

Anna L. McKenney Intermediate School

Report to the MJUSD Board of Trustees

October 28, 2014

McKenney Vision

Our school community promotes high expectations, academic success, and lifelong learning.

Mission Statement

We are a school that:

- Achieves Academic Success through:
 - ✓ High Expectations
 - ✓ Effective instructional strategies for ALL students
 - ✓ Comprehensive lesson planning
 - ✓ Effective instruction
 - ✓ Accountability
 - ✓ Collaboration for continued student growth
- Cultivates lifelong learners by:
 - ✓ Developing independent thinkers
 - ✓ Generating student civic responsibility
 - ✓ Attending to the social, emotional, and academic needs of the ‘total child’
- Builds Strong Relationships by:
 - ✓ Promoting collaboration between all Educational Stakeholders
 - ✓ Seeking input to support student success
 - ✓ Understanding and addressing the needs of the whole child
- Maintains a Thriving Learning Environment by:
 - ✓ Ensuring safety
 - ✓ Nurturing student social and emotional needs
 - ✓ Supporting student academic needs
 - ✓ Instilling confidence in students
 - ✓ Creating an encouraging and enthusiastic environment

2014-15 ACTION PLAN GOALS

- Goal #1** Provide learning opportunities that result in increased academic achievement and ensure quality classroom instruction for all students, including support systems, which meet the needs of targeted populations. **ACADEMIC/ INSTRUCTION**
- Goal #2** Enhance the current learning environment to ensure that our school provides a physically and emotionally safe environment that is culturally responsive to all students. **CULTURE/SAFETY**
- Goal #3** Increase parent, family, and community involvement in the education of all students. **COMMUNITY**
- Goal #4** Increase support and outreach to students at risk educationally.

DEMOGRAPHIC SHIFTS

- ***Free/Reduced meal rate:*** McKenney Intermediate's free/reduced meal rate has shifted from 77% in 2011-12 to 83% in 2012-13 to **88% for 2013-14 school year.**
- ***Schoolwide English Language Learners:*** McKenney has a schoolwide population of 15.8% of English Language Learners.

2013-14 RESULTS

- McKenney Intermediate School is currently in a fifth year Program Improvement (PI) school.
- **144** 8th grade students successfully promoted to the 9th grade in June 2014.
- Student attendance has **increased** from 95.7% in 2012-13 to 96% in 2013-14.
- The number of incidents and the number of days of suspension for the use of drugs and alcohol:

2012-13	2 incidents for 0 days of suspension
2013-14	1 incident for 4 days of suspension
- The number of incidents and the number of days of suspension for students suspended for fighting:

2011-12	49 incidents for 133 days of suspension
2012-13	42 incidents for 80 days of suspension
2013-14	52 incidents for 152 days of suspension
- English Language Learners: 18% of our student English Language Learner population is eligible for reclassification to RFEP.

GOALS FOR 2014-15

ACADEMIC ACHEIVEMENT & QUALITY INSTRUCTION

- Develop ongoing site based professional development in the areas of critical reading, depth of knowledge, and vocabulary development across the curriculum.
- Establish grade level PLC collaboration to reinforce integration of content and learning skills to improve student academic performance and implementation of common core standards.
- Train 90% of teachers in Illuminate to enhance instruction and assessment.
- Work with science department and other sites to develop a model for delivery of Next Generation Science Standards.
- Work to have 90% of certificated staff using aeries online grading system to enhance communication between teachers and strengthen the school-to-home communication to increase student academic achievement.
- Participate and implement **PBIS tier I training** to implement full system in 2015-16.
- Establish baseline data via state and district assessments in ELA to improve student literacy levels.
- Increase EL reclassification rate by 2%, from 18% currently, to 20%.
- Increase opportunities for students to interact with various types of technology to support learning and address technology standards and career & technical subject standards.
- Increase course offerings that address academic electives using common core career & technical subject standards.

SCHOOL CULTURE & SAFETY & OUTREACH

- Coordinated Services Team: Continue outreach and intervention to at risk and SES students.
- Participate in PLUS training for youth development to increase student engagement and build resiliency capacity among at risk youth.
- Attend School Climate & Safety conference in 2014-15.
- Improve student attendance rates from 96% to 97%.
- Decrease suspensions, expulsions by 10%.
- Continue to offer parent training afternoons on various subjects related to student development and academic achievement such as: aeries parent training, GO Math parent resources, social media, gang awareness, academic preparation for high school.
- Participate in SOS (Signs of Suicide) program in cooperation with Mental Health and Victim Witness for 7th/8th grade students.

INVITATION

We would like to extend an invitation to board members to visit our school.



MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT

AGREEMENT FOR INSPECTION SERVICES

PROJECT: Security Systems at MJUSD Various Sites

This agreement is made and entered into on this **28 day of October, 2014**, by and between the **Marysville Joint Unified School District** hereinafter referred to as "DISTRICT", and **ALAN S. BROOKS** referred to as "INSPECTOR".

WITNESSETH:

WHEREAS, DISTRICT is causing general construction, repairs and/or replacement to be constructed on DISTRICT property in Yuba County, State of California; and

WHEREAS, INSPECTOR is fully licensed and authorized by the State of California to provide inspections on school buildings, portable school buildings, and other structures.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained, IT is AGREED by and between the parties hereto as follows:

1.0. Scope of Work

DISTRICT hereby hires INSPECTOR as an independent contractor to perform inspection services on DISTRICT project(s). Such services shall include, but shall not be limited to:

1.1. Specifications

Inspection of the work during construction to assure that all work is done in accordance with the approved plans and specifications and applicable federal, state, and local building codes.

1.2. Log

The maintenance of a detailed daily inspection log.

Business Services Department

Approval: [Signature]

Date: 10/17/14

1.3. Certification

The certification of work completed and in progress, by the contractor, including material and equipment on or off site for pay request verification purposes.

1.4. Other

Such other services as may be designated by the DISTRICT.

2.0. Term

The term of this agreement shall commence on the date the District determines inspection services are necessary, and shall continue until the District determines inspection services are no longer required.

3.1. Rate

DISTRICT shall compensate INSPECTOR at the rate of:

\$70.00 per hour for DSA Class I;
\$65.00 per hour for DSA Class II.
\$60.00 per hour for DSA Class III & IV

for all time worked during normal working hours, Monday through Friday up to eight (8) hours per day. Hours worked in excess of eight (8) hours per day, forty (40) hours per week, and on Saturdays shall be compensated at the rate of 1.5 times the hourly rate stated above. All hours worked on Sundays and holidays shall be compensated at the rate of 2.0 times the hourly rate stated above. All overtime work shall be authorized in advance by the DISTRICT Assistant Superintendent, Business Services or designee.

The total fees (including reimbursable expenses) not-to-exceed: \$18,200.

3.2. Reimbursable Expenses

DISTRICT shall reimburse INSPECTOR for necessary out of pocket expenses, i.e., plan reproductions, long distance telephone calls, and/or film and development costs used for provided work.

3.3. Time Sheets and Payment

INSPECTOR shall submit monthly invoices at the end of each month identifying regular time, overtime, mileage log and receipts for out of pocket expenses. Payment shall be made in full by DISTRICT to INSPECTOR within thirty (30) working days after approval by the District Business Office.

4.0. Records

INSPECTOR shall maintain at all times complete detailed records and an inspection log with regard to the services performed under this agreement. The records shall be the property of the DISTRICT.

5.0. Non-assignability

This agreement and the rights and duties hereunder shall not be assigned in whole or in part without written consent of the DISTRICT.

6.0. Insurance

INSPECTOR shall provide any required insurance at his/her own expense.

7.0 Fingerprint Certification

INSPECTOR will maintain compliance at all times with Education Code Section 45125.2.

This agreement may be canceled by the DISTRICT or the INSPECTOR upon the giving of thirty (30) calendar days advance written notice. Such notice shall be personally served or given by United States Mail. In the event of cancellation, the INSPECTOR shall be paid for all services performed up to the date of the cancellation.

IN WITNESS WHEREOF, this agreement has been executed on the day, month, and year first above written.

For "DISTRICT":

Ryan Digiulio, Assistant Superintendent, Business Services

Date

"INSPECTOR"



Alan S. Brooks, Class I DSA Inspector



Date

AGREEMENT FORM

THIS AGREEMENT FOR CONSTRUCTION SERVICES ("Agreement"), entered into this 28th day of October, 2014, by and between the Marysville Joint Unified School District ("DISTRICT") and Vanden Bos Electric, a California corporation ("CONTRACTOR"). The DISTRICT and Contractor may be referred to herein individually as a "Party" and collectively as the "Parties".

RECITALS

A. DISTRICT is the owner of certain real property commonly known as: Yuba Gardens Intermediate School; Marysville High School; McKenney Intermediate School; Foothill Intermediate School; and Yuba Feather Elementary located at: 1964 11th Ave., Olivehurst, CA 95961; 12 E 18th Street, Marysville, CA 95901; 1904 Huston St., Marysville, CA 95901; 5351 Fruitland Road, Marysville, CA 95901; and 18008 Oregon Hill Road, Challenge, CA 95925), county of Yuba, state of California ("Project Sites").

B. DISTRICT is contracting to provide site preparation and assistance with the installation of a security system at the Project Sites ("Project").

C. CONTRACTOR has been selected as the lowest responsible and qualified bidder for the Project.

D. DISTRICT desires that the CONTRACTOR complete the Project in accordance with the terms and conditions of this Agreement and all contract documents incorporated herein.

E. CONTRACTOR is willing to complete the Project in accordance with the terms and conditions set forth in this Agreement and all contract documents incorporated herein.

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained in this Agreement, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE 1 - SCOPE OF WORK: The CONTRACTOR shall furnish all labor, materials, equipment, tools, and utility and transportation services, and perform and complete all work required to complete the Project in strict accordance with the contract documents enumerated in Article 7 below. The CONTRACTOR shall be liable to the DISTRICT for any damages arising as a result of a failure to comply with that obligation, and the CONTRACTOR shall not be excused with respect to any failure to so comply by an act or omission of the Architect, Engineer, Inspector, or representative of any of them, unless such act or omission actually prevents the CONTRACTOR from fully complying with the contract documents and the CONTRACTOR protests, in accordance with the contract documents, that the act or omission is preventing CONTRACTOR from fully complying with the contract documents. Such protest shall not be effective unless reduced to writing and filed with the DISTRICT within seven (7) days of the date of occurrence of such act or omission preventing the CONTRACTOR from fully complying with the Contract Documents. CONTRACTOR shall perform that work designated in CONTRACTOR'S Bid Form which constitutes at least 15% of the total work, exclusive of supervisory and clerical work, without the services of any subcontractor.

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ARTICLE 2 - TIME OF COMPLETION:

CONTRACTOR shall have 90 calendar days from the Notice to Proceed to complete the work, anticipated notice to proceed to occur about Monday, October 20, 2014.

The DISTRICT may give the Notice to Proceed within ninety (90) days of the award of the bid by the DISTRICT. Once the CONTRACTOR has received the Notice to Proceed, the CONTRACTOR shall commence all work as specified in the Notice to Proceed, as well as the Project Schedule, and shall diligently schedule, execute and fully complete the required work in accordance with the current Project Schedule and within the time period specified in the Notice to Proceed.

In the event that the DISTRICT desires to postpone giving the notice to proceed beyond this ninety (90) day period, it is expressly understood that with reasonable notice to the CONTRACTOR, giving the notice to proceed may be postponed by the DISTRICT. It is further expressly understood by the CONTRACTOR, that the CONTRACTOR shall not be entitled to any claim of additional compensation as a result of the DISTRICT's postponement of giving the notice to proceed.

If the CONTRACTOR believes that a postponement will cause hardship to it, the CONTRACTOR may terminate the contract with written notice to the DISTRICT within ten (10) days after receipt by the CONTRACTOR of the DISTRICT's notice of postponement. It is further understood by the CONTRACTOR that in the event that the CONTRACTOR terminates the contract as a result of postponement by the DISTRICT, CONTRACTOR shall not be entitled to any compensation or damages for bid preparation, associated costs or otherwise, including work performed, if any, by the CONTRACTOR at the time of notification of postponement. Should the CONTRACTOR terminate the contract as a result of a notice of postponement, the DISTRICT shall have the authority to award the contract to the next lowest responsible bidder.

In case of delays to Project completion by strikes, by lockouts, by fire, by embargoes, by earthquake, by acts of war or God, or by any other cause beyond the reasonable control of DISTRICT and/or CONTRACTOR then neither DISTRICT nor CONTRACTOR will be entitled to any damages, restitution or compensation, additional or otherwise, from the other for such delays. For any other delays, unless caused solely by DISTRICT, CONTRACTOR shall not be entitled to an extension of time.

ARTICLE 3 - LIQUIDATED DAMAGES: It being impracticable and infeasible to determine the amount of actual damage, it is agreed that the CONTRACTOR will pay the DISTRICT the sum of One Thousand Five Hundred Dollars (\$1,500.00) per calendar day for each and every day of delay beyond the time set for completion of the Project as liquidated damages and not as a penalty or forfeiture. CONTRACTOR shall pay a percentage of the liquidated commensurate with the CONTRACTOR's responsibility for each calendar day of delay as determined by the Construction Manager and the DISTRICT in completing the work within the stipulated time as a result of: (a) the CONTRACTOR's failure to complete the Contract within the time specified in the Notice to Proceed and/or; (b) the CONTRACTOR's failure to complete the Contract in accordance with the Project Schedule. In the event the same is not paid, the CONTRACTOR further agrees that the DISTRICT may deduct such amount thereof from any money due or that may become due the CONTRACTOR under the contract. This Article shall not be construed as

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preventing the DISTRICT from the recovery of damages under provisions of the contract documents.

ARTICLE 4 - CONTRACT PRICE: The DISTRICT shall pay to CONTRACTOR as full consideration for the faithful performance of the contract, subject to any additions or deductions as provided in the contract documents, the sum of **THREE HUNDRED EIGHTY-SEVEN THOUSAND AND TWO HUNDRED FIFTY DOLLARS AND 00 CENTS (\$387,250.00)**, said sum being the total amount stipulated in the proposal. Payment shall be made as set forth in the General Conditions.

Should any Change Order result in an increase in the contract price, the cost of such Change Order shall be agreed to in advance by the CONTRACTOR and the DISTRICT, subject to the monetary limitations set forth in Public Contract Code section 20118.4. In the event that the CONTRACTOR proceeds with a change in work without written agreement between the DISTRICT and CONTRACTOR regarding the cost of a Change Order, the CONTRACTOR waives any claim of additional compensation for such additional work.

ARTICLE 5 - HOLD HARMLESS AGREEMENT: CONTRACTOR shall defend, indemnify and hold harmless DISTRICT, Architect, Inspector, Construction Manager, the State of California and their officers, employees, agents and independent contractors from all liabilities, claims, actions, liens, judgments, demands, damages, losses, costs or expenses of any kind arising from death, personal injury, property damage or other cause based or asserted upon any act, omission, or breach connected with or arising from the progress of Work or performance of service under this Agreement or the Contract Documents. As part of this indemnity, CONTRACTOR shall protect and defend, at its own expense, DISTRICT, Architect, Inspector, the State of California and their officers, employees, agents and independent contractors from any legal action including attorneys' fees or other proceeding based upon such act, omission, or breach.

Furthermore, CONTRACTOR agrees to and does hereby defend, indemnify and hold harmless DISTRICT, Architect, Inspector, Construction Manager, the State of California and their officers, employees, agents and independent contractors from every claim or demand made, and every liability, loss, damage, expense or attorneys fees of any nature whatsoever, which may be incurred by reason of:

(a) Liability for (1) death or bodily injury to persons; (2) damage or injury to, loss (including theft), or loss of use of, any property; (3) any failure or alleged failure to comply with any provision of law or the Contract Documents; or (4) any other loss, damage or expense, sustained by any person, firm or corporation or in connection with the Work called for in this Agreement or the Contract Documents, except for liability resulting from the sole or active negligence, or the willful misconduct of the DISTRICT.

(b) Any bodily injury to or death of persons or damage to property caused by any act, omission or breach of CONTRACTOR or any person, firm or corporation employed by CONTRACTOR, either directly or by independent contract, including all damages or injury to, loss (including theft), or loss of use of, any property, sustained by any person, firm or corporation, including the DISTRICT, arising out of or in any way connected with Work covered by this Agreement or the Contract Documents, whether said injury or

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damage occurs either on or off DISTRICT property, but not for any loss, injury, death or damages caused by the sole or active negligence or willful misconduct of the DISTRICT.

(c) Any dispute between CONTRACTOR and CONTRACTOR'S subcontractors/supplies/ sureties, including, but not limited to, any failure or alleged failure of the CONTRACTOR (or any person hired or employed directly or indirectly by the CONTRACTOR) to pay any Subcontractor or Materialman of any tier or any other person employed in connection with the Work and/or filing of any stop notice or mechanic's lien claims.

(d) In any legal or equitable action or proceeding, including arbitration and mediation, and other litigation, brought either to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover all reasonable attorneys' fees, costs and expenses incurred therein, including expert witness fees and costs.

CONTRACTOR, at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings that may be brought or instituted against the DISTRICT, its officers, agents or employees, on any such claim or liability, and shall pay or satisfy any judgment that may be rendered against the DISTRICT, its officers, agents or employees in any action, suit or other proceedings as a result thereof.

ARTICLE 6 - PROVISIONS REQUIRED BY LAW: Each and every provision of law and clause required to be inserted in this contract shall be deemed to be inserted herein, and this 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 inserted correctly, then upon application of either party the contract shall forthwith be physically amended to make such insertion or correction.

ARTICLE 7 - COMPONENT PARTS OF THE CONTRACT: The Contract entered into by this Agreement consists of the following Contract Documents, all of which are component parts of the Contract as if herein set out in full or attached hereto:

Notice Inviting Bids
Instructions to Bidders
Notice to Contractors
Statement of Experience
Designation of Subcontractors
Non-Collusion Affidavit
Bid Guarantee Form
Bid Bond
Bid Form
Contractor's Certificate Regarding
Worker's Compensation
Agreement
Payment Bond
Performance Bond
Guarantee
Escrow Agreement for Security
Deposit In Lieu of Retention

Workers'
Compensation/Employers Liability
Endorsement
General Liability Endorsement
Automobile Liability Endorsement
Contractor's Certificate Regarding
Drug-Free Workplace
Contractor's Certificate Regarding
Alcohol and Tobacco
Contractor Certification Regarding
Background Checks
References
General Conditions
Specifications
Project Schedule
All Addenda as Issued
Drawings (if applicable)

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All of the above named Contract Documents are intended to be complementary. Work required by one of the above named Contract Documents and not by others shall be done as if required by all.

ARTICLE 8 - PREVAILING WAGES: Wage rates for this Project shall be in accordance with the general prevailing rate of holiday and overtime work in the locality in which the work is to be performed for each craft, classification, or type of work needed to execute the contract as determined by the Director of the Department of Industrial Relations. Copies of schedules of rates so determined by the Director of the Department of Industrial Relations are on file at the administrative office of the DISTRICT and are also available from the Director of the Department of Industrial Relations.

The following Labor Code sections by way of illustration and not limitation are hereby referenced and made a part of this Agreement and CONTRACTOR stipulates to the provisions contained therein.

1. Chapter 1 of Part 7 of Division 2 of the Labor Code (Section 1720 et seq.)
2. California Code of Regulations, Title 8, Chapter 8, Subchapters 3 & 4 (Section 16000 et seq.)
3. California Labor Code Section 1771.4

ARTICLE 9 - RECORD AUDIT: In accordance with Government Code section 8546.7, records of both the DISTRICT and the CONTRACTOR shall be subject to examination and audit by the Auditor General for a period of three (3) years after final payment.

ARTICLE 10 - CONTRACTOR'S LICENSE: The CONTRACTOR must possess throughout the Project the legally-required contractor's license classification for the specific Bid Package, issued by the State of California, which must be current and in good standing.

IN WITNESS WHEREOF, this Agreement has been duly executed by the above named parties, on the day and year first above written. To the extent that there exists any conflicts or inconsistencies between this Agreement and the General Conditions, the provisions contained in the General Conditions shall govern.

DISTRICT

By: _____

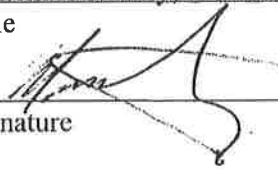
Name: Ryan DiGiulio

Dated: _____

CONTRACTOR

Vanden Bos Electric, Inc.
Typed or Printed Name

Michael Shively, President
Title


Signature

GENERAL CONDITIONS

MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT SECURITY SYSTEMS PROJECT

The MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT, a public school district organized and existing under the laws of the State of California ("District") and Vanden Bos Electric, a California corporation ("Contractor") acknowledge and agree to the following terms and conditions for the construction and completion of the Security Systems Project ("Project"). District or Contractor may be referred to individually as a "Party" or collectively as the "Parties."

ARTICLE I CONTRACTOR QUALIFICATIONS, GENERAL DUTIES AND STATUS

Contractor warrants that it has the following qualifications:

(a) Experience. Contractor represents to District that Contractor is experienced in the construction of the type of facility desired by District and possesses all necessary licenses and qualifications required to build and deliver the completed Project within the timelines specified in this Agreement.

(b) Licenses. Contractor and its agents shall be licensed and regulated by the California Contractors State License Board and possess the license(s) listed in the Notice to Contractors. Should Contractor or its agents not be so licensed at any time during the term of this Agreement, Contractor is subject to penalties under the law and the Agreement shall be void.

(c) Financial Solvency. Contractor represents and warrants that it is financially solvent, able to pay its debts as they mature, and is possessed of sufficient working capital to complete this Agreement; that it is able to furnish the plant, tools, materials, supplies, equipment, and labor, and is experienced in and competent to perform the work contemplated by this Agreement; and that it is authorized to do business in the State of California where the Project Site is located.

ARTICLE II CONTRACT DOCUMENTS

Section 1. The "Contract Documents" consist of the Agreement between the District and Contractor, the Documents listed in Article 7 therein, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, addenda issued prior to bid, instructions to bidders, notice to bidders, and the requirements contained in the Bid Documents, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is a written amendment to the Contract signed by parties, a Change Order, a Construction Change Directive, or a written order for a minor change in the Work issued by the Architect or Construction Manager. The Contract Documents collectively form the Contract. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a written Modification. The Contract Documents

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shall not be construed to create a contractual relationship of any kind between the Architect or Construction Manager and Contractor, between the District and any Subcontractor or Sub-subcontractor, or between any persons or entities other than the District and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract Documents intended to facilitate performance of the Architect's duties.

Section 2. The Contract Documents are complementary and are intended to include all items required for the proper execution and completion of the Work. All Contract Documents form the Contractors contract with the District. Any item of Work mentioned in the Specifications and not shown on the Drawings, or shown on the Drawings and not mentioned in the Specifications, shall be provided by Contractor as if shown or mentioned in both.

Section 3. The Drawings and Specifications generally describe the Work to be performed by the Contractor. Generally, the Specifications describe Work which cannot be readily indicated on the Drawings and indicate types, qualities, and methods of installation of the various materials and equipment required for the Work. It is not intended to mention every item of Work in the Specifications, which can be adequately shown on the Drawings, or to show on the Drawings all items of Work described or required by the Specifications even if they are of such nature that they could have been shown. All materials or labor for Work, which is shown on either the Drawings or the Specifications (or is reasonably inferable therefrom as being necessary to complete the Work), shall be provided by the Contractor to provide a complete Project. It is intended that the Work be of sound, quality construction, and the Contractor shall be responsible for the inclusion of adequate amounts to cover installation of all items indicated, described, or implied in the portion of the Work to be performed by them.

**ARTICLE III
WORK**

Section 1. Intent. The Contractor shall provide all items and services necessary for the proper design, construction, execution and completion of the Project, including but not limited to any and all items and services consistent with and reasonably inferable from the governing Contract Documents (defined below) as necessary to produce the intended results, whether or not the items and services are specifically mentioned in them. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all, unless certain services or equipment are specifically excluded in this Agreement. The scope of work for the Project is provided in Exhibit B, attached hereto and incorporated herein.

Section 2. Definition. For the purposes of this Agreement, the term "Contract Documents" shall mean means those construction documents for the Project, including without limitation, the plans and specifications which have been adopted by the District, approved by any other agencies having jurisdiction over the Project and reviewed by the Contractor.

Section 3. Independent Contractor Status. Contractor is and shall at all times be deemed to be an independent contractor and shall be wholly responsible for the manner in which it performs the services required by the terms of this Agreement. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between the District and Contractor or any of Contractor's agents or employees. Contractor assumes

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exclusively the responsibility for the acts of its employees as they relate to the services to be provided during the course and scope of their employment. Contractor, its agents and employees shall not be considered in any manner to be District employees. District shall be permitted to monitor the activities of the Contractor to determine compliance with the terms of this Agreement and all Contract Documents.

Section 4. Change of Entity. Contractor shall not change the name or legal structure of its entity without first notifying District in writing.

Section 5. Cooperation. Contractor shall cooperate with District in making such changes as District may request in the Contract Documents.

Section 6. Construction Work. All construction work done by the Contractor shall be performed in accordance with the Contract Documents. All construction work which Contractor is not capable of performing with its own forces shall be let by Contractor to subcontractors (hereinafter called "Subcontractors"), in its own name, and not as an agent of the District.

(a) Subcontracting. Contractor agrees to bind every Subcontractor by the terms of this Agreement as far as such terms are applicable to Subcontractor's work. If subcontracts any part of this Agreement, Contractor shall be as fully responsible to District for acts and omissions of each Subcontractor and of persons either directly or indirectly employed by Subcontractor. Nothing contained herein shall create any contractual relation between any Subcontractor and District.

(b) Payment to Subcontractors. Contractor shall make timely payment of all Subcontract amounts when and as due, except that notwithstanding provisions to the contrary in a particular Subcontract, Contractor shall not pay such Subcontractor any sums corresponding to sums withheld from Contractor by District on account of defects, deficiencies, acts, or omissions of such Subcontractor. In no event shall any such payments be made later than the thirty (30) day time limit imposed by Public Contract Code section 20104.50, unless good cause is shown. Contractor shall indemnify, defend and hold District harmless from any claims or actions which allege that any subcontractor or supplier was not paid with respect to the Project.

Section 7. Work and Materials. Contractor covenants that all the work on the Project will be done in a good and workmanlike manner that complies with the industry standard for similar projects and that all materials furnished and used in connection therewith will be new and in conformance with the established industry standard unless otherwise approved by the District.

Section 8. Supervision. Contractor shall provide competent supervision of all phases of the work and shall cause the work to be performed in strict and complete accordance with the Contract Documents. All personnel and Subcontractors used by Contractor in the performance of the work shall be qualified by training and experience to perform their assigned tasks, and shall have all necessary licenses. At the request of District, Contractor shall not use in the performance of the work any person or Subcontractor deemed by District to be incompetent, careless, unqualified to perform the work, or otherwise unsatisfactory to District.

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Section 9. Licenses and Permits. Contractor is obligated to obtain all necessary licenses, building and other permits, and similar authorizations from governmental authorities required to perform its obligations hereunder, and shall give all notices required by, and otherwise comply with, all applicable laws, ordinances, rules, regulations, and restrictions.

Section 10. Protection of Project Site. Contractor shall protect and prevent damage to all unfinished phases of the Project, including but not limited to the protection thereof from damage by the elements, theft, or vandalism.

Section 11. Acts and Omissions of Employees. Contractor shall be responsible to the District for acts and omissions of Contractor's employees, subcontractors, material and equipment suppliers, and their agents, employees, invitees, and other persons performing or completing portions of the Project under direct or indirect contract with the Contractor or any of its subcontractors.

**ARTICLE IV
COORDINATION AND COMMUNICATION WITH DISTRICT**

Contractor shall coordinate all work with the District and shall communicate with the District on a regular basis to provide updates on the progress of the Work. Contractor acknowledges that District will be performing Work on the Project and will assist in the coordination of such work with the District, and assist with the coordination and/or supervision of any Work performed by the District when requested.

**ARTICLE V
PROGRESS PAYMENTS**

Section 1. The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the District to the Contractor for performance of the Work under the Contract Documents.

Section 2. Within thirty (30) days after approval of the Request for Payment, Contractor shall be paid a sum equal to ninety-five percent (95%) of the value of the Work performed (as certified by Architect and Inspector and verified by Contractor) unless Contractor has filled out the Escrow Agreement for Security Deposit in Lieu of Retention up to the last day of the previous month, less the aggregate of previous payments. The value of the Work completed shall be Contractor best estimate. No inaccuracy or error in said estimate shall operate to release the Contractor, or any surety upon any bond, from damages arising from such Work, or from the District's enforcement of each and every provision of this Contract, and the District shall have the right subsequently to correct any error made in any estimate for payment.

The Contractor shall not be entitled to have any payment requests processed, or be entitled to have any payment made for work performed, so long as any lawful or proper direction given by the District concerning the Work, or any portion thereof, remains incomplete.

Section 3. The Architect shall, within seven (7) days after receipt of the Contractor's Application for Payment, either approve such payment or notify the Contractor in writing of the

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Architect's reasons for withholding approval in whole or in part as provided in Article IV below. The review of the Contractor's Application for Payment by the Architect is based on the Architect's observations at the Project site and the data comprising the Application for Payment that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information, and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents, (2) results of subsequent tests and inspections, (3) minor deviations from the Contract Documents correctable prior to completion, and (4) specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified.

Section 4. Contractor shall not be entitled to payment for any non-conforming work performed, so long as any lawful or proper direction concerning that non-conforming work or any portion thereof given by the District is not corrected by Contractor. District shall withhold from the Progress Payments one hundred fifty (150%) of the estimated value of non-conforming work unless satisfactorily corrected or remedied. This provision shall also apply in the event that a portion of non-conforming work may impact other completed work, resulting in a need to reconstruct or re-work related work. The District shall not unreasonably withhold payment for unrelated and uninvolved work in the event of dispute over non-complying work without entering into negotiations make a good faith effort to arrive at settlement of said conflict.

Section 5. No payment requests will be processed unless Contractor has submitted copies of the Certified Payroll records for the Work which correlates to the payment request.

**ARTICLE VI
PAYMENTS WITHHELD**

Section 1. District may withhold a sufficient amount or amounts of any payment or payments otherwise due to Contractor, as in its judgment may be necessary to cover:

- (a) Payments which may be past due and payable for just claims against Contractor or any subcontractors, or against and about the performance of work on the Project.
- (b) The cost of defective work which Contractor has not remedied.
- (c) Liquidated damages assessed against Contractor.
- (d) Penalties for violation of labor laws.
- (e) The cost of materials ordered by District.
- (f) The cost of completion of this agreement, if there exists a reasonable doubt that this agreement can be completed for the balance then unpaid to Contractor.
- (g) Damage to another contractor.
- (h) Site clean up as provided in Article X.

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- (i) Payments to indemnify, defend, or hold harmless District.
- (j) Any payments due to District including but not limited to payments for failed tests, utilities or imperfections.
- (k) Extra services for Architect.

Section 2. Extra services for the Project Inspector including but not limited to reinspection required due to Contractor's failed tests or installation of unapproved or defective materials, and Contractor's requests for inspection and Contractor's failure to attend the inspection. In order to ensure the timely completion of the Project, the District may elect to use the funds withheld to pay subcontractors, vendors or laborers. Prior to doing so, the District shall provide the Contractor written notice of District's intent to disburse the monies. If the Contractor does not object to this written notice within ten (10) days of its mailing, the District may disburse said monies and shall be held liable to the Contractor only if such disbursement is not made in good faith.

Section 3. Upon remedy of any reason for withholding payment, payment shall be made for amounts withheld by District.

**ARTICLE VII
LIQUIDATED DAMAGES**

Section 1. Contractor and District hereby agree that the exact amount of damages for failure to complete the Work within the time specified is extremely difficult or impossible to determine. If the Work is not completed within the time specified in the Contract Documents, it is understood that the District will suffer damage. It being impractical and unfeasible to determine the amount of actual damage, it is agreed the Contractor shall pay to District as fixed and liquidated damages, and not as a penalty, One Thousand Five Hundred Dollars (\$1,500.00) for each calendar day beyond the Contract completion date or beyond any completion schedule, construction schedule or Project milestones established in or pursuant to the Project Schedule, or beyond the time indicated in the Project Schedule for any individual Contract activity. Contractor expressly understands, acknowledges and agrees that such liquidated damages can and shall be imposed if the Contractor does not meet each and every aspect of any activity schedule, completion schedule, construction schedule or Project milestone established in or pursuant to the Project Schedule. Any liquidated damages recovered by the District shall not, however, limit the District's right to separately recover any actual out-of-pocket damages it suffers due to Contractor's delay. Contractor and his surety shall be liable for the amount thereof pursuant to Government Code section 53069.85. The District may deduct the liquid damages from the retention if not paid by Contractor.

Section 2. Contractor shall not be charged for liquidated damages because of any delays in completion which are not the fault or negligence of Contractor, including but not restricted to Acts of God. Contractor shall, within ten calendar (10) days of beginning any such delay, notify District in writing of causes of delay. Contractor shall provide documentation and justification to substantiate the delay and its relation to the Project's critical path. District shall ascertain the facts and extent of delay and grant an extension of time for completing work when, in its

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judgment, the facts justify the granting of such an extension. The District's finding of facts regarding delay shall be final and conclusive. Any extension of time granted by District shall apply only to that portion of work affected by the delay and shall not apply to other portions of work not so affected.

**ARTICLE VIII
PROGRESS SCHEDULE**

Section 1. The Project Schedule in the bid documents. Within ten (10) calendar days after being awarded the contract, Contractor shall submit a progress schedule for District and Architect's approval. The schedule shall not exceed time limits set forth in the Contract Documents and/or Notice to Proceed and shall comply with all of the scheduling requirements as set forth in the Specifications. Failure to submit a schedule or submittal of a schedule which shows completion of the Work beyond the specified completion date shall be deemed a material breach by the Contractor. The scheduling is necessary for the District and Architect's adequate monitoring of the progress of the Project. The Architect and/or District may disapprove of any schedule or require modification to it if, in the opinion of the Architect or District adherence to the progress schedule will not cause the Work to be completed in accordance with the Agreement.

Section 2. Contractor shall not be granted an extension of time for failure to obtain necessary approvals for deferral approvals due to failure to comply with laws, building codes, and other regulations (including Title 24 of the California Code of Regulations). Contractor shall schedule all deferred approval items and shop drawings in its progress schedule. If Contractor fails to include deferred approval items and shop drawings in its schedule which results in a critical path delay, then Contractor shall be subject to the assessment of liquidated damages. Contractor shall not be granted an extension of time for failure to obtain necessary approvals for deferral approvals due to its failure to comply with law, building codes and other regulations (including Title 24 of the California Code of Regulations).

Section 3. Contractor shall proceed expeditiously with adequate forces and shall achieve Completion within the Contract Time.

**ARTICLE IX
CHANGES IN THE WORK**

Section 1. There shall be no change whatsoever in the drawings, specifications, or in the Work without an executed Change Order, Construction Change Directive, or order by the Architect for a minor change in the Work as herein provided. District shall not be liable for the cost of any extra work or any substitutions, changes, additions, omissions, or deviations from the Drawings and Specifications unless the District's Governing Board has authorized the same and the cost thereof approved in writing by Change Order or executed Construction Change Directive. No extension of time for performance of the Work shall be allowed hereunder unless claim for such extension is made at the time changes in the Work are ordered, and such time duly adjusted in writing in the Change Order. The provisions of the Contract Documents shall apply to all such changes, additions, and omissions with the same effect as if originally embodied in the Drawings and Specifications. Notwithstanding anything to the contrary in this Article 7, all

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Change Orders shall be prepared and issued by the Architect and shall become effective when executed by the District's Governing Board, the Architect, the Contractor, and the DSA (if necessary).

Section 2. Should any Change Order result in an increase in the Contract price, the cost of such Change Order shall be agreed to, in writing, in advance by Contractor and District and be subject to the monetary limitations set forth in Public Contract Code section 20118.4. In the event that Contractor proceeds with any change in Work without first notifying District and obtaining the Architect's and District's consent to a Change Order, Contractor waives any claim of additional compensation for such additional work.

Section 3. CONTRACTOR UNDERSTANDS, ACKNOWLEDGES, AND AGREES THAT THE REASON FOR THIS NOTICE REQUIREMENT IS SO THAT DISTRICT MAY HAVE AN OPPORTUNITY TO ANALYZE THE WORK AND DECIDE WHETHER THE DISTRICT SHALL PROCEED WITH THE CHANGE ORDER OR ALTER THE PROJECT SO THAT SUCH CHANGE IN WORK BECOMES UNNECESSARY.

Section 4. The Architect will have authority to order minor changes in the Work not involving any adjustment in the Contract Sum, or an extension of the Contract Time, or a change which is inconsistent with the intent of the Contract Documents. Such changes shall be effected by written Change Order and shall be binding on the District and the Contractor. The Contractor shall carry out such written orders promptly.

Section 5. A "CO" is a written instrument prepared by the Architect and signed by the District (as authorized by the District's Governing Board), the Contractor, the Architect, and the DSA (if necessary), stating their agreement upon all of the following:

- (a) A description of a change in the Work;
- (b) The agreed amount of the adjustment in the Contract Sum, if any; and
- (c) The extent of the adjustment in the Contract Time, if any.

Section 6. A COR is a written request prepared by the Contractor requesting that the District and the Architect issue a CO based upon a proposed change by the Contractor. A COR shall include breakdowns to validate any change in Contract Price due to proposed change or claim. A COR shall also include any additional time required to complete the Project. If Contractor fails to request a time extension in a COR, then the Contractor is thereafter precluded from requesting or claiming a delay.

Section 7. The amount of the increase or decrease in the Contract Price from a CO, if any, shall be determined in one or more of the following ways as applicable to a specific situation and agreed to by the Parties in writing:

- (a) Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

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- (b) By unit prices contained in Contractor's original bid and incorporated in the Project documents or fixed by subsequent agreement between District and Contractor;
- (c) Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee.
- (d) By cost of material and labor and percentage of overhead and profit.

**ARTICLE X
CLEAN-UP**

Contractor at all times shall keep the premises reasonably free from debris such as waste, rubbish, and excess materials and equipment caused by work on the Project. Contractor shall not leave debris under, in or about the premises at the end of any day and shall keep the premises free from any attractive nuisances. If Contractor fails to clean up at the completion of the work, District may do so and the cost of such clean up shall be charged back to the Contractor or may be subtracted from any payments due to Contractor.

**ARTICLE XI
CORRECTION OF WORK BEFORE ACCEPTANCE**

Section 1. Correction of Work. Contractor shall promptly remove from the premises all work determined by District as failing to conform to the Contract Documents, applicable building codes, ADA, Title 24 of the California Code of Regulations, Field Act or DSA requirements, whether incorporated into the Contract Documents or not. Contractor shall promptly replace and re-execute its own work to comply with all applicable documents, laws and guidelines without additional expense to the District and shall bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement. If Contractor does not remove or correct such condemned work within a reasonable time, District may remove it and may store the material at Contractor's expense. The costs associated with such removal and clean up shall be charged to the Contractor.

Section 2. Notice of Defect. District shall provide Contractor prompt written notice of all defective construction of which District has actual knowledge or work that does not conform with the Contract Documents.

Section 3. Failure to Correct Defective or Non-conforming Work. If the Contractor fails to correct nonconforming or defective work within a reasonable time, the District may correct it after THREE (3) days written notice and all costs related to such work shall be charged to Contractor.

**ARTICLE XII
INSPECTION, COMPLETION, AND CLOSE-OUT**

Section 1. Final inspection will be made upon written notification from Contractor to District that all work has been completed. A final walk through of the Project to determine completion and to record the Notice of Completion shall occur only upon a valid claim by Contractor that the Project is complete.

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Section 2. District shall accept completion of the Project and have the Notice of Completion recorded within ten (10) days of acceptance of completion of the Project when the entire work has been completed to the satisfaction of the District. The Project may only be accepted as complete by action of the Board.

Section 3. Contractor shall prepare and directly submit to the applicable governmental agencies the final Project accounting and close-out reports including all DSA, CDE, SAB and OPSC forms required for the final close-out of the Project. District shall cooperate and assist Contractor as necessary.

Section 4. All plans, drawings, designs, specifications, and other incidental architectural and engineering work or materials or other Contract Documents and copies furnished thereof by District are District's property. They are not to be used in other work and are to be returned to District upon completion of the Project.

Section 5. Upon issuance of the Notice of Completion, Contractor shall deliver to District one (1) complete set of final as-built drawings, operating manuals, repair parts lists, service instructions and equipment warranties.

**ARTICLE XIII
ACCESS TO WORK**

District and its representatives shall at all times have reasonable access to the Project. Contractor shall provide safe and proper facilities for such access during normal working hours. District and its representatives shall observe all Project safety requirements.

**ARTICLE XIV
OCCUPANCY**

District may, with advance agreement of Contractor, which shall not be unreasonably withheld, occupy portions of the Project before completion of the Project, and such occupancy shall not constitute final acceptance of any part of work covered by this Agreement pursuant to Public Contract Code section 7107. As noted in Article 10, section 2, the Project may only be accepted as complete by action of the District's Governing Board.

**ARTICLE XV
INTEGRATION OF WORK**

The Contractor shall be responsible for cutting, fitting, or patching to complete the Work and to make all parts fit together properly. Contractor shall be responsible for ensuring that all trades are coordinated and scheduled so as to ensure the timely and proper execution of the work. When modifying existing work or installing new Work adjacent to existing work, Contractor shall match, as closely as conditions of the Project site and materials will allow, the finishes, textures, and colors of the original work, refinishing existing work at no additional cost to District. All cost caused by defective or ill-timed work shall be borne by Contractor. Contractor shall be solely responsible for protecting existing work on adjacent properties and shall obtain all required permits for shoring and excavations near property lines.

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**ARTICLE XVI
INSPECTOR OF RECORD**

Section 1. One or more Project inspectors employed by the District and approved by the Division of the State Architect will be assigned to the Work in accordance with the requirements of Title 24 of the California Code of Regulations. The Inspector(s) duties are as specifically defined in Title 24.

Section 2. All Work shall be under the observation of the Inspector. The Inspector shall have free access to any or all parts of the Work at any time. The Contractor shall furnish the Inspector such information as may be necessary to keep the Inspector fully informed regarding progress and manner of Work and character of materials. Such observations shall not, in any way, relieve the Contractor from responsibility for full compliance with all terms and conditions of the Contract, or be construed to lessen to any degree the Contractor responsibility for providing efficient and capable superintendence. The Inspector is not authorized to make changes in the drawings or specifications nor shall the Inspector's approval of the Work and methods relieve the Contractor of responsibility for the correction of subsequently discovered defects, or from its obligation to comply with the Contract Documents.

Section 3. The Inspector shall have the authority to reject Work whenever provisions of the Contract Documents are not being complied with, and Contractor shall instruct its Subcontractors and employees accordingly. In addition, the Inspector may stop any Work that poses a probable risk of harm to persons or property. The Contractor shall instruct its employees, Subcontractors, material and equipment suppliers, etc., accordingly. The absence of any Stop Work order or rejection of any portion of the Work shall not relieve the Contractor from any of its obligations pursuant to the Contract Documents.

**ARTICLE XVII
INSURANCE**

Section 1. Contractor shall maintain all course of construction and other insurance as necessary to protect said equipment and work. The District shall not become responsible for risk of loss or other insurable risk until final Notice of Completion and Final Payment has been made to Contractor. Contractor shall cause the following insurance coverage to be maintained at its sole cost and expense during the term of work performed hereunder to protect Contractor and District from all claims for personal injury, including accidental death, to any person, as well as from all claims for property damage arising from operations under this Agreement:

(a) Commercial general liability insurance including Contractor's risk, blanket contractual, broad form property damage, completed operations and independent contractor's liability, all applicable to personal injury, bodily injury, and property damage to a limit of \$1,000,000 each occurrence and \$2,000,000 aggregate.

(b) Comprehensive automobile liability insurance including owned, hired, and non-owned automobiles, for bodily injury and property damage to a combined single limit of \$1,000,000 each occurrence.

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(c) Contractor shall require its subcontractors, if any, to take out and maintain similar public liability and property damage insurance and comprehensive automobile liability insurance in an amount of \$1,000,000 each occurrence and \$2,000,000 aggregate.

Section 2. Endorsements shall state in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date and cancellation and reduction notice. Endorsements shall clearly state that the District and District Inspector are named as "Additional Insured" under the policy described and that such insurance policy shall be primary to any insurance or self-insurance maintained by the District. Said endorsements must be provided in a form deemed suitable to the District, in its sole and absolute discretion. All proof of insurance required herein shall be delivered before the commencement of any work on the Project by Contractor. All insurance policies must be issued by California admitted insurers. A non-California admitted insurer may be accepted at the sole discretion of the District.

**ARTICLE XVIII
BONDS**

Section 1. Contractor shall furnish separate performance and payment bonds, each in an amount equal to one hundred percent (100%) of the contract price on forms acceptable to the District. All bonds shall be provided by a California admitted surety as defined in California Code of Civil Procedure section 995.120. Personal sureties and unregistered sureties are unacceptable. Contractor shall keep the performance bond in effect until expiration of the guarantee/warranty period referenced herein. Contractor shall keep the payment bond in effect for an additional six (6) months after the period in which stop notices may be filed as set forth in Civil Code section 3184.

**ARTICLE XIX
INDEMNITY**

Section 1. Contractor agrees to and does hereby indemnify, defend and hold harmless District, its Board members, its officers, agents, District Inspector, and its employees from every claim or demand made, and every liability, loss, damage, or expense of any nature whatsoever, which may arise out of or in connection with the Project, including without limitation the following:

(a) Liability for damages for death or bodily injury to persons, injury to, loss or theft of property, or any other loss, damage or expense arising from the above, sustained by any person or entity, including without limitation, District, Contractor or any person, firm, subcontractor or contractor employed by either District or Contractor upon or in connection with the Project, except for liability resulting from the active and primary negligence or willful misconduct of District, its officers, employees, agents or independent contractors who are directly employed by the District; and

(b) Any injury to or death of persons or damage to property caused by any act, neglect, default or omission of Contractor, or any person, firm or subcontractor employed by Contractor, either directly or by independent contract, including all damages due to

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loss or theft, sustained by any person, firm or Contractor, including District, arising out of, or in any way connected with Contractor's performance, whether said injury or damage occurs either on or off District property, or if the liability arose from the negligence or willful misconduct of anyone employed by Contractor, either directly or by independent contract.

Section 2. Contractor, at its own expense, cost and risk, shall defend any and all actions, suits, claims, demands or other proceedings to the extent of the above-described indemnification that may be brought or instituted against District, its Board, its officers, agents, or employees, and shall pay or satisfy any judgment that may be rendered against District, its Board, its officers, agents, or employees in any action suit or other proceedings as a result thereof.

Section 3. Contractor shall require that indemnity language in substantially the same form as set forth above be inserted in any agreements with its subcontractors.

Where approval by the District or representative of the District is indicated, it is understood to be conceptual approval only and does not relieve Contractor of responsibility for complying with all laws, codes, industry standards and liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of Contractor or its subcontractors.

**ARTICLE XX
MATERIALS**

Section 1. Unless otherwise specified, all materials shall be new and meet or exceed industry standard for school construction and all workmanship shall be of good quality. Materials shall be furnished in ample quantities and at such times as to ensure uninterrupted progress of work and shall be stored properly and protected as required by this Agreement.

Section 2. No materials, supplies, or equipment for work under this Agreement shall be purchased subject to any chattel mortgage or under a conditional sale or other agreement by which any interest therein, or in any part thereof, is retained by seller or supplier. Contractor warrants good title to all material, supplies and equipment installed or incorporated in work and agrees upon completion of all work and final payment to deliver premises, together with all improvements and appurtenances constructed or placed thereon by Contractor to District free from any claim, liens or charges.

Section 3. Contractor further agrees that neither it nor any person, firm or contractor furnishing any materials or labor covered by the Agreement shall have any right to lien upon the premises or any improvement of appurtenances thereon, except that Contractor may install metering devices or other equipment of utility companies or of political subdivisions, title to which is commonly retained by utility company or political subdivision. In the event of installation of any such metering device or equipment, Contractor shall advise District as to owner thereof.

Section 4. Nothing contained in this section, however, shall defeat or impair the rights of persons furnishing material or labor under any bond given by Contractor for their protection, or

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any rights under any applicable law permitting such persons to look to funds due to Contractor and in the hands of the District.

Materials shall be stored on the premises in such manner so as not to interfere with the work and so that no portion of the structure shall be overloaded. Additionally, Contractor shall make efforts to store materials in a manner so to not create an attractive nuisance.

**ARTICLE XXI
WORKERS**

Section 1. Contractor and each subcontractor shall furnish a competent and adequate staff as necessary for the proper administration, coordination, supervision, and superintendence of its portion of the Project, organize the procurement of all materials and equipment so that they will be available at the time they are needed for the Project, and keep an adequate force of skilled and fit workers on the job to complete the Project in accordance with all requirements of the Contract Documents.

Section 2. Contractor shall at all times enforce strict discipline and good order among Contractor's employees and contractors and shall not employ on work any unfit person or anyone not skilled in work assigned to Contractor.

Section 3. Contractor shall remove from the work site any person in the employ of the Contractor whom District may deem incompetent or unfit and such worker shall not again participate in the work and shall not again be employed on it except with written consent of District.

Section 4. Contractor shall take all reasonable steps necessary to ensure that any of its employees, consultants, subcontractors and suppliers, or any of its subcontractors' employees report for work in a manner fit to do their job. Such employees: (i) shall not utilize tobacco on the Project site, and (ii) shall not be under the influence of or in possession of any alcoholic beverage or of any controlled substance (except a controlled substance as prescribed by a physician so long as the performance or safety at the Project Site is not affected thereby). Contractor shall advise its employees of these requirements before they enter on the site and shall immediately remove from the site any employee in violation of these requirements as determined by Contractor or by the District. Contractor shall impose these requirements on its subcontractors.

Section 5. District shall have the right, but not the obligation, to require the removal from the Project of any superintendent, staff member, agent, or employee of Contractor, or any subcontractor, material or equipment supplier, or other party involved on the Project, for cause. Any person in the employ of Contractor or subcontractors the District may deem incompetent, unfit, troublesome or otherwise undesirable shall be excluded from the work site and shall not again be employed on it except with District's written consent.

Section 6. Contractor shall take all reasonable steps necessary to ensure that any employees of Contractor or any of its subcontractors' employees comply with all federal, state and local laws prohibiting harassment and/or violence in the workplace.

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Section 7. Unless exempted, Contractor shall comply with the applicable requirements of Education Code sections 45125.1 and 45125.2 with respect to fingerprinting of employees who may have contact with the District's pupils. During construction on the Project it is not anticipated that students will be onsite until occupancy and warrantee period. In order to comply with the requirements of Education Code sections 45125.1 and 45125.2, Contractor shall not permit any employee or employees or any employee or employees of any subcontractor to come in contact with District pupils until the Department of Justice has ascertained that the employee has not been convicted of a violent or serious felony.

Contractor shall comply with the requirements of the Military Leave of Absence Act (Military & Veterans Code, § 394 et seq.). Contractor shall ensure that its subcontractors on the Project also comply with the requirements of the Military Leave of Absence Act.

**ARTICLE XXII
WAGE RATES**

Section 1. Pursuant to the provisions of Article 2 (commencing at Section 1770), Chapter 1, Part 7, Division 2 of the California Labor Code, the governing body of District has ascertained the general prevailing rate of per diem wages in the locality in which this public work is to be performed for each craft, classification, or type of workmen needed to execute the contract.

Section 2. Per diem wages shall be deemed to include employer payments for health and welfare, pension, vacation, travel time and subsistence pay as provided in Labor Code section 1773.1 apprenticeship or other training programs authorized by Labor Code section 3093, and similar purposes when the term "per diem wages" is used herein.

Section 3. Each worker needed to execute the work must be paid travel and subsistence payments as defined in the applicable collective bargaining agreements filed in accordance with Labor Code section 1773.8.

Section 4. Holiday and overtime work when permitted by law shall be paid for at a rate of at least one and one-half times the above specified rate of per diem wages, unless otherwise specified.

Section 5. Each worker of the Contractor or any of its subcontractors engaged in work on the Project shall be paid not less than the prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between the Contractor or any subcontractors and such workers.

Section 6. Contractor shall, as a penalty to the District, forfeit an amount as determined by the Labor Commissioner pursuant to Labor Code section 1775 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the director for such work. The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by Contractor.

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Section 7. Copies of the determined prevailing wage rates are on file and available upon request at the District's office and are otherwise available at <http://www.dir.ca.gov/>. Contractor shall be responsible for knowing and implementing all prevailing wage rates at all times during the Project. Contractor shall post, at appropriate conspicuous points on the site of the Project, a schedule showing all determined general prevailing wage rates.

Section 8. Any worker employed to perform work on the Project which is not covered by any classification available at the office of the Department of Industrial Relations, shall be paid not less than the minimum rate of wages specified for the classification which most nearly corresponds with work to be performed by him, and that minimum wage rate shall be retroactive to the time of initial employment of the person in the classification.

Section 9. Labor Compliance Program; Record of Wages Paid; Inspection.

(a) Pursuant to Labor Code section 1771.3, the District shall use and pay a fee for compliance monitoring and enforcement by the Department of Industrial Relations on state bond-funded and other specified projects. The Contractor shall be required to comply with all the requirements of the Department of Industrial Relations' Compliance Monitoring Unit and applicable provisions of the California Labor Code and the California Code of Regulations, including, but not limited to: Chapter 1 of Part 7 of Division 2 of the Labor Code (Section 1720 et seq.); California Code of Regulations, Title 8, Chapter 8, Subchapters 3 & 4 (Section 16000 et seq.); and California Code of Regulations, Title 8, Chapter 8, Subchapter 4.5 (Section § 16450 et seq.). It shall be the Contractor's responsibility to evaluate the cost of complying with the Department of Industrial Relations. The Contractor shall include all costs of compliance with specified requirements in the base contract price.

(b) Contractor shall be responsible for complying with the provisions California Labor Code beginning with Section 1720, and the regulations of the Department of Industrial Relations, including, but not limited to, the standard provisions requiring payment of prevailing wages, maintenance and submission of certified weekly payrolls, and hiring of apprenticeship as appropriate. Contractor shall work with the Compliance Monitoring Unit ensure the full compliance with the Department of Industrial Relations and applicable labor law.

Section 10. Pursuant to Labor Code section 1776, Contractor stipulates to the following:

(a) Contractor and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her on the Project. Such records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information of such forms.

Section 11. The payroll records enumerated under Section 10(a) shall be certified and available for inspection at all reasonable hours at the principal office of the Contractor.

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A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his or her authorized representative on request.

Section 12. A certified copy of all payroll records enumerated in Section 10(a) shall be provided for inspection and furnished to a representative of the District, the Division of Labor Standards Enforcement and Division of Apprenticeship Standards of the Department of Industrial Relations.

Section 13. A certified copy of all payroll records enumerated in Section 10(a) 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 the District, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. The requesting Party shall, prior to being provided the records, reimburse the costs of preparation by the Contractor, subcontractors, and the entity through which the request was made. The public shall not be given access to such records at the principal office of the Contractor.

Section 14. Contractor shall file a certified copy of the records enumerated in Section 10(a) with the entity that requested such records within ten (10) days after receipt of the written request.

Section 15. Any copy of records made available for inspection as copies and furnished upon request to the public 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.

Section 16. Contractor shall inform the District of the location of the records enumerated under Section 10(a), including the street address, city, and county, and shall, within five (5) working days, provide a notice of a change of location and address.

Section 17. In the event of noncompliance with the requirements of this section 13, the Contractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying non-compliance. Should noncompliance still be evident after such 10-day period, the Contractor shall pay a penalty of Twenty-Five Dollars (\$25.00) to the District 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, such penalties shall be withheld from any progress payment then due.

Section 18. The responsibility for compliance with this Article shall rest upon Contractor. Contractor shall submit certified payrolls with each pay request, including as required by Labor Code Section 177.4.

Section 19. Apprentices. All apprentices employed by Contractor to perform services under the Agreement shall be paid the standard wage paid to apprentices under the regulation of the craft or trade at which that apprentice is employed, and shall be employed only at the work of the craft or trade in which that apprentice is registered. Only apprentices, as defined in Labor Code section 3077, who are in training under apprenticeship standards and written apprenticeship agreements under Chapter 4 (commencing at Section 3070), Division 3 of the Labor Code, are

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eligible to be employed under this Agreement. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprenticeship agreements under which that apprentice is training.

Section 20. When the Contractor to whom the contract is awarded by the District or any subcontractor under the Contractor, employs workers in any apprenticeable craft or trade, the Contractor and subcontractor shall apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the site of the public work, for a certificate approving the Contractor or subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, approval as established by the joint apprenticeship committee or committees shall be subject to the approval of the Administrator of Apprenticeship.

Section 21. Contractor or subcontractors shall not be required to submit individual applications for approval to local joint apprenticeship committees provided they are already covered by the local apprenticeship standards. The ratio of work performed by apprentices to journeymen, who are employed in the craft or trade on the public work, may be the ratio stipulated in the apprenticeship standards under which the joint apprenticeship committee operates, but in no case shall the ratio be less than one hour of apprentice work for each five hours of labor performed by a journeyman, except as otherwise provided in Section 1777.5, of the Labor Code. However, the minimum ratio for the land surveyor classification shall not be less than one apprentice for each five (5) journeymen.

Section 22. "Apprenticeable craft or trade" as used in Labor Code section 1777.5 and this Article, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the Apprenticeship Council.

Section 23. Contractor, or any subcontractor, who, in performing any of the work under this Agreement, employs journeymen or apprentices in any apprenticeable craft or trade and who is not contributing to a fund or funds to administer and conduct the apprenticeship programming shall contribute to the fund or funds in each craft or trade in which Contractor employs journeymen or apprentices on the public work in the same amount or upon the same basis and in the same manner as other contractors do. Where the trust fund administrators are unable to accept the funds, contractors not signatory to the trust agreement shall pay like amount to the California Apprenticeship Council. The Division of Labor Standards Enforcement is authorized to enforce the payment of the contributions to the fund or funds as set forth in Labor Code section 227.

Section 24. The responsibility of compliance with Labor Code section 1777.5 and this section 13 for all apprenticeable occupations is with the Contractor.

The interpretation and enforcement of Sections 1777.5 and 1777.7 of the Labor Code shall be in accordance with the rules and procedures of the California Apprenticeship Council.

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**ARTICLE XXIII
WORKERS' COMPENSATION INSURANCE**

Section 1. Contractor shall provide, at all times in which it is providing or performing any work on the Project, at its sole cost and expense, workers' compensation insurance for all of its employees engaged in work under the terms hereof. In case any of Contractor's work is sublet, Contractor shall require the subcontractor similarly to provide workers' compensation insurance for all the latter's employees. Any class of employee or employees not covered by a subcontractor's insurance shall be covered by the Contractor's insurance. In case any class of employees engaged in work under this Agreement, on or at the site of the Project is not protected under Workers' Compensation laws, Contractor shall provide or shall cause a subcontractor to provide, adequate insurance coverage for the protection of such employee, not otherwise protected. Contractor shall file with the District certificates of its insurance protecting workers. Contractor is required to secure payment of compensation to its employees in accordance with the provisions of Section 3700 of the Labor Code.

Section 2. An authorized officer of Contractor shall sign under penalty of perjury, date and notarize a certificate which states the following:

(a) I am aware of the provisions of Section 3700 of the Labor Code which requires 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 the Agreement.

**ARTICLE XXIV
WARRANTY/GUARANTEE**

Section 1. Neither final payment nor any provision in the Contract Documents shall relieve Contractor of responsibility for faulty materials or workmanship incorporated in the Project. Contractor warrants that all work done and facilities constructed pursuant to this Agreement will be free of faulty materials or workmanship and hereby agrees, immediately upon receiving notification from District, to remedy, repair or replace, without cost to District, all defects which may appear as a result of faulty materials or workmanship in the Project, at any time, or from time to time, during a period beginning with commencement of the Project and ending one (1) year after the Notice of Completion date for the Project.

Section 2. The foregoing warranty of Contractor applies to the remedy, repair or replacement of defects which may appear in connection with the Project, but the foregoing warranty of Contractor does not guarantee against damage to the Project sustained by lack of normal maintenance or as a result of changes or additions to the Project made or done by parties not directly responsible to Contractor, except where such changes or additions to the Project are made in accordance with Contractor's directions.

Section 3. No guarantee furnished by a party other than Contractor with respect to equipment manufactured or supplied by such party shall relieve Contractor from the foregoing warranty obligation of Contractor. The warranty period set forth hereinabove shall not apply to

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latent defects appearing in the Project, and with respect to such defects, the applicable statute of limitations shall apply. The term of Contractor's warranty/guarantee shall not preclude any claim by District for breach of contract, or other legal claim, brought within the applicable statute of limitation, for failure to construct the Project in strict accordance with the Contract Documents.

Section 4. In the event of any failure of Contractor to comply with above mentioned conditions within one week after being notified in writing, District is hereby authorized to proceed to have defects repaired and made good at the expense of Contractor which hereby agrees to pay reasonable costs and charges therefore immediately on demand.

Section 5. If, in the opinion of the District, defective work creates a dangerous condition or requires immediate correction or attention to prevent further loss to the District, the District will attempt to give the notice required by this Article. If Contractor cannot be contacted or does not comply with the District's requirements for correction within a reasonable time as determined by the District, the District may, notwithstanding the provisions of this Article 36, proceed to make such necessary correction and the reasonable cost shall be charged against Contractor, which shall be paid on demand by District. Such action by the District will not relieve the Contractor of the guarantee provided in this Article or elsewhere in this Agreement.

This Article 20 does not in any way limit the guarantee on any items for which a longer guarantee is specified or on any items for which a manufacturer gives a guarantee for a longer period. Contractor shall furnish and assign to District all appropriate guarantee and warranty certificates upon completion of the Project.

**ARTICLE XXV
TITLE OF WORK**

Section 1. Immediately upon the performance of any of the Work, as between Contractor and District, title thereto shall vest in District; provided, however, the vesting of such title shall not impose any obligations on District or relieve Contractor of any of its obligations hereunder.

**ARTICLE XXVI
WARRANTY OF TITLE**

Section 1. Contractor warrants title to all work. Contractor further warrants that all work is free and clear of liens, claims, security interests, or encumbrances in favor of the Contractor, Subcontractors, material and equipment suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work. Failure to keep work free of liens, claims, security interests or encumbrances is grounds to make a claim against Contractor's payment and performance bond to immediately remedy and defend.

If a lien or stop notice of any nature should at any time be filed against the Work or any District property, by any entity which has supplied material or services at the request of the Contractor, Contractor and Contractor's surety shall promptly, on demand by District and at Contractor's and surety's own expense, take any and all action necessary to cause any such lien or stop notice to be released or discharged immediately there from.

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If the Contractor fails to furnish to the District within ten (10) calendar days after demand by the District, satisfactory evidence that a lien or stop notice has been so released, discharged, or secured, then District may discharge such indebtedness and deduct the amount required therefor, together with any and all losses, costs, damages, and attorney's fees and expense incurred or suffered by District from any sum payable to Contractor under the Contract.

**ARTICLE XXVII
LAWS AND REGULATIONS**

Contractor shall give all notices and comply with all applicable laws, ordinances, rules and regulations. If Contractor performs any work which is contrary to any applicable law, ordinance, rule or regulation, Contractor shall bear all costs and expenses arising there from, with the exception of design errors or omissions that the Contractor could not reasonably have identified.

**ARTICLE XXVIII
NOTICE AND SERVICE**

Section 1. The District's representative is the District's Superintendent or any other party, as designated by the District in writing to the Contractor.

Section 2. Notice to either Party shall be in writing, addressed to the Party to be notified at the address specified herein, and either (i) personally delivered, (ii) sent by an overnight courier service such as Federal Express, (iii) sent by first-class mail, registered or certified mail, postage prepaid, return receipt requested, or (iv) sent by facsimile or electronic mail.

Section 3. Any such notice shall be deemed received: (i) on the date of receipt if personally delivered; (ii) on the date of receipt as evidenced by the receipt provided by an overnight courier service, if sent by courier; (iii) three (3) business days after deposit in the U.S. Mail, if sent by mail; or (iv) on the date faxed or e-mailed as evidenced by dated transmittal and delivery confirmation.

If to the Contractor:

VANDEN BOS ELECTRIC, INC.
Attn: Michael Shively, President
502 Giuseppe Court #5
Roseville, CA 95678
Phone: (916) 773-1500
Fax: (916) 773-1973
Email: mike@vdbelectric.com

If to the District:

MARYSVILLE JOINT UNIFIED SCHOOL
DISTRICT
Attention: Asst. Superintendent, Business Services
1919 B Street
Marysville, CA 95901
Phone: (530) 749-6115
Fax: (530) 742-0573

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Email: rdigiulio@mjuds.com

**ARTICLE XXIX
CONTINUATION OF WORK**

In the event of a dispute between the Parties as to performance of the work or the interpretation of the Contract Documents, or payment or nonpayment for work performed or not performed, the Parties shall attempt to resolve the dispute, provided the District is not in default under the terms of the Agreement or in material breach of the Agreement. Pending resolution of this dispute, Contractor agrees to continue the work diligently to completion. If the dispute is not resolved, Contractor agrees it will not stop the progress of the work on the Project.

**ARTICLE XXX
PROVISIONS REQUIRED BY LAW DEEMED INSERTED**

Each and every provision of law and language required by law to be inserted in this Agreement 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 be physically amended to make such insertion or correction.

**ARTICLE XXXI
NON-DISCRIMINATION**

Pursuant to the provisions of Labor Code section 1735, Contractor and its subcontractors shall not unlawfully discriminate in the employment of persons on this Project because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or gender.

**ARTICLE XXXII
ALTERNATIVE DISPUTE RESOLUTION**

Section 1. If either Party possesses a claim or dispute with respect to the duties and responsibilities required under this Agreement, that Party shall give the other written notice and demand an informal conference to meet and confer for settlement of the issues in dispute. Notice shall be given within fifteen (15) days of knowledge of the claim or dispute. Such notice shall contain a general written statement of the damage sustained and any estimated delays as a result of such claimed damage. Upon receipt of a Party's demand, the other Party shall schedule a "meet and confer" conference, to take place within thirty (30) days, at a time and location convenient to all Parties. Senior representatives of the District and Contractor, with the authority to settle on the Party's behalf, will attend the meet and confer conference in good faith, in an attempt to resolve any controversy or claim between the Parties. Attendance at this conference shall be a condition precedent to the initiation of arbitration, mediation or a civil action.

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**ARTICLE XXXIII
LABOR/EMPLOYMENT SAFETY**

Contractor shall maintain emergency first aid treatment for his employees which complies with the Federal Occupational Safety and Health Act of 1970 (29 USC, section 651 et seq.).

**ARTICLE XXXIV
TERMINATION**

Section 1. The District may terminate the Contractor and/or this Contract for the following reasons:

- (a) Persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- (b) Persistently or repeatedly is absent, without excuse, from the job site;
- (c) Fails to make payment to Subcontractors;
- (d) Persistently disregards laws, ordinances, rules, regulations, or orders of a public authority having jurisdiction; or
- (e) Otherwise is in substantial breach of a provision of the Contract Documents.

Section 2. When any of the above reasons exist, the District may, without prejudice to any other rights or remedies of the District under the contract documents or at existing at law, and after giving the Contractor and the Contractor's surety, if any, written notice of seven (7) days, terminate the Contractor and/or this Contract and may, subject to any prior rights of the surety:

- (a) Take possession of the Project and of all material, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- (b) Accept assignment of Subcontracts. Contractor acknowledges and agrees that if the District (in its sole and absolute discretion) decides to take over completion of the Project, the Contractor agrees to immediately assign all Subcontracts to the District which the District has chosen to accept; and
- (c) Complete the Work by any reasonable method the District may deem expedient, including contracting with a replacement contractor or contractors.

Section 3. If the District terminates the Contract for one of the reasons stated above, the Contractor shall not be entitled to receive further payment until the Work is complete. All costs associated with the termination and completion of the Project shall be the responsibility of the Contractor and/or its surety.

Section 4. If the unpaid balance of the Contract Sum exceeds costs of completing the Work, including compensation for professional services and expenses made necessary thereby, such

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excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the District. The amount to be paid to the Contractor, or District, as the case may be, shall be certified by the Architect upon application. This payment obligation shall survive completion of the Contract.

**ARTICLE XXXV
MISCELLANEOUS**

Section 1. Integration Clause. This Agreement, together with all Contract Documents, represents the entire Agreement between the Contractor and the District, and supersedes all prior negotiations, representations or agreements, either written or oral.

Section 2. Time of the Essence. Time is of the essence for all provisions of this Agreement in which a definite time for performance is specified.

Section 3. "Governing Law and Venue." This Agreement shall be governed by and construed in accordance with the laws of the State of California excluding its choice of law rules and venue shall be in the County of Yuba.

Section 4. Interpretation. Neither the Parties nor their respective counsel shall be deemed the drafters of this Agreement for purposes of construing its provisions. The language in all parts of this Agreement shall in all cases be construed according to fair meaning, not strictly for or against any of the Parties.

**ARTICLE XXXVI
NON-UTILIZATION OF ASBESTOS MATERIAL**

- (a) Contractor shall not utilize any asbestos-containing materials.
- (b) Should asbestos containing materials be installed by Contractor in violation of this certification, or if removal of asbestos containing materials is part of the Project, decontaminations and removals will meet the following criteria:
 - (c) Decontamination and removal of work found to contain asbestos or work installed with asbestos containing equipment shall be done only under the supervision of a qualified consultant, knowledgeable in the field of asbestos abatement and accredited by the Environmental Protection Agency (EPA).
 - (d) 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.
 - (e) The asbestos consultant shall be chosen and approved by District who shall have sole discretion and final determination in this matter.
 - (f) The work will not be accepted until asbestos contamination is reduced to levels deemed acceptable by the asbestos consultant.

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(g) Cost of all asbestos removal, including but not necessarily limited to the cost of the asbestos removal contractor, the cost of the asbestos consultant, analytical and laboratory fees, time delays and additional costs as may be incurred by District shall be borne entirely by Contractor.

(h) Hold Harmless: Interface of work for the Project with work containing asbestos shall be executed by Contractor at his/her risk and at his/her discretion with full knowledge of the currently accepted standards, hazards, risks and liabilities associated with asbestos work and asbestos-containing products. By execution of the Agreement, Contractor acknowledges the above and agrees to hold harmless District, its Governing Board, employees, agents, and Architect and assigns for all asbestos liability which may be associated with this Work. Contractor further agrees to instruct his/her employees with respect to the above-mentioned standards, hazards, risks and liabilities.

**ARTICLE XXXVII
SITE CONDITIONS AND CONSTRUCTION DOCUMENTS**

Section 1. Site Conditions and Construction Documents. Contractor acknowledges that it has, to the extent necessary to complete the Project, investigated the Site, including, without limitation, a review of the soils reports for the Site as provided by District, and that to the extent one has been provided the soils report discloses no currently known problems with respect to the site conditions. Contractor further acknowledges that it has (or that prior to commencement of construction it will have) performed value engineering and a constructability review of the Plans and Specifications as necessary to satisfy itself that said documents are adequate for the Project's construction and that Contractor has not identified any errors or omissions in the Plans and Specifications that will adversely affect construction of the Project.

**ARTICLE XXXVIII
HAZARDOUS MATERIALS**

Section 1. Contractor shall not use or permit the Site or any part thereof to be used to generate, manufacture, refine, treat, store, handle, transport or dispose of, transfer, produce or process Hazardous Materials, except, and only to the extent, if necessary to maintain the improvements at the Project and then, only in compliance with all Environmental Regulations, and any state equivalent laws and regulations, nor shall it permit, as a result of any intentional or unintentional act or omission on its part or by any tenant, subtenant, licensee, guest, invitee, contractor, employee and agent, the storage, transportation, disposal or use of Hazardous Materials or the Release or threat of Release of Hazardous Materials on, from or beneath the Project or onto any other property excluding, however, those Hazardous Materials in those amounts ordinarily found in the inventory of schools and school facilities, the use, storage, treatment, transportation and disposal of which shall be in compliance with all Environmental Regulations. Upon the occurrence of any Release or threat of Release of Hazardous Materials through no fault of District, Contractor shall promptly commence and perform, or cause to be commenced and performed promptly, without cost to Contractor, all investigations, studies, sampling and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials so released, on, from or beneath the Site and Project or other property, in compliance with all Environmental Regulations.

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Section 2. Contractor, at its sole cost and expense, shall comply with all federal, state, and local laws relating to the use, storage, discharge, release and disposal of Hazardous Materials (as defined below) in or about the site and/or the Project. Contractor shall not cause or permit any Hazardous Materials to be brought upon, kept, or used in or about the Project site by Contractor or Contractor's agents, employees, or independent contractors or the agents, employees, or independent contractors of any subcontractors in a manner or for a purpose prohibited by any federal, state, or local agency or authority.

Section 3. Contractor shall immediately provide District with telephonic notice, which shall promptly be confirmed by written notice, of any and all discharge, release, and disposal of any Hazardous Materials onto or within the Project site which by law must be reported to any federal, state, or local agency.

Section 4. Contractor shall be responsible for and shall indemnify, protect, defend, and hold harmless District and District's agents, employees, and independent contractors from any and all liability, damages, injuries, causes of action, claims, judgments, costs, penalties, fines, losses, and expenses which result from Contractor's (or from Contractor's agents, employees, and independent contractors) use, storage, accumulation, discharge, release, or disposal of Hazardous Materials in, upon, or about the Project site.

Section 5. The obligations under this section 39 shall survive the expiration or early termination of this Agreement.

Section 6. Definition of Hazardous Materials. As used in this Agreement, the term "Hazardous Materials" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government. The term "Hazardous Materials" includes, without limitation, any material or substance which is (i) petroleum, (ii) asbestos, (iii) designated as a "hazardous substance" pursuant to section 311 of the Federal Water Pollution Control Act (33 U.S.C. section 1317), (iv) defined as a "hazardous waste" pursuant to section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. section 6901, et seq. (42 U.S.C. section 6903), or (v) defined as a "hazardous substance" pursuant to section 101 of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. section 9601 et seq. (42 U.S.C. section 9601).

ARTICLE XXXIX
COMPLIANCE WITH STORM WATER PERMIT FOR CONSTRUCTION

Section 1. If required, Contractor, per CA Green Code section 5.106.1, shall develop with the Architect's assistance a Storm Water Pollution Prevention Plan (SWPPP) that has been designed, specific to this site, conforming to the State Storm water NPDES Construction Permit or local ordinance, whichever is stricter, as is required for other projects one acre or more. The plan should cover prevention of soil loss by storm water run-off and/or wind erosion, of sedimentation, and/or of dust/particulate matter air pollution.

Section 2. Contractor shall comply with all conditions of the State Water Resources Control Board ("State Water Board") to obtain a National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Discharges of Storm Water Runoff

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Associated with Construction Activity ("Permit") for all construction activity which results in the disturbance of in excess of one acre of total land area or which is part of a larger common area of development or sale.

Section 3. Contractor shall be responsible for filing any required Notice of Intent and /or obtaining any Permits. District shall provide a draft of the Storm Water Pollution Prevention Program ("SWPPP") for the Project to Contractor upon request. It shall be Contractor's responsibility to evaluate the cost of compliance with the SWPPP in determining the contract price. Contractor shall include all costs of compliance with specified requirements in the contract price.

Section 4. Contractor shall be responsible for implementing and complying with the provisions of Ca Green Code section 5.106.1, any Permit and the SWPPP, including the standard provisions, monitoring and reporting requirements as required. Contractor shall provide copies of all reports and monitoring information to District.

Section 5. Contractor shall comply with the lawful requirements of any applicable municipality, the County, drainage district, and other local agencies regarding discharges of storm water to separate storm drain system or other watercourses under their jurisdiction, including applicable requirements in municipal storm water management programs.

Section 6. Failure to comply with the Permit is a violation of federal and state law. Contractor hereby agrees to indemnify and hold harmless District, its officers, agents, and employees from and against any and all claims, demands, losses or liabilities of any kind or nature which District, its officers, agents, and employees may sustain or incur for noncompliance with the Permit arising out of or in connection with the Project, except for liability resulting from the negligence or willful misconduct of District, its officers, agents or employees. District may seek damages from Contractor for delay in completing the Project caused by Contractor's failure to comply with Permit.

**ARTICLE XL
LEAD-SAFE SCHOOLS PROTECTION ACT**

Section 1. LEAD. Pursuant to the Lead-Safe Schools Protection Act (Education Code section 32240, et seq.) and other applicable law, Contractor shall not use lead-based paint, lead plumbing or solders, or other potential sources of lead contamination in the construction of any new school facility or the modernization of any existing school facility

**ARTICLE XLI
ARCHITECT'S STATUS**

Section 1. Architect shall be District's representative during construction and until final payment is due. Architect shall observe the progress and quality of the work on behalf of District. Architect shall have the authority to act on behalf of District only to the extent expressly provided in the Construction Documents. Architect shall have authority to stop work whenever such stoppage may be necessary in Architect's reasonable opinion to insure the proper execution of the Construction Documents.

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Section 2. Architect shall be, in the first instance, the judge of the performance of the work. Architect shall exercise authority under the Construction Documents to enforce Contractor's faithful performance. Architect shall ensure that the quality of the finished work is in accordance with the Construction Documents.

Section 3. Architect shall have all authority and responsibility established by law, including Title 24 of the California Code of Regulations. Architect has the authority to enforce compliance with the Construction Documents and Contractor shall promptly comply with instructions from Architect or an authorized representative of Architect.

Section 4. On all questions related to the quantities, the acceptability of material, equipment or workmanship, the execution, progress or sequence of work, the interpretation of plans, specifications or drawings, and the acceptable performance of Contractor, the decision of Architect shall govern and shall be precedent to any payment unless otherwise ordered by the Governing Board. The progress and completion of the work shall not be impaired or delayed by virtue of any question or dispute arising out of or related to the foregoing matters and the instructions of Architect relating thereto.

Section 5. General supervision and direction of the work by Architect shall in no way imply that Architect or his or her representatives have control over, charge of, or are responsible for construction means, methods, techniques, schedules, sequences or procedures, fabrication, procurement, shipment, delivery, receipt, installation, or for safety precautions and programs in connection with the work, since these are solely Contractor's responsibility under the Construction Documents.

Section 6. Architect shall not be responsible for Contractor's, subcontractors', material or equipment suppliers', or any other person's schedules or failure to carry out the work in accordance with the Construction Documents. Architect shall not have control over or charge of acts or omissions of Contractor, subcontractors, their agents or employees, or any other persons or entities performing or supplying portions of the work. Contractor shall not be relieved of obligations to perform the work in accordance with the Construction Documents either by activities or duties of Architect in Architect's administration of the Construction Documents, or by tests, inspections, or approvals required or performed by persons other than Contractor.

ARTICLE XLII
RESPONSIBILITY FOR ADDITIONAL CHARGES INCURRED BY DISTRICT FOR
PROFESSIONAL SERVICES

Section 1. If at any time prior to the completion of the requirements under the Construction Documents, through no fault of its own, District is required to provide or secure additional professional services for any reason by any act of Contractor, Contractor shall be invoiced by District for any costs incurred for any such additional services, which costs shall be deducted from the contract price and progress payments. Such invoicing shall be independent from any other District remedies. If payments then or thereafter due to Contractor are not sufficient to cover such amounts, Contractor shall pay the difference to District. Additional services shall include, but shall not be limited to, the following:

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- (a) Services made necessary by the default of Contractor.
- (b) Services made necessary due to the defects or deficiencies in the work of Contractor.
- (c) Services required by failure of Contractor to perform according to any provision of the Construction Documents.
- (d) Services in connection with evaluating substitutions of products, materials, equipment, subcontractors proposed by Contractor, and making subsequent revisions to drawings, specifications, and providing other documentation required (except for the situation where the specified item is no longer manufactured or available).
- (e) Services for evaluating and processing claims submitted by Contractor in connection with the work outside the established Change Order process.
- (f) Services required by the failure of Contractor to prosecute the work in a timely manner in compliance within the specified time of completion.
- (g) Services in conjunction with the testing, adjusting, balancing and start-up of equipment other than the normal amount customarily associated for the type of work involved.
- (h) Services in conjunction with more than one (1) re-review of required submittals of shop drawings, product data, and samples.

**ARTICLE XLIII
TRENCHES**

Section 1. If required to complete the project, Contractor shall provide adequate sheeting, shoring, and bracing, or equivalent method, for the protection of life and limb in trenches and open excavation which conform to applicable safety standards.

Section 2. If this Project involves the excavation of any trench or trenches five (5) feet or more in depth, Contractor shall, in advance of excavation, submit to District, or to whomever District designates, a detailed plan showing the design or shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If such plan varies from the Shoring System Standards established by the Construction Safety Orders of the Division of Industrial Safety, the plan shall be prepared by a registered civil or structural engineer employed by Contractor, and all costs therefor shall be included in the price named in this agreement for completion of the work as set forth in the Construction Documents. In no case shall such plan be less effective than that required by the Construction Safety Orders. No excavation of such trench or trenches shall be commenced until said plan has been accepted by CAL OSHA and a CAL OSHA permit for such plan delivered to District. (Labor Code sections 6500 and 6705; Health and Safety Code section 17922.5).

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Section 3. Pursuant to Labor Code section 6705, nothing in this Section 12.9 shall impose tort liability upon District or any of its employees.

Section 4. If this Project involves the digging of trenches or excavations that extend deeper than four (4) feet below the surface, the following shall apply:

(a) Contractor shall promptly, and before the following conditions are disturbed, notify District, in writing, of any:

- (i) Material that Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.
- (ii) Subsurface or latent physical conditions at the Site different from those indicated.
- (iii) Unknown physical conditions at the Site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this agreement.

Section 5. District shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in Contractor's cost of, or the time required for, performance of any part of the work shall issue a change order under the procedures described in the Construction Documents.

Section 6. In the event a dispute arises between District and Contractor, whether the conditions materially differ or involve hazardous waste, or cause a decrease or increase in Contractor's cost of, or time required for, performance of any part of the work, Contractor shall not be excused from any scheduled completion date provided for by the Construction Documents, but shall proceed with all the work to be performed under the Construction Documents. Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties. (Public Contract Code section 7104.)

**ARTICLE XLIV
REGIONAL NOTIFICATION CENTER**

Section 1. Except in an emergency, Contractor shall contact the appropriate regional notification center at least two working days prior to commencing any Excavation if the excavation will be conducted in an area or in a private easement which 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 carried out by Contractor unless such an inquiry

**MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT
SECURITY SYSTEMS PROJECT**

identification number has been assigned to the Contractor or any subcontractor of the Contractor and the District has been given the identification number by Contractor.

Section 2. For the purposes of this section 57, "emergency" shall be defined as a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage (Government Code section 4216).

**ARTICLE XLV
STATE AUDIT**

Section 1. Pursuant to and in accordance with the provisions of Government Code Section 8546.7, or any amendments thereto, all books, records and files of District, Contractor, or any subcontractor connected with the performance of this agreement involving the expenditure of public funds in excess of Ten Thousand Dollars (\$10,000.00), including, but not limited to, the costs of administration of this agreement, shall be subject to the examination and audit of the State Auditor at the request of District or as part of any audit of District for a period of three (3) years after final payment is made under this agreement.

**ARTICLE XLVI
DVBE REQUIREMENTS**

Section 1. In accordance with Education Code section 17076.11 the District has a DVBE participation goal of three (3%) per year of the overall dollar amount of state funds allocated to the District. Contractor shall make a good faith effort to contact and utilize DVBE contractors and suppliers in securing bids for performance of the Project. Contractor is encouraged to retain documentation of its good faith efforts in the event such documentation is requested by District. Good faith efforts are demonstrated by evidence of the following: (i) Contact was made with the District regarding the identification of DVBEs; (ii) Contact was made with other state agencies and with local DVBE organizations to identify DVBEs; (iii) Advertising was published in trade papers and papers focusing on DVBEs; (iii) Invitations to bid were submitted to potential DVBE contractors; and (iv) Available DVBEs were considered.

Section 2. Contractor shall certify that a good faith effort was made to include DVBE contractors and suppliers in the Project. Prior to and as a condition for final payment on the Project, Contractor shall provide appropriate documentation to the District so that the District can assess its success at meeting the DVBE participation goal.

**ARTICLE XLVII
CLAIM REQUIREMENTS**

Section 1. Claims in Excess of \$375,000. For all claims in excess of Three Hundred Seventy-Five Thousand Dollars (\$375,000), Contractor shall give written notice of claim to the District Representative within thirty (30) days of the date of the District Representative's estimate of sums due, stating in detail all grounds alleged by Contractor to justify an adjustment

MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT
SECURITY SYSTEMS PROJECT

to the District Representative's estimate. Thereafter, Contractor must comply with the requirements of the California Government Code regarding claims against public entities (Government Code sections 900 and following).

Contractor's notice of claim shall be certified under penalty of perjury and in compliance with the California False Claims Act, as set forth in Section 23.03 hereof. Failure to include these required certifications will constitute grounds for immediate rejection of the claim and shall be deemed a waiver and absolute bar of the claim, including any right to pursue the claim further. Failure to comply with these notices and/or time requirements shall constitute a waiver of the claim and an absolute bar against further pursuing the claim.

Section 2. Claims of \$375,000 or Less. All claims under this agreement of Three Hundred Seventy-Five Thousand Dollars (\$375,000) or less shall be resolved in accordance with Section 20104 et seq. of the Public Contract Code, except that the claim must be submitted no later than thirty (30) days of the date of the District Representative's estimate of sums due. Contractor's claim shall be certified under penalty of perjury and in compliance with the California False Claims Act, as set forth in Section 23.03 hereof. Failure to include these required certifications will constitute grounds for immediate rejection of the claim and shall be deemed a waiver and absolute bar of the claim, including any right to pursue the claim further.

Failure to comply with the time requirements set forth above shall constitute a waiver of the claim and an absolute bar against further pursuing the claim.

Pursuant to Public Contract Code sections 20104-20104.8, in addition to the notice and claim provisions set forth throughout the Contract Documents, the following terms and conditions shall apply.

Section 3. § 20104. Application of article; inclusion of article in plans and specifications.

(a) This article applies to all public works claims of three hundred seventy-five thousand dollars (\$375,000) or less which arise between a contractor and a local agency.

(b) This article shall not apply to any claims resulting from a contract between a contractor and a public agency when the public agency has elected to resolve any disputes pursuant to Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2.

(c) "Public work" has the same meaning as in Sections 3100 and 3106 of the Civil Code, except that "public work" does not include any work or improvement contracted for by the state or the Regents of the University of California.

(d) "Claim" means a separate demand by Contractor for (A) a time extension, (B) payment of money or damages arising from work done by or on behalf of Contractor pursuant to the contract for a public work and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or (C) an amount the payment of which is disputed by the local agency.

MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT
SECURITY SYSTEMS PROJECT

(e) The provisions of this article or a summary thereof shall be set forth in the plans or specifications for any work which may give rise to a claim under this article.

(f) This article applies only to contracts entered into on or after January 1, 1991.

Section 4. § 20104.2. Claims; requirements; tort claims not covered by this article.

(a) For any claim subject to this article, the following requirements apply.

(b) The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims.

(c) For claims of less than fifty thousand dollars (\$50,000), the local agency shall respond in writing to any written claim within forty-five (45) days of receipt of the claim, or may request, in writing, within thirty (30) days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant.

(d) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

(e) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within fifteen (15) days after receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

(f) For claims of over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000), the local agency shall respond in writing to all written claims within sixty (60) days of receipt of the claim, or may request, in writing, within thirty (30) days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant.

(g) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

(h) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within thirty (30) days after receipt of the further documentation, or within a period of time no greater than that taken by the claimant in producing the additional information or requested documentation, whichever is greater.

(i) If the claimant disputes the local agency's written response, or the local agency fails to respond within the time prescribed, the claimant may so notify the local

MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT
SECURITY SYSTEMS PROJECT

agency, in writing, either within fifteen (15) days of receipt of the local agency's response or within fifteen (15) days of the local agency's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the local agency shall schedule a meet and confer conference within thirty (30) days for settlement of the dispute.

(j) Following the meet and confer conference, if the claim or any portion remains in dispute, the claimant may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the claimant submits his or her written claim pursuant to subdivision (a) until the time that claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer process.

(k) This article does not apply to tort claims and nothing in this article is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.

Section 5. § 20104.4 Civil actions; mediation and arbitration; qualifications and expenses of mediators and arbitrators; trial de novo; witnesses.

The following procedures are established for all civil actions filed to resolve claims subject to this article:

(a) Within sixty (60) days, but no earlier than thirty (30) days, following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within fifteen (15) days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to a court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

(b) If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act of 1986 (Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.

(c) Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law, and upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and

MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT
SECURITY SYSTEMS PROJECT

such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.

(d) In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorneys' fees of the other party arising out of trial de novo.

(e) The court may, upon request by any party, order any witnesses to participate in mediation or arbitration process.

Section 6. § 20104.6. Payment by local agency of undisputed portion of claim; interest on arbitration award or judgment.

(a) No local agency shall fail to pay money as to any portion of a claim which is undisputed except as otherwise provided in the contract.

(b) In any suit filed under Section 20104.4, the local agency shall pay interest at the legal rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is filed in a court of law.

Section 7. Claim Certification. The claim certification required by this Section 23.04 shall provide as follows:

CLAIM CERTIFICATION

Under penalty of perjury, and with specific reference to the California False Claims Act, Government Code sections 12650, et seq., I certify that submission of the attached claim is made in good faith; that the supporting data prepared by the undersigned company are accurate and complete to the best of my knowledge and belief; that submission of the claim to District does not violate the False Claims Act; and that I am duly authorized to certify the claim on behalf of the claimant.

Dated: 10/21/14

Company Vanden Bos Electric, Inc.

Print Name Michael Shively

Signature 

Title President



Marysville Joint Unified School District

Memorandum of Understanding (MOU) between Parent and Marysville Joint Unified School District (District)

Reimbursement/Payment of In Lieu Transportation

Date: October 28, 2014

Per the Individualized Education Plan (IEP) held on March 3, 2014 for Zachary Morgan (student) the parent has agreed to transport student to and from school for the remainder of this school year at which time, student will age-out of services.

The District only considers an exception to the regular mileage reimbursement rate set by the IRS and Education Code when both of the following conditions apply:

- The student is medically fragile and requires a high level of care by trained medical professional
- The student's health condition is such that a lengthy bus ride would be detrimental to his/her health such as, a significant loss of oxygen and/or decline in heart rate.

The district agrees to provide mileage reimbursement in the amount of \$65.00 per day of attendance. Student is medically fragile and requires continuous airway monitoring and positioning support to and from school. Student must change positions of his body every 30-45 minutes and airway must be checked and/or suctioned. Parent, therefore is required to provide specialized mounted chair within the vehicle as well as a slant board to shift positions. Vehicle is stopped often several times prior to arrival at school and/or home.

The District is providing an exception to the one-way reimbursement policy as the transportation being provided by this parent is extraordinary in nature and if provided by the school district would require one driver, a licensed/trained medical professional on board, a specialized van equipped with mounted positioning board, suction, and first aid equipment.

Parent is the responsible party for transportation/safety and assumes all liability regarding the transportation of student to and from school.

Home address: 19046 Challenge Cutoff Rd. Forbestown, Ca. 95941
School of attendance: Mesa Vista

Student attendance will be verified monthly by the Student Services Office and parent will be reimbursed according to actual attendance of the child at a rate of: \$65.00 per day.

Reimburse will be processed by the District Business Office on a monthly basis and a will be sent to the address listed above.

By signing below, parties acknowledge full acceptance of the terms above:

Gloria Morgan
Parent Signature

10/17/14
Date

Date of Board Approval: _____

Business Services Approval

Date

Ryan DiGiulio

Assistant Superintendent of Business Services

Business Services Department

Approval: RA

Date: 10/17/14

MJUSD
Personnel Dept.

OCT 15 2014

October 15, 2014

To Whom It May Concern:

RECEIVED

The purpose of this letter is to inform the Marysville Joint Unified School District (MJUSD) that I have accepted a teaching position with another school district and to resign from my position as an SDC Teacher at Ella Elementary School. I appreciate the opportunity provide to me by the MJUSD. My resignation is effective as of today, October 15, 2014.

Best Regards,



Kristal Leach

received
10/15/14 1:21 pm

Leticia M. Collier
1589 Rodeo Way
Olivehurst, California, 95961
530-701-2097
fonseca.letty@gmail.com

MJUSD
Personnel Dept

OCT 06 2014

RECEIVED



October 6th, 2014

Kathy Woods
Director
Marysville Joint Unified School District Child Development
1919 B. Street
Marysville, California, 95901

Dear Mrs. Woods:

I am writing to announce my resignation from Marysville Child Development effective two weeks from this date. My last day will be Friday October 17th.

This was not an easy decision to make. The past three years have been a very rewarding time of personal and professional learning, and growth. I've enjoyed working for you and a team so clearly dedicated to early education.

Thank you for the opportunities for growth that you have provided me.

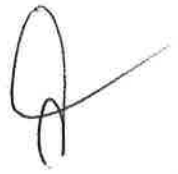
I wish you and the rest of the child development team all the best. If I can be of any help during the transition, please don't hesitate to ask.

Sincerely,



Leticia M. Collier

Ms. Diana Decker
2441 Huston Street
Marysville, CA 95901



October 3, 2014

MJUSD
Personnel Dept

OCT 03 2014

RECEIVED

MJUSD
1919 B Street
Marysville, CA 95901

Dear Mr. Carreon,

This letter is my official notification to you and MJUSD that my last day of work will be Tuesday, December 30, 2014. I plan on retiring at that time. I would like to thank MJUSD for the experience and opportunities given to me during my years of employment.

Please feel free to contact me if you need any additional information. I will contact Personnel soon to finalize the details of my retirement.

Sincerely,



Diana Decker
Principal's Secretary
Marysville High School

cc: Gary Cena

OCT 14 2014

RECEIVED

✓ 10-14-2014

This letter is to Notify
Marysville Joint Unified School
District, that I am resigning from
my Classified Position as
School Bus Driver, as of 10-13-2014.
Due to Ongoing Health Issues.
that keep me from doing my
job

Thank you
Lynda Fleenor
Lynda Fleenor

Home
Phone (530) 673-9636

I Cindy Mendoza

OCT. 2, 14

will resign as of
October 25, 14, As a paraeducator
at Kynoch. I am going back to
College.

Cindy Mendoza

MJUSD
Personnel Dept.

OCT 02 2014

RECEIVED

Diane Riddle
3120 Live Oak Blvd #11
Yuba City, CA 95991

MJUSD
Personnel Dept.
OCT 08 2014
October 7, 2014
RECEIVED

Mr. Ramiro Carreón
Marysville Joint Unified School District
1919 B Street
Marysville, CA 95901

Dear Mr. Carreón:

This letter is my official notification of retirement from Marysville Joint Unified School District; my last day will be Friday, October 10, 2014.

Please feel free to contact me if you need additional information. I will be meeting with Personnel shortly to finalize the details of my retirement.

Sincerely,



Diane Riddle

Valenzuela/CAHSEE Lawsuit Settlement
Quarterly Report on Williams Uniform Complaints
 [Education Code § 35186(d)]
2014-2015

District: MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT

Person completing this form: Ramiro G. Carreón Title: Asst. Supt/Personnel Services

Quarterly Report Submission Date:
 (check one)

- ☒ October 2013-1st quarter-(7/1-9/30/14)
☐ January 2015-2nd quarter (10/1-12/31/14)
☐ April 2015-3rd quarter (1/1-3/31/15)
☐ July 2015-4th quarter (4/1-6/30/15)

Date for information to be reported publicly at governing board meeting: October 28, 2014

Please check the box that applies:

- ☒ No complaints were filed with any school in the district during the quarter indicated above.
- ☐ Complaints were filed with schools in the district during the quarter indicated above. The following chart summarizes the nature and resolution of these complaints.

General Subject Area	Total # of Complaints	# Resolved	# Unresolved
Textbooks and Instructional Materials	0		
Teacher Vacancy or Misassignment	0		
Facilities Conditions	0		
CAHSEE Intensive Instruction and Services	0		
TOTALS	0		

Dr. Gay Todd
 Print Name of District Superintendent

Gay Todd
 Signature of District Superintendent

54

October 15, 2014
 Date



Marysville Joint Union High School District

Facility Support Services

Professional Services Contract Amendment

This amendment will revise the original contract, dated July 22, 2014, extending the authorized time and maximum amount, authorizing Eric Hall & Associates to continue to provide facility support services.

This amendment shall extend the date of the contract from October 22, 2014 to November 21, 2014. This amendment also increases the maximum compensation by \$19,800 for a total of \$79,200.

The scope of services shall remain unchanged. The compensation shall remain at \$1,400 per day.

FOR THE CONSULTANT:

Eric J. Hall
President
October 8, 2014

FOR THE DISTRICT:

Name Ryan DiGiulio

Title Assistant Superintendent of Business Services

Date 10/28/14

55



Professional Services Agreement
Marysville Joint Unified School District

This Agreement for facility services is entered into on July 22, 2014 (the "Effective Date"), by and between the Marysville Joint Unified School District herein referred to as the "District" and Eric Hall & Associates, a California Limited Liability Corporation, referred to as the "Consultant," who agrees to provide services to the District under the terms, conditions and scope of services as described herein.

SCOPE OF SERVICES

Consultant promises and agrees to furnish all labor, materials, tools, equipment, services and incidental and customary work necessary to fully and adequately supply the professional consulting services necessary for the services as more particularly described as the work plan and scope of services in *Exhibit A*, attached hereto and incorporated herein by reference. The Consultant and District agree that the work performed as identified in Attachment A is of a highly specialized nature and that employees in the District are not experienced or qualified to perform the scope tasks and the scope of services as identified in Exhibit A and, and that the work performed qualifies as an independent contractor assignment and is not subject to earnings limitations and the time is not reportable to CalPERS or CalSTRS.

TOBACCO-FREE FACILITY

The District and its facilities are tobacco-free environments. Tobacco use is prohibited at all times on all District properties.

FUND AVAILABILITY

Funding of this Agreement is contingent upon appropriation and availability of funds. Work Performed in advance of final contract approval and execution shall be done at the sole risk of Consultant. The Consultant shall report regularly on work performed and the monthly invoice shall include details on dates worked and tasks performed.

COMPENSATION/COSTS AND PAYMENT SCHEDULE

Consultant shall receive compensation, including reimbursements, for all Services rendered under this Agreement at the rates set forth in *Exhibit B*, attached hereto and incorporated herein by reference. With prior written approval of the District, the Consultant may sub-contract with other firms for specific legal, financial, demographic or other support, as necessary.

CONFIDENTIALITY OF SERVICES OR WORK

All correspondence and dialogue between the parties, as well as documentation prepared by either party in conjunction with services performed under this Agreement shall remain confidential, except to the extent that District may be required to produce certain documents pursuant to applicable law

OWNERSHIP OF DOCUMENTS OR WORK

All documents prepared by Consultant pursuant to the scope of services of this Agreement shall be the property of the District. Consultant may use the content and form of such documents for other work performed by Consultant for other parties, so long as references to the District are omitted, and only with the express written consent of the District.

CONSULTANT & DISTRICT CONTACT PERSONS' NAMES & ADDRESSES

FOR THE CONSULTANT:

Eric J. Hall
President
Eric Hall & Associates
5245 Avenida Encinas, Suite A
Carlsbad, CA 92008
(760) 602-9352
eric@ehanda.com

FOR THE DISTRICT:

Ryan DiGiulio
Assistant Superintendent of Business Services
Maryville Joint Unified School District
1919 B St
Marysville, CA 95901
(530) 749-6115
rdigiulio@mjusd.com

TERMINATION

This Agreement shall commence on the Effective Date, and may be terminated by either party with a thirty (30) day written notice. In the event that the agreement is terminated prior to the completion of the work as identified in Exhibit A, the Consultant shall be compensated for work completed, and accepted by District, on a prorated basis.

INDEPENDENT CONTRACTOR

It is expressly understood that at all times, while rendering the services described herein, and in complying with any terms and conditions of this Agreement, Consultant is acting as an independent contractor and not as an officer, agent, or employee of the District. The Consultant shall not be required to keep specific work hours, equipment or a specific office and shall use independent means and methods for performing the tasks as identified in the scope of services.

HOLD HARMLESS

The Consultant agrees to hold harmless, defend, and to indemnify the District, its officers, agents, and employees against all claims, demands and causes of action by Consultant, employees or third parties on account of personal injuries or death or on account of property damages arising out of the work to be performed by the Consultant as identified in the scope of this agreement and resulting from the negligent act or omissions of Consultant, it's agents, employees or subcontractors.

AUDIT

The Consultant agrees to maintain and preserve, until three (3) years after termination of the Agreement with the District and to permit the State of California or any of its duly authorized representatives, to have access to and to examine and audit any pertinent financial documents, books, papers, and records related to this Agreement.

NON-SOLICITATION.

District agrees that during the term of this Agreement and for a period expiring one (1) year after the date of termination of this Agreement, District will not directly or indirectly solicit, hire or contract with any employees or independent contractors of Consultant for District's own benefit or for the benefit of any other party. This one-year period shall be tolled for any time period that District is in violation of this paragraph. The limitations in this provision can be waived, in writing, by Consultant.

The parties agree that District will be liable to Consultant for liquidated damages for each violation of this paragraph, as follows: District shall pay to Consultant an amount equal to the greater of (a) one hundred percent (100%) of the gross amounts paid to the employee or independent contractor who was involved in the violation of this paragraph during the one year period commencing as of the date the employee or independent contractor first receives payment as a result of District's violation of this paragraph or (b) one hundred percent (100%) of the gross revenues for the one year period preceding the termination of this Agreement.

The parties agree that these measures of damages are reasonable compensation for Consultant's interest and investment in its business, employees, independent contractors and proprietary information. The provisions of this paragraph shall survive the termination of this Agreement.

INSURANCE REQUIREMENTS

The Consultant shall maintain and shall cause each subcontractor to maintain General Liability, Professional Liability, and Property Damage Insurance to protect them and the District from all claims for personal injury, including accidental death, as well as from all claims for property damage arising from the operations under this Agreement. The minimum amounts of such insurance shall be as hereinafter set forth.

Amounts of Insurance:

Commercial General Liability	\$2,000,000 per occurrence
Professional Liability	\$2,000,000 per occurrence
Property Damage Liability	\$2,000,000 per occurrence

Consultant shall provide Certificates of Insurance indicating a thirty-day (30) cancellation notice and naming the District as an additional insured.

GOVERNING LAW/VENUE

In the event of litigation, the Agreement and related matters shall be governed by and construed in accordance with the laws of the State of California. Venue shall be with the appropriate State or Federal court located in Yuba County.

COMPLIANCE WITH LAW

The Consultant shall be subject to, and shall comply with, all Federal, State, and local laws and regulations applicable with respect to its performance under this Agreement including, but not limited to: licensing, employment, purchasing practices, wages, hours, and conditions of employment, including nondiscrimination.

FINAL APPROVAL

This Agreement is of no force or effect until approved by the Board of Trustees of the District and executed by a District official delegated the responsibility by the Board.

ENTIRE AGREEMENT

This Agreement represents the entire Agreement and understandings of the parties hereto and no prior writings, conversations or representations of any nature shall be deemed to vary the provisions hereof. This Agreement may not be amended in any way except by a writing duly executed By both parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be duly executed, such parties acting by their representatives being thereunto duly authorized.

DISTRICT: Marysville Joint Unified SD

CONSULTANT: Eric Hall & Associates

By: Ryan DiGiulio, Assistant Superintendent,
Business Services

By: Eric J. Hall, President


Print Name Ryan DiGiulio



Date 9/15/14

Print Name: Eric J. Hall

Date: _____
Tax Payer Identification # 20 464 1725

**Marysville Joint Unified School District
Facility Support Services
Exhibit A**

Scope of Services and Work Plan

Eric Hall & Associates (EH&A) proposes to provide school facility support services for the Marysville Joint Unified School District (District) on an interim basis to include the scope of services and work plan as identified below.

- ✓ Assist the District with day-to-day Facility services and serve as the District's representative with State agencies for school facility project planning, funding and closeout;
- ✓ Serve as liaison with State agencies and assist the District in obtaining State agency regulatory, California Environmental Quality Act (CEQA) and funding approvals;
- ✓ Attend Board meetings, Bond Oversight Committee Meetings and other meetings as requested, providing updates on Legislative, Budget, Construction and Facility matters;
- ✓ Assist in determining energy efficiency program and projects, coordinating with consultants and engineers and analyzing district facilities to determine eligible Proposition 39 projects and coordinating the necessary submittals and approvals to obtain project approval and funding;
- ✓ Assist in identifying and planning Deferred Maintenance Projects, coordinating with district Maintenance and Operations staff on the bidding and staging of work projects and assisting in calendaring launch completion and close out of projects in a timely and efficient manner;
- ✓ Assist in the facility planning and construction for District facility projects as needed to include attending meetings and preparing reports, coordinating with the contractor, architect, inspector of records and appropriate public agencies regarding the permits, plans, and construction progress;
- ✓ Assist in identifying funding strategies, bridge financing and negotiation to maximize District resources;
- ✓ Assist in processing project close out with certification through the Division of the State Architect;
- ✓ Assist the District in serving as the District representative and liaison with the Office of Public School Construction, State Allocation Board, Department of Education, and other State agencies, complying with information requests, annual reports and certifications and keep the District informed on opportunities to maximize eligibility and funding for school facility projects;
- ✓ Coordinate with the local planning agencies on the approval of school facility improvements, additions and new projects and represent the District with consultants to facilitate the identification of environmental and community impacts, CEQA compliance and projected timelines and calendars for process and approvals;

- ✓ Provide recommendations to the District and serve as the District representative on planning and design of facilities including budget development, identification of scope and programs as well as the selection and oversight of contractors, design professionals, consultants, environmental professionals and inspectors;
- ✓ Assist in strategically planning project designs and schedules and explore and pursue funding and finance methods, and estimated budgets and costs to enhance successful program administration and execution;
- ✓ Synthesize and report to the District pertinent facilities information and provide advice on state agency updates, regulations, legislation, eligibility and school facility trends and funding programs impacting the District;
- ✓ Conduct an organizational study of the Facilities Services functions to include contracting, energy management, fiscal accounting and budgeting, planning, design, construction, closeout and projections of future facilities as well as the communications function and provide a report detailing findings and recommendations regarding staffing, compensation, levels of support and titles and job descriptions for recommended staff including reporting relationships and managerial functions and oversight;
- ✓ Other tasks as assigned by District.

**Marysville Joint Unified School District
Facility Support Services
Exhibit B**

Compensation and Payment Terms

The contract price shall be at the rate \$1,400 per day. When applicable, EH&A shall be reimbursed at a flat rate of \$250 per day for expenses and shall include all expenses of EH&A including travel, mileage meals and any overnight expenses necessary for EH&A, to perform the scope of services and work plan as identified. Time will be calculated and prorated based upon an 8 hour day.

The contract days and amount shall not exceed 12 days or \$19,800 (contract price plus expenses) per any 30 day period. Total compensation shall not exceed \$59,400 (contract price plus expenses) for the contract period. The contract shall commence on July 23, 2014 and shall terminate on October 22, 2014, unless amended and extended by mutual written agreement of the District and EH&A. The contract may be terminated without cause at any time by either party.

EH&A shall submit an itemized invoice monthly to the District. The District shall process and pay invoices within 30 days of receipt. EH&A shall submit monthly invoices detailing the date of work performed, a description of the tasks and days or portions of days worked shall be specified.

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Amendment #3 to Financial Advisory Services Contract Dated July 2, 2014

October 28, 2014

Scope of Work to Review Compliance with Official Statement Disclosure

Background

At the time a school district issues bonds, the district is required to disclose in its Official Statement any instances within the previous five years in which it has not materially complied with continuing disclosure requirements. The Securities and Exchange Commission ("SEC") may file enforcement actions against issuers for inaccurately stating in the Official Statements that they have materially complied with their prior continuing disclosure obligations. In March of this year, the SEC announced its Municipalities Continuing Disclosure Cooperative ("MCDC") Initiative to encourage issuers to self-report material violations of this requirement by 2:00pm PT on December 1, 2014.

The MCDC is being widely discussed within the municipal bond industry, and one crucial topic that is being debated is what the SEC may consider to be a "material," as that is the key determinate in whether to self-report under the MCDC. The National Association of Bond Lawyers published a paper titled "MCDC Initiative – Consideration for Analysis by Issuers of Materiality and Self-Reporting" on August 5, 2014, which summed up the two questions at hand:

"The focus of the [MCDC] is material misstatements with respect to compliance by the issuer with any previous continuing disclosure undertakings. In determining whether there is a material misstatement for purposes of the [MCDC], there are two distinct elements to be considered: (i) if an issuer disclosed in an Official Statement that it had complied in all material respects in the previous five years with its previous continuing disclosure undertakings, or had not fully disclosed the extent of its noncompliance, was there a misstatement, and (ii) if there was, was any such misstatement material within the meaning of the general antifraud provisions of the federal securities law...."

The National Association of Bond Lawyers notes that this analysis regarding materiality for the purposes of the MCDC "is different than the decisions made on a daily basis about disclosure in Official Statements, in which issuers and their counsel almost always avoid reaching conclusions about materiality and err on the side of disclosure." They further note that "issuers and underwriters will have different perspectives, both regarding what may be material and what should be self-reported..."

Services Provided

Before a determination can be made with respect to the materiality of any possible violations, we must (1) determine the relevant Official Statements that must be reviewed, (2) research the reporting requirements of all relevant debt contained within the continuing disclosure certificate of each debt issue, then (3) compare actual filings made to the requirements outlined within the continuing disclosure certificates, then compare these findings to the statements made within the relevant Official Statements regarding disclosure compliance before consulting with the District on next steps. These three stages of research are described in more detail below. To assist us in our due diligence, we will also request the District's help to complete a questionnaire.



Part 1: Official Statements Printed Within Previous Five Years

The MCDC Initiative covers disclosures made in Official Statements prepared in connection with municipal securities issued during the previous five years^a. The District has the following Official Statements that fall within this period:

1. 2012 Certificates of Participation (Official Statement dated June 26, 2012)
2. 2014 General Obligation Refunding Bonds (Official Statement dated October 28, 2014)

This Official Statement discussed the District's disclosure compliance with all of the District's outstanding debt over the previous five years from the date of the Official Statement, including debt that was repaid during the five year time period.

Part 2: Disclosure Requirements

For our starting date, we look back five years back from the earliest Official Statement above, which would be June 26, 2007. The outstanding debt with continuing disclosure obligations between June 26, 2007 and October 28, 2014 (excluding the most recent debt issue) consisted of:

1. General Obligation Bonds, Series 2006
2. 2006 Certificates of Participation
3. General Obligation Bonds, Series 2008
4. General Obligation Bonds, Series 2009
5. 2012 Certificates of Participation

To help the District determine the accuracy of the statements made within the Official Statement listed in Part 1 regarding compliance with continuing disclosure, we will obtain and review the District's continuing disclosure certificates signed in connection with the five Official Statements listed here in Part 2. These continuing disclosure certificates outline the District's continuing disclosure requirements.

Part 3: Actual Disclosure Filings

We will then:

- Research what continuing disclosure filings were made, including the contents of such filings.
 - For filings since the July 1, 2009 (the date of the introduction of the Electronic Municipal Market Access ("EMMA") system), our research will include reviewing our files and the documents on EMMA.
 - For filings prior to July 1, 2009, our research will be initially based on our files and any additional information the District may have, as obtaining filings from the pre-EMMA Nationally Recognized Municipal Securities Information Repository ("NRMSIR") system is very challenging and/or costly.
 - Depending on the results of our research, we can discuss with the District whether NRMSIR research is recommended and, if so, we will provide a separate budget for this work.
- Communicate with other professionals who were involved in the financings referenced in Part 2, as necessary.

^a A five-year statute of limitation applies to the MCDC.

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- Compare the continuing disclosure filings to the continuing disclosure requirements to determine compliance - areas of comparison will include content of filing, timeliness of filing, etc.
- Compare these findings to the statements made within the relevant Official Statements regarding prior continuing disclosure obligations compliance; obtain a copy of any disclosure opinions in connection with each Official Statement.
- Communicate findings to the District and discuss next steps, which may include communication with the SEC and/or participation in the MCDC Initiative. A separate scope of work will be prepared based on the recommended next steps.

Fee & Expenses

For these services, we would work on an hourly basis plus out-of-pocket expenses. Our hourly rate is \$225 (\$112.50 for travel time). The MCDC is a new program which presents a complex decision to parties with potentially differing interests (issuer and underwriter) and our understanding is evolving as we learn more about the perspective of market participants such as the National Association of Bond Lawyers. Therefore, it is not possible to know precisely how much time the work will take. We estimate that a reasonable time budget would be 20 hours (\$4,500). We will strive to work as efficiently as possible and if less time is needed, then the District will benefit. If we are approaching this budget, we will consult with the District to discuss the appropriateness of adjusting the scope of work and/or budget. At all times, the District's satisfaction will be absolutely paramount.

Agreed to by:

Government Financial Strategies inc.

Marysville Joint Unified School District

By:

A handwritten signature in black ink, appearing to read "Lori Raineri", written over a horizontal line.

Lori Raineri
President

By:

Dr. Gay Todd
Superintendent