



PERRIS UNION

HIGH SCHOOL DISTRICT

Request for Proposals

RFP # 011923-01

ERATE – Perris Union High School District ISP Services

Bid Responses due at 2:00 P.M. Thursday, January 19, 2023

PROPOSALDOCUMENTS

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1. NOTICE TO PROPOSERS

1. Notice is hereby given that the Board of Trustees of the Perris Union High School District (“District”), of the County of Riverside, State of California, will receive sealed proposals for, ERATE – Perris Union High School District ISP Services (together, the “Project”) up to, but not later than, 2:00 p.m., on Thursday, January 19, 2023. All proposals shall be received at the District Office, Purchasing Department located at 155 E. 4th Street, Perris CA 92570.
2. Each proposal shall be completed on the Proposal Bid Form included in the Contract Documents, and must conform and be fully responsive to this invitation, the plans and specifications and all other Contract Documents. Copies of the Contract Documents are available on the district website or by contacting Sylvia Hinojosa at sylvia.hinojosa@puhsd.org.
3. Each proposal shall be accompanied by cash, a cashier’s or certified check, or a proposer’s bond executed by a surety licensed to do business in the State of California as a surety, made payable to the District, in an amount not less than ten percent (10%) of the maximum amount of the bid. The check or proposal bond shall be given as a guarantee that the proposer to whom the contract is awarded will execute the Contract Documents and will provide the required payment and performance bonds and insurance certificates within ten (10) days after the notification of the award of the contract.
4. This is a public works project and the successful proposer shall comply with the provisions of the Labor Code pertaining to payment of the generally prevailing rate of wages and apprenticeships or other training programs. The Department of Industrial Relations has made available the general prevailing rate of per diem wages in the locality in which the work is to be performed for each craft, classification or type of worker needed to execute the contract, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. Copies of these prevailing rates are available to any interested party upon request and are online at <http://www.dir.ca.gov/DLSR>. The Contractor and all subcontractors shall pay not less than the specified rates to all workers employed by them in the execution of the Contract. It is the Contractor’s responsibility to determine any rate change.
5. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work shall be at least time and one half.
6. The substitution of appropriate securities in lieu of retention amounts from progress payments in accordance with Public Contract Code § 22300 is permitted.
7. Pursuant to Public Contract Code § 4104, each proposal shall include the name, license number, and location of the place of business of each subcontractor who shall perform work or service or fabricate or install work for the contractor in excess of one-half of one percent (0.5%) of the proposal price. The proposal shall describe the type of the work to be performed by each listed subcontractor.
8. No proposal may be withdrawn for a period of sixty (60) days after the date set for the opening of proposals except as provided by Public Contract Code § 5100 et seq. The District reserves the right to reject any and all proposals and to waive any informalities or irregularities in the bidding.
9. Minority, female, and disabled veteran contractors are encouraged to submit bids.

10. The project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations. In accordance with Labor Code § 1771.1, all proposers, contractors and subcontractors working at the site shall be registered with the Department of Industrial Relations at time of proposal opening and at all relevant times. Proof of registration shall be provided as to all such contractors prior to the commencement of any work.
11. Intentionally Omitted.
12. The Board of Trustees has not found that the Project is substantially complex and therefore requires a standard retention amount of only five percent (5%).
13. Intentionally Omitted.
15. A payment bond is required for a public works contract involving an expenditure in excess of twenty-five thousand dollars (\$25,000). Separate payment and performance bonds, each in an amount equal to 100% of the total Contract amount, are required, and shall be provided to the District prior to execution of the Contract and shall be in the form set forth in the Contract Documents. All bonds (Bid, Performance, and Payment) must be issued by a California admitted surety as defined in California Code of Civil Procedure section 995.120.

By: Perris Union High School District, Purchasing Department
155 E. 4th Street Perris, CA 92570
Attn: Sylvia Hinojosa [Email: sylvia.hinojosa@puhsd.org](mailto:sylvia.hinojosa@puhsd.org)

DATED: December 16, 2022

Publication Date: December 16 & 23, 2023

2. INSTRUCTIONS TO PROPOSERS

Each proposal submitted to the Perris Union High School District (“District”) for, ERATE – ISP Services (“Project”) shall be in accordance with the following instructions and requirements, which are part of the Contract Documents for this Project.

1. Deadline For Receipt of Bids. Each proposal shall be sealed and submitted to the Purchasing Department no later than 2:00 p.m. on January 19, 2023. The District suggests that bids be hand delivered in order to ensure their timely receipt. Any bids received after the time stated, regardless of the reason, shall be returned, unopened, to the proposer.

2. Schedule of Events.

Event	Dates
Publish Bid Documents	12/16/2022 & 12/23/2022
Requests for Clarifications to the Bid Documents Due	1/09/2023
Responses to Requests for Clarifications Sent	1/13/2023
Responses to the Bid Documents Due	1/19/2023
District Sends Out Notice of Intent to Award	1/31/2023

3. Proposers’ Conference and Site Walk. No conference/site walk.
4. Requests for Information. A proposer’s failure to request clarification or interpretation of an apparent error, inconsistency or ambiguity in the Contract Documents waives that proposer’s right to thereafter claim entitlement to additional compensation based upon an ambiguity, inconsistency, or error, which should have been discovered by a reasonably prudent Contractor, subject only to the limitations of Public Contract Code § 1104. To the fullest extent permitted by law District expressly disclaims responsibility for assumptions a proposer may draw from the presence or absence of information in the proposal documents. Any questions relative to the proposal shall be in writing and directed to the Purchasing Department at sylvia.hinojosa@puhsd.org. These requests shall be submitted to the District on the date specified in Section 2 of Instruction to Proposers, “Schedule of Events.”
5. Bid Proposal Forms. All proposal shall be made on the form provided by the District. All items on the form shall be filled out in ink or typed. Numbers should be stated in figures, and the signatures of all individuals must be in long hand. The completed form should be without interlineations, alterations, or erasures.
6. Execution of Forms. Each proposal shall give the full business address of the proposer and must be signed by the proposer or proposer’s authorized representative with his or her usual signature. Bids by partnerships must furnish the full names of all partners and must be signed in the partnership name by a general partner with authority to bind the partnership in such matters. Bids by corporations must be signed with the legal name of the corporation, followed by the signature and designation of the president, secretary, or other person authorized to bind the corporation in this matter. The name of each person signing shall also

be typed or printed below the signature. When requested by the District, satisfactory evidence of the authority of the officer signing on behalf of the corporation or partnership shall be furnished. A proposer's failure to properly sign required forms may result in rejection of the bid. All bids must include the proposer's contractor license number(s) and expiration date(s).

7. Bid Security. Bid proposals shall be accompanied by a certified or cashier's check or bid bond for an amount not less than ten percent (10%) of the bid amount, payable to the District. A bid bond shall be secured from an admitted surety company, licensed in the State of California, and satisfactory to the District. The bid security shall be given as a guarantee that the proposer will enter into the Contract if awarded the work, and in the case of refusal or failure to enter into the Contract within ten (10) calendar days after notification of the award of the Contract or failure to provide the payment and performance bonds and proof of insurance as required by the Contract Documents, the District shall have the right to award the Contract to another proposer and declare the bid security forfeited. The District reserves the right to pursue all other remedies in law or equity relating to such a breach including, but not limited to, seeking recovery of damages for breach of contract. Failure to provide bid security, or bid security in the proper amount, may result in rejection of the bid.
8. Withdrawal of Bid Proposals. Bid proposals may be withdrawn by the proposers prior to the time fixed for the opening of bids, but may not be withdrawn for a period of sixty (60) days after the opening of bids, except as permitted pursuant to Public Contract Code § 5103.
9. Addenda or Bulletins. The District reserves the right to issue addenda or bulletins prior to the opening of the bids subject to the limitations of Public Contract Code § 4104.5. Any addenda or bulletins issued prior to bid time shall be considered a part of the Contract Documents.
10. Bonds. The successful proposer shall be required to submit payment and performance bonds as specified in and using the bond forms included with the Contract Documents. All required bonds shall be based on the maximum total contract price as awarded, including additive alternates, if applicable.
11. Rejection of Bids and Award of Contract. The District reserves the right to waive any irregularities in the proposal and reserves the right to reject any and all proposals. The Contract will be awarded, if at all, within sixty (60) calendar days after the opening of bids, subject to Board of Trustees approval.
12. Execution of Contract. The successful proposer shall, within ten (10) calendar days of the Notice of Award of the Contract, sign and deliver to the District the executed contract along with the bonds and certificates of insurance required by the Contract Documents. In the event the successful proposer fails or refuses to execute the Contract or fails to provide the bonds and certificates as required, the District may declare the proposer's bid deposit or bond forfeited as liquidated damages, and may award the work to the next lowest responsible, responsive proposer, or may reject all bids and, in its sole discretion, call for

new bids. In all cases, the District reserves the right, without any liability, to cancel the award of Contract at any time prior to the full execution of the Contract.

13. Drawings and Specifications. All drawings, specifications and other documents used or prepared during the project shall be the exclusive property of the District.
14. Evidence of Responsibility. Upon the request of the District, a proposer shall submit promptly to the District satisfactory evidence showing the proposer's financial resources, the proposer's experience in the type of work being required by the District, the proposer's availability to perform the Contract and any other required evidence of the proposer's qualifications and responsibility to perform the Contract. The District may consider such evidence before making its decision to award the Contract. Failure to submit requested evidence may result in rejection of the bid.
15. Taxes. Applicable taxes shall be included in the proposal.
16. Bid Exceptions. Bid exceptions are not allowed. If the Proposer has a comment regarding the bid documents or the Scope of Work, the Proposer shall submit those comments to the District for evaluation at least five working days prior to the opening of the bids. No oral or telephonic modification of any proposal submitted will be considered and a sealed written modification may be considered only if received prior to the opening of bids. Emailed or faxed bids or modifications will not be accepted.
17. Discounts. Any discounts which the proposer desires to provide the District must be stated clearly on the bid form itself so that the District can calculate the net cost of the proposal. Offers of discounts or additional services not delineated on the bid form will not be considered by the District in the determination of the lowest responsible responsive proposer.
18. Quantities. The quantities shown on the plans and specifications are approximate. The District reserves the right to increase or decrease quantities as desired.
19. Prices. Proposers must quote prices F.O.B. unless otherwise noted. Prices should be stated in the units specified and proposers should quote each item separately.
20. Samples. On request, samples of any products being bid shall be furnished to the District.
21. Substitutions. In describing any item, the use of a manufacturer or brand does not restrict bidding to that manufacturer or brand, but is intended only to indicate quality and type of item desired, except as provided in Public Contract Code § 3400. Substitute products may be considered either prior to or after the award of the Contract in accordance with § 3400 and as set forth in either the Special Conditions or the Specifications. All data substantiating the proposed substitute as an "equal" item shall be submitted with the written request for substitution. The District reserves the right to make all final decisions on product and vendor selection.

22. Container Costs and Delivery. All costs for containers shall be borne by the proposer. All products shall conform to the provisions set forth in the federal, county, state and city laws for their production, handling, processing and labeling. Packages shall be so constructed to ensure safe transportation to the point of delivery.
23. Bid Negotiations. Intentionally Omitted.
24. Prevailing Law. In the event of any conflict or ambiguity between these instructions and state or federal law or regulations, the latter shall prevail. All equipment to be supplied or services to be performed under the bid proposal shall conform to all applicable requirements of local, state and federal law, including, but not limited to, Labor Code §§ 1771, 1778 and 1779.
25. Allowances. An “allowance” means an amount included in the bid proposal for work that may or may not be included in the Project, depending on conditions that will become known only after the Project is underway.
26. Subcontractors. Pursuant to the Subletting and Subcontracting Fair Practices Act, Public Contract Code §§ 4100 et seq., every proposer shall, on the enclosed Subcontractor List Form, set forth:
- a. The name, license number, and location of the place of business of each Subcontractor who will perform work or labor or render service to the proposer in or about the work or fabricate and install work in an amount in excess of one-half of the one percent (0.5%) of the proposer’s total bid.
 - b. If the proposer fails to specify a Subcontractor for any portion of the work to be performed under the Contract in excess of one-half of one percent (0.5%) of the proposer’s total bid, proposer agrees that proposer is fully qualified to and shall perform that portion of the work. The successful proposer shall not, without the written consent of the District or compliance with Public Contract Code §§ 4100 et seq., either:
 - 1) Substitute any person as Subcontractor in place of the Subcontractor designated in the original bid;
 - 2) Permit any subcontract to be voluntarily assigned or transferred or allow the work to be performed by anyone other than the original Subcontractor listed in the bid; or
 - 3) Sublet or subcontract any portion of the work in excess of one-half of one percent (0.5%) of the total proposal as to which the proposer’s original proposal did not designate a Subcontractor.
27. Examination of Contract Documents and Work Site. Before submitting a bid proposal, all proposers shall carefully examine the Contract Documents, including the plans and

specifications, shall visit the site of the proposed work, and shall fully inform themselves of all conditions in and about the work site, as well as applicable federal, state and local laws and regulations that may affect the work. No proposer shall visit the site without prior authorization of the District. Proposers shall contact Purchasing Department designee for coordination of site visits.

28. Form and Approval of Contract. The Contract Documents must be approved by the Board of Trustees of the District and its legal counsel. The proposer selected by the District shall execute the contract provided by the District.
29. Licenses and Permits. Each proposer shall at all times possess all appropriate and required licenses or other permits to perform the work as identified in the Contract Documents. Upon request, each proposer shall furnish the District with evidence demonstrating possession of the required licenses or permits.
30. Denial of Right to Bid. Contractors or Subcontractors who have violated state law governing public works shall be denied the right to bid on this public works contract pursuant to Labor Code § 1777.7.
31. Proposers Interested in More Than One Bid. No person, firm, or corporation shall make, or file, or be interested in more than one bid. However, a person, firm, or corporation that has submitted a subproposal to a bidder, or that has quoted prices of materials to a bidder, is not thereby disqualified from submitting a sub-proposal or quoting prices to other bidders or from submitting a prime proposal.
32. Contractor's State License Board. Contractors and Subcontractors are required by law to be licensed and regulated by the California Contractors' License Board.
33. Fingerprinting. By law it is the District's responsibility to determine whether a contractor must provide fingerprint certification. Pursuant to Education Code § 45125.2, the District considers the totality of the circumstances in order to determine if fingerprinting of employees of a contractor working on a school site is required. Factors to be considered include the length of time the contractor's employees are on school grounds, whether students are in proximity to the location where the contractor's employees are working, and whether the contractor's employees are working alone or with others.
34. Labor Compliance Monitoring. The Project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations. In accordance with Labor Code § 1771.1, all proposers, contractors and subcontractors working at the site shall be duly registered with the Department of Industrial Relations at time of bid opening and at all relevant times. Proof of registration shall be provided as to all such contractors prior to the commencement of any work.
35. Additive and Deductive Items: Method of Determining Lowest Bid. Intentionally Omitted.

36. Public Records Act. Responses to the Bid Documents will become the property of the District and subject to the California Public Records Act, Government Code sections 6250, et seq. Those elements in each response that are trade secrets as that term is defined in Civil Code section 3426.1(d) or otherwise exempt by law from disclosure and which are prominently marked as “TRADE SECRET,” “CONFIDENTIAL,” or “PROPRIETARY” may not be subject to disclosure. The District shall not be liable or responsible for the disclosure of any such records including, without limitation, those so marked if disclosure is deemed to be required by law or by an order of the Court. Any responses that indiscriminately identify all or most of its response as exempt from disclosure without justification may be deemed non-responsive. In the event the District is required to defend an action on a Public Records Act request for any of the contents of a response marked “Confidential,” “Proprietary,” or “Trade Secret,” each respondents agrees, by submission of its response for the District’s consideration, to defend and indemnify the District from all costs and expenses, including attorneys’ fees, in any action or liability arising under the Public Records Act.
37. Quality. All equipment and materials used in the installation should be new. Used, refurbished or repurposed equipment or material will not be acceptable.
38. Bid Protest. Any bid protest must be in writing and received by the District Office before 4:00 p.m. no later than five (5) calendar days following the issuance of a Notice of Intent to Award the bid, and shall comply with the following requirements:
- a. The bid protest must contain a complete statement of the basis for the protest and all supporting documentation.
 - b. The party filing the protest must have actually submitted a bid for the Project. A Subcontractor of a proposer submitting a proposal for the Project may not submit a bid protest. A proposer may not rely on the bid protest submitted by another proposer, but must timely pursue its own protest.
 - c. The protest must refer to the specific portion or portions of the Contract Documents upon which the protest is based.
 - d. The protest must include the name, address and telephone number of the person representing the protesting proposer.
 - e. The proposer filing the protest must concurrently transmit a copy of the bid protest and all supporting documentation to all other proposers with a direct financial interest which may be affected by the outcome of the protest, including all other proposers who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.
 - f. The proposer whose bid has been protested may submit a written response to the bid protest. Such response shall be submitted to the District before 5 p.m. no later than two (2) working days after the deadline for submission of the bid protest or receipt

of the bid protest, whichever is sooner, and shall include all supporting documentation. Such response shall also be transmitted by the responding party concurrently to the protesting proposer and to all other proposers who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.

- g. The procedure and time limits set forth in this section are mandatory and are the proposer's sole and exclusive remedy in the event of bid protest. By submitting a proposal each proposer agrees that failure to comply with these procedures shall constitute a waiver of any right to further pursue the bid protest, including filing a Government Code claim or legal proceedings.
- h. Upon receipt of a valid Bid Protest, the District and/or its legal counsel will review the Bid Protest and render a decision in writing within 30 working days. If the District determines that a protest is frivolous, the protesting proposer may be determined to be non-responsible and that proposer may be determined to be ineligible for future contract awards by the District.
- i. The proposer may appeal the District's decision to the Board for its consideration. The Board's decision shall be final.
- j. A "working day" for purposes of this section means a weekday during which the District's office is open and conducting business, regardless of whether or not school is in session.

PROJECT SCOPE / REQUIREMENTS

The Perris Union High School District (PUHSD) is seeking E-Rate category one eligible leased lit fiber with Internet Access services. A complete turnkey system with all installation and maintenance provided by the service provider is requested. Perris wishes to have the flexibility to adjust the transmission speed as District needs dictate. This request is for a starting speed of 20 Gbps must include e-Rate eligible bundled firewall services.

All equipment must be installed and maintained at no cost to the District and remain the property of the service provider with no option for the District to purchase the equipment.

Service Requirements

This request is for a high-speed lit fiber with Internet Access Service must include E-Rate eligible, bundled firewall services.

This service must be a managed fiber optic network service from two separate locations that connects at two (2) distinct locations within the Perris Union High School District. These locations are: (1) the District Office (DO) at 155 East 4th Street, Perris, CA 92570; and (2) Perris High School at 175 East Nuevo Road, Perris, CA 92571. The connections between the provider and the two district locations must be provided via distinct and separate routes with firewall services for each connection. The basic speed of the Internet connection is to be no less than a full and continuous 20Gbps connection and include pricing for data rates of no less than 20 Gbps.

The service provider will hand-off a 10 Gigabit connection to the district at each site for connection to the existing District network equipment. (Total 20 Gbps).

Bundle Firewall services must be able to process inbound / outbound traffic at a minimum of 5Gbps.

In addition to the internet services, the District will require 5 dedicated routable IP addresses per circuit and a contiguous block of at least 50 IPv4 addresses, with optional pricing for additional contiguous blocks of IPv4 addresses at the District's request. The resulting Internet connection must maintain the current Internet addressing scheme 204.100.210.0 - 204.100.214.255.

Provision all routing including BGP, turn up circuit, provide connectivity monitoring and troubleshooting. The district office - data room at 155 East 4th Street is to serve as the aggregate point for the network.

PUHSD consists of a central District Office, a remote administrative location (Student Services Center), and eight physical school sites. PUHSD maintains two active data centers located at the central District Office and at Perris High School.

This project is entirely contingent upon available funding from the federal E-Rate program (Schools and Libraries Division) and PUHSD and may or may not be undertaken at its sole discretion. In addition, PUHSD will require that the awarded service provider ensure that all eligible components of the service are filed with the California Public Utilities Commission (CPUC) and are eligible for the California Teleconnect Fund (CTF) discount.

The specific service requirements are:

1. Network Design and Construction Routes

- a. Applicant leaves point of presence (PoP) location and fiber routes up to respondent. However, due to current and future bandwidth needs, designs are encouraged to provide dedicated infrastructure to Applicants. This includes little to no aggregation or third-party equipment between Applicant site and PoP.
- b. Applicant is not advocating or mandating any preconceived network design or construction route and leaves this decision up to the vendor to present their best solution.
- c. Respondents should clearly illustrate proposed network design and construction routes. Respondents should show evidence that they looked at alternate routes for the build and should provide narrative language supporting rationale for chosen build route(s).
- d. The applicant's stated decision criteria (outlined in the RFP) will be used to determine if an award is made as-a-result of this RFP. The applicant has, in accordance with E-rate guidelines, rated cost of service as the highest weighted factor in its decision criteria.

2. Special Construction

- a. In E-rate terminology, special construction refers to the upfront, non-recurring costs associated with the installation of new fiber to or between eligible entities.
- i. Special construction and service eligibility for reimbursement have changed starting funding year 2016. See the Federal Communications Commission E-rate modernization order 2 (WC Docket No. 13-184) (<https://www.fcc.gov/document/fcc-releases-order-modernizing-e-rate-21st-century-connectivity>) for more information.
- b. Special construction charges eligible for Category One support consist of three components:
 - i. construction of network facilities
 - ii. design and engineering
 - iii. project management
- c. If no new fiber is being installed, then any installation costs are considered standard non-recurring costs (NRC).
- i. For leased lit fiber solutions requiring special construction, this means that the costs associated with building the fiber are considered special construction and the costs associated with the equipment required to activate the service are a standard NRC.
- d. Special Construction Payment Plan Option
- i. The applicant requests that the respondents consider allowing Applicant to pay the non-discount share of special construction costs (portion of costs that are the responsibility of the applicant) to be paid in equal [annual or monthly] installments over four years from Funding Year 2023 to Funding Year 2026 inclusive. Responses must include agreement or non-agreement of this request.
- e. Excess fiber strands for special construction projects
- i. To the extent that the winning service provider installs additional strands of fiber for future business ventures, the winning service provider assumes full responsibility to ensure those incremental costs are allocated out of the special construction charges to the district in accordance with FCC rules and orders.
- ii. If, after the issuance of the FCDL, USAC or the FCC determines that the winning service provider did not cost allocate those charges associated with the additional strands, Applicant will

not be responsible for reimbursing the winning vendor and the winning vendor will assume all responsibilities deemed ineligible by USAC.

iii. For examples of cost allocation, please see document in Appendix A as prepared by the State E-rate Coordinators' Alliance (SECA).

f.

3. Solution Specifications

a. Internet access

i. Applicant must have a dedicated, symmetrical bandwidth of 20 Gbps.

ii. The solution will be load-balanced between the two District locations identified above.

iii. Service provider shall be responsible for all routing to the Internet backbone from both locations such that this is transparent to the District.

iv. Contract options are requested for 60 month terms of service.

v. Each respondent is required to complete the attached pricing sheet with this RFP.

1. Special construction, monthly recurring cost, and any additional non-recurring costs are required to be broken out and listed separately.

2. Respondents are free to propose alternate pricing terms provided they have also included pricing in the requested format.

3. No increased pricing will be allowed during the term of the quoted special construction, NRC, and MRC rate in each pricing cell of the matrix.

vi. All costs required to deliver the proposed solution must be included in the bid. By submitting a bid, the respondent certifies that it has engineered a full solution including all monthly recurring charges, all installation charges and all special construction costs. Costs added to the quote after the respondent has submitted their bid are solely the responsibility of the respondent and not the applicant.

vii. If a bandwidth upgrade is requested mid-contract the term length does not reset or renew. For example, if an upgrade occurs in month 20 of a 36-month contract, then 16 months of service must remain on the contract at the new bandwidth before a contract renewal is available.

viii. All solutions must adhere to the Service Level Agreement (SLA) terms in Section 4.

4. Service Level Agreement

Proposed services must meet the following specifications:

a. The provider will make all reasonable efforts to ensure 99.99% network availability of each circuit.

b. .25% frame/packet loss commitment

i. 25ms round trip network latency commitment on transport between Applicant site and PoP only. This does not apply to traffic outside of the PoP.

ii. 10ms network jitter commitment

iii. There is no right of provider to limit or throttle the capacity of the circuit at any time for any reason

iv. Vendor stated commitment is to respond to any outage within two (2) hours and a four (4) hour restoration of service.

c. Network operations center: Solution will provide customer support functions including problem tracking, resolution and escalation support management on a 24x7x365 basis. Customer has the right and is encouraged to call concerning any problems that may arise relative to its connection with vendor provided services.

- d. Trouble reporting and response: Upon interruption, degradation or loss of service, Customer may contact Vendor by defined method with a response based on trouble level. Upon contact from the Customer, the Vendor support team will initiate an immediate response to resolve any Customer issue. Customer will receive rapid feedback on trouble resolution, including potential resolution time.
- e. Escalation: In the event that service has not been restored in a timely manner, or the Customer does not feel that adequate attention has been allocated, the Customer can escalate the trouble resolution by request. A list of escalation contacts will be provided when the implementation schedule is completed.
- f. Resolution: The Customer will be notified immediately once the problem is resolved and will be asked for verbal closure of the incident.
- g. Trouble reporting, escalation and resolution: A detailed trouble reporting, escalation and resolution plan will be provided to the district.
- h. Measurement: Time starts from the time the Customer contacts the vendor and identifies the problem. Credits for outages should be the following:

Length of Service Outage	Credit is the following percentage of monthly recurring cost
Less than 2 hours	No Credit
Greater than two (2) hours and less than four (4) hours	5%
Greater than four (4) hours and less than eight (8) hours	10%
Greater than eight (8) hours and less than twelve (12) hours	15%
Greater than twelve (12) hours and less than sixteen (16) hours	20%
Greater than sixteen (16) hours and less than twenty-four (24) hours	35%
Greater than twenty-four (24) hours	50%

- i. Reports: Upon request, an incident report will be made available to the Customer within five (5) working days of resolution of the trouble.
 - ii. Link performance per segment: The service will maintain the proposed link performance throughout the term of the contract.
 - iii. Historical uptime: Provide aggregate uptime statistics for your proposed service in the geographic area encompassing Applicant.
5. General Terms for All Proposals
- a. Failure to include any requested information noted as required by the respondent is grounds for disqualification.
 - b. Description of Proposal

- i. Respondent will provide a description of their proposal for all services and solutions.
- ii. Description will include an overview of the proposal, any deviations from the requested architecture, design or requirements, assumptions made, and other detail Applicant may find useful or necessary (or could differentiate the solution from a competing proposal).
- c. Reselling and subcontracting
 - i. Any respondent who intends to resell or subcontract a lit service from a 3rd party must supply proof in writing that said party can provide service at all proposed Applicant locations.
 - ii. If at any point following the bid submission any changes from the 3rd party alter the costs or significantly change scope of proposed service then Applicant will not be liable for the cost increase and reserves the right to disqualify the bid and cancel any signed contracts without penalty.
- d. Timeline
 - i. For each response, respondents must include a timeline for bringing service online.
 - ii. Proposals requiring little to no special construction should be able to bring all sites online by the July 1 start of the funding year.
 - iii. For solutions requiring special construction, a schedule of bringing the service online must be included with an explanation of how this timeline shifts if the date of the E-rate funding commitment shifts.
- e. Demarcation
 - i. All solutions must terminate service or infrastructure in the demarcation point at addresses specified above.
 - ii. Solutions bringing service to the property line but not to the demarcation point are not acceptable.
 - iii. Respondent must specify specific demarcation setup included in base fees, e.g. wall mounted CPE and CAT6a handoff, rack mount patch panel, etc.
- f. Network Diagram
 - i. For each response, respondents must include a network diagram displaying the paths to be used to serve each endpoint.
 - ii. Diagrams must show if the circuit is routed through any aggregation hubs or third-party facilities/equipment between district site and point of presence.
 - 1. If this detailed information cannot be supplied, then at a minimum the quantity of each must be supplied in order to provide a picture of potential latency.
- g. References
 - i. For each response, respondent must provide 3 references from current or recent customers (preferably K-12) with projects equivalent to the size of Applicant.
- h. E-rate Program Integrity Assurance (PIA) Review
 - i. If their solution is chosen, respondents are required to promptly provide Applicant with any information being requested as part of PIA review.
 - ii. Vendors may assist applicants with preparing funding requests or responding to PIA questions and may speak directly with PIA reviewers.

- iii. For all responses that include special construction, the respondent agrees to, by submitting its bid, produce all construction labor, construction materials and other cost information requested during PIA review.
- iv. All respondents must agree in writing to this section with a “yes” or a “no” answer. Answering no or failure to answer at all is grounds for disqualification.
- i. Required Notice to Proceed and Funding Availability
 - i. Applicant will follow the purchasing policies of the Applicant Board and requirements and procedures of the FCC’s E-rate program as administered by the Universal Service Administrative Company to be eligible for all available funding.
 - ii. The implementation of any associated contracts resulting from this competitive bid process will be dependent on the district's’ issuance of a written Notice to Proceed.
 - iii. E-rate funding notification alone will not signify Notice to Proceed. The district will have the right to allow the contract to expire without implementation if appropriate funding (including any state matching funds for special construction projects) does not come available.

The Service Provider must be able to offer both E-Rate and California Teleconnect Fund (CTF) discounts for the proposed high-speed circuits. Proposals must include all necessary components including, but not limited to: equipment racks, digital equipment, data cabling, and associated termination equipment as required. In compliance with E-Rate regulations, all equipment included in this request will be owned and maintained by the awarded Service Provider with no option for transfer of ownership to PUHSD.

The Service Provider must include in its proposal a complete description of its billing process including (1) when billing will begin once construction starts for each circuit (the district's expectation is that the entire network will be constructed before any segment is activated, and billing for all sites initiates after all construction has occurred), and (2) the process the Service Provider will follow to put the E-Rate and California Teleconnect Fund discounts onto the district's monthly bills. If the Service Provider requires that any additional paperwork or forms are required to get E-Rate and CTF discounts, the Service Provider shall explain this process in sufficient detail to enable PUHSD to determine if this additional requirement has a material or financial impact on receiving these services or E-Rate and CTF discounts.

The District reserves the right to reject any or all proposals. The District also reserves the right to award a partial contract in the event it is deemed necessary for the District’s best interest.

Information Requested and General Requirements

A. General Information

- 1. All responses shall conform to instructions provided in this RFP document
- 2. No billing or final delivery of service can take place prior to July 1, 2023

B. BID Proposals

Service providers must submit all required documents prior to the deadline. All proposals must be complete.

C. Request for Proposal Preparation Costs

Service provider is responsible for all cost. No preparation cost will be reimbursed by the district

D. Service Provider Qualifications

Any firm submitting a proposal must be able to provide evidence that the individual or firm and its personnel carry out the responsibility, have expertise and experiences in all areas identified in the Service required section of this RFP. The service provider shall provide three K-12 references consisting of similar work and scope.

Request for Proposal Submission Requirements: any missing information will disqualify the service provider.

- a. Cover Letter of Interest
- b. Table of Contents
- c. Service provider Company Data
- d. Experience and Client References
- e. Technical Capabilities
- f. Service provider Qualifications
- g. Mandatory attachment 1 Price Bid Form - Cost Proposal completely filled out
- h. Transition Plan
- i. Ancillary Features and Services
- j. Description of Service Delivery Options
- k. Valid USAC issued SPIN Number
- l. FCC "RED" Light Status
- m. Signed E-rate Supplemental Terms and Conditions

QUESTIONS REGARDING THE RFP DOCUMENTS, SCOPE OF WORK, AND/OR SPECS OF THE PROJECT:

All questions concerning this RFP shall be submitted in writing by email to the Director of Purchasing, Sylvia Hinojosa at sylvia.hinojosa@puhsd.org on or before **Monday, January 9, 2023 at 4:00 PM**. Please indicate the RFP title in the subject line. Contact with District personnel shall be made only through email; telephone calls will not be accepted. All notices, clarifications, and addenda to this RFP shall be posted on the District website at <https://www.puhsd.org/blog/1460/contracting-opportunities>. The District shall not be responsible for sending individual notification of changes or updates to any respondents. It is the sole responsibility of the bidders to remain apprised of changes to this RFP as shown on the District website.

General Requirements

1. The service provider is responsible for all labor and material necessary to provide service to the District's.
2. The service provider will supply the District with a Small Form-factor Pluggable (SFP) that will connect directly into the district-provided equipment.
3. Service provider is responsible to obtain all necessary rights of way needed to successfully complete this project.
4. The service provider is responsible for all pathways including related material and labor to terminate service within the Main Distribution Frame for each Site Location.
5. All work performed on District property must, at a minimum, conform to the referenced PUHSD MASTER SPECIFICATION FOR DATA CABLING INFRASTRUCTURE. Please see Perris UHSD website for additional details. <https://www.puhsd.org/blog/1460/contracting-opportunities>
6. The service provider must provide pricing for the following terms:

The term of the proposed agreement will be for three (3) years and will include two (2) 1-year renewal extensions which will be renewable upon mutual written consent.
7. In the event of loss of service, the repair shall commence within two hours of the service call from the district. The service provider will make every effort to finalize repairs and restore service in the most expedient manner possible.
8. An uptime guarantee of a minimum of 99.9% shall be provided on a 24x7 basis average over each 7-day period.
9. Service Provider is to provide the following information on included and ancillary features and services:
 - a. E-rate eligible services included as a standard component of Internet service. (Basic firewall protection, domain name service, and dynamic host configuration features are examples of such services.)
 - b. Other network services Service Provider provides at no additional cost.
10. Service Provider is to provide a description of available service delivery options such as, but not limited to, diverse pathways while meeting the minimum cumulative requested bandwidth.
11. The circuits shall be capable of carrying multiple data services such as computer networks, voice over IP, digital video, etc.
12. All service provider equipment installed shall be under repair maintenance at no cost to PUHSD for the contract term.

13. During the term of the contract, any changes in the routing of the service provider cable due to city infrastructure changes and/or requirements (street widening, new underground cabling requirements, etc.) will be the responsibility of the service provider at no expense to the District.
14. The contract between the service provider and the District must allow for adjustments and upgrades to the speed of connections and number of sites serviced in the event that additional District locations come online.
15. The service cannot start work prior to a Notice to Proceed. The expected service deliver date is July 1, 2023. PUHSD may give the awarded service provider Notice to Proceed before or after receipt of the Funding Commitment Decision Letter from the Schools and Libraries Division.
16. The service provider shall provide three references consisting of similar scope and work, said references for work performed for school districts in California and covered by E-Rate funding.
17. Service Provider agrees that District reserves the right to close a site or multiple sites at their sole discretion, and upon that decision all ongoing monthly costs for those locations shall be removed from the total monthly costs for the network.
18. Service provider shall demonstrate, by way of its proposal and related work experience that it is ready, willing, and able to install and warranty the components described herein at the prices quoted.
19. Service provider shall devote whatever personnel necessary to meet the agreed upon schedule for the project.
20. Service provider understands and agrees that school session hours vary and that normal school operation is not disrupted during installation. While not required, District and service provider agree that it may be necessary to perform some work pertaining to the Contract after hours or when school is not in session. Service provider shall perform such out-of-session work as is reasonably necessary and shall ensure that consideration of gaining access to facilities does not unreasonably inconvenience PUHSD employees.
21. **TRANSITION PLAN:** As the cut-over date for any new service provider is required to be on July 1, 2023, the DISTRICT requires a transition plan to be provided with any proposal response from responsible proposers that are not the service provider or for any new services or locations NOT provided at the present time by the existing service provider. The plan is to include the resources to be dedicated to the transition, all costs associated with the transition, a timeline of actions with a completion target date for the service provider and for the DISTRICT transition team. The transition plan is to outline the expectations the service provider team would have of the DISTRICT and the information or task the DISTRICT is to provide the service provider and the date any information or task would be required.

22. The DISTRICT reserves the option to terminate service, without penalty and full expectation of refund of any and all proceeds paid prior to date of termination of contract or services for balance of services not rendered, if the district is dissatisfied with the service.
23. Any questions regarding this request for proposal must be submitted via e-mail only to: Sylvia Hinojosa at sylvia.hinojosa@puhsd.org by the date identified. No phone calls will be answered. All questions should be submitted in writing via email only.
24. Proposals wishing consideration should be submitted no later than the proposal deadline identified.
25. All service provider invoicing to USAC must be completed within 120 days from the last day of service. Should the service provider fail to invoice USAC in a timely manner, the District will only be responsible for paying its non-discounted share.
26. In the event of questions during an E-RATE pre-commitment review, post-commitment review and/or audit inquiry, the awarded service provider is expected to reply within 3 days to questions associated with its proposal.
27. The E-RATE program requires that all records be retained for at least ten (10) years from the last date of service provided on a particular funding request. Respondent hereby agrees to retain all books, records, and other documents relative to any Agreement resulting from this RFP for ten (10) years after final payment. The District, its authorized agents, and/or auditors reserves the right to perform or have performed an audit of the records of the Respondent and therefore shall have full access to and the right to examine any of said materials within a reasonable period of time during said period.
28. If awarded the Contract, the Proposer shall execute the Contract by causing its duly authorized representative to sign, and thereby bind the Bidder to the Contract. If awarded the Contract, within seven (7) calendar days of receipt of the Notice of Award, the Bidder shall complete as applicable, execute, and submit to the DISTRICT: (i) the E-RATE Services Agreement, Payment Bond, Performance Bond, and all other Required Contract Forms; and (ii) all Certificates of Insurance and endorsements required by the Contract Documents.

Customer Requirements

- a. Option for growth including but not limited to, increases in bandwidth and/or additions of locations, as determined necessary by the District.
- b. Options for removal of sites due to closures or reorganization requirements as deemed necessary by the District. The District will require that no early termination charges or other penalties assessed in such situation that is determined to be outside the control of the District.
- c. Reminder: It is unlawful for any person engaged in business within this state to sell or use any article or product as a loss leader.

EVALUATION

Each proposal will be evaluated based on criteria and priorities defined by the District. The contract will be awarded based on the prospective-service provider submission that best meets the needs of the District with regard to the current technology plan, future growth, and RFP specifications contained herein, not necessarily the lowest price, though price will be a priority factor.

Cost of E-RATE eligible services	35
Cost of E-Rate In-eligible Services	5
Methodology and Preferred Technical Features	25
Experience and Knowledge	15
Strength of proposer and history of positive experience	10
Service Level	10

Proposals will first be evaluated upon the base requirements, which include, but are not limited to the following:

1. Cost of E-RATE eligible services (35 points maximum) - The District will consider and rate the explanation and detail of rates and fees.
2. Cost of E-Rate In-eligible Services (5 Points maximum).
3. Methodology and Preferred Technical Features (25 points maximum) - The District will consider and rate the service providers cutover plan and implementation plan. The district will also evaluate whether the proposed technology is in the best interest of the district and will meet the required timeline. The District will evaluate the proposed included features and service delivery options.
4. Experience and Knowledge (15 points maximum) - The District will consider and rate the experience in providing, installing and maintaining like services for customers, knowledge of current state-of-the-art technology, and experience in managing projects of similar scope and nature in a regional setting and with large K-12 educational institutions. The proposer must provide a history of the company's strength and stability, licensing information, years in providing telecommunication services, and existing customer satisfaction.
5. Strength of proposer and history of positive experience (10 points maximum) - The District will consider and rate positive experience with proposed contractors. Also, the District will consider the acceptability of the three references presented by the service provider from customers with environments similar to PUHSD. Reference information must include company name/project, contact name, address, and telephone number.
6. Service Level (10 points maximum) - The District will consider and rate the quality of the Contractor's network connections, billing capabilities, account support team, and response time in installation, repair and restoration of service handling and resolution of billing issues/problems.

Finally, proposals will be evaluated as to E-Rate eligibility. At a minimum:

1. Prospective service provider shall provide proof of registration with the Universal Service Administrative Company's E-Rate Division for reimbursement as a Service Provider under E-Rate guidelines. This proof of registration will be a screen shot showing the proposer's Service Provider Identification Number (SPIN) and evidence of its annual filing of the FCC Form 473 Annual Service Provider Certification.
2. If the proposed solution is not covered at 100% eligible for E-rate program discounts, the service provider must detail what costs are eligible and what costs are ineligible.

ACCEPTANCE AND/OR REJECTION CONDITIONS

The District reserves the right to accept or reject any and/or all proposals or sections thereof when the rejection is in the District's best interest. The District also reserves the right to award without further discussion.

The district reserves the right to reject the proposal of a prospective service provider who has previously failed to perform properly or failed to complete on-time contracts of similar nature.

The district reserves the right to reject the proposal of any prospective service provider who, in the opinion of the district, is not in a position to adequately perform the requirements of the contract.

INDEPENDENT CONTRACTOR

In all matters relating to this Agreement, service provider shall be acting as an independent contractor. The employees of the service provider and its subcontractors are not employees of the DISTRICT under the meaning or application of any federal or state unemployment insurance laws, other social security law or any worker's compensation law, industrial law, or otherwise. Service provider shall assume and pay all liabilities and perform all obligations implied by any such laws with respect to the performance of this Agreement. Service provider shall not have any right, power, or authority to create any obligation, express or implied, on behalf of the DISTRICT and shall not have any authority to represent itself as an agent of the DISTRICT.

GOVERNING LAW

This RFP and any subsequent Agreement shall be governed by and interpreted in accordance with the laws of the state of California.

PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract 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 contract shall forthwith be physically amended to make such insertion or correction.

E-RATE SUPPLEMENTAL TERMS AND CONDITIONS

Signed copy to be returned with bid response.

The Telecommunications Act of 1996 established a fund by which Schools and Libraries across the Country could access discounts on eligible telecommunications products and services. The program is commonly known as the E-rate Program. The eligibility for discounts on internet access, telecommunications products and services, internal connection products, services and maintenance is determined by the Federal Communications Commission (FCC). Funding is made available upon application approval by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC), which was established by the Act. The amount of discount is based on the numbers of students receiving free and reduced price meals.

1. E-RATE CONTINGENCY

The project herein is contingent upon the approval of funding from the Universal Service Fund's Schools and Libraries Program, otherwise known as E-rate. Even after award of contract(s) and/or E-rate funding approval is obtained, the District may or may not proceed with the project, in whole or in part. Execution of the project, in whole or in part, is solely at the discretion of the District.

2. SERVICE PROVIDER REQUIREMENTS

The District expects Service Providers to make themselves thoroughly familiar with any rules or regulations regarding the E-rate program.

a. Service Providers are required to be in full compliance with all current requirements and future requirements issued by the SLD throughout the contractual period of any contract entered into as a result of this RFP.

b. Service Providers are responsible for providing a valid SPIN (Service Provider Identification Number). More information about obtaining a SPIN may be found at this website: <https://www.usac.org/e-rate/service-providers/step-1-obtain-a-spin/>

c. Service Providers are responsible for providing a valid Federal Communications Commission (FCC) Registration Number (FRN) at the time the bid is submitted. More information about obtaining an FRN may be found at this website: <https://fjallfoss.fcc.gov/coresWeb/publicHome.do>

d. Service Providers are responsible for providing evidence of FCC Green Light Status at the time the bid is submitted. Any potential bidder found to be in Red Light Status must provide an explanation of the steps it is undertaking to be removed to Red Light Status and the expected timeframe for resolution. A Service Provider's sustained Red Light Status may be grounds for contract termination as it could prohibit the Service Provider from providing E-rate discounts in a timely

manner which would cause harm to the Applicant. More information about FCC Red and Green Light Status may be found at this website: http://www.fcc.gov/debt_collection/welcome.html

- e. Products and services must be delivered before billing can commence. At no time may the Service Provider invoice before July 1, 2023.
- f. Prices must be held firm for the duration of the associated E-rate Funding Year(s) or until all work associated with the project is complete (including any contract and USAC approved extensions).
- g. Goods and services provided shall be clearly designated as “E-rate Eligible”. Non-eligible goods and services shall be clearly called out as 100% non-eligible or shall be “cost allocated” to show the percentage of eligible costs per SLD guidelines.
- h. Within one (1) week of award, the awarded Service Provider must provide the District a bill of materials using a completed USAC “Item 21 Template”. Subsequent schedules of values and invoices for each site must match Item 21 Attachment or subsequent service substitutions. A summary sheet must also be provided to provide the cumulative amount for all sites.
- i. In the event of questions during an E-rate pre-commitment review, post-commitment review and/or audit inquiry, the awarded Service Provider is expected to reply within 3 days to questions associated with its proposal.
- j. The awarded Service Provider is required to send copies of all forms and invoices to the District prior to invoicing USAC for pre-approval. Failure to comply with this requirement may result in the District placing the service provider on an “Invoice Check” with the USAC <https://www.usac.org/e-rate/applicant-process/invoicing/invoice-check/>
- k. Services providers must comply with the FCC rules for Lowest Corresponding Price ("LCP"). Further details on LCP may be obtained at USAC's website: <https://www.usac.org/e-rate/service-providers/step-2-responding-to-bids/lowest-corresponding-price/>

3. SERVICE PROVIDER ACKNOWLEDGEMENTS

- a. The Service Provider acknowledges that no change in the products and/or services specified in this document will be allowed without prior written approval from the district and a USAC service substitution approval with the exception of a Global Service Substitutions.
- b. The Service Provider acknowledges that all pricing and technology infrastructure information in its bid shall be considered as public and non-confidential pursuant to §54.504 (2)(i)(ii).

- c. The Service Provider acknowledges that its offer is considered to be the lowest corresponding price pursuant to § 54.511(b). Further details on LCP may be obtained at USAC's website: <https://www.usac.org/e-rate/service-providers/step-2-responding-to-bids/lowest-corresponding-price/>. Should it not be the lowest corresponding price, the service provider must disclose the conditions leading to the applicant being charged in excess of lowest corresponding price.
- d. Service providers are required to comply with the FCC's Lowest Corresponding Price ("LCP") Requirement for all equipment and Services. BIDDER acknowledges that BIDDER is solely responsible to comply with LCP requirements. To the extent that USAC finds an LCP violation and reduces the E-rate Funding, Service Provider agrees that it will not hold the DISTRICT liable for any shortfall in E-rate funding and will be responsible for any ensuing appeals, COMADS and/or RIDFS.
- e. The Service Provider attests that its offer does not violate the FCC's Supply Chain certifications included in the FCC Form 473. Supply Chain requirements and certifications can be viewed at USAC's Website: <https://www.usac.org/about/reports-orders/supply-chain/>.
- f. This offer is in full compliance with USAC's Free Services Advisory <https://www.usac.org/e-rate/applicant-process/competitive-bidding/free-services-advisory/>. There are no free services offered that would predicate an artificial discount and preclude the applicant from paying its proportionate non-discounted share of costs. The service provider agrees to provide substantiating documentation to support this assertion should the applicant, USAC, or the FCC request it.

4. **STARTING SERVICES/ADVANCE INSTALLATION – Category 1 Services**


The annual E-rate Funding Year begins on July 1 and expires on June 30 of each calendar year. Regardless of the contract "effective date", E-rate eligible goods and/or services requested in this RFP shall be delivered no earlier than the start of the 2023 funding year (July 1, 2023). If Category 1 services (Telecommunication Services and Internet access) will begin on or shortly after July 1 of a funding year, the service provider, in some cases, may need to undertake some construction and installation work prior to the beginning of that funding year. Within the limitations indicated below, the infrastructure costs of a service provider can be deemed to be delivered at the same time that the associated Category 1 services begin. That is, if services begin on July 1, then the delivery of service provider infrastructure necessary for those services can be considered as also delivered on July 1. However, NO INVOICING can take place prior to July 1 of the associated Funding Year.

EARLY FUNDING CONDITIONS

Category 1

There are four conditions that must be met in order for USAC to provide support in a funding year for Category 1 infrastructure costs incurred prior to that funding year.

- *Initiation of installation cannot take place before selection of the service provider pursuant to a posted Form 470 and in any event no earlier than six months prior to July 1 of the funding year.*
- *The Category 1 service must depend on the installation of the infrastructure.*
- *The underlying Category 1 service cannot have a service start date prior to July 1 of the funding year.*
- *No invoices can be submitted to USAC for reimbursement prior to July 1 of the funding year.*

For more information, please refer to the FCC Order involving the Nassau County Board of Cooperative Educational Services ([DA 02-3365](#) , released December 6, 2002). This FCC decision only applies to Priority 1 services (telecommunications services and Internet access).


The complete text can be found at the following URL:

<https://www.usac.org/e-rate/applicant-process/starting-services/advance-installation/>

Category 2

There is one condition that allows USAC to provide support in a funding year for Category 2 installation costs incurred prior to that funding year.

- *We also amend our rules for category two non-recurring services to permit applicants to seek support for category two eligible services purchased on or after April 1, three months prior to the start of funding year on July 1. This will provide schools with the flexibility to purchase equipment in preparation for the summer recess and provide the maximum amount of time during the summer to install these critical networks.*

For more information, please refer to the FCC Report and Order and Further Notice of Proposed Rulemaking ([FCC 14-99](#) , released July 23, 2014). This FCC decision only applies to Category 2 services (Internal Connections).

However, NO INVOICING can take place prior to July 1 of the funding year.

5. INVOICING

a. The Service Provider agrees to bill and receive a portion of the payment for the provisions of goods and services described herein directly from USAC via the Form 474 Service Provider Invoice (SPI). The District will only be responsible for paying its non-discounted share of costs and does not intend to use the BEAR process (Form 472). The maximum percentage the District will be liable for is the pre-discount amount minus the funded amount as shown on the FCC Form 471 Block 5 and any identified ineligible costs. Upon the successful receipt or posting of a Funding Commitment Decision Letter from the SLD and submission, certification and

USAC approval of Form 486, the District shall pay only the discounted amount beginning with the billing cycle immediately following said approval. Alternatively, should the District decide that it is in the best interest of the District to file a Form 472, the District will inform the Service Provider of its intent.

b. All Service Provider invoicing to USAC must be completed within 120 days from the last day of service. Should the Service Provider fail to invoice USAC in a timely manner, the District will only be responsible for paying its non-discounted share.

6. FCC/SLD AUDITABILITY

The E-rate program requires that all records be retained for at least ten (10) years from the last date of service provided on a particular funding request. Respondent hereby agrees to retain all books, records, and other documents relative to any Agreement resulting from this RFP for ten (10) years after final payment. The District, its authorized agents, and/or auditors reserves the right to perform or have performed an audit of the records of the Respondent and therefore shall have full access to and the right to examine any of said materials within a reasonable period of time during said period.

7. PROCUREMENT OF ADDITIONAL GOODS AND/OR SERVICES/COTERMINOUS EXPIRATION

During the term of any Agreement resulting from this RFP, the District may elect to procure additional or like goods and/or services offered by the Respondent. Such services shall be negotiated and obtained via an official amendment to this Agreement and approval by the District's Governing Board. All terms, conditions, warranties, obligations, maintenance and support of said goods or services shall have a coterminous expiration date with the original date of this Agreement. The District shall not enter into a separate Agreement for said goods or services. Respondents must state in their proposal that they acknowledge, accept and are in agreement with coterminous expiration conditions.

I, the undersigned, as an authorized agent of _____ (Service Provider Name), hereby certify that I have read the E-rate Supplemental Terms and Conditions, am fully compliant and intend to cooperate with the E-rate process as outlined above.

Signature: _____ **Title:** _____

Phone Number: _____ **Email:** _____

Service Provider Name: _____

PERFORMANCE AND PAYMENT BONDING REQUIREMENTS

Surety Bonds a Condition Precedent to Commencing the Work. Timely compliance by the Contractor with all requirements of these performance and payment bond requirements shall be deemed and construed as a condition precedent to the Contractor commencing any portion of the Work. However, in no event shall the Contractor's compliance, failure to comply, or failure to timely comply with these requirements be deemed or construed to relieve the Contractor of any of its responsibilities pursuant to the Contract Documents, including, without limitation, the requirement to commence the Work on the Commencement Date. The Contractor shall be responsible for all damages and costs incurred by the District arising from any failure by the Contractor to comply or to timely comply with these requirements.

Delivery of Surety Bonds. Within seven days of the date of the Notice to Proceed or prior to the Commencement Date, whichever is sooner, the Contractor must provide to the District: (i) a material and labor payment bond to ensure satisfaction of any claims of materials suppliers and of mechanics and laborers employed in connection with the Work ("Payment Bond"); and (ii) a bond to ensure faithful (including, without limitation, timely) performance by the Contractor of its obligations pursuant to the Contract Documents ("Performance Bond").

Forms of Surety Bonds. The Payment Bond and the Performance Bond (each a "Surety Bond") must be in substantially the forms included in the Required Contract Forms; provided, however, that each of the Surety Bonds must conform to and comply in all respects with all applicable State laws. Each of the Surety Bonds must name the District as the entity to which the Contractor and the surety are bound. Neither of the Surety Bonds shall have a stated expiration date, and each shall remain in effect at all times that the Contractor has any obligation pursuant to the Contract.

Penal Sums of Surety Bonds. Each of the Surety Bonds initially must have a penal sum equal to the Contract Price. If the Contract Price is increased in accordance with the Contract Documents, then, within seven days after such increase, the Contractor must increase the amount of each of the Surety Bonds to equal the total increased Contract Price. In addition, the Contractor shall review and renew or amend either or both of the Surety Bonds within seven days after receiving notice from the District that either or both have become insufficient.

Surety Qualifications. Each of the Surety Bonds must be issued by a surety that is authorized and admitted to transact business in the State in accordance with Code of Civil Procedure Section 995.120. Each of the Surety Bonds must be signed by the duly-authorized representatives of both the Contractor and the surety, and the signatures must be notarized. In addition, the Contractor must attach to each Surety Bond: (i) a printout from the website of the California Department of Insurance confirming that the surety is an admitted surety insurer; or (ii) a certificate from the Clerk of the county in which the Project Site is located ("County") that the surety is an admitted surety insurer. Should any surety lose its status as a State-admitted surety, the Contractor shall immediately provide written notice thereof to the District, and the District shall make no further payments to the Contractor pursuant to the Contract Documents until such time as the surety regains its status or the Contractor obtains and the District qualifies and approves a substitute surety.

Surety Obligations Not Affected by Changes in Work. No change in the Work or the Project, extension of time for performance of the Work or any Work by Others, or other action permitted pursuant to the Contract shall be deemed or construed to, in any manner or respect, release the Contractor or any surety that has issued one or both of the Surety Bonds from their respective obligations pursuant to the Surety Bonds, and each such surety shall be deemed to have waived notice of such changes, extensions and other actions.

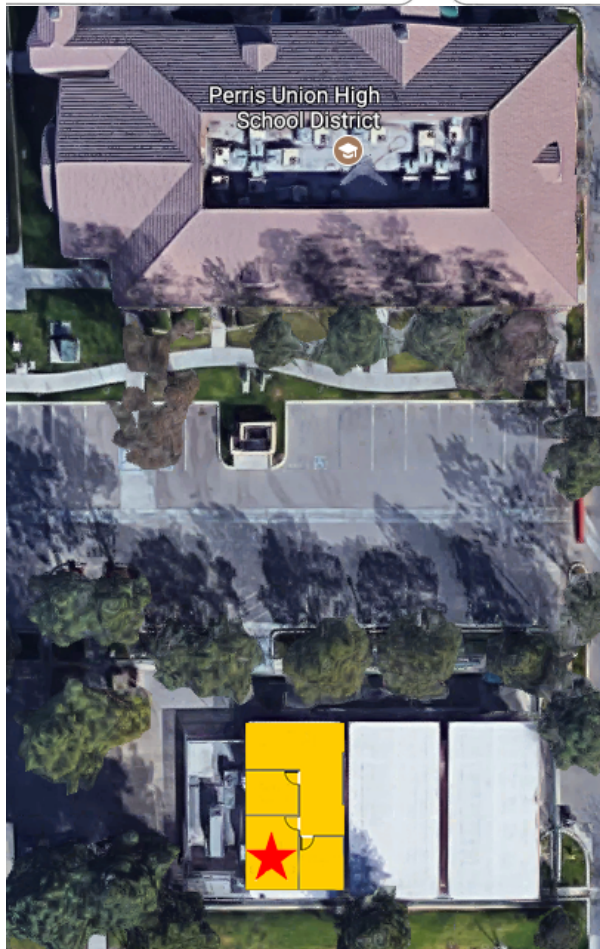
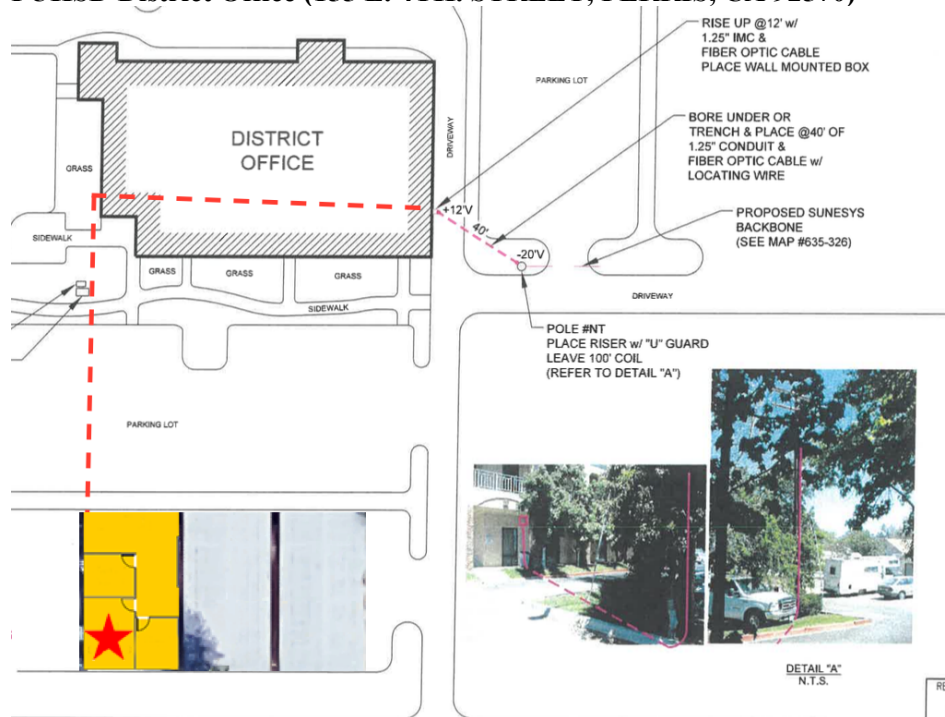
Attachment 1

Perris Union High School District ISP PRICE SHEET - RFP #011923-01 ERATE – ISP SERVICES

Fiber Internet Access Pricing Requested: 3 Year Term with optional two (2) 1-year extensions

Site Name	Site Address	10 GBPS (Total 20G)			25 GBPS (Total 50G)			40 GBPS (Total 80G)		
		Install Cost (NRC)	NRC Ammor-tized	MRC	Install Cost (NRC)	NRC Ammor-tized	MRC	Install Cost (NRC)	NRC Ammor-tized	MRC
PUHSD NOC	155 E. 4TH. STREET, PERRIS, CA 92570									
Perris High School	175 E NUEVO RD, PERRIS, CA 92571									

PUHSD District Office (155 E. 4TH. STREET, PERRIS, CA 92570)



Perris High School (175 E NUEVO RD, PERRIS, CA 92571)



3. BID FORMS

Board of Trustees of the Perris Union High School District

Dear Members of the Board of Trustees:

The undersigned, doing business under the name of _____, having carefully examined the location of the proposed work, the local conditions of the place where the work is to be done, the Notice to Proposers, the General Conditions, the Instructions to Proposers, the Plans and Specifications, and all other Contract Documents for the proposed ERATE – Perris Union High School District ISP Services (“Project”), and having accurately completed the Proposer’s Questionnaire, proposes to perform all work and activities in accordance with the Contract Documents, including all of its component parts, and to furnish all required labor, materials, equipment, transportation and services required for the construction of the Project in strict conformity with the Contract Documents, including the Plans and Specifications, as follows:

BASE BID:

For the sum of

_____ Dollars (\$ _____).

ADDITIVE/DEDUCTIVE ALTERNATE *[if applicable]*:

Additive/Deductive Alternate #1 _____
Add/Subtract _____ Dollars (\$ _____)

Additive/Deductive Alternate #2 _____
Add/Subtract _____ Dollars (\$ _____)

Additive/Deductive Alternate #3 _____
Add/Subtract _____ Dollars (\$ _____)

The undersigned has checked carefully all the above figures and understands that the District is not responsible for any errors or omissions on the part of the undersigned in making this bid.

Enclosed find certified or cashier’s check no. _____ of the _____ Bank for _____ Dollars (\$ _____) or Proposer’s Bond of the _____ surety company in an amount of not less than ten percent (10%) of the entire bid. The undersigned further agrees, on the acceptance of this proposal, to execute the Contract and provide the required bonds and insurance and that in case of default in executing these documents within the time fixed by the Contract Documents, the proceeds of the check or bond accompanying this proposal shall be forfeited and shall become the property of the District.

Contractor agrees to commence the work within the time specified in the Notice to Proceed. It is understood that this proposal is based upon completing the work within the number of calendar days specified in the Contract Documents.

ADDENDA:

Receipt of the following addenda is hereby acknowledged:

Addendum # _____	Dated: _____	Addendum # _____	Dated: _____
Addendum # _____	Dated: _____	Addendum # _____	Dated: _____
Addendum # _____	Dated: _____	Addendum # _____	Dated: _____

Respectfully submitted,

Company: _____

Address: _____

By: _____

(Please Print Or Type)

Signature: _____

Title: _____

Date: _____

Telephone: _____ Email: _____

Contractor's License No: _____ Expiration Date _____

Required Attachments: Subcontractor List Form
 Workers' Compensation Certificate
 Non-Collusion Declaration
 Bid Bond (or Cashier's or Certified Check)

WORKERS' COMPENSATION CERTIFICATE

Labor Code § 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, 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 Labor Code § 3700 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 Contract and will require all Subcontractors to do the same.

Contractor

By: _____

In accordance with Labor Code § 1860, the above certificate must be signed and filed with the awarding body prior to performing any work under this Contract.

NON-COLLUSION DECLARATION

To be executed by the proposer and submitted with the bid.

_____, declares that he or she is _____ of _____, the party making the foregoing bid, and affirms that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the proposer has not directly or indirectly induced or solicited any other proposer to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the proposer or any other proposer, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other proposer, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the proposal are true and correct; and, further, that the proposer has not, directly or indirectly, submitted his or her proposal 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 corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

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

Date: _____

Signature

BID BOND

We, the Contractor, _____ as principal ("Principal"), and _____, as surety ("Surety"), are firmly bound unto the Perris Union High School District ("District") in the penal sum of ten percent (10%) of the total amount of the proposal of the Principal submitted to the District for the work described below for the payment of which sum in lawful money of the United States, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by this agreement.

Whereas, the Principal has submitted the accompanying proposal("Bid") dated _____, for the following project ("Project"):
_____ Project

Now, therefore, if the Principal does not withdraw its Proposal within the period specified, and if the Principal is awarded the Contract and within the period specified fails to enter into a written contract with District, in accordance with the Proposal as accepted, or fails to provide the proof of required insurance, the performance bond and/or the payment bond by an admitted surety within the time required, or in the event of unauthorized withdrawal of the proposal, if the Principal pays the District the difference between the amount specified in the Proposal and the amount for which District may otherwise procure the required work and/or supplies, if the latter amount is in excess of the former, together with all related costs incurred by District, then the above obligation shall be void and of no effect. Otherwise, the Principal and Surety shall pay to the District the penal sum described above as liquidated damages.

Surety, for value received, hereby agrees that no change, extension of time, alteration or addition to the term of the Contract or the call for bids, or to the work to be performed thereunder, or the Specifications accompanying the same, shall in any way affect its obligation under this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition.

In witness whereof the above-bound parties have executed this instrument under their several seals this _____ day of _____, 20__, the name and corporate seal of each corporate Party being hereunder affixed and these presents duly signed by its undersigned representative, pursuant to the authority of its governing body.

(Corporate Seal)

Principal/Contractor

By _____

Title: _____

(Corporate Seal)

Surety

Attach Attorney-In-Fact Certificate

By _____

Title

To be signed by Principal and Surety and Acknowledgment and Notary Seal to be attached.

4. CONTRACT

E-RATE SERVICES AGREEMENT

This E-Rate Services Agreement (“Agreement”) is entered into as of _____, by and between the Perris Union High School District (“District”), a California public school district, and _____ (“Contractor”). In consideration of their respective rights and obligations pursuant to this E-Rate Services Agreement, the District and the Contractor agree as follows:

Section 1. Project. This E-Rate Services Agreement applies to the following Project:
RFP #011923-01 ERATE – Perris Union High School District ISP Services

Section 2. Scope of Work. The Contractor shall furnish any and all labor, materials, equipment, tools, utilities, temporary facilities, transportation, goods and other services and things necessary for full completion of all construction and other services required in accordance with the Contract Documents for the Project (“Work”).

Section 3. Component Parts of the Contract. This E-Rate Services Agreement is but one component of the Contract that sets forth the complete understanding and agreement of the District and the Contractor with respect to the performance of the Work. The Contract is composed of all of the Contract Documents, as may be amended in accordance with their provisions, and each such document is hereby incorporated as an operative and effective part of the Contract. The Contract Documents shall be deemed and construed to be complementary and an integrated whole. Any requirement or provision set forth in one Contract Document, but not in one or more of the other Contract Documents, shall be interpreted as if set forth in or applicable to all Contract Documents. In the event of an inconsistency or conflict between this Agreement and the documents listed below, the inconsistency shall be resolved by giving precedence in the following order: the Agreement, Scope of Work, E-Rate Supplemental Terms and Conditions, Proposal/Response. The Contract Documents include, but are not limited to, all of the following:

- i. RFP #011923-01 ERATE – Perris Union High School District ISP Services
- ii. Proposal/Response to RFP #011923-01 ERATE – Perris Union High School District ISP Services
- iii. E-Rate Supplemental Terms and Conditions
- iv. Scope of Work
- v. Bill of Materials
- vi. Payment and Performance Bonds
- vii. Addendum (if applicable)
- viii. Bid Forms
- ix. Certifications
- x. Purchase Order

Section 4. Contract Time. The purchase can commence no earlier than July 1, 2023. Purchases will not take place without the written direction of the Director of Purchasing for any or all site(s) accompanied by a signed Purchase Order. This contract is contingent upon approved funding for the 2022-23 E-Rate year and the District is under no obligation to proceed with services.

Extensions Due to Late Funding and/or Delayed Installation: Upon written notification, the District reserves the right to extend the purchase and/or installation of this project by an additional 12 month term through September 30, 2024.

Section 5. Contract Price. As full consideration for the full and faithful performance by the Contractor of each and all of its obligations pursuant to the Contract, the District shall pay to the Contractor the total amount (“Contract Price”) of: _____. The Contract Price is subject to increase and/or decrease as provided in the Contract Documents. The District shall pay the Contract Price to the Contractor in accordance with the General Provisions.

Section 6. Defined Terms. Capitalized terms used, but not defined, in this E-Rate Services Agreement shall have the meanings ascribed to such terms in other of the Contract Documents.

Section 7. Due Authority of Signatories. Each person signing this E-Rate Services Agreement on behalf of a party (either the District or the Contractor) represents and warrants that he or she has been duly authorized by such party to sign, and thereby bind such party to, this E-Rate Services Agreement and the Contract of which this E-Rate Services Agreement is a component part.

In witness whereof, the District and the Contractor have executed this E-Rate Services Agreement by and through signature of their respective duly-authorized representatives, as set forth below.

PERRIS UNION HIGH SCHOOL DISTRICT

Name

Signature

Title

Date

Contractor Name

Contractor License No.
and Expiration Date

Individual Signature

Title

Date

For: _____
Corporation or Partnership

If Corporation, Seal Below.

5. PERFORMANCE BOND

WHEREAS, the Board of Trustees of the Perris Union High School District (“District”), at its meeting on _____, 2023, has awarded to _____ (“Principal”), the Contract for performance of the following project (“Project”): _____ Project.

WHEREAS, the Principal is required under the terms of the Contract to furnish a bond to the District as obligee ensuring its full and faithful performance of the Contract Documents, which are fully incorporated herein by this reference,

NOW, THEREFORE, we, the Principal and _____, as Surety, hereby guarantee the Principal’s full, faithful and complete performance of the Contract Document requirements in the penal sum of _____ dollars (\$ _____) for the payment of which sum will and truly be made, we bind ourselves, our heirs, executors, administrators and successors, jointly, severally, and firmly by this agreement to perform or have performed all of the work and activities required to complete the Project pursuant to the Contract Documents and to pay to the District all damages the District incurs as a result of the Principal’s failure to fully perform in accordance with the Contract Documents.

The condition of the obligation is such that if the Principal, its heirs, executors, administrators, successors or assigns shall in all things abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any amendment thereof made as therein provided, on its or their parts to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall insure and indemnify and save harmless the District, its officers and agents, as therein stipulated, 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 no change, extension of time, alteration or addition to the Contract Documents shall in any way affect its obligations on this bond and it does hereby waive notice of any such change, extension of time, alteration or addition.

In the event of the District's termination of the Contract due to the Principal’s breach or default of the Contract Documents, within sixty (60) days after written notice from the District to the Surety of the Principal’s breach or default of the Contract Documents and District's termination of the Contract, the Surety shall notify District in writing of Surety's assumption of obligations hereunder by its election to either remedy the default or breach of the Principal or to take charge of the work of the Contract Documents and complete the work at its own expense ("Notice of Election"); provided, however, that the procedure by which the Surety undertakes to discharge its obligations under this Bond shall be subject to the advance written approval of the District, which approval shall not be unreasonably withheld, limited or restricted. The insolvency of the Principal or the Principal's mere denial of a failure of performance or default under the Contract Documents shall not by itself, without the Surety's prompt, diligent inquiry and investigation of such denial, be justification for Surety's failure to give the Notice of Election or for its failure to promptly remedy the failure of performance or default of the Principal or to complete the work.

In the event the Surety fails to issue its Notice of Election to District within the time specified herein, the District may take all such action or actions necessary to cure or remedy the Principal's failure of performance or default or to complete the work. The Principal and the Surety shall be each jointly and severally liable to the District for all damages and costs sustained by the District as a result of the Principal's failure of performance under the Contract Documents or default in its performance of obligations thereunder, including without limitation the costs of cure or completion exceeding the then remaining balance of the Contract Price; provided that the Surety's liability hereunder for the costs of performance, damages and other costs sustained by the District upon the Principal's failure of performance under or default under the Contract Documents shall be limited to the penal sum hereof, which shall be deemed to include the costs or value of any Changes of any work which increases the Contract Price.

Principal and Surety further agree to pay all costs incurred by the District in connection with enforcement of this bond, including, but not limited to the District's reasonable attorney's fees and costs incurred, with or without suit, in addition to any other sum required by this bond. Surety further agrees that death, dissolution, or bankruptcy of the Principal shall not relieve the Surety of its obligations hereunder.

In witness whereof, two (2) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety on the _____ day of _____, 2023.

*To be signed by
Principal and Surety
and acknowledgment
and notarial seal to
be attached.*

PRINCIPAL

By: _____

TITLE _____

SURETY

By: _____

TITLE _____

The above bond is accepted and approved this _____ day of _____, 2019.

By: _____
Authorized District Signature

PAYMENT BOND

WHEREAS, the Perris Union High School District (“District”) and the Contractor, _____ (“Principal”) have entered into a contract (“Contract”) for the furnishing of all materials, labor, services, equipment, tools, supervision and transportation necessary, convenient and proper for the ERATE – Perris Union High School District ISP Services Project (“Project”) which Contract dated _____, 2023, and all of the Contract Documents made part thereof are fully incorporated herein by this reference; and

WHEREAS, Contractor/Principal is required by California Civil Code Section 9550 et seq. to furnish a bond in connection with the contract;

NOW, THEREFORE, we, the Contractor/Principal and _____ as Surety, are held firmly bound unto District in the penal sum of \$_____ Dollars (\$_____), lawful money of the United States of America for the payment of which sum 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 Contractor/Principal, his/her or its heirs, executors, administrators, successors, or assigns, or a subcontractor, shall fail to pay any person or persons named in Civil Code Section 9100 or fail to pay for any materials 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 Section 13020 of the Unemployment Insurance Code with respect to work and labor thereon of any kind, then said Surety will pay for the same, in or to an amount not exceeding the amount set forth above, and in case suit is brought upon this bond Surety will also pay such reasonable attorney’s 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 of the persons named in California Civil Code Section 9100 so as to give a right of action to such person or their assigns 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, specifications, or agreement pertaining or relating to any scheme or work of improvement described above 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 the time for any payment pertaining or relating to any scheme or work of improvement described above, 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 Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the District and original contractor or on the part of any obligee named in such bond, unless permitted pursuant to law.

In witness whereof, this instrument has been duly executed by the Principal and Surety this _____ day of _____, 2023.

*To be signed by
Principal and Surety
and acknowledgment
and notarial seal to
be attached.*

PRINCIPAL

By:

Title

SURETY

By:

Title

The above bond is accepted and approved this ____ day of _____, 2023.

By: _____
Authorized District Signature

6. GENERAL CONDITIONS

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1. DEFINITIONS

Addendum: A written change or revision to the Contract Documents issued to the prospective proposers prior to the time of receiving bids.

Alternate: The sum to be added to or deducted from the base Bid if the change in the Scope of Work as described in Alternates is accepted by the District.

Approved: Approved by the District or the District's authorized representative unless otherwise indicated in the Contract Documents.

Architect: The person or firm holding a valid license to practice architecture or engineering which has been designated (if any designated) to provide architectural or engineering design services on this Project. When Architect is referred to within the Contract Documents and no architect or engineer has in fact been designated, the matter shall be referred to the District.

As Directed: As directed by the District or its Architect, unless otherwise indicated in the Contract Documents.

As Selected: As selected by the District or its Architect, unless otherwise indicated in the Contract Documents.

Bid: The properly completed and signed proposal to perform the construction work for the Project as described in the Contract Documents.

Construction Manager: The individual or entity named as such by the District. If no Construction Manager is designated for the Project, all references to the Construction Manager in these Contract Documents shall mean the District and/or its designee.

Contract: The legally binding agreement between the District and the Contractor wherein the Contractor agrees to furnish the labor, materials, equipment, and appurtenances required to perform the work described in the Contract Documents and the District agrees to pay the Contractor for such work.

Contract Documents: The Contract Documents are described in the Contract for this Project.

Contractor: The person or entity holding a valid license in the State of California required for performing this Project and who has contracted with the District to perform the construction work described in the Contract Documents. The term Contractor shall be construed to mean all of the officers, employees, Subcontractors, suppliers, or other persons engaged by the Contractor for the work of this Project.

District and/or Owner: The District, its Board of Trustees, authorized officers and employees, and authorized representatives.

DSA: The State of California Division of the State Architect which has the authority to review, approve and inspect the design, alteration and construction of school buildings.

Final Completion: Final Completion is achieved when the Contractor has fully completed all Contract Document requirements, including, but not limited to, all final punch list items, to the District's satisfaction.

Inspector: The person engaged by the District to conduct the inspections required by the Education Code and Title 24.

Furnish: Purchase and deliver to the site of installation.

Board of Trustees: The Board of Trustees of the District.

Indicated or As Shown: Shown on drawings and/or as specified.

Install: Fix in place, for materials; and fix in place and connect, for equipment.

Modification: An authorized change to the Contract Documents which may or may not include a change in contract price and/or time.

Project: The total construction work and activities described in these Contract Documents.

Secure: Obtain.

Subcontractor: A person, firm, or corporation, duly licensed by the State of California, who has a contract with the Contractor to furnish labor, materials and equipment, and/or to install materials and equipment for work in this Contract.

2. ARCHITECT

The Architect is responsible for the overall design of the Project. The working drawings, technical Specifications, sketches and other information necessary to define the work covered by these Contract Documents have been prepared by the Architect. The Architect shall visit, inspect and observe the construction to determine general compliance with the Contract Documents, and interpret the drawings and Specifications consistent with their intent. The Architect shall evaluate the samples and other submittals required in the technical Specifications, and maintain an up-to-date log of all such items processed. The Architect will consult with the District, Contractor, and any state, county or city agency having jurisdiction over the work whenever necessary to further the best interests of the Project.

3. CONTRACT DOCUMENTS

a. Contents and Precedence

The Contract Documents consist of the executed Contract and all Addenda, all approved change orders, the completed Bid Form, the required Bonds and the Insurance forms, the

Notice to Proposers, the Instructions to Proposers, the Notice of Award, the Notice to Proceed, the General Conditions, any special conditions, and the Specifications. The Contract Documents are complementary and anything required by one shall be as binding as if required by all. In case of conflicts within the Contract Documents, the order of precedence of interpretation shall be as listed above, with the executed Contract and any change order thereto having priority, and subsequent Addenda having priority over prior Addenda only to the extent modified by the subsequent Addenda. In case of conflict within the drawings, larger scale drawings shall govern smaller scale drawings, and written dimensions shall govern over scaled dimensions.

b. Ambiguities, Errors, and Inconsistencies

If, in the opinion of the Contractor, the construction details indicated on the drawings or otherwise specified are in conflict with accepted industry standards for quality construction and therefore might interfere with its full guarantee of the work involved, the Contractor shall promptly bring this information to the attention of the Architect for appropriate action before submittal of the bid. Contractor's failure to request clarification or interpretation of an apparent ambiguity, error or inconsistency waives that Contractor's right to thereafter claim any entitlement to additional compensation based upon an ambiguity, inconsistency, or error, which should have been discovered by a reasonably prudent Contractor, subject to the limitations of Public Contract Code §1104. During the Project, should any discrepancy appear or any misunderstanding arise as to the import of anything contained in the Contract Documents, the matter shall be promptly referred to the Architect (with written notice to the District's Construction Manager), who will issue instructions or corrections.

c. Lines and Planes

All lines and planes appearing on Contract drawings to be horizontal or vertical and not explicitly indicated otherwise shall be constructed true and plumb. All lines and planes appearing on Contract drawings to intersect at right angles and not explicitly indicated otherwise shall be constructed at true right angles. Where details are indicated covering specific conditions, such details also apply to all similar conditions not specifically indicated.

d. Standards

The specification standards of the various sections of the Specifications shall be the procedural, performance, and material standards of the applicable association publications identified and shall be the required level of installation, materials, workmanship, and performance for the applicable work. Except where a specific date of issue is mentioned hereinafter, references to specification standards shall mean the edition, including amendments and supplements, in effect on the date of the Notice to Proposers. Where no standard is identified and a manufacturer is specified, the manufacturer's specifications are the standards. All standards shall be subordinate to the requirements of the applicable codes and regulations.

e. Reference to the Singular

Wherever in the Specifications an article, device or piece of equipment is referred to in the singular number, such reference shall include as many such items as are shown on drawings or required to complete the installation.

4. INTENT OF DRAWINGS AND SPECIFICATIONS

- a. Drawings and Specifications are to be read as an integrated document. The Contractor shall promptly report to the Architect any ambiguities, discrepancies, or errors which come to the Contractor's attention.
- b. Figured dimensions shall be followed in preference to scaled dimensions, and the Contractor shall make all additional measurements necessary for the work and shall be responsible for their accuracy. Before ordering any material or doing any work, the Contractor shall verify all measurements at the Project site and shall be responsible for the correctness of same.
- c. It is the intent of the drawings and Specifications to show and describe complete installations. Items shown but not specified, or specified but not shown, shall be included unless specifically omitted.
 - 1) The Specifications shall be deemed to include and require everything necessary and reasonably incidental to the completion of all work described and indicated on the drawings, whether particularly mentioned or shown, or not.

5. TRADE DIVISIONS

Segregation of the Specifications into the designated trade divisions is only for the purpose of facilitating descriptions and shall not be considered as limiting the work of any subcontract or trade. Subject to other necessary provisions set forth in the Specifications, the terms and conditions of such limitations or inclusions shall lie solely between the Contractor and its Subcontractors. "Scope" as indicated in each section of the Specifications shall serve only as a general guide to what is included in that section. Neither the stated description nor the division of the plans and Specifications to various sections, which is done solely for convenience, shall be deemed to limit the work required, divide or indicate it by labor jurisdiction or trade practice, or set up any bidding barriers to the various sub-contractors or suppliers.

- a. The Contractor shall be responsible for the proper execution of all work required by the Contract Documents and for allocating such portions as the Contractor sees fit to the various Subcontractors, subject to applicable law. The Contractor is cautioned that the various individual sections may not contain all work that the Contractor may wish to allocate to a particular Subcontractor or everything bearing on the work of a particular trade, some of which may appear in other portions of the plans or Specifications.

- b. If the Contractor elects to enter into any subcontract for any section of the work the Contractor assumes all responsibility for ascertaining that the Subcontractor for the work is competent, licensed, solvent, thoroughly acquainted with all conditions and legal requirements of the work, has included all materials and appurtenances in connection therewith in the subcontract, and has performed its work in strict compliance with the Contract Documents.
- c. It shall be the responsibility of the Contractor to notify each prospective Subcontractor at the time of request for bids of all portions of the Contract Documents, including the General Conditions, special conditions and any parts of sections of Specifications or plans that the Contractor intends to include as part of the subcontract.

6. MASTER MANDATORY PROVISIONS

- a. Any material, item, or piece of equipment mentioned, listed or indicated without definition of quality, shall be consistent with the quality of adjacent or related materials, items, or pieces of equipment on the Project.
- b. Any method of installation, finish, or workmanship of an operation called for, without definition of standard of workmanship, shall be followed or performed and finished in accordance with best practices and consistent with adjacent or related installations on the Project.
- c. Any necessary material, item, piece of equipment or operation not called for but reasonably implied as necessary for proper completion of the work shall be furnished, installed or performed and finished; and shall be consistent with adjacent or related materials, items, or pieces of equipment on the Project, and in accordance with best practices.
- d. Names or numbered products are to be used according to the manufacturers' directions or recommendations unless otherwise specified.

7. CONTRACTOR

- a. The Contractor shall perform all the work and activities required by the Contract Documents and furnish all labor, materials, equipment (other than those specified as being provided by the District), tools and appurtenances necessary to perform the work and complete it to the District's satisfaction within the time specified. The Contractor shall at all times perform the work of this Contract in a competent and workmanlike manner and, if not specifically stated, accomplish the work according to the best standards of construction practice. The Contractor in no way is relieved of any responsibility by the activities of the architect, engineer, inspector or DSA in the performance of such duties.
- b. The Contractor shall employ a full-time competent superintendent and necessary assistants who shall have complete authority to act for the Contractor on all matters pertaining to the work. The superintendent shall be satisfactory to the District and, if not satisfactory, shall

be replaced by the Contractor with one that is acceptable. Also, the superintendent shall not be changed without the written consent of the District unless the superintendent ceases to be employed by the Contractor.

- c. Contractor shall make the layout of lines and elevations and shall be responsible for the accuracy of both the Contractor's and the Subcontractors' work resulting therefrom. All dimensions affecting proper fabrication and installation of all Contract work must be verified by the Contractor prior to fabrication and installation by taking field measurements of the true conditions. The Contractor shall take, and assist Subcontractors in taking, all field dimensions required in performance of the work, and shall verify all dimensions and conditions on the site. If there are any discrepancies between dimensions in drawings and existing conditions which will affect the work, the Contractor shall promptly bring such discrepancies to the attention of the Architect for adjustment before proceeding with the work. Contractor shall be responsible for the proper fitting of all work and for the coordination of all trades, Subcontractors and persons engaged upon this Contract.
- d. Contractor shall do all cutting, fitting, or patching of Contractor's work that may be required to make its several parts come together properly and fit it to receive or be received by work of other contractors as shown, or reasonably implied by, the drawings and Specifications for the completed work. Any cost incurred by the District due to defective or ill-timed work shall be borne by the Contractor.

8. RESPONSIBILITY OF CONTRACTOR

- a. Contractor shall be held strictly responsible for the proper performance of all work covered by the Contract Documents, including all work performed by Subcontractors. All work performed under this Contract shall comply in every respect to the rules and regulations of all agencies having jurisdiction over the Project or any part thereof.
- b. Contractor shall submit Verified Reports as defined in 24 California Code of Regulations ("CCR") §§ 4-336 and 4-343(c). The duties of the Contractor are as defined in 24 CCR § 4-343. Contractor shall keep and make available a copy of Title 24 of the CCR at the job site at all times.
- c. Where any item of fabricated materials and/or equipment, indicated on drawings or specified is unobtainable and it becomes necessary, with the consent of the Architect and District, to substitute equivalent items differing in details or design, the Contractor shall promptly submit complete drawings and details indicating the necessary modifications of the work. To the extent the items represent a lower cost to contractor than what was originally specified, District shall be entitled to a corresponding decrease in the contract price. This provision shall be governed by the terms of the General Conditions regarding Submittals: Shop Drawings, Cuts and Samples.
- d. With respect to work performed at or near a school site, Contractor shall at all times take all appropriate measures to ensure the security and safety of students and staff,

including, but not limited to, ensuring that all of Contractor's employees, Subcontractors, and suppliers entering school property strictly adhere to all applicable District policies and procedures, e.g., sign-in requirements, visitor badges, and access limitations.

9. SUBCONTRACTORS

- a. Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor and the District. The District shall be deemed to be the third party beneficiary of the contract between the Contractor and each Subcontractor. If the Contractor does not specify a Subcontractor for any portion of the work to be performed under this Contract, as required by law, Contractor shall perform that portion of the work with its own forces. The Contractor shall not substitute any other person or firm as a Subcontractor for those listed in the proposal submitted by the Contractor, without the written approval of the District and in conformance with the requirements of the Public Contract Code. The District reserves the right of approval of all Subcontractors proposed for use on this Project, and to this end, may require financial, performance, and such additional information as is needed to secure this approval. If a Subcontractor is not approved, the Contractor shall promptly submit another firm of the same trade for approval.
- b. The Contractor shall insert appropriate provisions in all subcontracts pertaining to work on this Project requiring the Subcontractors to be bound by all applicable terms of the Contract Documents. The Contractor shall be as fully responsible for the acts and omissions of the Subcontractors, and of persons either directly or indirectly employed by them, as the Contractor is for the acts and omissions of persons directly employed by the Contractor.

10. PERFORMANCE AND PAYMENT BONDS

- a. As directed in the Notice of Award, the Contractor shall file with the District the following bonds, using the bond forms provided with these Contract Documents:
 - 1) A corporate surety bond, in a sum not less than 100 percent of the amount of the Contract, to guarantee the faithful performance of the Contract.
 - 2) A corporate surety bond, in a sum not less than 100 percent of the amount of the Contract, to guarantee the payment of wages for services engaged and of bills contracted for materials, supplies, and equipment used in the performance of the Contract.
- b. Corporate sureties on these bonds and on bonds accompanying bids must be admitted sureties as defined by law, legally authorized to engage in the business of furnishing surety bonds in the State of California. All sureties and bond forms must be satisfactory to the District. Failure to submit the required bonds within the time specified by the Notice of Award, using the forms provided by the District, may result in cancellation of the award of Contract and forfeiture of the Bid Bond.

- c. The amount of the Contract, as used to determine the amounts of the bonds, shall be the total amount fixed in the Contractor’s proposal for the performance of the required work.
- d. During the period covered by the Contract, if any of the sureties upon the bonds shall become insolvent or unable, in the opinion of the District, to pay promptly the amount of such bonds to the extent to which surety might be liable, the Contractor, within thirty (30) days after notice given by the District to the Contractor, shall provide supplemental bonds or otherwise substitute another and sufficient surety approved by the District in place of the surety becoming insolvent or unable to pay. If the Contractor fails within such thirty (30) day period to substitute another and sufficient surety, the Contractor shall, if the District so elects, be deemed to be in default in the performance of its obligations hereunder and upon the bid bond, and the District, in addition to any and all other remedies, may terminate the Contract or bring any proper suit or other proceedings against the Contractor and the sureties or any of them, or may deduct from any monies then due or which thereafter may become due to the Contractor under the Contract, the amount for which the surety, insolvent or unable to pay, shall have been liable on the bonds, and the monies so deducted shall be held by the District as collateral security for the performance of the conditions of the bonds.

11. INSURANCE

- a. Contractor shall obtain insurance from a company or companies acceptable to District. All required insurance must be written by an admitted company licensed to do business in the State of California at the time the policy is issued. All required insurance shall be equal to or exceed an A VIII rating as listed in Best’s Insurance Guide’s latest edition. On a case-by-case basis, the District may accept insurance written by a company listed on the State of California Department of Insurance List of Eligible Surplus Lines (“LESLI List”) with a rating of A VIII or above as listed in Best’s Insurance Guides’ latest edition. Required documentation of such insurance shall be furnished to the District within the time stated in the Notice of Award. Contractor shall not commence work nor shall it allow its employees or Subcontractors or anyone to commence work until all insurance required hereunder has been submitted and approved by the District and a notice to proceed has been issued.
- b. Contractor shall take out and maintain at all times during the life of this Contract, up to the date of acceptance of the work by the District, the following policies of insurance:

Type of Coverage	Minimum Requirement
Commercial General Liability Including Bodily Injury, Personal Property Damage, Advertising Injury, and Medical Payments.	
Each Occurrence	\$1,000,000
General Aggregate	\$2,000,000
Automobile Liability Insurance – Any Auto	

Each Occurrence	\$1,000,000
General Aggregate	\$2,000,000
Workers Compensation	Statutory Limits
Employer's Liability	\$1,000,000

- 1) General Liability Insurance: Personal injury and replacement value property damage insurance for all activities of the Contractor and its Subcontractors arising out of or in connection with this Contract, written on a comprehensive general liability form including contractor's protected coverage, blanket contractual, completed operations, vehicle coverage and employer's non-ownership liability coverage, in an amount no less than:
 - a. \$1,000,000.00 combined single limit personal injury and property damage for each occurrence and \$2,000,000.00 annual aggregate.
 - 2) Automobile Liability Insurance: Covering bodily injury and property damage in an amount no less than \$1,000,000.00 combined single limit for each occurrence and \$2,000,000.00. Such insurance shall include coverage for owned, hired, and non-owned vehicles and be included on the umbrella/excess policy.
- c. The certificate(s) for the General Liability Policy(ies) and the Automobile Liability Policy specified above must state that the insurance is under an occurrence based, and not claims made, policy(ies) and shall be endorsed with the following specific language:
- “The Perris Union High School District is an additional insured for all liability arising out of the operations by or on behalf of the named insured, and this policy protects the additional insured, its officers, agents and employees against liability for bodily injuries, deaths or property damage or destruction arising in any respect directly or indirectly in the performance of the Contract.”
- d. The certificate(s) for both the General Liability Policy and the Automobile Liability Policy, shall be endorsed with the following specific language:
- 1) The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured and the coverages afforded shall apply as though separate policies have been issued to each insured.
 - 2) The insurance provided herein is primary and no insurance held or owned by the District shall be called upon to contribute to a loss.
 - 3) Coverage provided by this policy shall not be reduced or canceled without thirty (30) days written notice given to the Owner by certified mail.

- 4) This policy does not exclude explosion, collapse, underground excavation hazard, or removal of lateral support.
 - 5) The certificates must state that the insurance is under an occurrence based, and not a claims-made, or “modified occurrence,” policy (policies).
- e. Within ten (10) days following issuance of the Notice of Award of the Contract, the following documentation of insurance shall be submitted to District for approval prior to issuance of the Notice to Proceed: Certificates of insurance showing the limits of insurance provided, certified copies of all policies, and signed copies of the specified endorsements for each policy. At the time of making application for an extension of time, the Contractor shall submit evidence that the insurance policies will be in effect during the requested additional period of time.
- f. If the Contractor fails to maintain such insurance, the District may take out such insurance to cover any damages of the above mentioned classes for which the District might be held liable on account of the Contractor’s failure to pay such damages, and deduct and retain the amount of the premiums from any sums due the Contractor under the Contract.
- g. Workers’ Compensation Insurance:
- 1) Within ten (10) calendar days following issuance of the Notice of Award of the Contract, the Contractor shall furnish to the District satisfactory proof that the Contractor and all Subcontractors it intends to employ have procured, for the period covered by the Contract, full Workers’ Compensation insurance and employer’s liability coverage in the amount of the statutory limit, with an insurance carrier satisfactory to the District for all persons whom the Contractor may employ in carrying out the work contemplated under this Contract in accordance with the Workers’ Compensation Insurance and Safety Act, approved May 26, 1913, and all acts amendatory or supplemental thereto (the “Act”). Such insurance shall be maintained in full force and effect during the period covered by the Contract. In the event the Contractor is self-insured, Contractor shall furnish a Certificate of Permission to Self-Insure, signed by the Department of Industrial Relations Administration of Self-Insurance, Sacramento, California.
 - 2) If the Contractor fails to maintain such insurance, the District may take out worker’s compensation insurance to cover any compensation which the District might be liable to pay under the provisions of the Act, by reason of any employee of the Contractor being injured or killed, and deduct and retain the amount of the premiums for such insurance from any sums due the Contractor under the Contract, or otherwise recover that amount from the Contractor or the Surety.
 - 3) If an injury occurs to any employee of the Contractor for which the employee, or the employee’s dependents in the event of the employee’s death, is entitled to compensation under the provisions of the Act, or for which compensation is

claimed from the District, the District may retain from the sums due the Contractor under this Contract an amount sufficient to cover such compensation, as fixed by the Act, until such compensation is paid, or until it is determined that no compensation is due, and if the District is compelled to pay such compensation, it will deduct and retain from such sums the amount so paid, or otherwise recover this sum from the Contractor or its Surety.

- 4) The policies represented by the certificates shall be endorsed with a Waiver of Subrogation and must contain the provision (and the certificates must so state) that the insurance cannot be canceled until thirty (30) days after written notice of intended cancellation has been given to the District by certified mail.

12. CODES AND REGULATIONS

- a. The Contractor shall be knowledgeable regarding and shall comply with applicable portions of California Code of Regulations Title 24, the applicable Building Code, and all other codes, ordinances, regulations or orders of properly constituted authority having jurisdiction over the work of this Project. The Contractor shall examine the Contract Documents for compliance with these codes and regulations and shall promptly notify the Architect of any discrepancies.
- b. All work and materials shall be in full accordance with the latest rules and regulations of the Safety Orders of the Division of Industrial Safety and the applicable State laws and/or regulations. Nothing in the Project plans or Specifications is to be construed to permit work not conforming to the applicable Codes. Buildings and/or all other construction covered by this Contract shall meet all the regulations for access by the physically handicapped as administered by the Division of the State Architect and as may be required by federal or state law.
- c. If the work under this Contract is for the construction of a school building as defined by the Education Code, then the following provisions shall apply to the Contract:
 - 1) All work shall be executed in accordance with the current requirements of the Education Code and California Code of Regulations: Title 24 and Title 19. No deviations from the DSA approved plans and Specifications will be permitted except upon a Change Order or Addenda, signed by the District and Architect and approved by the Division of the State Architect and the State Fire Marshal, if applicable.
 - 2) The Division of the State Architect shall be notified 48 hours in advance of the first pour of concrete.

13. PERMITS AND TAXES

- a. The Contractor shall obtain and pay for all permits, fees and licenses that are required in order to perform the work under this Contract. The District shall pay connection charges

and meter costs for new permanent utilities required by these Contract Documents. The Contractor shall notify the District sufficiently in advance to submit requests for service to the appropriate utility companies so as to insure connections or installation of utility services in accordance with the Project schedule.

- b. The Contractor shall pay for all taxes on materials and equipment. The District is exempt from Federal Excise Tax. Contractor shall not pay Federal Excise Tax on any item in this Contract.

14. PATENTS AND ROYALTIES

All fees or claims for patents, royalties or licenses on materials, equipment or processes used in the performance of work on this Project shall be included in the amount of the Bid. The Contractor shall indemnify, defend, and hold harmless the District, its Board of Trustees, the Architect, and their officers and employees, from all claims or liability, including costs and expenses, which may arise from the use on this Project of any patented or copyrighted materials, equipment, or processes.

15. SAFETY AND FIRE PREVENTION

- a. The Contractor, Subcontractors and all of their agents and employees shall fully comply with all of the provisions and requirements of CAL/OSHA, Title 8, California Code of Regulations and all other safety codes applicable to the Project. The Contractor shall take thorough precautions at all times for the protection of persons and property, and shall be liable for all damages to persons or property, either on or off the site, which occur as a result of Contractor's prosecution of the work. The Contractor shall obtain permits for, install and maintain in safe condition barricades, walkways, fences, railings, and whatever other safeguards that may be necessary to protect persons and property from damage as a result of the construction under this Contract.
- b. Contractor is required to ensure Material Safety Data Sheets ("MSDS") are available in a readily accessible place at the work site for any material requiring a MSDS pursuant to the federal "Hazard Communication" standard or employee "right to know" laws. Contractor is also required to ensure proper labeling on materials brought on the job site such that any person working with the material or within the general area of the material is informed of the hazards of the material and follows proper handling and protection procedures. A copy of the MSDS shall also be promptly submitted directly to the District.
- c. Contractor shall not endanger any work by cutting, excavating, or otherwise altering the work and shall not cut or alter the work of any other contractor except with the written consent of the Architect, nor overload any new or existing structures by the placing or storage of materials, equipment, or other items thereon, and, if necessary, shall provide calculations proving the safety in so doing.

- d. If it is necessary to work at night, or where daylight is obscured, the Contractor shall provide and maintain lighting of an adequate level to properly prosecute the work, to permit the thorough inspection of same, and to ensure the safety to workers and others.
- e. Contractor shall take extraordinary care to prevent fires and keep all flammable materials and oily rags in tightly closed metal containers. Contractor shall exercise particular care when welding or cutting, and with regard to the disposition of waste materials, the nature and quantity of which might create or increase a fire hazard.

16. HAZARDOUS MATERIALS

In the event the Contractor, or any Subcontractor, encounters or suspects the presence on the job site of material reasonably believed to be asbestos, polychlorinated biphenyl (PCB), or any other material defined as being hazardous by § 25249.5 of the California Health and Safety Code, other than the ACM identified for removal and/or abatement in the in the Scope of Work for the Project, and which has not been rendered harmless, the Contractor shall immediately stop work in the area affected and report the condition to the District and the Architect in writing, whether or not such material was generated by the Contractor or the District. The work in the affected area shall not thereafter be resumed, except by written agreement of the District and the Contractor, if in fact the material is asbestos, polychlorinated biphenyl (PCB), or other hazardous material, and has not been rendered harmless. The work in the affected area shall be resumed only in the absence of asbestos, polychlorinated biphenyl (PCB), or other hazardous material, when it has been rendered harmless by written agreement of the District and the Contractor, or upon agreement that the Contractor or a Subcontractor will perform the necessary abatement and/or removal as a part of the Project.

a. General:

- 1) No asbestos, asbestos-containing products or other hazardous materials shall be used in this construction or in any tools, devices, clothing or equipment used to further this construction.
- 2) Asbestos and/or asbestos containing products shall be defined as all items containing but not limited to chrysotile, crocidolite, amosite, anthophyllite, tremolite or actinolite.
- 3) Any or all material containing greater than one tenth of one percent (>.1%) asbestos shall be defined as asbestos-containing material (“ACM”).
- 4) Any disputes involving the question of whether or not material contains asbestos shall be settled by electron microscopy; the cost of any such tests shall be paid by the Contractor.
- 5) All work or materials, new to the Project site, found to contain asbestos or work or material installed with asbestos containing equipment will be immediately rejected

and this work shall be removed by the Contractor at no additional cost to the District.

- 6) In compliance with Education Code § 32244, no lead based paint shall be used on the Project.

b. Decontamination and Removal of Hazardous Material from Contractor Work:

- 1) Decontamination and removal of new work found to contain asbestos or new 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”).
- 2) The asbestos consultant shall be an EPA-accredited contractor qualified in the removal of asbestos subject to the approval of the District.
- 3) The asbestos consultant shall be approved by the District which shall have sole discretion and final determination in this matter.
- 4) The work will not be accepted until asbestos contamination is reduced to levels deemed acceptable by the asbestos consultant.

c. Hold Harmless:

- 1) Interface of work under this Contract with work containing asbestos shall be executed by the Contractor at Contractor’s risk and at Contractor’s discretion with full knowledge of the currently accepted standards, hazards, risks and liabilities associated with asbestos work and asbestos containing products. By execution of this Contract the Contractor acknowledges the above and agrees to hold harmless, as set forth in the indemnity provisions of this Contract, the Owner, its employees, agents and assigns for all asbestos liability which may be associated with this work and agrees to instruct Contractor’s employees and agents with respect to the above-mentioned standards, hazards, risks and liabilities.
- 2) The Contractor shall, prior to commencement of this work, provide a duly signed and notarized affidavit that Contractor has instructed Contractor’s employees and agents with respect to the above mentioned standards, hazards, risks and liabilities and the contents and requirements of this portion of the Contract Documents.

d. Certification:

The Contractor agrees that materials containing asbestos or other hazardous materials as defined in Federal and State law shall not be used in construction.

17. TEMPORARY FACILITIES

- a. The Contractor shall obtain permits for, install and maintain in safe condition all scaffolds, hoisting equipment, barricades, walkways, or other temporary structures that may be required to accomplish the work. Such structures shall be adequate for the intended use and capable of safely accepting all loads that may be imposed upon them. They shall be installed and maintained in accordance with all applicable codes and regulations.
- b. The Contractor shall provide and maintain temporary heat from an approved source whenever in the course of the work it may become necessary for curing, drying or warming spaces as may be required for the proper installation of materials or finishes. The Contractor shall provide and maintain any and all facilities that may be required for dewatering in order that work may proceed on the Project. If it is necessary for dewatering to occur continually, the Contractor shall have on hand whatever spare parts or equipment that may be required to avoid interruption of service or work.
- c. The Contractor shall promptly remove all such temporary facilities when they are no longer needed for the work or on completion of the Project. The Contractor shall repair any damage to premises or property which resulted from the construction, use, or removal of temporary facilities and shall restore the premises and property to their original condition.
- d. See the special conditions and/or specifications for requirements concerning temporary sanitary facilities and utilities.

18. SIGNS

No signs may be displayed on or about the District's property (except those which may be required by law) without the District's prior written approval of size, content and location. Any signs required by the District will be designated in the special conditions.

19. TIME

- a. The Contractor shall commence the work on the date indicated in the Notice to Proceed. Time is of the essence regarding the Contract work, and the Contractor shall prosecute the work diligently and regularly at such a rate of progress as to ensure completion of this Project within, or sooner than, the time specified.
- b. The Contractors and Subcontractors shall investigate and become aware of the amount of time required for the delivery of all equipment and materials required to perform the work under this Contract, and no extension of time shall be granted due to failure to order the equipment and materials sufficiently before their incorporation into the work so as to avoid delay to the Project.
- c. The Contractor and Subcontractors shall provide and maintain enough manpower, materials and equipment to ensure a rate of construction progress that will complete the Project within or sooner than the time specified and according to the schedule of work. If,

in the District's opinion, the Contractor and/or Subcontractors are not prosecuting the work at a sufficient rate of progress to meet the Project schedule, the District may direct the Contractor to provide additional manpower, materials or equipment, or to work additional hours, holidays or weekends without additional cost to the District until the work is progressing in a manner satisfactory to the District. Failure to prosecute the work in a timely manner according to the Project schedule is considered a breach of Contract and shall be cause for termination of the Contract.

20. CONSTRUCTION SCHEDULE

- a. Within fifteen (15) calendar days after the award of the Contract, the Contractor shall prepare and submit to the Architect and District an as-planned construction schedule showing in detail how the Contractor plans to prosecute the work within the time set for Final Completion. The schedule shall include the work of all trades necessary for construction of the Project, and shall be sufficiently complete and comprehensive to enable progress to be monitored on a day-by-day basis. The information for each activity shall include at a minimum the activity description, duration, start date and completion date.
- b. The Contractor shall take care in the preparation of the schedule to ensure that it represents an accurate and efficient plan for accomplishing the work. If the Project is more than one week behind schedule, it must be promptly revised showing how the Contractor plans to complete the work, but in no case shall it show a completion date later than that required by the Contract, unless a time extension has been granted. The current schedule shall be kept posted in the Contractor's project office on site.
- c. The Contractor shall be responsible for the coordination of all work necessary and pertaining to the construction whether actually a part of this Contract or attendant thereto. The Contractor shall notify the District and various utility companies, as far as possible in advance of their required work, in order that work schedules may be developed for all concerned, which will permit the most effective and timely accomplishment of the entire Project.

21. DELAYS AND TIME EXTENSIONS

- a. The Contractor may be granted a time extension if the Contractor encounters an unavoidable delay of the work due to causes completely beyond the Contractor's control and which the Contractor could not have avoided by the exercise of reasonable care, prudence, foresight and diligence. Causes for which a claim for extension of time may be made include: acts of the public enemy, acts of another contractor in the performance of another contract with the District, priority of a governmental agency for materials or equipment, fire, flood, violent wind storm, epidemic, quarantine restriction, strike, freight embargo, or weather of an unusually severe nature. The Contractor will not be granted time extensions for weather conditions which are normal for the location of the Project, according to the U. S. Weather Bureau Records.

- b. A request for extension of time and compensation related thereto shall be made in writing to the Architect and District within ten (10) calendar days of the date the delay is encountered, or shall be deemed waived. The request shall include a detailed description of the reasons for the delay and corrective measures by the Contractor. The request shall be accompanied by evidence that the insurance policies required by the Contract shall be in effect during the requested additional period of time. In order for the Architect to consider a request for time extension, the Contractor must prove that the reasons stated for the delay actually caused a delay in portions of the work which will result in completion beyond the date specified in the Contract. The Contractor may also be granted a time extension for a significant change in the Scope of Work which request for extension of time shall be included in a Contract modification proposal.
- c. No damages or compensation or any kind shall be paid to a Contractor because of delays in the progress of work, whether such delays be avoidable or unavoidable, that are not the responsibility of District. District's liability to Contractor for delays for which District is responsible shall be limited to an extension of time unless such delays were unreasonable under the circumstances involved and were not within the contemplation of the parties when the Contract was awarded. The Contractor shall provide to the District the actual, substantiated costs to Contractor for which the Contractor may claim damages from District. Such costs, if any, shall be directly related to the Project, and shall not include costs that would be borne by the Contractor in the regular course of business, including, but not limited to, office overhead and ongoing insurance costs. Delay damages shall not include Contractor or Subcontractor markup for overhead and profit, but only actual, documented, and direct actual costs. The District shall not be liable for any damages which the Contractor could have avoided by any reasonable means including, but not limited to, the more judicious handling of forces or equipment.
- d. The granting of an extension of time because of unavoidable delays shall in no way operate as a waiver on the part of the District of the right to collect liquidated damages for other delays or of any other rights to which the District is entitled.

22. LIQUIDATED DAMAGES

- a. The parties understand and agree that the goodwill, educational process, and other business of District will be damaged if the Project is not completed within the time limits required. The parties have further agreed that the exact amount of damages for failure to complete the Work within the time specified is, in some cases, extremely difficult, impractical, or impossible to determine. As to those damages that are difficult, impractical, or impossible to determine, should the Contractor fail to achieve Final Completion of this Contract within the time fixed for Final Completion, together with extensions granted by the District for unavoidable delays, Contractor shall become liable to the District in the amount specified in the Contract per calendar day for each day the Contract remains incomplete beyond the time for Final Completion, as liquidated damages and not as a penalty. Contractor shall not be charged with liquidated damages when the delay in completion of the work beyond the time for Final Completion is due to acts of the District.

- b. In addition to any liquidated damages which may be assessed, if Contractor fails to achieve Final Completion of this Contract within the time fixed for Final Completion, together with extensions granted by the District for unavoidable delays, and if as a result District finds it necessary to incur any costs and/or expenses, or if District receives any claims by other contractors, subcontractors, or third parties claiming time or other compensation by reason of Contractor's failure to complete work on time, Contractor shall pay all those costs and expenses incurred by District. These costs and expenses may include but are not limited to such items as rental payments, inspection fees, and additional architectural fees, whether related to the acquisition of facilities or caused by the delay in completion.
- c. Any money due or to become due the Contractor may be retained to cover liquidated and other delay damages. Should such money not be sufficient to cover those damages, the District shall have the right to recover the balance from the Contractor or Contractor's sureties.
- d. Should the District authorize suspension of the work for any cause, the time work is suspended will be added to the time for completion. Suspension of the work by the District shall not be a waiver of the right to claim liquidated or other delay damages as set forth in this section.

23. DISTRICT'S RIGHT TO STOP WORK; TERMINATION OR SUSPENSION OF THE CONTRACT

a. District's Right to Stop Work:

In addition to or as an alternative to any and all other remedies available to the District, if the Contractor fails to correct work which is not performed in accordance with the Contract Documents, or if the Contractor persistently fails to perform the work in accordance with the Contract Documents, the District may by written order direct the Contractor to stop the work, or any portion thereof, until the cause for such order has been eliminated to the satisfaction of the District. However, the right of the District to stop the work shall not give rise to a duty on the part of the District to exercise this right for the benefit of the Contractor or any other person or entity, and the failure of the District to do so shall not be raised as a defense to the Contractor's failure to perform the work in accordance with the Contract Documents.

b. Termination for Cause:

- 1) If the Contractor refuses or fails to furnish sufficient materials, work force, equipment, and appurtenances to properly prosecute the work in a timely manner, or if Contractor refuses or fails to comply with any provisions of the Contract Documents, or if Contractor should file a bankruptcy petition or make a general assignment for the benefit of Contractor's creditors or if a receiver should be appointed on account of Contractor's insolvency, then the District may give the Contractor and Contractor's Surety written notice of intention to terminate the Contract. Unless within seven (7) calendar days after the serving of such notice

upon the Contractor and Contractor's Surety such violation shall cease and arrangements for correction of such conditions shall be made satisfactory to the District, the Contract shall cease and terminate. In the event of such termination, the District shall immediately serve written notice thereof upon the Contractor and Contractor's Surety.

- 2) In the event of termination for cause, in addition to all remedies available to the District, the Contractor's Surety shall have the right to take over and perform the Contract; provided, however, that if the Surety does not commence performance within five (5) calendar days from the date of the issuance of such notice of termination, the District may take over the work and prosecute the same to completion by letting another Contract, or by any other method that the District deems advisable. The Contractor and Contractor's Surety shall be liable for any excess cost incurred by the District thereby, and in any such event the District may take possession of such materials, equipment, and other property belonging to the Contractor as may be on the site and use same in completing the work.

c. Termination or Suspension for Convenience:

The District reserves the right, in its sole discretion, to terminate or suspend all or part of the Contract for convenience following three (3) days written notice to the Contractor. In the event of termination or suspension for convenience, Contractor shall have no claims against the District, except:

- 1) The actual cost of labor, materials and services provided pursuant to the Contract, and which have not yet been paid for, as documented by timesheets, invoices, receipts and the like; and
- 2) Five percent (5%) of the total cost of the work performed as of the date of notice of termination or suspension or five percent (5%) of the value of the work yet to be completed, whichever is less. The parties agree that this amount shall constitute full and fair compensation for all Contractor's lost profits and other damages resulting from the termination or suspension for convenience.

24. ASSIGNMENT OF CONTRACT

The Contractor may not assign or delegate all or any portion of this Contract without the written consent of the District and no such consent shall be given which would relieve the Contractor or its Surety of their responsibilities under the Contract. The Contractor may assign, without liability to the District, monies due the Contractor under the Contract to banks, trust companies or other financial institutions provided written notice thereof is promptly delivered to the District. Assignment of monies earned by the Contractor shall be subject to the same retention as other payments made to Contractor, and shall also be subject to setoffs and back charges as provided by this Contract.

25. COORDINATION WITH OTHER CONTRACTS

- a. The District reserves the right to do other work or award other contracts in connection with this Project. By entering into this Contract, Contractor acknowledges that there may be other contractors on or adjacent to the Project site whose work must be coordinated with that of its own. Contractor expressly warrants and agrees that it will cooperate with other contractors and will do nothing to delay, hinder, or interfere with the work of other contractors, or that of the District, its Architect and Construction Manager. Contractor also expressly agrees that in the event its work is hindered, delayed, interfered with, or otherwise affected by a separate contractor, its sole remedy will be a direct action against the separate contractor. To the extent allowed by law, the Contractor expressly waives any remedy against the District, its Architect and Construction Manager on account of delay, hindrance, interference or other such events caused by a separate contractor.
- b. If any part of Contractor's work depends upon the work of a separate contractor, Contractor shall inspect such other work and promptly report in writing to the District and Architect any defects in such other work that render it unsuitable to receive the work of Contractor. Failure of the Contractor to so inspect and report shall constitute an acceptance of the other contractor's work, except as to defects which the Contractor could not have detected through the reasonable inspection of the other contractor's work prior to the execution of Contractor's work.
- c. If Contractor is aware of a current or potential conflict between Contractor's work and the work of another contractor on the site, and is unable to informally resolve the conflict directly with the other contractor, Contractor shall promptly provide written notice to the District, with a copy to the Architect and the other contractor, specifying the nature of the conflict, the date upon which the conflict arose, and the steps taken to attempt to resolve the conflict. The District may issue written instructions to address the conflict.
- d. If, through Contractor's negligence, any other contractor or subcontractor shall suffer loss or damage to the work, Contractor shall make a reasonable effort to settle with such other contractor and subcontractor by agreement or arbitration. If such other contractor or subcontractor shall assert any claim against the District or Architect, on account of any damage alleged to have been so sustained, the District or Architect shall notify the Contractor, who shall defend such proceedings at Contractor's own expense and save harmless and indemnify the District and the Architect from any such claim.

26. SUBMITTALS: SHOP DRAWINGS, CUTS AND SAMPLES

- a. Five (5) copies of shop drawings, brochures and cuts and samples in quantities specified by the Architect shall be submitted to the Architect for all items for which they are required by the plans and Specifications. Prior to transmittal, the Contractor shall examine all submittals for accuracy and completeness in order to verify their suitability for the work and compliance with the Contract Documents and shall sign and date each submittal. Submittals shall be made sufficiently before the items are required for the work so as to cause no delay and shall be in accordance with the Project construction schedule.

- b. In addition to information furnished as common practice, submittals shall contain the Project name and location, Contractor's name and address, Subcontractor's or supplier's name and address, date of submittal and any revisions, and reference to appropriate specification section, and/or drawing and detail numbers. The Contractor and/or the Subcontractors shall verify in the field all dimensions and relationships to adjacent work necessary to ensure the proper fit of the items submitted. If necessary, the Contractor shall make any corrections required and resubmit with all due haste in the same number as initially required.
- c. Review of submittals, shop drawings, cuts or samples by the District or Architect shall not relieve the Contractor from complying with the requirements of the Contract Documents.
- d. Any materials or equipment installed without approval shall be at the Contractor's own risk, and Contractor may be required to remove any such materials or equipment and install the specified items at Contractor's own cost, including repairs to adjacent work.

27. PAYMENTS

a. Cost Breakdown:

Prior to submitting Contractor's first request for payment, the Contractor shall prepare and submit to the Architect and District a cost breakdown (schedule of values) showing the major work items for each trade or operation required in construction or installation of the Project. The work items shall be sufficiently detailed to enable the Architect to accurately evaluate the completion percentages requested by the Contractor. The cost for each work item shall include overhead and profit. The total of all work item costs shall equal the amount of the Contract. ***Contractor shall thoroughly review Section 4 of the ERATE Supplemental Terms & Conditions regarding funding for this project.***

b. Scope of Payment:

Payment to the Contractor at the unit price or other price fixed in the Contract for performing the work required under any item or at the lump sum price fixed in the Contract for performing all the work required under the Contract shall be full compensation for furnishing all labor, materials, equipment and tools necessary to the work, and for performing and completing, in accordance with the Specifications, all work required under the item or under the Contract, and for all expense incurred by the Contractor for any purpose in connection with the performance and completion of the work.

c. Progress Payments:

The Contractor will, on or about the last day of each month, make an estimate of the value of the work completed by Contractor in the performance of the Contract. These estimates shall be subject to the review and approval of the Architect. The first such estimate will be of the value of the work completed after the Contractor commenced the performance of the

Contract, and every subsequent estimate, except the final estimate, will be of the value of the work completed since the immediately preceding estimate. Such estimates will be based on labor, materials and equipment incorporated into the work, and items of materials and equipment delivered to the Project. The Contractor shall be responsible for the security and protection of such materials and equipment delivered to the Project and not incorporated in the work. Within thirty (30) calendar days after the approval of each estimate for progress payment, the District will pay to the Contractor an amount equal to ninety five (95) percent of the approved estimate, unless a different retention percentage is stated in the Notice to Proposers, in which case that percentage applies. Payments may at any time be withheld if in the judgment of the District the work is not proceeding in accordance with the Contract Documents, the Contractor is not complying with the requirements of the Contract, stop notices have been timely filed, the estimate contains an error, or the District has incurred costs or requests reasonable financial assurances regarding defective work by the Contractor.

d. Final Payment:

Within thirty (30) days after all required work is fully completed in accordance with the Contract Documents, the Contractor shall submit a final invoice for the total value of the work completed in accordance with the Contract, which shall be subject to review and approval by the District. As required by law, District shall pay Contractor the unpaid balance of the Contract price of the work, or the whole Contract price of the work if no progress payment has been made, determined in accordance with the terms of the Contract, less such sums as may be lawfully retained under any provision of the Contract, including, but not limited to, amounts retained as liquidated damages, for stop notices, for third-party claims for which the Contractor is required to indemnify the District, for defective work and costs incurred by the District in connection therewith, or for other such claims and damages attributable to the Contractor (“Final Payment”). Prior progress estimates and payments are subject to correction in the Final Payment. Tender of the Final Payment shall constitute denial by the District of any unresolved claim. Contractor’s acceptance of the Final Payment shall operate as a full and final release to the District and its agents from any and all unasserted claims Contractor has, or may have, related to this Contract. Pursuant to California Public Contract Code §7107, if there is any dispute between the District and the Contractor at the time that disbursement of the Final Payment is due, the District may withhold from disbursement of the Final Payment an amount not to exceed one hundred fifty percent (150%) of the amount in dispute.

e. Payments Do Not Imply Acceptance of Work:

The granting of any progress payment or payments by the District or the receipt thereof by the Contractor shall not constitute acceptance of the work or of any portion thereof, and shall in no way lessen the liability of the Contractor to replace unsatisfactory work or material, whether or not the unsatisfactory character of such work or material was apparent or detected at the time such payment was made.

f. Retention of Sums Charged Against Contractor:

It is mutually understood and agreed that when under any provision of this Contract the District shall charge any sums of money against the Contractor, the amount of such charge shall be deducted and retained by the District from the amount of the next succeeding progress estimate, or from any other monies due or that may become due the Contractor on account of the Contract. If on completion or termination of the Contract such monies due the Contractor are found insufficient to cover the District's charges against the Contractor, the District shall have the right to recover the balance from the Contractor or the Contractor's Sureties.

g. Release:

The Contractor and each assignee under an assignment in effect at the time of Final Payment shall, if required by the District, execute and deliver at the time of Final Payment and as a condition precedent to Final Payment, a release in form and substance satisfactory to and containing such exemptions as may be found appropriate by the District, discharging the District, its officers, agents and employees of and from liabilities, obligations and claims arising under this Contract.

h. Payment to Subcontractors and Suppliers:

The Contractor shall pay each Subcontractor and supplier promptly on receipt of each progress payment from the District for the materials, labor and equipment delivered to the site or incorporated in the work by each Subcontractor during the period for which the progress payment is made, less any retention as provided above.

i. Stop Notice Costs:

The District reserves the right to charge the Contractor or Surety, or to withhold from release of retention, all costs incurred by the District, including attorney's fees, for processing and defending stop notice claims.

28. MODIFICATIONS OF CONTRACT

a. Changes in the Work:

- 1) The District, before the date of acceptance of the work, may, without notice to the Sureties, order changes in the work ("Modifications"), may order extra materials and extra work in connection with the performance of the Contract, and the Contractor shall promptly comply with such orders. All Modifications must be approved by DSA and the State Fire Marshall, if applicable, as required by law.
- 2) If changes ordered in design, workmanship or materials are of such a nature as to increase or decrease the cost of any part of the work, the price fixed in the Contract shall be increased or decreased by such amount as represents the reasonable and proper allowance for the increase or decrease in the cost of the work in accordance with the provisions of this Article, and any other applicable terms of the Contract,

including, but not limited to, the Contractor's schedule of values and the price for allowances, if any. Except as provided by law, the total cost of all Modifications shall not exceed ten (10) percent of the original Contract price.

- 3) In the case of a disputed work item, the District may direct the Contractor to perform the disputed work at no additional cost to the District on the grounds that the work is adequately indicated in the Contract Documents, and therefore already included in the Contract price. If the Contractor maintains that the disputed work represents a modification to the Contract, Contractor may submit a claim in accordance with Article 50, Resolution of Construction Claims. Notwithstanding any dispute regarding the requirements of the Contract Documents, Contractor shall promptly and fully comply with the District's directive. Contractor's failure to do so shall be deemed a material breach of this Contract, and in addition to all other remedies, District may, at its sole discretion, hire another contractor and/or use its own forces to complete the disputed work at Contractor's sole expense, and may deduct the cost of such work from the Contract price.

b. Cost Breakdown:

When the Modification is proposed, the Contractor shall furnish a complete breakdown of actual costs of both credits and extras, itemizing materials, labor, taxes, overhead and profit. Subcontract work shall be so indicated. All costs must be fully documented. The following limitations shall apply:

1) Limitations Where Contract Price Changes are Involved:

- (a) Overhead and Profit for the Contractor. The Contractor's overhead and profit on the cost of subcontracts shall be a sum not exceeding ten percent (10%) of such costs. The Contractor's overhead and profit on the costs of work performed by the Contractor shall be a sum not exceeding fifteen percent (15%) of such costs. Overhead and profit shall not be applied to the cost of taxes and insurance by Contractor or Subcontractors or to credits. No processing or similar fees may be charged by the Contractor in connection with the Modification. "Overhead and profit" shall include all plant, equipment rental and repair, project management, field coordination, job site project supervision and indirect labor and materials.
- (b) Bond Premiums. The actual rate of bond premiums as paid on the total cost (including taxes) will be allowed, but with no markup for profit and overhead.
- (c) Taxes. State and city sales taxes should be indicated. Federal excise tax shall not be included. (District will issue an exemption on request.)

2) Change Order Certification:

All change orders and requests for proposed change orders shall be deemed to include the following certification by the Contractor:

“The undersigned Contractor approves the foregoing as to the changes in work, if any, and as to the Contract price specified for each item and as to the extension of time allowed, if any, for completion of the Project as stated herein, and agrees to furnish all labor, materials, and service and to perform all work necessary to complete any additional work specified for the consideration stated herein. Submission of claims which have no basis in fact or which Contractor knows are false are made at the sole risk of the Contractor and may be a violation of the False Claims Act, as set forth in Government Code §§12650 *et seq.* It is understood that the changes to the Contract Documents set forth herein shall only be effective upon approval by the Board of Trustees of the District.

“It is expressly understood that the value of the extra work or changes 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 herein are deemed waived.”

c. Unit Prices, Schedule of Values, or Allowances:

Where Unit Prices, a Schedule of Values, and/or Allowances are required by the Contract Documents, that pricing shall govern in computing any additions to or deductions from the Contract price on account of any added or omitted work. Unit Prices listed in the original proposal include all costs and no addition of any description will be allowed.

d. Time and Materials:

If it is impractical, because of the nature of the work, or for any other reason, to fix an increase in price in advance, the Change Order may fix a maximum price which shall not under any circumstances be exceeded, and subject to such limitation, such alteration, modification or extra shall be paid for at the actual necessary cost as determined by the sum of the following items (1) to (5) inclusive:

- 1) Labor, including premium on compensation insurance and charge for Social Security taxes, and other taxes pertaining to labor.
- 2) Material, including sales taxes and other taxes pertaining to materials.
- 3) Plant and equipment rental, to be agreed upon in writing before the work is begun. No charge for the cost of repairs to plant or equipment will be allowed.
- 4) Overhead and profit computed at fifteen percent (15%) of the total of Items (1) to (3) inclusive.

- 5) The proportionate cost of premiums on bonds computed at one and one-half percent (1-1/2%) of the total of items (1) to (4) inclusive.

If the Time and Materials work is done by a Subcontractor, the amount shall be determined as set forth above under items (1) to (5) inclusive. The Contractor's overhead and profit on the costs of subcontracts (exclusive of taxes and insurance) shall not exceed ten percent (10%) of such costs.

The District reserves the right to furnish such materials as it may deem expedient, and no allowance will be made for profit thereon. The above-described methods of determining the payment for work and materials shall not apply to the performance of any work or the furnishing of any material which, in the judgment of the District, may properly be classified under items for which prices are established in the Contract.

e. Oral Modifications:

No oral statements of any person shall in any manner or degree modify or otherwise affect the terms of the Contract.

29. INDEMNITY

Contractor shall defend with counsel acceptable to the District, indemnify and hold harmless to the full extent permitted by law, the District and its Board of Trustees, officers, agents, Architect, construction manager, employees and volunteers from and against any and all liability, loss, damage, claims, expenses, fines, judgments and costs (including, without limitation, attorney's fees and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with Contractor's performance of the Project or its failure to comply with any of its obligations contained in these Contract Documents, except such Liability caused by the active negligence, sole negligence or willful misconduct of the District. Such indemnification shall extend to all claims, demands, or liabilities occurring after completion of the project as well as during the progress of the work. Pursuant to Public Contract Code § 9201, District shall timely notify Contractor of receipt of any third-party claim relating to this Project.

30. WARRANTY OF TITLE

Contractor warrants that title to all work, materials or equipment included in a request for payment shall pass and transfer to the District whether or not they are installed or incorporated in the Project, free from any claims, liens or encumbrances, when such payment is made to the Contractor. Contractor further warrants that no such work, materials or equipment have been purchased for work under the Contract subject to an agreement by which an interest therein or an encumbrance thereon is retained by the seller or supplier.

31. USE OF COMPLETED PARTS OF THE WORK BEFORE ACCEPTANCE

Whenever the work or any part thereof is in a condition suitable for use, and the best interest of the District requires such use, as determined by the District, the District may take possession of,

connect to, open for public use, or use the work or a part thereof. When so used, maintenance and repairs due to ordinary wear and tear or vandalism will be made at District's expense. The use by the District of the work or part thereof as contemplated in this section shall in no case be construed as constituting acceptance of the work or any part thereof, including, but not limited to, the right to assess liquidated damages. Such use shall neither relieve the Contractor of any of Contractor's responsibilities under the Contract nor act as a waiver by the District of any of the conditions thereof. Contractor shall continue to maintain all insurance, including Builder's Risk insurance, on the entire Project, and diligently pursue full completion of the work.

32. GUARANTEE AND WARRANTY

- a. By signing this Contract, Contractor agrees to the following guarantee and warranty:

Guarantee & Warranty

Contractor hereby guarantees and warrants its work on the Project for a period of two (2) years from the date of the filing of the Notice of Completion as follows.

Contractor shall promptly repair or replace to the satisfaction of the District any or all work that appears defective in workmanship, equipment and/or materials for whatever reason, ordinary wear and tear and unusual abuse or neglect excepted, together with any other work which may be damaged or displaced in so doing.

Contractor agrees to promptly correct and remedy any failure by the Contractor to conform its work, activities and services to the requirements of the Contract Documents.

In the event of the Contractor's failure to comply with the above-mentioned obligations within the ten (10) calendar days of notice, or sooner if required by an emergency, Contractor hereby authorizes the District to have the defects or deficiencies repaired, remedied, corrected and made good at Contractor's expense, and Contractor shall pay the costs and charges therefore upon demand. The Surety agrees to be responsible for these costs and charges as well.

This guarantee and warranty does not limit any other applicable guarantee or warranty that may be longer.

33. PROTECTION OF WORK AND PROPERTY

- a. The Contractor shall be responsible for each operation and all work on the Project, both permanent and temporary. The Contractor shall protect the work and materials from damage due to negligence, the action of the elements, the carelessness of third parties, vandalism, or any other cause whatsoever, until the final completion and acceptance of the Project. Should improper work by the Contractor be covered by another contractor and damage or defects result, the whole work affected shall be made good by the Contractor to the satisfaction of the Architect and District without expense to the District. The Contractor shall take reasonable care to avoid damage to existing facilities or utilities, whether on the Project or adjacent to it, and Contractor shall be liable for any damage thereto or interruption of service due to Contractor's operations. If the Contractor encounters any facilities or utilities not shown on the drawings or not reasonably inferable therefrom, Contractor shall promptly notify the Architect about them, and shall do no further work which may cause damage to same. If it is determined that some action needs to be taken regarding facilities not shown, the Contractor will be given directives on what action to take, and any additional cost to the Contractor incurred thereby will be handled by Change Order.
- b. The property limits of the area of the Project are indicated on the drawings. Except for work specifically shown or noted, Contractor shall confine Contractor's operations within the indicated property limits. The Contractor shall provide, install, and maintain all shoring, bracing and underpinning necessary to support adjacent property, streets, buildings and structures, that may be affected by building operations for this work; shall serve or cause to be served all legal notices to adjoining property owners that may be necessary for their protection; and shall protect from damage all adjacent buildings, fences, landscaping, and repair or replace any such property damaged in the course of work under the Contract.

34. USE OF ROADWAYS AND WALKWAYS

The Contractor shall not unnecessarily interfere with use of any roadway, walkway or other facility for vehicular or pedestrian traffic by any party entitled to use it. Wherever such interference becomes necessary for the proper and convenient performance of the work and no satisfactory detour route exists, the Contractor shall, before beginning the interference, provide a satisfactory detour, temporary bridge, or other proper facility for traffic to pass around or over the interference and shall maintain it in satisfactory condition as long as the interference continues, all without extra payment unless otherwise expressly stipulated in the Contract Documents.

35. MATERIALS

- a. Unless explicitly stated otherwise, all specified equipment and material comprising the work of this Contract, as being provided or furnished or installed, shall imply the inclusion of all components, hardware and accessories, required for complete installation and satisfactory operation as intended by the manufacturer. Wherever the method of installation of any material is not explicitly specified, the installation shall be as recommended by manufacturer.

- b. Wherever in the Contract Documents it is provided that the Contractor shall furnish materials or equipment for which no detailed specifications are set forth, such materials or equipment shall be new and of the best grade for the purpose for which they will be used when incorporated in the work. Materials specified by reference to a number or symbol of a specific standard, such as A.S.M., Federal Specification, State Standard, Trade Association, or similar standards, shall comply with requirements in the latest revision thereof and any amendment or supplement in effect on the date of the notice to proposers.
- c. While it is understood that penetration mastic currently in use at the Project site containing ACM will be removed and/or abated as a part of the Scope of Work, the Contractor agrees that none of the materials to be provided, furnished or installed on this Project shall contain asbestos or any other “hazardous substance” as that term is defined by federal or state law.

36. SUBSTITUTIONS

- a. Wherever in the drawings or Specifications a material or product is called for by trade or brand names or manufacturer and model number, alternative items of equal quality and purpose may be proposed for use by the Contractor, as specified in the Instructions to Proposers. The burden of proof of equality is on the Contractor, and Contractor shall furnish all information and supplies necessary for the Architect and District to make a thorough evaluation of the proposed substitution. The decision about the equality of the proposed substitution is final, and if the proposed substitution is not approved, the Contractor shall install the item called for. Proposed substitutions and any changes in adjacent work caused by them shall be made by the Contractor at no additional cost to the District.
- b. Proposed substitutions shall be submitted sufficiently before actual need to allow time for thorough evaluation. Substitutions shall not be proposed for the reason that submittals were not made early enough to avoid delay. The review of substitutions shall not relieve the Contractor from complying with the requirements of the drawings and Specifications.
- c. In the event Contractor makes substitutions in materials, equipment, or designs, with or without the District’s approval, other than those authorized herein, the Contractor shall then assume full responsibility for the effects of such substitutions on the entire Project, including the design, and shall reimburse the District for any charges resulting from such substitutions, including any charges for modifications in the work of other trades, and including any charges for additional design and review, plus reasonable and customary mark-ups.

37. TESTING

- a. Materials, equipment, or other work requiring tests may be specified in the Contract Documents, and they shall be adequately identified and delivered to the site in ample time before intended use to allow for testing. If such materials, equipment or other work should be covered without required testing and approval, they shall be uncovered at the Contractor’s expense, including any repairs or replacement resulting therefrom. The

Contractor shall notify the District and Architect when and where such materials, equipment or other work are ready for testing, and Contractor shall bear the cost of making them available for testing. The Contractor shall notify the District and Architect sufficiently before the need for testing so as to cause no delay in the work and, in any case, at least forty-eight (48) hours prior to the need for testing.

- b. The cost of initial tests called for will be paid by the District and will be performed by independent testing consultants retained by the District. All other tests and inspections specified or otherwise required to substantiate compliance with specified requirements for quality of material or performance of operation shall be paid for by the Contractor. If retesting or additional testing is necessary because of substandard initial test results, the costs thereof shall be paid by the Contractor, including any repairs or replacement resulting therefrom.

38. INSPECTION

- a. All materials, equipment and workmanship used in the work of the Project shall be subject to inspection or testing at all times and locations during construction and/or manufacture. The District's and Architect's authorized representatives and representatives of other agencies having authority over the work shall have access to the work for the above purposes at all reasonable times and locations. Any material or work found to be unsatisfactory or not according to the Contract Documents shall be replaced with the correct material or work and the defective items promptly removed, all at the Contractor's expense, when directed to do so by any of the above-named persons having authority over the work. The cost of review time and analysis by the Architect or other District consultants necessitated by incomplete or defective work by the Contractor shall be charged to the Contractor.
- b. Inspection and testing by the District or its representatives shall not relieve the Contractor from complying with the requirements of the Contract Documents. The Contractor is responsible for its own quality control.
- c. Whenever required by the District or Architect, the Contractor shall furnish all tools, labor and materials necessary to make an examination of work in place by uncovering the same. Should such work be found unsatisfactory, the cost of examination and reconstruction shall be paid by the Contractor. Should such work be found satisfactory, the cost of examination and reconstruction of the work shall be paid by Change Order unless the Contractor improperly covered the work before it could be inspected or tested. If the Contractor considers it necessary or desirable to work on Saturday, Sunday or a holiday, Contractor shall seek written approval from the District at least forty-eight (48) hours before the commencement of such work.

39. CLEANUP

- a. The Contractor shall maintain the premises and area of the work in a neat and clean condition. No burning of rubbish on site shall be allowed. The Contractor shall control

dust on the site by sprinkling at whatever intervals are necessary to keep it laid down and shall take measures to prevent dust and debris from being accidentally transported outside the area of the work.

- b. Final cleaning, such as sweeping, dusting, vacuuming, dry and wet mopping, polishing, sealing, waxing and other finish operations normally required on newly installed work shall be taken to indicate the finished conditions of the various new and existing surfaces at the time of acceptance. Prior to the time of acceptance, all marks, stains, fingerprints, dust, dirt, splattered paint and blemishes resulting from the various operations shall be removed throughout the Project. Stair treads and risers shall be wet-mopped. Glass shall be left clean and polished both inside and outside. Plumbing fixtures and light fixtures shall be washed clean. Hardware and other unpainted metals shall be cleaned and all building papers and other temporary protections shall be removed throughout the building, or portion of the building where Contractor was involved, all to the satisfaction of the Architect and District. The exterior of the buildings, playfields, exterior improvements, and planting spaces and other work areas shall be similarly clean and in good order.

40. CONSTRUCTION WASTE MANAGEMENT REQUIREMENTS

- a. Scope:

- 1) This Article includes requirements for the diversion by the Contractor of construction and demolition debris from landfills. The Contractor shall develop and implement a Waste Management Plan as specified herein. The Contractor shall take a pro-active, responsible role in the management of construction and demolition waste and require all subcontractors, vendors, and suppliers to participate in the effort.
- 2) The District has established that this Project shall generate the least amount of waste practicable and that processes shall be utilized that ensure the generation of as little waste as possible due to over-packaging, error, poor planning, breakage, mishandling, contamination or other factors.
- 3) As much of the waste materials as economically feasible shall be reused, salvaged or recycled. Waste disposal in landfills shall be minimized.
- 4) The Contractor is encouraged to use waste hauling companies that separate recyclable materials. The Contractor shall work with its waste haulers in providing other recycling methods as appropriate.
- 5) The Contractor is responsible for implementation of any special programs involving rebates or similar incentives related to the recycling of waste. Revenues or other savings obtained for salvage or recycling accrue to the Contractor.

- b. References:

- 1) “Builders’ Guide to Reuse and Recycling, A Directory for Construction and Demolition Materials.”
- 2) “Construction Site Recycling, a Guide for Building Contractors.” For a copy of the guide call 1-888-442-2666 or go to www.recycleworks.org.
- 3) “Where to Recycle Construction and Demolition Debris.” For a copy of the guide call 1-888-442-2666 or go to www.recycleworks.org.

c. Definitions:

- 1) General: Construction and demolition waste includes products of demolition or removal, excess or unusable construction materials, packaging materials for construction products, and other materials generated during the construction process but not incorporated into the work.
- 2) “Divert” means to use material for any lawful purpose other than disposal in a landfill or transfer facility for disposal
- 3) “Recycling Service” means an off-site service that provides processing of material and diversion from a landfill.
- 4) “Hauler” means the entity that transports construction and demolition debris to either a landfill or a recycling service.

d. Compliance with regulatory requirements:

- 1) The Contractor shall perform all handling, storage, transportation and disposal of construction debris in compliance with all applicable Federal, State, regional, and local statutes, laws, regulations, rules, ordinance, codes and standards.
- 2) Nothing stated on the drawings, in this Article 40 or in any other provision of the Contract Documents shall be construed as allowing work that is not in strict compliance with all applicable Federal, State, regional, and local statutes, laws, regulations, rules, ordinances, codes and standards.

e. Performance Requirement:

- 1) The Contractor shall divert a minimum of fifty percent (50%) of the total Project construction and demolition waste from landfills.

f. Quality Control:

- 1) General:

- i) The Contractor shall not permit materials designated for diversion to become contaminated or to contaminate the site or surrounding areas.
- 2) Training and Coordination:
- i) The Contractor shall designate an on-site party [or parties] who will be responsible for instructing workers and subcontractors, and overseeing and documenting the results of the Waste Management Plan for the Project.
 - ii) The Contractor shall furnish copies of the Waste Management Plan to all on-site supervisors, each subcontractor, and the District's representative.
 - iii) The Contractor shall include construction waste management as an item on the agenda of all progress meetings.
- 3) The Waste Management Plan:
- i) The Contractor shall prepare a Waste Management Plan for diverting the specified percentage of construction debris from landfills, including written and graphic information indicating how the waste will be diverted.
 - ii) Include in the plan both on-site recycling of construction debris and off-site diversion from landfills.
 - iii) Identify the means and methods for collecting and separating each type of debris deemed reusable or recyclable.
 - iv) List the off-site recycling service and hauler of each designated debris item who has agreed to accept and divert that item from the landfill in the proposed quantities anticipated. List the service and hauler company name, address, telephone number, and persons contacted.
 - v) List the name of individuals on the Contractor's staff responsible for waste prevention and management.
 - vi) List the actions that will be taken to reduce solid waste generation, including coordination with subcontractors to ensure awareness and participation.
 - vii) Describe the specific approaches to be used in recycling/reuse of the various materials generated, including the areas on site and equipment to be used for processing, sorting, and temporary storage of wastes.
 - viii) Characterize the waste to be generated, including estimated types and

quantities. Name the landfills and/or incinerator to be used.

- ix) List the specific waste materials that will be salvaged for resale, salvaged and reused on the Project, salvaged and stored for reuse on a future project, or recycled. Recycling facilities that will be used shall be identified by name, location, and phone number.
- x) Identify the materials that cannot be recycled or reused with an explanation or justification, to be approved by the Architect.

The Contractor shall submit the Plan to the Architect within 10 calendar days after receipt of the Notice to Proceed, or prior to any waste removal, whichever occurs first. The Contractor shall promptly revise and resubmit the Plan as required by the Architect. Review of the Contractor's Waste Management Plan will not relieve the Contractor of responsibility for compliance with applicable environmental regulations or meeting Project diversion requirements.

g. Plan Implementation

- 1) The Contractor shall implement the approved Waste Management Plan.
- 2) The Contractor shall maintain a log of each load and of each category of waste that is diverted from the landfill. The Contractor shall separately log the debris sent to a Class III landfill and materials sent to recycling facilities.
- 3) The Contractor shall include in the log the type of load, load weight, name of the hauling service, recycling service or landfill, and the date accepted by the recycling service or by the landfill.
- 4) The Contractor shall retain and make available all weight tickets and copies of receipts and invoices relating to the implementation of the Plan.
- 5) The District reserves the right to audit the log at any time.

h. Material Handling

- 1) Designate a specific area or areas on site to facilitate the separation of materials for potential reuse, salvage, recycling, and return. Clearly mark bins for each category of waste.
- 2) Keep waste bins and pile areas neat and clean. Do not contaminate non-recyclable waste with materials designated for reuse or recycling.

i. Contractor's Responsibilities

- 1) Provide on-site instruction of the appropriate separation, handling, recycling, salvage, reuse, and return methods to be used by all parties at the appropriate

stages of the Project.

- 2) Separate, store, protect, and handle at the site identified recyclable and salvageable waste products in a manner that maximizes recyclability and salvagability of identified materials. Provide the necessary containers, bins and storage areas to facilitate effective waste management. Provide barriers and enclosures around recyclable material storage areas which are non-hazardous and recyclable or reusable and which shall be located away from construction traffic. Provide adequate space for pick-up and delivery. Use cleaning materials that are non-hazardous and biodegradable.

41. INSTRUCTIONS AND MANUALS

Three copies of the maintenance instructions, application/installation instructions and service manuals called for in the Specifications shall be provided by the Contractor. These shall be complete as to drawings, details, parts lists, performance data and other information that may be required for the District to easily maintain and service the materials and equipment installed under this Contract. All manufacturer's application/installation instructions shall be given to the Architect at least ten (10) days prior to first material application or installation of the item. The maintenance instructions and manuals, along with any specified guarantees, shall be delivered to the Architect for review prior to submitting to District, and the Contractor or appropriate Subcontractors shall instruct District's personnel in the operation and maintenance of the equipment prior to final acceptance of the Project.

42. AS-BUILT DRAWINGS

The Contractor and all Subcontractors shall maintain on the work site a separate complete set of contract drawings which will be used solely for the purpose of recording changes made in any portion of the work during the course of construction, regardless of the reason for the change. As changes occur, there will be included or marked on this record set on a daily basis if necessary to keep them up to date at all times. Actual locations to scale shall be identified on the drawings for all runs of mechanical and electrical work, including all site utilities installed underground, in walls, floors, and furred spaces, or otherwise concealed. Deviations from the drawings shall be shown in detail. All main runs, whether piping, conduit, duct work, drain lines, etc., shall be located in addition by dimension and elevation. Progress payments may be delayed or withheld until such time as the record set is brought up to date to the satisfaction of the Architect. The Contractor shall verify that all changes in the work are included in the "AS-BUILT" drawings and deliver the complete set thereof to the Architect for review and approval within thirty (30) calendar days after District's notice of completion. District's acceptance and approval of the "AS-BUILT" drawings are a necessary condition precedent to the release of the final retention.

43. SUBSTITUTION OF SECURITIES

- a. Pursuant to Public Contract Code §22300, Contractor may request in writing that it be allowed at its own expense to substitute securities for moneys withheld by District to ensure performance under this Contract. Only securities listed in Government Code

§16430 and bank or savings and loan certificates of deposit, interest-bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by Contractor and District shall qualify under this Article. Securities equivalent to the amount withheld shall be deposited with the District or with a state or federally chartered bank in California as the escrow agent. Upon satisfactory completion of the Contract and on written authorization by the District, the securities shall be returned to Contractor. Contractor shall be the beneficial owner of the securities and shall receive any interest thereon. The Contractor may alternatively request District to make payment of retentions earned directly to the escrow agent at the expense of the Contractor.

- b. At the expense of the Contractor, the Contractor may direct the investment of the payments into securities and the Contractor shall receive the interest earned on the investments upon the same terms provided for above for securities deposited by Contractor. Upon satisfactory completion of the Contract, Contractor shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from the District. The Contractor shall pay to each Subcontractor, not later than 20 days of receipt of payment, the respective amount of interest earned, net of costs attributed to retention withheld from each Subcontractor, on the amount of retention.
- c. Any escrow agreement entered into pursuant to this Article shall comply with Public Contract Code § 22300 and shall be subject to approval by District's counsel.

44. NO DISCRIMINATION

It is the policy of the District that, in connection with all work performed under this public works contract, there shall be no discrimination against any prospective or active employee or any other person engaged in the work because of actual or perceived race, color, ancestry, national origin, ethnic group identification, religion, sex, gender, sexual orientation, age, physical or mental disability, or marital status. The Contractor agrees to comply with applicable Federal and California laws including, but not limited to, the California Fair Employment Practice Act, beginning with Government Code § 12900, Government Code § 11135, and Labor Code §§ 1735, 1777.5, 1777.6 and 3077.5. In addition, the Contractor agrees to require like compliance by all Subcontractors and suppliers.

45. LABOR STANDARDS

a. Work Hours:

In accordance with Labor Code § 1810, eight (8) hours of labor shall constitute a legal day's work under this Contract. Contractor and any Subcontractor shall pay workers overtime pay as required by Labor Code § 1815. The Contractor shall pay each worker, laborer, mechanic or persons performing work under this Contract at a rate not less than the prevailing wage for each craft or classification covering the work actually performed.

b. Penalty:

Contractor shall forfeit to District as a penalty the sum of twenty-five dollars (\$25.00) for each worker employed in the execution of this Contract by Contractor or any Subcontractor for each calendar day during which the worker is required or permitted to work more than eight (8) hours in any one (1) calendar day or more than forty (40) hours per calendar week in violation of Article 3, Division 2, Part 7, Chapter 1 of the California Labor Code.

c. Employment of Apprentices:

Contractor shall comply with Labor Code §§ 1773.3, 1777.5 and 1777.6, and 3077 et. seq., each of which is incorporated by reference into this Contract. These sections require that contractors and subcontractors employ apprentices in apprenticeable occupations in a ratio of not less than one (1) hour of apprentice work for every five (5) hours of labor performed by a journeyman, unless an exception is granted and that Contractors and Subcontractors shall not discriminate against otherwise qualified employees as apprentices on any public works solely on the ground of actual or perceived race, religion, color, national origin, ethnic group identification, sex, gender, sexual orientation, age, or physical or mental disability. Only apprentices who are in training under written apprenticeship occupations shall be employed. The responsibility for compliance with these provisions for all apprenticeable occupations rests with Contractor.

d. The Contractor shall be knowledgeable of and comply with Labor Code §§ 1727, 1773.5, 1775, 1777, 1777.5, 1810, 1813, 1860, including all amendments thereto; each of these sections is incorporated by reference into this Contract.

46. GENERAL RATE OF PER DIEM WAGES

a. On File:

As required by Labor Code § 1773.2, the District has available copies of the general prevailing rate of per diem wages for workers employed on public work as determined by the Director of the Department of Industrial Relations, which shall be available to any interested party on request. Contractor shall post a copy of the document at each job site.

b. Prevailing Wage Rate:

The Contractor and each Subcontractor shall pay each worker performing work under this Contract at a rate not less than the prevailing wage as defined in Labor Code § 1771 and 1774 and 8 CCR § 16000(a).

c. Penalty:

In accordance with Labor Code § 1775, the Contractor shall forfeit to the District as penalty, the sum of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates, as determined by the Director of the California Department of Industrial Relations, for any work done under

this Contract by Contractor or by any Subcontractor. Contractor shall also pay each worker the difference between the stipulated prevailing wages rates and the amount actually paid to such worker.

47. RECORD KEEPING

- a. The Contractor agrees to comply with Labor Code §§ 1776 and 1812. The Contractor and each Subcontractor shall keep or cause to be kept an accurate record showing the names, addresses, social security numbers, work classifications, straight time and overtime hours worked each day and week of all workers employed by Contractor in connection with the execution of this Contract or any subcontract thereunder and showing the actual per diem wages paid to each of such workers. These records shall be certified; shall be submitted electronically at least monthly to the Chief of the Division of Labor Standards Enforcement of the Department of Industrial Relations; and shall be open at all reasonable hours to the inspection of the District awarding the Contract, its officers and agents, and to the Chief of the Division of Labor Standards Enforcement of the Department of Industrial Relations, and his or her other deputies and agents.
- b. In addition, copies of the above records shall be available as follows:
 - 1) 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;
 - 2) A certified copy of all payroll records shall be made available for inspection or furnished upon request to the District, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations;
 - 3) A certified copy of all payroll records shall be made available upon request by the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the District, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been previously provided, the requesting party shall, prior to being provided the records, reimburse the costs of the Contractor, Subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of the Contractor.
- c. The Contractor shall file a certified copy of the records with the entity requesting the records within ten days after receipt of a written request. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the District, shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the Contractor awarded the Contract or performing the Contract shall not be marked or obliterated.

- d. The Contractor shall inform the District of the location of the records, including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.
- e. In the event of noncompliance with the requirements of this section, the Contractor shall have ten days in which to comply subsequent to receipt of written notice specifying in what respects the Contractor must comply with this section. Should noncompliance still be evident after the ten day period, the Contractor shall, as a penalty to the District, forfeit one hundred dollars (\$100) 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 then due.
- f. Responsibility for compliance with this provision shall be with the Contractor.

48. PROJECT COMPLETION

- a. When all of the work to be performed under this Contract has been fully completed, the Contractor shall notify the Architect and District, in writing, setting a date for inspection. The Contractor and Subcontractor representatives shall attend the inspection. As a result of this inspection, the Architect will prepare a list of items (“punch list”) that are incomplete or not installed according to the Contract Documents. Failure to include items on this list does not relieve the Contractor from fulfilling all requirements of the Contract Documents.
- b. The Architect will promptly deliver the punch list to the Contractor and it will include a period of time by which the Contractor shall complete all items listed thereon. On completion of all items on the punch list, verified by a final inspection, and all other Contract requirements, so that Final Completion has been achieved to the District’s satisfaction, the District will file a Notice of Completion with the County Recorder. Payment of retention from the Contract, less any sums withheld pursuant to the terms of this Contract or applicable law, shall not be made sooner than thirty-five (35) calendar days after the date of filing of Notice of Completion.
- c. District reserves the right to occupy buildings and/or portions of the site at any time before Completion, and occupancy shall not constitute final acceptance of any part of the Work covered by the Contract Documents, nor shall such occupancy extend the date specified for completion of the work. Beneficial occupancy of building(s) does not commence any warranty period or entitle Contractor to any additional compensation due to such occupancy, or affect in any way or amount Contractor’s obligation to pay liquidated damages for failure to complete the Project on time.

49. TRENCHING OR OTHER EXCAVATIONS

a. Excavations or Trenches Deeper than Four Feet:

If the Project involves digging trenches or other excavations that extend deeper than four feet, the following provisions shall be a part of this Contract:

- 1) The Contractor shall promptly, and before the following conditions are disturbed, provide written notice to the District if the Contractor finds any of the following conditions:
 - (a) Material that the Contractor believes may be a hazardous waste, as defined in §25117 of the Health and Safety Code, which is required to be removed to a Class I, Class II, or Class III disposal site in accordance with the provisions of existing law.
 - (b) Subsurface or latent physical conditions at the site which are different from those indicated or expected.
 - (c) Unknown physical conditions at the site of any unusual nature or which are materially different from those ordinarily encountered and generally recognized as inherent in work which the Contractor generally performs.
- 2) In the event that the Contractor notifies the District that Contractor has found any of the conditions specified in subparagraphs (a), (b) or (c), above, the District shall promptly investigate the condition(s). If the District finds that the conditions are materially different or that a hazardous waste is present at the site which will affect the Contractor's cost of, or the time required for, performance of the Contract, the District shall issue a change order in accordance with the procedures set forth in this Contract.
- 3) In the event that a dispute arises between the District and the Contractor regarding any of the matters specified in Paragraph (2), above, the Contractor shall proceed with all work to be performed under the Contract and the Contractor shall not be excused from completing the Project as provided in the Contract. In performing the work pursuant to this Paragraph, the Contractor retains all rights provided by Article 50 which pertains to the resolution of disputes between the contracting parties.

b. Regional Notification Center:

The Contractor, except in an emergency, shall contact the appropriate regional notification center at least two (2) days prior to commencing any excavation if the excavation will be conducted in an area that is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the District, and obtain an inquiry identification number from that notification center. No excavation shall be commenced and/or carried out by the Contractor unless an inquiry identification number has been assigned to the Contractor or any Subcontractor and the Contractor has given the District the identification number. Any damages or delays arising from Contractor's failure to make appropriate notification shall be at the sole risk and expense of the Contractor and shall not be considered for an extension of the Contract time.

c. Existing Utility Lines:

- 1) Pursuant to Government Code §4215, the District assumes the responsibility for removal, relocation, and protection of main or trunk utility lines and facilities located on the construction site at the time of commencement of construction under this Contract with respect to any such utility facilities that are not identified in the plans and Specifications. Contractor shall not be assessed liquidated damages for delay in completion of the Project caused by the failure of the District or the owner of a utility to provide for removal or relocation of such utility facilities.
- 2) Locations of existing utilities provided by the District shall not be considered exact, but approximate within reasonable margin and shall not relieve Contractor of responsibilities to exercise reasonable care nor costs of repair due to Contractor's failure to do so. The District shall compensate Contractor for the costs of locating and repairing damage not due to the failure of Contractor to exercise reasonable care, and removing or relocating such utility facilities not indicated in the plans and Specifications with reasonable accuracy.
- 3) No provision herein shall be construed to preclude assessment against Contractor for any other delays in completion of the Project. Nothing in this section shall be deemed to require the District to indicate the presence of existing service laterals, appurtenances, or other utility lines, with the exception of main or trunklines, whenever the presence of such utilities on the site of the construction Project can be inferred from the presence of other visible facilities, such as buildings, meter and junction boxes, on or adjacent to the site of the construction.
- 4) If Contractor, while performing work under this Contract, discovers utility facilities not identified by the District in the Project plans and Specifications, Contractor shall immediately notify the District and the utility in writing. The cost of repair for damage to above-mentioned visible facilities without prior written notification to the District shall be borne by the Contractor.

d. Prompt Notification:

Contractor understands, acknowledges and agrees that the purpose for prompt notification to the District pursuant to these provisions is to allow the District to investigate the condition(s) so that the District shall have the opportunity to decide how the District desires to proceed as a result of the conditions. Accordingly, failure of Contractor to promptly notify the District in writing, pursuant to these provisions, shall constitute Contractor's waiver of any claim for damages incurred as a result of the conditions.

e. Trenches Five Feet and Deeper:

Pursuant to Labor Code §6705, if the Contract price exceeds \$25,000 and involves the excavation of any trench or trenches five (5) feet or more in depth, the Contractor shall, in advance of excavation, promptly submit to the District and/or a registered civil or structural engineer employed by the District or Architect, a detailed plan showing the design of shoring for protection from the hazard of caving ground during the excavation of such trench or trenches.

50. RESOLUTION OF CLAIMS

- a. Notwithstanding any other language in the Contract Documents, claims between the District and the Contractor shall first be resolved using the procedures set forth at Public Contract Code § 9204. "Claims" are defined for this Article, pursuant to Public Contract Code § 9204, as a separate demand by the Contractor for one of the following: a time extension for relief from penalties for delay; payment of money or damages arising from work done; or payment of an amount disputed by the District.
- b. Upon receiving a claim sent by registered or certified mail, the District must review and provide a written response within forty-five (45) days that identifies the disputed and undisputed portions of the claim. The forty-five (45) day period to respond may be extended by mutual agreement. The claim is deemed rejected in its entirety if the District does not issue a response. Any payment due on an undisputed portion of the claim must be processed within sixty (60) days after the District's response. If a claimant disputes the District's response or lack thereof, the claimant may demand to meet and confer for settlement of the issues in dispute. Any portion of a claim that remains in dispute after a meet and confer conference will be subject to nonbinding mediation process, as described in Public Contract Code § 9204. Undisputed and unpaid claims accrue interest at 7% per annum. A subcontractor or lower tier subcontractor may make a claim to the District through the Contractor, as specified in Public Contract Code § 9204. However, the procedures in this section shall not supersede the requirements of the Contract Documents with respect to the Contractor's notification to the District of such claim or extend the time for the giving of such notice as provided in the Contract Documents.
- c. Public work claims of \$375,000 or less between the Contractor and the District are subject to the provisions of Article 1.5 (commencing with § 20104) of Chapter 1 of Part 2 of the Public Contract Code ("Article 1.5 claim"). For purposes of this Article, "public work" has the same meaning as set forth in Civil Code §§ 3100 and 3106.

- d. All claims shall be submitted on or before the date of the Final Payment and shall include all documents necessary to substantiate the claim. District shall respond in writing within 45 days of receipt of claim if the claim is less than or equal to \$50,000 (“\$50,000 claim”) or within 60 days if the claim is over \$50,000 but less than or equal to \$375,000 (“\$50,000 - \$375,000 claim”). In either case, District may request in writing within 30 days of receipt of claim any additional documentation supporting the claim or relating to any defenses to the claim which the District may have against the Contractor. Any additional information shall be requested and provided upon mutual agreement of the District and the Contractor. District’s written response to the claim shall be submitted to Contractor within 15 days after receipt of the further documentation for \$50,000 claims or within 30 days after receipt of the further documentation for \$50,000 - \$375,000 claims or within a period of time no greater than that taken by the Contractor in producing the additional information, whichever is greater.
- e. Within 15 days of receipt of the District’s response, if Contractor disputes the District’s written response, or within 15 days of the District’s failure to respond within the time prescribed, the Contractor shall provide written notification to District demanding an informal conference to meet and confer to be scheduled by District within 30 days. Following the meet and confer conference, if any claim or portion remains in dispute, the Contractor may file a claim as provided in Government Code § 900 et seq. For purposes of those provisions, the period of time within which a claim must be filed is tolled from the time the claimant submits a written claim pursuant to this section until the time that claim is denied as a result of the conference process, including any period of time utilized by the meet and confer process.
- f. Pursuant to Public Contract Code § 20104.2(f), this section does not apply to tort claims and does not change the period for filing claims or actions specified by Government Code § 900 et seq.
- g. If a civil action is filed, within 60 days, but no earlier than 30 days, following the filing of responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide that both parties select a disinterested third person mediator within 15 days, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days of the commencement of the mediation unless time is extended upon a good cause showing to the court or by stipulation of the parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.
- h. If the matter remains in dispute, the case shall be submitted to judicial arbitration as set forth in Public Contract Code § 20104.4(b)(1) - (b)(3).
- i. For any claim in excess of \$375,000, the Contractor and the District shall follow the same process as for an Article 1.5 claim. The District will forward a response within 60 days of submittal of any such claim. Judicial arbitration is not required for claims in excess of \$375,000.

- j. In addition, for all unresolved claims that the Contractor wishes to pursue, the Contractor shall file a timely claim pursuant to the Government Claims Act and shall otherwise comply with the procedures set forth in that Act prior to commencing any litigation against the District. The accrual date for any such claim is the date the dispute or controversy first arose regarding the issues raised in the claim.
- k. “The date of Final Payment,” as used in this Article 50, means the date the public entity is required to release retention proceeds in accordance with Public Contract Code § 7107 regardless of whether any payment is made to the Contractor at that time.
- l. The claims required by this Article are jurisdictional and conditions precedent to the commencement of any further legal proceedings. Strict compliance with all filing deadlines is mandatory.

51. DISABLED VETERANS PARTICIPATION GOALS

In accordance with Education Code § 17076.11, this District has a participation goal for disabled veteran business enterprises (“DVBE”) of at least 3 percent (3%) per year of the overall dollar amount of funds allocated to the District by the State Allocation Board pursuant to the Leroy F. Greene School Facilities Act of 1998 (the “Act”) for construction or modernization and expended each year by the District. If the Project is funded in whole, or in part, by funds allocated to the District pursuant to the Act, prior to, and as a condition precedent for final payment under any contract for such project, the Contractor shall provide appropriate documentation to the District identifying the amount paid to DVBE in conjunction with the Contract, so that the District can assess its success at meeting this goal.

52. RETENTION OF DVBE RECORDS

The Contractor agrees that, for all contracts subject to DVBE participation goals, the State and the District have the right to review, obtain and copy all records pertaining to performance of the contract in accordance with DVBE requirements. The Contractor agrees to provide the State or the District with any relevant information requested and shall permit the State or District access to its premises upon reasonable notice for purposes of interviewing employees and inspecting records. The Contractor agrees to maintain such records for a period of three years after final payment under the Contract.

53. FINGERPRINTING

District Determination of Fingerprinting Requirement Application

The District has considered the totality of the circumstances concerning the Project and has determined that the Contractor and Contractor’s employees (which includes Subcontractor employees):

 X are subject to the requirements of Education Code § 45125.2 and Paragraph (a) below, is applicable.

_____ are not subject to the requirements of Education Code § 45125.2, and Paragraph (b) below, is applicable.

- a. Contracts for Construction, Reconstruction, Rehabilitation or Repair of a School Facility Involving More than Limited Contact with Students (§ 45125.2)

By execution of the Contract, the Contractor acknowledges that Contractor is entering into a contract for the construction, reconstruction, rehabilitation, or repair of a school facility where the Contractor and/or Contractor's employees will have more than limited contact with students and the services to be provided do not constitute an emergency or exceptional situation. In accordance with Education Code § 45125.2 the Contractor shall, at Contractor's own expense, (1) install a physical barrier to limit contact with students by Contractor and/or Contractor's employees, and/or (2) provide for the continuous supervision and monitoring of the Contractor and/or Contractor's employees by an employee of the Contractor who has received fingerprint clearance from the California Department of Justice, and/or (3) provide for the surveillance of the Contractor and Contractor's employees by a District employee.

- b. Contracts for Construction, Reconstruction, Rehabilitation or Repair of a School Facility Involving Only Limited Contact With Students (§ 45125.2)

By execution of the Contract, the Contractor acknowledges that Contractor is entering into a contract for the construction, reconstruction, rehabilitation or repair of a school facility involving only limited contact with students. Accordingly, the parties agree that the following conditions apply to any work performed by the Contractor and Contractor's employees on a school site: (1) Contractor and Contractor's employees shall check in with the school office each day immediately upon arriving at the school site; (2) Contractor and Contractor's employees shall inform school office staff of their proposed activities and location at the school site; (3) Once at such location, Contractor and Contractor's employees shall not change locations without contacting the school office; (4) Contractor and Contractor's employees shall not use student restroom facilities; and (5) If Contractor and/or Contractor's employees find themselves alone with a student, Contractor and Contractor's employees shall immediately contact the school office and request that a member of the school staff be assigned to the work location.

54. LABOR COMPLIANCE MONITORING

The project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations. In accordance with Labor Code § 1771.1, all proposers, contractors and subcontractors working at the site shall be duly registered with the Department of Industrial Relations at time of bid opening and at all relevant times. Proof of registration shall be provided as to all such contractors prior to the commencement of any work. Contractor shall coordinate with the Architect to ensure the Department of Industrial Relations is advised of the award of the construction contract in a timely manner by filing form PWC-100 with the Department of Industrial Relations after award of the contract.

55. DRUG-FREE WORKPLACE CERTIFICATION

Contractor certifies all of the following:

- 1) Contractor is aware of the provisions and requirements of California Government Code §§ 8350 et seq., the Drug Free Workplace Act of 1990.
- 2) Contractor is authorized to certify, and does certify, that a drug free workplace will be provided by doing all of the following:
 - a) Publishing a statement notifying all 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 a 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 Work on the Project 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 on the Project, the employee agrees to abide by the terms of the statement.
- 3) Contractor understands 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 Government Code §§ 8350 et seq., the Contract is subject to termination, suspension of payments, or both. Contractor further understands 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 Government Code §§ 8350, et seq.

56. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted, and this Contract shall be read and enforced as though it were included, and if through mistake or otherwise any provision is not inserted or is not correctly inserted, upon application of either party the Contract shall be amended to make the insertion or correction. All references to statutes and regulations shall include all amendments, replacements, and enactments on the subject which are in effect as of the date of this Contract.

57. GENERAL PROVISIONS

a. Assignment and Successors:

Neither party may transfer or assign its rights or obligations under the Contract Documents, in part or in whole, without the other party's prior written consent. The Contract Documents are binding on the heirs, successors, and permitted assigns of the parties hereto.

b. Third Party Beneficiaries:

There are no intended third party beneficiaries to the Contract.

c. Choice of Law and Venue:

The Contract Documents shall be governed by California law, and venue shall be in the Superior Court of the county in which the project is located, and no other place.

d. Severability:

If any provision of the Contract Documents is determined to be illegal, invalid, or unenforceable, in part or in whole, the remaining provisions, or portions of the Contract Documents shall remain in full force and effect.

e. Entire Agreement

The Contract Documents constitute the final, complete, and exclusive statement of the terms of the agreement between the parties regarding the subject matter of the Contract Documents and supersedes all prior written or oral understandings or agreements of the parties.

f. Waiver:

No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of the Contract Documents shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

g. Headings

The headings in the Contract Documents are included for convenience only and shall neither affect the construction or interpretation of any provision in the Contract Documents nor affect any of the rights or obligations of the parties to the Contract.

--END GENERAL CONDITIONS--

7. SPECIAL CONDITIONS

- A. **Time of Performance.** The Contractor shall mobilize and commence work on the Project on the date specified in the Contract. The Contractor shall complete the project within the period specified in the Contract and in accordance with the schedule for the Project developed for the District. Contractor acknowledges and agrees that the construction duration stipulated herein is adequate and reasonable for the size and scope of the Project.

Work under this Contract shall be scheduled and coordinated in compliance with the following:

1. The anticipated date of the award of the Contract is: TBD
2. Contract submittals are due on April 1, 2023.
3. Contractor shall complete work under this Contract as identified in the Specifications.
4. The Contractor acknowledges that it fully understands the Project work to be performed has been scheduled by the District for a specific time period. In addition the Contractor acknowledges that it fully understands that scheduling has been established for this Project in order to promote the best usage of school facilities and to timely provide an appropriate learning environment for students to the fullest extent possible. With these understandings in mind, pursuant to the General Conditions regarding the District's Right to Terminate Contract, it is acknowledged and understood by the Contractor that it is a substantial violation of the Contract for the Contractor to fail to provide all submittals in the time specified and identified. Furthermore, it is acknowledged and understood by the Contractor that it is a substantial violation of the Contract for the Contractor to fail to provide a full work crew or properly skilled workers with proper and sufficient materials and equipment from the first day of Project work scheduled.

If the site will not be available after the scheduled start date, Contractor shall utilize this time period for administrative tasks and initial mobilization and shall coordinate such activities with District.

- B. **Future Work:** All future work awarded from this proposal shall be coordinated with the District's Executive Director of Technology or his or her designee and the Contractor. No work shall be started until scheduling has been agreed upon by all parties.
- C. **Liquidated Damages – Contract Submittals:** If the executed Contract and required bonds and certificates of insurance are not received by the District prior to the scheduled start date, the agreed liquidated damages established in the General Conditions is Five Hundred Dollars (\$500.00) per day for each calendar date the start date is delayed.

Liquidated Damages – Time of Completion: If work under this Contract is not ready for the intended use within the specified time period, the agreed liquidated damages established in the General Conditions is Five Hundred Dollars (\$500.00) per day for each calendar date completion is delayed.

- D. **Certification Requirements:** The Contractor or subcontractor must be certified by the factory or manufacturer to install any equipment or other products that may require a certification. Such certifications must be obtained prior to submittal of the bid.
- E. **Time of Work Restrictions:** The worksite will be available Monday through Friday, from 7:30 AM to 5 PM. This schedule is subject to change as the needs of the District require, and would be scheduled with the District's Executive Director of Technology or his or her designee.
- F. **Project Schedule:**

Anticipated Start Date: **July 1st 2023**

Completion Date: **Intentionally Omitted**

8. SPECIFICATIONS AND ENVIRONMENTAL REPORTS

- 1. Not applicable*

SUBSTITUTION REQUEST FORM

Pursuant to Public Contract Code Section 3400, proposer hereby requests substitution of the following articles, devices, equipment, products, materials, fixtures, patented processes, forms, methods, or types of construction:

<u>Specified Items</u>	<u>Requested Substituted Items</u>	<u>Agree to Provide Specified Item In the Event Request is Denied¹ (circle one)</u>	<u>District Decision on substitution Request (circle one)</u>
1. _____	_____	Yes No	Grant Deny
2. _____	_____	Yes No	Grant Deny
3. _____	_____	Yes No	Grant Deny
4. _____	_____	Yes No	Grant Deny
5. _____	_____	Yes No	Grant Deny
6. _____	_____	Yes No	Grant Deny
7. _____	_____	Yes No	Grant Deny
8. _____	_____	Yes No	Grant Deny
9. _____	_____	Yes No	Grant Deny

¹ Proposer must state whether proposer will provide the Specified Item in the event that District denies the request for substitution. If proposer states that proposer will not provide the Specified Item in the event their request for substitution is denied, proposer's proposal may be considered nonresponsive. However, if proposer states that proposer will provide the Specified Item in the event that proposer's request for substitution is denied, proposer shall execute the Contract and provide such Specified Item(s) and if proposer fails to execute the Contract with the Specified Item(s), proposer's bond may be forfeited.

9. PROJECT FORMS

NOTICE OF INTENT TO AWARD

To:

Project Description: RFP #011923-01 – ERATE Perris Union High School District ISP Services

The District has considered the proposal submitted by you for the above described work in response to its Notice to Proposers for the Project.

You are hereby notified that the District intends to accept your proposal in the amount of: (\$ _____).

You are requested to execute the Contract and furnish the required Performance Bond and Payment Bond using the bond forms provided in the Contract Documents and the required certificates of insurance within ten (10) business days from the date of issuance of this Notice.

If you fail to execute the Contract and to furnish the bonds and insurance within ten (10) business days from the date of issuance of this Notice, the District may consider all your rights arising out of its acceptance of your proposal as abandoned and your Bid Bond forfeited. The District will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this Notice of Award to the District.

Dated this ___th day of _____, 20__.

By _____
Authorized District Signature

Receipt of this above Notice of Intent to Award is hereby acknowledged by:

_____, this is the _____
day of _____, 20__.

By _____
Title _____

NOTICE TO PROCEED

To:

Date:

PROJECT: RFP #011923-01 ERATE - Perris Union High School District ISP Services.

You are hereby notified to commence work in accordance with the Contract dated _____, 20__, on _____, 2023, and you shall complete the work _____ consecutive calendar days thereafter.

By:

Authorized District Signature

**CONTRACTOR'S CERTIFICATE REGARDING
DRUG-FREE WORKPLACE**

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:

- a) 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;
- b) Establishing a drug-free awareness program to inform employees about all of the following:
 - 1) The dangers of drug abuse in the workplace;
 - 2) The person's or organization's policy of maintaining a drug-free workplace;
 - 3) The availability of drug counseling, rehabilitation and employee-assistance programs; and
 - 4) The penalties that may be imposed upon employees for drug abuse violations;
- c) 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 section 8350 et seq. I acknowledge that I am aware of the provisions of Government Code section 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

**CONTRACTOR'S CERTIFICATE REGARDING
ALCOHOLIC BEVERAGE AND TOBACCO-FREE CAMPUS POLICY**

The Contractor agrees that it will abide by and implement the District's Alcoholic Beverage and Tobacco-Free Campus Policy, which prohibits the use of alcoholic beverages and tobacco products, at any time, on District-owned or leased buildings, on District property and in District vehicles. The Contractor shall procure signs stating "ALCOHOLIC BEVERAGE AND TOBACCO USE IS PROHIBITED" and shall ensure that these signs are prominently displayed in all entrances to school property at all times.

DATE: _____

CONTRACTOR

By: _____
Signature

**CONTRACTOR'S CERTIFICATE REGARDING
PARTICIPATION OF
DISABLED VETERAN BUSINESS ENTERPRISES**

In accordance with Education Code Section 17076.11, the District has a participation goal for Disabled Veteran Business Enterprises of at least three percent (3%) per year of the overall dollar amount of funds allocated by the District by the State Allocation Board pursuant to the Leroy F. Greene School Facilities Act of 1998 for construction or modernization of school buildings and expended each year by the District. If the Project is funded in whole, or in part, by funds allocated to the District pursuant to the Act, at the time of execution of the contract, the Contractor will provide a statement to the District of anticipated participation of Disabled Veteran Business Enterprises in the contract. Prior to, and as a condition precedent for final payment under the contract, the Contractor will provide appropriate documentation to the District identifying the amount paid to Disabled Veteran Business Enterprises pursuant to the contract, so that the District can assess its success at meeting this goal.

I certify that I have read the above and will comply with the anticipated participation of Disabled Veteran Business Enterprises in this contract.

Signature

Typed or Printed Name

Title

Company

Email

RECYCLED CONTENT CERTIFICATION

The undersigned declares that he or she is the person who executed the proposal for RFP# _____ (“Project”), and submitted it to the District on behalf of _____ (“Contractor”).

Pursuant to Public Contract Code Section 10308.5, all contractors are required to certify in writing under penalty of perjury the minimum (if not exact) percentage of recycled content in materials, goods, or supplies offered or products used in the performance of their contract, regardless of whether the product meets the required recycled product percentage as defined in Sections 12161 and 12200. The recycled content shall include both post-consumer material and secondary material as defined in Public Contract Code Sections 12161 and 12200 shall apply.

I declare under penalty of perjury under the laws of the State of California that the following percentages of Postconsumer Material and Secondary Material is in the materials, goods or supplies offered for, or products used in, the performance of the Contract for the Project:

_____ % Postconsumer Material _____ % Secondary Material.

Executed on this _____ day of _____, 20__ at _____

_____.

Name of Contractor (Print or Type)

By _____
Signature

Print Name

ASBESTOS-FREE MATERIALS CERTIFICATION

The undersigned declares that he or she is the person who executed the proposal for RFP# _____ (“Project”), and submitted it to the District on behalf of _____ (“Contractor”).

To the best of my knowledge, information and belief, in completing the Contractor’s Work for the Project, no material furnished, installed or incorporated into the Project will contain, or in itself be composed of, any materials listed by the federal or state EPA or federal or state health agencies as a hazardous material.

Any disputes involving the question of whether or not material installed with asbestos-containing equipment is settled by electron microscopy; the cost of any such tests shall be paid by the Contractor.

All work or materials installed by the Contractor which is found to contain asbestos, or work or material installed with asbestos-containing equipment, will be immediately rejected and this work shall be removed and replaced by the Contractor at no additional cost to the District. Decontamination and removal of work found to contain asbestos or work installed with asbestos-containing equipment shall be done only under supervision of a qualified consultant, knowledgeable in the field of asbestos abatement and accredited by the Environmental Protection Agency.

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.

The asbestos consultant shall be chosen and approved by the Construction Manager/Architect or the District who shall have sole discretion and final determination in this matter.

The work will be not accepted until asbestos contamination is reduced to levels deemed acceptable by the Asbestos Consultant.

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

Executed on this _____ day of _____, 20__.

Name of Contractor (Print or Type)

By _____
Signature

Print Name

Title

IRAN CONTRACTING ACT CERTIFICATION

As required by California Public Contract Code Section 2204, the Proposer certifies subject to penalty for perjury that the option checked below relating to the Proposer's status in regard to the Iran Contracting Act of 2010 (Public Contract Code Section 2200 *et seq.*) is true and correct:

- The Proposer is not:
 - (i) identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203; or
 - (ii) a financial institution that extends, for 45 days or more, credit in the amount of \$20,000,000 or more to any other person or entity identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203, if that person or entity uses or will use the credit to provide goods or services in the energy sector in Iran.

- The District has exempted the Contractor from the requirements of the Iran Contracting Act of 2010 after making a public finding that, absent the exemption, Agency will be unable to obtain the goods and/or services to be provided pursuant to the Contract.

- The amount of the Contract payable to the Contractor for the Project does not exceed \$1,000,000.

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

Signature Date

Name Title

Name of Firm

FINGERPRINTING/CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION

The undersigned does hereby certify to the governing board of the District that (1) he/she is a representative of the Contractor, (2) he/she is familiar with the facts herein certified, (3) he/she is authorized and qualified to execute this certificate on behalf of Contractor; and (4) that the following is true and correct:

1. **Education Code.** Contractor has taken at least one of the following actions with respect to the Project (check all that apply):

_____ The Contractor has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Contractor's employees and all of its subcontractors' employees who may have contact with District pupils in the course of providing services pursuant to the Contract, and the California Department of Justice has determined that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of Contractor's employees and of all of its subcontractors' employees who may come in contact with District pupils during the course and scope of the Contract is attached hereto; and/or

_____ Pursuant to Education Code section 45125.2, Contractor has installed or will install, prior to commencement of work, a physical barrier at the Project site, that will limit contact between Contractor's employees and District pupils at all times; and/or

_____ Pursuant to Education Code section 45125.2, Contractor certifies that all employees will be under the continual supervision of, and monitored by, an employee of the Contractor who the California Department of Justice has ascertained has not been convicted of a violent or serious felony. The name and title of the employee who will be supervising Contractor's employees and its subcontractors' employees is:

Name:

Title:

_____ The Work on the Contract is at an unoccupied school site and no employee and/or subcontractor or supplier of any tier of Contract shall come in contact with the District pupils.

2. **Megan's Law (Sex Offenders).** I have verified and will continue to verify that the employees of Contractor that will be on the Project site and the employees of the Subcontractor(s) that will be on the Project site are **not** listed on California's "Megan's Law" Website (<http://www.meganslaw.ca.gov/>).

Contractor's responsibility for background clearance extends to all of its employees, subcontractors, and employees of subcontractors coming into contact with District pupils regardless of whether they are designated as employees or acting as independent contractors of the Contractor.

On behalf of Contractor:

Title

Signature

Name

CONTRACTOR'S CERTIFICATE REGARDING WORKERS' COMPENSATION FORM

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:

1. By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
2. By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to employees.
3. For any county, city, city and county, municipal corporation, public district, public agency, or any political subdivision of the state, including each member of a pooling arrangement under a joint exercise of powers agreement (but not the state itself), by securing from the Director of Industrial Relations a certificate of consent to self-insure against workers' compensation claims, which certificate may be given upon furnishing proof satisfactory to the director of ability to administer workers' compensation claims properly, and to pay workers' compensation claims that may become due to its employees. On or before March 31, 1979, a political subdivision of the state which, on December 31, 1978, was uninsured for its liability to pay compensation, shall file a properly completed and executed application for a certificate of consent to self-insure against workers' compensation claims. The certificate shall be issued and be subject to the provisions of Section 3702.

I am aware of the provisions of Labor Code section 3700 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 provision before commencing the performance of the work of this Contract.

(Signature)

(Print)

(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 submitted with the Contractor's bid.

**ESCROW AGREEMENT FOR SECURITY DEPOSITS
IN LIEU OF RETENTION**

This Escrow Agreement is made and entered into by and between the **Perris Union High School District**, hereinafter called "OWNER", and _____, hereinafter called "CONTRACTOR", and _____, hereinafter called "Escrow Agent."

For the consideration hereinafter set forth, the OWNER, CONTRACTOR and Escrow Agent agree as follows:

- (1) Pursuant to section 22300 of the Public Contract Code of the State of California, CONTRACTOR has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by OWNER in the amount _____ (\$ _____) pursuant to the Construction Contract entered into between the OWNER and CONTRACTOR for _____ **Project** in the amount of _____ (\$ _____) dated _____ (hereinafter referred to as the "Contract"). Alternatively, on written request of the CONTRACTOR, the OWNER shall make payments of the retention earnings directly to the escrow agent. When CONTRACTOR deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify the OWNER within ten (10) days of deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Contract between the OWNER and CONTRACTOR. Securities shall be held in the name of the OWNER, and shall designate _____ as the beneficial owner.
- (2) The OWNER shall make progress payments to the CONTRACTOR for such funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.
- (3) When the OWNER makes payments of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of the CONTRACTOR until such time as the escrow created under this contract is terminated. The CONTRACTOR may direct the investment of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the OWNER pays the Escrow Agent directly.
- (4) CONTRACTOR shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account and all expenses of the OWNER. These expenses and payment terms shall be determined by the OWNER, CONTRACTOR, and Escrow Agent.
- (5) The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of CONTRACTOR and shall be subject to withdrawal by CONTRACTOR at any time and from time to time without notice to the OWNER.
- (6) CONTRACTOR shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from the OWNER to the Escrow Agent that OWNER consents to the withdrawal of the amount sought to be withdrawn by CONTRACTOR.

(7) The OWNER shall have a right to draw upon the securities in the event of default by the CONTRACTOR. Upon seven (7) days' written notice to the Escrow Agent from the OWNER of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by the OWNER.

(8) Upon receipt of written notification from the OWNER certifying that the Contract is final and complete, and that the CONTRACTOR has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to CONTRACTOR all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payment of fees and charges.

(9) Escrow Agent shall rely on the written notifications from the OWNER and the CONTRACTOR pursuant to sections (5) to (8), inclusive, of this agreement and the OWNER and CONTRACTOR shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.

(10) The names of the persons who are authorized to give written notice or to receive written notice on behalf of the OWNER and on behalf of CONTRACTOR in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of Owner:

On behalf of Agent:

Title

Title

Name

Name

Signature

Signature

Address

Address

[contractor signatures continue on the following page]

On behalf of Contractor:

Title

Name

Signature

Address

At the time the Escrow Account is opened, the OWNER and CONTRACTOR shall deliver to the Escrow Agent a fully executed counterpart of this Escrow Agreement.

IN WITNESS WHEREOF, the parties have executed this Escrow Agreement by their proper officers on the date set forth above.

OWNER

CONTRACTOR

Title

Title

Name

Name

Signature

Signature

HAZARDOUS MATERIALS PROCEDURES & SPECIFICATIONS

1. Summary

This document includes information applicable to hazardous materials and hazard waste abatement.

2. Notice of Hazardous Waste or Materials Conditions

- a. Contractor shall give notice in writing to the District promptly, before any of the following conditions are disturbed, and in no event later than twenty-four (24) hours after first observance, of any:
 - (1) Material that Contractor believes may be material that is hazardous waste or hazardous material, 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) Other material that may present a substantial danger to persons or property exposed thereto in connection with work at the site.
- b. Contractor's written notice shall indicate whether the hazardous waste or material was shown or indicated in the Contract Documents to be within the Scope of Work, and whether the materials were brought to the site by Contractor, its Subcontractors, suppliers, or anyone else for whom Contractor is responsible. As used in this section the term "hazardous materials" shall include, without limitation, asbestos, lead, Polychlorinated biphenyl (PCB), petroleum and related hydrocarbons, and radioactive material.
- c. In response to Contractor's written notice, the District shall investigate the identified conditions.
- d. If the District determines that conditions do not involve hazardous materials or that no change in terms of Contract is justified, the District shall so notify Contractor in writing, stating reasons. If the District and Contractor cannot agree on whether conditions justify an adjustment in Contract Price or Contract Time, or on the extent of any adjustment, Contractor shall proceed with the work as directed by the District.
- e. If after receipt of notice from the District, Contractor does not agree to resume work based on a reasonable belief it is unsafe, or does not agree to resume work under special conditions, then District may order such portion of work that is in connection with such hazardous condition or such affected area to be deleted from the work, or performed by others, or District may invoke its rights to terminate the Contract in whole or in part. District will determine entitlement to or the amount or extent of an adjustment, if any,

in Contract Price or Contract Time as a result of deleting such portion of work, or performing the work by others.

- f. If Contractor stops work in connection with any hazardous condition and in any area affected thereby, Contractor shall immediately redeploy its workers, equipment, and materials, as necessary, to other portions of the work to minimize delay and disruption.

3. Additional Warranties and Representations

- a. Contractor represents and warrants that it, its employees, and its subcontractors and their employees, shall at all times have the required levels of familiarity with the Site and the Work, training, and ability to comply fully with all applicable law and contract requirements for safe and expeditious performance of the work, including whatever training is or may be required regarding the activities to be performed (including, but not limited to, all training required to address adequately the actual or potential dangers of Contract performance).
- b. Contractor represents and warrants that it, its employees, and its subcontractors and their employees, shall at all times have and maintain in good standing any and all certifications and licenses required by applicable federal, state, and other governmental and quasi-governmental requirements applicable to the work.
- c. Contractor represents and warrants that it has studied carefully all requirements of the Specifications regarding procedures for demolition, hazardous waste abatement, or safety practices, specified in the Contract, and has either (a) verified to its satisfaction that the specified procedures are adequate and sufficient to achieve the results intended by the Contract Documents, or (b) by way of approved "or equal" request or request for clarification and written Addenda, secured changes to the specified procedures sufficient to achieve the results intended by the Contract Documents. Contractor accepts the risk that any specified procedure will result in a completed Project in full compliance with the Contract Documents.

4. Monitoring and Testing

- a. District reserves the right, in its sole discretion, to conduct air monitoring, earth monitoring, work monitoring, and any other tests (in addition to testing required under the agreement or applicable law), to monitor Contract requirements of safe and statutorily compliant work methods and (where applicable) safe re-entry level air standards under state and federal law upon completion of the job, and compliance of the work with periodic and final inspection by public and quasi-public entities having jurisdiction.
- b. Contractor acknowledges that District has the right to perform, or cause to be performed, various activities and tests including, but not limited to, pre-abatement, during abatement, and post-abatement air monitoring, that District shall have no obligation to perform said activities and tests, and that a portion of said activities and

tests may take place prior to the completion of the work by Contractor. In the event District elects to perform these activities and tests, Contractor shall afford District ample access to the Site and all areas of the work as may be necessary for the performance of these activities and tests. Contractor will include the potential impact of these activities or tests by District in the Contract Price and the Scheduled Completion Date.

- c. Notwithstanding District's rights granted by this paragraph, Contractor may retain its own industrial hygiene consultant at Contractor's own expense and may collect samples and may perform tests including, but not limited to, pre-abatement, during abatement, and post-abatement personal air monitoring, and District reserves the right to request documentation of all such activities and tests performed by Contractor relating to the work and Contractor shall immediately provide that documentation upon request.

5. Compliance with Laws

- a. Contractor shall perform safe, expeditious, and orderly work in accordance with the best practices and the highest standards in the hazardous waste abatement, removal, and disposal industry, the applicable law, and the Contract Documents, including, but not limited to, all responsibilities relating to the preparation and return of waste shipment records, all requirements of the law, delivering of all requisite notices, and obtaining all necessary governmental and quasi-governmental approvals.
- b. Contractor represents that it is familiar with and shall comply with all laws applicable to the work or completed Work including, but not limited to, all federal, state, and local laws, statutes, standards, rules, regulations, and ordinances applicable to the work relating to:
 - (1) The protection of the public health, welfare and environment;
 - (2) Storage, handling, or use of asbestos, PCB, lead, petroleum based products or other hazardous materials;
 - (3) The generation, processing, treatment, storage, transport, disposal, destruction, or other management of asbestos, PCB, lead, petroleum, or hazardous waste materials or other waste materials of any kind; and
 - (4) The protection of environmentally sensitive areas such as wetlands and coastal areas.

6. Disposal

- a. Contractor has the sole responsibility for determining current waste storage, handling, transportation, and disposal regulations for the job Site and for each waste disposal facility. Contractor must comply fully at its sole cost and expense with these regulations and any applicable law. District may, but is not obligated to, require

submittals with this information for it to review consistent with the Contract Documents.

- b. Contractor shall develop and implement a system acceptable to District to track hazardous waste from the Site to disposal, including appropriate "Hazardous Waste Manifests" on the EPA form, so that District may track the volume of waste it put in each landfill and receive from each landfill a certificate of receipt.
- c. Contractor shall provide District with the name and address of each waste disposal facility prior to any disposal, and District shall have the express right to reject any proposed disposal facility. Contractor shall not use any disposal facility to which District has objected. Contractor shall document actual disposal or destruction of waste at a designated facility by completing a disposal certificate or certificate of destruction forwarding the original to the District.

7. Permits

- a. Before performing any of the work, and at such other times as may be required by applicable law, Contractor shall deliver all requisite notices and obtain the approval of all governmental and quasi-governmental authorities having jurisdiction over the work. Contractor shall submit evidence satisfactory to District that it and any disposal facility
 - (1) have obtained all required permits, approvals, and the like in a timely manner both prior to commencement of the work and thereafter as and when required by applicable law, and
 - (2) are in compliance with all such permits, approvals and the regulations.

For example, before commencing any work in connection with the work involving asbestos-containing materials, or PCBs, or other hazardous materials subject to regulation, Contractor agrees to provide the required notice of intent to renovate or demolish to the appropriate state or federal agency having jurisdiction, by certified mail, return receipt requested, or by some other method of transmittal for which a return receipt is obtained, and to send a copy of that notice to District. Contractor shall not conduct any work involving asbestos-containing materials or PCBs unless Contractor has first confirmed that the appropriate agency having jurisdiction is in receipt of the required notification. All permits, licenses, and bonds that are required by governmental or quasi-governmental authorities, and all fees, deposits, tap fees, offsite easements, and asbestos and PCB disposal facilities expenses necessary for the prosecution of the work, shall be procured and paid for by Contractor. Contractor shall give all notices and comply with the all applicable laws bearing on the conduct of the work as drawn and specified. If Contractor observes or reasonably should have observed that Plans and Specifications and other Contract Documents are at variance therewith, it shall be responsible for promptly notifying District in writing of such fact. If Contractor performs any work contrary to applicable laws, it shall bear all costs arising therefrom.

- b. In the case of any permits or notices held in District's name or of necessity to be made in District's name, District shall cooperate with Contractor in securing the permit or giving the notice, but the Contractor shall prepare for District review and execution upon approval, all necessary applications, notices, and other materials.

8. Indemnification

To the extent permitted by law, the indemnities and limitations of liability expressed throughout the Contract Documents apply with equal force and effect to any claims or liabilities imposed or existing by virtue of the removal, abatement, and disposal of hazardous waste. This includes, but is not limited to, liabilities connected to the selection and use of a waste disposal facility, a waste transporter, personal injury, property damage, loss of use of property, damage to the environment or natural resources, or “disposal” and “release” of materials associated with the work (as defined in 42 U.S.C. § 9601 et seq.).

9. Termination

District shall have an absolute right to terminate for default immediately without notice and without an opportunity to cure should Contractor knowingly or recklessly commit a material breach of the terms of the Contract Documents, or any applicable law, on any matter involving the exposure of persons or property to hazardous waste. However, if the breach of contract exposing persons or property to hazardous waste is due solely to an ordinary, unintentional, and non-reckless failure to exercise reasonable care, then the procedures for termination for cause shall apply without modification.

HAZARDOUS MATERIALS CERTIFICATION

PROJECT/CONTRACT NO.: _____ between Perris Union High School District (“District”) and _____ (“Contractor”) (“Contract” or “Project”).

1. Contractor hereby certifies that no Asbestos, or Asbestos-Containing Materials (“ACM”), polychlorinated biphenyl (“PCB”), or any material listed by the federal or state Environmental Protection Agency or federal or state health agencies as a hazardous material, or any other material defined as being hazardous under federal or state laws, rules, or regulations (“New Hazardous Material”), shall be furnished, installed, or incorporated in any way into the Project or in any tools, devices, clothing, or equipment used to affect any portion of Contractor's work on the Project for District.
2. Contractor further certifies that it has instructed its employees with respect to the above-mentioned standards, hazards, risks, and liabilities.
3. Asbestos and/or asbestos-containing material shall be defined as all items containing but not limited to chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite. Any or all material containing greater than one-tenth of one percent (0.1%) asbestos shall be defined as asbestos-containing material.
4. Any disputes involving the question of whether or not material is New Hazardous Material shall be settled by electron microscopy or other appropriate and recognized testing procedure, at the District’s determination. The costs of any such tests shall be paid by Contractor if the material is found to be New Hazardous Material.
5. All work or materials found to be New Hazardous Material or work or material installed with equipment containing “New Hazardous Material” will be immediately rejected and this work will be removed at Contractor's expense at no additional cost to the District.
6. Contractor has read and understood the document Hazardous Materials Procedures & Requirements, and shall comply with all the provisions outlined therein.

Date: _____

Proper Name of Contractor: _____

Signature: _____

Print Name: _____

Title: _____

END OF DOCUMENT