Contract Checklist

The Board of Trustees delegates to the Chancellor or Chief Financial Officer the authority to enter into contracts on behalf of the District. Contracts are not enforceable obligations until they are approved or ratified by the Board (BP 6340). If a contract is signed by any person other than the Chancellor or CFO, the contract will be considered null and void.

Location:	☐DO ☐BC ☐CC ☐PC - Campus: _____	**Term Start Date:**	
Department:		**Term End Date:**	
Vendor's Name:		**Fund Code:**	
Vendor's Email Address:		**Contract Value:**	
Vendor's Phone Number:		**Notes:**	

Mark "X" in all that apply, Confirm the vendor's contract includes the following requirements. Any area unchecked, please work with the vendor to change the language as required.

	Legal Name: Identified as - Kern Community College District on behalf of (obo) campus name; Bakersfield College, Cerro Coso Community College, or Porterville College
	Term: Term must have a specific start and end date(s) and the maximum term of the agreement, including all renewals, shall not exceed five (5) years from the effective date.
	Termination Clause: Termination without cause would be the best type of termination clause to be included in a contract.
	Governing Law/Jurisdiction/Venue: State of California, County of Kern.
	Indemnification: Should be Mutual Indemnification, not one-sided.
	Fulfill Insurance Requirements: Certificate of Insurance (COI) naming KCCD as an additional insured *or* General Release & Waiver of Liability Form *(ONLY if a COI does not exist for a Contractor, e.g., individual, small businesses, owner/operator with no employees).*
	Dispute Resolution: No binding arbitration.
	Prepayment: Prepayment approval from the CFO is required.
	Subrogation: Agreement should not include a waiver of subrogation.
	Signature Block: Kern Community College District on behalf of campus name & Signatory Authority: Robert B. Miller, DPA, Interim Chief Financial Officer.
	Data-Sharing Requirements: Agreements which include data-sharing component(s) must be reviewed and approved by the Institutional Research & Reporting.
	Technology/Software Requirements: Technology/Software Agreements must be reviewed and approved by the IT Department. Additionally, if it requires any IT work it must be submitted via your Campus Vice President of Finance and Administrative Services for consideration and prioritization, including a review of required resources and cost with IT.

Type of Contract & Contract Supporting Documentation Requirements:
Unless specified, all Supporting Documentation(s) listed within the Type of Contract are required.

DISTRICT CONTRACT		NON-DISTRICT CONTRACT - PROVIDED BY THE VENDOR	
	Allied Health Education Program Agreement ☐ COI (If required)		**Catering Agreement** ☐ COI ☐ Vendor Registration ☐ Business Tax Certificate or Business License ☐ Health Permit
	Contract Letter of Termination ☐ Original contract		**Contract Provided by the Vendor** *i.e., Proposal, Statement of Work (SOW),* *Others:*_____ ☐ Vendor's Quote *(If contract does not include an amount)*
	Dual Enrollment MOU ☐ COI		**Facility Use Agreement** ☐ COI (If required)
	FERPA ☐ COI		**Food Truck Independent Contractor Agreement** ☐ COI ☐ Business Tax Certificate or Business License ☐ Health Permit
	Independent Contractor Agreement (ICA)- for Non-Public Works ☐ Independent Contractor Agreement – Checklist & Safe Harbor Rule ☐ COI		**Grant Agreement** ☐ COI (If required)
	Independent Contractor Agreement (ICA)- for Public Works ☐ COI		**Lease Agreement** ☐ COI (If required)

	Instructional Service Agreement (ISA) ☐ COI (If required)
	Kern CCD Business Industry Internship Training Agreement ☐ COI
	Short Form Presenter Agreement *Use for a one-day, one-time event only.*
	Other:_____

OTHER CONTRACT TYPES

Construction Agreements *Contact the District Office Facilities Planning and Construction Department for construction related projects.*
Facility Rental Agreements *Contact your Campus Events Management Department.*
Volunteer Agreements *Contact your Campus Human Resources Department.*

	Memorandum of Understanding (MOU) ☐ COI (If required)
	Technology Agreement (Software, Subscription, EULA, Terms of Use) ☐ Completed KCCD Technology/Software Requirements Questionnaire & met all requirements outlined. ☐ HECVAT Lite and VPAT forms ☐ Terms & Conditions *Others:*_____ ☐ COI, including Cybersecurity Coverage
	Other:_____

Approval Process

All contracts must meet the above requirements, complete with respective campus approval routing process and all required signatures, prior to submittal to Finance and Administrative Services, Contracts Department for processing. Should the vendor not be able to meet the requirements, please forward the vendor response regarding the required change(s) to contracts@kccd.edu, and the Finance and Administrative Services, Contracts Department will review further and/or seek General Counsel, Risk Management, or District IT Department guidance.

1. **Ratification item- Contract value <u>under</u> current year Annual Bid Limit threshold**
   All contracts must be submitted to the Finance and Administrative Services, Contracts Department email contracts@kccd.edu for Authorized District Signature prior to services being rendered and Board Ratification. Once the CFO or Chancellor has signed the agreement, you may then obtain services. It does not have to wait for Board approval.

2. **Approval item- Contract value <u>over</u> current year Annual Bid Limit threshold**
   Contract value over current year Annual Bid Limit threshold is subject to Board Approval, and no services may commence until after Board Approval. All Approval Items will follow the posting process currently in place, (i.e., each campus and/or department should enter their respective contracts/documents into Diligent Community Platform). The campus initiator will email the contract to contracts@kccd.edu with any instructions. If the contract requires an original "wet" signature, send the original contract via the interoffice mail, attention Finance and Administrative Services, Contracts Department. Once Board approved, the Contracts Department will obtain District signature and return the signed agreement to the initiator and/or the requesting Agency.

As a general rule these are the recommended changes to an agreement:

- **Agreement:** should be between Kern Community College District on behalf of *COLLEGE NAME*

- **Term**: we cannot enter into an automatic renewal, or perpetual term agreement. Term must have a specific start-end date. Include in the contract language "The maximum term of the agreement, including all renewals, shall not exceed five (5) years from the effective date."

- **Termination Clause:** A termination clause in a contract outlines the conditions under which either party can legally end the agreement. Termination without cause would be the best type of termination clause to be included in a contract. The sample below is provided of a *Termination Clause* with a termination without a cause. "This Agreement may be terminated by either party with or without cause and for any or no reason upon (30) days' written notice to the other party."

- **Governing Law/Jurisdiction/Venue**: Governing law should be State of California, County of Kern.

  We cannot agree to another governing state or jurisdiction should litigation be required for the following reasons:
  - California Education Code 72502 states the following:
    - Any claims against the District for money or damages, which are not governed by any other statutes or regulations expressly relating thereto, shall be presented and acted upon in accordance with Title 1, Division 3.6, Part 3, Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of the California Government Code.

  The designation of the law of another state would violate this provision. It is possible to enter into a contract with no choice of law provision. In that situation the proper state law would be resolved through the applicable conflict of laws provisions in the event of litigation.

- **Indemnification**: Should be Mutual Indemnification. *Occasionally* we add "Kern Community College District maximum liability amount shall not exceed two million dollars ($2,000,000)."

- **Insurance Requirements:** Unless otherwise specifically agreed to in writing in advance of execution of this Agreement, Contractor agrees to obtain, pay for, and maintain in effect during the Term of this Agreement or Date(s) of Service(s), the following policies of insurance issued by an insurance company "rated not less than A-VI" in A.M. Best's Insurance Rating Guide:

  (i) Commercial General Liability insurance (including contractual, products and completed operations coverage, bodily injury, and property damage liability insurance) with single combined limits of not less than $1,000,000 per occurrence;
  (ii) Sexual Abuse or Molestation coverage with limits not less than $2,000,000 per occurrence, either by separate policy or by an endorsement to the Commercial General Liability coverage;
  (iii) Commercial Automobile Liability insurance for "any auto" with combined single limits of liability of not less than $1,000,000 per occurrence;
  (iv) Professional Liability insurance (also known as "Errors and Omissions" insurance) with a limit of liability of not less than $1,000,000 per occurrence;
  (v) Cyber Liability insurance of not less than $2,000,000; and
  (vi) Evidence of Workers' Compensation and State Disability insurance as required under law.

  Each applicable policy shall contain **an endorsement naming the Kern Community College District as an additional named insured** insofar as this Agreement is concerned, and provide that written notice shall be given to the District at least thirty (30) days prior to cancellation or material change in the form of the policy or reduction in coverage.
  Prior to rendering Services pursuant to this Agreement, and at Contractor's expense, Contractor shall furnish the District with a Certificate of Insurance (COI) evidencing the endorsements required above, and the District shall have the right to inspect the Contractor's original insurance policies upon request. Upon notification of a notice of cancellation, change or reduction in coverage, Contractor shall immediately file with the District a certified copy of the required new or renewal policy and certificates for such policy. Nothing in this agreement concerning

minimum insurance requirements shall reduce the Contractor's liabilities or obligations under the indemnification provisions of this Agreement.

Software agreements require evidence of cybersecurity coverage.

- **Dispute Resolution**: We cannot accept binding arbitration. If the agreement includes such wording, ask the vendor to remove or replace with other language. *Example of alternate language:* Any dispute with respect to or arising out of or in connection with, or otherwise related to the execution or performance of, this Agreement shall first be attempted to be settled by the parties amicably through good faith discussions upon the written request of either party.

- **Prepayment**: If the agreement includes prepayment language, then Prepayment approval from the CFO is required. Please provide a copy of the Prepayment approval email along with the copy of the agreement.

- **Subrogation:** Agreement should not include a waiver of subrogation. If it does, it needs to be in favor of the District, not the other party.

- **Signature Block**: Kern Community College District obo *COLLEGE NAME*. Authorized Signatory is Robert B. Miller, DPA, Interim Chief Financial Officer.

- **Data-Sharing requirements:**
  Agreements which include data-sharing component(s) must be reviewed and approved by the Institutional Research & Reporting.
  - The IR / IE Workload Impact Checklist, is to be completed for any contract involving data, reporting, or analytics.

- **Technology/Software requirements:**
  The following items must be reviewed within the contract from an IT perspective. Also note that if this requires any IT work, it must be submitted via your Campus Vice President of Finance and Administrative Services for consideration and prioritization, including a review of required resources and cost with IT.
  - The Technology and Software Requirements is to be completed for any new technology/software agreements.
  - Both the HECVAT Lite, version 2.11 and VPAT, version 2.0 forms must be completed by the vendor and emailed to the Kern Community College District's Finance and Administrative Services Department, Contracts.

Contract Checklist FAQs

Please review the following information to ensure the contract submission includes all required **information prior to submittal to contracts@kccd.edu**.

Contracts submitted for District signature require a 3-4 week turnaround time. If the submitted contract requires further review from General Counsel, Risk Management, or District IT Department, please allow for an additional 10 days.

1. **Do you have the funds and your supervisor's approval for the contract?**
   Be sure you have the money in your budget and that you have received your supervisor's approval to move forward with a contract. Follow campus approval process.

2. **Does the contract properly identify KCCD?**
   Our legal name is the Kern Community College District on behalf of your campus name; Bakersfield College, Porterville College, and Cerro Coso Community College.

3. **Does the contract meet all of your needs?**
   Please ensure you have thoroughly reviewed your contract prior to submission.

   The Contracts Department and the Office of General Counsel are responsible for reviewing contracts for compliance with State of California laws, the Education Code, the Public Contract Code, and the Government Code. However, we are not familiar with the specific operational or programmatic needs of your department and assume that all necessary terms and conditions have been included by the requested party.

   It is the responsibility of the requested campus or department to conduct a careful review and confirm that the contract fully aligns with the District's expectations and requirements.

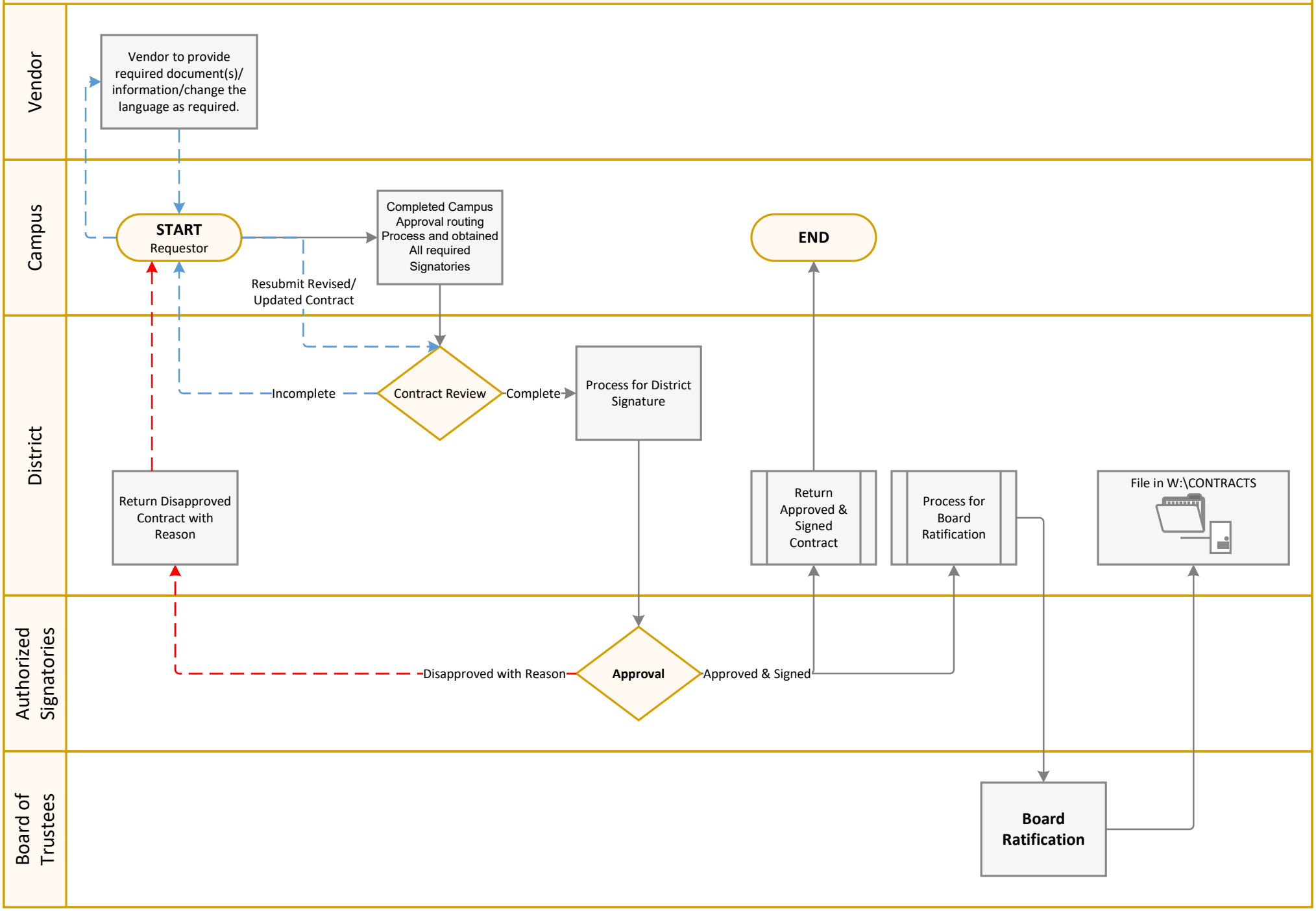
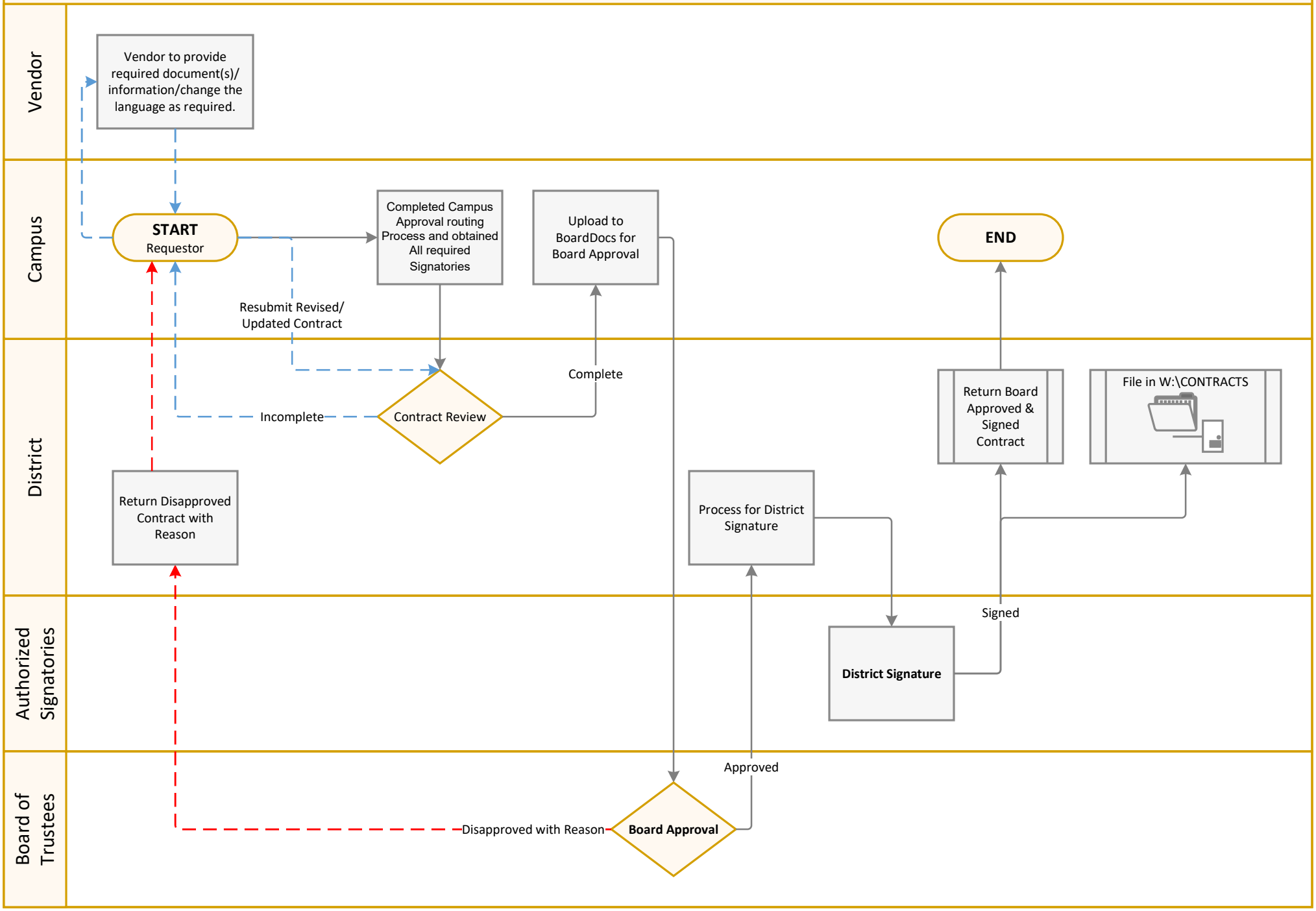
   Please do not forward the agreement to the Contracts Department for signature until your internal review is complete and all content is confirmed as acceptable.

4. **Are the effective dates properly identified?**
   There must be a term listed for the contract. The term should list an effective date and a termination date. The term of an agreement cannot exceed a 5-year term, including all renewals.

5. **Does the contract have signature lines for all individuals who need to sign the contract?**
   All contracts must clearly identify the authorized signatory or signatories for the Kern Community College District (KCCD).The Board of Trustees has delegated signature authority to the Chief Financial Officer and Chancellor.

6. **Does the contract have the appropriate language, some of which may need modification or deletion, for the following:**
   a. Payment requirements
   b. Finance charges and/or payment penalties
   c. Liability
   d. Indemnification
   e. Attorney fees and/or court costs and/or litigation expenses
   f. Insurance requirements
   g. No waiver of subrogation language
   h. Termination clauses
   i. Breach of contract clauses
   j. Any state laws other than California governing the contract
   k. No binding arbitration
   i. Other

Business Services-Contracts Department (District) Procedure – Board Ratification Item (**UNDER** Annual Bid Limit)



Business Services-Contracts Department (District) Procedure – Board Approval Item (OVER Annual Bid Limit)