification of the contents of the LCAP, the Board shall respond in writing within 15 days of the request. If the County Superintendent then submits recommendations for amendments to the LCAP within 15 days of receiving the Board's response, the Board shall consider those recommendations in a public meeting within 15 days of receiving the recommendations.

Monitoring Progress

The Superintendent or designee shall report to the Board, at least annually regarding the district's progress toward attaining each goal identified in the LCAP. Evaluation shall include, but not be limited to, an assessment of district and school performance based on evaluation rubrics adopted by the State Board of Education. Evaluation data shall be used to recommend any necessary revisions to the LCAP.

(cf. 0500 - Accountability)

Technical Assistance/Intervention

When it is in the best interest of the district, the Board may submit a request to the County Superintendent for technical assistance, including, but not limited to:

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

1. Assistance in the identification of district strengths and weaknesses in regard to state priorities and review of effective, evidence-based programs that apply to the district's goals
2. Assistance from an academic expert, team of academic experts, or another district in the county in identifying and implementing effective programs to improve the outcomes for student subgroups
3. Advice and assistance from the California Collaborative for Educational Excellence

In the event that the County Superintendent requires the district to receive technical assistance, the Board shall review all recommendations received from the County Superintendent or other advisor and shall consider revisions to the LCAP as appropriate in accordance with the process specified in Education Code.

If the Superintendent of Public Instruction (SPI) identifies the district as needing intervention, the district shall cooperate with any action taken by the SPI or any academic advisor appointed by the SPI, which may include one or more of the following:

1. Revision of the district's LCAP
2. Revision of the district's budget in accordance with changes in the LCAP
3. A determination to stay or rescind any district action that would prevent the district from improving outcomes for all student subgroups, provided that action is not required by a collective bargaining agreement



Fountain Valley School District
BUSINESS SERVICES DIVISION

M E M O R A N D U M

TO: Christine Fullerton, Assistant Superintendent, Business Services
FROM: Isidro Guerra, Director, Fiscal Services
SUBJECT: **Tentative Agreement between CSEA and FVSD**
DATE: March 23, 2017

Background:

On March 23, 2017, the California School Employees Association, Chapter 358 (CSEA) ratified a "Tentative Agreement" between CSEA and the Fountain Valley School District. As required by Government Code Section 3547.5, a public hearing on the costs contained in the proposed agreement shall be held to allow members of the public the opportunity for comment.

Attached is the Public Disclosure of Collective Bargaining Agreement in accordance with **AB 1200 (Chapter 1213/1991), GC 3547.5 and CCR, Title V, Section 15449**, for the agreement between Fountain Valley School District and CSEA.

Fiscal Impact:

As of March 23, 2017, CSEA has agreed to a one and half percent (1.50%) increase to the salary schedule retroactive to July 1, 2016 and a one-time, one percent (1.00%) off-schedule payment. The total increase in compensation for classified bargaining unit members will be \$226,785. Details of the impact are included in the attached "Disclosure of Collective Bargaining Agreement." This agreement will be effective for the period from July 1, 2016 through June 30, 2017.

Recommendation:

It is recommended that Board of Trustees approve the Public Disclosure of Collective Bargaining Agreement for the agreement between Fountain Valley School District and CSEA for the 2016-17 school year.

**Orange County Department of Education
District Fiscal Services**

**PUBLIC DISCLOSURE OF COLLECTIVE BARGAINING AGREEMENT
in Accordance with AB 1200 (Chapter 1213/1991), GC 3547.5, and CCR, Title V, Section 15449**

Fountain Valley Elementary School District - California School Employees

School District - Bargaining Unit: Association, Chapter 358 (CSEA)

Certificated, Classified, Other: Classsified

The proposed agreement covers the period beginning: July 1, 2016 and ending: June 30, 2017
(date) (date)

The Governing Board will act upon this agreement on: April 13, 2017
(date)

A. Proposed Change in Compensation

Compensation	Annual Cost Prior to Proposed Agreement FY 2016-17	Fiscal Impact of Proposed Agreement		
		Year 1 Increase/(Decrease) FY 2016-17	Year 2 Increase/(Decrease) FY 2017-18	Year 3 Increase/(Decrease) FY 2018-19
1 Salary Schedule Increase (Decrease)	\$ 7,396,176	\$ 110,943		\$ -
		1.50%	0.00%	0.00%
2 Step and Column Increase (Decrease) Due to movement plus any changes due to settlement	\$ -	\$ -	\$ -	\$ -
		0.00%	0.00%	0.00%
3 Other Compensation - Increase (Decrease) (Stipends, Bonuses, Longevity, Overtime, etc.)	\$ -	\$ 73,962	\$ -	\$ -
		0.00%	0.00%	0.00%
Description of other compensation				
4 Statutory Benefits - STRS, PERS, FICA, WC, UI, Medicare etc.	\$ 1,693,545	\$ 41,880		\$ -
		2.47%	0.00%	0.00%
5 Health/Welfare Plans	\$ -	\$ -	\$ -	\$ -
		0.00%	0.00%	0.00%
6 Total Compensation - Increase (Decrease) (Total Lines 1-5)	\$ 9,089,721	\$ 226,785	\$ -	\$ -
7 Total Number of Represented Employees (Use FTEs if appropriate)	217	217		
8 Total Compensation <u>Average</u> Cost per Employee	\$ 41,888	\$ 1,045	\$ -	\$ -
		2.49%	0.00%	0.00%

9. What was the negotiated percentage increase approved? For example, if the increase in "Year 1" was for less than a full year, what is the annualized percentage of that increase for "Year 1"?

The total classified salary increase for CSEA members in 2016-17 is 3.5% and is comprised of a 1.0% on-schedule increase settled in December 2015 plus a recently settled 1.5% on-schedule increase (retroactive to July 1, 2016) and a 1.0% off-schedule payment. The impact of the recent settlement on the general fund in 2016-17 is \$227K. The 1.0% increase settled in December 2015 was already reflected at the time of the budget adoption. Additionally, the impact of the recent Board-approved salary increases for Confidential and Management employees have been included in this disclosure (see Column 3 on pages 4a, 4b, & 4c). Confidential employees recieved the same salary increase as classified staff. Management employees recieved an ongoing increase of 2.0% to the salary schedule and a one-time, 1.0% off-schedule payment. The impact of this increase on the general fund in 2016-17 is \$147K.

10. Were any additional steps, columns, or ranges added to the schedules? (If yes, please explain.)

None.

11. Please include comments and explanations as necessary.

None.

12. Does this bargaining unit have a negotiated cap for Health and Welfare benefits? Yes ☒ No ☐

If yes, please describe the cap amount.

The negotiated H&W cap remains unchanged at \$9,000 per full-time employee. For part-time members, the increase is pro-rated for those working at least 50%, but less than 75%.

B. Proposed Negotiated Changes in Noncompensation Items (i.e., class size adjustments, staff development days, teacher prep time, classified staffing ratios, etc.)

Contract language additions/changes to article 8 and the professional growth program. See Tentative Agreement dated March 7, 20176 for details.

C. What are the specific impacts on instructional and support programs to accommodate the settlement?

Include the impact of changes such as staff reductions or increases, program reductions or increases, elimination or expansion of other services or programs (i.e., counselors, librarians, custodial staff, etc.)

None.

- D. What contingency language is included in the proposed agreement?** Include specific areas identified reopeners, applicable fiscal years, and specific contingency language.

None.

- E. Will this agreement create, increase or decrease deficit financing in the current or subsequent year(s)?** "Deficit Financing" is defined to exist when a fund's expenditures and other financing uses exceed its revenues and other financing sources in a given year. If yes, explain the amounts and justification for doing so.

The expenditures associated with the salary increases in this disclosure increase the operating deficits in the second and third years under review to approximately -\$715.6K and -\$1.4M in 2017-18 and 2018-19, respectively. General fund revenue projections in these years are conservative and do not include any one-time state revenues or other local revenues such as grants and donations.

- F. Identify other major provisions that do not directly affect the district's costs, such as binding arbitrations, grievance procedures, etc.**

None.

G. Source of Funding for Proposed Agreement

1. Current Year

Expense associated with off-schedule, one-time payments will be paid out of one-time funds. On-going expenses will be funded by Local Control Funding Formula revenues.

2. If this is a single year agreement, how will the ongoing cost of the proposed agreement be funded in subsequent years (i.e., what will allow the district to afford this contract)?

On-going costs will be funded by on-going LCFF revenues.

3. If this is a multiyear agreement, what is the source of funding, including assumptions used, to fund these obligations in subsequent years? (Remember to include compounding effects in meeting obligations.)

N/A.

H. IMPACT OF PROPOSED AGREEMENT ON CURRENT YEAR OPERATING BUDGET

Unrestricted General Fund

Enter Bargaining Unit: **California School Employees Association, Chapter 358 (CSEA)**

	Column 1 Latest Board- Approved Budget Before Settlement (As of 3/9/2017)	Column 2 Adjustments as a Result of Settlement	Column 3 Other Revisions	Column 4 Total Current Budget (Columns 1+2+3)
REVENUES				
LCFF Sources (8010-8099)	\$ 47,518,051	\$ -	\$ -	\$ 47,518,051
Remaining Revenues (8100-8799)	\$ 3,258,740	\$ -	\$ -	\$ 3,258,740
TOTAL REVENUES	\$ 50,776,791	\$ -	\$ -	\$ 50,776,791
EXPENDITURES				
Certificated Salaries (1000-1999)	\$ 22,929,543	\$ -	\$ 58,362	\$ 22,987,905
Classified Salaries (2000-2999)	\$ 6,228,163	\$ 118,339	\$ 19,454	\$ 6,365,956
Employee Benefits (3000-3999)	\$ 8,316,200	\$ 26,803	\$ 16,263	\$ 8,359,266
Books and Supplies (4000-4999)	\$ 1,677,548	\$ -	\$ -	\$ 1,677,548
Services, Other Operating Expenses (5000-5999)	\$ 2,191,604	\$ -	\$ -	\$ 2,191,604
Capital Outlay (6000-6599)	\$ 602,454	\$ -	\$ -	\$ 602,454
Other Outgo (7100-7299) (7400-7499)	\$ 71,182	\$ -	\$ -	\$ 71,182
Direct Support/Indirect Cost (7300-7399)	\$ (136,047)	\$ -	\$ -	\$ (136,047)
Other Adjustments				
TOTAL EXPENDITURES	\$ 41,880,647	\$ 145,142	\$ 94,079	\$ 42,119,869
OPERATING SURPLUS (DEFICIT)	\$ 8,896,144	\$ (145,142)	\$ (94,079)	\$ 8,656,922
TRANSFERS IN & OTHER SOURCES (8910-8979)	\$ -		\$ -	\$ -
TRANSFERS OUT & OTHER USES (7610-7699)	\$ 260,000	\$ -	\$ -	\$ 260,000
CONTRIBUTIONS (8980-8999)	\$ (7,310,010)	\$ -	\$ -	\$ (7,310,010)
CURRENT YEAR INCREASE (DECREASE) IN FUND BALANCE	\$ 1,326,134	\$ (145,142)	\$ (94,079)	\$ 1,086,912
BEGINNING BALANCE	\$ 10,206,795			\$ 10,206,795
Prior-Year Adjustments/Restatements (9793/9795)	\$ -			\$ -
CURRENT-YEAR ENDING BALANCE	\$ 11,532,929	\$ (145,142)	\$ (94,079)	\$ 11,293,707
COMPONENTS OF ENDING BALANCE:				
Nonspendable Reserves (9711-9719)	\$ 135,000	\$ -	\$ -	\$ 135,000
Restricted Reserves (9740)	\$ -	\$ -	\$ -	\$ -
Stabilization Arrangements (9750)	\$ -	\$ -	\$ -	\$ -
Other Commitments (9760)	\$ -	\$ -	\$ -	\$ -
Other Assignments (9780)	\$ 4,603,756	\$ (103,547)	\$ (51,446)	\$ 4,448,763
Reserve for Economic Uncertainties (9789)	\$ 1,790,468	\$ 6,804	\$ 4,410	\$ 1,801,682
Unassigned/Unappropriated (9790)	\$ 5,003,705	\$ (48,399)	\$ (47,043)	\$ 4,908,263

* Please see question on page 7.

H. IMPACT OF PROPOSED AGREEMENT ON CURRENT YEAR OPERATING BUDGET

Restricted General Fund

Enter Bargaining Unit: **California School Employees Association, Chapter 358 (CSEA)**

	Column 1	Column 2	Column 3	Column 4
	Latest Board- Approved Budget Before Settlement (As of 3/9/2017)	Adjustments as a Result of Settlement	Other Revisions	Total Current Budget (Columns 1+2+3)
REVENUES				
LCFF Sources (8010-8099)	\$ -	\$ -	\$ -	\$ -
Remaining Revenues (8100-8799)	\$ 8,832,900	\$ -	\$ -	\$ 8,832,900
TOTAL REVENUES	\$ 8,832,900	\$ -	\$ -	\$ 8,832,900
EXPENDITURES				
Certificated Salaries (1000-1999)	\$ 5,095,138	\$ -	\$ 32,829	\$ 5,127,967
Classified Salaries (2000-2999)	\$ 3,468,884	\$ 66,566	\$ 10,943	\$ 3,546,393
Employee Benefits (3000-3999)	\$ 4,503,866	\$ 15,077	\$ 9,148	\$ 4,528,091
Books and Supplies (4000-4999)	\$ 1,087,208	\$ -	\$ -	\$ 1,087,208
Services, Other Operating Expenses (5000-5999)	\$ 2,435,533	\$ -	\$ -	\$ 2,435,533
Capital Outlay (6000-6599)	\$ 177,628	\$ -	\$ -	\$ 177,628
Other Outgo (7100-7299) (7400-7499)	\$ 253,397	\$ -	\$ -	\$ 253,397
Direct Support/Indirect Cost (7300-7399)	\$ 19,969	\$ -	\$ -	\$ 19,969
Other Adjustments				
TOTAL EXPENDITURES	\$ 17,041,623	\$ 81,643	\$ 52,920	\$ 17,176,185
OPERATING SURPLUS (DEFICIT)	\$ (8,208,723)	\$ (81,643)	\$ (52,920)	\$ (8,343,285)
TRANSFERS IN & OTHER SOURCES (8910-8979)	\$ -	\$ -	\$ -	\$ -
TRANSFERS OUT & OTHER USES (7610-7699)	\$ -	\$ -	\$ -	\$ -
CONTRIBUTIONS (8980-8999)	\$ 7,310,010	\$ -	\$ -	\$ 7,310,010
CURRENT YEAR INCREASE (DECREASE) IN FUND BALANCE	\$ (898,713)	\$ (81,643)	\$ (52,920)	\$ (1,033,275)
BEGINNING BALANCE	\$ 1,743,108			\$ 1,743,108
Prior-Year Adjustments/Restatements (9793/9795)	\$ -			\$ -
CURRENT-YEAR ENDING BALANCE	\$ 844,395	\$ (81,643)	\$ (52,920)	\$ 709,833
COMPONENTS OF ENDING BALANCE:				
Nonspendable Reserves (9711-9719)	\$ -	\$ -	\$ -	\$ -
Restricted Reserves (9740)	\$ 844,395	\$ (81,643)	\$ (52,920)	\$ 709,833
Stabilization Arrangements (9750)				
Other Commitments (9760)				
Other Assignments (9780)				
Reserve for Economic Uncertainties (9789)				
Unassigned/Unappropriated (9790)				

* Please see question on page 7.

H. IMPACT OF PROPOSED AGREEMENT ON CURRENT YEAR OPERATING BUDGET

Combined General Fund

Enter Bargaining Unit: **California School Employees Association, Chapter 358 (CSEA)**

	Column 1 Latest Board- Approved Budget Before Settlement (As of 3/9/2017)	Column 2 Adjustments as a Result of Settlement	Column 3 Other Revisions	Column 4 Total Current Budget (Columns 1+2+3)
REVENUES				
Revenue Limit Sources (8010-8099)	\$ 47,518,051	\$ -	\$ -	\$ 47,518,051
Remaining Revenues (8100-8799)	\$ 12,091,640	\$ -	\$ -	\$ 12,091,640
TOTAL REVENUES	\$ 59,609,691	\$ -	\$ -	\$ 59,609,691
EXPENDITURES				
Certificated Salaries (1000-1999)	\$ 28,024,681	\$ -	\$ 91,191	\$ 28,115,872
Classified Salaries (2000-2999)	\$ 9,697,047	\$ 184,905	\$ 30,397	\$ 9,912,349
Employee Benefits (3000-3999)	\$ 12,820,066	\$ 41,880	\$ 25,411	\$ 12,887,357
Books and Supplies (4000-4999)	\$ 2,764,756	\$ -	\$ -	\$ 2,764,756
Services, Other Operating Expenses (5000-5999)	\$ 4,627,137	\$ -	\$ -	\$ 4,627,137
Capital Outlay (6000-6599)	\$ 780,082	\$ -	\$ -	\$ 780,082
Other Outgo (7100-7299) (7400-7499)	\$ 324,579	\$ -	\$ -	\$ 324,579
Direct Support/Indirect Cost (7300-7399)	\$ (116,078)	\$ -	\$ -	\$ (116,078)
Other Adjustments				
TOTAL EXPENDITURES	\$ 58,922,270	\$ 226,785	\$ 146,999	\$ 59,296,054
OPERATING SURPLUS (DEFICIT)	\$ 687,421	\$ (226,785)	\$ (146,999)	\$ 313,637
TRANSFERS IN & OTHER SOURCES (8910-8979)	\$ -		\$ -	\$ -
TRANSFERS OUT & OTHER USES (7610-7699)	\$ 260,000	\$ -	\$ -	\$ 260,000
CONTRIBUTIONS (8980-8999)	\$ -	\$ -	\$ -	\$ -
CURRENT YEAR INCREASE (DECREASE) IN FUND BALANCE	\$ 427,421	\$ (226,785)	\$ (146,999)	\$ 53,637
BEGINNING BALANCE	\$ 11,949,903			\$ 11,949,903
Prior-Year Adjustments/Restatements (9793/9795)	\$ -			\$
CURRENT-YEAR ENDING BALANCE	\$ 12,377,324	\$ (226,785)	\$ (146,999)	\$ 12,003,540
COMPONENTS OF ENDING BALANCE:				
Nonspendable Reserves (9711-9719)	\$ 135,000	\$ -	\$ -	\$ 135,000
Restricted Reserves (9740)	\$ 844,395	\$ (81,643)	\$ (52,920)	\$ 709,833
Stabilization Arrangements (9750)	\$ -	\$ -	\$ -	\$ -
Other Commitments (9760)	\$ -	\$ -	\$ -	\$ -
Other Assignments (9780)	\$ 4,603,756	\$ (103,547)	\$ (51,446)	\$ 4,448,763
Reserve for Economic Uncertainties (9789)	\$ 1,790,468	\$ 6,804	\$ 4,410	\$ 1,801,682
Unassigned/Unappropriated (9790)	\$ 5,003,705	\$ (48,399)	\$ (47,043)	\$ 4,908,263

* Please see question on page 7.

I. IMPACT OF PROPOSED AGREEMENT ON SUBSEQUENT YEARS

Combined General Fund

Enter Bargaining Unit: **California School Employees Association, Chapter 358 (CSEA)**

	2016-17	2017-18	2018-19
	Total Current Budget After Settlement	First Subsequent Year After Settlement	Second Subsequent Year After Settlement
REVENUES			
Revenue Limit Sources (8010-8099)	\$ 47,518,051	\$ 48,114,882	\$ 49,246,046
Remaining Revenues (8100-8799)	\$ 12,091,640	\$ 9,895,341	\$ 9,885,730
TOTAL REVENUES	\$ 59,609,691	\$ 58,010,223	\$ 59,131,776
EXPENDITURES			
Certificated Salaries (1000-1999)	\$ 28,115,872	\$ 28,537,610	\$ 28,965,674
Classified Salaries (2000-2999)	\$ 9,912,349	\$ 9,997,869	\$ 10,097,848
Employee Benefits (3000-3999)	\$ 12,887,357	\$ 13,971,726	\$ 15,053,138
Books and Supplies (4000-4999)	\$ 2,764,756	\$ 2,155,472	\$ 2,220,136
Services, Other Operating Expenses (5000-5999)	\$ 4,627,137	\$ 3,528,096	\$ 3,633,939
Capital Outlay (6000-6999)	\$ 780,082	\$ 225,812	\$ 232,585
Other Outgo (7100-7299) (7400-7499)	\$ 324,579	\$ 440,057	\$ 453,259
Direct Support/Indirect Cost (7300-7399)	\$ (116,078)	\$ (130,835)	\$ (134,760)
Other Adjustments		\$ -	\$ -
TOTAL EXPENDITURES	\$ 59,296,054	\$ 58,725,807	\$ 60,521,819
OPERATING SURPLUS (DEFICIT)	\$ 313,637	\$ (715,584)	\$ (1,390,043)
TRANSFERS IN & OTHER SOURCES (8910-8979)	\$ -	\$ -	\$ -
TRANSFERS OUT & OTHER USES (7610-7699)	\$ 260,000	\$ 324,864	\$ 334,610
CURRENT YEAR INCREASE (DECREASE) IN FUND BALANCE	\$ 53,637	\$ (1,040,448)	\$ (1,724,653)
BEGINNING BALANCE	\$ 11,949,903	\$ 12,003,540	\$ 10,963,092
CURRENT-YEAR ENDING BALANCE	\$ 12,003,540	\$ 10,963,092	\$ 9,238,439
COMPONENTS OF ENDING BALANCE:			
Nonspendable Reserves (9711-9719)	\$ 135,000	\$ 135,000	\$ 135,000
Restricted Reserves (9740)	\$ 709,833	\$ 138,212	\$ 124,842
Stabilization Arrangements (9750)	\$ -	\$ -	\$ -
Other Commitments (9760)	\$ -	\$ -	\$ -
Other Assignments (9780)	\$ 4,448,763	\$ 4,223,756	\$ 4,223,756
Reserve for Economic Uncertainties (9789)	\$ 1,801,682	\$ 1,771,520	\$ 1,825,693
Unassigned/Unappropriated (9790)	\$ 4,908,263	\$ 4,694,603	\$ 2,929,148

J. IMPACT OF PROPOSED AGREEMENT ON UNRESTRICTED RESERVES

1. State Reserve Standard

		2016-17	2017-18	2018-19
a.	Total Expenditures, Transfers Out, and Uses (Including Cost of Proposed Agreement)	\$ 59,556,054	\$ 59,050,671	\$ 60,856,429
b.	State Standard Minimum Reserve Percentage for this District enter percentage:	3.00%	3.00%	3.00%
c.	State Standard Minimum Reserve Amount for this District (For districts with less than 1,001 ADA, this is the greater of Line a, times Line b. OR \$50,000	\$ 1,786,682	\$ 1,771,520	\$ 1,825,693

2. Budgeted Unrestricted Reserve (After Impact of Proposed Agreement)

a.	General Fund Budgeted Unrestricted Reserve for Economic Uncertainties (9789)	\$ 1,801,682	\$ 1,771,520	\$ 1,825,693
b.	General Fund Budgeted Unrestricted Unassigned/Unappropriated Amount (9790)	\$ 4,908,263	\$ 4,694,603	\$ 2,929,148
c.	Special Reserve Fund (Fund 17) Budgeted Reserve for Economic Uncertainties (9789)	\$	\$	\$
d.	Special Reserve Fund (Fund 17) Budgeted Unassigned/Unappropriated Amount (9790)	\$	\$	\$
g.	Total Available Reserves	\$ 6,709,944	\$ 6,466,124	\$ 4,754,841
h.	Reserve for Economic Uncertainties Percentage	3.03%	3.00%	3.00%

3. Do unrestricted reserves meet the state minimum reserve amount?

2016-17

Yes

☒

No

☐

2017-18

Yes

☒

No

☐

2018-19

Yes

☒

No

☐

4. If no, how do you plan to restore your reserves?

N/A

5. If the total amount of the adjustment in Column 2 on Page 4 does not agree with the amount of the Total Compensation Increase in Section A, Line 5, Page 1 (i.e., increase was partially budgeted), explain the variance below:

N/A

6. Please include any additional comments and explanations of Page 4 as necessary:

The impact of the recent Board-approved salary increases for Confidential and Management employees have been included in this disclosure (see Column 3 on pages 4a, 4b, & 4c).

K. CERTIFICATION NO. 1: CERTIFICATION OF THE DISTRICT'S ABILITY TO MEET THE COSTS OF COLLECTIVE BARGAINING AGREEMENT

The disclosure document must be signed by the District Superintendent and Chief Business Officer at the time of public disclosure.

In accordance with the requirements of Government Code Section 3547.5, the Superintendent and Chief Business Officer of the Fountain Valley School District, hereby certify that the District can meet the costs incurred under the Collective Bargaining Agreement between the District and the CSEA Bargaining Unit, during the term of the agreement from July 01, 2016 to June 30, 2017.

The budget revisions necessary to meet the costs of the agreement in each year of its term are as follows:

<u>Budget Adjustment Categories:</u>	<u>Budget Adjustment Increase (Decrease)</u>
<u>Revenues/Other Financing Sources</u>	<u></u>
<u>Expenditures/Other Financing Uses</u>	<u>\$ 373,784.00</u>
<u>Ending Balance Increase (Decrease)</u>	<u>\$ 373,784.00</u>

N/A ____ (No budget revisions necessary)

<u>District Superintendent (Signature)</u>	<u>4/13/2017 Date</u>
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<u>Chief Business Officer (Signature)</u>	<u>4/13/2017 Date</u>
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L. CERTIFICATION NO. 2

The disclosure document must be signed by the district Superintendent or designee at the time of public disclosure and by the President or Clerk of the Governing Board at the time of formal board action on the proposed agreement.

The information provided in this document summarizes the financial implications of the proposed agreement and is submitted to the Governing Board for public disclosure of the major provisions of the agreement (as provided in the "Public Disclosure of Proposed Bargaining Agreement") in accordance with the requirements of AB 1200 and Government Code Section 3547.5.

District Superintendent (or Designee)
(Signature)

4/13/2017

Date

President or Clerk of Governing Board
(Signature)

4/13/2017

Date

Christine Fullerton

Contact Person

714-843-3200

Phone



Fountain Valley School District
Personnel Department

M E M O R A N D U M

TO: Board of Trustees
FROM: Cathie Abdel, Assistant Superintendent, Personnel
SUBJECT: **Agreement between CSEA Chapter #358 and FVSD**
DATE: March 24, 2017

Background:

On March 7, 2017, FVSD and CSEA Chapter #358 reached a tentative agreement for 2016-17. The tentative agreement was ratified by CSEA Chapter #358 on March 23, 2017 and includes a total compensation increase of 2.5% for 2016-17. The agreement also includes language additions and changes related to leaves, evaluations and temporary assignments. The 2.5% total compensation is as follows:

- 1) An additional 1.50% salary increase to the 2015-16 salary schedule effective July 1, 2016.
- 2) A one-time, 1.00% off schedule salary increase based on the employee's annual salary as of March 7, 2017, excluding longevity and growth in service, for bargaining unit members employed with the district at the time of ratification of the 2016-17 agreement.

Recommendation:

It is recommended that the Board of Trustees approves the agreement between the FVSD and CSEA Chapter #358 dated March 7, 2017.

Tentative Agreement Between
Fountain Valley School District and
California School Employees Association and its Chapter #358
July 1, 2016– June 30, 2017
March 7, 2017

The Fountain Valley School District (FVSD) and the California School Employees Association (CSEA) and its Chapter #358 reached an agreement on all matters of bargaining for the 2016-17 contract year on March 7, 2017. FVSD and CSEA Chapter #358 agreed to the following additions to the 2016-17 classified bargaining agreement:

1. Fountain Valley School District added a 1% salary increase to the 2015-16 classified salary schedule, effective July 1, 2016.
2. Fountain Valley School District proposes an additional 1.5% salary increase to the 2015-16 classified salary schedule retroactive to July 1, 2016, for a total salary increase of 2.5% for the 2016-17 classified salary schedule.
3. Fountain Valley School District proposes a one-time, 1.00 % off schedule salary payment based on the employee's annual salary as of March 7, 2017, excluding longevity and growth in service, for bargaining unit members employed with the district at the time of ratification of the 2016-17 agreement.
4. Fountain Valley School District proposal equates to a 3.5% salary increase for 2016-17 for the classified bargaining unit members.
5. Reduction in hours to vacant Food Services Worker position at Fulton Middle School from 20 hours per week to 18 hours per week.
6. Agreement to the following contract language additions/changes:

ARTICLE 8: TERMS AND CONDITIONS OF EMPLOYMENT

8.2.8 Absence Due to Critical Illness in Family (Paid)

8.2.8.1 For absence due to critical illness in the immediate family a total of three (3) days is shall be authorized for any one instance of use and is not cumulative. This provision shall not affect the cumulative personal sick leave of the employee. Up to two additional days of leave will be granted to compensate for travel over 300 miles from the employee's residence in connection with the critical illness.

8.2.8.2 Critical illness is defined as an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, ~~or continuing treatment by a health care provider~~ or an emergency medical situation that is deemed life threatening.

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8.2.13. Parental Leave

8.2.13.1 California Education Code 44977.5 provides no less than 50% of the employee's regular salary for "parental leave" for the birth or placement of a child in connection with the employee's adoption or foster care.

8.2.13.2 To be eligible for Parental Leave provided under Education Code 44977.5, an employee (mother or father) must have worked continuously for the District for twelve (12) months.

8.2.13.3 Upon request and compliance with District procedures, an employee shall be granted leave for a maximum of twelve (12) work weeks within a twelve (12) month period for parental leave. The twelve (12) work weeks run concurrently with CFRA.

8.2.13.4 Employees must exhaust all available and accumulated sick leave prior to being eligible for differential pay.

8.2.13.5 Parental leave per couple, both of whom are employed by the Fountain Valley School District, is a maximum of twelve (12) weeks in a twelve (12) month period. The twelve (12) weeks may be split between the couple.

8.2.13.6 The District will make its' contribution towards health and welfare benefits for the employee during the period of bonding leave. The Employee will continue to be responsible for his or her monthly portion of health and welfare benefits.

8.2.13.7 A minimum duration of bonding leave is two (2) weeks and bonding leave must be taken within twelve (12) months of the birth or placement of the child with the employee.

8.2.13.8 The Employee is entitled to return to the same location and position as before the Parental Leave was taken.

8.2.13. Paternity and Adoptive Parent Leave (Paid)

8.2.13.1 Five (5) days leave, without loss of salary, shall be granted with no loss of sick leave to employees when the birth of a child necessitates the employee being absent from his/her assignment. The leave may be taken before, during, or within a six (6) week period following the child's birth.

8.2.13.2 If an employee requests up to a six (6) week unpaid leave following the adoption or birth of a child, it shall be granted. The employee shall be entitled to return to the same position held before such leave.

8.2.14 Adoptive Parent Leave (Unpaid)

8.2.14.1 To be eligible for unpaid Adoptive Parent Leave, an employee—(mother or father) must have completed the probationary period.

8.2.14.2 Upon request and compliance with District procedures, an employee shall be granted a maximum of 12 workweeks within a 12-month period of unpaid leave for reasons of adoption or foster care.

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~~8.2.14.3 Leave per couple, both of whom are employed by the Fountain Valley School District, is a maximum of 12 weeks in a 12-month period.~~

~~8.2.14.4 The amount of any paid leave taken for adoption or foster care will be subtracted from the unpaid Adoptive Parent Leave available.~~

~~8.2.14.5 The District will maintain health benefits during 12 weeks of this leave. At the conclusion of 12 weeks, the employee then has the option to continue health benefits by paying the full premium for the remainder of the leave. Employees not entitled to benefits would not be provided benefits during this unpaid leave.~~

~~8.2.14.6 The employee shall be entitled to return to the same location and position as before the unpaid Adoptive Parent Leave was taken.~~

~~8.2.14.7 If an employee decides not to return to work and terminates, then the entire amount of the health insurance premium the District paid for the employee during the leave shall be paid back by the employee. This does not apply if a doctor's certification states the employee is medically unable to return to work.~~

~~8.2.15 Birth and Child Care Leave (Unpaid)~~

~~8.2.15.1 To be eligible for unpaid Birth and Child Care Leave, an employee (mother or father) must have completed the probationary period.~~

~~8.2.15.2 Upon request and compliance with District procedures, an employee shall be granted a maximum of 12 workweeks within a 12-month period of unpaid leave for reasons of birth and childcare.~~

~~8.2.15.3 Leave per couple, both of whom are employed by the Fountain Valley School District, is a maximum of 12 weeks in a 12-month period.~~

~~8.2.15.4 The amount of any paid leave taken for birth and childcare will be subtracted from the amount of unpaid Birth and Child Care Leave available.~~

~~8.2.15.5 The District will maintain health benefits during 12 weeks of this leave. At the conclusion of 12 weeks, the employee then has the option to continue health benefits by paying the full premium for the remainder of the leave.~~

~~8.2.15.6 The employee shall be entitled to return to the same location and position as before the unpaid Birth and Child Care Leave was taken.~~

~~8.2.15.7 If an employee decides not to return to work and terminates, then the entire amount of the health insurance premium the District paid for the employee during the leave shall be paid back by the employee. This does not apply if a doctor's certification states the employee is medically unable to return to work.~~

8.5.2. Evaluation Procedures

8.5.2.4 Permanent employees with greater than four years of service, and "meets" or "exceeds" evaluations in all categories on their most recent evaluation, may, upon mutual agreement between the supervisor and the employee, be evaluated every other year. Employees will be provided an annual evaluation upon request.

8.5.2.5 All other employees shall have a formal evaluation annually prior to April 1st May 15th, effective July 1, 2017.

8.6.2 Safety Committee

8.6.2.2 It is the responsibility of the employee to report to his/her immediate supervisor any conditions deemed unsafe or that may indicate a potential danger. Should no action be taken within a reasonable period of time, the employee shall report he unsafe/dangerous condition(s) to the Assistant Superintendent, Personnel Safety Committee. No employee shall be discriminated against as a result of any report he/she Makes under the provisions of this article.

Section 10.5: Temporary Assignment to Other Duties

10.5.2. An employee may be required to perform duties not prescribed for the position for a period of time not to exceed five working days within a 15 calendar day period. When the reassignment of duties exceeds five working days, the employee working out of classification will be placed on the first step of the class on the latest salary schedule that will result in at least a 5% increase in the employee's base salary for the entire period that work is required out of classification. Any additional compensation (such as longevity pay) the employee is entitled to will be added to that base salary rate as a "flat amount," not adjusted for the higher base rate of pay. No reassignment of duties shall be for a period of more than 30 days without the consent of the Commission.

EXHIBIT B: PROFESSIONAL GROWTH PROGRAM

Introduction

The attitude of the Fountain Valley School District shall be to encourage Professional Growth Program activities for classified employees. The District will budget \$5,000 ~~\$10,000~~ per fiscal year. Any unused funds will be rolled over to the next year up to a maximum of \$10,000 ~~\$15,000~~.

The Professional Growth Program is designed to:

- provide professional growth for the employee
- provide an activity that will reflect increased skills, training, and knowledge for the employee's job
- provide monetary award

An employee is eligible to enter the Professional Growth Program at any time after becoming a permanent employee of the school district (after a six-month probationary period). If an employee has successfully completed a stage in the former "Growth in Service Program" then they are eligible to participate in the new "Professional Growth Program" at the next level. (Example: if an employee completed stage one of the "Growth in Service Program" they will be eligible to begin the second stage of the "Professional Growth Program"). If an employee has completed all steps of the Growth in Service Program they will be ineligible to participate in the "Professional Growth Program".

To enter the Professional Growth Program, the employee, together with their supervisor, shall complete the Declaration of Intent form that outlines a tentative plan of the program to be followed. Forms are available in the Personnel Office. The Declaration of Intent is then submitted to the ~~Executive Director~~ Assistant Superintendent, Personnel, for approval. These plans may be changed from time to time by mutual agreement of the employee, his supervisor, and the ~~Executive Director~~ Assistant Superintendent, Personnel. The Declaration of Intent form should be completed in triplicate and distributed as follows:

- one copy to the supervisor
- one copy to the employee
- one copy to Personnel for the employee's file.

Program Stages

There are four stages to the program. Each stage consists of ~~10~~ 9 points. One stage can be awarded each fiscal year, per employee. There is a lifetime cap of ~~\$2,200~~ \$3,400 per employee. Completion of each stage will result in a stipend awarded as outlined below.

Program Stages

<i>First Stage</i>	\$400 <u>\$700</u>
<i>Second Stage</i>	\$500 <u>\$800</u>
<i>Third Stage</i>	\$600 <u>\$900</u>
<i>Fourth Stage</i>	\$700 <u>\$1,000</u>

Monetary awards will be on a first-come, first-served basis. If the cap is reached, no more awards will be given during that fiscal year. Those requests will be held over to the next fiscal year and will be awarded first.

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EXHIBIT B: PROFESSIONAL GROWTH PROGRAM (cont.)

Qualifying Coursework/Training

Courses may be taken at universities, colleges, junior colleges, trade schools, and adult education. College work shall be taken at accredited educational institutions approved by the Western Association of Schools, Colleges, and Universities. Course work will be related to improvement of job performance and/or professional growth and will include, but not be limited to the following skill areas:

- communication skills (speech, writing, English, or other related subjects)
- inter-personal relation skills (management, psychology, operation of an organization or other related subjects)
- management skills (accounting, bookkeeping, business administration, economics, or other related subjects)
- technical skills (shorthand, carpentry, data processing, bookkeeping, or other related subjects).

Earning Points

One point for each full semester unit taken at a community college or university. College units shall be considered to be semester units. Quarter system units will be converted to semester units on a 2/3 of a point basis. One point for each ten hours of classroom instruction for ROP, adult education, or trade school classes where college equivalent units are not granted. One point for each ten hours of attendance at job-related lectures, training programs, seminars, and District workshops.

Activities are not eligible for credit if the District pays any required fees for the individual employee's participation or if the employee attends during his/her working hours. If the activity is scheduled during working hours, the employee may use vacation or compensatory time to attend with prior approval of their supervisor.

Verification Requirements

It is the responsibility of the employee to provide verification for points completed. This verification must be submitted to the ~~Executive Director~~ Assistant Superintendent, Personnel, to be recorded on the permanent record of the employee. After a stage of the program is completed, the ~~Executive Director~~ Assistant Superintendent, Personnel, shall authorize payment for the stage completed as stated in the preceding paragraphs. Payment of the stipend will be made as soon as possible after completion of the stage is verified.

A new Declaration of Intent must be filed after completion of each stage. Additional points earned during any one stage of the program may be carried over to the next stage.

Verification of coursework shall consist of a transcript, grade card, or certificate from the school attended, indicating a grade of "C" or better. If the course was not awarded unit credit, the employee must provide verification of the number of hours attended and that the course was satisfactorily completed.

Verification of training sessions, lectures, seminars and workshops shall consist of a fee statement, program of activities or registration receipt and shall be presented to the ~~Executive Director~~ Assistant Superintendent, Personnel, within three months after the completion of the activity.

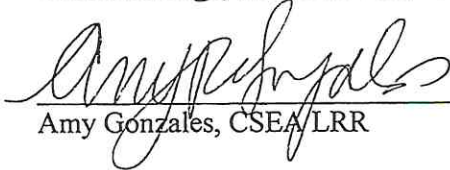
Executed this 7th day of March, 2017.



Gordon Llanos, President CSEA #358



Cathie Abdel, Assistant Superintendent, Personnel



Amy Gonzales, CSEA/LRR



Board meeting of April 13, 2017



Fountain Valley School District
Superintendent's Office
M E M O R A N D U M

TO: Board of Trustees
FROM: Mark Johnson, Superintendent
SUBJECT: **APPROVAL OF EMPLOYMENT CONTRACT FOR
SUPERINTENDENT**
DATE: April 7, 2017

Background:

The Board of Trustees approved selection of Mark Johnson, Ed.D. to the position of Superintendent of the Fountain Valley School District effective January 1, 2015. The attached contract extends employment of Dr. Johnson in the position of Superintendent of the Fountain Valley School District through June 30, 2020. The contract is presented to the Board of Trustees for approval.

Recommendation:

It is recommended that the Board of Trustees approves the employment contract for the position of Superintendent with Mark Johnson, Ed.D.

**CONTRACT
FOR EMPLOYMENT OF SUPERINTENDENT
BETWEEN FOUNTAIN VALLEY SCHOOL DISTRICT
AND DR. MARK JOHNSON**

This agreement is entered into the 13th day of April, 2017, by and between the BOARD OF TRUSTEES ("Board") of the FOUNTAIN VALLEY SCHOOL DISTRICT ("District") and DR. MARK JOHNSON ("Superintendent" or "Dr. Johnson").

WHEREAS, the Board desires to employ Dr. Johnson as Superintendent and Dr. Johnson agrees to serve as Superintendent pursuant to this written employment agreement.

NOW, THEREFORE, it is agreed as follows:

1. Superintendent, Chief Executive Officer and Secretary:

Dr. Johnson is employed as the District's Superintendent, Chief Executive Officer and Secretary to the Board.

2. General Terms and Conditions of Employment:

This agreement is subject to all applicable laws of the State of California and the rules and regulations of the California Board of Education and the District. Said laws, rules and regulations are incorporated herein as though fully set forth.

3. Powers and Duties:

The Superintendent agrees to perform at the highest professional level of competence the services, duties and obligations required by this agreement.

In accordance with Board policy and State law, the Superintendent shall organize, reorganize, and arrange the administrative and supervisory staff in a manner which, in his judgment, best serves the District. The Superintendent shall be responsible for the selection, placement, and transfer of all personnel in accordance with state law, district policy, and employee contracts. Changes in employment status shall be effected only with the recommendations of the Superintendent and the approval of the Board.

Annually, the Board shall provide the Superintendent with the opportunity to review Board-Superintendent relationships and establish District goals and objectives for the following year. The Board shall delineate in writing, areas of concentration for the Superintendent for the upcoming school year.

4. Professional and Organizational Dues and Meeting Attendance:

The Superintendent shall endeavor to maintain and improve his professional competence by all available means including subscriptions to and reading of appropriate periodicals, and membership in professional organizations. The Board shall pay the cost of the Superintendent's membership in the Association of California School Administrators, and the cost of membership in one national and one local organization of the Superintendent's choice. Local organization payments shall not include membership "fines", donations, or other fundraising activities. Additionally, the Board shall pay the costs of Superintendent's attendance at selected professional meetings. Within budgeted amounts, actual and necessary expenses of such conferences are at District expense. The Superintendent shall notify the Board in advance of his attendance at out of state meetings and shall periodically report to the Board on the meetings.

5. Term of Employment:

The District agrees to employ Dr. Johnson, who agrees to serve as Superintendent from April 13, 2017 and ending on June 30, 2020. The Board reserves the right to annually extend this agreement with the consent of the Superintendent. The term of this agreement shall automatically be extended by one (1) year without the necessity of further Board action upon the Board's vote issuing a satisfactory or better annual performance evaluation to the Superintendent.

6. Salary:

The annual base salary paid to the Superintendent for 2016-2017, inclusive of longevity and a doctoral stipend, shall be Two Hundred Thirty-Seven Thousand Eight Hundred Fifty Dollars (\$237,850.00), retroactive to July 1, 2016. Salary shall be paid in 12 equal monthly installments and shall be prorated for service of less than a full year.

In addition, a one-time payment of \$9,500 shall be paid to the Superintendent upon signing of this agreement.

The Superintendent shall receive a mileage allowance of \$300 per month in consideration of his use of a personal automobile for District business. The Superintendent need not submit receipts or proof of miles driven to receive this allowance. The parties recognize that a mileage allowance is not considered creditable compensation by the California State Teachers' Retirement System.

Pursuant to Education Code section 22119.2(a)(5), Superintendent may reduce his salary by an amount up to the maximum allowed by law via contribution to an IRS defined contribution plan.

The Board reserves the right to modify the Superintendent's annual salary, with the consent of the Superintendent. Doing so shall not create a new contract or extension of the existing contract.

7. Fringe Benefits:

(a) Health and Welfare

The District shall provide the Superintendent the fringe benefit program made available to other full-time District management employees. An Executive Health Screening shall be offered to the Superintendent annually at District expense. The physician shall not render a medical report to the District, but shall certify in writing to the Board whether Superintendent is fit to perform the duties of his position.

(b) Sick Leave

The Superintendent shall be entitled to one (1) paid sick leave day for each month of service. The Superintendent shall be entitled to extended illness leave as provided by law. Unused sick leave shall accrue as provided by law.

8. Professional Schedule and Vacation:

The Superintendent shall annually be required to render twelve (12) months of full and regular service; provided, however, that the Superintendent shall be entitled to twenty-four (24) work days of annual vacation with pay, exclusive of holidays defined in Sections 37220 and 37221 of the California Education Code, and any additional local holidays granted by the Board for twelve-month management employees of the District.

A maximum of twenty-four (24) days of earned vacation may be carried over from one year to the next; however, total earned and unused vacation shall not exceed 48 days, at which time vacation accrual shall cease until the total of unused accrual days falls below 48.

In the event of termination of this contract, the Superintendent shall be entitled to compensation for unused vacation at the salary rate effective at the time of the termination. In no case shall more than forty-eight (48) days of unused vacation be paid at the expiration or termination of this contract.

9. Outside Professional Activities:

The Superintendent shall devote his time, attention and energy to the business of the District. With prior Board approval, the Superintendent may undertake consultative work, speaking engagements, writing, lecturing, or other professional duties and obligations, which may be performed for consideration provided they do not interfere with the Superintendent's performance of his duties under this agreement. Such days shall be charged to vacation days. In no case will the District be responsible for any expenses attendant to the performance of such outside activities.

10. Evaluation:

The Board shall evaluate and meet with the Superintendent at least annually to review his performance and working relationships between the Superintendent and the Board. This

evaluation shall be based on the position description, execution of District policies and mutually agreed upon goals and objectives.

Yearly, upon a satisfactory evaluation, the Board President or his/her designee will write a letter of recommendation for the Superintendent.

The lack of an annual evaluation in any year of this agreement shall not affect the employment relationship, the Board's authority to adjust compensation, or the ability of the parties to terminate this agreement pursuant to paragraph 11.

11. Changes in or Termination of Contract:

- (a) This agreement may be amended or terminated by mutual consent of the parties. The party seeking change or termination shall give not less than forty-five (45) days' written notice to the other party.
- (b) Should the Superintendent become a final candidate for other employment, he shall immediately notify the Board. Failure to notify the Board within one business day of the Superintendent learning of such candidacy shall constitute a material breach of this agreement.
- (c) This agreement may be terminated by the Board for cause not limited to material breach of contract, for any of the grounds enumerated in Education Code section 44932, or for the failure by the Superintendent to perform any of the duties and responsibilities set forth in the position description of the Superintendent. In such event, and notwithstanding the procedural provisions of Education Code sections 44932 et seq., the Superintendent shall receive a written statement of charges setting forth the basis for this termination and be provided an opportunity to respond to the Board in closed session. The Superintendent shall have the right, at his own expense, to have a representative of his choice at the conference with the Board. The conference with the Board shall be the Superintendent's exclusive right to any hearing otherwise required by law.
- (d) The Board shall have the power notwithstanding any other term or provision of this agreement, to vote to terminate the employment of the Superintendent prior to the expiration of this agreement, without the necessity of specifying cause. In the event of such termination, the District shall pay to the Superintendent, in accordance with Government Code section 53260, the equivalent of twelve (12) months base salary or the equivalent of salary due for the remainder of this agreement, whichever is less. The District shall also provide health benefits for the same number of months that is represented by the payment to the Superintendent, or until the Superintendent finds other employment that provides health benefits, whichever occurs first. Should the Board exercise

this option, such payment shall fully compensate him for all salary and benefits that would otherwise be due to him.

- (e) Notwithstanding any other provision of this agreement or the policies and regulations of the Board, the Board may elect not to renew this agreement and/or not to reemploy the Superintendent upon expiration of this agreement pursuant to Education Code section 35031. In such event, the Board shall provide the Superintendent with 45 days' written notice in advance of the expiration of his term of employment. If such written notice is not provided, the Superintendent is deemed reemployed for an additional one-year term under the same terms and conditions as set forth in this agreement. The Superintendent shall provide the Board with written notice of the provisions of this subparagraph at least 90 calendar days in advance of the expiration of this agreement. The Superintendent's failure to provide such written notice shall constitute a material breach of this agreement.

12. Professional Liability

The Board shall defend and indemnify the Superintendent from demands, claims, actions, and lawsuits alleging acts or omissions within the scope of his employment in accordance with the requirements of the Tort Claims Act in the California Government Code. This provision shall not apply to any dispute arising under the provisions of this Agreement, to any act or omission by the Superintendent outside the course and scope of his employment, to any criminal act, or to any act or omission committed by the Superintendent with oppression, fraud, or malice. Nothing herein shall be construed to prohibit the District from accepting the defense of any matter under a reservation of rights as permitted by Government Code section 825.

13. Statement Required by Government Code Section 53243.2:

If this Contract is terminated, any cash settlement related to the termination shall be fully reimbursed to the District if the Superintendent is convicted of a crime involving an abuse of the office or position.

14. Action in Open Regular Meeting:

Consistent with the requirements of the State's Open Meeting Law, this contract shall be acted on in the open session of a regular meeting of the Governing Board.

15. If any provision of this agreement is held to be contrary to law by a court of competent jurisdiction, such provision shall not be deemed valid and subsisting except to the extent permitted by law, but all other provisions of this agreement shall continue in full force and effect.

16. This agreement supersedes and replaces all prior agreements between the parties.

April 13, 2017

**BOARD OF TRUSTEES
FOUNTAIN VALLEY SCHOOL DISTRICT**

Sandra Crandall, President

Lisa Schultz, President Pro Tem

Jim Cunneen, Clerk

Ian Collins, Member

Jeanne Galindo, Member

I hereby accept this offer of employment and agree to comply with each and every condition thereof, and to fulfill faithfully all of the duties of employment of Superintendent of the Fountain Valley School District.

Dated: April 13, 2017

Mark Johnson, Ed.D.

APPROVED AS TO FORM:

Atkinson, Andelson, Loya, Ruud & Romo
Cathie L. Fields, Partner

By: _____
Cathie L. Fields



WHEREAS, the contributions of teachers is crucial in the lives of America's youth; and

WHEREAS, the significance of the teacher in the lives of students is growing as a consequence of educational reform and the change in the impact of other institutions in society; and

WHEREAS, our teachers continuously imagine, inspire, and involve their pupils, which emphasizes the worthy objectives that all good teachers inherently incorporate into their daily lesson plans.

PASSED AND ADOPTED By the Governing Board on April 13, 2017 by the following vote:

STATE OF CALIFORNIA)
) ss
COUNTY OF ORANGE)

WITNESSED my hand this 13th day of April, 2017.

Clerk of the Governing Board

Fountain Valley School District
Superintendent's Office

REGULAR MEETING OF THE BOARD OF TRUSTEES

10055 Slater Avenue
Fountain Valley, CA 92708

March 9, 2017

MINUTES

President Crandall called the regular meeting of the Board of Trustees to order at 5:30pm.

CALL TO ORDER

The following board members were present:

ROLL CALL

Sandra Crandall	President
Lisa Schultz	President Pro Tem
Jim Cunneen	Clerk
Ian Collins	Member
Jeanne Galindo	Member

Motion: Mr Collins moved to approve the meeting agenda.

AGENDA APPROVAL

Second: Mrs. Schultz

Vote: 5-0

BOARD WORKSHOP

Assistant Superintendent, Business Services, Christine Fullerton, was joined by Lori Raineri from Government Financial Strategies Inc., to review and discuss the next steps in moving forward with the issuance of the District's General Obligation Bonds. Mrs. Fullerton opened the workshop and welcomed Ms. Raineri to the meeting. Ms. Raineri provided an overview of the information to be discussed this evening including: brief review of Measure O, bond financing plan update, bond sale process, Citizen's Oversight Committee, and next steps. Ms. Raineri congratulated the Board and staff on the passing of Measure O. In addition, she reviewed General Obligation Bond Tax Rates, noting that bond tax rates equate the debt service divided by assessed value. Each property in the District pays its pro rata share, based on its individual assessed value (not market value). In addition, she provided an assessed value growth update. She noted as well that interest rates are below the level planned. Furthermore, she explained the potential of \$63 million in bonds. Ms. Raineri then

Next Steps in the Issuance
of General Obligation
Bonds

reviewed improvements to the bond plan, noting that the District is projected to have more than sufficient bonding capacity to issue \$60.4 million of bonds over five years. She also reviewed the bond sale process including bond sale methods, either a competitive process (auction) or a negotiated process (sale to a pre-selected underwriter or lender/investor). She reviewed GFOA competitive criteria and negotiated criteria. In addition, she provided a review of who buys bonds. Following this, she reviewed the disclosure to investors, the Official Statement (primary disclosure document), and the purpose of disclosures. She provided tips for reviewing disclosures and primary legal documents included in the packet. Following this, Ms. Raineri reviewed the Citizen's Oversight Committee, including Fountain Valley's approach. In closing, Ms. Raineri reviewed next steps in the issuance of General Obligation bonds.

There were no requests to address the Board prior to closed session.

PUBLIC COMMENTS

Mrs. Crandall announced that the Board would retire into Closed Session. Action was anticipated. The following was addressed:

CLOSED SESSION

- Personnel Matters: *Government Code 54957 and 54957.1*
Appointment/Assignment/Promotion of employees; employee discipline/dismissal/release; evaluation of employee performance; complaints/charges against an employee; other personnel matters.
- Pupil Personnel: *Education Code 35146*
Student expulsion(s) or disciplinary matters for violation of Board Policy 5144.1.
- Negotiations: *Government Code 54957.6*
Update and review of negotiations with the FVEA and CSEA Bargaining Units with the Board's designated representative, Cathie Abdel.
- Public Employee Performance Evaluation:
Government Code Section 54957 & 54957.1
The Board will meet in closed session to discuss the annual performance evaluation of the superintendent.

The public portion of the meeting resumed at 7:00pm.

PLEDGE OF
ALLEGIANCE

Boy Scout Troop 1226 led the Pledge of Allegiance.

SPECIAL PRESENTATIONS

It is an interest of the Board of Trustees to recognize outstanding parent volunteers who give generously of their time and talents to our schools. From Tamura School, the Board recognized and thanked Christine Santana and Veronica Tran. The Board was joined by staff, members of the community, students and family members in thanking these parents for their dedication to Tamura School.

RECOGNITION OF TAMURA SCHOOL PARENT VOLUNTEERS

It is an interest of the Board of Trustees to recognize outstanding parent volunteers who give generously of their time and talents to our schools. From Oka School, the Board recognized and thanked Diana Vanovereem and Alexis DeVries. The Board was joined by staff, members of the community, students and family members in thanking these parents for their dedication to Oka School.

RECOGNITION OF OKA SCHOOL PARENT VOLUNTEERS

It is an interest of the Board of Trustees to recognize students who display high achievement, improvement or extraordinary effort. The Board recognized six outstanding students from Tamura School: Mackenzie James-Wong (TK), Rubygrace Fauscette (1st), James Hatcher (2nd), Suri Le (3rd), Kelly Zebarth (4th), and Amberlyn Stone (5th). The Board was joined by family members, staff and community members in celebrating the amazing accomplishments of these students.

RECOGNITION OF TAMURA STUDENTS

It is an interest of the Board of Trustees to recognize students who display high achievement, improvement or extraordinary effort. The Board recognized six outstanding students from Oka School: Jesus Rojas (K), Ethan Hayes (1st), Avery Williams (2nd), Shalimar Aaron (3rd), Ilona Vivanco (4th), and Hieu Nguyen (5th). The Board was joined by family members, staff and community members in celebrating the amazing accomplishments of these students.

RECOGNITION OF OKA STUDENTS

Following the recognitions, the Board took a brief recess.

Members of the Surplus Property “7-11” Committee presented to the Board of Trustees their report and recommendation regarding the Crossroads Property. Committee Co-Chair David Truong shared the work of the 7-11 Committee, their report and recommendation to the Board.

PRESENTATION OF REPORT AND RECOMMENDATION OF SURPLUS PROPERTY “7- 11” COMMITTEE REGARDING

**CROSSROADS
PROPERTY****STAFF REPORTS AND PRESENTATIONS**

Assistant Superintendent, Business, Christine Fullerton, and Director, Fiscal Services, Isidro Guerra, presented and reviewed with the Board of Trustees the Second Interim Report for the Fountain Valley School District. Mrs. Fullerton began by reviewing the mission statement for the District. Following this, she provided an overview of the State economy and the Governor's January Proposal. Mr. Guerra then reviewed the Second Interim Report including assumptions and changes in revenue and expenditures since First Interim. In addition, he reviewed the General Fund Balance and components of the ending fund balance, with an ending fund balance at Second Interim of \$12,377,324. Mrs. Fullerton reviewed multi-year assumptions and projections. She also reviewed the STRS/PERS incremental pension cost increases' impact on the District with total cumulative increases of \$4.1million by 2019-20. She reviewed additional risk factors for the future including: additional increases to escalating PERS and STRS contributions; the return of Maintenance Factors; COLA-only environment as we approach full implementation of LCFF; economic slowdown; LCAP implementation; and maintaining and/or upgrading facilities. In closing, she reviewed the Budget calendar through adoption of the 2017-18 LCAP and Budget at the June 22 meeting.

**SECOND INTERIM
REPORT (WRITTEN AND
ORAL)****BOARD REPORTS AND COMMUNICATIONS**

Mr. Collin's activities since the last meeting included: Rotary MIS Recognitions, Board workshops, FVSF meeting, OCSBA/ACSA Joint Dinner meeting, Edison High School presentation of *All Shook Up*, and HUC Luncheon honoring Joy Moyers.

Mr. Galindo's activities since the last Board meeting included: Chamber of Commerce Business Leadership Awards Luncheon honoring FVSF as Service Club of the Year, HUC Luncheon honoring Joy Moyers, FVSF meeting, middle school volleyball tournament, ELA professional development, meeting with FVEA representatives Christine Currasco and Brandon Plummer.

Mrs. Schultz's activities since the last Board meeting included: OCSBA/ACSA Joint Dinner meeting. She also shared that four

members of ACE went to the Sacramento Safari.

Mr. Cunneen thanked the Board and staff for their support of his recent taking of the California State Bar Exam. His activities since the last Board meeting included: OCSBA/ACSA Joint Dinner meeting, and opening ceremonies for Fountain Valley Little League where Dr. Johnson threw out the first pitch.

Mrs. Crandall thanked Dr. Johnson for opening baseball season for FV Little League. Her activities since the last meeting included: Rotary MIS breakfast honoring Fulton, Chamber of Commerce Leadership Awards Luncheon honoring FVSF, Chamber of Commerce Breakfast, middle school volleyball tournament, OCSBA/ACSA Joint Dinner meeting, Kindergarten information meetings, announcement of FVSD TOTY Beth Fockler at Fulton Middle School, Boys and Girls Club Twilight Program meeting, CGI teacher-led demo lessons, and attending neighboring district Board meetings to observe their practices.

PUBLIC COMMENTS

There were two requests to address the Board of Trustees. Two parents addressed the Board.

PUBLIC COMMENTS

LEGISLATIVE SESSION

Motion:	Mrs. Schultz moved to approve Board Policy 3470 Debt Issuance and Management for first reading.	BOARD POLICY 3470 DEBT ISSUANCE AND MANAGEMENT (FIRST READING)
Second:	Mrs. Galindo	
Vote:	5-0	
Motion:	Mr. Collins moved to approve Board Policy 5116.2 Involuntary Student Transfers for first reading.	BOARD POLICY 5116.2 INVOLUNTARY STUDENT TRANSFERS (FIRST READING)
Second:	Mr. Cunneen	
Vote:	5-0	
Motion:	Mr. Cunneen moved to approve Board Policy 4030 Non Discrimination in Employment for first reading.	BOARD POLICY 4030 NON DISCRIMINATION IN EMPLOYMENT (FIRST READING)
Second:	Mrs. Schultz	

Vote: 5-0

Motion: Mr. Collins moved to approve the addendum to Employment Contract for Assistant Superintendent, Personnel.

Second: Mrs. Galindo

Mrs. Crandall made the following statement:

“Pursuant to Government Code section 54953, subdivision (c)(3), the Board provides this oral summary of the salary and/or fringe benefit increase recommendation for the following local agency executives:

Assistant Superintendent, Personnel, whose term is being extended to June 30, 2020, with total compensation of \$180,713.50 for the 2016-17 school year, which is inclusive of a onetime payment of \$1,754.50. In addition, the Assistant Superintendent, Personnel receives Health and Welfare Benefits not to exceed \$9,000.”

Vote: 5-0

Motion: Mrs. Galindo moved to approve the addendum to Employment Contract for Assistant Superintendent, Business Services

Second: Mrs. Schultz

Mrs. Crandall made the following statement:

“Pursuant to Government Code section 54953, subdivision (c)(3), the Board provides this oral summary of the salary and/or fringe benefit increase recommendation for the following local agency executives:

Assistant Superintendent, Business Services, whose term is being extended to June 30, 2020, with total compensation of \$194,636.68 for the 2016-17 school year, which is inclusive of a onetime payment of \$1,889.68. In addition, the Assistant Superintendent, Business Services receives Health and Welfare Benefits not to exceed \$9,000.”

Vote: 5-0

Motion: Mr. Collins moved to approve the Employment

APPROVAL OF
ADDENDUM TO
EMPLOYMENT
CONTRACT FOR
ASSISTANT
SUPERINTENDENT,
PERSONNEL

APPROVAL OF
ADDENDUM TO
EMPLOYMENT
CONTRACT FOR
ASSISTANT
SUPERINTENDENT,
BUSINESS SERVICES

APPROVAL FOR

Contract for Assistant Superintendent, Educational Services.

EMPLOYMENT
CONTRACT FOR
ASSISTANT
SUPERINTENDENT,
EDUCATIONAL
SERVICES

Second: Mrs. Schultz

Mrs. Crandall made the following statement:

“Pursuant to Government Code section 54953, subdivision (c)(3), the Board provides this oral summary of the salary and/or fringe benefit increase recommendation for the following local agency executives:

Assistant Superintendent, Educational Services, whose term commences July 1, 2016 through June 30, 2020, with total compensation of \$180,617.44 for the 2016-17 school year, which is inclusive of a onetime payment of \$1,724.44 and a \$3,000 doctoral stipend. In addition, the Assistant Superintendent, Educational Services receives Health and Welfare Benefits not to exceed \$9,000.”

Vote: 5-0

Motion: Mrs. Schultz moved to approve appointment of the members of the Citizen’s Bond Oversight Committee presented this evening.

APPOINT MEMBERS
OF CITIZEN’S BOND
OVERSIGHT
COMMITTEE

Second: Mrs. Galindo

Mrs. Crandall noted the community members who will participate as quorum members are:

Tom Antal – Active in a bond fide taxpayer’s organization

Steve Brown – Active in a senior citizen organization

Regan Carpenter – Parent or guardian of a child enrolled in the school district

Jim Escutia – Parent or guardian of a child enrolled in the school district

Bonnie Hansen – Active in a business organization representing the business community within the school district

Joy Moyers – Parent or guardian of a child enrolled in the school district and active in a parent-teacher organization

Amy Vu – Parent or guardian of a child enrolled in the school district

And the following community members will serve as members at large:

Dave Albert

Jim Carrigan

Brad Gaston

Genevieve Maciel
Amy Nguyen

Vote: 5-0

Motion: Mr. Collins moved to approve new Board Policy 5141.33 Head Lice for second reading and adoption. NEW BOARD POLICY 5141.33 HEAD LICE (SECOND READING AND ADOPTION)

Second: Mrs. Galindo

Vote: 5-0

Motion: Mrs. Galindo moved to approve Board Policy 5030 Student Wellness for second reading and adoption. BOARD POLICY 5030 STUDENT WELLNESS (SECOND READING AND ADOPTION)

Second: Mrs. Schultz

Vote: 5-0

Motion: Mr. Cunneen moved to approve Board Policy 6164.6 Identification and Education Under Section 504 for second reading and adoption. BOARD POLICY 6164.6 IDENTIFICATION AND EDUCATION UNDER SECTION 504 (SECOND READING AND ADOPTION)

Second: Mrs. Crandall

Vote: 5-0

Motion: Mrs. Galindo moved to adopt Resolution 2017-15: Acceptance of Surplus Property Advisory Committee Final Report and Recommendation. RESOLUTION 2017-15: ACCEPTANCE OF SURPLUS PROPERTY ADVISORY

Second: Mr. Collins COMMITTEE FINAL REPORT AND RECOMMENDATION

Dr. Johnson confirmed direction from the Board, following their discussion, to bring a resolution for Board approval at the next regularly scheduled meeting to take action regarding disposition of the property.

Vote: 5-0

Motion: Mr. Collins moved to approve Second Interim Report. APPROVAL OF SECOND INTERIM REPORT

Second: Mrs. Schultz

Vote: 5-0

Motion: Mr. Cunneen moved to approve the Consent Calendar.

CONSENT
CALENDAR/
ROUTINE ITEMS OF
BUSINESS

Second: Mrs. Galindo

Vote: 5-0

The Consent Calendar included:

- Board Meeting Minutes from the January 26th special meeting
- Board Meeting Minutes from February 4th special meeting
- Board Meeting Minutes from February 6th special meeting
- Board Meeting Minutes from February 16th regular meeting minutes
- Personnel Items (Employment Functions, Workshops/Conferences, and Consultants)
- Warrants
- Purchase Order Listing
- Budget Adjustments
- Single Plans for Student Achievement
- Purchase of Chromebooks Districtwide
- Approval of Contracts with Educational Management Solutions

SUPERINTENDENT'S COMMENTS/NEW ITEMS OF BUSINESS

Dr. Johnson Thanked Mrs. Raineri for her presentation this evening. He commended the inclusivity of the Bond sale process. In addition, he commended Mrs. Fullerton on the thorough process for finding an architect, noting the recent tours of the work of the finalists. He explained that with this process finished the recommended firm will be brought to the Board at the second March meeting. He noted as well the Every Student Succeeding Breakfast tomorrow with ACSA and for the District with Rotary next week, both wonderful events to look forward to. Moreover, he noted that the work of the 7-11 Committee is complete and commended the committee on their work. In addition, he commended Mrs. Fullerton and Mr. Guerra for their presentation this evening. He commended

the Fountain Valley Schools Foundation on their recent recognition by the Chamber of Commerce as Charitable Organization of the Year. He noted that they are doing great work and are simply remarkable. Dr. Johnson highlighted the upcoming Summer Enrichment Academy. He also commended the professional development going on currently in the District, noting the teacher-led CGI demos and work being done with our new novel units. He encouraged everyone to attend the District Art Show on April 11th and the Taste of Fountain Valley on April 29th. Dr. Johnson commended FVSD Teacher of the Year Beth Fockler. In closing, he commended Mr. Cunneen for commitment to lifelong learning and his inspired embodiment of the values of our District in his recent taking of the State Bar Exam.

CLOSED SESSION

Mrs. Crandall announced that the Board would retire into a second Closed Session. Action was anticipated. The following was addressed:

CLOSED SESSION

- Personnel Matters: *Government Code 54957 and 54957.1*
Appointment/Assignment/Promotion of employees; employee discipline/dismissal/release; evaluation of employee performance; complaints/charges against an employee; other personnel matters.
- Pupil Personnel: *Education Code 35146*
Student expulsion(s) or disciplinary matters for violation of Board Policy 5144.1.
- Negotiations: *Government Code 54957.6*
Update and review of negotiations with the FVEA and CSEA Bargaining Units with the Board's designated representative, Cathie Abdel.
- Public Employee Performance Evaluation:
Government Code Section 54957 & 54957.1
The Board will meet in closed session to discuss the

annual performance evaluation of the superintendent.

Mrs. Crandall made the following Closed Session readout:

**CLOSED SESSION
READOUT**

“In closed session, the governing board took action on the motion of Mr. Collins, seconded by Mr. Cunneen, and a vote of 5 to 0 to authorize the Superintendent or designee to notice 21.0 FTE teachers on temporary contract on or before March 15, 2017 of release from District employment at the conclusion of the current 2016-17 school year pursuant to Education Code section 44954(b).”

ADJOURNMENT

Motion: Mr. Collins moved to adjourn the meeting at 10:07pm.

Second: Mr. Cunneen

Vote: Unanimously approved

/rl

Fountain Valley School District
Superintendent's Office

SPECIAL MEETING OF THE BOARD OF TRUSTEES

10055 Slater Avenue
Fountain Valley, CA 92708

March 23, 2017

MINUTES

President Crandall called the special meeting of the Board of Trustees to order at 5:30pm.

CALL TO ORDER

The following board members were present:

ROLL CALL

Sandra Crandall	President
Lisa Schultz	President Pro Tem
Jim Cunneen	Clerk
Ian Collins	Member
Jeanne Galindo	Member

Motion: Mrs. Schultz moved to approve the meeting agenda.

AGENDA APPROVAL

Second: Mr. Cunneen

Vote: 5-0

Mrs. Abdel led the Pledge of Allegiance.

PLEDGE OF
ALLEGIANCE

BOARD WORKSHOP

Following approval by the Board of Trustees at the March 9 regular meeting, the District has contracted with Educational Management Solutions (EMS) to conduct a classification and compensation study in the Fountain Valley School District. Cheri Boyd and Betty Grey with EMS presented to the Board of Trustees the process and timeline for the District Classification Study. Ms. Boyd shared with the Board some details regarding Educational Management Systems and their company's history. She also reviewed the components of a classification study including the three phases: job analysis, market analysis and development, and implementation. She also reviewed the criteria for success. Ms. Gray provided details regarding data collection and analysis. In addition, she reviewed the job evaluation process next steps following the final report including implementation

EDUCATIONAL
MANAGEMENT
SOLUTIONS (EMS)

and follow-up.

At the direction of the Board, the Fountain Valley School District issued a Request for Qualifications for an architectural firm. **RACHLIN ARCHITECTS**

After an extensive and competitive process, the District recommends selection of Rachlin Partners for construction projects in the District following the passing of Measure O. Assistant Superintendent, Business, Chris Fullerton joined Michael Rachlin and Richard Ingrassia from Rachlin Architects in presenting to the Board of Trustees this evening. Mr. Rachlin and Mr. Ingrassia shared an overview of Rachlin Partners, their history, staff and portfolio.

Following the discussions held at the special Board meetings on January 5th, 26th and February 6th, and the regular meeting of January 12th, senior staff had an opportunity to share additional information with the Board of Trustees regarding construction delivery options in the Fountain Valley School District following the passing of Measure O. Dr. Johnson opened the workshop by noting this is the fifth workshop and discussion regarding delivery methods the Board will have had. He commended Mrs. Fullerton on her work in this effort. In addition, Mrs. Fullerton commended the Board for their quest for knowledge and dedication to educating themselves regarding delivery methods. Following this, Mrs. Fullerton summarized the construction delivery methods, Design-Bid-Build, Construction Manager, Lease-Leaseback, and Design-Build. Dr. Johnson explained the staff recommendation of using a Lease-Leaseback delivery of Measure O construction and the rationale behind this recommendation including: new legislation which addresses areas of past litigation; Guaranteed Maximum Price (GMP) reduces changes orders and project costs; and Architect, Contractor and District work as a team increasing collaboration and the ability of the project to be on time and on budget. The Board then discussed all of the material presented this evening as well as over the last four workshops and gave direction to senior staff to develop an RFP for a Lease-Leaseback presentation to be brought to the Board in draft form at the special meeting of March 30th. Following this, the plan would be to bring the document for approval at the April 13th regular meeting. **CONSTRUCTION DELIVERY METHODS**

PUBLIC COMMENTS

There were no requests to address the Board of Trustees.

PUBLIC COMMENTS

LEGISLATIVE SESSION

Motion: Mr. Cunneen moved to approve the Master Architectural Services Agreement with Rachlin Partners, Inc., for Architectural Services Associated with the District's Measure O Bond Program.

Second: Mr. Collins

Vote: 5-0

Motion: Mr. Galindo moved to approve the Consent Calendar.

Second: Mr. Collins

Vote: 5-0

The Consent Calendar included:

- Memorandum of Understanding between the Fountain Valley Education Association and the Fountain Valley School District – Early Notification of Retirement

There were no requests to address the Board prior to closed session.

Mrs. Crandall announced that the Board would retire into Closed Session. Action was not anticipated. The following was addressed:

- Personnel Matters: *Government Code 54957 and 54957.1*
Appointment/Assignment/Promotion of employees; employee discipline/dismissal/release; evaluation of employee performance; complaints/charges against an employee; other personnel matters.
- Pupil Personnel: *Education Code 35146*
Student expulsion(s) or disciplinary matters for violation of Board Policy 5144.1.
- Negotiations: *Government Code 54957.6*

APPROVAL OF THE
MASTER
ARCHITECTURAL
SERVICES
AGREEMENT WITH
RACHLIN PARTNERS,
INC., FOR
ARCHITECTURAL
SERVICES
ASSOCIATED WITH
THE DISTRICT'S
MEASURE O BOND
PROGRAM
CONSENT
CALENDAR/
ROUTINE ITEMS OF
BUSINESS

PUBLIC COMMENTS

CLOSED SESSION

Update and review of negotiations with the FVEA and CSEA Bargaining Units with the Board's designated representative, Cathie Abdel.

- Public Employee Performance Evaluation:
Government Code Section 54957 & 54957.1
The Board will meet in closed session to discuss the annual performance evaluation of the superintendent.
- Conference with Legal Counsel-Anticipated
Litigation: *Government Code sections 54954.5 (c) and 54956.9 (d)(2)*: one possible case.

SUPERINTENDENT'S COMMENTS/NEW ITEMS OF BUSINESS

Dr. Johnson Thanked the Board for their participation this evening, noting it is the eighth meeting in three months.

ADJOURNMENT

Motion: Mr. Collins moved to adjourn the meeting at 7:58pm.

Second: Mrs. Galindo

Vote: Unanimously approved

/rl

Fountain Valley School District
Superintendent's Office

SPECIAL MEETING OF THE BOARD OF TRUSTEES

10055 Slater Avenue
Fountain Valley, CA 92708

March 30, 2017

MINUTES

President Crandall called the special meeting of the Board of Trustees to order at 5:30pm.

CALL TO ORDER

The following board members were present:

ROLL CALL

Sandra Crandall	President
Lisa Schultz	President Pro Tem
Jim Cunneen	Clerk
Ian Collins	Member
Jeanne Galindo	Member

Motion: Mr. Collins moved to approve the meeting agenda.

AGENDA APPROVAL

Second: Mrs. Schultz

Vote: 5-0

Dr. McLaughlin led the Pledge of Allegiance.

PLEDGE OF
ALLEGIANCE

BOARD WORKSHOP

The Board of Trustees participated in a workshop in order to review the process used to update the District's Local Control Accountability Plan (LCAP). Dr. McLaughlin opened the workshop by reviewing summary details regarding the LCAP including the Local Control Funding Formula (LCFF) and its connection to the LCAP. He reviewed the functions of the LCAP including: identifying goals to improve or increase services, focusing on student achievement, providing a link between budget process and local decisions regarding educational programs, and ensuring local participation. In addition, Dr. McLaughlin reviewed the eight State priorities, the timeline regarding LCAP review and approval and members of the District's LCAP leadership team. Moreover, he reviewed the 2016-17 LCAP Goals. Dr. Hofer then reviewed LCAP metrics. She

LOCAL CONTROL
ACCOUNTABILITY PLAN
(LCAP) WORKSHOP

provided additional details regarding each of the five goals and shared the newly created LCAP visuals. She also reviewed the California Schools Dashboard and the Local Control Funding Formula (LCFF) Evaluation Rubrics. LCFF Evaluation Rubrics report on the eight State priority areas, help identify strengths and areas for improvement and determine eligibility for assistance and support. The California Schools Dashboard is the public portal for reporting these evaluation rubrics. She shared the California Schools Dashboards indicators both for the State (reported for districts and schools) and locally (reported for districts only). Dr. Hoefer shared a snapshot of the California Schools Dashboard and additional details regarding the FVSD Dashboard Equity Report. Following this, she explained the LCFF Evaluation Rubric status/change grid. In addition, she reviewed the draft 2017-18 LCAP goals and actions/services. Dr. McLaughlin then led the Board through a LCAP Q&A activity where trustees were broken into small groups to review the 2016-17 metrics and 2017-18 draft metrics, goals and actions/service followed by an opportunity for questions with staff. In closing, Dr. McLaughlin reviewed the LCAP timeline and CAASP results in the District, emphasizing the focus on outcomes for all students.

Assistant Superintendent, Business, Christine Fullerton, guided the Board of Trustees through a presentation and discussion regarding the competitive process and next steps in using the Lease-Leaseback construction delivery method for projects related to Measure O. Mrs. Fullerton opened the workshop by sharing next steps and preliminary dates in the Lease-Leaseback process including: approval of the Request for Proposal (RFP) and Best Value Criteria, confirmation of past prioritization of sites, release of the RFP, evaluation and interviews, and Board approval of award and contractor. She detailed as well the basic components of the RFP including: notification of the requirement of preconstruction services, mandatory requirements, relevant experience and past performance, and fee proposal. She then reviewed the evaluation process. In addition, Mrs. Fullerton shared a sample Best Value Criteria.

**BOARD PRESENTATION
AND DISCUSSION
REGARDING THE
COMPETITIVE PROCESS
AND NEXT STEPS IN
LEASE-LEASEBACK
CONSTRUCTION
DELIVERY METHOD**

There were no requests to address the Board prior to closed

PUBLIC COMMENTS

session.

Mrs. Crandall announced that the Board would retire into Closed Session. Action was not anticipated. The following was addressed:

CLOSED SESSION

- Personnel Matters: *Government Code 54957 and 54957.1*
Appointment/Assignment/Promotion of employees; employee discipline/dismissal/release; evaluation of employee performance; complaints/charges against an employee; other personnel matters.
- Pupil Personnel: *Education Code 35146*
Student expulsion(s) or disciplinary matters for violation of Board Policy 5144.1.
- Negotiations: *Government Code 54957.6*
Update and review of negotiations with the FVEA and CSEA Bargaining Units with the Board's designated representative, Cathie Abdel.
- Public Employee Performance Evaluation:
Government Code Section 54957 & 54957.1
The Board will meet in closed session to discuss the annual performance evaluation of the superintendent.

SUPERINTENDENT'S COMMENTS/NEW ITEMS OF BUSINESS

Dr. Johnson Thanked the Board of Trustees for their participation in nine meetings over the last three months. In addition, he commended Dr. McLaughlin and Dr. Hoefer for their presentation this evening. In closing, he commended Mrs. Fullerton for her presentation this evening.

ADJOURNMENT

Motion: Mr. Cunneen moved to adjourn the meeting at 7:21pm.

Second: Mr. Collins

Vote: Unanimously approved

/rl

**FOUNTAIN VALLEY SCHOOL DISTRICT
PERSONNEL ITEMS FOR APPROVAL
April 13, 2017**

1.0 EMPLOYMENT FUNCTIONS:

1.1 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS APPROVAL OF THE FOLLOWING NEW CERTIFICATED EMPLOYEES ON TEMPORARY CONTRACT FOR THE 2016-2017 SCHOOL YEAR:

<u>EMPLOYEE</u>	<u>ASSIGNMENT</u>	<u>LOCATION</u>	<u>EFFECTIVE</u>
1.1.1 Kim, Rebecca	5 th Grade	Tamura	03/15/2017

1.2 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS APPROVAL OF THE FOLLOWING CERTIFICATED LEAVES OF ABSENCE:

<u>EMPLOYEE</u>	<u>ASSIGNMENT</u>	<u>LOCATION</u>	<u>REASON</u>	<u>EFFECTIVE</u>
1.2.1 Olson, Mindy	Classroom Teacher	Courreges	Child Bonding	04/03/2017
1.2.2 Jones, Ashley	Classroom Teacher	Newland	Maternity	04/24/2017
1.2.3 Doyle, Jill	Classroom Teacher	Oka	Maternity	04/01/2017
1.2.4 Monsoor, Kristin	Classroom Teacher	Tamura	Medical	01/25/2017
1.2.5 Quinn, Lauren	Middle School/Science	Teacher On Leave	Child Care	2017-2018 School Yr.
1.2.6 Witkamp, Hong	Special Education	Teacher On Leave	Child Care	2017-2018 School Yr.

1.3 ASSISTANT SUPERINTENDENT, PERSONNEL HAS ACCEPTED THE RESIGNATION OF THE FOLLOWING CERTIFICATED EMPLOYEES:

<u>EMPLOYEE</u>	<u>ASSIGNMENT</u>	<u>LOCATION</u>	<u>EFFECTIVE</u>
1.3.1 Couvertier, Michele	Special Education	Teacher on Leave	06/24/2017
1.3.2 Eskes, Dawn	Classroom Teacher	Teacher on Leave	06/24/2017
1.3.3 Miller, Shannon	Middle School Teacher	Teacher on Leave	06/24/2017

1.4 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS APPROVAL OF THE CERTIFICATED JOB SHARE CONTRACTS OF THE FOLLOWING CLASSROOM TEACHERS FOR THE 2017-2018 SCHOOL YEAR.

<u>EMPLOYEE</u>	<u>LOCATION</u>	<u>ASSIGNMENT</u>	<u>%</u>
1.4.1 Harrison, Tracy/Shute, Jaymee	Courreges	Kindergarten	50/50
1.4.2 Ostrzyzek, Tara/Schlosser, Nicole	Cox	2 nd Grade	40/60
1.4.3 DeJulio, Rebecca/Rieck, Mara	Plavan	1 st Grade	50/50
1.4.4 Boktor, Jessica/Siefker, Michelle	Tamura	1 st Grade	50/50

1.5 ASSISTANT SUPERINTENDENT, PERSONNEL HAS ACCEPTED THE RETIREMENTS OF THE FOLLOWING CERTIFICATED EMPLOYEES WITH EARLY NOTIFICATION STIPEND OF \$2000 EACH PAID ON 06/30/2017 WARRANT:

<u>EMPLOYEE</u>	<u>ASSIGNMENT</u>	<u>LOCATION</u>	<u>RETIREMENT DATE</u>
1.5.1 Hersh, Joan	Special Education	Newland	06/24/2017
1.5.2 Bosl, Charlene	Middle School Teacher	Masuda	06/24/2017
1.5.3 Keefer, Debra	Classroom Teacher	Plavan	06/24/2017
1.5.4 Morton, Eric	Classroom Teacher	Plavan	06/24/2017
1.5.5 Fockler, Kevin	Middle School Teacher	Talbert	06/24/2017

1.6 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS APPROVAL OF THE REVISED SCHOOL PSYCHOLOGIST SALARY SCHEDULES (see attachment).

**FOUNTAIN VALLEY SCHOOL DISTRICT
PERSONNEL ITEMS FOR APPROVAL
April 13, 2017**

2.0 EMPLOYMENT FUNCTIONS

- 2.1 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS THE APPROVAL OF THE FOLLOWING NEW CLASSIFIED EMPLOYEE:

	<u>EMPLOYEE</u>	<u>LOCATION</u>	<u>ASSIGNMENT</u>	<u>EFFECTIVE</u>
2.1.1	Alba, Christian	Transportation	Special Education Bus Aide	03/27/17

- 2.2 ASSISTANT SUPERINTENDENT, PERSONNEL HAS ACCEPTED THE FOLLOWING CLASSIFIED LEAVE OF ABSENCE:

	<u>EMPLOYEE</u>	<u>LOCATION</u>	<u>ASSIGNMENT</u>	<u>REASON</u>	<u>EFFECTIVE</u>
2.2.1	Garland, Jason	Maintenance	Plumber	Medical	02/27/17
2.2.2	Ramirez, Claudia	Tamura	Food Service Worker	Medical	03/08/17
2.2.3	Deutschmann, Kimberly	Gisler	P/S Instructor	Family Leave	03/20/17
2.2.4	Reagan, Nichole	Cox	ESP Aide	Family Leave	03/20/17
2.2.5	Duarte, Maria	Newland	ESP Aide	Family Illness	03/27/17
2.2.6	Rivera, Teresita	Cox	Food Service Worker	Medical	04/10/17

- 2.3 ASSISTANT SUPERINTENDENT, PERSONNEL HAS ACCEPTED THE RESIGNATION OF THE FOLLOWING CLASSIFIED EMPLOYEE:

	<u>EMPLOYEE</u>	<u>LOCATION</u>	<u>ASSIGNMENT</u>	<u>EFFECTIVE</u>
2.3.1	O'Connor, Pamela	Oka	Health Assistant	03/29/17

- 2.4 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS APPROVAL OF THE 2016-2017 CLASSIFIED SALARY SCHEDULE REFLECTING AN ADDITIONAL 1.5% SALARY INCREASE, EFFECTIVE 07/01/2016 (see attachments).

- 2.5 ASSISTANT SUPERINTENDENT, PERSONNEL REQUESTS APPROVAL OF THE NON- CLASSIFIED SALARY SCHEDULE PLACEMENT (see attachment).

**FOUNTAIN VALLEY SCHOOL DISTRICT
PERSONNEL ITEMS FOR APPROVAL**

April 13, 2017

<i>EDUCATIONAL SERVICES</i>

3.0 **CONFERENCE/WORKSHOP ATTENDANCE**

	<u>NAME</u>	<u>ATTENDING</u>	<u>LOCATION</u>	<u>COST</u>	<u>BUDGET</u>	<u>DATE</u>
3.1	PECS Training thru Pyramid Educational Consultants	Nicole Burtle, SLP, Newland Nan Eller, SLP, Newland Adeena Homampour, SLP, Newland Candise Woo, SLP, Plavan Erica Gibson, SLP, Fulton Cristen Antal, SLP, Oka	Anaheim, CA	Actual & Necessary	010019961-5210	April 3-5, 2017

REASON FOR LATE SUBMITTAL: Information not available for approval at March Board Meeting.

FOUNTAIN VALLEY SCHOOL DISTRICT
CERTIFICATED MANAGEMENT SALARY SCHEDULE
PSYCHOLOGISTS
2016-2017

RANGE	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F
A	87,358	94,100	100,815	107,871	113,305	118,973

RANGE A Psychologist (192 Days)

NOTE: Step advancement is contingent upon serving at least 50% of the previous year. An additional \$500 on an annual basis is awarded to an earned doctorate. Following the 5th, 10th, 15th, 20th, 25th, 30th and 35th year of employment in the District, a cumulative stipend in the amount of \$500, not to exceed \$3,500 in the 35th year, is awarded.

Board Approved: 04-13-2017
Effective Date: 07-01-2016

FOUNTAIN VALLEY SCHOOL DISTRICT
Classified Salary Schedule
2016 - 2017

Range	Step 1		Step 2		Step 3		Step 4		Step 5	
	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly	Hourly	Monthly
1	13.61	2359	14.29	2477	15.01	2601	15.76	2732	16.55	2869
2	13.78	2388	14.46	2507	15.19	2633	15.95	2764	16.74	2901
3	13.96	2420	14.66	2541	15.41	2670	16.16	2802	16.96	2940
4	14.05	2436	14.76	2558	15.49	2684	16.27	2820	17.09	2962
5	14.23	2466	14.93	2589	15.68	2718	16.46	2853	17.29	2997
6	14.34	2486	15.05	2608	15.81	2740	16.61	2878	17.43	3020
7	14.50	2514	15.23	2640	15.99	2772	16.80	2912	17.63	3056
8	14.64	2537	15.38	2665	16.15	2800	16.95	2939	17.79	3084
9	14.82	2569	15.56	2697	16.34	2832	17.16	2974	18.02	3123
10	14.95	2592	15.70	2722	16.47	2855	17.31	3001	18.18	3152
11	15.10	2617	15.86	2748	16.66	2887	17.50	3033	18.36	3182
12	15.26	2645	16.02	2777	16.83	2917	17.67	3063	18.56	3217
13	15.41	2670	16.17	2804	16.97	2942	17.82	3090	18.73	3246
14	15.53	2692	16.31	2827	17.13	2969	17.98	3116	18.88	3273
15	15.72	2725	16.50	2860	17.34	3006	18.20	3155	19.12	3313
16	15.84	2745	16.64	2883	17.48	3029	18.34	3178	19.26	3338
17	16.02	2777	16.83	2917	17.67	3063	18.56	3217	19.50	3379
18	16.20	2807	17.02	2949	17.87	3097	18.76	3251	19.69	3413
19	16.35	2834	17.18	2978	18.04	3127	18.95	3285	19.89	3447
20	16.52	2864	17.35	3008	18.22	3159	19.13	3315	20.09	3482
21	16.70	2894	17.54	3040	18.42	3193	19.34	3353	20.32	3521
22	16.83	2917	17.68	3065	18.56	3217	19.50	3379	20.47	3548
23	17.05	2955	17.89	3100	18.78	3255	19.71	3416	20.69	3587
24	17.17	2976	18.03	3125	18.93	3281	19.87	3445	20.88	3619
25	17.35	3008	18.22	3159	19.13	3315	20.09	3482	21.08	3655
26	17.53	3038	18.42	3193	19.32	3349	20.30	3518	21.31	3694
27	17.70	3068	18.59	3223	19.52	3383	20.49	3551	21.53	3731
28	17.90	3102	18.79	3257	19.72	3418	20.71	3589	21.75	3770
29	18.05	3129	18.96	3287	19.91	3450	20.90	3623	21.95	3804
30	18.27	3166	19.17	3322	20.13	3489	21.14	3663	22.19	3846
31	18.45	3198	19.37	3358	20.35	3527	21.35	3701	22.43	3887
32	18.59	3223	19.53	3384	20.50	3553	21.53	3731	22.61	3919
33	18.81	3260	19.76	3425	20.75	3596	21.78	3775	22.87	3964
34	19.00	3294	19.95	3457	20.95	3631	22.00	3813	23.10	4005
35	19.16	3321	20.12	3488	21.13	3662	22.17	3843	23.28	4035
36	19.34	3353	20.31	3520	21.33	3697	22.40	3882	23.51	4076
37	19.55	3388	20.52	3557	21.56	3736	22.63	3923	23.76	4118
38	19.76	3425	20.75	3596	21.78	3775	22.87	3964	24.02	4163
39	19.96	3459	20.96	3633	22.00	3813	23.10	4005	24.25	4204

FOUNTAIN VALLEY SCHOOL DISTRICT
Classified Salary Schedule
2016 - 2017

	Step 1		Step 2		Step 3		Step 4		Step 5	
40	20.16	3495	21.17	3669	22.24	3855	23.35	4047	24.52	4250
41	20.39	3534	21.40	3710	22.46	3893	23.60	4090	24.76	4292
42	20.56	3564	21.60	3743	22.67	3930	23.81	4127	25.01	4335
43	20.78	3601	21.81	3781	22.89	3967	24.04	4166	25.25	4376
44	20.98	3637	22.03	3818	23.14	4012	24.28	4209	25.50	4420
45	21.18	3671	22.25	3857	23.36	4049	24.53	4251	25.76	4465
46	21.40	3710	22.46	3893	23.60	4090	24.76	4292	26.00	4507
47	21.62	3747	22.70	3935	23.83	4131	25.03	4339	26.28	4555
48	21.84	3786	22.93	3974	24.08	4173	25.29	4383	26.55	4601
49	22.06	3823	23.17	4015	24.31	4214	25.54	4427	26.82	4649
50	22.28	3862	23.39	4054	24.57	4259	25.79	4470	27.08	4694
51	22.52	3903	23.65	4099	24.83	4303	26.08	4520	27.37	4744
52	22.73	3941	23.87	4138	25.07	4346	26.33	4564	27.62	4788
53	22.96	3980	24.11	4179	25.32	4388	26.58	4607	27.91	4838
54	23.21	4022	24.35	4221	25.58	4434	26.88	4658	28.22	4891
55	23.43	4061	24.60	4264	25.83	4477	27.12	4701	28.48	4937
56	23.65	4099	24.83	4303	26.08	4520	27.37	4744	28.74	4982
57	23.89	4141	25.08	4347	26.34	4566	27.64	4792	29.04	5033
58	24.13	4182	25.32	4388	26.60	4610	27.92	4840	29.33	5083
59	24.35	4221	25.58	4434	26.88	4658	28.22	4891	29.63	5136
60	24.58	4260	25.81	4474	27.09	4696	28.44	4930	29.87	5177
61	24.85	4307	26.10	4523	27.41	4751	28.78	4989	30.21	5236
62	25.10	4351	26.36	4569	27.68	4797	29.06	5037	30.52	5291
63	25.36	4395	26.64	4617	27.97	4848	29.37	5090	30.83	5344
64	25.61	4440	26.90	4662	28.24	4895	29.65	5140	31.13	5396
65	25.84	4479	27.14	4705	28.50	4939	29.92	5186	31.41	5444
66	26.12	4527	27.42	4752	28.79	4991	30.23	5239	31.73	5500
67	26.37	4571	27.69	4799	29.07	5039	30.53	5293	32.06	5557
68	26.65	4619	27.98	4850	29.38	5092	30.85	5348	32.40	5616
69	26.91	4664	28.26	4898	29.67	5143	31.14	5397	32.70	5667
70	27.17	4710	28.54	4946	29.96	5193	31.46	5452	33.04	5726
71	27.47	4761	28.84	4999	30.28	5248	31.80	5511	33.39	5788
72	27.74	4808	29.12	5047	30.57	5298	32.10	5564	33.70	5842
73	27.98	4850	29.38	5092	30.85	5348	32.40	5616	34.02	5897
74	28.27	4900	29.67	5143	31.16	5401	32.71	5669	34.36	5955
75	28.55	4948	29.98	5197	31.50	5460	33.06	5730	34.72	6017
76	28.83	4998	30.30	5252	31.82	5515	33.40	5790	35.08	6080
77	29.13	5049	30.59	5301	32.11	5566	33.72	5845	35.40	6136
78	29.41	5097	30.87	5351	32.43	5621	34.04	5900	35.75	6197
79	29.73	5152	31.21	5410	32.77	5680	34.41	5964	36.14	6264
80	29.99	5198	31.50	5460	33.07	5731	34.72	6017	36.46	6319

FOUNTAIN VALLEY SCHOOL DISTRICT
Classified Salary Schedule
2016 - 2017

	Step 1		Step 2		Step 3		Step 4		Step 5	
81	30.31	5254	31.82	5515	33.42	5792	35.08	6080	36.84	6385
82	30.61	5305	32.13	5570	33.74	5849	35.43	6142	37.21	6449
83	30.90	5357	32.46	5627	34.07	5906	35.78	6202	37.58	6513
84	31.23	5413	32.78	5682	34.43	5968	36.15	6266	37.95	6577
85	31.55	5468	33.12	5740	34.78	6028	36.51	6328	38.34	6645
86	31.86	5522	33.47	5801	35.13	6089	36.88	6392	38.73	6714
87	32.17	5577	33.78	5856	35.47	6147	37.24	6455	39.09	6776
88	32.49	5632	34.11	5913	35.81	6208	37.61	6518	39.49	6845
89	32.81	5687	34.45	5971	36.17	6270	37.99	6584	39.89	6915
90	33.15	5746	34.80	6032	36.53	6332	38.37	6650	40.28	6982
91	33.48	5802	35.15	6092	36.91	6398	38.73	6714	40.68	7051
92	33.81	5861	35.49	6151	37.28	6462	39.14	6785	41.09	7123
93	34.14	5918	35.86	6216	37.64	6524	39.52	6851	41.49	7192
94	34.49	5978	36.21	6277	38.04	6593	39.93	6922	41.93	7268
95	34.83	6037	36.58	6341	38.41	6657	40.32	6989	42.34	7339

Ratified March 23, 2017

2.5% increase to 2015-2016 Salary Schedule

Board Approved: _____

Effective 07-01-2016

Fountain Valley School District
Classified Salary Schedule Placement

Revised 4/01/17

<u>ACCOUNTING</u>	<u>RANGE</u>	<u>INSTRUCTIONAL SERVICES Cont.</u>	<u>RANGE</u>
Accountant	83	Special Education	25
Senior Payroll Technician	66	Classroom	21
Accounting Technician	58	Instructional Support	56
Purchasing Technician	56	Certified Occupational Therapy Asst.	56
Senior Accounting Assistant	52	Licensed Vocational Nurse	56
Accounting Assistant	47	Speech/Language Pathology Asst.	56
Payroll Clerk	47	Bilingual Testing Technician	36
<u>CHILD CARE SERVICES</u>		Community Liaison	31
Extended School Program		<u>LIBRARY/MEDIA</u>	
ESP Lead Instructor	40	Instructional Materials Technician	43
Recreation Coordinator	40	Senior Library Technician	43
Asst. Recreation Coordinator	25	Library/Media Technician	38
ESP Instructor	25	<u>MAINTENANCE/OPERATIONS</u>	
ESP Aide	13	Custodial	
Recreation Leader	13	Head Custodian	52
Preschool		Custodian	39
Lead Preschool Instructor	39	Grounds	
Preschool Instructor	29	Irrigation Technician	58
Preschool Aide	18	Skilled Groundskeeper	56
<u>CLERICAL</u>		Lead Groundskeeper	53
School Office Manager	51	Mower Operator	48
Administrative Asst.-Technology	51	Groundskeeper	45
Administrative Assistant	51	Maintenance	
Child Care Program Technician	46	Electrician	66
Senior Office Assistant	41	Heating/Ventilation Technician	66
Autism Office Assistant	41	Material Expediter	66
Child Care Program Assistant	41	Plumber	66
Office Assistant	36	Painter	64
Health Assistant	30	A/V Communications Repair Technician	62
Instructional Science Materials Asst.	21	Locksmith	62
		Maintenance Worker III	62
<u>FOOD SERVICES</u>		Maintenance Worker II	54
Food Services Field Operations Coord.	56	Maintenance Worker I	46
Food Services Delivery Driver	48	<u>PUBLICATIONS</u>	
Food Services Technician	46	Duplicating Operator	32
Food Services Worker	10	<u>TRANSPORTATION</u>	
<u>HUMAN RESOURCES</u>		Lead Heavy Duty Mechanic	74
Substitute Services Technician	41	Heavy Duty Mechanic	66
<u>INFORMATION TECHNOLOGY</u>		Senior Bus Driver	54
Computer/Network Specialist II	95	Bus Driver	43
Computer/Network Specialist I	90	Special Education Bus Aide	21
Technology Support Specialist	80	<u>WAREHOUSE</u>	
Application Specialist	75	Warehouse Operator/Delivery Driver	50
Website/Social Media Technician	71		
Assessment/Data Technician	61	<u>ADDITIONAL COMPENSATION TYPES/AMOUNTS</u>	
Field Support Help Desk Technician	45	<u>LONGEVITY</u>	<u>GROWTH-IN-SERVICE</u>
<u>INSTRUCTIONAL SERVICES</u>		2% after 10 years	5% - Stage One
Instructional Assistants - Classroom:		4% after 15 years	10% - Stage Two
Behavior Intervention Assistant	44	6% after 20 years	15% - Stage Three
Discrete Trial Training	34	8% after 25 years	20% - Stage Four
Speech/Language	34	10% after 30 years	<u>PROFESSIONAL GROWTH</u>
Deaf/HOH	32	12% after 35 years	\$700 - Stage One
SH/PH	30		\$800 - Stage Two
Bilingual	28		\$900 - Stage Three
Computer	25		\$1000 - Stage Four

Fountain Valley School District
Non-Classified Salary Schedule Placement
2016-2017

<u>Classification</u>	<u>Hourly Rate</u>	<u>Range/Step</u>
Noon Duty Aide	\$17.31	10/4
Information Technology Student Worker	\$16.12	SW2/01
Student Worker	\$10.50	01/01

Minimum Wage - \$10.50/hr – effective 1/1/17

Controller's Government Compensation in California
<http://www.publicpay.ca.gov/>

FOUNTAIN VALLEY SCHOOL DISTRICT DONATIONS

BOARD APPROVAL DATE: 4/13/2017

SCHOOL	DONOR	AMOUNT	DESCRIPTION / INTENDED USE
DISTRICT			
	FV Schools Foundtion	\$1,794.90	Middle Schools Honors Orchestra
COURREGES			
	Pacific Life Foundation	\$3,000.00	Purchase Gr. Level Readers for K-2 gr.
COX			
	Cox PTO	\$6,064.50	5th Gr. Outdoor Ed Transportation
	Cox PTO	\$13.79	Classroom Enhancement
FULTON			
	Fulton PTA	\$1,807.07	Club Stipends/Benefits
	Fulton PTA	\$232.68	Cheer Stipend/Benefits
	Fulton PTA	\$103.60	Release Stipend/Benefits
MASUDA			
	Masuda PTSO	\$1,480.95	Clubs, Coach & Cheer Stipends, Benefits
OKA			
	Oka PTO	\$647.40	Charter bus field trip to Griffity Observatory
	Oka PTO	\$93.11	Supplies for tchr, Jeanie Moussa-Zahab
	Oka PTO	\$3,000.00	Principal's Discretion
	Oka PTO	\$115.56	Sub for Carla Miali's class for field trip
	Edison-Your Cause LLC	\$50.00	Principal's Discretion
PLAVAN			
	Plavan PTO	\$49.14	Instructional Supplies
	Plavan PTO	\$1,456.00	Transportation for ski trip
TALBERT			

	Talbert Music/Kristin Cooley	\$441.00	Music Program
	Talbert ASB	\$334.33	PE Equipment
	Talbert PTO	\$880.00	After school clubs, homework help,
	Talbert Parents/Students	\$2,406.00	Duck's first flight field trip
	Talbert Parents/Students	\$900.00	8th Gr. UCI field trip
	Talbert ASB	\$2,221.80	Computer for Yearbook Advisor
	Talbert Parents/Students	\$168.75	Drama Elective
	Talbert ASB	\$2,641.71	After school clubs, homework help, ASB advisor 3 release days
TAMURA			
	Wells Fargo Community Support Program	\$65.00	Principal's Discretion
	Tamura PTO	\$904.80	5th gr. Field Trip- Trans. Performing Arts

**FOUNTAIN VALLEY SCHOOL DISTRICT
BOARD MEETING APRIL 13, 2017**

To: Christine Fullerton

From: Mino Nhek

Subject: Warrant Listing

Warrant Numbers: 75844 - 76187

Dates: 2/28/2017 - 3/31/2017

Fund 01	General Fund	427,358.56
Fund 12	Child Development	31,818.62
Fund 13	Cafeteria	53,309.15
Fund 25	Capital Facilities	-
Fund 40	Special Reserves	-
Fund 68	Worker Comp	71,933.17
Fund 69	Insurance	407,502.50

TOTAL	\$	991,922.00
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FOUNTAIN VALLEY SD
PURCHASE ORDER DETAIL REPORT - CHANGE ORDERS BY FUND
BOARD OF TRUSTEES 04/13/2017

FRO 03/01/2017 TO 03/31/2017

<u>PO</u> <u>NUMBE</u>	<u>VENDOR</u>	<u>PO</u> <u>TOTAL</u>	<u>CHANGE</u> <u>AMOUNT</u>	<u>ACCOUNT</u> <u>NUMBE</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
K20M4003	RESOURCE BUILDING MATERIALS	6,000.00	+3,000.00	012899390 4343	Gardening / Gardening Supplies
K20M4006	HOME DEPOT	8,000.00	+3,000.00	012899390 4343	Gardening / Gardening Supplies
K20M4011	NAPA AUTO PARTS	12,700.00	+1,000.00	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4020	HARBOR WHOLESALE ELECTRIC	6,000.00	+1,000.00	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4021	HOME DEPOT	20,500.00	+1,000.00	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4039	ALLIED REFRIGERATION INC.	3,000.00	+500.00	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4275	UNITED PARCEL SERVICE	73.68	+33.68	012869390 5930	Maintenance / Postage, Parcel, & Delivery
K20R0364	ARIEL SUPPLY INC.	2,400.00	+400.00	012723838 4325	Sch Site Admin - Talbert / Office Supplies
K20S8018	UNITED HEALTH SUPPLIES	540.15	+424.32	011000000 9320	Revenue Limit - State Revenues / STORES
K20X0044	CHIDESTER, MARGARET A.	8,500.00	+1,000.00	012159470 5830	Personnel - Legal Services / Legal Fees
K20X0114	SCHOOL SPECIALTY	5,000.00	+2,000.00	010144949 4310	Sch Site Instr - Masuda / Instructional Supplies
Fund 01 Total:			+13,358.00		

FOUNTAIN VALLEY SD

PURCHASE ORDER DETAIL REPORT - CHANGE ORDERS BY FUND

BOARD OF TRUSTEES

04/13/2017

FRO 03/01/2017 TO 03/31/2017

<u>PO NUMBE</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>CHANGE AMOUNT</u>	<u>ACCOUNT NUMBE</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
K20R1124	LAKESHORE LEARNING MATERIALS	862.00	+107.75	120017598 4310	Child Dev Cntr Preschool Instr / Instructional Supplies
K20X0261	SAMS CLUB	6,480.00	+1,080.00	123207598 4710	Child Dev Cntr Prsch Food Serv / Food
Fund 12 Total:			+1,187.75		

FOUNTAIN VALLEY SD

PURCHASE ORDER DETAIL REPORT - CHANGE ORDERS BY FUND

BOARD OF TRUSTEES

04/13/2017

FRO 03/01/2017 TO 03/31/2017

<u>PO</u> <u>NUMBE</u>	<u>VENDOR</u>	<u>PO</u> <u>TOTAL</u>	<u>CHANGE</u> <u>AMOUNT</u>	<u>ACCOUNT</u> <u>NUMBE</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
K20R1129	SENSOSCIENTIFIC, INC	6,584.94	+4,808.38	133207380 4399	Cafeteria Fund / Equipment Under \$500
			+1,776.56	133207380 4410	Cafeteria Fund / Fixed Assets \$500-\$5000
			-7,217.70	133207380 5826	Cafeteria Fund / Licensing/Software,Maint/Supp
	Fund 13 Total:		-632.76		

FOUNTAIN VALLEY SD

PURCHASE ORDER DETAIL REPORT - CHANGE ORDERS BY FUND

BOARD OF TRUSTEES

04/13/2017

FRO 03/01/2017 TO 03/31/2017

<u>PO NUMBE</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>CHANGE AMOUNT</u>	<u>ACCOUNT NUMBE</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
K20R0025	P & A ADMINISTRATIVE SERVICES	147,000.00	-42,000.00	695019470 3701	Insurance Health/Welfare-Retir / RETIREE
			-31,000.00	695019470 3702	Insurance Health/Welfare-Retir / RETIREE
K20X0022	P & A ADMINISTRATIVE SERVICES	1,400.00	-600.00	695009470 5813	Insurance Health/Welfare / Consultant
Fund 69 Total:			-73,600.00		

FOUNTAIN VALLEY SD
PURCHASE ORDER DETAIL REPORT - CHANGE ORDERS BY FUND
BOARD OF TRUSTEES 04/13/2017

FRO 03/01/2017 TO 03/31/2017

<u>PO</u> <u>NUMBE</u>	<u>VENDOR</u>	<u>PO</u> <u>TOTAL</u>	<u>CHANGE</u> <u>AMOUNT</u>	<u>ACCOUNT</u> <u>NUMBE</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
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Total Account Amount:	-59,687.01
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FOUNTAIN VALLEY SD
PURCHASE ORDER DETAIL REPORT BY FUND
BOARD OF TRUSTEES MEETING 04/13/2017

FROM 03/01/2017 TO 03/31/2017

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>ACCOUNT AMOUNT</u>	<u>ACCOUNT NUMBE</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
K20M4240	BOBCAT OF CERRITOS	150.00	150.00	012899390 4347	Gardening / Repair & Upkeep Equip Supplies
K20M4241	LINE-X OF SOUTH COAST	525.00	525.00	012869390 5645	Maintenance / Outside Srvs-Repairs & Mainten
K20M4242	TURF STAR INC.	600.00	600.00	012899390 4343	Gardening / Gardening Supplies
K20M4243	GRUETT TREE COMPANY INC	13,025.00	13,025.00	012899390 5645	Gardening / Outside Srvs-Repairs & Mainten
K20M4244	AMERICAN ENVIRONMENTAL SPECIAL	500.00	500.00	012869390 5645	Maintenance / Outside Srvs-Repairs & Mainten
K20M4245	AMERICAN ENVIRONMENTAL SPECIAL	500.00	500.00	012869390 5645	Maintenance / Outside Srvs-Repairs & Mainten
K20M4246	AMERICAN ENVIRONMENTAL SPECIAL	809.15	809.15	012869390 5645	Maintenance / Outside Srvs-Repairs & Mainten
K20M4248	AMERICAN ENVIRONMENTAL SPECIAL	604.97	604.97	012869390 5645	Maintenance / Outside Srvs-Repairs & Mainten
K20M4249	OREGRO SEEDS INC	1,334.00	1,334.00	012899390 4343	Gardening / Gardening Supplies
K20M4250	EBERHARD EQUIPMENT	300.00	300.00	012899390 4343	Gardening / Gardening Supplies
K20M4276	HILLYARD / LOS ANGELES	120.00	120.00	012889390 4340	Custodial / Custodial Supplies
K20M4282	WALTERS WHOLESALE ELECTRIC CO	1,700.00	1,700.00	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4283	BUCHAN, RANDOLPH J	195.00	195.00	012869390 5645	Maintenance / Outside Srvs-Repairs & Mainten
K20M4287	DECKER EQUIPMENT/SCHOOL FIX	2,129.28	2,129.28	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4290	ORANGE COUNTY APPLIANCE PARTS	133.48	133.48	014869390 4347	STAR Building DO-Routine Maint / Repair & Upkeep Equip
K20M4292	MENDTRONIX INC.	454.76	454.76	012869390 5645	Maintenance / Outside Srvs-Repairs & Mainten
K20M4293	CRESTRON ELECTRONICS INC	300.00	300.00	014869390 5645	STAR Building DO-Routine Maint / Outside Srvs-Repairs &
K20M4294	CRANDALL'S PLUMBING INC.	5,575.00	5,575.00	012869390 5645	Maintenance / Outside Srvs-Repairs & Mainten
K20M4295	GANAHL LUMBER COMPANY	152.28	152.28	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4297	GRAINGER INC.	173.79	173.79	012899390 4343	Gardening / Gardening Supplies
K20M4298	INDUSTRIAL METAL SUPPLY	351.55	351.55	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4299	EREPLACEMENTPARTS.COM LLC	85.10	85.10	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4300	DECKER EQUIPMENT/SCHOOL FIX	2,829.43	2,829.43	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4301	SHIMANOFF, PERRY	600.00	600.00	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4303	CRANDALL'S PLUMBING INC.	622.00	622.00	012869390 5645	Maintenance / Outside Srvs-Repairs & Mainten
K20M4304	CRANDALL'S PLUMBING INC.	159.00	159.00	012869390 5645	Maintenance / Outside Srvs-Repairs & Mainten
K20M4305	TRIANGLE SCENERY DRAPERY	1,675.00	1,675.00	012869390 5645	Maintenance / Outside Srvs-Repairs & Mainten
K20M4306	DECKER EQUIPMENT/SCHOOL FIX	80.41	80.41	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4307	AMERICAN TECHNOLOGIES	3,079.00	3,079.00	012869390 5645	Maintenance / Outside Srvs-Repairs & Mainten
K20M4309	EREPLACEMENTPARTS.COM LLC	87.98	87.98	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4311	TOMARK SPORTS	294.29	294.29	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies
K20M4312	SHIFFLER EQUIPMENT SALES INC.	855.65	855.65	012869390 4347	Maintenance / Repair & Upkeep Equip Supplies

FOUNTAIN VALLEY SD
PURCHASE ORDER DETAIL REPORT BY FUND
BOARD OF TRUSTEES MEETING 04/13/2017

FROM 03/01/2017 TO 03/31/2017

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>ACCOUNT AMOUNT</u>	<u>ACCOUNT NUMBE</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
K20M4313	GRAINGER INC.	86.89	86.89	012899390 4343	Gardening / Gardening Supplies
K20R0863	DIDAX INC.	195.96	195.96	012739964 4310	Medi-Cal Billing-OT Services / Instructional Supplies
K20R1069	WINSOR LEARNING INC	600.00	600.00	010019961 4310	Medi-Cal Billing-Instructional / Instructional Supplies
K20R1088	LAKESHORE LEARNING MATERIALS	107.75	107.75	015641660 4310	Special Ed. - Newland S&L / Instructional Supplies
K20R1131	ACHIEVEMENT EQUITY INC.	2,000.00	2,000.00	012719166 5813	Board of Trustees / Consultant
K20R1160	HEINEMANN	5,803.95	5,803.95	010113255 4310	Title I - Cox / Instructional Supplies
K20R1163	BARNES AND NOBLE	671.71	671.71	010113255 4310	Title I - Cox / Instructional Supplies
K20R1164	BOOKSOURCE	3,137.38	3,137.38	010113255 4310	Title I - Cox / Instructional Supplies
K20R1172	ARIEL SUPPLY INC.	162.81	162.81	010019961 4320	Medi-Cal Billing-Instructional / Computer Supplies
K20R1176	SOUTHWEST SCHOOL AND OFFICE SU	50.00	50.00	012731010 4327	Health Supplies - Tamura / Health Supplies
K20R1177	GREAT BOOKS FOUNDATION	225.00	225.00	010113755 5899	Title I - Oka / Other Operating Expenses
K20R1185	OFFICE DEPOT	60.37	60.37	012719165 4325	Superintendent / Office Supplies
K20R1187	APPLE COMPUTER ORDER DEPARTMEN	413.37	413.37	010142929 4399	Sch Site Instr - Fulton / Equipment Under \$500
K20R1192	ARIEL SUPPLY INC.	740.73	740.73	010019961 4320	Medi-Cal Billing-Instructional / Computer Supplies
K20R1193	SCHOLASTIC READING COUNTS!	601.25	601.25	010113255 4310	Title I - Cox / Instructional Supplies
K20R1194	AMAZON.COM LLC	183.18	183.18	010014747 4310	Sch Site Instr - Courreges / Instructional Supplies
K20R1195	BARNES AND NOBLE	117.05	117.05	011235275 4310	State Standards Discrt-ELA / Instructional Supplies
K20R1206	CERTIFIED TRANSPORTATION BUS C	452.40	452.40	010011689 5811	Donations - Newland / Transportation Outside Agency
K20R1207	PACIFIC COACHWAYS	958.00	958.00	010011689 5811	Donations - Newland / Transportation Outside Agency
K20R1208	SCHOOL SERVICES OF CALIFORNIA	615.00	205.00	010019961 5210	Medi-Cal Billing-Instructional / Travel, Conference, Worksho
			205.00	012719380 5210	Business Department / Travel, Conference, Workshop
			205.00	012849380 5210	Fiscal Services / Travel, Conference, Workshop
K20R1209	AMAZON.COM LLC	285.54	285.54	010143838 4310	Sch Site Instr - Talbert / Instructional Supplies
K20R1210	SOUTHWEST SCHOOL AND OFFICE SU	442.85	182.10	012719380 4325	Business Department / Office Supplies
			165.94	012719385 4325	Purchasing / Office Supplies
			94.81	012849380 4325	Fiscal Services / Office Supplies
K20R1214	BARNES AND NOBLE	728.70	728.70	011235275 4310	State Standards Discrt-ELA / Instructional Supplies
K20R1216	ORANGE COUNTY DEPARTMENT OF ED	2,000.00	2,000.00	012109078 5826	Tech/Media Office Operation / Licensing/Software,Maint/Supp
K20R1217	LYNDE-ORDWAY COMPANY	377.13	377.13	012059385 5645	Publications / Outside Srvs-Repairs & Mainten
K20R1218	CASP	290.00	290.00	010019961 5210	Medi-Cal Billing-Instructional / Travel, Conference, Worksho
K20R1219	REGENTS OF THE UNIVERSITY OF C	67,430.00	67,430.00	010055175 5210	State Standards-MATH / Travel, Conference, Workshop
K20R1220	ORANGE COUNTY DEPARTMENT OF ED	420.00	420.00	010143838 4310	Sch Site Instr - Talbert / Instructional Supplies
K20R1221	XCELL INC.	65.00	65.00	012109078 4347	Tech/Media Office Operation / Repair & Upkeep Equip Supplie

FOUNTAIN VALLEY SD
PURCHASE ORDER DETAIL REPORT BY FUND
BOARD OF TRUSTEES MEETING 04/13/2017

FROM 03/01/2017 TO 03/31/2017

<u>PO NUMBER</u>	<u>VENDOR</u>	<u>PO TOTAL</u>	<u>ACCOUNT AMOUNT</u>	<u>ACCOUNT NUMBE</u>	<u>PSEUDO / OBJECT DESCRIPTION</u>
K20R1222	REVENUE ENHANCEMENT GROUP INC.	1,159.23	1,159.23	019509380 5899	STAR Building DO - Operations / Other Operating Expenses
K20R1224	METRO BUSINESS SOLUTIONS INC.	140.06	140.06	012059385 5645	Publications / Outside Srvs-Repairs & Mainten
K20R1225	METRO BUSINESS SOLUTIONS INC.	140.06	140.06	012059385 5645	Publications / Outside Srvs-Repairs & Mainten
K20R1227	LEVEL 27 MEDIA	37.71	37.71	012723737 4325	Sch Site Admin - Oka / Office Supplies
K20R1232	AMAZON.COM LLC	73.13	73.13	012109078 4399	Tech/Media Office Operation / Equipment Under \$500
K20R1233	BARNES AND NOBLE	68.53	68.53	010055175 4310	State Standards-MATH / Instructional Supplies
K20R1235	ONEOC	107.75	107.75	010239275 5210	School Nurse Expansion Project / Travel, Conference, Workshop
K20R1237	STAPLES	97.21	97.21	010144949 4310	Sch Site Instr - Masuda / Instructional Supplies
K20R1239	STAPLES	43.08	43.08	010014747 4310	Sch Site Instr - Courreges / Instructional Supplies
K20R1244	SOUTHWEST SCHOOL AND OFFICE SU	323.25	323.25	010055175 4310	State Standards-MATH / Instructional Supplies
K20R1245	SHI INTERNATIONAL CORP	248.47	248.47	015513860 4399	Special Ed. - Talbert RSP / Equipment Under \$500
K20R1248	SCHOOL SERVICES OF CALIFORNIA	1,650.00	330.00	010059470 5210	Contractual Obligation - Cert / Travel, Conference, Workshop
			330.00	010059771 5210	Contractual Obligation - Class / Travel, Conference, Workshop
			330.00	012719165 5210	Superintendent / Travel, Conference, Workshop
			165.00	012719275 5210	Educational Services Admin / Travel, Conference, Workshop
			165.00	012719380 5210	Business Department / Travel, Conference, Workshop
			165.00	012719470 5210	Personnel Department / Travel, Conference, Workshop
			165.00	012849380 5210	Fiscal Services / Travel, Conference, Workshop
K20R1251	MOMENTUM IN TEACHING LLC	3,400.00	500.00	010014040 5813	Sch Site Instr - Plavan / Consultant
			2,400.00	010055675 5813	State Standards-READING / Consultant
			500.00	010113755 5813	Title I - Oka / Consultant
K20R1252	PRACTI-CAL	4,687.50	4,687.50	012299962 5813	Medi-Cal Billing-Consultant / Consultant
K20R1253	AMAZON.COM LLC	1,185.25	1,185.25	010239275 4310	School Nurse Expansion Project / Instructional Supplies
K20R1254	GROWING EDUCATORS INC	850.00	850.00	010055675 5813	State Standards-READING / Consultant
K20R1257	BOOKSOURCE	992.01	992.01	010124747 4310	Pacific Life Grant - Courreges / Instructional Supplies
K20R1258	BOOKSOURCE	941.48	941.48	010124747 4310	Pacific Life Grant - Courreges / Instructional Supplies
K20R1259	LAKESHORE LEARNING MATERIALS	286.00	286.00	015101660 4310	Special Ed. - Newland SDC / Instructional Supplies
K20R1260	HEINEMANN	11,412.31	11,412.31	011235675 4310	State Standards Discrt-READING / Instructional Supplies
K20R1262	XCELL INC.	65.00	65.00	012109078 4347	Tech/Media Office Operation / Repair & Upkeep Equip Supplie
K20R1264	LAKESHORE LEARNING MATERIALS	90.47	90.47	015641660 4310	Special Ed. - Newland S&L / Instructional Supplies
K20R1265	LAKESHORE LEARNING MATERIALS	300.00	300.00	015513760 4310	Special Ed. - Oka RSP / Instructional Supplies
K20R1266	BUREAU OF EDUCATION & RESEARCH	249.00	249.00	010142929 5210	Sch Site Instr - Fulton / Travel, Conference, Workshop
K20R1267	GROWING EDUCATORS INC	198.00	198.00	010055675 5210	State Standards-READING / Travel, Conference, Workshop

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K20R1271	CURRICULUM ASSOCIATES INC.	155.68	155.68	010019961 4322	Medi-Cal Billing-Instructional / Testing Supplies
K20R1272	PENN STATE INDUSTRIES	386.91	386.91	010142989 4311	Donations - Fulton / Elective Supplies
K20R1273	CRAFT SUPPLIES USA	279.30	279.30	010142989 4311	Donations - Fulton / Elective Supplies
K20R1278	SEHI COMPUTER PRODUCTS	124,551.35	124,551.35	012109078 4399	Tech/Media Office Operation / Equipment Under \$500
K20R1279	SEHI COMPUTER PRODUCTS	15,685.78	15,685.78	012109078 4410	Tech/Media Office Operation / Fixed Assets \$500-\$5000
K20R1280	SEHI COMPUTER PRODUCTS	6,541.56	6,541.56	012109078 4399	Tech/Media Office Operation / Equipment Under \$500
K20R1281	BARNES AND NOBLE	291.61	291.61	010014747 4310	Sch Site Instr - Courreges / Instructional Supplies
K20R1282	BARNES AND NOBLE	349.08	349.08	010014747 4310	Sch Site Instr - Courreges / Instructional Supplies
K20R1283	SCHOOL SPECIALTY	56.12	56.12	010014747 4310	Sch Site Instr - Courreges / Instructional Supplies
K20R1284	SCHOOL SPECIALTY	81.27	81.27	010142929 4310	Sch Site Instr - Fulton / Instructional Supplies
K20R1285	ANAHEIM BAND INSTRUMENTS	920.49	920.49	010143889 4311	Donations - Talbert / Elective Supplies
K20R1286	SHI INTERNATIONAL CORP	8,696.45	8,696.45	010113755 4399	Title I - Oka / Equipment Under \$500
K20R1288	US GAMES	1,600.22	1,600.22	010013737 4310	Sch Site Instr - Oka / Instructional Supplies
K20R1290	PYRAMID EDUCATIONAL CONSULTANT	3,294.00	3,294.00	010019961 5210	Medi-Cal Billing-Instructional / Travel, Conference, Worksho
K20R1291	WOCCE	650.00	650.00	010019961 5210	Medi-Cal Billing-Instructional / Travel, Conference, Worksho
K20R1293	PEARSON CLINICAL ASSESSMENT	1,449.10	1,449.10	010019961 4322	Medi-Cal Billing-Instructional / Testing Supplies
K20R1294	XCELL INC.	65.00	65.00	012109078 4347	Tech/Media Office Operation / Repair & Upkeep Equip Supplie
K20R1295	GROWING EDUCATORS INC	297.00	297.00	010013131 5210	Sch Site Instr - Gisler / Travel, Conference, Workshop
K20R1297	MEMORIAL PROMPT CARE & FAMILY	198.00	198.00	012719470 5820	Personnel Department / Physical Exam, Drug testing
K20R1299	ANDERSON'S	1,919.96	1,919.96	010144949 4310	Sch Site Instr - Masuda / Instructional Supplies
K20R1301	APPLE COMPUTER ORDER DEPARTMEN	500.00	500.00	010019961 5826	Medi-Cal Billing-Instructional / Licensing/Software,Maint/Su
K20R1302	AIRWOLF 3D	55.00	55.00	010143889 4311	Donations - Talbert / Elective Supplies
K20R1303	SEHI COMPUTER PRODUCTS	1,569.98	1,569.98	010019961 4399	Medi-Cal Billing-Instructional / Equipment Under \$500
K20R1305	PEARSON CLINICAL ASSESSMENT	1,639.52	1,639.52	012299963 4322	Medi-Cal Billing-Psychologists / Testing Supplies
K20R1306	LAKESHORE LEARNING MATERIALS	161.57	161.57	010013737 4310	Sch Site Instr - Oka / Instructional Supplies
K20R1307	ULTIMATE OFFICE	107.70	107.70	012819771 4325	Personnel Commission / Office Supplies
K20R1308	PCMG INC	175.20	175.20	010019961 4320	Medi-Cal Billing-Instructional / Computer Supplies
K20R1309	HEINEMANN	1,000.88	1,000.88	011235675 4310	State Standards Discrt-READING / Instructional Supplies
K20R1310	HEINEMANN	1,000.88	1,000.88	011235675 4310	State Standards Discrt-READING / Instructional Supplies
K20R1311	ACADEMIC THERAPY PUBLISHER INC	188.40	188.40	012299963 4322	Medi-Cal Billing-Psychologists / Testing Supplies
K20R1312	LAKESHORE LEARNING MATERIALS	80.00	80.00	010011010 4310	Sch Site Instr - Tamura / Instructional Supplies
K20R1313	CERTIFIED TRANSPORTATION BUS C	1,357.20	1,357.20	010013289 5811	Donations - Cox / Transportation Outside Agency
K20R1314	HEINEMANN	1,000.88	1,000.88	011235675 4310	State Standards Discrt-READING / Instructional Supplies

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K20R1315	HEINEMANN	1,000.88	1,000.88	011235675 4310	State Standards Discret-READING / Instructional Supplies
K20R1318	CAL NET ENTERPRISES LLC	2,395.56	10.00	012109078 4399	Tech/Media Office Operation / Equipment Under \$500
			2,385.56	012109078 4410	Tech/Media Office Operation / Fixed Assets \$500-\$5000
K20R1319	APPLE COMPUTER ORDER DEPARTMEN	413.37	413.37	012109078 4399	Tech/Media Office Operation / Equipment Under \$500
K20R1321	SHI INTERNATIONAL CORP	3,539.83	3,539.83	012109078 4399	Tech/Media Office Operation / Equipment Under \$500
K20R1322	ORANGE COUNTY FAST PRINT INC	70.04	70.04	010144949 4310	Sch Site Instr - Masuda / Instructional Supplies
K20R1323	SHI INTERNATIONAL CORP	4,011.90	4,011.90	012719385 4410	Purchasing / Fixed Assets \$500-\$5000
K20R1330	GREAT BOOKS FOUNDATION	5,440.31	5,440.31	010113755 4310	Title I - Oka / Instructional Supplies
K20R1332	HEINEMANN	6,835.44	6,835.44	011235675 4310	State Standards Discret-READING / Instructional Supplies
K20R1334	BRAINPOP	175.00	175.00	012289963 5826	MAA - Instructional / Licensing/Software,Maint/Supp
K20R1349	EDUCATIONAL MANAGEMENT SOLUTIO	9,799.00	9,799.00	012819771 5813	Personnel Commission / Consultant
K20R1353	BREAKOUT INC	673.44	673.44	010144949 4310	Sch Site Instr - Masuda / Instructional Supplies
K20R1354	SEHI COMPUTER PRODUCTS	10,092.37	10,092.37	010144949 4310	Sch Site Instr - Masuda / Instructional Supplies
K20R1355	PCMG INC	328.98	328.98	010144949 4310	Sch Site Instr - Masuda / Instructional Supplies
K20R1358	HEINEMANN	8,984.74	8,984.74	011235675 4310	State Standards Discret-READING / Instructional Supplies
K20R1361	LAKESHORE LEARNING MATERIALS	107.75	107.75	012040075 4310	Ed Effectiveness-Ed Quality / Instructional Supplies
K20R1362	MOUNTAIN MATH/LANGUAGE	206.78	206.78	012040075 4310	Ed Effectiveness-Ed Quality / Instructional Supplies
K20R1364	DIDAX INC.	115.29	115.29	012040075 4310	Ed Effectiveness-Ed Quality / Instructional Supplies
K20R1367	SOUTHWEST SCHOOL AND OFFICE SU	284.52	284.52	015999860 4325	Special Ed - Administration / Office Supplies
K20R1368	AMAZON.COM LLC	84.20	84.20	010019961 4320	Medi-Cal Billing-Instructional / Computer Supplies
K20S8029	WAXIE	7,223.58	7,223.58	011000000 9320	Revenue Limit - State Revenues / STORES
K20S8030	UNITED HEALTH SUPPLIES	121.76	121.76	011000000 9320	Revenue Limit - State Revenues / STORES
K20S8031	P & R PAPER SUPPLY COMPANY	468.58	468.58	011000000 9320	Revenue Limit - State Revenues / STORES
K20S8032	GRAINGER INC.	36.37	36.37	011000000 9320	Revenue Limit - State Revenues / STORES
K20S8033	123 OFFICE SOLUTIONS INC.	743.48	743.48	011000000 9320	Revenue Limit - State Revenues / STORES
K20S8034	P & R PAPER SUPPLY COMPANY	71.55	71.55	011000000 9320	Revenue Limit - State Revenues / STORES
K20S8035	ARIEL SUPPLY INC.	761.15	761.15	011000000 9320	Revenue Limit - State Revenues / STORES
K20S8036	GRAINGER INC.	263.99	263.99	011000000 9320	Revenue Limit - State Revenues / STORES
K20S8037	ARIEL SUPPLY INC.	22,608.10	22,608.10	011000000 9320	Revenue Limit - State Revenues / STORES
K20S8038	WAXIE	16,576.67	16,576.67	011000000 9320	Revenue Limit - State Revenues / STORES
K20S8039	UNITED HEALTH SUPPLIES	84.53	84.53	011000000 9320	Revenue Limit - State Revenues / STORES
K20S8041	EMPIRE CLEANING SUPPLY	6,717.14	6,717.14	011000000 9320	Revenue Limit - State Revenues / STORES
Fund 01 Total:		444,511.03	444,511.03		

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K20M4296	HOME DEPOT	1,223.00	1,223.00	120016098 4410	Extended School Instructional / Fixed Assets \$500-\$5000
K20M4310	HOME DEPOT	1,295.00	1,295.00	120017598 4410	Child Dev Cntr Preschool Instr / Fixed Assets \$500-\$5000
K20M4326	SIGNATURE FLOORING INC.	6,039.12	6,039.12	122866098 5645	ESP-Building/Site Improvement / Outside Srvs-Repairs & Main
K20M4327	SIGNATURE FLOORING INC.	6,039.12	6,039.12	122866098 5645	ESP-Building/Site Improvement / Outside Srvs-Repairs & Main
K20M4328	SIGNATURE FLOORING INC.	14,945.98	14,945.98	122866098 5645	ESP-Building/Site Improvement / Outside Srvs-Repairs & Main
K20M4329	SIGNATURE FLOORING INC.	11,960.03	11,960.03	122866098 5645	ESP-Building/Site Improvement / Outside Srvs-Repairs & Main
K20R1183	ORANGE COUNTY DEPARTMENT OF ED	32.33	32.33	120017598 5210	Child Dev Cntr Preschool Instr / Travel, Conference, Worksho
K20R1191	S & S WORLDWIDE	431.00	431.00	120016098 4310	Extended School Instructional / Instructional Supplies
K20R1196	DISCOUNT SCHOOL SUPPLY	463.30	463.30	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies
K20R1197	DISCOUNT SCHOOL SUPPLY	463.30	463.30	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies
K20R1198	S & S WORLDWIDE	862.00	862.00	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies
K20R1199	S & S WORLDWIDE	862.00	862.00	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies
K20R1200	ORIENTAL TRADING COMPANY	1,938.68	1,938.68	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies
K20R1201	ORIENTAL TRADING COMPANY	1,938.68	1,938.68	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies
K20R1202	ECONOMY HANDICRAFTS	457.64	457.64	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies
K20R1203	ECONOMY HANDICRAFTS	457.64	457.64	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies
K20R1204	RHODE ISLAND NOVELTY	215.50	215.50	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies
K20R1205	RHODE ISLAND NOVELTY	215.50	215.50	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies
K20R1212	LAKESHORE LEARNING MATERIALS	140.08	140.08	120017598 4310	Child Dev Cntr Preschool Instr / Instructional Supplies
K20R1215	CITY OF IRVINE	215.50	215.50	120016098 5210	Extended School Instructional / Travel, Conference, Workshop
K20R1223	TOYS R US	323.25	323.25	120016098 4310	Extended School Instructional / Instructional Supplies
K20R1228	SOUTHWEST SCHOOL AND OFFICE SU	5,387.50	5,387.50	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies
K20R1229	TOYS R US	107.75	107.75	120017598 4310	Child Dev Cntr Preschool Instr / Instructional Supplies
K20R1230	LAKESHORE LEARNING MATERIALS	261.23	261.23	120016198 4310	State Preschool Instructional / Instructional Supplies
K20R1234	ONEOC	862.00	862.00	120086198 5210	CSPP QRIS Block Grant Instr / Travel, Conference, Workshop
K20R1238	DISCOUNT SCHOOL SUPPLY	446.06	446.06	120017598 4310	Child Dev Cntr Preschool Instr / Instructional Supplies
K20R1240	LAKESHORE LEARNING MATERIALS	188.57	188.57	120017598 4310	Child Dev Cntr Preschool Instr / Instructional Supplies
K20R1241	LAKESHORE LEARNING MATERIALS	107.75	107.75	120017598 4310	Child Dev Cntr Preschool Instr / Instructional Supplies
K20R1242	TOYS R US	269.38	269.38	120017598 4310	Child Dev Cntr Preschool Instr / Instructional Supplies
K20R1243	TOYS R US	269.38	269.38	120017598 4310	Child Dev Cntr Preschool Instr / Instructional Supplies
K20R1268	ORIENTAL TRADING COMPANY	700.38	700.38	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies
K20R1269	RHODE ISLAND NOVELTY	129.30	129.30	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies
K20R1270	DISCOUNT SCHOOL SUPPLY	269.38	269.38	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies

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K20R1289	LAKESHORE LEARNING MATERIALS	161.63	161.63	120016098 4310	Extended School Instructional / Instructional Supplies
K20R1296	ORANGE COUNTY COUNCIL, BOY SCO	8,450.00	8,450.00	120016086 5812	Outdoor Education - Child Care / Admission Costs
K20R1316	LAKESHORE LEARNING MATERIALS	107.75	107.75	120016098 4310	Extended School Instructional / Instructional Supplies
K20R1324	OFFICE DEPOT	269.38	269.38	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies
K20R1325	TOYS R US	538.75	538.75	120016098 4310	Extended School Instructional / Instructional Supplies
K20R1326	LAKESHORE LEARNING MATERIALS	323.25	323.25	120016098 4310	Extended School Instructional / Instructional Supplies
K20R1329	CALIFORNIA DEPARTMENT OF EDUCA	1,362.70	1,362.70	120017598 4310	Child Dev Cntr Preschool Instr / Instructional Supplies
K20R1331	SEHI COMPUTER PRODUCTS	196.98	196.98	120017598 4310	Child Dev Cntr Preschool Instr / Instructional Supplies
K20R1333	LAKESHORE LEARNING MATERIALS	618.48	618.48	120017598 4410	Child Dev Cntr Preschool Instr / Fixed Assets \$500-\$5000
K20R1338	HOME DEPOT	129.30	129.30	120016098 4310	Extended School Instructional / Instructional Supplies
K20R1340	SAMS CLUB	2,155.00	2,155.00	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies
K20R1341	SMART & FINAL	2,155.00	2,155.00	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies
K20R1342	RALPHS GROCERY COMPANY	1,077.50	1,077.50	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies
K20R1343	TOYS R US	646.50	646.50	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies
K20R1344	TOYS R US	646.50	646.50	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies
K20R1345	TOYS R US	323.25	323.25	120016398 4310	ESP-Summer Camp Instructional / Instructional Supplies
Fund 12 Total:		78,679.30	78,679.30		

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K20M4302	GRAINGER INC.	180.09	180.09	133207380 4790	Cafeteria Fund / Food Services Supplies
K20R1211	CALIFORNIA DEPARTMENT OF EDUCA	720.20	720.20	133207380 4710	Cafeteria Fund / Food
K20R1337	HEARTLAND PAYMENT SYSTEMS	1,990.00	1,595.00	133207380 4399	Cafeteria Fund / Equipment Under \$500
			395.00	133207380 5899	Cafeteria Fund / Other Operating Expenses
K20R1346	CALIFORNIA DEPARTMENT OF EDUCA	720.20	720.20	133207380 4710	Cafeteria Fund / Food
K20R1347	REFRIGERATION CONTROL COMPANY	201.50	201.50	133207380 5645	Cafeteria Fund / Outside Srvs-Repairs & Mainten
	Fund 13 Total:	3,811.99	3,811.99		

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K20M4247	AMERICAN ENVIRONMENTAL SPECIAL	500.00	500.00	402998990 5899	Moiola Improvement Projects / Other Operating Expenses
K20M4308	AMERICAN TECHNOLOGIES	3,204.00	3,204.00	402998990 5645	Moiola Improvement Projects / Outside Srvs-Repairs & Mainte
Fund 40 Total:		3,704.00	3,704.00		

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Total Account Amount:			530,706.32		

FOUNTAIN VALLEY SD

Reference #:

2017 31

Adjustment of Funds

It has been resolved to make the budget adjustments as listed below per Education Code 42600.

Fund: 0101 GENERAL FUND

Object	Description	FROM	TO
1100	TEACHERS' SALARIES		14,560.00
2200	CLASSIFIED SUPPORT		197.00
2400	CLERICAL & OFFICE SALARIES		1,000.00
3101	STRS-CERTIFICATED POSITIONS		1,727.00
3202	PERS-CLASSIFIED		14.00
3313	MEDICARE-CERTIFICATED		198.00
3314	MEDICARE-CLASSIFIED		17.00
3354	ALTERNATIVE RETIRE-CLASSIFIED		1.00
3356	OASDI-CLASSIFIED		68.00
3501	SUI-CERTIFICATED		13.00
3502	SUI-CLASSIFIED		1.00
3601	WORKERS'COMP-CERTIFICATED		312.00
3602	WORKERS'COMP-CLASSIFIED		27.00
4200	BOOKS OTHER THAN TEXTBOOKS		225.00
4300	MATERIALS & SUPPLIES	166.00	14,240.00
5600	RENTAL,LEASE,REPAIR & NON CAP		2,604.00
5800	PROF/CONS SERV & OPER EXPENSE		4,325.00
8600	LOCAL INCOME	166.00	39,693.00
9790	UNASSIGNED/UNAPPROPRIATED		164.00
Subfund Total:		332.00	79,386.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, April 13, 2017.

AYES: _____

NOES: _____

ABSENT: _____

Secretary, Board of Trustees

The above adjustment was approved on the _____ day of _____, 200____.

APPROVED: Superintendent of Schools, County of Orange: _____
Deputy

FOUNTAIN VALLEY SD

Reference #:

Transfer of Funds

2017 30

It has been resolved to make the budget transfers as listed below per Education Code 42600.

Fund: 0101 GENERAL FUND

Object	Description	FROM	TO
1100	TEACHERS' SALARIES	114,903.00	113,333.00
1200	CERTIFICATED PUPIL SUPPORT		2,500.00
3101	STRS-CERTIFICATED POSITIONS	14,454.00	14,571.00
3313	MEDICARE-CERTIFICATED	1,665.00	1,678.00
3501	SUI-CERTIFICATED	57.00	58.00
3601	WORKERS'COMP-CERTIFICATED	2,596.00	2,616.00
4300	MATERIALS & SUPPLIES	3,110.00	
5200	TRAVEL & CONFERENCES		2,590.00
5800	PROF/CONS SERV & OPER EXPENSE	46,996.00	444.00
9780	OTHER ASSIGNMENTS	78,766.00	145,735.00
9790	UNASSIGNED/UNAPPROPRIATED	99,744.00	78,766.00
Subfund Total:		362,291.00	362,291.00

I certify this is a true excerpt from the Minutes of a regular Board Meeting held by the FOUNTAIN VALLEY SD Board of Trustees, April 13, 2017.

AYES: _____

NOES: _____

ABSENT: _____

Secretary, Board of Trustees

The above transfer was approved on the _____ day of _____, 200____.

APPROVED: Superintendent of Schools, County of Orange: _____
Deputy



Fountain Valley School District
Educational Services

M E M O R A N D U M

TO: Board of Trustees
FROM: Julianne Hoefer, Director, Educational Services
SUBJECT: **2015/2016 PROGRAM EFFECTIVENESS**
DATE: April 7, 2017

Background

An annual evaluation of the English learner and Title I programs was conducted for the 2015/2016 school year. This task is relevant, valuable, and necessary to support students in the quest so each has the opportunity to meet or exceed grade level standards. The two programs addressed in the document, English learner and Title I, serve two of our historically underperforming subgroups. It is also important to note that from a compliance standpoint it is required through Federal Program Monitoring (FPM) statutes.

Fiscal Impact:

There is no fiscal impact involved in the approval process.

Recommendation:

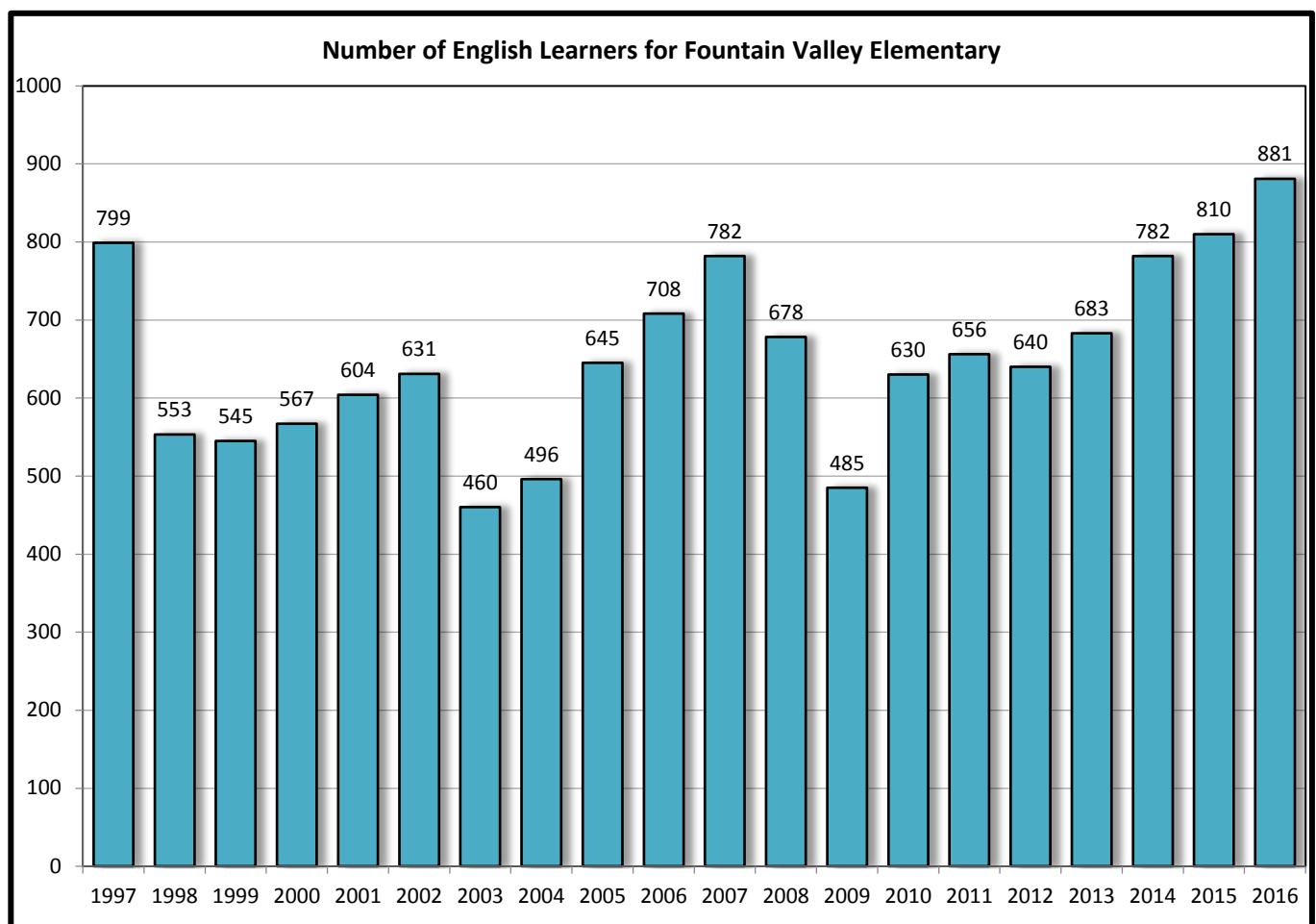
It is recommended that the Board of Trustees approves the 2015/2016 Program Effectiveness Results.

Fountain Valley School District Program Effectiveness Summary 2015/16

Fountain Valley School District (FVSD) serves approximately 6,300 transitional kindergarten through eighth grade students. The seven elementary schools and three middle schools are located in the cities of Fountain Valley and Huntington Beach. English learners (ELs) account for about 13% of the student population. Within the EL population, there are more than 35 different languages spoken. The majority of ELs speak Vietnamese, followed by Spanish and Arabic.

ENGLISH LEARNERS OVERVIEW

The number of English Learners (ELs) has varied over the last 20 years. During this time, the number has been as low as 460 in 2002/03 and as high as 881 in 2015/16.



Source: Dataquest

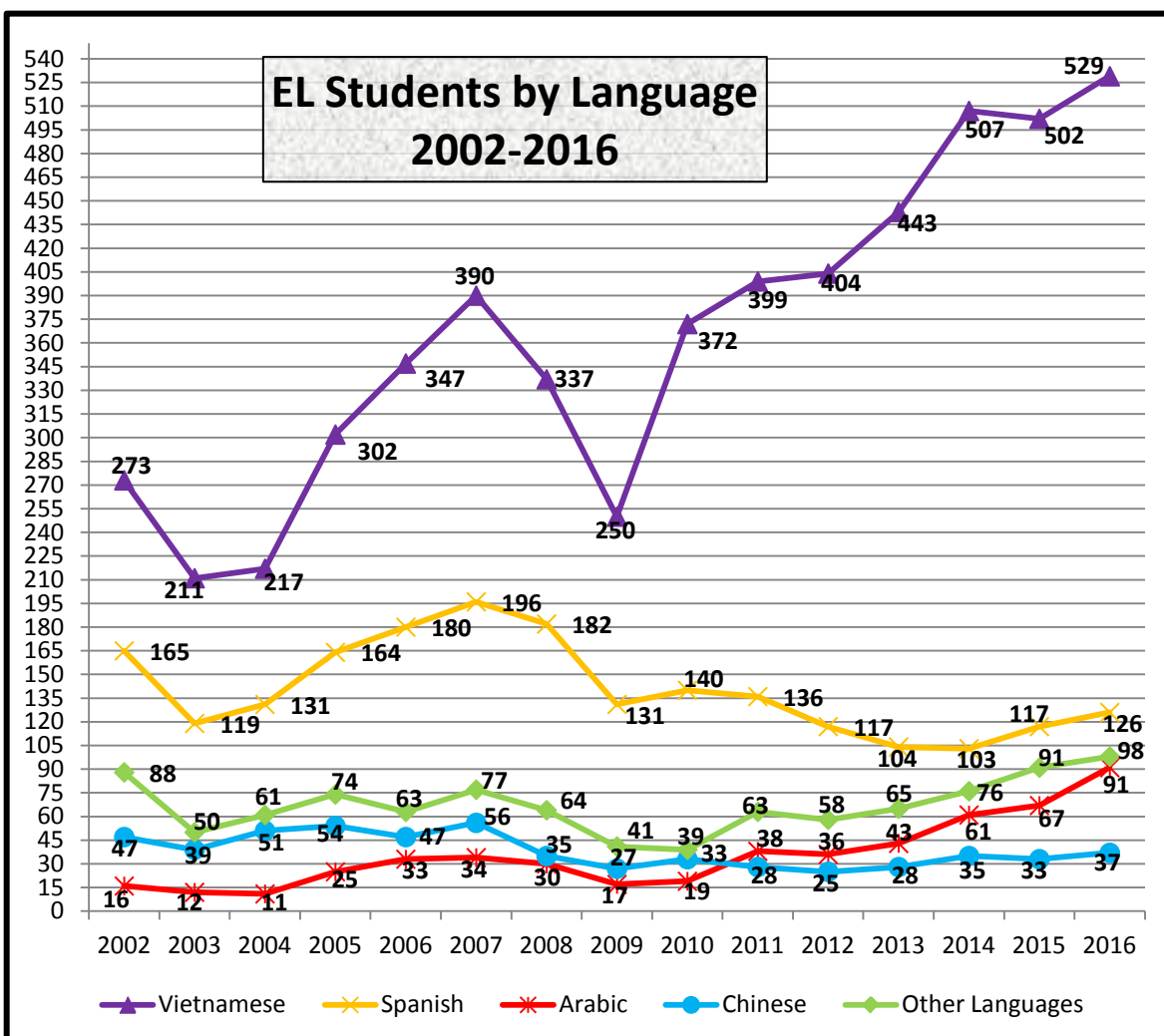
Major Language Groups

In 2015/16, ELs accounted for about 13% of the total enrollment. Within the EL population, 60% spoke Vietnamese as their primary language, 14% spoke Spanish, 10% Arabic, 4% Chinese, and the remaining 11% spoke "Other" languages.

Language	Number and Percent of English Learners					
	2016	2015	2014	2013	2012	2011
Vietnamese	529 60%	464 60%	447 63%	445 65%	404 63%	400 61%
Spanish	126 14%	120 16%	96 14%	100 15%	116 18%	133 20%
Arabic	91 10%	71 9%	60 9%	43 6%	36 6%	38 6%
Chinese	37 4%	34 4%	31 4%	29 4%	25 4%	28 4%
Other	98 11%	85 11%	70 10%	64 9%	58 9%	57 9%
Total	881 100%	774 100%	704 100%	681 100%	639 100%	656 100%

Source: Aeries

While there were a few years of decline, Vietnamese has been on the rise over the last 15 years and has more than doubled in the last eight years. Arabic continues to grow and has grown by a third in the last two years.



Source: Dataquest

Language Fluency Classification

The majority of students in FVSD speak English as their native language or fluently if they are bi/multi-lingual. The number of students initially fluent English proficient (IFEP) and reclassified as fluent English proficient (RFEP) exceeds the number of ELs (1,068 compared to 805).

Classification	Number
English Learners (ELs)	805
Reclassified Fluent Proficient (RFEP)	638
Initial Fluent English Proficient (IFEP)	430
English Only	4720

Source: Aeries

Length of Schooling in FVSD

The majority of ELs (85%) have attended FVSD schools five years or less. Almost half (47%) have attended school two years or less. Students in third grade and below make up 57% (594 students) of the EL population. In order to ensure RFEP students continue to experience academic success with increasingly more rigorous and demanding content, they are monitored for two years and are included in the EL numbers below.

Years in Program	Grade Level											Percent
	TK	K	1	2	3	4	5	6	7	8	Total	
1 year or less	19	135	86	28	11	11	17	13	4	10	334	32%
2 years or less	0	2	27	101	7	6	6	5	4	2	160	15%
3 years or less	0	0	0	26	134	14	5	4	4	5	192	19%
4 years or less	0	0	0	1	17	74	4	2	6	2	106	10%
5 years or less	0	0	0	0	0	4	76	7	2	2	91	9%
> 5 years	0	0	0	0	0	0	9	64	40	38	151	15%
Total	19	137	113	156	169	109	117	95	60	59	1034	100%

Source: Aeries

Instructional Services

During the 2015/16 school year, 164 students participated in the Structured English Immersion program. Students in this program typically are at the earliest stages of English development (Beginning, Early Intermediate, and Intermediate). Structured English Immersion includes a combination of English Language Development (ELD) to improve English skills, Specifically Designed Academic Instruction in English (SDAIE) to make content comprehensible, and primary language support as needed and when feasible. Because most students in FVSD are at the Intermediate, Early Advanced, and Advanced levels, they participated in the English Mainstream program (666 students), which includes ELD and support through the use of SDAIE. The eight students who participated in Other Instructional Services have Individualized Education Plans (IEPs) that include goals and strategies geared to address their unique needs.

Instructional Setting/Services	Number of ELs	Percentage of ELs
English Mainstream	666	79%
Structured English Immersion	164	20%
Other Instructional Services	8	1%
Total EL Students Served	838	100%

Source: Aeries

MONITORING ENGLISH LEARNER PROGRESS

The California English Language Development Test (CELDT) is the State mandated English language test. It is administered when students first enroll in school and then annually each fall thereafter. The test assesses a student's speaking, listening, reading, and writing ability in English. Performance is based on five levels which indicate incremental language development (Beginning, Early Intermediate, Intermediate, Early Advanced, and Advanced). In 2015/16 during the annual assessment, eight percent of ELs were at the earliest stages of English language development (Beginning and Early Intermediate). Most students (71%) were at the highest levels (Early Advanced and Advanced). The results below are based on annual CELDT testing and do not include initial CELDT results.

Performance Level	K	1	2	3	4	5	6	7	8	9	10	11	12	Total
Advanced	3 (11.0%)	16 (18.0%)	32 (26.0%)	43 (29.0%)	27 (27.0%)	37 (40.0%)	39 (45.0%)	20 (39.0%)	24 (47.0%)	(0.0%)	(0.0%)	(0.0%)	(0.0%)	241 (31.0%)
Early Advanced	11 (41.0%)	43 (48.0%)	45 (36.0%)	58 (39.0%)	52 (53.0%)	38 (41.0%)	25 (29.0%)	16 (31.0%)	18 (35.0%)	(0.0%)	(0.0%)	(0.0%)	(0.0%)	306 (40.0%)
Intermediate	9 (33.0%)	24 (27.0%)	37 (30.0%)	29 (19.0%)	12 (12.0%)	17 (18.0%)	16 (19.0%)	8 (16.0%)	7 (14.0%)	(0.0%)	(0.0%)	(0.0%)	(0.0%)	159 (21.0%)
Early Intermediate	2 (7.0%)	4 (4.0%)	8 (6.0%)	11 (7.0%)	5 (5.0%)	(0.0%)	3 (3.0%)	5 (10.0%)	(0.0%)	(0.0%)	(0.0%)	(0.0%)	(0.0%)	38 (5.0%)
Beginning	2 (7.0%)	2 (2.0%)	2 (2.0%)	8 (5.0%)	3 (3.0%)	1 (1.0%)	3 (3.0%)	2 (4.0%)	2 (4.0%)	(0.0%)	(0.0%)	(0.0%)	(0.0%)	25 (3.0%)
Number Tested	27 (100.0%)	89 (100.0%)	124 (100.0%)	149 (100.0%)	99 (100.0%)	93 (100.0%)	86 (100.0%)	51 (100.0%)	51 (100.0%)	(0.0%)	(0.0%)	(0.0%)	(0.0%)	769 (100.0%)

Source: Dataquest

English Proficiency

The achievement of ELs is measured in multiple ways. One way is through monitoring and ensuring annual growth in learning English. Growth measured through annual CELDT testing requires a prior year level. Those who in the prior year were at the Beginning, Early Intermediate, or Intermediate level overall are expected to increase at least one level. Those at the Early Advanced and Advanced level overall who are not yet English proficient are expected to reach the English proficient level, i.e. every subsection must be Intermediate or higher. Those at the English proficient level are expected to maintain that level. In 2015/16, 78% of the students who took the annual CELDT made progress.

Another way to monitor the achievement of ELs is to determine the length of time it takes for ELs to reach the proficient level on CELDT. English proficient students must score Early Advanced or Advanced overall with every subsection Intermediate or higher. In FVSD, 52% of ELs in language instruction educational programs for less than five years reached the proficient level. For those who had been in language instruction educational programs for five years or more, 82% reached the proficient level.

Some ELs are also students with special needs whose instructional goals and outcomes are outlined in IEPs. At times, due to disabilities, they do not demonstrate English fluency growth at the same rate as typical peers. More than half of the ELs who took the annual CELDT in 2015/16 and scored at the Beginning level received special education services (15 out of 25) and 32% were at the earliest two levels (Beginning and Early Intermediate) compared to 8% of the total EL population.

Special Education Placement	Number of CELDT Overall Scores					
	Beginning	Early Intermediate	Intermediate	Early Advanced	Advanced	Total
Speech & Language Services	0	2	5	6	3	16
Resource Specialist Program	4	5	11	11	3	34
Special Day Classes - public integrated facility	11	1	10	0	0	22
Total	15	8	26	17	6	72

Source: Aeries

Reclassification

FVSD is committed to providing an exemplary education for every student served throughout the District. For ELs, this includes the development of English skills commensurate to native English speakers within five years of enrollment in FVSD schools.

Reclassification from EL to RFEP is a rigorous process. The initial screener for reclassification is demonstrated proficiency on the CELDT, Early Advanced or Advanced overall with no more than one Intermediate subscore. Students who demonstrate proficiency on the CELDT must then demonstrate grade level achievement on a District identified assessment. With input from the English Learner Coordinators and District English Learner Advisory Committee (DELAC), FVSD established two options for reclassification. The first is based on scoring Standard Met (level 3) or Standard Exceeded (level 4) on the Smarter Balanced assessments in English Language Arts/Literacy (ELA). The second utilizes district common assessments and is grade span specific. At the middle school level, ELs had to score within their grade level band on the *Scholastic Reading Inventory*. In fourth and fifth grades, ELs had the same criteria as the middle schools with the addition of scoring at the benchmark level on two District Writing Benchmarks. Students in kindergarten through third grade had the same criteria as fourth and fifth grades with a different literacy screener, *DIBELS Next*. In addition to achievement results, the classroom teacher must recommend and parent consent to reclassification. RFEPs are included in EL numbers for two years while they are monitored to ensure continued success as the academic content becomes more challenging and rigorous. FVSD's reclassification rate for 2015/16 was 8%, which was the lowest rate in the last five years.

	2015/16	2014/15	2013/14	2012/13	2011/12
FVSD	8.0%	12.0%	16.0%	19.1%	18.3%
Orange County	12.3%	9.5%	12.4%	14.3%	13.2%
California	11.2%	11.0%	12.0%	12.2%	16.3%

Source: DataQuest

Profile of RFEPs

During the 2015/16 school year, 67 ELs were reclassified from LEP to RFEP. The vast majority (92%) of these students met the FVSD goal and were reclassified within five years of enrollment in FVSD schools.

	Vietnamese	Spanish	Arabic	Chinese	Korean	Other	Total	Percent
1 year or less	8	3	1	0	0	2	14	21%
2 years	3	0	0	0	0	0	3	4.5%
3 years	7	1	1	0	0	0	9	13%
4 years	19	2	1	0	1	0	23	34%
5 years	10	1	0	1	0	0	12	18%
6 years	2	1	0	0	0	0	3	4.5%
7 years	2	0	0	0	0	0	2	3%
8+ years	0	0	0	0	0	1	1	1.5%
TOTAL	51	8	3	1	1	3	67	99.5%
Percent of Total	76%	12%	4.5%	1.5%	1.5%	4.5%	100%	

Source: Aeries

Achievement on Smarter Balanced Assessments

All third through eighth graders, including ELs, participate in the Smarter Balanced assessments in English language arts/literacy (ELA) and mathematics with a few exceptions. ELs who have been in the United States for one year or less are not required to take the ELA test but do take the Smarter Balanced math assessment. Students with significant cognitive disabilities take the California Alternate Assessments in ELA and math rather than the Smarter Balanced assessments. Any student whose parent has made a written request to opt out of Smarter Balanced testing is not assessed. The target is for each student to reach Level 3 Standard Met or Level 4 Standard Exceeded with a district goal of increasing the percent who reach the desired levels every year.

ELs demonstrated mixed performance on the Smarter Balanced assessments in 2015/16. While there was not an increase in ELA in the percent scoring Level 3 and Level 4 from 2014/15 to 2015/16, FVSD exceeded State and county averages by large margins, 43% for FVSD compared to 15% for Orange County and 13% for California. In math, the percent of ELs scoring Level 3 and Level 4 increased by 4% and also exceeded State and county averages by large margins, 52% for FVSD compared to 17% for Orange County and 12% for California.

RFEP students were the highest performing subgroup in FVSD with 90% scoring Level 3 and Level 4 in ELA and 82% in math. They demonstrated progress in both content areas (4% for ELA and 3% for math) and outperformed county and State averages.

	English Language Arts/Literacy			Math		
	All	ELs	RFEP	All	ELs	RFEP
FVSD	73% +4%	43% 0%	90% +4%	68% +5%	52% +4%	82% +3%
Orange County	57% +4%	15% +2%	66% +5%	48% +3%	17% +3%	51% +4%
California	49% +5%	13% +2%	58% +6%	37% +4%	12% +1%	40% +4%

Source: caaspp.cde.ca.gov/sb2016

SOLICITING INPUT FROM PARENTS OF ENGLISH LEARNERS

Survey Results

FSVD recognizes that demographic and achievement data provide an incomplete picture. Without input from the parents of ELs, the program evaluation would be incomplete. As such, survey results are included in the Program Effectiveness analysis.

Parent Survey Results

Paper surveys were sent home with ELs, 481 were returned, 389 from elementary and 92 from middle school. The actual number of families represented is difficult to determine because the survey is confidential and in some instances, there is more than one EL in the household. As expected the schools with the highest numbers of ELs also had the highest number of surveys returned.

Number of Surveys Returned	
TK-5	
Courreges	64
Cox	128
Gisler	27
Newland	12
Oka	16
Plavan	75
Tamura	67
6-8	
Fulton	17
Masuda	57
Talbert	18

Parent responses were extremely positive with most parents supporting the practices in FVSD. Parents overwhelmingly indicated their child's understanding of English improved over the course of the school year (98.5%) and that they believed their child would reclassify within five years of attending FVSD schools (94.0%). Communication was also effective with most parents reporting that at the elementary level their child's teacher communicated with them (88.7%) and that at the middle school level there were opportunities to communicate with the teacher (89.9%). Communication from the District was helpful in understanding how well their child mastered English (91.1%).

	TK-5		6-8		Overall	
	Yes Number Percent	No Number Percent	Yes Number Percent	No Number Percent	Yes Number Percent	No Number Percent
Has your child's understanding of English (speaking, listening, reading, and writing) improved this school year?	381 98.7%	5 1.3%	90 97.8%	2 2.2%	471 98.5%	7 1.5%
Do you believe your child will be reclassified as Fluent English Proficient (FEP) within five years of enrollment in FVSD schools?	362 95.5%	17 4.5%	79 87.8%	11 12.2%	441 94.0%	28 6.0%
Do(es) your child's teacher(s) communicate with you about how well your child is learning English (conferences, notes, telephone calls, emails)?	339 88.7%	43 11.3%	N/A	N/A	339 88.7%	43 11.3%
Are there opportunities to communicate with your child's teachers (conferences, notes, telephone calls, emails)?	N/A	N/A	80 89.9%	9 10.1%	80 89.9%	9 10.1%
Do you use Aeries/School Loop to access information about your child's grade and/or to contact school staff?	N/A	N/A	86 93.5%	6 6.5%	86 93.5%	6 6.5%
Does the communication you receive from the District help you understand how well your child has mastered English?	345 91.0%	34 9.0%	84 91.3%	8 8.7%	429 91.1%	42 8.9%
Did you receive California English Language Development Test (CELDT) test scores for your child in September and January/February this year? (It details your child's English proficiency level – Beginning, Early Intermediate, Intermediate, Early Advanced, or Advanced)	353 93.6%	24 6.4%	87 95.6%	4 4.4%	440 94.0%	28 6.0%
Do you feel like you understand your child's level (Beginning, Early Intermediate, Intermediate, Early Advanced, or Advanced) of English language proficiency?	362 95.0%	19 5.0%	86 95.6%	4 4.4%	448 95.1%	23 4.9%
Do you think your child is making sufficient progress in developing English proficiency?	362 96.3%	14 3.7%	82 91.1%	8 8.9%	444 95.3%	22 4.7%
Does your child interact with fluent English peers after school (neighbors, friends, sports teammates, etc.)?	362 95.5%	17 4.5%	78 85.7%	13 14.3%	440 93.6%	30 6.4%

	TK-5		6-8		Overall	
	English Number Percent	Other Number Percent	English Number Percent	Other Number Percent	English Number Percent	Other Number Percent
Which language does your child most often speak at home?	255 84.2%	48 15.8%	55 71.4%	22 28.6%	310 81.6%	70 18.4%

Parents also asked their children questions. Students across all grade bands thought they spoke English well (93.0%) and felt comfortable speaking English at school (96.6%). The majority also preferred to speak English (88.6%).

	TK-2		3-5		6-8		Overall	
	Yes Number Percent	Yes Number Percent	Yes Number Percent	No Number Percent	Yes Number Percent	No Number Percent	Yes Number Percent	No Number Percent
Do you think you speak English well?	174 93.0%	13 7.0%	183 95.3%	9 4.7%	80 87.9%	11 12.1%	437 93.0%	33 7.0%
Are you comfortable speaking English at school?	180 96.8%	6 3.2%	185 97.4%	5 2.6%	86 94.5%	5 5.5%	451 96.6%	16 3.4%

	TK-2		3-5		6-8		Overall	
	English Number Percent	Other Number Percent	English Number Percent	Other Number Percent	English Number Percent	Other Number Percent	English Number Percent	Other Number Percent
Which language do you prefer to speak	142 84.5%	26 15.5%	164 94.3%	10 5.7%	76 85.4%	13 14.6%	382 88.6%	49 11.4%

There were very few comments submitted (11 total). More than half were questions around placement in the EL program, testing, opting out, etc. However, one comment was “Keep up the good work” and another indicated a support staff member “was an inspiration to my son.”

TITLE I SERVICES

Title I is a Federally funded program. Funds are provided to facilitate supplemental instruction/intervention for students “at risk” of not meeting District and State standards. Title I allocations are based on the percent of students who apply and qualify for the federal free/reduced lunch program and/or whose parents have less than a high school diploma. Parents are not required to apply for the program so the true number of eligible students is never really known. In the 2015/16 school year Cox, Masuda, Oka, and Plavan were identified as targeted Title I schools because the percentage of participants exceeded the District average. Each of the four sites received funds based on the per student allocation multiplied by the number of eligible students. It is important to acknowledge that the students who receive services through the Title I program are not necessarily the ones who meet the Title I allocation criteria (participation in the free/reduced lunch program and/or parents with less than a high school diploma).

In the 2015/16 school year, elementary students at Cox, Oka, and Plavan were eligible for Title I services if they met one or more of the criteria outlined below in one or both subject areas.

Elementary Title I Identification Criteria

English Language Arts

Grade	SBAC	DIBELS Next		SRI	Progress Report/ Report Card	Teacher Recommendation
		Assessment	Performance Band			
TK/K	n/a	CORE Phonics ✓ Uppercase Letter Names ✓ Lowercase Letter Names ✓ Consonant Sounds ✓ Vowel Sounds DIBELS Next ✓ Nonsense Word Fluency	Less than 100% Tiers 1 & 2	n/a	1	
1 st		✓ Nonsense Word Fluency ✓ DORF	Tiers 1 & 2		1	
2 nd		✓ DORF	Tiers 1 & 2		1	
3 rd	Levels 1 & 2	✓ DORF ✓ DAZE	Tiers 1 & 2	Below Grade Level	C- or Below	
4 th & 5 th	Levels 1 & 2	✓ DORF ✓ DAZE	Tiers 1 & 2			

Math

Grade Span	SBAC	ST Math	Progress Report/ Report Card	Teacher Recommendation
TK-2 nd	n/a	Progress below the grade level mean	1	
3 rd - 5 th	Levels 1 & 2		C- or Below	

Smarter Balanced Assessments Results

In the 2015/16 school year, 643 students in grades three and above from the four schools were identified for Title I. The majority of students attended Cox (202), followed by Masuda (180), Oka (136), and Plavan (125).

Of the 643 students, 421 students received services in ELA and had 2015/16 Smarter Balanced Assessment results. The chart below compares the results of All Students in grades three through eight to Low Income students (free/reduced lunch participants) and Title I students (students who receive Title I services). Students who are in the Low Income group may or may not have participated in Title I services and vice versa.

In ELA, All Students and Low Income students outperformed Title I students district-wide and at all four schools. Of the 421 students district-wide with scores, 131 received Title I services in 2014/15 and 2015/16. Students who received Title I services both years had the lowest percentages of Standard Met and Standard Exceeded. Students who participated in Title I services in 2014/15 but not 2015/16 demonstrated the greatest success, i.e. higher percentages of Standard Met and Standard Exceeded than those who participated in 2015/16 or 2014/15 and 2015/16.

Smarter Balanced English Language Arts Literacy (ELA) Percent Standard Met/Standard Exceeded						
	2015/16 Scores					2014/15 Scores
	All Students 2015/16	Low Income 2015/16	Title I 2015/16	Title I 2015/16 & 2014/15	Title I 2014/15	Title I 2014/15
FVSD	73%	58%	45%	24%	58%	46%
Cox	64%	49%	51%	25%	67%*	69%*
Masuda	75%	64%	46%	31%*	57%	50%
Oka	64%	57%	40%	19%	100%*	N/A
Plavan	70%	55%	43%	N/A	56%*	0%*

* Interpret results with caution due to a group size of less than 15

Source: Aeries

Of the 643 students, 238 students received services in math and had 2015/16 Smarter Balanced Assessment results. The chart below compares the results of All Students in grades three through eight to Low Income students (free/reduced lunch participants) and to Title I students (students who receive Title I services). Students who are in the Low-Income group may or may not have participated in Title I services and vice versa.

In math, All Students and Low Income students outperformed Title I students district-wide and at all four schools but by a narrower margin than in ELA. Of the 238 students district-wide with scores, 101 received Title I services in 2014/15 and 2015/16.

Smarter Balanced Mathematics Percent Standard Met/Standard Exceeded						
	2015/16 Scores					2014/15 Scores
	All Students 2015/16	Low Income 2015/16	Title I 2015/16	Title I 2015/16 & 2014/15	Title I 2014/15	Title I 2014/15
FVSD	68%	54%	52%	25%	56%	35%
Cox	68%	58%	46%	28%	67%	50%*
Masuda	67%	59%	54%	11%*	56%	36%
Oka	67%	57%	55%	20%	50%*	0%*
Plavan	70%	53%	51%	N/A	42%*	25%

* Interpret results with caution due to a group size of less than 15

Source: Aeries

There are 80 additional students at Masuda who were not included in the analysis above because they received support that is not content-specific, such as, Lunch Academy for missing homework, after-school homework help, and intervention teacher support. In ELA, 44% scored Standard Met or Standard Exceeded and in math 25%. There were 13 students who received services in both 2014/15 and 2015/16, 23% scored Standard Met or Standard Exceeded in ELA and math.

SOLICITING INPUT FROM PARENTS AT TITLE I SCHOOLS

Survey Results

FSVD recognizes that demographic and achievement data provide an incomplete picture. Without input from the parents whose students attend Cox, Masuda, Oka, and Plavan, the program evaluation would be incomplete. As such, survey results are included in the Program Effectiveness analysis.

Parent Survey Results

Paper surveys were sent home with all parents at Cox, Masuda, Oka and Plavan, 771 were returned. The actual number of families represented is difficult to determine because the survey is confidential and in some instances, there is more than one student in the household. Parents were overwhelmingly positive, with most responses, 95% or more, in the Strongly Agree/Agree range.

SA/A – Strongly Agree/Agree

SD/D – Strongly Disagree/Disagree

	Cox		Masuda		Oka		Plavan		Overall	
	SA/A	SD/D	SA/A	SD/D	SA/A	SD/D	SA/A	SD/D	SA/A	SD/D
I have been informed about my child's progress throughout the school year.	313 99.1%	3 0.9%	146 97.3%	4 2.7%	110 99.1%	1 0.9%	188 97%	6 3%	757 98.2%	14 1.8%
My phone calls, e-mails, and/or notes to school staff are answered promptly.	306 97.8%	7 2.2%	140 95.2%	7 4.8%	106 95.5%	5 4.5%	186 96%	8 4%	738 96.5%	27 3.5%
Parent/Teacher conferences and/or meetings are scheduled at times I can attend.	315 100%	0 0%	143 97.3%	4 2.7%	110 99.1%	1 0.9%	192 100%	0 0%	760 99.3%	5 0.7%
I feel knowledgeable about achievement expectations for my child.	309 98.1%	6 1.9%	145 96%	6 4%	111 100%	0 0%	187 96.4%	7 3.6%	752 97.5%	19 2.5%
I feel knowledgeable about what is going on at the school.	307 97.8%	7 2.2%	141 93.4%	10 6.6%	108 98.2%	2 1.8%	184 96.3%	7 3.7%	740 96.6%	26 3.4%
I know how to help my child with his/her homework.	306 97.1%	9 2.9%	137 90.7%	14 9.3%	106 96.4%	4 3.6%	183 97.3%	5 2.7%	732 96%	32 4%
I have been given information about how I can help my child improve his/her academic achievement.	297 95.2%	15 4.8%	123 83.7%	24 16.3%	103 95.4%	5 4.6%	185 97.4%	5 2.6%	708 93.5%	49 6.5%
My child receives additional academic support when needed.	294 94.8%	16 5.2%	134 93.7%	9 6.3%	100 94.3%	6 5.7%	181 94.3%	11 5.7%	709 94.4%	42 5.6%
I feel that my child has adequately progressed this school year.	307 98.4%	5 1.6%	148 98%	3 2%	106 95.5%	5 4.5%	188 99%	2 1%	749 98%	15 2%
I feel welcome when I enter the school.	310 98.4%	5 1.6%	143 96%	6 4%	107 96.4%	4 3.6%	188 98%	4 2%	748 97.5%	19 2.5%
I have been encouraged to volunteer at school.	298 95.5%	14 4.5%	135 91.8%	12 8.2%	104 94%	7 6%	190 98%	4 2%	727 95.2%	37 4.8%
I feel that parents are involved in decision-making at the school.	291 93.6%	20 6.4%	132 88%	18 12%	93 85.3%	16 14.7%	180 93.8%	12 6.2%	696 91.3%	66 8.7%
There are high standards for student conduct.	309 98.7%	4 1.3%	145 97.3%	4 2.7%	108 97.3%	3 2.7%	186 97.4%	5 2.6%	748 98%	16 2%
The facility is clean and inviting.	309 98.4%	5 1.6%	146 97.3%	4 2.7%	105 95.5%	5 4.5%	185 96.4%	7 3.6%	745 97.3%	21 2.7%
The school is safe for students and staff.	302 96.2%	12 3.8%	145 96%	6 4%	109 98.2%	2 1.8%	184 96%	8 4%	740 96.4%	28 3.6%
Total Number of responses	316		151		111		194		771	



SO: 2016-17/B17-48
Fountain Valley School District
Superintendent's Office

M E M O R A N D U M

TO: Board of Trustees
FROM: Mark Johnson, Ed.D., Superintendent
SUBJECT: **Williams Uniform Complaint Quarterly Report**
(Quarter #3: January 1 – March 31, 2017)
DATE: April 7, 2017

Background:

Education Code mandates that a school district shall report summarized data on the nature and resolution of all Williams Uniform Complaints on a quarterly basis to the county superintendent of schools. This report shall be publicly agendaized at a regular board meeting. Complaints and written responses shall be available as public records.

The Williams Litigation Settlement mandates that the district shall use certain procedures to investigate and resolve specific complaints that fall within three specific categories.

- **Instructional materials**
- **Teacher vacancy or misassignment**
- **Facilities**

Williams Quarterly Report: January 1 through March 31, 2017
The District received no complaints in any of the categories.

Recommendation:

It is recommended that the Board of Trustees receives and approves the Williams Quarterly Report for the third quarter of the 2016-17 year and approves its submittal to the Orange County Department of Education.



2016-17 Quarterly Report Williams Legislation Uniform Complaints

Print Form

District: Fountain Valley School District

District Contact: Mark Johnson, Ed.D.

Title: Superintendent

- ☐ Quarter #1 July 1 - September 30, 2016
☐ Quarter #2 October 1 - December 31, 2016
☒ Quarter #3 January 1 - March 31, 2017
☐ Quarter #4 April 1 - June 30, 2017

Report due by October 28, 2016

Report due by January 27, 2017

Report due by April 28, 2017

Report due by July 28, 2017

Check the box that applies:

- ☒ No complaints were filed with any school in the district during the quarter indicated above.
- ☐ Complaints were filed with schools in the district during the quarter indicated above. The following chart summarizes the nature and resolution of the complaints.

Type of Complaint	Total # of Complaints	# Resolved	# Unresolved
Textbooks and Instructional Materials			
Teacher Vacancies or Misassignments			
Facility Conditions			
TOTALS			

Name of Superintendent: Mark Johnson, Ed.D.

Signature of Superintendent: _____ Date: 04/13/17

Please submit to:

Thea Savas
Senior Administrative Assistant
200 Kalmus Drive, B-1009
P.O. Box 9050, Costa Mesa, CA 92628-9050

Phone: (714) 966-4336; Email: tsavas@ocde.us; Fax: (714) 327-1371