

# **TEMPLATE AGREEMENT FOR PUBLIC WORK SERVICES UNDER PCC SECTION 20111 BID THRESHOLD**

**FOR USE BY THE**

## **ALVORD UNIFIED SCHOOL DISTRICT**

### **Applicability:**

*This template agreement is intended for use in connection with public work projects that the District anticipates will cost less than \$15,000, which is the current bid threshold amount for competitive bidding pursuant to Section 20111 of the Public Contract Code. This template is not intended for use by the District if it makes itself subject to the California Uniform Public Construction Cost Accounting Act.*

*Consult with Brian W. Smith at AALRR if the District desires to use this template for contracts to be issued on or after January 1, 2021, to determine if changes to this template are required as a result of changes in law, or for other reasons.*

### **User Tips:**

- (i) Clone this template in each case and modify the clone, in order to preserve the original template, instructions, et cetera.*
- (ii) For each clone, delete highlighted text wherever found and, in its place, insert the information described in such highlighted text. When inserting Project name, Contractor, and Effective Date information, that information will automatically be inserted in the rest of the document.*
- (iii) Highlighted text with the option to “choose” has a drop-down menu. To use the drop-down menu, click on the arrow that appears on the right-hand side when the field is selected.*
- (iv) Clicking on non-editable portions of the text, or using the up and down keyboard arrow keys to move within the text, will make the screen jump to the next fillable field, possibly skipping over several pages. This is intended to create efficiencies when creating cloned agreements. However, to avoid jumping, simply scroll through the document (or use the slide bar on the right margin), and click on the fillable fields as they appear.*
- (v) Consult with Brian W. Smith at AALRR if changes to the non-editable portions of the text are desired.*

### **Please Note:**

*The information set forth in any completed Employee Lists (See Attachment C) is confidential and should not be distributed or made public pursuant to any California Public Records Act request or otherwise.*

*Please do not distribute editable versions of this agreement to consultants or others. If the District intends to distribute the agreement electronically, please ensure that the electronic version is a locked PDF or similar format.*

*Discard this cover page before issuing the contract.*

**ALVORD UNIFIED SCHOOL DISTRICT**  
9 KPC Parkway, Corona, CA 92879  
Phone # (951) 509-6110

**AGREEMENT FOR PUBLIC WORKS SERVICES  
UNDER PCC SECTION 20111 BID THRESHOLD**

This Agreement for Public Works Services Under PCC Section 20111 Bid Threshold (“Agreement”) is made effective as of [Click here to choose date of District Board approval](#) (“Effective Date”) by and between the Alvord Unified School District (“District”), a California public school district, and [Click here to enter contractor full business name, i.e., as shown on contractor’s license](#) (“Contractor”). The Contractor is identified in additional detail in Paragraph A of Attachment A to this Agreement. The District and the Contractor may be referred to herein individually as a “Party” and collectively as the “Parties.”

In consideration of the respective rights and obligations of the Parties set forth herein, the Parties hereby agree as follows:

1. This Agreement relates to certain improvements to be constructed as provided herein (“Project”) at the location described in Paragraph B of Attachment A hereto (“Project Site”).
2. The Contractor shall furnish any and all labor, materials, services, transportation, equipment and other things as are necessary for the Contractor to fully and satisfactorily complete, in strict accordance with the Contract Documents (defined in Section 8 of this Agreement), all of the work described in the “Scope of Work” set forth in Paragraph C of Attachment A hereto and elsewhere in the Contract Documents (collectively, the “Work”).
3. At all times during the performance of the Work, the Contractor must have and maintain in effect the contractor’s license(s) issued by the California Contractors State License Board (“CSLB”) and specified in Paragraph D of Attachment A hereto.
4. At all times during the performance of the Work, the Contractor must be and remain in full compliance with the “employee background check” conditions specified in the “District Determination Regarding Employee Background Checks” attached as Attachment B to this Agreement. If so specified in Attachment B, the Contractor must comply with all requirements of Attachment C to this Agreement.
5. The Contractor must commence the Work on the “Commencement Date” specified in Paragraph E of Attachment A hereto, and must fully and satisfactorily complete all of the Work not later than the “Completion Date” specified in Paragraph F of Attachment A hereto. Based on such Commencement Date and such Completion Date, the period of time that the Contractor has to fully and satisfactorily complete the Work is referred to herein as the “Contract Time,” and the Contract Time may be adjusted only by means of duly authorized Change Order (defined in Article 20 of the “General Provisions” set forth as Attachment D to this Agreement).
6. In exchange for the full and satisfactory completion of the Work in strict accordance with the Contract Documents, the District shall pay to the Contractor the amount specified in Paragraph G of Attachment A hereto (“Contract Amount”). In no event shall the initial Contract Amount be \$15,000 or more. The District shall pay the Contract Amount to the Contractor in accordance with Articles 21

through 26, inclusive, of the General provisions within thirty days after acceptance of the Work by the Board of Education of the District (“District Board”).

7. If the Contractor does not fully and adequately complete all of the Work within the Contract Time, the District, as provided in Article 27 of the General Provisions, may assess against the Contractor the “Liquidated Damages Amount” specified in Paragraph H of Attachment A hereto for each day (or portion thereof, if not a full day) of delay in completion of the Work.
  
8. This Agreement includes and incorporates all of the documents as indicated below in this Section (the “Contract Documents”). The Contract Documents are intended to be complementary and form an integrated and binding whole, and the performance of the Work shall be subject to the provisions of the Contract Documents. The Contractor must perform the Work in accordance with and/or otherwise comply with the Contract Documents as provided therein. The Contract Documents include all of the following:
  - (i) This Agreement form;
  - (ii) Attachment A, the “Project Information”;
  - (iii) Attachment B, the “District Determination Regarding Employee Background Checks”;
  - (iv) Attachment C, the “Certification Regarding Employee Background Checks”;
  - (v) Attachment D, the “General Provisions” of this Agreement;
  - (vi) Attachment E, the “Supplementary General Provisions Relating to the COVID-19 Public Health Emergency”;
  - (vii) Attachment F, the “Certification Regarding Workers’ Compensation”; and
  - (viii) Any and all other documents as may be specified in Paragraph I of Attachment A hereto.
  
9. The person who has signed this Agreement on behalf of the Contractor shall be deemed and construed to thereby represent and warrant that: (i) the information specified in Paragraphs A and D of Attachment A hereto is all true and correct; (ii) he or she, acting on behalf of the Contractor, has read and understands the General Provisions and Supplementary General Provisions set forth in Attachments D and E hereto and, to the extent applicable to the Work, the Contractor shall comply with all of such General Provisions and Supplementary General Provisions; and (iii) he or she has been duly authorized by the Contractor to sign, and thereby bind the Contractor to, this Agreement.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as evidenced by the signatures of their respective, duly authorized representatives below.

**Alvord Unified School District**

**Click here to enter contractor full business name, i.e., as shown on contractor’s license**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print name: \_\_\_\_\_

Print name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date signed: \_\_\_\_\_

Date signed: \_\_\_\_\_

**ATTACHMENT A  
PROJECT INFORMATION**

**A. Contractor:**

- (i) Full Legal Name: Click here to enter contractor full business name, i.e., as shown on contractor's license
- (ii) Organized in State of: Click here to enter state in which entity formed, e.g., California, Delaware, *et cetera*
- (iii) Type of Legal Entity: Click here to enter entity type, e.g., individual, corporation, partnership, limited liability company
- (iv) Employer ID No. (if not an individual): Click here to enter FEIN or, if is an individual, enter "N/A"
- (v) Social Security No. (if an individual): MUST BE SEPARATELY ON FILE WITH THE DISTRICT
- (vi) Business Address: Click here to enter street address  
Click here to enter city, state and zip
- (vii) Business Telephone No: Click here to enter telephone number

**B. Project Site:**

Click here to enter school name, address, particular building or grounds, or other information sufficient to accurately describe the Project Site

**C. Scope of Work:**

Click here to enter detailed description of work; can include description set forth in an applicable proposal, but suggest do not include any other information from proposal due to risk of conflicting provisions

**D. Contractor's CSLB License:**

- (i) License Number: Click here to enter CSLB license number
- (ii) Classification(s): Click here to enter each class of license held by Contractor, e.g., A, B, C-46, *et cetera*
- (iii) Expiration Date: Click here to choose CSLB license expiration date

<b>District Verification:</b> Contractor's CSLB License Information Verified By: District Representative: _____ Date Verified: _____
---

**E. Commencement Date:** Click here to choose date Work must commence

**F. Completion Date:** Click here to choose date Work must be fully complete

**G. Contract Amount:** Click here to enter total compensation payable to Contractor

**H. Liquidated Damages Amount:** Click here to enter daily rate of Liquidated Damages for Contractor delays

**I. Additional Contract Documents:**

Click here to enter list of bonds (payment and/or performance) and/or other documents forming part of contract with Contractor that are not described in Section 8 of the Agreement. If none, insert "N/A."

If applicable, insert the following: Attachment G, the “Payment Bond” (Article 5A of the General Provisions is hereby made applicable);

If applicable, insert the following: Attachment H, the “Performance Bond” (Article 5B of the General Provisions is hereby made applicable)

## ATTACHMENT B

### DISTRICT DETERMINATION REGARDING EMPLOYEE BACKGROUND CHECKS

*[Note: choose only one of the following three determination options and delete these highlighted instructions]*

- The District has determined that, with respect to any and all employees (of both the Contractor and, if applicable, its subcontractors) who will be present at the Project Site in connection with this Agreement, fingerprinting and background checks will be required. Therefore, the Contractor must complete, sign, and submit to the District the “Certification Regarding Employee Background Checks” form set forth as Attachment C to this Agreement.
  
- The District has determined that, as provided by Education Code Section 45125.2, the safety of students can be ensured if, at all times during the performance of the Work, the Contractor implements and abides by the safety precautions checked below:
  - Installation of a physical barrier at the Work Site to limit contact with pupils.
  
  - Surveillance by District personnel of all employees (of both the Contractor and, if applicable, its subcontractors) at all times during performance of the Work.
  
  - Continual supervision and monitoring of all employees (of both the Contractor and, if applicable, its subcontractors) by a designated supervisory employee of the Contractor whom the California Department of Justice has ascertained has not been convicted of a violent or serious felony as defined in Education Code Section 45125.2. Such designated supervisory employee may not be changed without the express written consent of the District. As of the Effective Date, the designated supervisory employee is identified as follows:  
Name: \_\_\_\_\_
  
- The District has determined that, in connection with the performance of the Work, employees who will be present at the Project Site in connection with this Agreement (whether employees of the Contractor or, if applicable, its subcontractors) will have only “limited contact” with students at the Project Site and, therefore, that the Contractor is not required to comply with any of the foregoing safety requirements.

**ATTACHMENT C**  
**CERTIFICATION REGARDING EMPLOYEE BACKGROUND CHECKS**

**Note:** *This form to be completed if required pursuant to Attachment B of this Agreement.*

**District:** Alvord Unified School District

**Project:** [Click here to enter Project name/number](#)

**Agreement:** Agreement for Public Work Services Under PCC Section 20111 Bid Threshold dated [Click here to choose date of District Board approval](#)

**Contractor:** [Click here to enter contractor full business name, i.e., as shown on contractor's license](#)

The Contractor identified above shall require that all persons who will at any time be present on or at the Project Site in connection with the performance of the Work (including, without limitation, the employees of the Contractor, subcontractors, suppliers, and delivery companies) submit their fingerprints in a manner authorized by the California Department of Justice ("DOJ") so that the DOJ may conduct a criminal background check consistent with the requirements of Education Code Section 45125.1, in order to determine whether such persons have been convicted of, or have charges pending for, a violent or serious felony as defined in Education Code Section 45122.1. Upon request of the Contractor submitted a reasonably sufficient amount of time in advance, the District may exempt from the foregoing requirement any employee of a particular supplier or delivery company who will be present on or at the Project Site for a relatively short period of time and who will be monitored at all times by supervisorial-level personnel who have passed the DOJ background check.

Except as provided in preceding paragraph and except as to any person to whom an exception set forth in Subsection (f) of Section 45125.1 applies, the Contractor shall not permit any person to perform services pursuant to the Agreement, if those services are to be performed on or at the Project Site, until the DOJ has determined that such person has not been convicted of a violent or serious felony as defined in Education Code Section 45122.1. For purposes of eliminating any doubt, the Contractor is responsible for ensuring compliance with the requirements of this Attachment C with respect to any and all employees of its subcontractors who will be on or at the Project Site in connection with this Agreement.

The Contractor, to the extent provided in Article 10 of the General Provisions, shall indemnify, defend, and hold harmless the District and its agents, officers and employees, and each of them, from and against any and all demands, claims, actions and other proceedings, damages, losses, costs and expenses (including, without limitation, attorneys' fees), and other liabilities of any nature whatsoever that arise from the failure or alleged failure by the Contractor to comply with the requirements of this Attachment C and/or the requirements of Education Code Section 45125.1 hereby made applicable, or that arise from any certification hereby made by the Contractor that is found to be false.

The undersigned hereby certifies, subject to penalty for perjury, that: (i) the undersigned is a duly authorized representative of the Contractor and, in that capacity, has executed this certification on behalf of the Contractor; (ii) the Contractor has fully complied with the requirements of the Agreement for background checks on persons who will perform any services pursuant to the Agreement, if those services will be performed on or at the Project Site; (iii) except as to any person to whom an exception set forth in Subsection (f) of Section 45125.1 applies, none of the persons identified on the Employee List attached to this Certification form have been convicted of a violent or serious felony as defined in Education Code Section 45122.1; and (iv) in connection with the Project, the Contractor shall not suffer or permit any persons other than those shown on such list to enter in or upon the Project Site, or to be in the vicinity of the Project Site.

Representative Name: \_\_\_\_\_

Representative Title: \_\_\_\_\_

Representative Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

***(Attach Employee List to this Certification form.)***

## CERTIFICATION REGARDING EMPLOYEE BACKGROUND CHECKS – EMPLOYEE LIST

**Contractor:** [Click here to enter contractor full business name, i.e., as shown on contractor’s license](#)

**Instructions**

- (1) For each employee, insert all required information (as specified in the table below) in one row of the table.
- (2) In the “Driver License/Identification” column in the table below: (i) specify the number of the employee’s driver’s license or, if the employee does not have a driver’s license, the number of the employee’s state-issued identification; and (ii) specify the state that issued the driver’s license or identification.
- (3) If identifying more than ten employees: (i) use copies of this Employee List to identify the additional employees; and (ii) on each such copy, specify the page number and total number of pages where indicated at the bottom of this Employee List.

	Employer (Company)	Employee Name and Position	Sex	Date of Birth	Height	Weight	Hair Color	Eye Color	Driver License/Identification #
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									

Page \_\_\_\_ of \_\_\_\_

## ATTACHMENT D GENERAL PROVISIONS

### **ARTICLE 1. COMPLIANCE WITH LABOR CODE:**

The Project is a “public works” project as defined in Section 1720 of the California Labor Code (“Labor Code”), and Part 7, Chapter 1, of the Labor Code is applicable to the Work. Therefore, the Contractor must be, and shall be deemed and construed to be, aware of and understand the requirements of Labor Code Sections 1720 *et seq.*, and 1770 *et seq.*, and Title 8 of the California Code of Regulations, Section 16000 *et seq.* (collectively, the “Labor Laws”), which, among other things, require the payment of “prevailing wages” to all workers on public works projects in excess of \$1,000. The Contractor acknowledges that, to the extent provided by Labor Code Section 1771.4, public works projects are subject to compliance monitoring and enforcement by the Department of Industrial Relations (“DIR”). The Contractor, at no additional cost to the District, must comply with any and all applicable Labor Law requirements, including, without limitation, requirements for payment of prevailing wages, maintenance, inspection and submittal of payroll records, notice and posting requirements, *et cetera*. The Contractor must ensure that any and all subcontractors working under the Contractor comply with the Labor Laws and other public works requirements. The Contractor, at no additional cost to the District, must cooperate with the DIR and the District in connection with Labor Law compliance matters. The Contractor shall not permit any contractor or subcontractor that has been debarred in accordance with the Labor Code, including, without limitation, pursuant to Sections 1777.1 or 1777.7, to bid on, perform, or contract to perform any portion of the Work. Wage rates for the Work shall be in accordance with the general prevailing rates of per-diem wages determined by the Director of Industrial Relations pursuant to Labor Code Section 1770. Wage rates must conform to those on file at the District’s principal office and posted at the Project Site. The District will withhold payment to the Contractor as necessary to satisfy civil

wage and penalty assessments issued by the Labor Commissioner. The following Labor Code sections are by this reference incorporated into and are a fully operative part of the Agreement, and the Contractor shall be solely responsible for compliance therewith:

- (i) Section 1735 (Anti-Discrimination Requirements);
- (ii) Section 1775 (Penalty for Prevailing Wage Rate Violations);
- (iii) Section 1776 (Payroll Records);
- (iv) Sections 1777.5 -1777.7 (Apprenticeship Requirements);
- (v) Sections 1810 -1812 (Working Hour Restrictions);
- (vi) Sections 1813 -1814 (Penalty for Failure to Pay Overtime); and
- (vii) Section 1815 (Overtime Pay).

**ARTICLE 2A. DIR REGISTRATION:** Because the Project initially is a public works project of \$15,000 or less, the requirement set forth in Labor Code Section 1725.5 for contractors and subcontractors to be currently registered with the DIR and qualified to perform public work does not apply to the Project. However, in the event any change order or other amendment to the Agreement will result in the Contract Amount increasing to more than \$15,000 if the Project consists of maintenance work (or more than \$25,000 if the Project consists of construction, alteration, demolition, installation, or repair work), and the Contractor or any of its subcontractors is not already so registered with the DIR, then the Contractor and each of its subcontractors, prior to approval of the change order or other amendment, and each at its sole cost and expense, must register with the DIR as required by Section 1725.5. If the Contractor or any of its subcontractors does not so register within such time as will preclude any delay to the Project, the District may terminate this Agreement or, if applicable, may require replacement of any such subcontractor.

**ARTICLE 2B. UNREGISTERED CONTRACTORS:** In addition to its remedies pursuant to Article 2A of these General Provisions, and notwithstanding anything to the contrary, if at any time during the performance of the Work, the Contractor or any of its subcontractors is required to be registered with the DIR pursuant to Labor Code Section 1725.5 (including, without limitation, if the DIR revokes the registration), but is not so registered, the District may cancel the Agreement and/or replace the Contractor or subcontractor with a contractor or subcontractor that is duly registered pursuant to Labor Code Section 1725.5.

**ARTICLE 3A. PAYROLL RECORDS:** The Contractor must comply with all applicable provisions of Labor Code Section 1776, which relates to preparing and maintaining accurate payroll records, and making such payroll records available for review and copying by the District, the DIR's Division of Labor Standards Enforcement and Division of Apprenticeship Standards. The payroll records must be certified, maintained at the principal offices of the Contractor, and made available as required by Labor Code Section 1776. The Contractor must inform the District of the location at which the payroll records are located, including the street address, city and county, and must, within 5 working days, provide a notice of any change of location and address. If the Contractor fails to timely comply with requests for certified payroll records, it shall forfeit, as a penalty to the District, \$100 for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated, and, in addition to penalties as provided by law, may be subject to debarment pursuant to Labor Code Section 1771.1. Timely provision by the Contractor of certified payroll records also shall be a condition precedent to the District's obligation to make any subsequent progress, final, Retention (defined in Article 24 of these General Provisions), or other payments to the Contractor pursuant to the Agreement.

**ARTICLE 3B. SUBMISSION OF PAYROLL RECORDS TO DIR:** As noted in Article 2 of these General Provisions, the Project initially is a public

works project of \$15,000 or less. Therefore, to the extent the exemption in Labor Code Section 1771.4(a)(4) is applicable, the requirement in Labor Code Section 1771.4(a)(3) for submission of payroll records directly to the DIR shall not initially apply to the Work, but the Contractor and each of its subcontractors must retain the records required by Labor Code Section 1776 for a period of at least 3 years after completion of the Work. However, in the event any change order or other amendment to the Agreement results in the Contractor becoming subject to the registration requirements set forth in Labor Code Section 1725.5, the Section 1771.4(a)(3) requirement for submission by the Contractor and each of its subcontractors of payroll records directly to the DIR shall be in effect and shall apply to the Work. If the Contractor desires more information regarding such requirements, the Contractor should review Labor Code Section 1771.4.

**ARTICLE 4. PENALTIES FOR VIOLATIONS OF PREVAILING WAGE LAWS:** In accordance with Section 1775 of the Labor Code, the Contractor shall forfeit, as a penalty to the District, not more than \$200 and, subject to limited exceptions, not less than certain amounts specified by law, for each calendar day, or portion thereof, for each worker paid less than prevailing wage rates as determined by the director of the DIR. The Contractor shall pay to each worker the difference between such stipulated prevailing wage rate and the amount paid to the worker for each calendar day or portion thereof for which the worker was paid less than the applicable prevailing wage rates.

**ARTICLE 5A. PAYMENT BOND:** If Paragraph I of Attachment A to this Agreement makes this Article applicable, then, prior to commencing the Work, the Contractor, at its sole cost and expense, shall provide to the District a material and labor payment bond to ensure satisfaction of any claims of materials suppliers and of mechanics and laborers employed in connection with the Work ("Payment Bond"). The Payment Bond must be in the form set forth in Attachment G to this Agreement. The Payment

Bond must remain in effect until the date that is 6 months after the date the period for filing a stop payment notice pursuant to Public Contract Code Section 9356 expires.

**ARTICLE 5B. PERFORMANCE BOND:** If Paragraph I of Attachment A to this Agreement makes this Article applicable, then, prior to commencing the Work, the Contractor, at its sole cost and expense, shall provide to the District a bond to ensure faithful (including, without limitation, timely) performance by the Contractor of its obligations pursuant to the Contract Documents (“Performance Bond”). The Performance Bond must be in the form set forth in Attachment H to this Agreement. The Performance Bond shall remain in effect for so long as the Contractor has any obligations pursuant to the Contract Documents.

**ARTICLE 5C. BOND REQUIREMENTS:** To the extent Article 5A and/or Article 5B of these General Provisions is applicable, each of the Payment Bond and/or the Performance Bond (each a “Bond”) initially must have a penal sum equal to the Contract Amount. If the Contract Amount is increased in accordance with the Contract Documents, then, within 7 days after such increase, the Contractor must increase the penal sums of each Bond so that it equals the total adjusted Contract Amount. Each Bond must: (i) be issued by a surety that is authorized and admitted to transact business in the State in accordance with Code of Civil Procedure Section 995.120; and (ii) include the notarized signatures of the Contractor and the surety. Prior to submitting a Bond to the District, the Contractor must attach to the Bond: (i) a printout of information from the website of the Department of Insurance confirming that the surety is an admitted surety insurer, printed not more than 10 days prior to submitting the Bond to the District; or (ii) certification by the Assessor-County Clerk-Recorder of the County that the surety is an admitted surety insurer, obtained from the Assessor-County Clerk-Recorder of the County not more than 10 days prior to submitting the Bond to the District. No change in the Work, extension of time for performance

of the Work, or other action permitted pursuant to this Agreement shall be deemed or construed to, in any manner or respect, release the Contractor or any surety that has issued a Bond from its obligations pursuant to the Bond, and each such surety shall be deemed to have waived notice of such changes, extensions and other actions.

**ARTICLE 6. SUBCONTRACTING:** If the Contractor subcontracts any of the Work, the Contractor shall bind each such subcontractor, in writing, to all requirements of this Agreement as are applicable (whether generally or specifically) to the subcontractor’s work. If the Contractor subcontracts any of the Work, the Contractor shall be fully responsible to the District for acts and omissions of each subcontractor and its employees and other representatives. Nothing contained in the Contract Documents shall be deemed or construed to create any contractual relationship between the District and any such subcontractor.

**ARTICLE 7. ASSIGNMENT:** Except to the extent the Contractor subcontracts any of the Work, the Contractor shall not assign or transfer, by operation of law or otherwise, any or all of its rights, burdens, duties, or obligations pursuant to this Agreement without prior written consent of District.

**ARTICLE 8. WORKERS’ COMPENSATION INSURANCE:** At all times prior to completion of the Project, the Contractor shall have in effect workers’ compensation insurance for all its employees performing any of the Work, regardless of whether any portion of the Work occurs at a location other than the Project Site. In addition, the Contractor shall require each subcontractor similarly to provide workers’ compensation insurance for all of its employees. Any class of employee or employees not covered by a subcontractor’s insurance shall be covered by the Contractor’s insurance. Prior to commencing the Work, the Contractor must complete, execute, and submit to the District a copy of the “Certification Regarding Workers’

Compensation” attached as Attachment F to this Agreement.

**ARTICLE 9. PROOF OF INSURANCE:** Contractor must have in effect at all times during the performance of the Work a policy of Commercial General Liability Insurance (including automobile insurance) with limits of not less than \$1,000,000 per occurrence (combined single limit) and \$2,000,000 aggregate. Such general liability must be endorsed to name the District, the District Board and each member thereof, and the District’s other officers, agents, employees and volunteers (collectively, not including the District, the “District Agents”), individually and collectively, as additional insured.

The limits set forth above shall not be construed to relieve the Contractor from liability in excess of such coverage, nor shall they limit the Contractor’s indemnification obligations to District, and they shall not preclude the District from taking such other actions available to District pursuant to the Contract Documents and/or applicable law.

The Contractor must submit to the District such certificates of insurance and endorsements as reasonably evidence that the insurance hereby required is in full force and effect. Neither the Contractor nor any subcontractor shall commence any of the Work until all required insurance certificates have been delivered to and approved by District.

**ARTICLE 10. INDEMNIFICATION:** The District shall not be liable for, and the Contractor shall indemnify, defend and hold-harmless the District, the District agents, and each of them, with respect to, any and all claims, demands, actions and/or other proceedings, judgments, awards, fines, mechanics’ liens or other liens, labor disputes, losses, damages, expenses, charges and costs (including, without limitation, attorneys’ fees and court costs), and other liabilities of any nature whatsoever (each a “Liability”) that arise from the performance of the Work by the Contractor or by others on its

behalf. However, the Contractor shall not be responsible pursuant to this Article to the extent a Liability is attributable to the active negligence, sole negligence, or willful misconduct of the District or any of the District Agents.

**ARTICLE 11. MATERIALS:** Contractor warrants good title to all material, supplies, and equipment installed or incorporated into the Work. Except as otherwise specifically stated in this Agreement, Contractor shall provide and pay for all materials, labor, tools, equipment, water, lights, power, transportation, superintendence, temporary constructions of every nature, and all other services and facilities of every nature whatsoever necessary to execute and complete the Work within the Contract Time. Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of good quality. Materials shall be furnished in sufficient quantities and at such times as to insure uninterrupted performance of the Work. Except to the extent of the active negligence, sole negligence, or willful misconduct of the District or any of the District Agents, the Contractor shall be solely responsible for damage or loss by weather or other causes to materials or other portions of the Work.

**ARTICLE 12. PATENTS, ROYALTIES AND INDEMNITIES:** The Contractor shall indemnify, defend and hold-harmless the District, the District Agents and each of them, as provided in Article 10 of these General Provisions, with respect to any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Work, including its use by the District, unless otherwise specifically stipulated in the Contract Documents.

**ARTICLE 13. WARRANTY:** In addition to any warranties required by other of the Contract Documents, Contractor shall, and hereby does, warranty all Work for a period of one year after date of acceptance of the entirety of the Work by District. The Contractor shall, at its sole cost and expense, repair or replace any and all such

Work (together with any other Work that may thereby be displaced) as is found to be defective in workmanship and/or materials within a one-year period from date of acceptance, ordinary wear and tear, unusual abuse, and neglect excepted. District will give notice of observed defects with reasonable promptness. The Contractor must coordinate the completion of the repairs with the District. This Article shall not be deemed or construed to in any way limit the warranty of any items for which a longer warranty is specified or of any items for which a manufacturer gives a warranty for a longer period. The Contractor shall furnish District all appropriate warranty certificates and/or other documentation upon completion of the Project.

**ARTICLE 14. PROTECTION OF WORK AND**

**PROPERTY:** Except to the extent of the active negligence, sole negligence or willful misconduct of the District or any of the District Agents, the Contractor shall be responsible for any and all damages to property and injury to persons that occur in connection with the performance of the Work. Subject to the foregoing, all Work shall be performed at the Contractor's sole risk. The Contractor shall be responsible for the proper care and protection of all materials delivered and Work performed until completion and final acceptance by the District. As applicable, the Contractor shall adequately protect adjacent property from settlement or loss of lateral support. The Contractor shall take all necessary precautions for safety of all persons and property on and at the Project Site, and shall comply with all applicable safety laws and building codes to prevent accidents or injury to persons and damage to property on, about, or adjacent to the Project Site. The Contractor shall erect and properly maintain at all times, as required by conditions and progress of the Work, all necessary safeguards, signs, barriers, light and watchmen for protection of workers and the public, and shall post danger signs warning against hazards created by such features in the course of construction. The Contractor shall designate a responsible person whose duty shall be the prevention of accidents.

The Contractor shall report the name and position of such person to the District.

**ARTICLE 15. DISTRICT'S RIGHT TO TERMINATE:**

The Contractor shall be in default of its obligations pursuant to this Agreement if the Contractor: (i) refuses or fails to perform the Work or any part thereof with such diligence as will ensure completion of the Work within the Contract Time; (ii) fails to complete the Work within the Contract Time; (iii) is the subject of any bankruptcy proceeding (whether voluntary or involuntary) and such proceeding is not withdrawn or terminated within 60 days of initiation; (iv) makes a general assignment for the benefit of creditors; (v) is the subject of a court-appointed receiver; (vi) persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials to complete the work within the Contract Time; (vii) fails to pay subcontractors or for material or labor within the time required by law; (viii) persistently disregards laws, ordinances, or instructions of District; or (ix) fails (or any subcontractor fails) to comply with any provision of this Agreement. In each case that the Contractor is so in default, the District may, without prejudice to any other right or remedy, serve written notice upon Contractor and surety of its intent to terminate the Contractor's right to perform the Work, specifying in such notice the reasons for termination. Unless, within 10 days after the service of any such notice, the Contractor has cured the default(s) specified in the notice or made arrangements satisfactory to the District for cure of such default(s), the Contractor's right to complete the Work shall automatically terminate. In such event, the District may complete the Work by whatever means the District determines is appropriate, and the Contractor shall not be entitled to any further compensation until the District Board has accepted the entirety of the Work. If any portion of the Contract Amount remains after deducting the costs incurred by the District in completing the Work, the balance shall be paid to the Contractor. If the remaining Contract Amount is not sufficient to fully reimburse the District for the costs it incurs in completing the

Work, the Contractor shall be liable for, and shall pay to the District, all of such unreimbursed costs.

**ARTICLE 16. CLEAN UP:** The Contractor at all times shall remove and keep premises free of debris, waste, rubbish, and excess materials and equipment attributable to the performance of the Work (“Debris”). As a condition to final acceptance of the Work, the Contractor must, as applicable: (i) clean the Project Site; (ii) clean the interior and exterior of each affected building or portion thereof (including fixtures, equipment, walls, floors, ceilings, roofs, window sills and ledges, horizontal projections and any areas where Debris has collected); (iii) ensure that surfaces are free from foreign material or discoloration; (iv) clean and polish all glass, plumbing fixtures and finish hardware and similar finish surfaces and equipment; and (v) remove from the Project Site any and all temporary fencing, barricades, planking, portable toilets, and other temporary facilities.

**ARTICLE 17. PROVISIONS REQUIRED BY LAW:** Each and every provision required by law to be set forth in this Agreement shall be deemed to have been set forth herein, and this Agreement shall be read and enforced as though all such provisions are set forth herein. If, for any reason, any provision required by law is not set forth herein, or is not correctly set forth herein, then, upon request of either Party, the Parties shall amend this Agreement to the extent necessary to set forth, or correctly set forth, such provision.

**ARTICLE 18. EXCAVATION DEEPER THAN FOUR FEET:** In accordance with Public Contract Code Section 7104, if the Work involves digging trenches or other excavations that extend deeper than four feet below the surface, the Contractor shall promptly, and before the following conditions are disturbed, provide written notice to the District of any: (i) material that the Contractor believes may be 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 Project Site differing from those indicated by information about the Project Site made available to the Contractor prior to when the Contractor submitted its proposal for the Work; or (iii) unknown physical conditions at the Project 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. The District shall promptly investigate any such reported condition and, if warranted, shall issue a Change Order to the Contractor for any extra work or cost not covered by this Agreement. In the event of any dispute between the District and the Contractor related to any such condition, the Contractor shall continue with the Work and shall not be excused from completing the Work within the Contract Time; however, the Contractor shall retain any and all rights provided either by law or this Agreement that pertain to the resolution of disputes and protests between the Parties.

**ARTICLE 19. MAIN OR TRUNKLINE UTILITY FACILITIES:** As between the Parties, the District shall assume the responsibility for the timely removal, relocation, or protection of existing main or trunkline utility facilities on the Project Site that otherwise would interfere with performance of the Work, if such utilities are not identified in the Contract Documents or otherwise by the District. The Contractor shall not be assessed for liquidated damages for delay in completion of the Work, when such delay was caused by the failure of the District to provide for removal or relocation of the existing main or trunkline utility facilities. In accordance with Government Code Section 4215, if the Contractor, while performing the Work, discovers any existing main or trunkline utility facilities not identified by the District in the Contract Documents, the Contractor shall immediately provide written notice to the District. The District shall compensate the Contractor for the costs of locating, repairing damage not due to the failure of the Contractor to exercise reasonable care, and removing or

relocating such utility facilities not identified in the Contract Documents or otherwise by the District with reasonable accuracy, and for equipment on the Work necessarily idled during such work.

**ARTICLE 20. CHANGE ORDERS:** Subject to Public Contract Code Section 20118.4, and without invalidating this Agreement, the District may order, in writing, any extra work or changes to the Work or this Agreement (each a “Change Order”). Each such Change Order shall specify any adjustments to the Contract Amount and/or the Contract Time attributable to the Change Order. All such Change Order work shall be performed in accordance with the requirements of this Agreement. Notwithstanding anything to the contrary, the District shall have the right, without issuing a formal Change Order, to order minor changes in the Work that do not involve any change in the Contractor’s cost of performing the Work and that are not inconsistent with the purposes and/or approvals for the Work. Otherwise, except in an emergency endangering life or property, the Contractor shall not perform any extra work or make any change in the Work unless pursuant to an executed Change Order, and no claim for an addition to the Contract Amount shall be valid unless specified in an executed Change Order.

**ARTICLE 21. INVOICING OF PAYMENT IF CONTRACT TIME IS LESS THAN 45 DAYS:** If the initial Contract Time is less than 45 days, the District shall pay the full amount payable to the Contractor in a single lump-sum payment (i.e., without progress payments). In such event, the Contractor shall submit to the District a single invoice requesting full and final payment only after the Contractor has fully completed, and the District Board has accepted, the Work. As a condition precedent to the District’s obligation to pay such amount to the Contractor, the Contractor must submit with its invoice an executed copy of a “Conditional Waiver and Release on Final Payment” in the form specified in Civil Code Section 8136, which shall be applicable to the full payment for the Work.

**ARTICLE 22. SCHEDULE OF VALUES IF CONTRACT TIME IS 45 DAYS OR MORE:** If the initial Contract Time is 45 days or more, then, prior to commencing the Work, the Contractor must submit to the District a proposed schedule of the values allocated to the various portions of the Work (“Schedule of Values”), which must, among other things: (i) list the true actual cost (in dollars) of each separate activity and item included within the Work for which payment will be requested; (ii) specify the dollar amounts of overhead, profit, “general conditions” costs, and similar cost-items allocated to each activity and item included in the Work; (iii) specify individual dollar amounts for “large dollar” purchases, including, without limitation, systems, equipment, materials and/or other things to be incorporated into the Work; and (iv) specify the projected total dollar amounts payable to the Contractor each month during the course of the Work. The Contractor must not “front-load” the Schedule of Values by allocating increased or otherwise false dollar amounts to activities and/or items required to be performed in the early stages of the Work. Concurrently with approval of any Change Order that affects the Contract Amount, the Contractor must submit to the District an adjusted Schedule of Values that accommodates the authorized changes in the Work. The initial and each adjusted Schedule of Values is subject to reasonable approval by the District; therefore, the Contractor must modify any Schedule of Values as reasonably requested by the District, and the District shall not be required to make any payment to the Contractor unless and until the Contractor has obtained approval of the Schedule of Values.

**ARTICLE 23. INVOICING OF PAYMENTS IF CONTRACT TIME IS 45 DAYS OR MORE:** If the initial Contract Time is 45 days or more, then, after approval of the Schedule of Values, and on or before the 7<sup>th</sup> day of each month during the Contract Time, the Contractor must submit invoices to the District for payment of the portion of the Work that was completed during (or, if not previously compensated, prior to) the immediately preceding month, and the amounts requested in each such invoice must be

consistent with the approved Schedule of Values. With each such invoice, the Contractor must submit to the District: (i) an executed copy of the “Conditional Waiver and Release on Progress Payment” in the form specified in Civil Code Section 8132, which shall be applicable to the amount specified in the invoice; and (ii) an executed copy of an “Unconditional Waiver and Release on Progress Payment” in the form specified in Civil Code Section 8134, which shall be applicable to all amounts, if any, previously paid to the Contractor as to which the Contractor has not already submitted an executed Unconditional Waiver and Release on Progress Payment.

**ARTICLE 24. RETENTION:** If the initial Contract Time is 45 days or more, then, in addition to any amounts withheld from any progress payments in accordance with the Agreement and/or applicable law, the District shall withhold from each such progress payment an amount equal to 5% of the total payment amount specified in the associated payment request as security for adequate performance of the Work (“Retention”). Notwithstanding the foregoing, after the Work is at least 50% complete, if the District Board determines that the Work is satisfactorily progressing, the District Board, in its sole discretion, may pay some or all of the remaining progress payments in full to the Contractor. The District shall not be required to pay any interest on any Retention withheld pursuant to this Article. Upon request and at the sole cost and expense of the Contractor, the District will permit substitution of securities in lieu of the District withholding Retention, as provided in Public Contract Code Section 22300. Subject to any restrictions in Public Contract Code Section 22300, the District shall have the right to direct or approve any or all such securities.

**ARTICLE 25. FINAL PAYMENT:** If the initial Contract Time is 45 days or more, the Contractor shall submit to the District an invoice for final payment for the Work only after the Contractor has fully completed, and the District Board has accepted, the Work. With such invoice, and as a

condition precedent to the District’s obligation to make the final payment to the Contractor, the Contractor must submit to the District an executed copy of the “Conditional Waiver and Release on Final Payment” in the form specified in Civil Code Section 8136, which shall be applicable to the total amount of the final payment. The District shall release to the Contractor, with the final payment for the Work, the Retention withheld pursuant to these General Provisions, less any amounts the District deems necessary to withhold as provided by the Agreement or applicable law, not sooner than 35 days after a Notice of Completion for the Work is recorded, but not later than 60 days after the first to occur of: (i) the District records a Notice of Completion for the Work; or (ii) “completion” of the Work is deemed to have occurred in accordance with Public Contract Code Section 7107. If some or all of any Retention is held in the form of securities, the District shall release such securities in accordance with the foregoing. In no event shall the release of Retention to the Contractor constitute a waiver or release by the District of its rights pursuant to the Agreement relating to any Work that was not performed in strict accordance with the Contract Documents.

**ARTICLE 26. PAYMENT PROCEDURES:** The District shall review each invoice requesting payment for some or all of the Work and, as soon as practicable, but not later than 7 days after receipt of the request, shall: (i) determine that the request is correct in all aspects and should be paid by the District; (ii) reject the request as not proper, stating the reason(s) why rejection is appropriate; or (iii) require that the Contractor provide additional information that the District reasonably determines is necessary to verify the requested payment amount. In the event the District rejects the request for payment, the Contractor may resubmit the request with additional or new information establishing why payment should be made despite the reason(s) set forth in the District’s initial rejection. The District shall pay the undisputed amount of the Contractor’s request for payment, less any amounts that may be withheld or retained pursuant to this Agreement

or applicable law, within 30 days of receipt of such request and in accordance with Public Contract Code Section 20104.50. If the District has requested additional information in support of the payment request, the time for payment pursuant shall be extended by the number of days required for the Contractor to provide the requested information but reduced by the number of days the District by which it exceeded the 7-day period described above in this Article. The District shall pay interest, at the rate set forth in Code of Civil Procedure Section 685.010(a), on any amount not paid within the time required by Public Contract Code Section 20104.50 and this Agreement, provided that such amount is not subject to dispute or a request for additional information.

**ARTICLE 27. LIQUIDATED DAMAGES:** Time is of the essence with respect to this Agreement and completion of the Work. The Parties acknowledge and agree that the District will suffer damages if the Contractor does not complete the Work within the Contract Time. Because it is impractical and infeasible to determine the actual amount of damages the District will incur, in accordance with Government Code Section 53069.85, the Contractor shall pay to the District liquidated damages at the rate specified in Paragraph H of Attachment A for each and every calendar day (or portion thereof, if not a full day) that any of the Work remains uncompleted after the Contract Time has expired (“Liquidated Damages”). Liquidated Damages shall constitute compensation to the District for Contractor’s delay or delay caused by its subcontractors, suppliers, *et cetera*, in completion of the Work and shall not be construed as a penalty or forfeiture of any other right or remedy under this Agreement or applicable law. In the event Contractor fails to pay any such Liquidated Damages, the District may deduct such amount(s) from any payments due (or that may become due) to Contractor pursuant to this Agreement and/or may be invoiced to the Contractor. Nothing in this Section shall be deemed or construed to preclude the District from recovering other or additional damages, as

provided by this Agreement or applicable law, as may be attributable to any breach or default by the Contractor of its obligations pursuant to this Agreement.

**ARTICLE 28. RESOLUTION OF CLAIMS:** The provisions of Public Contract Code Section 9204, and, to the extent applicable, Public Contract Code Section 20104 *et seq.* (collectively, the “Dispute Resolution Provisions”) shall apply to Contractor claims arising from the Work (each a “Claim”). The Dispute Resolution Provisions are incorporated herein by this reference. The Dispute Resolution Provisions require that any such Claim be in writing, served by registered or certified mail with return receipt requested, and supported by reasonable documentation of the basis for the Claim. To the extent provided in Public Contract Code Section 9204, the Contractor may file Claims on behalf of its subcontractors of any tier. The Contractor must file any and all Claims prior to submitting to the District an invoice for final payment for the Work. The District shall respond in writing to each Claim in writing within 45 days following receipt of the Claim and shall pay any undisputed portion of the Claim as required pursuant to the Dispute Resolution Provisions. If the Contractor disputes the District’s response to a Claim, or the District does not timely respond to a Claim, the Contractor may submit to the District a written demand to meet and informally confer regarding settlement of the Claim. In such event, the District shall schedule such meeting to occur within 30 days following receipt by the District of the written demand. If, following such meeting, any portion of the Claim remains in dispute, the Parties shall submit the Claim to non-binding mediation as required by the Dispute Resolution Provisions. If a Claim for \$375,000 or less remains in dispute following such mediation, and a civil action is commenced to resolve the Claim, judicial arbitration shall be required pursuant to Public Contract Code Section 20104.4. The Contractor should review Public Contract Code Sections 9204 and 20104 *et seq.* if the Contractor desires additional details regarding the Dispute Resolution Provisions.

**ARTICLE 29. PROHIBITION AGAINST DRUGS, TOBACCO AND ALCOHOL:** District policies prohibit the presence and/or use of non-prescription drugs, tobacco products, and alcohol on all District properties, including, without limitation, the Project Site. The Contractor must inform all persons who will be on or at the Project Site in connection with the Work, in writing, of such prohibition, and the Contractor must stop and prevent recurrence of any use or abuse of drugs, tobacco and alcohol on or at the Project Site that occurs. If any person on or at the Project Site in connection with the Work fails to comply with the District policies described in this Article, the Contractor shall be in default of its obligations pursuant to this Agreement for purposes of Article 15 of these General Provisions.

**ARTICLE 30. PROHIBITION AGAINST LEAD-BASED MATERIALS:** In accordance with the Lead-Safe Schools Protection Act (Education Code Section 32240 *et seq.*), the Contractor shall not use for purposes of the Work, or incorporate into the Work, any lead-based paint, lead plumbing or solders, or other materials, equipment or other things that, in whole or in part, consist of lead and, therefore, may be a potential source of lead contamination.

**ARTICLE 31. PROHIBITION AGAINST ASBESTOS:** The Contractor hereby acknowledges that, if the Work involves any repair, modification, rehabilitation, reconstruction, demolition, removal or other work on or involving any existing structures, utilities or other improvements, then asbestos or asbestos-containing materials likely will be present on or at the Project Site. The Contractor shall be deemed and construed for all purposes of the Agreement to have undertaken the Work with full knowledge of the currently accepted standards, hazards, risks and liabilities associated with asbestos and asbestos-containing materials. The Contractor shall be solely responsible and liable for safely and appropriately performing any Work that may require demolition or removal, may uncover, reveal or otherwise expose, or may otherwise

involve or relate to, asbestos or asbestos-containing materials. Notwithstanding anything to the contrary, in no circumstances may the Contractor use or incorporate into the Work any asbestos or asbestos-containing materials, or use or employ in connection with the Work any equipment, tools, clothing or other things that contain or incorporate asbestos or asbestos-containing materials. For purposes of the Agreement: (i) "asbestos" means any naturally occurring fibrous hydrated mineral silicate, including, without limitation, chrysotile, crocidolite, amosite, fibrous tremolite, fibrous anthophyllite, and fibrous actinolite; and (ii) "asbestos-containing materials" means materials or products formed by mixing asbestos fibers with other materials, such as cement, rock wool, plaster, cellulose, clay, vermiculite, perlite, adhesive, *et cetera*. If the Contractor violates the foregoing prohibition against asbestos and asbestos-containing materials, or otherwise is responsible for asbestos contamination on, at or in the vicinity of the Project Site, the Contractor shall be solely responsible and liable for any and all damages, costs and/or delays incurred by the District associated with such asbestos and/or asbestos-containing materials, including, without limitation, costs incurred by the District for additional administrative, consultant, and contractor services.

**ARTICLE 32. COMPLIANCE WITH APPLICABLE LAWS:** In connection with the performance of the Work, the Contractor shall comply with all laws, codes, regulations, ordinances, and other governmental requirements applicable to the Work, including, without limitation, requirements for giving notice to the applicable Regional Notification Center as provided in Government Code Section 4216 *et seq.*

**ARTICLE 33. PROJECT-RELATED RECORDS:** The Contractor shall maintain all documents, books, papers, accounting records, computer files, and other information related to the Project and to the performance of the Work ("Project Records"), including, but not limited to, Change Orders, submittals, requests for information, daily reports, correspondence, permits,

insurance policies, certificates of insurance, testing and inspection reports, and safety records. The Contractor shall keep such accurate and comprehensive Project Records as are (i) necessary for proper administration and performance of the Work and (ii) required by law or this Agreement. All Project Records, as applicable, shall be maintained in accordance with generally accepted accounting principles. If the Contract Amount, as adjusted pursuant to this Agreement, exceeds \$10,000, then, in accordance with Government Code Section 8546.7, the State has the right to examine, review, audit and/or copy the Project Records during the three-year period following final payment to the Contractor pursuant to the Agreement. In addition, the District hereby has the right to examine, review, audit and/or copy the Project Records during the four-year period following final payment to the Contractor pursuant to the Agreement. Therefore, the Contractor shall make the Project Records available at its offices at all reasonable times during the performance of the Work and for four years from the District Board accepts the Work. However, if any audit is commenced within such four-year period, the Contractor shall make the Project Records available at all reasonable times until proceedings related to such audit are complete and all statutes of limitation related thereto have expired. In the event the District notifies the Contractor that federal funds have been used in connection with the Project, the Contractor shall retain and make available the Project Records for such longer period as may be required by federal law.

**ATTACHMENT E**  
**SUPPLEMENTARY GENERAL PROVISIONS**  
**RELATING TO THE COVID-19 PUBLIC HEALTH EMERGENCY**

***Section 1. Applicability of, and Compliance with, COVID-19 Orders.***

***Subsection 1.1 Acknowledgement of Applicability.*** The Contractor acknowledges that: (i) the District has determined that the Work is essential to facilitate the District's purposes and must, therefore, be undertaken and completed as an essential governmental function; (ii) the Work is being undertaken at a time when a public health emergency exists with respect to the virus that causes COVID-19, and it is presently uncertain when this public health emergency will end; (iii) state and local governmental public health and other officials ("Public Officials") have issued mandatory guidance and orders establishing safety and other requirements relating to COVID-19 ("COVID-19 Orders") that may be applicable to the Work; and (iv) the possibility exists that, during the course of the Work, Public Officials may modify and/or issue additional COVID-19 Orders applicable to the Work. Without limiting the foregoing, Public Officials may include, among others, city and/or county public health officials, city and/or county building department officials, and state and/or federal Occupational Safety and Health Administration officials.

***Subsection 1.2 Required Compliance.*** The Contractor acknowledges and agrees that: (i) the Contractor shall be solely responsible for full and satisfactory compliance with all applicable COVID-19 Orders, with respect to any and all employees, workers, delivery personnel, and others who are present on or at the Work Site in connection with the performance of the Work, including, without limitation, the employees of any subcontractors performing any of the Work; (ii) the Contractor shall comply with any and all other COVID-19-related policies and directives applicable to the Work and/or the Work Site, as implemented by the District or any project manager, construction manager, supervisor, or other authorized person; and (iii) the compensation specified in the Agreement shall be deemed to include adequate compensation for compliance with any and all such COVID-19 Orders, policies, and directives.

***Section 2. COVID-19 Interruptions and Delays.***

***Subsection 2.1 Nonperformance Excused.*** Notwithstanding anything to the contrary, whether in the Agreement or otherwise, neither Party shall be responsible or liable if it is delayed in performing, or fails to perform, any one or more of its obligations pursuant to the Agreement, nor shall any such delay or failure constitute an event of default, if and to the extent such delay or failure was caused by an event, occurrence, incident, or situation that: (i) reasonably is beyond the control of the nonperforming Party; (ii) was not caused in whole or in part by any negligence or willful misconduct of the nonperforming Party or any of its officers, employees, contractors, or subcontractors; and (iii) is a consequence of the need to comply with any COVID-19 Order that takes effect and/or is implemented during the performance of the Work (each a "Force Majeure Event"). Without limiting the foregoing, the consequences of a Force Majeure Event may include, among others: (i) mandated diversion of resources away from the Work; (ii) mandated cessation of some or all of the Work; and (iii) mandated social distancing and/or other requirements beyond those in effect as of the Effective Date.

***Subsection 2.2 Required Procedures.*** In each case that a Party cannot fully and/or timely perform as a result of a Force Majeure Event as defined above: (i) the nonperforming Party must promptly give to the other Party written notice that describes in reasonable detail the particulars of such Force Majeure Event; (ii) the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required to accommodate the Force Majeure Event; (iii) the nonperforming

Party shall proceed with reasonable diligence to remedy its inability to perform and shall provide reasonable periodic progress reports to the other Party describing actions taken, if any, to mitigate the effects of the Force Majeure Event; and (iv) the nonperforming Party shall resume its performance as soon as reasonably possible, and shall give written notice, to the other Party, of its intent and the date it will resume performance.

**Subsection 2.3 Extension of Time.** In the event a Party is unable to fully or timely perform its obligations as a result of a Force Majeure Event as defined above, then: (i) except as the District and the Contractor may agree in writing, the Agreement shall continue in full force and effect unless terminated in accordance with its provisions; and (ii) as an exclusive remedy and subject to compliance with the other provisions in this Section 2, the time for performance of those obligations by the nonperforming Party (and any related obligations of the other Party) shall be extended by a reasonable number of days, but in no event by more than the number of days the Force Majeure Event precluded performance by the nonperforming Party of its obligations.

**ATTACHMENT F  
CERTIFICATION REGARDING WORKERS' COMPENSATION**

**District:** Alvord Unified School District

**Project:** [Click here to enter Project Name/Number](#)

**Contractor:** [Click here to enter contractor full business name, i.e., as shown on contractor's license](#)

Labor Code Section 3700 provides, in relevant part, that:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
  
- (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer, or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

The undersigned hereby certifies, subject to penalty for perjury, that: (i) I am a duly authorized representative of the Contractor and, in that capacity, have executed this certification on behalf of the Contractor; (ii) I am aware of the provisions of Labor Code Section 3700, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and the Contractor shall comply with such provisions before commencing the performance of the work required by the Agreement for the above-referenced Project; and (iii) the Contractor will maintain such insurance in place at all times prior to full and final completion of the Work.

Representative Name: \_\_\_\_\_

Representative Title: \_\_\_\_\_

Representative Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

**ATTACHMENT G  
PAYMENT BOND**

**School District:** Alvord Unified School District of Riverside County, California

**Project Name:** [Click here to enter Project name/number](#)

**Contract:** Agreement for Public Work Services Under PCC Section 20111 Bid Threshold dated [Click here to choose date of District Board approval](#)

**Contractor:** [Click here to enter contractor full business name, i.e., as shown on contractor's license](#)

**Surety:** \_\_\_\_\_

**Bond #:** \_\_\_\_\_

**Penal Sum:** \_\_\_\_\_

**WHEREAS**, the Project identified above is a public project and a public work in accordance with applicable law, and the School District identified above awarded to the Contractor identified above (herein, the "Principal") a contract providing for completion of the Project ("Contract"); and

**WHEREAS**, the Contract and/or California Civil Code Section 9550 *et seq.* require that the Principal furnish a labor and materials payment bond to the School District that ensures the faithful performance of the Principal's obligations pursuant to the Contract to pay for materials, labor and other things as required by applicable law, which bond must have a penal sum equal to one hundred percent of the total amount payable by the School District to the Principal pursuant to the Contract; and

**WHEREAS**, the Surety identified above hereby represents to the School District that the Surety is an "admitted surety insurer" in accordance with Section 995.120 of the California Code of Civil Procedure;

**NOW, THEREFORE**, we, the Principal and Surety, are hereby held and firmly bound to the School District in an amount of lawful money of the United States of America equal to the Penal Sum specified above, the payment of which well and truly to be made, we hereby bind, jointly and severally, ourselves and our heirs, executors, administrators and successors.

The condition of this obligation is that, if the Principal, or any of its heirs, executors, administrators, successors or assigns, or any of its subcontractors, fail in connection with the Project to pay as and when required (1) any of the persons authorized by California Civil Code Section 9100 to assert a claim against the Payment Bond, (2) amounts due under the Unemployment Insurance Code with respect to work or labor performed pursuant to the Contract, or (3) any amounts required to be deducted, withheld, and paid over to the Employment Development Department from wages of employees of the Principal or any of its subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, then the Surety shall pay, in full, any and all claims for such amounts, in a total amount not in excess of the Penal Sum, and also, in case suit is brought upon this Payment Bond, such reasonable attorneys' fees as fixed by the court.

This Payment Bond shall inure to the benefit of any and all of the persons named in California Civil Code Section 9100, so as to give a right of action to those persons or their assigns in any suit brought upon this Payment Bond.

The Surety hereby stipulates and agrees that this Payment Bond shall not be exonerated and the Surety shall not be released from its obligations pursuant to this Payment Bond on account of: (1) any extension of time, change, amendment or other modification of the Contract or other Project documents, or of the Principal's rights and/or obligations pursuant thereto, and Surety hereby waives notice of any and all such modifications; (2) any rescission or attempted rescission of the Contract or this Payment Bond; (3) any fraud of any person or entity other than fraud of a claimant in making a claim on this Payment Bond; or (4) any breach of any contract by the School District, the Principal or any person or entity for whose benefit Surety has issued this Payment Bond. The Surety further stipulates and agrees that this Payment Bond shall be construed most strongly against the Surety and in favor of the persons and entities for whose benefit Surety has issued this Payment Bond.

The Surety shall not be deemed to have fully and appropriately executed this Payment Bond unless Surety has provided all of the following information:

**SURETY'S SOUTHERN CALIFORNIA/LOCAL REPRESENTATIVE**

**SURETY'S REPRESENTATIVE FOR FILING CLAIMS**

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Representative Name

\_\_\_\_\_  
Representative Name

\_\_\_\_\_  
Representative Telephone Number

\_\_\_\_\_  
Representative Telephone Number

***(The remainder of this page intentionally left blank.)***

Each person that signs this Payment Bond on behalf of the Principal or the Surety thereby represents and warrants that the party he or she represents has duly authorized him or her to sign, and thereby bind such party to, this Payment Bond.

**IN WITNESS WHEREOF**, the Principal and Surety have executed this Payment Bond as evidenced by the signatures below of their respective, duly authorized representatives.

**PRINCIPAL**

**SURETY**

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Representative Signature

\_\_\_\_\_  
Representative Signature

\_\_\_\_\_  
Representative Name

\_\_\_\_\_  
Representative Name

\_\_\_\_\_  
Representative Title

\_\_\_\_\_  
Representative Title

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Date Signed

**Principal: Attach Notary acknowledgment to this Payment Bond and, if applicable, imprint corporate seal in the space below this line.**

**Surety: Attach Notary acknowledgment and power of attorney to this Payment Bond and imprint corporate seal in the space below this line.**

**ATTACHMENT H  
PERFORMANCE BOND**

**School District:** Alvord Unified School District of Riverside County, California

**Project Name:** [Click here to enter Project Name/Number](#)

**Contract:** Agreement for Public Work Services Under PCC Section 20111 Bid Threshold dated [Click here to choose date of District Board approval](#)

**Contractor:** [Click here to enter contractor full business name, i.e., as shown on contractor's license](#)

**Surety:** \_\_\_\_\_

**Bond #:** \_\_\_\_\_

**Penal Sum:** \_\_\_\_\_

**WHEREAS**, the Project identified above is a public project and a public work in accordance with applicable law, and the School District identified above awarded to the Contractor identified above (herein, the "Principal") a contract providing for completion of the Project ("Contract"); and

**WHEREAS**, the Contract requires that the Principal furnish a bond to the School District that ensures the faithful performance of the Principal's obligations pursuant to the Contract to fully and satisfactorily perform the work and services required by the Contract (collectively, the "Work"), which bond must have a penal sum equal to one hundred percent of the total amount payable by the School District to the Principal pursuant to the Contract; and

**WHEREAS**, the Surety identified above hereby represents and warrants to the School District that the Surety is an "admitted surety insurer" in accordance with Section 995.120 of the California Code of Civil Procedure;

**NOW, THEREFORE**, we, the Principal and Surety, are hereby held and firmly bound to the School District in an amount of lawful money of the United States of America equal to the Penal Sum specified above, the payment of which well and truly to be made, we hereby bind, jointly and severally, ourselves and our heirs, executors, administrators and successors.

The condition of the foregoing payment obligation is that, if the Principal (or, to the extent permitted by the Contract, its heirs, executors, administrators, successors or assigns) shall fully perform all of the undertakings, terms, covenants, conditions, agreements and other obligations required of the Principal pursuant to the Contract and any amendments or changes thereto, and shall complete the Work in full and strict conformance with the requirements thereof, all within the time and in the manner designated therein, in all respects according to their true intent and meaning, then such obligation shall become null and void; otherwise, it shall remain in full force and effect.

A condition precedent to the satisfactory completion of the Contract is that, after the acceptance of the Project by the School District, the payment obligation of this Performance Bond shall remain in full force and effect, in the amount of the Penal Sum, during all periods in which the Principal has any obligations pursuant to the Contract (including, without limitation, the obligations to make full, complete, and satisfactory repair and replacements of any defective materials and/or faulty workmanship, and to pay liquidated damages to the School District), and the obligation of Surety hereunder shall continue for so long as any such obligation of Principal continues to exist. The obligations of Surety pursuant to this

Performance Bond are exclusive of and distinct from any obligations Surety may have pursuant to any labor and materials payment bond applicable to the Work.

Whenever the School District declares the Principal to be in default of its obligations pursuant to the Contract, the School District having performed its obligations thereunder, the Surety, promptly within the time required by the Contract, shall remedy the default or, at the School District's discretion, shall:

- (i) Complete the Work in strict accordance with the terms and conditions of the Contract, including, without limitation, provisions for the time(s) within which the Surety must act; or
- (ii) Obtain, or permit the School District to obtain, one or more bids or proposals for any and all Work required to complete the Work in strict accordance with the terms and conditions of the Contract, and upon determining the most advantageous bid or proposal, arrange for such bidder or proposer and the School District to enter into a contract (which may be in accordance with Education Code Section 17406) and make available as the Work progresses sufficient funds, up to and including a total amount equal to the Penal Sum set forth above, to pay the cost of completing the Work.

In performing its obligations pursuant to this Performance Bond, the Surety expressly agrees that:

(i) absent the express written consent of the School District, the Surety shall neither use the Principal nor accept a bid or proposal from the Principal for purposes of completing the Work; and (ii) the School District shall have the right, in its reasonable discretion, to reject any contractor or subcontractor that the Surety may propose to fulfill such obligations. In the event the School District provides notice to the Surety that the Principal is in default of its obligations pursuant to the Contract and, therefore, the Surety is required, as provided herein, to complete the Work or to arrange for the School District to contract for completion of the Work, and, through no fault of the School District, the Surety has exceeded the time permitted pursuant to the Contract for doing so, the School District may arrange to use replacement contractor(s) selected and contracted for by the School District to complete the Work and, in such event, the Surety's payment and other obligations pursuant to this Performance Bond shall not be thereby diminished or otherwise limited or modified.

Notwithstanding anything to the contrary, in the event the School District determines that the Principal has not met, or likely will be unable to meet, any deadline required pursuant to the Contract, or that Principal's performance otherwise does not conform with the requirements of the Contract, the School District may notify the Surety. In such event, the Surety must make reasonable attempts to assist the Principal to resolve or avoid the default by the Principal. The Surety and Principal expressly agree that neither the giving of such notice by the School District nor the giving of such assistance by the Surety shall be deemed or construed to constitute interference by the School District or the Surety with the Contract or the ability of the Principal to obtain any bond(s) in any amount(s) from any surety insurer(s).

For value received, the Surety hereby stipulates and agrees that this Performance Bond shall not be exonerated and the Surety shall not be released from its obligations pursuant to this Performance Bond by any change, amendment or other modification of the Contract or other Project documents, or of the Principal's rights and/or obligations pursuant thereto, and Surety hereby waives notice of any and all such modifications.

The Surety shall not be deemed to have fully and appropriately executed this Performance Bond unless Surety has provided all of the following information:

**SURETY'S SOUTHERN CALIFORNIA/LOCAL REPRESENTATIVE**

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Representative Name

\_\_\_\_\_  
Representative Telephone Number

**SURETY'S REPRESENTATIVE FOR FILING CLAIMS**

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Representative Name

\_\_\_\_\_  
Representative Telephone Number

***(The remainder of this page intentionally left blank.)***

Each person that signs this Performance Bond on behalf of the Principal or the Surety thereby represents and warrants that the party he or she represents has duly authorized him or her to sign, and thereby bind such party to, this Performance Bond.

**IN WITNESS WHEREOF**, the Principal and Surety have executed this Performance Bond as evidenced by the signatures below of their respective, duly authorized representatives.

**PRINCIPAL**

**SURETY**

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Representative Signature

\_\_\_\_\_  
Representative Signature

\_\_\_\_\_  
Representative Name

\_\_\_\_\_  
Representative Name

\_\_\_\_\_  
Representative Title

\_\_\_\_\_  
Representative Title

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Date Signed

**Principal: Attach Notary acknowledgment to this Performance Bond and, if applicable, imprint corporate seal in the space below this line.**

**Surety: Attach Notary acknowledgment and power of attorney to this Performance Bond and imprint corporate seal in the space below this line.**

**TEMPLATE**  
**AGREEMENT FOR CONSULTANT SERVICES**  
**FOR USE BY THE**  
**ALVORD UNIFIED SCHOOL DISTRICT**

**Applicability:**

*This Template Agreement for Consultant Services is intended for use with consultants performing services NOT associated with any “public project” or “public work project” (i.e., NOT associated with any construction or similar projects). If the Consultant’s services will include any “online” activities involving students, or if the Consultant will have access to student records or personally-identifiable information, then additional provisions will be required to ensure protection and ownership of student records.*

*Consult with Brian W. Smith at AALRR if the District desires to use this template for contracts to be issued on or after January 1, 2021, to determine if changes to this template are required as a result of changes in law, or for other reasons.*

**User Tips:**

- (i) Clone this template in each case and modify the clone, in order to preserve the original template, instructions, et cetera.*
- (ii) For each clone, delete highlighted text wherever found and, in its place, insert the information described in such highlighted text. When inserting Consultant company name and Effective Date, it will automatically populate those same fields in the rest of the agreement.*
- (iii) Highlighted text with the option to “choose” has a drop-down menu. To use the drop-down menu, click on the arrow that appears on the right-hand side when the field is selected.*
- (iv) Clicking on non-editable portions of the text, or using the up and down keyboard arrow keys to move within the text, will make the screen jump to the next fillable field, possibly skipping over several pages. This is intended to create efficiencies when creating cloned agreements. However, to avoid jumping, simply scroll through the document (or use the slide bar on the right margin), and click on the fillable fields as they appear.*
- (v) The template has several alternative provisions (i.e., use one provision, delete the other) and highlighted instructions that the user should delete as appropriate. In such cases, the user may need to adjust the spacing between paragraphs or provisions in order to maintain consistent formatting.*

**Please Note:**

*Certain of the information set forth in any completed employee lists (See pages D-2 and E-2) is confidential and should not be distributed or made public pursuant to any California Public Records Act request or otherwise.*

*Please do not distribute editable versions of this agreement to consultants or others. If the District intends to distribute the agreement electronically, please ensure that the electronic version is a locked PDF or similar format.*

**Delete/Discard this cover page before issuing the contract.**

# AGREEMENT FOR CONSULTANT SERVICES

By and Between

THE ALVORD UNIFIED SCHOOL DISTRICT

And

**CLICK HERE TO ENTER CONSULTANT COMPANY NAME**

Dated and Effective as of: **Click here to choose Board approval date**

## AGREEMENT FOR CONSULTANT SERVICES

This Agreement for Consultant Services (“Agreement”) is made effective as of [Click here to choose Board approval date](#) (“Effective Date”) by and between the Alvord Unified School District (“District”) and [Click here to enter full legal name of Consultant](#) (“Consultant”). The District and the Consultant may be referred to herein individually as a “Party” and collectively as the “Parties.”

### **PART 1: CONSULTANT SERVICES**

**Section 1.1 Scope of Consultant Services.** The services to be performed by the Consultant pursuant to this Agreement and associated requirements (“Consultant Services”) are described in detail in Exhibit “A” attached to this Agreement. The Consultant Services includes any and all labor, work, materials, supplies, equipment, and other things as may be necessary and/or appropriate for the Consultant to fully and satisfactorily complete the Consultant Services. Exhibit A also describes the location(s) at which the Consultant shall perform the Consultant Services (each a “Services Location”).

**Section 1.2 Time for Completion.** Time is of the essence with respect to this Agreement and the performance by the Consultant of each of its obligations pursuant to this Agreement. The Consultant must fully and satisfactorily perform the Consultant Services as and when specified in Exhibit A hereto. The Parties may agree in writing to an extension of time for completion by the Consultant of the Consultant Services. In the event the Parties modify the Consultant Services in accordance with this Agreement, the Parties shall concurrently agree as to any changes in the timing for performance of the Consultant Services.

**Section 1.3 Changes in Consultant Services.** The District may at any time request any reasonable increase, decrease, or other change in the Consultant Services. In response to any such request, the Consultant must provide to the District a written proposal that describes in reasonable detail: (i) the change; (ii) the impact of the change on the time required for performance of the Consultant’s obligations pursuant to this Agreement; and (iii) the impact of the change on the cost to the District for the performance of the Consultant’s obligations pursuant to this Agreement. No proposal shall be deemed effective, and no compensation payable to the Consultant pursuant thereto, unless and until the proposal is approved by the Board of Education of the District (“District Board”).

### **Section 1.4 Applicability of, and Compliance with, COVID-19 Orders.**

**Subsection 1.4.1 Acknowledgement of Applicability.** The Consultant acknowledges that: (i) Consultant Services are being undertaken at a time when a public health emergency exists with respect to the virus that causes COVID-19, and it is presently uncertain when this public health emergency will end; (iii) state and local governmental public health and other officials (“Public Officials”) have issued mandatory guidance and orders establishing safety and other requirements relating to COVID-19 (“COVID-19 Orders”) that may be applicable to the Consultant Services; and (iv) the possibility exists that, while this Agreement is in effect, Public Officials may modify and/or issue additional COVID-19 Orders applicable to the Consultant Services. Without limiting the foregoing, Public Officials may include, among others, city and/or county public health officials, and state and/or federal Occupational Safety and Health Administration officials.

**Subsection 1.4.2 Required Compliance.** The Consultant acknowledges and agrees that: (i) the Consultant shall be solely responsible for full and satisfactory compliance with all applicable COVID-19 Orders, with respect to any and all employees, workers, and others who are performing any of the Consultant Services, including, without limitation, the employees of any authorized subConsultants

performing any of the Consultant Services; (ii) the Consultant shall comply (and shall cause its subcontractors, if any, to comply) with any and all other COVID-19-related policies and directives applicable to the Consultant Services and/or the Services Location(s), as implemented by the District or any other authorized person or entity; and (iii) the compensation specified in the Agreement shall be deemed to include adequate compensation for such compliance with any and all such COVID-19 Orders, policies, and directives.

**Section 1.5 COVID-19 Interruptions and Delays.**

**Subsection 1.5.1 Nonperformance Excused.** Notwithstanding anything to the contrary, whether in the Agreement or otherwise, neither Party shall be responsible or liable if it is delayed in performing, or fails to perform, any one or more of its obligations pursuant to the Agreement, nor shall any such delay or failure constitute an event of default, if and to the extent such delay or failure was caused by an event, occurrence, incident, or situation that: (i) reasonably is beyond the control of the nonperforming Party; (ii) was not caused in whole or in part by any negligence or willful misconduct of the nonperforming Party or any of its officers, employees, contractors, or subcontractors; and (iii) is a consequence of the need to comply with any COVID-19 Order that takes effect and/or is implemented during the period this Agreement is in effect (each a "Force Majeure Event"). Without limiting the foregoing, the consequences of a Force Majeure Event may include, among others: (i) mandated diversion of resources away from the District and/or the Consultant Services; (ii) mandated cessation of some or all of the Consultant Services; and (iii) mandated social distancing and/or other requirements beyond those in effect as of the Effective Date.

**Subsection 1.5.2 Required Procedures.** In each case that a Party cannot fully and/or timely perform as a result of a Force Majeure Event as defined above: (i) the nonperforming Party must promptly give to the other Party written notice that describes in reasonable detail the particulars of such Force Majeure Event; (ii) the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required to accommodate the Force Majeure Event; (iii) the nonperforming Party shall proceed with reasonable diligence to remedy its inability to perform and shall provide reasonable periodic progress reports to the other Party describing actions taken, if any, to mitigate the effects of the Force Majeure Event; and (iv) the nonperforming Party shall resume its performance as soon as reasonably possible, and shall give written notice, to the other Party, of its intent and the date it will resume performance.

**Subsection 1.5.3 Extension of Time.** In the event a Party is unable to fully or timely perform its obligations in accordance with this Agreement, as a result of a Force Majeure Event as defined above, then: (i) except as the District and the Consultant may agree in writing, the Agreement shall continue in full force and effect unless terminated in accordance with its provisions; and (ii) as an exclusive remedy and subject to compliance with the other provisions in this Section 2, the time for performance of those obligations by the nonperforming Party (and any related obligations of the other Party) shall be extended by a reasonable number of days, but in no event by more than the number of days the Force Majeure Event precluded performance by the nonperforming Party of its obligations.

**Section 1.6 Subcontracting.** The Consultant may subcontract the performance of portions of the Consultant Services only upon, in each case, written consent of the District provided in advance of the Consultant entering into such subcontract. The District, in its sole discretion, may deny, delay and/or condition its approval of the use of any or all proposed subcontractors.

**Section 1.7 Consultant Compensation.** The District shall pay to the Consultant, in exchange for satisfactory performance by the Consultant of the Consultant Services required pursuant to this

Agreement, such compensation as is specified in Exhibit "B" to this Agreement ("Consultant Fee"). The Consultant Fee shall be deemed and construed for all purposes to be all-inclusive compensation for performance of the Consultant Services. Because the Consultant Fee constitutes all-inclusive compensation, the Consultant shall not be entitled to reimbursement of any expenses that it incurs in connection with performance of the Consultant Services.

**Section 1.8 Consultant Invoices.** On or about the fifth day of each month following a month in which the Consultant performed any Consultant Services, the Consultant shall provide an invoice to the District seeking payment for the portion of the Consultant Fee earned and, subject to Section 1.7 herein, for reimbursement of expenses incurred during the preceding one-month period. The Consultant must in each invoice specifically describe the basis or bases for the amounts requested and shall submit with the invoice such documentation as reasonably, specifically, and adequately evidences and supports the amounts specified in the invoice. If an invoice requests payment for Consultant Services provided on a time-and-materials or other hourly-rate basis, the documentation to be submitted by the Consultant in support of the invoice must also include an itemization of the amount of time spent by each person performing the Consultant Services and the work accomplished by such person during such time. The District shall pay the undisputed portion of each such invoice within thirty days after receipt of the invoice. However, within ten days after receipt of any invoice from the Consultant, the District may request in writing that the Consultant provide additional information relating to some or all of the amounts specified in the invoice, and, in such event: (i) the Consultant shall provide such information to the District within five days following receipt of the District's request; and (ii) if the Consultant does not provide such information within such five-day period, the date by which the District must pay such amounts to the Consultant shall be extended for each day or portion of day in excess of the applicable five-day period, until such time as the Consultant provides the requested additional information to the District.

## **PART 2: ADMINISTRATION OF AGREEMENT AND CONSULTANT SERVICES**

**Section 2.1 District Representatives.** The representatives of the District who are authorized to receive notice and/or to administer this Agreement on behalf of the District (each a "District Representative") are identified in Exhibit "C" attached to this Agreement. The Superintendent or chief business official of the District may change any District Representative, at any time, without need for reason, and without need to amend this Agreement.

**Section 2.2 Consultant Representatives.** The representative of the Consultant who is authorized to make any and all decisions regarding the performance of the Consultant Services and to otherwise represent the Consultant for all purposes of this Agreement is identified in Exhibit C hereto ("Consultant Representative"). The Consultant Representative shall be the Consultant's sole contact person for purposes of any and all communications with District Representatives in connection with this Agreement. At all times prior to full completion of the Consultant Services, the Consultant Representative must be reasonably available to the District Representatives, by telephone, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, and at such other times as the Consultant and the District may agree.

**Section 2.3 Consultant is an Independent Contractor.** The Consultant is, for any and all purposes of or related to this Agreement, an independent contractor. In no circumstances shall the Consultant or any of its officers, employees, or agents, in connection with this Agreement, be deemed or construed to be an officer, employee or agent of the District. The Consultant must at all times conduct its activities in a manner consistent with its status as an independent contractor, and, except as provided in this Agreement, the Consultant shall have the right to determine the methods, means and

mechanisms by which it shall perform the Consultant Services. The Consultant shall not suffer or permit any third party (whether person or entity) to continue in any apparent belief that the Consultant or any of its officers, employees, or agents is an officer, employee or agent of the District. The Consultant shall be responsible for ensuring compliance with all labor and employment laws applicable to its employees, including, without limitation, laws relating to workers' compensation, working hours, employment records, wages, and, if applicable, payment of prevailing wages. The compensation payable to Consultant hereunder shall not be increased as a result of any costs incurred by Consultant that are attributable to such compliance.

**Section 2.4 IRS Form W-9.** Prior to commencing any of the Consultant Services, the Consultant must complete, sign, and provide to the District a current IRS Form W-9. The foregoing obligation shall be a condition precedent to any payment by the District to the Consultant pursuant to this Agreement, and the failure by the Consultant to provide the completed and signed IRS Form W-9 shall constitute a breach by the Consultant of its obligations pursuant to this Agreement.

**Section 2.5 Consultant Capability.** The Consultant represents and warrants that: (i) it has any and all licenses, certifications, and approvals as are required by law to permit the Consultant to enter into this Agreement and perform the Consultant Services; (ii) any and all persons who will perform any of the Consultant Services shall be licensed, as required by law, to practice in their respective professions; (iii) any and all persons who will perform any of the Consultant Services shall have the qualifications, technical skills and experience required to perform the Consultant Services in an efficient, timely, and satisfactory manner; and (iv) the Consultant has sufficient financial, personnel, and other resources to adequately and timely perform the Consultant Services as required pursuant to this Agreement.

**Section 2.6 Student Safety.** If so Exhibit A hereto specifies that it is required, the Consultant shall require and ensure compliance, by all of its employees, volunteers, and other representatives who will be present on or at any District property in connection with this Agreement, with the background-check requirements of Education Code Section 45125.1, regardless of whether such requirements otherwise would apply to the Consultant Services. In that regard, the Consultant, at its sole cost and expense, must: (i) comply with all California Department of Justice guidelines and requirements applicable to fingerprinting of, and background checks regarding, such employees, volunteers, and other representatives of the Consultant; and (ii) complete, execute and, prior to performing any Consultant Services at any Services Location, deliver to the District the "Certification Regarding Employee Background Checks" form attached as Exhibit "D" to this Agreement.

**Section 2.7 Tuberculosis Assessment and Examination.** If so Exhibit A hereto specifies that it is required, the Consultant, prior to commencing the Consultant Services and at its sole cost and expense, shall: (i) confer with the District regarding whether any of the persons performing any Consultant Services will have frequent or prolonged contact with District students, as contemplated by Education Code Section 49406; (ii) cause any and all such persons to comply, if applicable, with the assessment and examination procedures required pursuant to Section 49406; and (iii) certify to the District, using the form attached as Exhibit "E" to this Agreement, that each such person is free of tuberculosis risk factors or, if risk factors are present, is free of infectious tuberculosis.

**Section 2.8 Compliance with Laws and District Requirements.** The Consultant must perform the Consultant Services in compliance with any and all applicable federal, California and local laws, regulations, ordinances and other governmental requirements. The Consultant shall be responsible for ensuring that each of the Consultant's employees and other representatives who enter in and upon any

of the District's property fully comply with: (i) all District rules, policies or other requirements applicable to presence on District property (including, but not limited to, policies prohibiting the use of drugs, alcohol, and tobacco); and (ii) reasonable directives from District Representatives.

### **Section 2.9 Consultant Records.**

**Subsection 2.9.1 General Requirements.** The Consultant must prepare and maintain, in accordance with generally accepted accounting principles, all financial and other records related to this Agreement and to the Consultant Services as necessary, appropriate or required by law ("Consultant Records"). The Consultant Records shall include any and all incident reports (whether internal or external to the Consultant), claims, demands, court filings, pictures, witness statements, invoices, and other records of whatever nature that reasonably or arguably relate to injuries, accidents, assault, abuse, molestation and other situations, events, or incidents that potentially could result in any liability for personal injury, property damage, criminal violations, or other matters ("Incident Records"). The Consultant shall maintain: (i) all Consultant Records, generally, for a period of three years following final payment pursuant to this Agreement; and (ii) any and all Incident Records for a period of four years following the date (or last date) the last Incident occurred.

**Subsection 2.9.2 Review, Copy, and Audit Rights.** Pursuant to Government Code Section 8546.7, the California State Auditor has the right, for a period of three years following final payment, to review, audit and/or copy records of the contracting parties with respect to each contract providing for expenditure of public funds in excess of \$10,000. Pursuant to this Agreement, the District and other governmental entities with competent jurisdiction shall have the rights: (i) to review, copy, and/or audit some or all of the Consultant Records, at any time during the three-year period following final payment to the Consultant in accordance with this Agreement; and (ii) to review, copy, and/or audit some or all of the Incident Records, at any time during the four-year period following the date (or last date) the last Incident occurred.

**Subsection 2.9.3 Access to Records.** The Consultant must make the Consultant Records (including, without limitation, Incident Records) available for review and/or copying at all reasonable times during whichever of the three-year or four-year periods specified in Subsection 2.9.2 is applicable. Notwithstanding the foregoing or anything in Subsection 2.9.2 herein, if the California State Auditor, the District, or any other governmental entity commences, but does not complete, an audit within the applicable three-year or four-year period described in Subsection 2.9.2, the Consultant must retain and make available the Consultant Records (including, as applicable, Incident Records) until such time as the audit has been completed and all applicable appeal periods have expired without appeal (or, if applicable, without additional appeal).

**Section 2.10 Ownership and Use of Documents.** Any and all working documents, original or reproducible transparencies, presentations, computations and other documents, in whatever format or storage medium, obtained or prepared by the Consultant pursuant to this Agreement (collectively, "Service Documents") are and shall remain the property of the District. Except for purposes of this Agreement, and except for copies to be retained as part of the Consultant Records, the Consultant shall not permit reproductions to be made of any of the Service Documents without the advance written approval of the District.

### **PART 3: CONSULTANT INSURANCE**

**Section 3.1 Required Insurance.** Prior to commencing any of the Consultant Services, the Consultant must procure at its sole cost and expense, and, during all periods as required by this

Agreement, must maintain in effect, the insurance policies required pursuant to this Part 3. Such insurance policies include the following:

- (i) General Liability Insurance. A policy of commercial general liability insurance, written on an “occurrence” basis, providing coverage with a combined single limit of not less than \$1,000,000 for all activities conducted by Consultant pursuant to this Agreement (“General Liability Policy”). The General Liability Policy must include, without limitation, coverage for the contractual liability assumed by the Consultant pursuant to this Agreement.
- (ii) Vehicle Liability Insurance. A policy of business vehicle liability insurance, written on an “occurrence” basis, with a combined single limit of not less than \$500,000 per accident for bodily injury and property damage (“Vehicle Liability Policy”). The Vehicle Liability Policy must include coverage for owned, hired, and non-owned automobiles.
- (iii) Workers’ Compensation Insurance. Workers’ compensation insurance as required by California law. Notwithstanding the insurer rating standards set forth in this Agreement, coverage provided by the California State Compensation Insurance Fund shall be deemed, with respect to the workers’ compensation insurance, to satisfy such insurer rating standards.
- (iv) Professional Liability Insurance. If Exhibit A hereto specifies that it is required, professional liability insurance with coverage in an amount of not less than \$1,000,000 (“Professional Liability Policy”), which the District acknowledges shall be written on a “claims made” basis.
- (v) Abuse-Molestation Liability Insurance. If Exhibit A hereto specifies that it is required, abuse-molestation liability insurance (“Abuse Policy”) that: (i) is separate from the General Liability Policy, any Professional Liability Policy, and other insurance policies that the Consultant may have in effect; (ii) is written on an “occurrence” basis; (iii) has coverage limits of not less than \$2,000,000 per occurrence and \$5,000,000 aggregate; (iv) provides coverage for direct and vicarious liability associated with sexual misconduct and other physical abuse, and for verbal, emotional, mental and other non-physical abuse; (v) covers acts and omissions by, among others, the Consultant’s officers, employees, instructors, aides, assistants, volunteers, and other representatives; (vi) covers, if the District has authorized the use of any subcontractors in accordance with Section 1.6 herein, acts and omissions by each subcontractor’s officers, employees, instructors, aides, assistants, volunteers, and other representatives; (vii) provides coverage for the District prior to any determination that an accused abuser is guilty; and (viii) provides for payment of defense costs outside the Abuse Policy’s coverage limits. The Consultant shall comply with any and all risk management controls reasonably required by the insurer that issues the Abuse Policy.

**Section 3.2 Duration of Insurance.** Except with respect to the Professional Liability Policy if required, the Consultant must maintain the insurance required pursuant to this Agreement in effect at least until the date that is one year following final payment to the Consultant pursuant to this Agreement.

**Section 3.3 Professional Liability Insurance.** With respect to the Professional Liability Policy if required: (i) the effective date of the coverage must be shown and must be prior to the Effective Date; (ii) the coverage must be maintained, and evidence of coverage must be provided, for at least two years following final completion and acceptance of the Consultant Services; (iii) if coverage is cancelled or renewed, and not replaced with another claims-made policy form with a retroactive coverage date that

is prior to or the same as the date the original policy took effect, the Consultant must purchase extended-period coverage (tail) that provides coverage until a minimum of two years following final completion and acceptance of the Consultant Services; and (iv) a copy of any and all claims reporting requirements, for original and replacement policies, must be submitted to the District for review.

**Section 3.4 Insurer Rating Standards.** Except as the District may otherwise agree in writing, the Consultant's insurance policies required pursuant to this Agreement must be issued by one or more insurers licensed to do business in California and having an A.M. Best Company rating of not less than "A-" (i.e., A minus) and a financial size category of "VII."

**Section 3.5 Additional Insureds.** Each policy of insurance that the Consultant is required to have in effect pursuant to this Agreement, except for the workers' compensation insurance and, if required, the Professional Liability Policy, shall name (or be endorsed to name) the District, the District Board and each individual member thereof, and the District's other officers, employees and agents, as additional insureds, to the extent of the Consultant's acts and omissions (whether constituting negligence or not) in connection with this Agreement. The additional insured endorsements must be ISO form CG 2010 11/85 or equivalent approved in advance by the District. For purposes of this Section, and without otherwise limiting the District's discretion to determine an equivalent to form CG 2010 11/85, a combination of ISO forms CG 2010 10/01 and CG 2037 10/01 shall be deemed an acceptable equivalent to ISO form CG 2010 11/85.

**Section 3.6 Waiver of Subrogation.** With respect to the District and other parties to be named additional insureds pursuant to Section 3.5 herein, the Consultant hereby waives, on behalf of its insurers, any and all rights to subrogation that any such insurer may acquire by virtue of the payment of any loss. Each of the General Liability Policy and the Vehicle Liability Policy must be endorsed with a cross-liability endorsement and a waiver of the insurer's rights of subrogation against the District and such other parties. The policy of workers' compensation insurance must be endorsed with a waiver of the insurer's rights of subrogation against the District and such other parties.

**Section 3.7 Consultant Insurance is Primary.** To the extent permitted by law, insurance policies required by this Agreement to be maintained by the Consultant shall be primary and non-contributing with respect to any insurance or self-insurance programs covering the District, the District Board or individual members thereof, or the District's other officers, employees or agents. The General Liability Policy and the Vehicle Liability Policy must be endorsed to provide that they are so primary and non-contributory.

**Section 3.8 Evidence of Coverage.** Concurrent with execution and delivery of this Agreement, the Consultant must provide to the District such duly-authorized and executed certificates of insurance evidencing that the insurance policies to be maintained by the Consultant pursuant to this Agreement are in effect (each a "Certificate of Insurance"), together with a copy of each endorsement to such insurance as is required pursuant to this Agreement. The delivery of such Certificates of Insurance and endorsements shall be a condition precedent to the Consultant commencing any of the Consultant Services pursuant to this Agreement. The Certificates of Insurance shall identify those who are to be named as additional insureds in accordance with this Agreement. The Consultant must provide updated Certificates of Insurance to the District for each renewal of an insurance policy that the Consultant is required to maintain pursuant to this Agreement.

## **PART 4: INDEMNIFICATION**

**Section 4.1 General Requirement.** The Consultant shall indemnify and hold harmless the District against and from any and all claims, demands, actions, judgments, damages, losses, costs and expenses (including, without limitation, attorneys' fees and expenses) and other liabilities to the extent arising from any negligence, recklessness and/or willful misconduct of the Consultant or any of its officers, employees or agents (collectively, but not including the Consultant, the "Consultant Agents") in connection with their activities in connection with this Agreement. The scope of the Consultant's obligations pursuant to this Section shall include, without limitation, the injury or death of any person or the damage to any property in connection with performance of Consultant Services by the Consultant or any of the Consultant Agents.

**Section 4.2 Defense of District.** The Consultant shall defend the District with respect to any claim, demand, or action that by allegation or implication is within the scope of the Consultant's indemnification obligation pursuant to Section 4.1 of this Agreement. Any defense of the District conducted pursuant to this Agreement must be conducted by qualified and appropriately experienced legal counsel reasonably acceptable to the District, but selected and retained by the Consultant, at no cost to the District.

**Section 4.3 Limitation on Consultant Obligations.** The Consultant shall not be obligated pursuant to Sections 4.1 and 4.2 of this Agreement to the extent any claim, demand, action, judgment, damage, loss, cost or expense, or other liability results from the sole negligence, active negligence, or willful misconduct of the District or any of its officers or employees. In each such event, the Parties shall be responsible and liable on a comparative basis.

**Section 4.4 Payment of Costs.** The Consultant shall reimburse to the District, or upon request of the District shall directly pay, any and all costs, expenses, penalties, judgments, settlements, and other amounts paid or owed by the District that are payable by the Consultant pursuant to the indemnity provisions of this Agreement. The Consultant must pay each such amount not later than when the amount is due or within thirty days of receipt of an applicable written invoice from the District. Any late payments by the Consultant shall accrue interest at the maximum legal rate.

**Section 4.5 Insurance Not a Limitation.** The obligations of the Consultant pursuant to this Part 4 shall not be deemed or construed to be: (i) conditioned upon or in any other manner limited by the existence of any insurance coverage maintained by any person or entity; or (ii) conditioned upon the receipt by any person or entity of, or limited to the amount of, any insurance proceeds.

**Section 4.6 Survival of Obligations.** With respect to any and all acts, omissions or incidents occurring prior to termination of this Agreement, the Consultant's obligations pursuant to this Part 4 shall survive termination of this Agreement, regardless of whether the Consultant has then completed any or all of the Consultant Services.

**Section 4.7 Scope of Indemnification Obligation.** For purposes of each and every obligation of the Consultant set forth in this Agreement to indemnify, defend and/or hold-harmless the District, the reference to the District shall be deemed and construed to be a reference to the District, the District Board and each member thereof, and the District's other officers, employees and agents, and each of them.

## **PART 5: DISPUTE RESOLUTION**

**Section 5.1 Notice and Opportunity to Cure.** If either Party (“Alleging Party”) alleges that the other Party (“Defaulting Party”) has breached any of its obligations pursuant to this Agreement, the Alleging Party may provide written notice thereof to the Defaulting Party, specifying in reasonable detail the nature and extent of the alleged default (“Notice of Default”). If the Defaulting Party has not cured the alleged default within fourteen days after receipt of the Notice of Default, then the Alleging Party in its discretion may initiate the dispute resolution process described in Section 5.2 herein.

**Section 5.2 Informal Attempts at Dispute Resolution.** If a dispute between the Parties arises out of or relates to this Agreement (“Dispute”), the Parties shall attempt as provided in this Section to resolve the Dispute as quickly and as amicably as possible, including, without limitation, any Disputes as to the meaning of any provision of this Agreement, the validity of any determination or calculation required pursuant to this Agreement, or the rights or obligations of the Parties pursuant to this Agreement. If the Dispute does not relate to an alleged default or is not of such nature that a Party may give a Notice of Default, then the Party alleging the Dispute shall give to the other Party a written notice of the Dispute (“Notice of Dispute”). Within a reasonable time, not in excess of seven calendar days, after receipt of either a Notice of Default or a Notice of Dispute, the Parties shall commence attempts to informally resolve the Dispute as required pursuant to this Section. Such attempts shall include good-faith, reasonable and diligent efforts by both Parties to communicate and, if possible, to reconcile or compromise their respective positions. The participation by a Party in such attempts to informally resolve a Dispute shall be a condition precedent to such Party exercising any available remedy in response to the Dispute. If, after diligently making the attempts required pursuant to this Section for at least twenty calendar days, the Parties cannot resolve a Dispute, either Party may give written notice to the other Party that the attempts have been unavailing and, therefore, have been terminated effective upon receipt of that notice by the other Party.

**Section 5.3 Exercise of Available Remedies.** If attempts to resolve a Dispute pursuant to Section 5.2 herein are terminated without the Dispute having been resolved to the satisfaction of either Party, the Party may initiate any legal or equitable action or other proceeding in response to the Dispute that is available pursuant to this Agreement and applicable law. If a Party fails to respond to, or participate in good faith in, any requests or requirements for resolution of the Dispute pursuant to Section 5.2 herein, the other Party, in its discretion and without needing to further comply with Section 5.2 herein, may initiate any legal or equitable action or other proceeding in response to the Dispute that is available pursuant to this Agreement and applicable law. However, nothing in this Agreement shall be deemed or construed to alter or obviate the claims presentation and other requirements of the Government Claims Act set forth in Government Code Section 900 *et seq.*

**Section 5.4 Performance During Disputes.** At all times while any Dispute is pending, each Party shall continue to fully perform its obligations pursuant to this Agreement. Notwithstanding the foregoing, a Party shall not be responsible for continued performance of its obligations pursuant to this Agreement to the extent a default or alleged default by the other Party makes such performance impossible, impractical, or unreasonable.

**Section 5.5 Remedies Not Limited.** In connection with any Dispute, and except as expressly provided in this Agreement, each Party may exercise any or all rights and remedies available pursuant to this Agreement and applicable law. No such available remedy shall be deemed or construed to be exclusive, and a Party may exercise any available remedy individually or in combination with any other available remedies.

## **PART 6: TERMINATION**

**Section 6.1 Termination Due to Expiration or Completion.** Unless earlier terminated in accordance with this Part 6, this Agreement shall terminate upon: (i) expiration of the period determined pursuant to Section 1.2 for completion by the Consultant of the Consultant Services or, if the Consultant has not then completed all of the Consultant Services, upon such later date as agreed in writing by the Parties; or (ii) upon completion of all Consultant Services required to be performed by the Consultant and final payment by the District to the Consultant as required by this Agreement.

**Section 6.2 District Termination Without Need for Cause.** The District may terminate this Agreement, with respect to some or all of the Consultant Services, and without need for cause, by providing written notice of termination to the Consultant. Such termination shall be effective on the date that is ten days following receipt of the notice of termination by the Consultant, or as of such earlier date as may be specified in the notice of termination.

**Section 6.3 District Termination for Cause.** Subject to Sections 5.1 and 5.2 herein, the District may give the Consultant written notice of the District's intent to terminate this Agreement for cause if the District reasonably determines that the Consultant has failed to perform some or all of the Consultant Services in a satisfactory and timely manner or if the Consultant otherwise has breached any of its obligations pursuant to this Agreement. Notwithstanding the foregoing or anything else to the contrary, the District may terminate this Agreement without compliance with Sections 5.1 and 5.2 herein if the District reasonably determines that the any officer, employee, volunteer, or agent of the Consultant has endangered the health, safety or welfare of any District student(s) and/or personnel, or that the continued presence of Consultant personnel at any Services Location(s) will endanger the health, safety or welfare of any District student(s) or personnel. A termination pursuant to this Section shall be effective immediately upon receipt by the Consultant of the notice of termination or as of such later date as the notice may specify.

**Section 6.4 Consultant Termination for Cause.** Subject to Sections 5.1 and 5.2 herein, the Consultant may give the District written notice of the Consultant's intent to terminate this Agreement for cause if the Consultant reasonably determines that the District has breached any of its material obligations pursuant to this Agreement. A termination pursuant to this Section shall be effective immediately upon receipt by the District of the notice of termination or as of such later date as the notice may specify.

**Section 6.5 Compensation to Consultant Upon Termination.** Subject to all other provisions of this Agreement, in the event of any termination, in whole or in part, of this Agreement pursuant to Section 6.2 or 6.4 of this Agreement, then, with respect to the terminated portion of the Consultant Services, the District shall compensate the Consultant, consistent with Exhibit B hereto, for the Consultant Services that the Consultant satisfactorily performed prior to termination. Nothing in the foregoing shall be deemed or construed to constitute a waiver or release of any damages that a Party incurs as a result of a breach by the other Party of its obligations pursuant to this Agreement, and a Party shall be entitled to offset any and all such damages from amounts otherwise payable to the other Party pursuant to this Agreement.

**Section 6.6 Consultant to Provide Copies of Service Documents.** Upon termination of this Agreement, and regardless of the basis or reason for termination, the Consultant must, not later than seven days following the effective date of the termination, provide to the District copies of all Service Documents relating to the terminated portion of the Consultant Services. Satisfaction of the Consultant's obligations pursuant to this Section shall be a condition precedent to the District's

obligation to pay any compensation, reimbursement, or other amounts, or to pay additional amounts, to the Consultant pursuant to Section 6.5 or any other provision of this Agreement. The failure by the Consultant to comply with the requirements of this Section, when applicable, shall constitute a material breach by the Consultant of its obligations pursuant to this Agreement.

**Section 6.7 Survival of Obligations.** The Parties' respective rights and obligations pursuant to this Part 6 shall survive termination of this Agreement.

## **PART 7: GIVING OF NOTICE**

**Section 7.1 General Requirements.** Any and all notices required or permitted to be given pursuant to this Agreement (each a "Notice") must be in writing and must be sent via: (i) personal delivery (with name and signature of recipient obtained on delivery receipt); (ii) registered or certified U.S. mail (postage pre-paid and return receipt requested); (iii) FedEx, UPS or other reliable, private delivery service (with name and signature of recipient obtained on electronic or other delivery receipt); or (iv) electronic mail (i.e., email) transmission (with original of the Notice deposited into the U.S. mail, first-class postage prepaid, within twelve hours after transmission). Notices given to the District must be addressed and delivered to both of the District Representatives as specified in Exhibit C hereto, and Notices given to the Consultant must be addressed and delivered to the Consultant Representative as specified in Exhibit C hereto. A Party may give notice of each change in its address, person to whom attention should be directed, or email address by giving Notice in accordance with this Part 7.

**Section 7.2 Additional Requirements for Giving Notice by Email.** As an additional condition to sending a Notice by email, the reference (or "re") line must indicate that it is a "Notice Pursuant to Agreement for Consultant Services." Because email addresses are subject to change more frequently than physical addresses, if a Notice is to be sent by email, unless the sender has actual knowledge of the then-current correct email address of each intended recipient, the sender must call and verify the then-current email address of each intended recipient prior to sending the Notice, or must use some other method of delivering the Notice.

**Section 7.3 Effect of Receipt.** A Notice shall be deemed given or served only upon actual receipt by the addressee. In the case of email, "actual receipt" shall mean delivery to the recipient's email in-box. However, if any Notice (including, without limitation, any Notice sent by email) is delivered after 4:00 p.m. on any business day, or is delivered on any day that is not a business day, the Notice shall be deemed to have been given or served as of 9:00 a.m. on the next subsequent business day.

**Section 7.4 Applicability of Notice Requirements.** The requirements of this Part 7 shall not be deemed or construed to apply to: (i) communications between the Parties necessary for day-to-day administration of this Agreement or performance of the Consultant Services; or (ii) service of process in accordance with any applicable law or court rule.

## **PART 8: INTERPRETATION OF AGREEMENT**

**Section 8.1 Fair and Reasonable Interpretations.** Each Party hereby acknowledges and agrees that, prior to execution and delivery of this Agreement, such Party has received, or had unqualified opportunities to receive, independent legal advice from its legal counsel with respect to the advisability of entering into this Agreement and the meaning of the provisions herein. Therefore, the provisions of this Agreement shall be construed based on their fair and reasonable meaning, and not for

or against any Party based on whether such Party or its legal counsel was primarily responsible for drafting this Agreement or any particular provision herein.

**Section 8.2 Headings and Captions.** The headings and captions set forth in this Agreement are for the convenience of the reader only and shall not be deemed or construed to establish, define or limit the meaning of any Part, Section, or other provision herein.

**Section 8.3 Exhibits.** Each Exhibit referenced herein and attached hereto is hereby incorporated as an effective and operative provision of this Agreement. In the event of any conflict between any provision in the main body of this Agreement and any provision in the Exhibits, the provision in the main body of this Agreement shall govern.

**Section 8.4 Meaning of "Days."** Except as expressly provided in this Agreement in any particular case, each reference in this Agreement to a specific number of days shall be construed to mean consecutive calendar days, not business days. For purposes of this Agreement, the term "business day" means any day that is not: (i) a Saturday or Sunday; (ii) an official federal or State of California holiday; or (iii) with respect to the District's administrative staff, a furlough day mandated by any agency, department, or board of the State of California or by the District Board.

**Section 8.5 Entire Agreement.** This Agreement constitutes the entire understanding and agreement between the Parties pertaining to the performance of the Consultant Services by the Consultant, and any and all prior and contemporaneous agreements, representations and understandings of the Parties relating to such subject matter, whether oral or written, are hereby superseded and replaced.

**Section 8.6 Modifications of Agreement.** This Agreement may be modified only by means of duly-approved written instrument executed and delivered by both Parties.

**Section 8.7 Waiver.** A waiver by a Party of any provision of this Agreement shall be binding only if the waiver is set forth in writing and has been duly approved and signed by the waiving Party. Unless so specified in the written waiver, a waiver by a Party of any provision of this Agreement shall not constitute a waiver of any other provision(s) herein, similar or not, and shall not be construed as a continuing waiver. Except as waived in accordance with this Section, neither the failure by a Party at any time to require performance of any requirement of this Agreement, nor any forbearance or indulgence of the Party in regard to such requirement, shall in any manner affect the Party's right at a later time to enforce the same or any other provision of this Agreement.

**Section 8.8 Governing Law and Venue.** This Agreement shall be governed by and interpreted in accordance with the California law, notwithstanding any conflict-of-law, choice-of-law or other provision in the laws of California or any other jurisdiction. Any action, arbitration, or other proceeding arising from this Agreement shall be initiated and conducted only in the County of Riverside, California.

**Section 8.9 Severability.** If a court of competent jurisdiction determines, for any reason, that any provision or requirement of this Agreement is invalid or unenforceable, then, regardless of the reason for such determination, it shall not be deemed or construed to invalidate or render unenforceable any other provision or requirement of this Agreement. In such event, the remaining provisions and requirements shall be interpreted, to the extent permitted by law, in a manner that is consistent with the intent and purpose underlying the invalid or unenforceable provision or requirement.

**Section 8.10 Successors and Assigns.** The Consultant may not assign this Agreement without the express written consent of the District, and any attempt to do so shall be null and void. Subject to the foregoing, this Agreement shall inure to the benefit of, and be binding on, the Parties' authorized successors and assigns.

**Section 8.11 No Third-Party Beneficiaries.** The Parties have entered into this Agreement solely for their own purposes, and this Agreement shall not be deemed or construed to: (i) benefit any third party; (ii) create any right for any third party; or (iii) except as provided by law, provide a basis for any claim, demand, action or other proceeding by any third party.

**Section 8.12 Agreement is Public Record.** Notwithstanding anything in any proposal or any discussions or writings relating hereto: (i) nothing in this Agreement shall be deemed or construed to constitute confidential information; and (ii) this Agreement is a public record which the District may disclose in accordance with California law or otherwise.

**PART 9: EXECUTION OF AGREEMENT**

**Section 9.1 Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, taken together, shall constitute one and the same instrument. Signature pages may be detached from counterpart originals and combined to physically form one or more copies of this Agreement having original signatures of both Parties.

**Section 9.2 Due Authority.** Each person who has signed this Agreement on behalf of a Party shall be deemed and construed to thereby represent and warrant that he or she has been duly authorized by that Party to sign, and thereby bind such Party to, this Agreement.

**IN WITNESS WHEREOF,** the duly authorized representatives of the Parties have executed this Agreement as evidenced by their signatures below.

**Alvord Unified School District**

**Click here to enter Consultant**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Print Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Date Signed: \_\_\_\_\_

**Approved by District Board on:**

\_\_\_\_\_

**EXHIBIT "A"**  
**DESCRIPTION OF SERVICES AND REQUIREMENTS FOR CONSULTANT**

**Consultant Services**

*[Insert detailed description of the Consultant Services or copy of scope from Consultant's proposal if it accurately describes full and complete scope of services as intended by the District. Suggest that you do not include the entirety of the Consultant's proposal.]*

**Services Location(s)**

*[Insert location name (if applicable) and address of each separate place where the Consultant is to perform the Consultant Services.]*

**Timing of Services**

*[Insert schedule or statement regarding when the Consultant is to provide and complete the Consultant Services. If the Consultant will provide services on an ongoing or as-needed basis during the term of this Agreement, insert statement to that effect.]*

**Student and Staff Health and Safety**

The Consultant need not comply with the requirements of Section 2.6 of the main body of this Agreement relating to student safety.

The Consultant shall comply with all requirements of Section 2.6 of the main body of this Agreement relating to student safety.

The Consultant need not comply with the requirements of Section 2.7 of the main body of this Agreement relating to tuberculosis assessment and examination.

The Consultant shall comply with all requirements of Section 2.7 of the main body of this Agreement relating to tuberculosis assessment and examination.

*[Delete whichever of the foregoing sentences as are not applicable.]*

**Professional Liability Insurance**

The Consultant shall not be required to have the Professional Liability Policy in effect pursuant to Part 3 of the main body of this Agreement.

The Consultant shall be required to have the Professional Liability Policy in effect pursuant to Part 3 of the main body of this Agreement. Notwithstanding clause (iv) of Section 3.1. of the main body of this Agreement, the Professional Liability Policy shall provide coverage in in an amount not less than \$\_\_\_\_\_.

*[Professional liability insurance may not be required in all cases. The District should consult with its risk manager, but typically would require professional liability insurance if the Consultant is rendering any advice to or on behalf of District. Delete whichever of the foregoing provisions as are not applicable.]*

**Abuse-Molestation Liability Insurance**

The Consultant shall not be required to have the Abuse-Molestation Liability Policy in effect pursuant to Part 3 of the main body of this Agreement.

The Consultant shall be required to have the Abuse-Molestation Liability Policy in effect pursuant to Part 3 of the main body of this Agreement.

Notwithstanding clause (v) of Section 3.1 of the main body of this Agreement, the Abuse-Molestation Liability Policy shall provide coverage in amounts not less than \$\_\_\_\_\_ per occurrence and \$\_\_\_\_\_ in the aggregate.

*[Abuse-molestation liability insurance may not be required in all cases. The District should consult with its risk manager, but may want to require abuse-molestation liability insurance if any of the Consultant's (or subconsultant/subcontractor) representatives have unsupervised contact with District students or in cases of student vulnerability. Delete whichever of the foregoing provisions as are not applicable.]*

**EXHIBIT "B"**  
**CONSULTANT COMPENSATION**

In exchange for full and satisfactory completion of the Consultant Services, the District shall compensate the Consultant as provided below in this Exhibit B. Such compensation shall be deemed and construed to be all-inclusive, full and final compensation to the Consultant for the Consultant Services provided, and shall include any and all overhead, profit and other amounts potentially payable to the Consultant for the Consultant Services. Subject to the foregoing, the District shall pay to the Consultant *[insert method of compensation]*

*[Note: methods of compensating the Consultant include, among possible others:*

- (i) "a fixed fee in the total amount of \$\_\_\_\_\_";
- (ii) "a fee based on the rate of \$\_\_\_\_\_ per hour, not to exceed a total of \$\_\_\_\_\_ for full and final completion of all Consultant Services required pursuant to this Agreement"; and
- (iii) "a fee based on the hourly rates set forth in the Schedule of Hourly Rates below, not to exceed a total of \$\_\_\_\_\_ for full and final completion of all Consultant Services required pursuant to the Agreement." *Will need to insert schedule of hourly rates.]*

**EXHIBIT "C"**  
**AUTHORIZED REPRESENTATIVES**

**Consultant Representative**

The Consultant Representative for all purposes of this Agreement, including, without limitation Part 7 of the main body of this Agreement (i.e., Notices), is identified below, along with his or her contact information.

Click here to enter Consultant company name  
Attn: Click here to enter Consultant Representative name  
Click here to enter street address  
Click here to enter city, state and zip  
Email: Click here to enter Consultant Representative email

**District Representatives**

The District Representatives, for purposes of Part 7 of the main body of this Agreement (i.e., Notices), and their respective contact information are identified below. A copy of each Notice given to the District must be sent to both of the District Representatives as follows:

Alvord Unified School District	Alvord Unified School District
Attn: Click here to enter District Representative	Attn: Click here to enter District Representative
9 KPC Parkway	9 KPC Parkway
Corona, CA 92879	Corona, CA 92879
Email: Click here to enter email address	Email: Click here to enter email address

The District Representatives, for purposes of administration of this Agreement and the Consultant Services, are as follows:

Name and Title (Primary): Click here to enter District Representative, is the District's primary contact person with respect to administration of this Agreement.

Name and Title (Secondary): Click here to enter District Representative, is the District's secondary contact person in the event the primary contact is unavailable or in other extraordinary circumstances.

Name and Title (Tertiary): Click here to enter District Representative, is the District's tertiary contact person in the event the primary and secondary contacts are unavailable or in other extraordinary circumstances.

**EXHIBIT "D"**  
**CERTIFICATION REGARDING EMPLOYEE BACKGROUND CHECKS**

**District:** Alvord Unified School District

**Consultant:** \_\_\_\_\_

**Agreement:** Agreement for Consultant Services dated [Click here to choose Board approval date](#)

---

---

The undersigned hereby certifies to the District, subject to penalty for perjury pursuant to the laws of the State of California, that all of the following is true and correct:

- (i) The undersigned is a duly authorized representative of the Consultant and, in that capacity, has executed this certification on behalf of the Consultant;
- (ii) The Consultant has fully complied with the requirements of this Agreement for employee background checks, with respect to those of its employees that the Consultant intends to use in connection with the Consultant Services required by the Agreement;
- (iii) All of the employees of the Consultant who will enter in or upon an applicable property owned or controlled by the District, or be in the vicinity of such property, in connection with the Consultant Services are identified on the Attachment(s) to this certification;
- (iv) None of the employees of the Consultant who are identified on the Attachment(s) to this certification have been convicted of a violent or serious felony as defined in Subdivision (c) of Education Code Section 45125.2; and
- (v) Except for the employees identified on the Attachment(s) to this certification (and except for the employees identified on attachment(s) to other certifications using this form that the Consultant has submitted to the District in connection with the Consultant Services), the Consultant shall not suffer or permit any of its employees to enter in or upon an applicable property owned or controlled by the District, or to be in the vicinity of such property, in connection with the Consultant Services.

Representative Name: \_\_\_\_\_

Representative Title: \_\_\_\_\_

Representative Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

**CERTIFICATION REGARDING EMPLOYEE BACKGROUND CHECKS – ATTACHMENT SHEET**

**Consultant:** \_\_\_\_\_

**Instructions**

- (1) For each employee, insert all required information (as specified in the table below) in one row of the table.
- (2) In the “Driver License/Identification” column in the table below: (i) specify the number of the employee’s driver’s license or, if the employee does not have a driver’s license, the number of the employee’s state-issued identification; and (ii) specify the state that issued the driver’s license or identification.
- (3) If identifying more than ten employees: (i) use copies of this Attachment to identify the additional employees; and (ii) on each such copy, specify the page number and total number of pages where indicated at the bottom of this Attachment.

	Employer (Company)	Employee Name and Position	Sex	Date of Birth	Height	Weight	Hair Color	Eye Color	Driver License/Identification #
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									

Page \_\_\_\_ of \_\_\_\_

**EXHIBIT "E"**  
**CERTIFICATION OF TUBERCULOSIS ASSESSMENT AND EXAMINATION**

**District:** Alvord Unified School District

**Consultant:** \_\_\_\_\_

**Agreement:** Agreement for Consultant Services dated [Click here to choose Board approval date](#)

---

---

The undersigned hereby certifies to the District, subject to penalty for perjury pursuant to the laws of the State of California, that all of the following is true and correct:

- (i) The undersigned is a duly authorized representative of the Consultant and, in that capacity, has executed this certification on behalf of the Consultant.
- (ii) The Consultant has fully complied with the requirements of this Agreement for determining whether any and all persons who will be performing Consultant Services and who will have frequent or prolonged exposure to District students are free of tuberculosis risk factors or, if risk factors are present, are free of infectious tuberculosis.
- (iii) All of the personnel of the Consultant who are subject to the tuberculosis-related requirements are identified on the Attachment(s) to this certification.
- (iv) Each person identified on the Attachment(s) to this certification has, consistent with Education Code Section 49406:
  - (1) submitted to a tuberculosis risk assessment within the 60-day period prior to the scheduled commencement of the Consultant Services and either (a) been found not to have any tuberculosis risk factors, or (b) if such risk factors were present, was examined as contemplated by Section 49406 and found to be free of infectious tuberculosis; or
  - (2) previously provided consultant services for the District and both (a) was certified at such time to be free of tuberculosis risk factors or, alternatively, to be free of infectious tuberculosis, and (b) has since then and within the last four years been tested and found to have no infectious tuberculosis.
- (v) At no time shall the Consultant suffer or permit any its personnel to be on, at, or in the vicinity of any property owned or controlled by the District unless they are identified on an Attachment to this certification (or on an attachment to another certification using this form that the Consultant has submitted to the District in connection with the Consultant Services).

Representative Name: \_\_\_\_\_

Representative Title: \_\_\_\_\_

Representative Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

**CERTIFICATION OF TUBERCULOSIS ASSESSMENT AND EXAMINATION – ATTACHMENT SHEET**

**Consultant:** \_\_\_\_\_

**Instructions**

- (1) For each employee, insert all required information (as specified in the table below) in one row of the table.
- (2) In the “Driver License/Identification” column in the table below: (i) specify the number of the employee’s driver’s license or, if the employee does not have a driver’s license, the number of the employee’s state-issued identification; and (ii) specify the state that issued the driver’s license or identification.
- (3) If identifying more than ten employees: (i) use copies of this Attachment to identify the additional employees; and (ii) on each such copy, specify the page number and total number of pages where indicated at the bottom of this Attachment.

	Employer (Company)	Employee Name and Position	Sex	Date of Birth	Height	Weight	Hair Color	Eye Color	Driver License/Identification #
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									

Page \_\_\_\_ of \_\_\_\_

# TEMPLATE AGREEMENT FOR MAINTENANCE WORK UNDER PCC SECTION 20111 BID THRESHOLD

FOR USE BY THE

## ALVORD UNIFIED SCHOOL DISTRICT

### Applicability:

*This template agreement is intended for use in contracting for repairs and maintenance work that are not a “public project” as defined in Public Contract Code (“PCC”) Section 22020 and that the District anticipates will cost not more than \$95,200, which is the current threshold amount for competitive bidding pursuant to PCC Section 20111 for repairs (including maintenance) and services other than construction services. (Note: watch for possible adjustment to the bid threshold amount to take effect in January of 2021.) This template should not be used for public projects (i.e., construction and similar services).*

*For purposes of PCC Section 20111, PCC Section 20115 defines maintenance to mean “routine, recurring, and usual work for the preservation, protection, and keeping of any publicly owned or publicly operated facility for its intended purposes in a safe and continually usable condition for which it was designed, improved, constructed, altered, or repaired.... This ... expressly includes, but is not limited to: carpentry, electrical, plumbing, glazing, and other craftwork designed consistent with the definition set forth above to preserve the facility in a safe, efficient, and continually usable condition for which it was intended, including repairs, cleaning, and other operations on machinery and other equipment permanently attached to the building or realty as fixtures. This definition does not include, among other types of work, janitorial or custodial services and protection of the sort provided by guards or other security forces. It is the intent of the Legislature that this definition does not include painting, repainting, or decorating other than touchup...”*

*Consult with Brian W. Smith at AALRR if the District desires to use this template for contracts to be issued on or after January 1, 2021, to determine if changes to this template are required as a result of changes in law, or for other reasons.*

### User Tips:

- (i) *Clone this template in each case and modify the clone, in order to preserve the original template, instructions, et cetera.*
- (ii) *For each clone, delete highlighted text wherever found and, in its place, insert the information described in such highlighted text. When inserting Work name, Contractor, and Effective Date information, that information will automatically be inserted in the rest of the document.*
- (iii) *Highlighted text with the option to “choose” has a drop-down menu. To use the drop-down menu, click on the arrow that appears on the right-hand side when the field is selected.*
- (iv) *Clicking on non-editable portions of the text, or using the up and down keyboard arrow keys to move within the text, will make the screen jump to the next fillable field, possibly skipping over several pages. This is intended to create efficiencies when creating cloned agreements. However, to avoid jumping, simply scroll through the document (or use the slide bar on the right margin), and click on the fillable fields as they appear.*
- (v) *Consult with Brian W. Smith at AALRR if changes to the non-editable portions of the text are desired.*

**Please Note:**

*The information set forth in any completed Employee Lists (See Attachment C) is confidential and should not be distributed or made public pursuant to any California Public Records Act request or otherwise.*

*Please do not distribute editable versions of this agreement to consultants or others. If the District intends to distribute the agreement electronically, please ensure that the electronic version is a locked PDF or similar format.*

**Discard/delete cover pages before issuing the contract.**

**ALVORD UNIFIED SCHOOL DISTRICT**  
9 KPC Parkway, Corona, CA 92879  
Phone # (951) 509-6110

**AGREEMENT FOR MAINTENANCE WORK  
UNDER PCC SECTION 20111 BID THRESHOLD**

This Agreement for Maintenance Work Under PCC Section 20111 Bid Threshold (“Agreement”) is made effective as of [Click here to choose date of District Board approval](#) (“Effective Date”) by and between the Alvord Unified School District (“District”), a California public school district, and [Click here to enter contractor full business name, i.e., as shown on contractor’s license](#) (“Contractor”). The Contractor is identified in additional detail in Paragraph A of Attachment A to this Agreement. The District and the Contractor may be referred to herein individually as a “Party” and collectively as the “Parties.”

In consideration of the respective rights and obligations of the Parties set forth herein, the Parties hereby agree as follows:

1. This Agreement provides for performance by the Contractor of certain maintenance work as described herein (“Work”) at the location(s) described in Paragraph B of Attachment A hereto (“Work Site”). Although, as described in more detail herein, the Work is a public work, the Work is not a public project as defined in Public Contract Code Section 22002 and, therefore, the Contractor shall not, pursuant to this Agreement, perform any construction or other work that constitutes a public project.
2. The Contractor shall furnish any and all labor, materials, services, transportation, equipment and other things as are necessary for the Contractor to fully and satisfactorily complete, in strict accordance with the Contract Documents (defined in Section 8 of this Agreement), all of the Work described in the “Scope of Work” set forth in Paragraph C of Attachment A hereto and elsewhere in the Contract Documents.
3. If required by Paragraph D of Attachment A hereto, then, at all times during the performance of the Work, the Contractor must have and maintain in effect the contractor’s license(s) issued by the California Contractors State License Board (“CSLB”) and specified in such Paragraph D.
4. At all times during the performance of the Work, the Contractor must be and remain in full compliance with the “employee background check” conditions specified in the “District Determination Regarding Employee Background Checks” attached as Attachment B to this Agreement. If so specified in Attachment B, the Contractor must comply with all requirements of Attachment C to this Agreement.
5. The Contractor must commence the Work on the “Commencement Date” specified in Paragraph E of Attachment A hereto, and must fully and satisfactorily complete all of the Work not later than the “Completion Date” specified in Paragraph F of Attachment A hereto. Based on such Commencement Date and such Completion Date, the period of time that the Contractor has to fully and satisfactorily complete the Work is referred to herein as the “Contract Time,” and the Contract Time may be adjusted only by means of duly authorized Change Order (defined in Article 18 of the “General Provisions” set forth as Attachment D to this Agreement).
6. In exchange for the full and satisfactory completion of the Work in strict accordance with the Contract Documents, the District shall pay to the Contractor the amount specified in Paragraph G of

Attachment A hereto ("Contract Amount"). In no event shall the initial Contract Amount be more than \$95,200.00. The District shall pay the Contract Amount to the Contractor in accordance with Articles 19 through 23, inclusive, of the General provisions within thirty days after acceptance of the Work by the Board of Education of the District ("District Board").

7. If the Contractor does not fully and adequately complete all of the Work within the Contract Time, the District, as provided in Article 24 of the General Provisions, may assess against the Contractor the "Liquidated Damages Amount" specified in Paragraph H of Attachment A hereto for each day (or portion thereof, if not a full day) of delay in completion of the Work.
8. This Agreement includes and incorporates all of the documents as indicated below in this Section (the "Contract Documents"). The Contract Documents are intended to be complementary and form an integrated and binding whole, and the performance of the Work shall be subject to the provisions of the Contract Documents. The Contractor must perform the Work in accordance with and/or otherwise comply with the Contract Documents as provided therein. The Contract Documents include all of the following:
  - (i) This Agreement form;
  - (ii) Attachment A, the "Work Information";
  - (iii) Attachment B, the "District Determination Regarding Employee Background Checks";
  - (iv) Attachment C, the "Certification Regarding Employee Background Checks";
  - (v) Attachment D, the "General Provisions" of this Agreement;
  - (vi) Attachment E, the "Supplementary General Provisions Relating to the COVID-19 Public Health Emergency";
  - (vii) Attachment F, the "Certification Regarding Workers' Compensation"; and
  - (viii) Any and all other documents as may be specified in Paragraph I of Attachment A hereto.
9. The person who has signed this Agreement on behalf of the Contractor shall be deemed and construed to thereby represent and warrant that: (i) the information specified in Paragraphs A and D of Attachment A hereto is all true and correct; (ii) he or she, acting on behalf of the Contractor, has read and understands the General Provisions and Supplementary General Provisions set forth in Attachments D and E hereto and, to the extent applicable to the Work, the Contractor shall comply with all of such General Provisions and Supplementary General Provisions; and (iii) he or she has been duly authorized by the Contractor to sign, and thereby bind the Contractor to, this Agreement.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as evidenced by the signatures of their respective, duly authorized representatives below.

**Alvord Unified School District**

By: \_\_\_\_\_  
Print name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date signed: \_\_\_\_\_

**Click here to enter contractor full and correct business name**

By: \_\_\_\_\_  
Print name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date signed: \_\_\_\_\_

**ATTACHMENT A**  
**WORK INFORMATION**

**A. Contractor:**

- (i) Full Legal Name: Click here to enter contractor full and correct business name
- (ii) Organized in State of: Click here to enter state in which entity formed, e.g., California, Delaware, *et cetera*
- (iii) Type of Legal Entity: Click here to enter entity type, e.g., individual, corporation, partnership, limited liability company
- (iv) Employer ID No. (if not an individual): Click here to enter FEIN or, if is an individual, enter "N/A"
- (v) Social Security No. (if an individual): MUST BE SEPARATELY ON FILE WITH THE DISTRICT
- (vi) Business Address: Click here to enter street address  
Click here to enter city, state and zip
- (vii) Business Telephone No: Click here to enter telephone number

**B. Work Site:**

Click here to enter school name, address, particular building or grounds, or other information sufficient to accurately describe the Work Site

**C. Scope of Work:**

Click here to enter detailed description of Work; can include description set forth in an applicable proposal, but suggest do not include any other information from proposal due to risk of conflicting provisions

**D. Contractor's CSLB License:**

- (i) License Number: Click here to enter CSLB license number or, if no license required, enter "N/A"
- (ii) Classification(s): Click here to enter each class of license held by Contractor, if no license required, enter "N/A"
- (iii) Expiration Date: Click here to choose CSLB license expiration date , if no license required, enter "N/A"

<b>District Verification:</b> Contractor's CSLB License Information Verified By: District Representative: _____ Date Verified: _____
---

**E. Commencement Date: Click here to choose date Work must commence**

**F. Completion Date: Click here to choose date Work must be fully complete**

**G. Contract Amount: Click here to enter total compensation payable to Contractor**

**H. Liquidated Damages Amount: Click here to enter daily rate of Liquidated Damages for Contractor delays or, if will be no LDs, enter "N/A"**

**I. Additional Contract Documents:**

Click here to enter schedule or scheduling information, list of bonds (payment and/or performance), and/or other documents forming part of contract with Contractor that are not described in Section 8 of the Agreement. Note that payment bonds are required only for construction or other "works of

improvement,” but can require if desired. Performance bonds are not required by statute, whether for public projects or maintenance work, but are advisable in appropriate circumstances. If no additional documents to reference, insert “N/A.”

If applicable, insert the following: Attachment G, the “Payment Bond” (Article 5A of the General Provisions is hereby made applicable);

If applicable, insert the following: Attachment H, the “Performance Bond” (Article 5B of the General Provisions is hereby made applicable)

## ATTACHMENT B

### DISTRICT DETERMINATION REGARDING EMPLOYEE BACKGROUND CHECKS

**[Note: choose only one of the following three determination options and delete these highlighted instructions]**

- The District has determined that, with respect to any and all employees (of both the Contractor and, if applicable, its subcontractors) who will be present at the Work Site in connection with this Agreement, fingerprinting and background checks will be required. Therefore, the Contractor must complete, sign, and submit to the District the “Certification Regarding Employee Background Checks” form set forth as Attachment C to this Agreement.
  
- The District has determined that, as provided by Education Code Section 45125.2, the safety of students can be ensured if, at all times during the performance of the Work, the Contractor implements and abides by the safety precautions checked below:
  - Installation of a physical barrier at the Work Site to limit contact with pupils.
  
  - Surveillance by District personnel of all employees (of both the Contractor and, if applicable, its subcontractors) at all times during performance of the Work.
  
  - Continual supervision and monitoring of all employees (of both the Contractor and, if applicable, its subcontractors) by a designated supervisory employee of the Contractor whom the California Department of Justice has ascertained has not been convicted of a violent or serious felony as defined in Education Code Section 45125.2. Such designated supervisory employee may not be changed without the express written consent of the District. As of the Effective Date, the designated supervisory employee is identified as follows:  
Name: \_\_\_\_\_
  
- The District has determined that, in connection with the performance of the Work, employees who will be present at the Work Site in connection with this Agreement (whether employees of the Contractor or, if applicable, its subcontractors) will have only “limited contact” with students at the Work Site and, therefore, that the Contractor is not required to comply with any of the foregoing safety requirements.

**ATTACHMENT C**  
**CERTIFICATION REGARDING EMPLOYEE BACKGROUND CHECKS**

**Note:** *This form to be completed if required pursuant to Attachment B of this Agreement.*

**District:** Alvord Unified School District

**Work:** [Click here to enter Work name/number](#)

**Agreement:** Agreement for Maintenance Work Under PCC Section 20111 Bid Threshold dated [Click here to choose date of District Board approval](#)

**Contractor:** [Click here to enter contractor full and correct business name](#)

The Contractor identified above shall require that all persons who will at any time be present on or at the Work Site in connection with the performance of the Work (including, without limitation, employees of authorized subcontractors) submit their fingerprints in a manner authorized by the California Department of Justice (“DOJ”) so that the DOJ may conduct a criminal background check consistent with the requirements of Education Code Section 45125.1, in order to determine whether such persons have been convicted of, or have charges pending for, a violent or serious felony as defined in Education Code Section 45122.1. Upon request of the Contractor submitted a reasonably sufficient amount of time in advance, the District may exempt from the foregoing requirement any person (e.g., employees of suppliers and/or delivery companies) who will be present on or at the Work Site for a relatively short period of time and who will be monitored at all times by supervisorial-level personnel who have passed the DOJ background check.

Except as provided in the preceding paragraph and except as to any person to whom an exception set forth in Subsection (f) of Section 45125.1 applies, the Contractor shall not permit any person to perform services pursuant to the Agreement, if those services are to be performed on or at the Work Site, until the DOJ has determined that such person has not been convicted of a violent or serious felony as defined in Education Code Section 45122.1. For purposes of eliminating any doubt, the Contractor is responsible for ensuring compliance with these requirements by employees of its subcontractors.

The Contractor, consistent with Article 10 of the General Provisions, shall indemnify, defend, and hold-harmless the District and its agents, officers and employees, and each of them, with respect to any and all Liabilities of whatever nature that arise from the failure or alleged failure by the Contractor to comply with the requirements of this Attachment C and/or the requirements of Education Code Section 45125.1 hereby made applicable, or that arise from any certification hereby made by the Contractor that is found to be false.

The undersigned hereby certifies, subject to penalty for perjury, that: (i) the undersigned is a duly authorized representative of the Contractor and, in that capacity, has executed this certification on behalf of the Contractor; (ii) the Contractor has fully complied with the requirements of the Agreement for background checks on persons who will perform any services pursuant to the Agreement, if those services will be performed on or at the Work Site; (iii) except as to any person to whom an exception set forth in Subsection (f) of Section 45125.1 applies, none of the persons identified on the Employee List attached to this Certification form have been convicted of a violent or serious felony as defined in Education Code Section 45122.1; and (iv) in connection with the Work, the Contractor shall not suffer or permit any persons other than those shown on such list to enter in or upon the Work Site, or to be in the vicinity of the Work Site.

Representative Name: \_\_\_\_\_

Representative Title: \_\_\_\_\_

Representative Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

***(Attach Employee List to this Certification form.)***

## CERTIFICATION REGARDING EMPLOYEE BACKGROUND CHECKS – EMPLOYEE LIST

**Contractor:** [Click here to enter contractor full and correct business name](#)

**Instructions**

- (1) For each employee, insert all required information (as specified in the table below) in one row of the table.
- (2) In the “Driver License/Identification” column in the table below: (i) specify the number of the employee’s driver’s license or, if the employee does not have a driver’s license, the number of the employee’s state-issued identification; and (ii) specify the state that issued the driver’s license or identification.
- (3) If identifying more than ten employees: (i) use copies of this Employee List to identify the additional employees; and (ii) on each such copy, specify the page number and total number of pages where indicated at the bottom of this Employee List.

	Employer (Company)	Employee Name and Position	Sex	Date of Birth	Height	Weight	Hair Color	Eye Color	Driver License/Identification #
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									

Page \_\_\_\_ of \_\_\_\_

**ATTACHMENT D**  
**GENERAL PROVISIONS**

**ARTICLE 1. COMPLIANCE WITH LABOR CODE:**

The Work is a “public work” as defined in Section 1720 or other provisions of the California Labor Code (“Labor Code”), and Part 7, Chapter 1, of the Labor Code is applicable to the Work.

Therefore, the Contractor must be, and shall be deemed and construed to be, aware of and understand the requirements of Labor Code Sections 1720 *et seq.* and 1770 *et seq.*, and Title 8 of the California Code of Regulations, Section 16000 *et seq.* (collectively, the “Labor Laws”), which, among other things, require the payment of “prevailing wages” to all workers on public work costing in excess of \$1,000. The Contractor acknowledges that, to the extent provided by Labor Code Section 1771.4, public work is subject to compliance monitoring and enforcement by the Department of Industrial Relations (“DIR”). The Contractor, at no additional cost to the District, must comply with any and all applicable Labor Law requirements, including, without limitation, requirements for payment of prevailing wages, maintenance, inspection and submittal of payroll records, notice and posting requirements, *et cetera*. The Contractor must ensure that any and all subcontractors working under the Contractor comply with the Labor Laws and other requirements applicable to public work. The Contractor, at no additional cost to the District, must cooperate with the DIR and the District in connection with Labor Law compliance matters. The Contractor shall not permit any contractor or subcontractor that has been debarred in accordance with the Labor Code, including, without limitation, pursuant to Sections 1777.1 or 1777.7, to bid on, perform, or contract to perform any portion of the Work. Wage rates for the Work shall be in accordance with the general prevailing rates of per-diem wages determined by the Director of Industrial Relations pursuant to Labor Code Section 1770. Wage rates must conform to those on file at the District’s principal office and posted at the Work Site. The District will withhold payment to the Contractor as necessary to satisfy civil wage and

penalty assessments issued by the Labor Commissioner. The following Labor Code sections are by this reference incorporated into and are a fully operative part of the Agreement, and the Contractor shall be solely responsible for compliance therewith:

- (i) Section 1735 (Anti-Discrimination Requirements);
- (ii) Section 1775 (Penalty for Prevailing Wage Rate Violations);
- (iii) Section 1776 (Payroll Records);
- (iv) Sections 1777.5 -1777.7 (Apprenticeship Requirements);
- (v) Sections 1810 -1812 (Working Hour Restrictions);
- (vi) Sections 1813 -1814 (Penalty for Failure to Pay Overtime); and
- (vii) Section 1815 (Overtime Pay).

**ARTICLE 2A. DIR REGISTRATION:** If the Contract Amount initially is \$15,000 or less, the requirements set forth in Labor Code Section 1725.5 and 1771.1 for contractors and subcontractors to be currently registered with the DIR and qualified to perform public work does not apply to the Work. If the Contract Amount initially is more than \$15,000, then, prior to entering into the Agreement, the Contractor and each of its Subcontractors must be registered with the DIR and qualified to perform public work. If any change order or other amendment to the Agreement will cause the Contract Amount to increase to more than \$15,000, and the Contractor or any of its subcontractors is not already so registered with the DIR, then, prior to entering into such change order or amendment, the Contractor and each of its subcontractors, each at its sole cost and expense, must register with the DIR as required by Section 1725.5 and 1771.1. If the Contractor or any of its subcontractors does not so register within such time as will preclude any delay to the Work, the District may enforce any of its remedies pursuant to Article 2B of these General Provisions.

**ARTICLE 2B. UNREGISTERED CONTRACTORS:**

Notwithstanding anything to the contrary, if at any time during the performance of the Work, the Contractor or any of its subcontractors is required to be registered with the DIR pursuant to Labor Code Section 1725.5 (including, without limitation, if the DIR revokes the registration), but is not so registered, the District may cancel or terminate the Agreement and/or replace the Contractor or subcontractor with a contractor or subcontractor that is duly registered pursuant to Labor Code Section 1725.5.

**ARTICLE 3A. PAYROLL RECORDS:** The Contractor must comply with all applicable provisions of Labor Code Section 1776, which relates to preparing and maintaining accurate payroll records, and making such payroll records available for review and copying by the District, the DIR’s Division of Labor Standards Enforcement and Division of Apprenticeship Standards. The payroll records must be certified, maintained at the principal offices of the Contractor, and made available as required by Labor Code Section 1776. The Contractor must inform the District of the location at which the payroll records are located, including the street address, city and county, and must, within 5 working days, provide a notice of any change of location and address. If the Contractor fails to timely comply with requests for certified payroll records, it shall forfeit, as a penalty to the District, \$100 for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated, and, in addition to penalties as provided by law, may be subject to debarment pursuant to Labor Code Section 1771.1. Timely provision by the Contractor of certified payroll records also shall be a condition precedent to the District’s obligation to make any subsequent progress, final, Retention (defined in Article 24 of these General Provisions), or other payments to the Contractor pursuant to the Agreement.

**ARTICLE 3B. SUBMISSION OF PAYROLL RECORDS TO DIR:** If the Contract Amount initially is \$15,000 or less, the exemption in Labor Code Section 1771.4(a)(4) will apply and the requirement in Labor Code Section

1771.4(a)(3) for submission of payroll records directly to the DIR shall not initially apply to the Work, but the Contractor and each of its subcontractors must retain the records required by Labor Code Section 1776 for a period of at least 3 years after completion of the Work. However, in the event any change order or other amendment to the Agreement results in the Contractor becoming subject to the registration requirements set forth in Labor Code Section 1725.5, the Section 1771.4(a)(3) requirement for submission by the Contractor and each of its subcontractors of payroll records directly to the DIR shall be in effect and shall apply to the Work. If the Contractor desires more information regarding such requirements, the Contractor should review Labor Code Section 1771.4.

**ARTICLE 4. PENALTIES FOR VIOLATIONS OF PREVAILING WAGE LAWS:** In accordance with Section 1775 of the Labor Code, the Contractor shall forfeit, as a penalty to the District, not more than \$200 and, subject to limited exceptions, not less than certain amounts specified by law, for each calendar day, or portion thereof, for each worker paid less than prevailing wage rates as determined by the director of the DIR. The Contractor shall pay to each worker the difference between such stipulated prevailing wage rate and the amount paid to the worker for each calendar day or portion thereof for which the worker was paid less than the applicable prevailing wage rates.

**ARTICLE 5A. PAYMENT BOND:** If Paragraph I of Attachment A to this Agreement makes this Article applicable, then, prior to commencing the Work, the Contractor, at its sole cost and expense, shall provide to the District a material and labor payment bond to ensure satisfaction of any claims of materials suppliers and of mechanics and laborers employed in connection with the Work (“Payment Bond”). The Payment Bond must be in the form set forth in Attachment G to this Agreement. The Payment Bond must remain in effect until the date that is 6 months after final payment to the Contractor for the Work.

**ARTICLE 5B. PERFORMANCE BOND:**

If Paragraph I of Attachment A to this Agreement makes this Article applicable, then, prior to commencing the Work, the Contractor, at its sole cost and expense, shall provide to the District a bond to ensure faithful (including, without limitation, timely) performance by the Contractor of its obligations pursuant to the Contract Documents (“Performance Bond”). The Performance Bond must be in the form set forth in Attachment H to this Agreement. The Performance Bond shall remain in effect for so long as the Contractor has any obligations pursuant to the Contract Documents.

**ARTICLE 5C. BOND REQUIREMENTS:** To the extent Article 5A and/or Article 5B of these General Provisions is applicable, each of the Payment Bond and/or the Performance Bond (each a “Bond”) initially must have a penal sum equal to the Contract Amount. If the Contract Amount is increased in accordance with the Contract Documents, then, within 7 days after such increase, the Contractor must increase the penal sums of each Bond so that it equals the total adjusted Contract Amount. Each Bond must: (i) be issued by a surety that is authorized and admitted to transact business in the State in accordance with Code of Civil Procedure Section 995.120; and (ii) include the notarized signatures of the Contractor and the surety. Prior to submitting a Bond to the District, the Contractor must attach to the Bond: (i) a printout of information from the website of the Department of Insurance confirming that the surety is an admitted surety insurer, printed not more than 10 days prior to submitting the Bond to the District; or (ii) certification by the Assessor-County Clerk-Recorder of the Riverside County that the surety is an admitted surety insurer, obtained from the Assessor-County Clerk-Recorder of the Riverside County not more than 10 days prior to submitting the Bond to the District. No change in the Work, extension of time for performance of the Work, or other action permitted pursuant to this Agreement shall be deemed or construed to, in any manner or respect, release the Contractor or any surety that has issued a Bond from its obligations

pursuant to the Bond, and each such surety shall be deemed to have waived notice of such changes, extensions and other actions.

**ARTICLE 6. SUBCONTRACTING:** The Contractor may subcontract portions of the Work only upon written consent of the District. If the Contractor subcontracts any of the Work, the Contractor shall bind each such subcontractor, in writing, to all requirements of this Agreement as are applicable (whether generally or specifically) to the subcontractor’s work. If the Contractor subcontracts any of the Work, the Contractor shall be fully responsible to the District for acts and omissions of each subcontractor and its employees and other representatives. Nothing contained in the Contract Documents shall be deemed or construed to create any contractual relationship between the District and any such subcontractor.

**ARTICLE 7. ASSIGNMENT:** Except to the extent the Contractor subcontracts any of the Work, the Contractor shall not assign or transfer, by operation of law or otherwise, any or all of its rights, burdens, duties, or obligations pursuant to this Agreement without prior written consent of District.

**ARTICLE 8. WORKERS’ COMPENSATION**

**INSURANCE:** At all times prior to completion of the Work, the Contractor shall have in effect workers’ compensation insurance for all its employees performing any of the Work, regardless of whether any portion of the Work occurs at a location other than the Work Site. In addition, the Contractor shall require each subcontractor similarly to provide workers’ compensation insurance for all of its employees. Any class of employee or employees not covered by a subcontractor’s insurance shall be covered by the Contractor’s insurance. Prior to commencing the Work, the Contractor must complete, execute, and submit to the District a copy of the “Certification Regarding Workers’ Compensation” attached as Attachment F to this Agreement.

**ARTICLE 9. PROOF OF INSURANCE:** Contractor must have in effect at all times during the performance of the Work a policy of Commercial General Liability Insurance (including automobile insurance) with limits of not less than \$1,000,000 per occurrence (combined single limit) and \$2,000,000 aggregate. Such general liability must be endorsed to name the District, the District Board and each member thereof, and the District's other officers, agents, employees and volunteers (collectively, not including the District, the "District Agents"), individually and collectively, as additional insured.

The limits set forth above shall not be construed to relieve the Contractor from liability in excess of such coverage, nor shall they limit the Contractor's indemnification obligations to District, and they shall not preclude the District from taking such other actions available to District pursuant to the Contract Documents and/or applicable law.

The Contractor must submit to the District such certificates of insurance and endorsements as reasonably evidence that the insurance hereby required is in full force and effect. Neither the Contractor nor any subcontractor shall commence any of the Work until all required insurance certificates have been delivered to and approved by District.

**ARTICLE 10. INDEMNIFICATION:** The District shall not be liable for, and the Contractor shall indemnify, defend and hold-harmless the District, the District agents, and each of them, with respect to, any and all claims, demands, actions and/or other proceedings, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges and costs (including, without limitation, attorneys' fees and court costs), and other liabilities of any nature whatsoever (each a "Liability") that arise from the performance of the Work by the Contractor or by others on its behalf. However, the Contractor shall not be responsible pursuant to this Article to the extent a Liability is attributable to the active negligence,

sole negligence, or willful misconduct of the District or any of the District Agents.

**ARTICLE 11. RESPONSIBILITY:** Except as otherwise specifically stated in this Agreement, Contractor shall provide and pay for all materials, labor, tools, equipment, water, lights, power, transportation, superintendence, and all other services and things of every nature whatsoever necessary to execute and complete the Work within the Contract Time. Except to the extent of the active negligence, sole negligence, or willful misconduct of the District or any of the District Agents, the Contractor, at all times prior to full and final completion of the Work, shall be solely responsible for damage or loss by weather or other causes to Work in progress.

**ARTICLE 12. PATENTS, ROYALTIES AND INDEMNITIES:** Consistent with Article 10 of these General Provisions, the Contractor shall indemnify, defend and hold-harmless the District, the District Agents and each of them, with respect to any patented or unpatented invention, process, article, or appliance used in the performance of the Work.

**ARTICLE 13. WARRANTY:** In addition to any warranties required by other of the Contract Documents, Contractor shall, and hereby does, warranty all Work for a period of one year after date of acceptance of the entirety of the Work by District. The Contractor shall, at its sole cost and expense, repair or replace any and all such Work (together with any other Work that may thereby be displaced) as is found to be defective in workmanship and/or materials within a one-year period from date of acceptance, ordinary wear and tear, unusual abuse, and neglect excepted. District will give notice of observed defects with reasonable promptness. The Contractor must coordinate the completion of the repairs with the District.

**ARTICLE 14. PROTECTION OF WORK AND PROPERTY:** Except to the extent of the active negligence, sole negligence or willful misconduct of the District or any of the District Agents, the

Contractor shall be responsible for any and all damages to property and injury to persons that occur in connection with the performance of the Work. Subject to the foregoing, all Work shall be performed at the Contractor's sole risk. The Contractor shall be responsible for the proper care and protection of all materials delivered and Work performed until completion and final acceptance by the District. As applicable, the Contractor shall adequately protect from damage all improvements in the vicinity of the Work Site. The Contractor shall take all necessary precautions for safety of all persons and property on and at the Work Site, and shall comply with all applicable safety laws, in order to prevent accidents or injury to persons and damage to property on, about, or adjacent to the Work Site. The Contractor shall erect and properly maintain at all times, as required by conditions and progress of the Work, all necessary safeguards, signs, barriers, light and watchmen for protection of workers and the public, and shall post danger signs warning against hazards created by such features in the course of the Work. The Contractor shall designate a responsible person whose duty shall be the prevention of accidents. The Contractor shall report the name and position of such person to the District.

**ARTICLE 15. DISTRICT'S RIGHT TO TERMINATE:**

The Contractor shall be in default of its obligations pursuant to this Agreement if the Contractor: (i) refuses or fails to perform the Work or any part thereof with such diligence as will ensure completion of the Work within the Contract Time; (ii) fails to complete the Work within the Contract Time; (iii) is the subject of any bankruptcy proceeding (whether voluntary or involuntary) and such proceeding is not withdrawn or terminated within 60 days of initiation; (iv) makes a general assignment for the benefit of creditors; (v) is the subject of a court-appointed receiver; (vi) persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials to complete the Work within the Contract Time; (vii) fails to pay subcontractors within the time required by law; (viii) persistently disregards

laws, ordinances, or instructions of District; or (ix) fails (or any subcontractor fails) to comply with any provision of this Agreement.

In each case that the Contractor is so in default, the District may, without prejudice to any other right or remedy, serve written notice upon Contractor (and, if applicable, its surety) of the District's intent to terminate the Contractor's right to perform the Work, specifying in such notice the reasons for termination. Unless, within 10 days after the service of any such notice, the Contractor has cured the default(s) specified in the notice or made arrangements satisfactory to the District for cure of such default(s), the Contractor's right to complete the Work shall automatically terminate.

In such event, the District shall not, if applicable, be required to permit any surety to complete the Work, and the District may complete the Work by whatever means the District determines is appropriate. The Contractor shall not be entitled to any further compensation until the District Board has accepted the entirety of the Work. If any portion of the Contract Amount remains after deducting the costs incurred by the District in completing the Work, the balance shall be paid to the Contractor. If the remaining Contract Amount is not sufficient to fully reimburse the District for the costs it incurs in completing the Work, the Contractor shall be liable for, and shall pay to the District, all of such unreimbursed costs.

**ARTICLE 16. CLEAN UP:** The Contractor at all times shall remove and keep premises free of debris, waste, rubbish, and excess materials attributable to the performance of the Work ("Debris"). As a condition to final acceptance of the Work, the Contractor must, as applicable and to the extent necessary as a result of the Work: (i) clean the Work Site; (ii) clean the interior and exterior of each affected building or portion thereof (including fixtures, equipment, walls, floors, ceilings, roofs, window sills and ledges, horizontal projections and any areas where Debris has collected); (iii) ensure that surfaces are free from foreign material or

discoloration; (iv) clean and polish all glass, plumbing fixtures and finish hardware and similar finish surfaces and equipment; and (v) remove from the Work Site any and all temporary fencing, barricades, planking, portable toilets, and other temporary facilities.

**ARTICLE 17. PROVISIONS REQUIRED BY LAW:**

Each and every provision required by law to be set forth in this Agreement shall be deemed to have been set forth herein, and this Agreement shall be read and enforced as though all such provisions are set forth herein. If, for any reason, any provision required by law is not set forth herein, or is not correctly set forth herein, then, upon request of either Party, the Parties shall amend this Agreement to the extent necessary to set forth, or correctly set forth, such provision.

**ARTICLE 18. CHANGE ORDERS:** Without invalidating this Agreement, the District and the Contractor may agree, in writing, to performance by the Contractor of extra work or changes to the Work pursuant to this Agreement (each a "Change Order"). Each such Change Order shall specify any adjustments to the Contract Amount and/or the Contract Time attributable to the Change Order. All such Change Order work shall be performed in accordance with the requirements of this Agreement. Except in an emergency endangering life or property, the Contractor shall not perform any extra work or make any change in the Work unless pursuant to an executed Change Order, and no claim for an addition to the Contract Amount shall be valid unless specified in an executed Change Order.

**ARTICLE 19. INVOICING OF PAYMENT IF CONTRACT TIME IS LESS THAN 45 DAYS:** If the initial Contract Time is less than 45 days, the District shall pay the full amount payable to the Contractor in a single lump-sum payment (i.e., without progress payments). In such event, the Contractor shall submit to the District a single invoice requesting full and final payment only after the Contractor has fully completed, and the District Board has accepted, the Work. As a

condition precedent to the District's obligation to pay such amount to the Contractor, the Contractor must submit with its invoice an executed copy of a "Conditional Waiver and Release on Final Payment" in the form specified in Civil Code Section 8136, which shall be applicable to the full payment for the Work.

**ARTICLE 20. SCHEDULE OF VALUES IF**

**CONTRACT TIME IS 45 DAYS OR MORE:** If the initial Contract Time is 45 days or more, then, prior to commencing the Work, the Contractor must submit to the District a proposed schedule of the values allocated to the various portions of the Work ("Schedule of Values"), which must, among other things: (i) allocate the Contract Amount (in dollars) to each separate component (e.g., activity, item, location, *et cetera*) of the Work, with not less than five percent (5%) of the total Contract Amount allocated to final inspection of the Work; and (ii) project when each component of the Work will be completed. The Contractor must not "front-load" the Schedule of Values by allocating increased or otherwise false dollar amounts to early stages of the Work. Upon approval of any Change Order that affects the Contract Amount, the Contractor must submit to the District an adjusted Schedule of Values that accommodates the authorized changes in the Work. The initial and each adjusted Schedule of Values is subject to reasonable approval by the District; therefore, the Contractor must modify any Schedule of Values as reasonably requested by the District, and the District shall not be required to make any payment to the Contractor unless and until the Contractor has obtained approval of the Schedule of Values.

**ARTICLE 21. INVOICING OF PAYMENTS IF CONTRACT TIME IS 45 DAYS OR MORE:** If the initial Contract Time is 45 days or more, then, after approval of the Schedule of Values, and on or before the 7<sup>th</sup> day of each month during the Contract Time, the Contractor must submit invoices to the District for payment of the portion of the Work that was completed during (or, if not previously compensated, prior to) the immediately preceding month, and the amounts

requested in each such invoice must be consistent with the approved Schedule of Values. With each such invoice, the Contractor must submit to the District: (i) an executed copy of the "Conditional Waiver and Release on Progress Payment" in the form specified in Civil Code Section 8132, which shall be applicable to the amount specified in the invoice; and (ii) an executed copy of an "Unconditional Waiver and Release on Progress Payment" in the form specified in Civil Code Section 8134, which shall be applicable to all amounts, if any, previously paid to the Contractor as to which the Contractor has not already submitted an executed Unconditional Waiver and Release on Progress Payment.

**ARTICLE 22. FINAL PAYMENT:** If the initial Contract Time is 45 days or more, the Contractor shall submit to the District an invoice for final payment for the Work only after the Contractor has fully completed, and the District has given final inspection approval of the Work. With such invoice, and as a condition precedent to the District's obligation to make the final payment to the Contractor, the Contractor must submit to the District an executed copy of the "Conditional Waiver and Release on Final Payment" in the form specified in Civil Code Section 8136, which shall be applicable to the total amount of the final payment.

**ARTICLE 23. PAYMENT PROCEDURES:** The District shall review each invoice requesting payment for some or all of the Work and, as soon as practicable, but not later than 7 days after receipt of the request, shall: (i) determine that the request is correct in all aspects and should be paid by the District; (ii) reject the request as not proper, stating the reason(s) why rejection is appropriate; or (iii) require that the Contractor provide additional information that the District reasonably determines is necessary to verify the requested payment amount. In the event the District rejects the request for payment, the Contractor may resubmit the request with additional or new information establishing why payment should be made despite the reason(s) set forth in the District's

initial rejection. The District shall pay the undisputed amount of the Contractor's request for payment, less any amounts that may be withheld or retained pursuant to this Agreement or applicable law, within 30 days of receipt of such request and in accordance with Public Contract Code Section 20104.50. If the District has requested additional information in support of the payment request, the time for payment pursuant shall be extended by the number of days required for the Contractor to provide the requested information but reduced by the number of days the District by which it exceeded the 7-day period described above in this Article.

**ARTICLE 24. LIQUIDATED DAMAGES:** Time is of the essence with respect to this Agreement and completion of the Work. The Parties acknowledge and agree that the District will suffer damages if the Contractor does not complete the Work within the Contract Time. Because it is impractical and infeasible to determine the actual amount of damages the District will incur, in accordance with Government Code Section 53069.85, the Contractor shall pay to the District liquidated damages at the rate specified in Paragraph H of Attachment A for each and every calendar day (or portion thereof, if not a full day) that any of the Work remains uncompleted after the Contract Time has expired ("Liquidated Damages"). Liquidated Damages shall constitute compensation to the District for Contractor's delay or delay caused by its subcontractors, suppliers, *et cetera*, in completion of the Work and shall not be construed as a penalty or forfeiture of any other right or remedy under this Agreement or applicable law. In the event Contractor fails to pay any such Liquidated Damages, the District may deduct such amount(s) from any payments due (or that may become due) to Contractor pursuant to this Agreement and/or may be invoiced to the Contractor. Nothing in this Section shall be deemed or construed to preclude the District from recovering other or additional damages, as provided by this Agreement or applicable law, as may be attributable to any breach or default by

the Contractor of its obligations pursuant to this Agreement.

**ARTICLE 25. CLAIMS PROCEDURES:** The Contractor must file any and all claims against the District arising from this Agreement and/or the Work (each a “Claim”) pursuant to and in accordance with Government Code Section 900 *et seq.*

**ARTICLE 26. DRUGS, TOBACCO AND ALCOHOL:** District policies prohibit the presence and/or use of non-prescription drugs, tobacco products, and alcohol on all District properties, including, without limitation, the Work Site. The Contractor must inform all persons who will be on or at the Work Site in connection with the Work, in writing, of such prohibition, and the Contractor must stop and prevent recurrence of any use or abuse of drugs, tobacco and alcohol on or at the Work Site that occurs. If any person on or at the Work Site in connection with the Work fails to comply with the District policies described in this Article, the Contractor shall be in default of its obligations pursuant to this Agreement for purposes of Article 15 of these General Provisions.

**ARTICLE 27. LEAD AND LEAD-BASED MATERIALS:** In accordance with the Lead-Safe Schools Protection Act (Education Code Section 32240 *et seq.*), the Contractor shall not use for purposes of the Work, or incorporate into the Work, any lead-based paint, lead plumbing or solders, or other materials, equipment or other things that, in whole or in part, consist of lead and, therefore, may be a potential source of lead contamination.

**ARTICLE 28. ASBESTOS:** The Contractor hereby acknowledges that, if the Work involves or creates any disturbance of any existing structures, utilities or other improvements, then asbestos or asbestos-containing materials likely will be present on or at the Work Site. The Contractor shall be deemed and construed for all purposes of the Agreement to have undertaken the Work with full knowledge of the currently accepted standards, hazards, risks and liabilities

associated with asbestos and asbestos-containing materials. The Contractor shall be solely responsible and liable for safely and appropriately performing any Work that may disturb any asbestos or asbestos-containing materials.

Notwithstanding anything to the contrary, in no circumstances may the Contractor use or incorporate into the Work any asbestos or asbestos-containing materials, or use or employ in connection with the Work any equipment, tools, clothing or other things that contain or incorporate asbestos or asbestos-containing materials.

For purposes of the Agreement: (i) “asbestos” means any naturally occurring fibrous hydrated mineral silicate, including, without limitation, chrysotile, crocidolite, amosite, fibrous tremolite, fibrous anthophyllite, and fibrous actinolite; and (ii) “asbestos-containing materials” means materials or products formed by mixing asbestos fibers with other materials, such as cement, rock wool, plaster, cellulose, clay, vermiculite, perlite, adhesive, *et cetera*.

If the Contractor violates the foregoing prohibition against asbestos and asbestos-containing materials, or otherwise is responsible for asbestos contamination on, at or in the vicinity of the Work Site, the Contractor shall be solely responsible and liable for any and all damages, costs and/or delays incurred by the District associated with such asbestos and/or asbestos-containing materials, including, without limitation, costs incurred by the District for additional administrative, consultant, and contractor services.

**ARTICLE 29. COMPLIANCE WITH APPLICABLE LAWS:** In connection with the performance of the Work, the Contractor shall comply with all laws, codes, regulations, ordinances, and other governmental requirements applicable to the Work.

**ARTICLE 30. WORK-RELATED RECORDS:** The Contractor shall maintain all documents, books,

papers, accounting records, computer files, and other information related to the Work and to the performance of the Work (“Work Records”), including, but not limited to, Change Orders. The Contractor shall keep such accurate and comprehensive Work Records as are (i) necessary for proper administration and performance of the Work and (ii) required by law or this Agreement. All Work Records, as applicable, shall be maintained in accordance with generally accepted accounting principles.

If the Contract Amount, as adjusted pursuant to this Agreement, exceeds \$10,000, then, in accordance with Government Code Section 8546.7, the State has the right to examine, review, audit and/or copy the Work Records during the three-year period following final payment to the Contractor pursuant to the Agreement. In addition, the District hereby has the right to examine, review, audit and/or copy the Work Records during such three-year period. Therefore, the Contractor shall make the Work Records available at its offices at all reasonable times during the performance of the Work and for three years from the date of final payment to the Contractor pursuant to this Agreement. However, if any audit is commenced within such three-year period, the Contractor shall make the Work Records available at all reasonable times until proceedings related to such audit are complete and all statutes of limitation related thereto have expired. In the event the District notifies the Contractor that federal funds have been used in connection with the Work, the Contractor shall retain and make available the Work Records for such longer period as may be required by federal law.

**ATTACHMENT E**  
**SUPPLEMENTARY GENERAL PROVISIONS**  
**RELATING TO THE COVID-19 PUBLIC HEALTH EMERGENCY**

***Section 1. Applicability of, and Compliance with, COVID-19 Orders.***

***Subsection 1.1 Acknowledgement of Applicability.*** The Contractor acknowledges that: (i) the District has determined that the Work is essential to facilitate the District's purposes and must, therefore, be undertaken and completed as an essential governmental function; (ii) the Work is being undertaken at a time when a public health emergency exists with respect to the virus that causes COVID-19, and it is presently uncertain when this public health emergency will end; (iii) state and local governmental public health and other officials ("Public Officials") have issued mandatory guidance and orders establishing safety and other requirements relating to COVID-19 ("COVID-19 Orders") that may be applicable to the Work; and (iv) the possibility exists that, during the course of the Work, Public Officials may modify and/or issue additional COVID-19 Orders applicable to the Work. Without limiting the foregoing, Public Officials may include, among others, city and/or county public health officials, city and/or county building department officials, and state and/or federal Occupational Safety and Health Administration officials.

***Subsection 1.2 Required Compliance.*** The Contractor acknowledges and agrees that: (i) the Contractor shall be solely responsible for full and satisfactory compliance with all applicable COVID-19 Orders, with respect to any and all employees, workers, delivery personnel, and others who are present on or at the Work Site in connection with the performance of the Work, including, without limitation, the employees of any subcontractors performing any of the Work; (ii) the Contractor shall comply with any and all other COVID-19-related policies and directives applicable to the Work and/or the Work Site, as implemented by the District or any project manager, construction manager, supervisor, or other authorized person; and (iii) the compensation specified in the Agreement shall be deemed to include adequate compensation for compliance with any and all such COVID-19 Orders, policies, and directives.

***Section 2. COVID-19 Interruptions and Delays.***

***Subsection 2.1 Nonperformance Excused.*** Notwithstanding anything to the contrary, whether in the Agreement or otherwise, neither Party shall be responsible or liable if it is delayed in performing, or fails to perform, any one or more of its obligations pursuant to the Agreement, nor shall any such delay or failure constitute an event of default, if and to the extent such delay or failure was caused by an event, occurrence, incident, or situation that: (i) reasonably is beyond the control of the nonperforming Party; (ii) was not caused in whole or in part by any negligence or willful misconduct of the nonperforming Party or any of its officers, employees, contractors, or subcontractors; and (iii) is a consequence of the need to comply with any COVID-19 Order that takes effect and/or is implemented during the performance of the Work (each a "Force Majeure Event"). Without limiting the foregoing, the consequences of a Force Majeure Event may include, among others: (i) mandated diversion of resources away from the Work; (ii) mandated cessation of some or all of the Work; and (iii) mandated social distancing and/or other requirements beyond those in effect as of the Effective Date.

***Subsection 2.2 Required Procedures.*** In each case that a Party cannot fully and/or timely perform as a result of a Force Majeure Event as defined above: (i) the nonperforming Party must promptly give to the other Party written notice that describes in reasonable detail the particulars of such Force Majeure Event; (ii) the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required to accommodate the Force Majeure Event; (iii) the nonperforming

Party shall proceed with reasonable diligence to remedy its inability to perform and shall provide reasonable periodic progress reports to the other Party describing actions taken, if any, to mitigate the effects of the Force Majeure Event; and (iv) the nonperforming Party shall resume its performance as soon as reasonably possible, and shall give written notice, to the other Party, of its intent and the date it will resume performance.

**Subsection 2.3 Extension of Time.** In the event a Party is unable to fully or timely perform its obligations as a result of a Force Majeure Event as defined above, then: (i) except as the District and the Contractor may agree in writing, the Agreement shall continue in full force and effect unless terminated in accordance with its provisions; and (ii) as an exclusive remedy and subject to compliance with the other provisions in this Section 2, the time for performance of those obligations by the nonperforming Party (and any related obligations of the other Party) shall be extended by a reasonable number of days, but in no event by more than the number of days the Force Majeure Event precluded performance by the nonperforming Party of its obligations.

**ATTACHMENT F**  
**CERTIFICATION REGARDING WORKERS' COMPENSATION**

**District:** Alvord Unified School District

**Work:** [Click here to enter Work name/number](#)

**Contractor:** [Click here to enter contractor full business name, i.e., as shown on contractor's license](#)

Labor Code Section 3700 provides, in relevant part, that:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer, or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

The undersigned hereby certifies, subject to penalty for perjury, that: (i) I am a duly authorized representative of the Contractor and, in that capacity, have executed this certification on behalf of the Contractor; (ii) I am aware of the provisions of Labor Code Section 3700, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and the Contractor shall comply with such provisions before commencing the performance of the Work required by the Agreement for the above-referenced Work; and (iii) the Contractor will maintain such insurance in place at all times prior to full and final completion of the Work.

Representative Name: \_\_\_\_\_

Representative Title: \_\_\_\_\_

Representative Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

**ATTACHMENT G**  
**PAYMENT BOND**

**School District:** Alvord Unified School District of Riverside County, California

**Work Name:** [Click here to enter Work name/number](#)

**Contract:** Agreement for Maintenance Work Under PCC Section 20111 Bid Threshold dated [Click here to choose date of District Board approval](#)

**Contractor:** [Click here to enter contractor full business name, i.e., as shown on contractor's license](#)

**Surety:** \_\_\_\_\_

**Bond #:** \_\_\_\_\_

**Penal Sum:** \_\_\_\_\_

**WHEREAS**, the Work identified above is a public work in accordance with applicable law, and the School District identified above awarded to the Contractor identified above (herein, the "Principal") a contract providing for completion of the Work ("Contract"); and

**WHEREAS**, the Contract and/or California Civil Code Section 9550 *et seq.* require that the Principal furnish a labor and materials payment bond to the School District that ensures the faithful performance of the Principal's obligations pursuant to the Contract to pay for materials, labor and other things as required by applicable law, which bond must have a penal sum equal to one hundred percent of the total amount payable by the School District to the Principal pursuant to the Contract; and

**WHEREAS**, the Surety identified above hereby represents to the School District that the Surety is an "admitted surety insurer" in accordance with Section 995.120 of the California Code of Civil Procedure;

**NOW, THEREFORE**, we, the Principal and Surety, are hereby held and firmly bound to the School District in an amount of lawful money of the United States of America equal to the Penal Sum specified above, the payment of which well and truly to be made, we hereby bind, jointly and severally, ourselves and our heirs, executors, administrators and successors.

The condition of this obligation is that, if the Principal, or any of its heirs, executors, administrators, successors or assigns, or any of its subcontractors, fail in connection with the Work to pay as and when required (1) any of the persons authorized by California Civil Code Section 9100 to assert a claim against the Payment Bond, (2) amounts due under the Unemployment Insurance Code with respect to work or labor performed pursuant to the Contract, or (3) any amounts required to be deducted, withheld, and paid over to the Employment Development Department from wages of employees of the Principal or any of its subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, then the Surety shall pay, in full, any and all claims for such amounts, in a total amount not in excess of the Penal Sum, and also, in case suit is brought upon this Payment Bond, such reasonable attorneys' fees as fixed by the court.

This Payment Bond shall inure to the benefit of any and all of the persons named in California Civil Code Section 9100, so as to give a right of action to those persons or their assigns in any suit brought upon this Payment Bond.

The Surety hereby stipulates and agrees that this Payment Bond shall not be exonerated and the Surety shall not be released from its obligations pursuant to this Payment Bond on account of: (1) any extension of time, change, amendment or other modification of the Contract or other Work documents, or of the Principal's rights and/or obligations pursuant thereto, and Surety hereby waives notice of any and all such modifications; (2) any rescission or attempted rescission of the Contract or this Payment Bond; (3) any fraud of any person or entity other than fraud of a claimant in making a claim on this Payment Bond; or (4) any breach of any contract by the School District, the Principal or any person or entity for whose benefit Surety has issued this Payment Bond. The Surety further stipulates and agrees that this Payment Bond shall be construed most strongly against the Surety and in favor of the persons and entities for whose benefit Surety has issued this Payment Bond.

The Surety shall not be deemed to have fully and appropriately executed this Payment Bond unless Surety has provided all of the following information:

**SURETY'S SOUTHERN CALIFORNIA/LOCAL REPRESENTATIVE**

**SURETY'S REPRESENTATIVE FOR FILING CLAIMS**

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Representative Name

\_\_\_\_\_  
Representative Name

\_\_\_\_\_  
Representative Telephone Number

\_\_\_\_\_  
Representative Telephone Number

***(The remainder of this page intentionally left blank.)***

Each person that signs this Payment Bond on behalf of the Principal or the Surety thereby represents and warrants that the party he or she represents has duly authorized him or her to sign, and thereby bind such party to, this Payment Bond.

**IN WITNESS WHEREOF**, the Principal and Surety have executed this Payment Bond as evidenced by the signatures below of their respective, duly authorized representatives.

**PRINCIPAL**

**SURETY**

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Representative Signature

\_\_\_\_\_  
Representative Signature

\_\_\_\_\_  
Representative Name

\_\_\_\_\_  
Representative Name

\_\_\_\_\_  
Representative Title

\_\_\_\_\_  
Representative Title

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Date Signed

**Principal: Attach Notary acknowledgment to this Payment Bond and, if applicable, imprint corporate seal in the space below this line.**

**Surety: Attach Notary acknowledgment and power of attorney to this Payment Bond and imprint corporate seal in the space below this line.**

**ATTACHMENT H**  
**PERFORMANCE BOND**

**School District:** Alvord Unified School District of Riverside County, California

**Work Name:** [Click here to enter Work name/number](#)

**Contract:** Agreement for Maintenance Work Under PCC Section 20111 Bid Threshold dated [Click here to choose date of District Board approval](#)

**Contractor:** [Click here to enter contractor full business name, i.e., as shown on contractor's license](#)

**Surety:** \_\_\_\_\_

**Bond #:** \_\_\_\_\_

**Penal Sum:** \_\_\_\_\_

**WHEREAS**, the School District identified above awarded to the Contractor identified above (herein, the "Principal") a contract providing for completion of the Work identified above ("Contract"); and

**WHEREAS**, the Contract requires that the Principal furnish a bond to the School District that ensures the faithful performance of the Principal's obligations pursuant to the Contract to fully and satisfactorily perform the Work required by the Contract, which bond must have a penal sum equal to one hundred percent of the total amount payable by the School District to the Principal pursuant to the Contract; and

**WHEREAS**, the Surety identified above hereby represents and warrants to the School District that the Surety is an "admitted surety insurer" in accordance with Section 995.120 of the California Code of Civil Procedure;

**NOW, THEREFORE**, we, the Principal and Surety, are hereby held and firmly bound to the School District in an amount of lawful money of the United States of America equal to the Penal Sum specified above, the payment of which well and truly to be made, we hereby bind, jointly and severally, ourselves and our heirs, executors, administrators and successors.

The condition of the foregoing payment obligation is that, if the Principal (or, to the extent permitted by the Contract, its heirs, executors, administrators, successors or assigns) shall fully perform all of the undertakings, terms, covenants, conditions, agreements and other obligations required of the Principal pursuant to the Contract and any amendments or changes thereto, and shall complete the Work in full and strict conformance with the requirements thereof, all within the time and in the manner designated therein, in all respects according to their true intent and meaning, then such obligation shall become null and void; otherwise, it shall remain in full force and effect.

A condition precedent to the satisfactory completion of the Contract is that, after the acceptance of the Work by the School District, the payment obligation of this Performance Bond shall remain in full force and effect, in the amount of the Penal Sum, during all periods in which the Principal has any obligations pursuant to the Contract (including, without limitation, the obligations to make full, complete, and satisfactory repair and replacements of any defective materials and/or faulty workmanship, and to pay liquidated damages to the School District), and the obligation of Surety hereunder shall continue for so long as any such obligation of Principal continues to exist. The obligations of Surety pursuant to this

Performance Bond are exclusive of and distinct from any obligations Surety may have pursuant to any labor and materials payment bond applicable to the Work.

Whenever the School District declares the Principal to be in default of its obligations pursuant to the Contract, the School District having performed its obligations thereunder, the Surety, promptly within the time required by the Contract, shall remedy the default or, at the School District's discretion, shall:

- (i) Complete the Work in strict accordance with the terms and conditions of the Contract, including, without limitation, provisions for the time(s) within which the Surety must act; or
- (ii) Obtain, or permit the School District to obtain, one or more bids or proposals for any and all Work required to complete the Work in strict accordance with the terms and conditions of the Contract, and upon determining the most advantageous bid or proposal, arrange for such bidder or proposer and the School District to enter into a contract and make available as the Work progresses sufficient funds, up to and including a total amount equal to the Penal Sum set forth above, to pay the cost of completing the Work.

In performing its obligations pursuant to this Performance Bond, the Surety expressly agrees that:

(i) absent the express written consent of the School District, the Surety shall neither use the Principal nor accept a bid or proposal from the Principal for purposes of completing the Work; and (ii) the School District shall have the right, in its reasonable discretion, to reject any contractor or subcontractor that the Surety may propose to fulfill such obligations. In the event the School District provides notice to the Surety that the Principal is in default of its obligations pursuant to the Contract and, therefore, the Surety is required, as provided herein, to complete the Work or to arrange for the School District to contract for completion of the Work, and, through no fault of the School District, the Surety has exceeded the time permitted pursuant to the Contract for doing so, the School District may arrange to use replacement contractor(s) selected and contracted for by the School District to complete the Work and, in such event, the Surety's payment and other obligations pursuant to this Performance Bond shall not be thereby diminished or otherwise limited or modified.

Notwithstanding anything to the contrary, in the event the School District determines that the Principal has not met, or likely will be unable to meet, any deadline required pursuant to the Contract, or that Principal's performance otherwise does not conform with the requirements of the Contract, the School District may notify the Surety. In such event, the Surety must make reasonable attempts to assist the Principal to resolve or avoid the default by the Principal. The Surety and Principal expressly agree that neither the giving of such notice by the School District nor the giving of such assistance by the Surety shall be deemed or construed to constitute interference by the School District or the Surety with the Contract or the ability of the Principal to obtain any bond(s) in any amount(s) from any surety insurer(s).

***(The remainder of this page intentionally left blank.)***

For value received, the Surety hereby stipulates and agrees that this Performance Bond shall not be exonerated and the Surety shall not be released from its obligations pursuant to this Performance Bond by any change, amendment or other modification of the Contract or other Work documents, or of the Principal's rights and/or obligations pursuant thereto, and Surety hereby waives notice of any and all such modifications.

The Surety shall not be deemed to have fully and appropriately executed this Performance Bond unless Surety has provided all of the following information:

**SURETY'S SOUTHERN CALIFORNIA/LOCAL REPRESENTATIVE**

**SURETY'S REPRESENTATIVE FOR FILING CLAIMS**

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Representative Name

\_\_\_\_\_  
Representative Name

\_\_\_\_\_  
Representative Telephone Number

\_\_\_\_\_  
Representative Telephone Number

***(The remainder of this page intentionally left blank.)***

Each person that signs this Performance Bond on behalf of the Principal or the Surety thereby represents and warrants that the party he or she represents has duly authorized him or her to sign, and thereby bind such party to, this Performance Bond.

**IN WITNESS WHEREOF**, the Principal and Surety have executed this Performance Bond as evidenced by the signatures below of their respective, duly authorized representatives.

**PRINCIPAL**

**SURETY**

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Representative Signature

\_\_\_\_\_  
Representative Signature

\_\_\_\_\_  
Representative Name

\_\_\_\_\_  
Representative Name

\_\_\_\_\_  
Representative Title

\_\_\_\_\_  
Representative Title

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Date Signed

**Principal: Attach Notary acknowledgment to this Performance Bond and, if applicable, imprint corporate seal in the space below this line.**

**Surety: Attach Notary acknowledgment and power of attorney to this Performance Bond and imprint corporate seal in the space below this line.**