

INVITATION FOR BID 09-05

Apple Computers and Peripheral Equipment, Chabot College and Las Positas College

**Bids Due:
May 4, 2005 at 2:00 P.M.**



**Return Bids To:
Andrew Howe, C.P.M., Interim Purchasing Manager
Chabot-Las Positas Community College District
5020 Franklin Drive
Pleasanton, CA 94588**

**Telephone: (925) 485-5233
Fax: (925) 485-5253
Email: ahowe@clpccd.cc.ca.us**

INVITATION FOR BID 09-05 APPLE COMPUTERS AND PERIPHERAL EQUIPMENT

SECTION A – BACKGROUND AND REQUIREMENT

Chabot-Las Positas Community College District (CLPCCD) is preparing for a major technology upgrade at both college campuses as part of the planned Measure B improvements. Part of this upgrade is the installation of new Apple computers to replace aged equipment.

In this document, CLPCCD is requesting sealed pricing bids from qualified vendors for Apple computers.

The first requirement is that Bidders must submit bids for all Apple computer configurations listed herein (See Section D - Specifications and Scope of Products to be Provided and Section E – Bid Forms and Signature Form).

Bids must be addressed and delivered to and inquiries concerning the purchasing process are to be directed to the person listed on the cover page of this Bid.

All inquiries regarding the technical information are to be directed to Jeannine Methe at (925) 485-5213.

SECTION B – STANDARDS AND PURPOSE

Chabot-Las Positas Community College District has established a standard Apple computer configuration (see Section E). Slight variations to the standard are needed and separate Apple computer quantities are provided for these alternate configurations. Bids must be provided for all configuration options.

In line with best practices, Chabot-Las Positas Community College Board of Trustees has approved a Standard Specification. Chabot-Las Positas will update their configuration standards at a minimum on an annual basis. Based on technology changes and manufacturer offerings, the District will update its standard configurations and conduct the invitation to bid process for its annual requirement of Apple computers.

The purpose of this bid is to establish a purchase agreement between CLPCCD and the selected vendor(s) to purchase Apple computer systems meeting the District Standards at competitive bid pricing during a one-year term of an agreement.

Bidders are encouraged to investigate and provide all possible educational, quantity and other discounts.

Quantities are segregated by location so bids can be assessed independently as well as collectively. **This invitation to bid addresses first year requirements. As the quantities provided herein are estimates, additional systems may be required during the next twelve**

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months. To complete the purchase of additional systems during the term of the agreement, the discounted prices provided at this time will be the guaranteed maximum price and if the equipment price decreases CLPCCD will receive the decreased price.

It should be noted that the District estimates Apple computer replacement to follow a 3-year lifecycle. Chabot College and Las Positas College plan to replace 1/3 of all computers at each location every three (3) years. The initial quantity of Apple computers for this bid for year 1 exceeds the 1/3 ratio due to startup of adoption of this lifecycle.

SECTION C – NOTICE TO BIDDERS

Notice is hereby given that the Board of Trustees of the Chabot-Las Positas Community College District, State of California, hereby calls for sealed bids to be delivered to the Manager, Purchasing and Warehouse Services, 5020 Franklin Drive, Pleasanton California 94588 until May 4, 2005 at 2:00 p.m. at which time and place the bids will be opened for Personal Computers and Peripheral Equipment for Chabot and Las Positas Colleges. Faxed or E-mailed bids will not be accepted.

Bids shall be presented in accordance with the specifications for the same, which are on file with the Manager, Purchasing and Warehouse Services Department at the office address listed above.

Inquiries regarding this bid should be directed to the Interim Purchasing Manager at (925) 485-5233, or fax (925) 485-5253. Reference Bid No. 09-05 on all inquiries.

The Board of Trustees reserves the right to reject any and all bids or any and all items of such bids.

This bid shall also be subject to any and all applicable laws, regulations and standards.

SECTION D - SPECIFICATIONS AND SCOPE OF PRODUCTS TO BE PROVIDED

CLPCCD requests prices for each of the systems described in the multiple configurations specified in Section E on the Bid Forms. The baseline configurations for Apple computers for the IMAC, Dual Processor G5, and PowerBook laptop are contained in “Configuration 1” through “Configuration 6”. Slight variances to the IMAC configuration for memory, disk, or screen sizes are provided in the alternate configurations on the Bid Forms in Section E. In addition to the Apple computer configurations, bids for technical training on the MAC OS are requested in “Configuration 7”.

Each system must be submitted to a burn-in process at the vendor site for a minimum of one day.

Bidders must provide their own delivered cost for each component; the percentage profit; the net delivered cost to CLPCCD for each component; and the total net delivered unit cost for each of the systems.

Computers will not be ordered all at once, but in increments over the life of the contract. The vendor is expected to supply a standard price that does not vary based on the number of Apple computers in an order, the frequency of the orders, or the delivery location.

Bidders must complete all “Bid Forms” in Section E and substantially conform to the configurations. Separate “Bid Forms” are provided for alternate Apple computer configurations.

Apple computer configurations and the minor variances specified in the bid are CLPCCD’s best estimate at this time. CLPCCD reserves the right to request other component replacements or additions to the baseline configuration prior to delivery of units. In such cases, contractor will be required to provide any delta in costs, if any, to the baseline bid costs using the same pricing formula utilized to establish the bid pricing submitted hereunder.

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**SECTION E - BID FORMS AND SIGNATURE FORM
CONFIGURATION 1 BID FORM**

Bidder Name: _____

Hardware Model No. : _____

CHABOT-LAS POSITAS APPLE COMPUTER STANDARD "CONFIGURATION 1"	SUPPLIED STANDARD YES OR NO?	IF "NO" IN COLUMN 2, PROVIDE SUBSTITUTION CONFIGURATION BELOW
IMAC 1.6 GHZ POWERPC G5		
17-INCH WIDESCREEN LCD		
512K L2 CACHE		
533 MHZ FRONT SIDE BUS		
512MB DDR400 SDRAM		
NVIDIA GEFORCE FX 5200 ULTRA		
64MB DDR VIDEO MEMORY		
80 GB SERIAL ATA HARD DRIVE		
USB2 EXTERNAL FLOPPY DRIVE		
SLOT-LOAD COMBO DRIVE		
APPLE KEYBOARD & MOUSE		
MAC OS		
3-YEAR APPLE CARE PROTECTION WARRANTY ON PARTS AND LABOR (INCLUDE IN HARDWARE PRICE)		

COLLEGE	QUANTITY	UNIT PRICE	EXTENDED PRICE
CHABOT	47		
LAS POSITAS	0		

CONFIGURATION 2 BID FORM

Bidder Name: _____

Hardware Model No. : _____

CHABOT-LAS POSITAS APPLE COMPUTER STANDARD "CONFIGURATION 2"	SUPPLIED STANDARD YES OR NO?	IF "NO" IN COLUMN 2, PROVIDE SUBSTITUTION CONFIGURATION BELOW
IMAC 1.8 GHZ POWERPC G5		
17-INCH WIDESCREEN LCD		
512K L2 CACHE		
600 MHZ FRONT SIDE BUS		
256 MB DDR400 SDRAM		
NVIDIA GEFORCE FX 5200 ULTRA		
64MB DDR VIDEO MEMORY		
80 GB SERIAL ATA HARD DRIVE		
SLOT-LOAD SUPER DRIVE		
APPLE KEYBOARD & MOUSE		
USB2 EXTERNAL FLOPPY DRIVE		
MAC OS		
3-YEAR APPLE CARE PROTECTION WARRANTY ON PARTS AND LABOR (INCLUDE IN HARDWARE PRICE)		

COLLEGE	QUANTITY	UNIT PRICE	EXTENDED PRICE
CHABOT	0		
LAS POSITAS	20		

CONFIGURATION 3 BID FORM

Bidder Name: _____

Hardware Model No. : _____

CHABOT-LAS POSITAS APPLE COMPUTER STANDARD "CONFIGURATION 3"	SUPPLIED STANDARD YES OR NO?	IF "NO" IN COLUMN 2, PROVIDE SUBSTITUTION CONFIGURATION BELOW
IMAC 1.8 GHZ POWERPC G5		
17-INCH WIDESCREEN LCD		
512K L2 CACHE		
600 MHZ FRONT SIDE BUS		
1 GB DDR400 SDRAM		
NVIDIA GEFORCE FX 5200 ULTRA		
64MB DDR VIDEO MEMORY		
80 GB SERIAL ATA HARD DRIVE		
SLOT-LOAD SUPER DRIVE		
APPLE KEYBOARD & MOUSE		
MAC OS		
3-YEAR APPLE CARE PROTECTION WARRANTY ON PARTS AND LABOR (INCLUDE IN HARDWARE PRICE)		

COLLEGE	QUANTITY	UNIT PRICE	EXTENDED PRICE
CHABOT	0		
LAS POSITAS	26		

CONFIGURATION 4 BID FORM

Bidder Name: _____

Hardware Model No. : _____

CHABOT-LAS POSITAS APPLE COMPUTER STANDARD "CONFIGURATION 4"	SUPPLIED STANDARD YES OR NO?	IF "NO" IN COLUMN 2, PROVIDE SUBSTITUTION CONFIGURATION BELOW
IMAC 1.8 GHZ POWERPC G5		
20-INCH WIDESCREEN LCD		
512K L2 CACHE		
600 MHZ FRONT SIDE BUS		
1 GB MB DDR400 SDRAM		
NVIDIA GEFORCE FX 5200 ULTRA		
64MB DDR VIDEO MEMORY		
160 GB SERIAL ATA HARD DRIVE		
SLOT-LOAD SUPER DRIVE		
APPLE KEYBOARD & MOUSE		
MAC OS		
3-YEAR APPLE CARE PROTECTION WARRANTY ON PARTS AND LABOR (INCLUDE IN HARDWARE PRICE)		

COLLEGE	QUANTITY	UNIT PRICE	EXTENDED PRICE
CHABOT	0		
LAS POSITAS	7		

CONFIGURATION 5 BID FORM

Bidder Name: _____

Hardware Model No. : _____

CHABOT-LAS POSITAS APPLE COMPUTER STANDARD "CONFIGURATION 5"	SUPPLIED STANDARD YES OR NO?	IF "NO" IN COLUMN 2, PROVIDE SUBSTITUTION CONFIGURATION BELOW
DUAL 1.8 GHZ G5		
512 MB		
PC 2300 MEMORY		
80 GB SERIAL ATA 7200 RPM HARD DRIVE		
NVIDIA GEFORCE FX 5200 VIDEO CARD		
20-INCH APPLE CINEMA DISPLAY (FLAT PANEL DISPLAY)		
CD-RW/DVD-ROM COMBO DRIVE		
APPLE KEYBOARD & MOUSE		
MAC OS X CLIENT ALL DOCUMENTATION		
3-YEAR APPLE CARE PROTECTION WARRANTY ON PARTS AND LABOR (INCLUDE IN HARDWARE PRICE)		

COLLEGE	QUANTITY	UNIT PRICE	EXTENDED PRICE
CHABOT	46		
LAS POSITAS	0		

CONFIGURATION 6 BID FORM

Bidder Name: _____

Hardware Model No. : _____

CHABOT-LAS POSITAS APPLE COMPUTER STANDARD "CONFIGURATION 6"	SUPPLIED STANDARD YES OR NO?	IF "NO" IN COLUMN 2, PROVIDE SUBSTITUTION CONFIGURATION BELOW
POWER BOOK LAPTOP		
15.2-INCH TFT DISPLAY 1280 X 854 RESOLUTION		
1.67 GHZ POWERPC G4		
512MB DDR333 SDRAM		
80 GB HARD DRIVE		
SUPER DRIVE		
ATI MOBILITY RADEON 9700 (64 MB DDR)		
BACKLIT KEYBOARD		
GIGABIT ETHERNET		
FIREWIRE 400 & 800		
ANALOG AUDIO IN/OUT		
DVI & S-VIDEO OUT		
3-YEAR APPLE CARE PROTECTION WARRANTY ON PARTS AND LABOR (INCLUDE IN HARDWARE PRICE)		

COLLEGE	QUANTITY	UNIT PRICE	EXTENDED PRICE
CHABOT	0		
LAS POSITAS	1		

CONFIGURATION 7 BID FORM (TRAINING OFFERINGS)

Bidder Name: _____

CHABOT-LAS POSITAS APPLE COMPUTER TRAINING	TITLE OF TRAINING CLASS	UNIT PRICE/STUDENT
(1) TECHNICAL TRAINING COURSES ON MAC OS X (UP TO 6 ANALYSTS):		
(2) USER TRAINING COURSES ON MAC OS X (UP TO 25 USERS)		
(3) USER TRAINING COURSES ON MAC OS X (UP TO 50 USERS)		

NOTE: LIST AVAILABLE MAC OS X TRAINING COURSES AVAILABLE FOR CATEGORIES 1-3 ABOVE WITH UNIT PRICE PER STUDENT.

SIGNATURE FORM

TO: **CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT**, a California Community College District, acting by and through its Board of Trustees (the "District"), 5020 Franklin Dr., Pleasanton, CA 94588.

FROM:

_____ (Firm Name of Bidder)

_____ (Address)

_____ (City, State, Zip Code)

_____ (Telephone/Telecopier)

_____ (Name(s) of Bidder's Authorized Representative(s))

1. Bid.

1.1 Bid Amounts. The undersigned Bidder proposes and agrees to provide the equipment, materials, and related documentation required for the bid described as: Personal Computers & Peripheral Equipment, Chabot College and Las Positas College in the amounts listed on the Bid Forms. The bid amounts are exclusive of any State of California or local sales or use. The Bidder confirms that it has checked all of the above figures and understands that neither the District nor any of its agents, employees or representatives shall be responsible for any errors or omissions on the part of the undersigned Bidder in preparing and submitting this Bid.

1.3 Acknowledgment of Bid Addenda. In submitting this Bid, the undersigned Bidder acknowledges receipt of all Bid Addenda issued by or on behalf of the District, as set forth below. The Bidder confirms that this Bid incorporates and is inclusive of, all items or other matters contained in Bid Addenda.

Addenda Nos. _____ received, acknowledged and incorporated into this Bid. **(initial)**_____

2. Documents Accompanying Bid. The Bidder has submitted with this Bid the following: (a) Non-Collusion Affidavit; (b) Bid Forms; (c) Bid Signature Form; (d) and Drug-Free Workplace Certification. The Bidder acknowledges that if this Bid and the foregoing documents are not fully in compliance with applicable requirements set forth in the

Notice Calling for bids, the Instructions for bidders and in each of the foregoing documents, the Bid may be rejected as non-responsive.

The Bidder acknowledges that if this Bid and the foregoing documents are not fully in compliance with applicable requirements set forth in the Call for Bids, the Instructions for Bidders and in each of the foregoing documents, the Bid may be rejected as non-responsive.

3. **Award of Contract.** It is the intent of the District to issue a Purchase Order(s). It is expected that the successful contractor(s) will meet all requirements of this bid and purchase order.
4. **Acknowledgement and Confirmation.** The undersigned Bidder acknowledges its receipt, review and understanding of the business requirements, specifications and other contract documents pertaining to this bid. The undersigned Bidder certifies that the contract documents are, in its opinion, adequate, feasible and complete. The undersigned bidder certifies that it has, all necessary equipment, personnel, materials, technical and financial ability to complete the Work for the amount bid herein within the Contract time and in accordance with the Contract Documents.

By: _____
(Authorized Signature)

(Typed or Printed Name)

Title: _____

SECTION F - SPECIAL WARRANTY REQUIREMENTS

For Apple computers, a minimum of a three (3) year warranty is required. The warranty shall include all repair parts and on-site installation labor. There is to be 100% no-charge for replacement parts and labor for systems under warranty. On-site warranty work shall be performed on the specific campus where the systems covered by the on-site warranty are located. Any cost for the required warranties shall be included in the Unit Prices offered. The Campus locations are as follows:

Chabot College

25555 Hesperian Blvd.

Hayward, CA 94545

Please view the web site for general campus information: www.chabotcollege.edu

Las Positas College

3033 Collier Canyon Rd.

Livermore, CA 94551

Please view the web site for general campus information: www.laspositascollege.edu.

The successful bidder will agree to pick up and deliver depot warranty units at no charge to CLPCCD and meet certain Time-to-repair (TTR) requirements. Warranty work exceeding 3 business days will require contractor to provide a loaner unit that meets or exceeds the specification of the unit under repair. For desktop and laptop systems, the required critical requests response time will be within 24 hours of the hardware service request. The required non-critical request response time will be within 48 hours of the hardware service request. Bidders must provide a specific statement regarding their agreement and compliance with these special warranty requirements.

All warranty work shall include replacement parts that are new and of equal or better quality than the original components. **In the event that warranty parts cannot be provided in the specified time required, CLPCCD requires that its staff or a third party contractor be allowed to replace components on an interim basis using spare parts and that these actions will not void the original warranty.** It is important that the original warranty permit CLPCCD technical staff or a third party contractor to do parts exchanges inside the units as needed without invalidating the warranty. **CLPCCD will notify the warranty contractor when this situation occurs to give contractor the opportunity to remedy the problem first. If they cannot, District staff will proceed and contractor will expressly ensure the warranty remains in effect.**

Under the terms of either the warranty or the purchase agreement, Contractor will be required to stock replacement parts for the systems listed in this bid. Items of interest include: drives, power supplies, keyboards and other important parts. Bidders must provide a statement regarding their plan to stock replacement parts.

Under the terms of either the warranty or the purchase agreement, Contractor will be

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required to provide 2-3 on-site spare units for each of the CLPCCD sites and ramp up to provide up to 5 spares per site within 24 hours in cases of emergency. Bidders must provide a statement regarding their plan to stock replacement parts and spare units.

Bidders must have trained and certified service technicians on staff. Bidders must have their own in-house repair facility or maintain an agreement with a qualified, nationally recognized, sub-contractor to provide warranty repair services. Bidders must provide a profile of the sub-contractor, if any, in accordance with the requirements above.

Bidders must provide the name and direct dial phone number of the single point of contact in their service department who will coordinate CLPCCD warranty service needs. Contractor will be required to notify CLPCCD of any changes.

Bidders must provide a copy of or a detailed description of the complete warranty terms and conditions offered in their bid. These warranty requirements are in addition to the warranty provision contained in the standard purchase order terms and conditions included as part of this invitation to bid (see Section I).

SECTION G - SHIPPING/HANDLING AND DELIVERY

The Apple computer systems will be ordered in increments to meet the specific installation dates for the colleges. Therefore, it is imperative and required that the selected bidders(s) provide a designated customer support representative to work closely with the Information Technology Services (ITS) staffs at each of the CLPCCD locations to ensure multiple orders can be delivered on a variety of dates to the two different college locations within CLPCCD. Bidder shall provide a statement as to how they will comply with this requirement. Bidder shall provide a statement as to any optional value added services such as web based order/shipment tracking; web based records of equipment specifications ordered and history database on each system purchased by CLPCCD.

Orders require an Authorized District Purchase Order and will be placed via email, fax or phone or U.S. Mail from CLPCCD's Purchasing Department. Contractor shall deliver units to CLPCCD's receiving department no later than 10 working days after receipt of order (ARO). It is required that contractor provide expedited delivery when the needs of CLPCCD so dictate. Bidders must provide a statement indicating that they comply to this requirement and further describe the scenario of a typical occurrence of expediting the delivery of systems ordered.

All Bids must indicate the method to be used to deliver systems as ordered by CLPCCD (i.e., company owned truck, UPS, common carrier, or other).

All shipments shall be made FOB: destination, Freight: prepaid.

SECTION H - INSTRUCTIONS TO BIDDERS

Three (3) copies of the bid must be submitted. Bids must be addressed and delivered no later than 2:00 PM. PST, May 4, 2005. Please plan deliveries accordingly. Deliver bids to:

Andrew Howe, C.P.M.
Interim Purchasing Manager
Chabot-Las Positas Community College District
District Office
5020 Franklin Drive
Pleasanton, CA 94588

GENERAL INSTRUCTIONS:

1. Bids received after the deadline for closing will be returned unopened unless necessary for identification purposes. CLPCCD is not responsible for mail/messenger delays.
2. The District reserves the right to conduct discussions with all bidders, including the bidder(s) who appear(s) to have been selected, to request or require clarification, additional information or additional documentation prior to an official award(s).
3. Any information considered to be proprietary by the bidder shall be marked or stamped "Proprietary Information." Pricing information will not be considered proprietary.
4. Award: The award shall be made to the responsible bidder(s) providing the lowest responsive bid. The award will be in accordance with CLPCCD Board Policy and Procedures and State of California Education Code including but not limited to Section 81645.
5. Format: Bids must be submitted on the CLPCCD Bid Forms and Bid Signature Form provided in Section E and with other submittals that meet both format and content requirements listed herein.
6. Bidders may be required to provide the District with two (2) each of the specified systems for evaluation and inspection for a period up to one week.
7. The District reserves the right to reject any or all bids of any part thereof, or to withhold the award and to waive or decline to waive irregularities in any bid when it is determined to be in the District's best interest.
8. The successful bidder(s) is expected to enter into a Standard Agreement approved by the Board of Trustees of CLPCCD, which includes the Standard Purchase Order Terms and Conditions which are included herein (see Section I).
9. Under a subsequent contract, Contractor will be required to submit four (4) sets of technical manuals per each type of system described in this Bid.
10. Here as an option state whether contract unit pricing is extended to CLPCCD faculty and employees for individual purchases for home use. Here as an option state successful bidder will extend contract unit pricing and delivery terms to other government and educational agencies in California. Acceptance or decline of this

provision will not disqualify an otherwise successful bid.

ADDITIONAL INSTRUCTIONS - COSTS

1. The District seeks prices based on special discounts, unit cost plus profit structure or other suitable pricing formula. Bidders shall provide a statement as to the method used. The pricing method used shall remain fixed throughout the duration of the agreement. Bidders agree that the end cost to the District shall not exceed the prices quoted in this Bid during the one-year term. However, the pricing should be adjusted downward if costs decrease during the term of the Agreement. All pricing should be “net” including discounts.
2. Bidders shall list the model numbers of each configuration specified in the specification in this document. If technology changes causing components to no longer be available, the vendor will provide a comparable configuration at the same or less costs as specified in this BID. Cognizant of the continual change and evolution of computer technology, the District reserves the right to upgrade individual components of each system in order to accommodate said changes. The successful bidder shall: (1) agree to sell new and current state-of-the-art components to the District under the same pricing method quoted in this bid, and (2) provide customer service calls to share knowledge pertaining to changing computer technology and to assist the District planning efforts to advantageously stay abreast of technology impacting higher educational institutions. The District’s unit pricing may be adjusted upward when the District requests upgrades based on new technology. Minor pricing changes may be mutually agreed upon during the term of the contract.
3. Contractor must agree to notify the District of any part(s) modification(s) or substitution(s). The District reserves right of refusal and will return all unauthorized substitutions.

SECTION I - STANDARD PURCHASE ORDER TERMS AND CONDITIONS

**Chabot Las Positas Community College District
Purchase Order Terms & Conditions
For Purchase Order # _____**

This Agreement is made by and between _____ (“Seller”) and the Chabot-Las Positas Community College District (District) as of _____, 20__ for the purchase of Personal Computers and Peripheral Equipment, Chabot College and Las Positas College, as follows:

1. **Entire Agreement:** The following terms and conditions, together with such terms as are set forth in this Purchase Order ("Order"), such plans, specifications or other documents as are incorporated by reference in the Purchase Order, and any amendments in any subsequent authorized writing from District, shall constitute the entire contract between the District and Seller and shall supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties. There are no warranties, representations or other agreements between the parties in connection with the subject matter hereof, except as specifically set forth herein. If performance specifications, technical product descriptions or other similar descriptive materials submitted by Seller in connection with the Order have been incorporated by reference in the Purchase Order these shall not be deemed to supersede any contrary requirements of District, but to the extent that such materials are not inconsistent with District's requirements, they shall constitute a part of the basis of this agreement.
2. **Payment:** Payment terms are as set forth in the Purchase Order. . If no terms are specified, the net amount shall be payable within 30 days after the later of (i) delivery and acceptance of goods or other performance conforming with the terms of this Order or (ii) invoicing. Except as otherwise provided in the Purchase Order the price includes all applicable Federal, State and local taxes and duties. All Federal, State and local taxes and duties shall be separately itemized on any invoices. Seller assigns to District all rights to refunds of sales and use taxes paid in connection with this Order and agrees to co-operate with District in the processing of any refund claims.
3. **Changes:** District may make changes to this Order, including drawings and specifications for specially manufactured goods and place of delivery, by giving written notice to Seller. If such changes affect the cost of or the time required for performance of this Order, an equitable adjustment in the price or date of delivery or both shall be made. No change by Seller is allowed without written approval of District. Any claim of Seller for an adjustment under this Article must be made in writing within thirty (30) days from the date of receipt by Seller of notification of such change. Nothing in this Article excuses Seller from delivering the goods and services described in this Order. Except as otherwise provided herein, no other supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by the parties to be bound thereby.
4. **Time:** If delivery or completion dates cannot be met, Seller shall inform District immediately. Such notice shall not, however, constitute a change to the delivery or completion terms of this Order unless District modifies this Order in writing. If any item is not received or if any element of the work is not completed by the date specified, the District, at District's option and without prior notice to Seller may either approve a revised date or may cancel this Order and may obtain such goods or work elsewhere and in either event the Seller shall be liable to the District for any resulting loss incurred by the District. Seller's sole remedy for a delay caused by District shall be an extension in the time for Seller's performance equal to the duration of District's delay. Seller shall not be liable for damages resulting from Seller's failure to deliver or complete, or for delays in delivery or completion occasioned by strikes, lock-outs, fires, war or acts of God. **TIMING OF DELIVERY AND/OR PERFORMANCE OF THE WORK IS OF THE ESSENCE OF THIS ORDER.**

5. **Improper Performance:** In addition to other remedies provided by law, District reserves the right to reject any goods or to revoke any previous acceptance and to cancel all or any part of the Order if Seller fails to deliver all or any part of the goods or perform any of the work in accordance with the terms and conditions of this Order. Acceptance of any part of the Order shall not bind the District to accept any future shipments or work nor deprive it of the right to return goods already accepted. At District's option, all disputes arising in connection with this Order shall be resolved by arbitration in accordance with the rules of the American Arbitration Association, except that each party shall have the discovery rights established by the California Code of Civil Procedure.
6. **Cancellations:** The District may cancel this Order in whole or in part, for no cause, upon written or fax notice to the Seller, effective when sent, provided such notice is sent at least fourteen (14) days prior to the delivery date specified on the face of this Order.

In addition, the District may cancel this Order in whole or in part at any time for cause by written or fax notice to the Seller, effective when sent, in the event that Seller: (a) fails to comply with any term or condition of this Order including, but not limited to, delivery terms; or (b) appoints a receiver, liquidator or trustee in bankruptcy or other similar officer over any or all of its property or assets; or (c) files a voluntary petition in bankruptcy; or (d) has had filed against it an involuntary petition in bankruptcy which remains in effect for thirty (30) days; or (e) voluntarily ceases trading; or (f) merges with or is acquired by a third party; or (g) assigns any of its rights or obligations under the Order to a third party without the District's advance written consent.

Upon the occasion of any one of the aforesaid and in addition to any remedies, which the District may have in law or in equity, the District may also cancel this order or any outstanding deliveries hereunder by notifying Seller in writing of such cancellation. Seller shall thereupon transfer title and deliver to the District such work in progress or completed material as may be requested by the District. The District shall have no liability to Seller beyond payment of any balance owing for materials purchased hereunder and delivered to and accepted by the District prior to the Seller's receipt of the notice of termination, and for work in progress requested for delivery to the District.

7. **Rescheduling:** The District may without liability at least fourteen (14) days prior to the scheduled delivery date appearing on the Order defer delivery on any or every item under said Order by giving oral notice to the Seller (confirmed in writing within ten (10) working days) of any necessary rescheduling.
8. **Warranty:** The goods and services furnished shall be exactly as specified in the Order, and shall be free from all defects in design, workmanship and materials. The goods and services are subject to inspection and test by the District at any time and place. If the goods and services furnished are found to be defective, the District may reject them, or require Seller to correct them without charge, or require a reduction in price, which is equitable under the circumstances. If Seller is unable or refuses to correct such items within a time deemed reasonable by the District, the District may terminate this Order in whole or in part. Seller bears all risks as to rejected goods and services. Seller shall reimburse the District for all transportation costs, other related costs incurred, and overpayments in respect of the neglected goods and services. These express warranties shall not be waived by reason of acceptance or payment by the District. This Order incorporates by reference all terms of the Uniform Commercial Code as adopted in the State of California providing any protection to the District, including but not limited to all warranty protection (express or implied) and all of the District's remedies under the UCC. All goods and work shall also be subject to any stricter warranties specified in the Data Sheet or in other materials incorporated by reference.
9. **Risk of Loss:** Unless the Order expressly states otherwise, all goods shall be shipped FOB the "Ship to" location designated in the Purchase Order. Risk of loss shall not pass to District until goods called for in this Order actually have been received and accepted by the District at the destination specified herein. Seller assumes full responsibility for packing, crating, marking, transportation and liability for loss and/or damage even if District has agreed to pay freight, express or other transportation charges.

10. **Electronic/Facsimile Transmission:** If this Order is transmitted by telecopier or by other means of electronic transmission, such transmission shall have the legal significance of a duly executed original delivered to the Seller, but only if the Transmit Terminal Identification on the Purchase Order correctly includes the notation "Chabot-Las Positas Community College District," "Chabot Community College," or "Las Positas Community College".
11. **Hold Harmless:** From and after the date of this Order, the Seller agrees to indemnify, defend and hold harmless the District from any and all claims, regardless of by whom such claim or claims may be asserted, for personal injury or property damage or otherwise that may result directly or indirectly from the use, possession or ownership of the goods or from the services provided by Seller pursuant to this Order.
12. **Assignment/Subcontracting:** Neither party shall have any right to assign this Order or any benefits arising from this Order without prior written consent of the other and, unless otherwise agreed upon in writing, the rights of any assignee shall be subject to all set-offs, counterclaims, and other comparable rights arising hereunder. Seller shall not, except in the case of raw materials (including castings, forgings, and rough welded structures) or standard commercial goods or except as otherwise agreed in writing by the District, delegate or subcontract the work on any item of material or service to be delivered or performed under this Order.
13. **Shipping, Packaging and Labeling:** All Material purchased hereunder must be packed and packaged to ensure its safe delivery in accordance with good commercial practice and where incorporated, the District's packaging specification. The Seller shall mark on all containers, handling and loading instructions, shipping information, part number, purchase order number and item number, quantity in box, shipment date, and names and addresses of the Seller and the District. An itemized packing list must accompany each shipment. Each packing slip shall include; this Order number, quantity, item description, order date, shipping date and delivery address, but shall not include pricing information.
14. **Notification of Hazardous Products:** The Seller hereby agrees to notify the District of any inherent hazard related to any materials or goods being purchased herein that would expose the hazard during handling, transportation, storage, use, resale, disposal or scrap. Said notice shall be sent to the District's Director of Purchasing and shall specify the product name and part number, the nature of the hazard, proper precautions that must be undertaken by the District or others and any additional information that the District should reasonably expect to know to protect its interest.

All shipments of hazardous materials under this Order shall comply with current U.S. Department of Transportation (DOT) regulations as published in 49 CFR 100-199, and the labeling shall meet the current U. S. Occupational Safety and Health Administration (OSHA) regulations as published in 29 CFR 1910. 1200, for the transporting and labeling of hazardous materials. Material Safety Data Sheets (MSDS) shall be supplied with the first shipment of all hazardous materials, and these sheets shall be resubmitted if any changes or updates, as required, are made.

15. **Work On-Site:** The following additional conditions will apply if work is to be performed by the Seller at any of District's locations.
 - a. All persons furnished by Seller shall be deemed Seller's employees or agents and Seller shall comply with all applicable statutes regarding worker's compensation, employer's liability, unemployment compensation, and/or old age benefits and all other applicable laws relating to or affecting the employment of labor.
 - b. Seller shall indemnify, hold harmless and defend District from any and all claims and liabilities for injuries or death and also for any and all claims and liabilities arising out of loss or damage to property, caused by or resulting from the performance of the work covered hereby.
 - c. Seller shall at all times during the term of this Agreement, or any extension thereof, maintain comprehensive general liability insurance coverage in the amount of \$1,000,000 per occurrence and in

the aggregate for all claims made during any one policy year. Seller shall, upon request of the District, provide proof that the services provided are covered under its policy and that the District is named or fully covered as an additional insured.

- d. Seller agrees to comply fully with all provisions of all applicable workers' compensation insurance laws, and shall procure and maintain in full force and affect worker's compensation insurance covering its partners, employees and agents while said persons are performing services pursuant to this Agreement. In the event that an employee of Seller performing this Agreement files a worker's compensation claim against the District, Seller agrees to defend and hold the District harmless from such claim.
 - e. The work shall be performed in a first class and workmanlike manner by qualified and efficient workers who shall not cause labor conflicts with any workers employed by the District or others working at District's facilities. The work shall be performed in strict conformity with the strictest quality standards mandated and/or recommended by all generally recognized organizations establishing quality standards for work of the type to be performed hereunder. Seller shall be solely responsible for controlling the manner and means by which it and its employees perform labor and services and it shall observe, abide by and perform all of its obligations in accordance with all legal requirements. Without limiting the foregoing, Seller shall control the manner and means of the labor and services so as to perform the work in a reasonably safe manner and comply fully with all applicable codes, regulations and requirements imposed or enforced by any government agencies, including all applicable requirements of the Occupational Safety and Health Administration (OSHA) and all safety codes and procedures mandated or recommended by insurance underwriting organizations and all generally recognized organizations establishing safety standards, including without limitation the National Fire Protection Association, for work of the type to be performed hereunder. Notwithstanding the foregoing, any stricter standard provided in plans, specifications or other documents incorporated as part of this Order shall govern.
 - f. Seller is responsible for securing all applicable licenses and permits and compliance therewith and the price shall be deemed to include the cost of these items.
 - g. The site shall be kept free of waste and, on completion, left "broom clean." In case of dispute District may remove waste at Seller's expense.
 - h. If requested, Seller shall furnish satisfactory evidence of the kind, quality and quantity of labor and materials used or to be used.
 - i. The Seller, for itself and for all subcontractors and material men, agrees that no mechanic's lien or other claim shall be filed or maintained by the Contractor or by any subcontractor, material man, laborer or any other person, whatsoever, for or on account of any work done or materials furnished under this Order. This agreement shall be an independent contract and the Seller shall execute and deliver to District a separate Waiver of Liens (in form and substance satisfactory to the District).
 - j. In every subcontract entered into by the Seller after the execution and delivery of this Order or in connection herewith, the Seller shall incorporate a provision, similar to the foregoing paragraph, to the effect that neither the subcontractor nor any party acting through or under him shall file or maintain any mechanic's lien or other claim against the District in connection with the work to be performed hereunder.
16. **Non-Discrimination in Employment:** In connection with the performance of work under this Order, the Seller agrees that it will not unlawfully discriminate on the basis of race, color, religion, gender, national origin, age or medical condition, sexual orientation or marital status or any other characteristic protected by law in the delivery of programs or services set forth herein. In the event of the Seller's non-compliance with the non-discrimination clauses of this Order or with any of the said rules, regulations, or orders, this Order may be

cancelled, terminated or suspended in whole or in part and the Seller may be declared ineligible for further District contracts as provided by law.

17. **Compliance with Laws and Regulations:** The Seller represents and warrants to District that Seller and its employees, agents, and any subcontractors have filed all certifications and have obtained all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required in connection with this Order.
18. **Waiver:** A waiver of any breach or any of the covenants, terms or provisions of this Agreement shall not be construed as a waiver of any subsequent breach of the same or any other covenant, term or provision.
19. **Termination for Convenience:** District may terminate this Order at any time without incurring liability to Seller for lost profits or any other costs other than the value of conforming work completed on site or goods delivered.
20. **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of California.
21. **Venue:** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Alameda or in the United States District Court for the Northern District of California.
22. **No Third Party Beneficiaries:** Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to anyone other than the Parties to this Agreement. No one is an intended third-party beneficiary of this Agreement.
23. **Attorney's Fees:** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
24. **Captions:** The captions used herein as headings of the various paragraphs and subparagraphs hereof are for convenience only, and the parties agree that such captions are not to be construed as a part of the Agreement or to be used in determining or construing the intent or context of this Agreement.
25. **Counterparts:** This Agreement may be executed in any number of counterpart copies, all of which shall constitute one and the same Agreement and each of which shall constitute an original.
26. **Severability:** If any of the provisions or portions thereof of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions or portions thereof shall not be affected thereby.

ATTACHMENT A

NON-COLLUSION AFFIDAVIT

STATE OF CALIFORNIA

COUNTY OF _____

I, _____, being first duly sworn, deposes and says that I am
(Typed or Printed Name)

The _____ of _____, the party submitting
(Title) (Bidder Name)

the foregoing Bid Proposal ("the Bidder"). In connection with the foregoing Bid Proposal, the undersigned declares, states and certifies that:

1. The Bid Proposal is not made in the interest of or on behalf of, any undisclosed person, partnership, company, association, organization or corporation.
2. The Bid Proposal is genuine and not collusive or sham.
3. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any other bidder or anyone else to put in sham bid, or to refrain from bidding.
4. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price, or that of any other bidder, or to fix any overhead, profit or cost element of the bid price or that of any other bidder, or to secure any advantage against the public body awarding the contract or of anyone interested in the proposed contract.
5. All statements contained in the Bid Proposal and related documents are true.
6. The bidder has not, directly or indirectly, submitted the bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any person, corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Executed this _____ day of _____, 20__ at _____
(City, County and State)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature

(Address)

Name Printed or Typed

(City, County and State)

(_____) _____
(Area Code and Telephone Number)

ATTACHMENT B

DRUG-FREE WORKPLACE CERTIFICATION

I, _____, am the _____ of
(Print Name) (Title)

_____. I declare, state and certify to all of the following:
(Contractor Name)

1. I am aware of the provisions and requirements of California Government Code §§8350 et seq., the Drug Free Workplace Act of 1990.

2. I am authorized to certify, and do certify, on behalf of Contractor that a drug free workplace will be provided by Contractor by doing all of the following:

A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in Contractor's workplace and specifying actions which will be taken against employees for violation of the prohibition;

B. Establishing a drug-free awareness program to inform employees about all of the following:

(i) The dangers of drug abuse in the workplace;

(ii) Contractor's policy of maintaining a drug-free workplace;

(iii) The availability of drug counseling, rehabilitation and employee-assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations;

C. Requiring that each employee engaged in the performance of the Contract be given a copy of the statement required by subdivision (A), above, and that as a condition of employment by Contractor in connection with the Work of the Contract, the employee agrees to abide by the terms of the statement.

3. Contractor agrees to fulfill and discharge all of Contractor's obligations under the terms and requirements of California Government Code §8355 by, inter alia, publishing a statement notifying employees concerning: (a) the prohibition of any controlled substance in the workplace, (b) establishing a drug-free awareness program, and (c) requiring that each employee engaged in the performance of the Work of the Contract be given a copy of the statement required by California Government Code §8355(a) and requiring that the employee agree to abide by the terms of that statement.

4. Contractor and I understand that if the District determines that Contractor has either: (a) made a false certification herein, or (b) violated this certification by failing to carry out

and to implement the requirements of California Government Code §§8355, the Contract awarded herein is subject to termination, suspension of payments, or both. Contractor and I further understand that, should Contractor violate the terms of the Drug-Free Workplace Act of 1990, Contractor may be subject to debarment in accordance with the provisions of California Government Code §§8350, et seq.

5. Contractor and I acknowledge that Contractor and I are aware of the provisions of California Government Code §§8350, et seq. and hereby certify that Contractor and I will adhere to, fulfill, satisfy and discharge all provisions of and obligations under the Drug-Free Workplace Act of 1990.

I declare under penalty of perjury under the laws of the State of California that all of the foregoing is true and correct.

Executed at _____ this ____ day of _____,
(City and State)
_____, 20____.

(Signature)

(Handwritten or Typed Name)