

MCSWAIN UNION ELEMENTARY SCHOOL DISTRICT E-RATE YEAR 2016 REQUEST FOR PROPOSAL

The McSwain Union Elementary School District (MCSW) plans to apply for various eligible services for E-Rate Year 2016. The E-Rate Year 2016 will commence July 01, 2016 and end June 30, 2017 (or beyond for contracts up to 5 years).

This Request for Proposal (RFP) serves as notice that MCSW will accept bid proposals from qualified vendors for data communication services.

MCSW reserves the right to accept or reject any or all bids or any items therein, to waive any irregularities or informalities, and to contract in the best interests of MCSW.

The original plus one copy of bid documents must be received by **Tuesday, March 01, 2016 at 2:00:00 PM (PST) or earlier**, in a sealed envelope, identified by bid identifier **MCSW-ERATE-2016-02**, and addressed to Stephanie Morris, Director Fiscal Services, McSwain Union Elementary School District, 926 Scott Road, Merced, CA 95341.

Vendors may request a copy of the RFP from Stephanie Morris, McSwain Union Elementary School District, 926 Scott Road, Merced, CA 95341 or by calling (209) 354-2706, or by emailing smorris@mcswain.k12.ca.us with a subject line of "**Request for E-Rate Year 2016 RFP**". **[Note: vendors should follow up with a phone call if they did not receive a copy of the E-Rate Year 2016 RFP within 48 hours of the email request].**

This RFP is let pursuant to Public Contract Codes 20118.2, 20111, and 22000.

All public works projects shall be subject to compliance monitoring and enforcement by the department of industrial relations.

Pursuant to California Labor Code sections 1725.5 and 1771.1 all public works contractors and subcontractors must be registered with the department of industrial relations.

Helio Brasil
Superintendent, McSwain Union Elementary School District

=====

LEGAL AD TO RUN:

Merced Sun Star
Wednesday, January 20, 2016 and
Monday, January 25, 2016

MCSWAIN UNION ELEMENTARY SCHOOL DISTRICT E-RATE YEAR 2016 REQUEST FOR PROPOSAL

Bid Requirements

This document serves as a Request For Proposal (RFP) for vendors to bid on MCSW needs for data communication services.

Vendors who are interested in bidding may request the a copy of the RFP from Stephanie Morris, Director Fiscal Services, McSwain Union Elementary School District, 926 Scott Road, Merced, CA 95341, or by calling (209) 354-2706, or by emailing smorris@mcswain.k12.ca.us with a subject line of "**Request for E-Rate Year 2016 RFP**". **[NOTE:** vendors should follow up with a phone call if they did not receive a copy of the E-Rate Year 2016 RFP within 48 hours of the email request].

Questions regarding this RFP and/or specific item(s) 470-nnn-16 in this RFP shall be directed via email to **Hau Nguyen** at **hnguyen@mcswain.k12.ca.us**. All questions must be received before 4:00 pm on **Wednesday, January 27, 2016**.

In compliance with E-Rate rules, vendors must provide their **Service Provider Identification Number (SPIN)** on the RFP as part of their bid response. **MCSW will reject any bid submissions that do not have a SPIN.** To obtain a SPIN please refer to the USAC website at <http://www.usac.org/sl/service-providers/beforeyoubegin/default.aspx>

Telecommunications Services Providers must be an eligible telecommunications services provider (common carriers) with a telecommunication services SPIN. Proposals from vendors not meeting this criterion may be automatically considered as non-responsive.

Preference will be given to telecommunications service providers that offer the California Teleconnect Fund (CTF) 50% discount on the non-E-Rate portion of CTF-eligible services, and assume responsibility for "stacking" of discounts.

Telecommunications providers who are not eligible to offer the California Teleconnect Fund (CTF) 50% discounts can respond to this proposal but the overall cost of the project "after discounts" will be the deciding factor on which provider has supplied the lowest price.

Each item on the RFP (called item 470) is identified by 470-nnn-16. Vendors may bid on all or some of the item 470s on the RFP. Vendors shall bid on all items that are specified in each item 470 (or the respective addendum to the item 470). **Any bid(s) on portion(s) of an item 470 shall be deemed as NOT meeting technical specifications and design, and shall be assigned a score of ZERO (0) in the bid assessment.**

For each item 470 tendered, vendors are required to state the applicable prices and the TOTAL BID PRICE. Vendors may include supplemental information such as product specifications, documentation samples, testimonials, etc. However, such types of information do not represent valid bids unless the TOTAL BID PRICE is stated. **Any item 470 that does not show the TOTAL BID PRICE shall be considered as NO BID.**

Vendors shall include a separate quotation for each item 470 tendered. Please refer to the heading in each section of the RFP for more information on the specific information to be

MCSWAIN UNION ELEMENTARY SCHOOL DISTRICT E-RATE YEAR 2016 REQUEST FOR PROPOSAL

included in the quotation. **For bids on Telecommunications Services, vendors shall provide monthly unit pricing for each component of the service.**

All bid prices shall be valid for a minimum of **180** days AFTER the date of the E-Rate Year 2016 Funding Commitment Decision Letter. Bid Bonds will be held to assure the validity of bid prices. In the event of a price decrease for a service or a product, the price decrease shall be passed on to MCSW and documented with new price sheet sent to MCSW.

Each E-Rate eligible item 470 depends on partial funding from the E-Rate program. MCSW expects each vendor to make themselves thoroughly familiar with any rules or regulations regarding the E-Rate program. All contracts entered into as a result of these Form 470's will be contingent upon specific funding by the SLD. **The vendors will be responsible to bill the USAC Schools and Libraries Division for the DISCOUNTED portion applicable to a particular Form 471 Funding Request Number (FRN).** Such vendors are known as **Service Provider Invoicing (SPI)** vendors, as used herein.

The vendors shall NOT submit any billing or perform any work BEFORE July 1, 2016. In addition, vendors shall NOT perform any work until a purchase order has been received from MCSW.

RFP Updates/Changes/Addenda

All RFP addenda, if any, will be published on **Friday, January 29, 2016**. Vendors may obtain the RFP addenda by accessing the USAC E-Rate Productivity Center (EPC) Portal and searching for the RFP addenda for Billed Entity Number (BEN) 144388. The USAC E-Rate Productivity Center (EPC) Portal is located at <https://portal.usac.org/suite/>. **[Note: vendors who do not have an account in EPC or need assistance, should call the Schools & Libraries Client Service Bureau (CSB) at (888) 203-8100].**

In addition, vendors may obtain the RFP addenda from <http://www.mcswain.k12.ca.us/departments/postings.html>.

Furthermore, vendors may request the RFP addenda from Stephanie Morris, Director Fiscal Services, McSwain Union Elementary School District, 926 Scott Road, Merced, CA 95341, or by calling (209) 354-2706, or by emailing smorris@mcswain.k12.ca.us with a subject line of **"Request for E-Rate Year 2016 RFP Addenda"**. **[Note: vendors should follow up with a phone call if they did not receive the addenda within 48 hours of the email request].**

MCSWAIN UNION ELEMENTARY SCHOOL DISTRICT E-RATE YEAR 2016 REQUEST FOR PROPOSAL

Bid Submission Requirements

Bidder understands that all bids are to comply with the General Conditions included herein and shall submit the following in their bid proposals to be deemed responsive –

- The ORIGINAL & COMPLETE bid, signed in BLUE ink, containing ALL pages of the RFP and addenda with SPIN and actual bid amounts indicated in the appropriate areas, and separate quotations.
- **One photo-copy of ALL pages of the COMPLETE bid with addenda.**
- Two (2) copies of all product information specifications or any other submittals.
- Telecommunications Service Providers shall provide monthly unit pricing for each component of the service, and indicate their eligibility as a CTF vendor where requested. If there is no indication, the vendor will be presumed as ineligible in administering CTF discounts.
- All vendor invoices are to be accompanied by the “**CONDITIONAL WAIVER AND RELEASE UPON PAYMENT**” form that is found in this RFP.
- For NON TELECOMMUNICATION PROVIDERS

- **Bid Bond of TEN PERCENT (10%) of the aggregate amount of all NON TELECOMMUNICATION items bid.** Bid bonds may be reduced to the respective amounts awarded. Bid Bond shall assure the maintenance of prices bid for **180 days** after the date of the E-Rate 2016 Funding Commitment Decision Letter to MCSW.
- Pursuant to Civil Code 3247 and 3248, payment bonds are required when the expenditure for public works exceeds \$25,000.

Upon award of any contract considered “Public Works Project”, Performance Bond shall be provided to MCSW upon receipt of the MCSW purchase order. The Performance Bond is to assure the completion of public works projects and/or complete delivery of material, equipment, supplies, and/or services within **120 days** after the date of the MCSW purchase order (or within E-Rate guidelines), in addition to all other terms and conditions of the Agreement (an example of which, is included herein), **Performance Bond shall be ONE HUNDRED PERCENT (100%) of the total amount awarded.**

Payment Bond shall be required for ONE HUNDRED PERCENT (100%) of total amount awarded (pursuant to Civil Code §3247, §3248, et. al).

- Vendor shall bear the costs of procuring all surety bonds that are required in this RFP. Since SURETY/BOND costs are considered as "normal" business costs, the bidder shall NOT include such costs in the bid for each item 470.

MCSWAIN UNION ELEMENTARY SCHOOL DISTRICT E-RATE YEAR 2016 REQUEST FOR PROPOSAL

Bid Submission Requirements (*continued*)

Bids for items 2016 that are stated in the RFP must be returned in a sealed envelope, identified by **bid identifier MCSW-ERATE-2016-02**, and addressed to Attention: Stephanie Morris, Director Fiscal Services, McSwain Union Elementary School District, 926 Scott Road, Merced, CA 95341.

MCSW WILL REJECT ANY BID SUBMISSIONS THAT FAIL TO MEET THE ABOVE MENTIONED BID SUBMISSION REQUIREMENTS, INCLUDING BIDS SENT VIA EMAIL AND/OR FAX.

Bid Submission Deadline

The deadline for submitting bids for the items 470-nnn-16 that are stated in the RFP is **Tuesday, March 01, 2016 at 2:00:00 PM** Pacific Standard Time (PST) or earlier. MCSW shall use the official U.S. time that is provided by the web site <http://www.time.gov/> to determine if the submission has met the deadline.

Note: It is the total responsibility of the Vendor to return bids to MCSW by the required date, time, and place. The MCSW Purchasing Office is closed daily between 12:00 noon and 1:00 P.M. and on weekends and holidays.

MCSWAIN UNION ELEMENTARY SCHOOL DISTRICT E-RATE YEAR 2016 REQUEST FOR PROPOSAL

Bid Assessment

With the **exception** of bids pertaining to **Public Works Projects**, MCSW shall evaluate all valid bids deemed responsive on the following criteria

1. Price/Charges
2. Meets technical specifications and design or bid requirements
3. Prior experience
4. SPI vendor
5. Impact to MCSW cash flow
6. Non E-Rate eligible charges

Pursuant to Public Contract Code §20118.2, the weighted relevance of the evaluation criteria is ranked above with #1 (Price/Charges criterion) having the greatest weight followed by #2 through #6 (some weighted equally).

For each item 470 tendered, a score on a scale of 1 – 5 shall be assigned for each of the above criteria. In general, a score of 5 shall indicate the BEST, a score of 1 shall indicate the WORST, and a score of 3 shall indicate UNKNOWN/SATISFACTORY/AVERAGE, except

- SPI vendor – a score of 5 shall be assigned if the bidder is an SPI vendor, while a score of 1 shall be given if the bidder is NOT an SPI vendor.

Please refer to **Appendix 2** for a sample of the Bid Assessment Form.

DATA COMMUNICATIONS – HIGH SPEED TELECOM SERVICES (LIT FIBER SERVICE / DARK FIBER)

McSwain Union Elementary School District (MCSW) plans to provide the most cost effective high speed dedicated point-to-point connection between the McSwain Union Elementary School District East Campus (“A” location) and the Wired Data Center (“Z” location). The endpoints of each circuit (“A” location & “Z” location) are identified in each item 470 in this section.

MCSW plans to compare Lit Fiber services to Dark Fiber to determine the MOST cost effective solution. **Vendors may bid on Lit Fiber services, Dark Fiber or BOTH Lit Fiber services & Dark Fiber.**

Any proposed fiber solution (lit service or dark fiber) and modulating electronics must be exclusive to the school district. The solution options should provide high availability, high bandwidth services that support student learning.

In the bid response to each item 470 in this section, the vendor shall enter the necessary information including the **one-time non-recurring charges, the monthly recurring charges, and the anticipated circuit ready date**. All charges should be all inclusive. All-inclusive in this case means, including all non-recurring costs (NRC) required by the vendor to commence service, and all monthly recurring costs (MRC) should be included in the requisite columns of each item 470 in this section.

The vendor shall provide the following supporting documentation for BOTH lit fiber service & dark fiber –

1. An itemized copy of the quotation indicating each non-recurring cost required by the vendor to commence service, monthly recurring charges, and terms of agreement. The itemized copy of the quotation shall clearly indicate all non-recurring charges (especially, the E-Rate eligible special construction charges related to construction of network facilities, design and engineering, and project management).
2. Any additional technical specifications to utilize the quoted service outside the stated “Technical Requirements” and “Service Description”. Include “best practices” if available.
3. A copy of the vendor Service Level Agreement. The SLA shall state the following –
 - a. provide 99.99% guaranteed uptime
 - b. provide response time for outages
 - c. mean Time-To-Repair for outages <4 hours
4. A list of references utilizing quoted service (lit fiber and/or dark fiber) – preferably from other K-12 Education agencies.
5. An estimated timeline that reflects from the time of order to the time of customer hand-off/turn-up.
6. Vendor’s billing terms and conditions as they pertain to E-Rate and CTF discounts.
7. Vendors shall indicate their eligibility as a CTF vendor where requested. If there is no indication, the vendor will be presumed as ineligible in administering CTF discounts.

[Note: "normal" business costs, such as, but not limited to, SURETY/BOND costs, overhead costs, etc. shall NOT be shown on the itemized quotation].

DATA COMMUNICATIONS – HIGH SPEED TELECOM SERVICES (LIT FIBER SERVICE / DARK FIBER)

REQUIREMENTS

Vendors must be an eligible telecommunications services provider (common carriers) with a telecommunication services SPIN. Proposals from vendors not meeting this criterion may be automatically considered as non-responsive. Vendors shall assume responsibility for "stacking" of discounts. The proposal should include an option to continue with the service(s) on a month-to-month basis at the end of the service contract.

Following specific requirements shall apply for lit fiber services proposal -

1. Fully managed.
2. Guaranteed Lit Transport Bandwidth throughput (upload and download) 1000 Mbps with Service Level Agreement (SLA) guarantees.
3. Connections shall be full duplex, point-to-point.
4. Circuit shall be handed off to the customer via copper/fiber for 1000 Mbps services at sites located in Merced, CA 95341.
5. All lit service circuits must support Quality of Service (QoS) and have the ability to apply rate limiting guarantees to specific packet types to ensure Quality of Service at each WAN link. The network must have the ability to support multiple QoS policies and prioritization queues across each link in the WAN to reduce latency and packet loss and guarantee throughput to support student learning.
6. There is no right to rate limit or throttle the capacity of the circuit at any time
7. Symmetrical upstream and downstream bandwidth to the required levels
8. Network Latency Commitment <20 milliseconds roundtrip
9. Network Jitter Commitment <5 milliseconds
10. Bit-Error Rate commitment <0.25% between circuit endpoints
11. Mean Time-To-Repair for outages <4 hours.
12. The proposal should include an option to continue with the service(s) on a month-to-month basis at the end of the service contract

DATA COMMUNICATIONS – HIGH SPEED TELECOM SERVICES (LIT FIBER SERVICE / DARK FIBER)

As an alternative (i.e option 2 under the item 470 in this section), MCSW is requesting a bid for leased dark fiber between the between the McSwain Union Elementary School District East Campus (“A” location) and the Wired Data Center (“Z” location).

The contract for leased dark fiber MAY be in the form of an IRU (Indefeasible Right To Use).The term of the lease shall be 5 years.

The pricing for leased dark fiber shall consist of a one-time capital cost payment and an “all-in” recurring payments for operations and maintenance costs of the fiber facilities for the 5-year lease term. The district welcomes proposal with optional payment plans structure such as a monthly recurring cost (MRC) over the 5-year lease term. **Please note that MCSW will be unable to evaluate proposals that do not include at least one alternative for an up-front capital payment for the fiber combined with separately identified recurring maintenance payments.** In addition, MCSW requests that vendors provide installment payment options for the non-discounted portion of any non-recurring costs related to special construction, with such payments to be made over 4 years.

If special construction charges are requested by the vendor for the fiber proposed to be IRU'd, MCSW expect significant reductions from prevailing market rates for the IRU fee and annual maintenance charges.

Following specific requirements shall apply for leased dark fiber proposals –

1. The response should include an **additional proposal option** for consideration that includes modulating electronics (such as, but not limited to Cisco Systems or compatible equipment) and required licensing, services and maintenance associated with lighting the proposed dark fiber. The proposal option should include -
 - a. The modulating electronics that provide a minimum of a 1 Gb or 10 Gb Ethernet connections for connectivity.
 - b. A separate itemized bill of materials showing, at minimum, the part number, part description, quantities, unit pricing, and total pricing.
 - c. E-Rate eligible status and percentage of eligibility of all modulating electronics, licensing, services and maintenance provided within its proposal.
 - d. All required components for an operational system including all recommended equipment and materials listed for system, an estimated calendar for procurement per phase and per subproject, if applicable.
 - e. Vendor/manufacturer warranty and maintenance policies and procedures.
2. The response will provide a **separate detailed line item bill of materials, labor and costs** for the associated Ethernet transceivers and electronics to light the fiber based on bandwidth requirements of the site, fiber distance and db loss budget design estimates.
3. Handoff shall consist of Single Mode, duplex bulkhead, with SC/APC connectors.
4. McSwain Union Elementary School District prefers to lease dark fiber routes that contain a homogenous fiber type throughout the segment.

DATA COMMUNICATIONS – HIGH SPEED TELECOM SERVICES (LIT FIBER SERVICE / DARK FIBER)

5. Operations and Maintenance Practices - McSwain Union Elementary School District will require on-going maintenance and operations of the fiber for lease term. When pricing maintenance and operations, the vendors should include an overview of fiber maintenance practices including:
- a. Routine maintenance and inspection.
 - b. Scheduled maintenance windows and scheduling practices for planned outages.
 - c. Fiber monitoring including information on what fiber management software is used, what fiber monitoring system is used, and who performs the monitoring.
 - d. Handling of unscheduled outages and customer problem reports
 - e. What service level agreement is included, and what alternative service levels may be available at additional cost.
 - f. The agreements are in place with applicable utilities and utility contractors for emergency restoration.
 - g. Repair of fiber breaks.
 - h. Replacement of damaged fiber.
 - i. Replacement of fiber which no longer meets specifications.
 - j. Policies for customer notification regarding maintenance.
 - k. Process for changing procedures, including customer notification practices.

The pricing for dark fiber maintenance should include the annual cost per linear mile for dark fiber maintenance and operations.

DATA COMMUNICATION SERVICES – HIGH SPEED TELECOM SERVICES (DARK FIBER / BROADBAND)

470-HS1-16		McSwain Union Elementary School District								
		LIT / DARK FIBER – DEDICATED POINT-TO-POINT CONNECTION								
		All services shall begin 9/1/2016 and end 6/30/2017 (or beyond for contracts up to 5 years)								
Option	From ("A") / To ("Z")	Speed & Service	Qty	Speed (Bid)	\$One-time (Non Recurring)	\$Monthly (Recurring)	\$Surchg & Fees	\$Govt Tx & Fees	Circuit Ready Date	E-Rate? (Y/N)
1	"A" location - McSwain Union Elementary School East Campus 926 Scott Road Merced, CA 95341	1000 Mbps Lit Fiber Service	1							
	"Z" location - Wired Data Center 450 West 18th St Merced, CA 95340	1000 Mbps Lit Fiber Service	1							
2	"A" location - McSwain Union Elementary School East Campus 926 Scott Road Merced, CA 95341	2-strand SINGLE MODE Dark Fiber	1							
	"Z" location - Wired Data Center 450 West 18th St Merced, CA 95340	2-strand SINGLE MODE Dark Fiber	1							

DATA COMMUNICATION SERVICES – HIGH SPEED TELECOM SERVICES (DARK FIBER / BROADBAND)

470-HS1-16		McSwain Union Elementary School District LIT / DARK FIBER – DEDICATED POINT-TO-POINT CONNECTION All services shall begin 9/1/2016 and end 6/30/2017 (or beyond for contracts up to 5 years)								
		Option	From ("A") / To ("Z")	Speed & Service	Qty	Speed (Bid)	\$One-time (Non Recurring)	\$Monthly (Recurring)	\$Surchg & Fees	\$Govt Tx & Fees

Notes

1. _____
2. _____

CTF vendor (Yes/No): _____

APPENDIX 1

Please refer your questions regarding this RFP and/or specific item(s) 470-nnn-16 to the person listed below

Hau Nguyen, Director Information Technology Services
McSwain Union Elementary School District
926 Scott Road
Merced, CA 95341

Telephone: (209) 354-2700 ext. 126
Fax: (209) 723-2267
Email: hnguyen@mcswain.k12.ca.us

APPENDIX 2

E-Rate Bid Assessment Matrix (McSwain Union Elementary School District)

Page 1 of _____

Funding Year **2016**

Project or Service
Description

470- -16

Vendor Scoring (use additional worksheets if necessary)

Selection Criteria	Weight*	Raw Score**	Weighted Score***	Raw Score	Weighted Score	Raw Score	Weighted Score
Prices/Charges	35%						
Meets technical specifications and design	20%						
Prior experience	15%						
SPI Vendor (Yes=5, No=1)	10%						
Impact to MCSW Cash Flow	10%						
Non E-Rate eligible charges	10%						
Overall Ranking	100%						

Vendor Selected: Approved By: Title: Date:

Bid Assessment Comments, if needed:

Notes:

* The weight of each criterion as determined by MCSW. Percentage weights must add up to 100%. **Price must be weighted the heaviest.**

** Evaluated on a scale of 1 to 5: 1=worst, 5=best. 3=unknown/satisfactory/average (except for "Prices/Charges", "SPI vendor")

*** Weight x Raw Score

Bids on Public Works Projects shall be awarded to the lowest **RESPONSIVE & RESPONSIBLE** bid

© E-Rate Central

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

PREPARATION OF BIDS

1. Before submitting a bid, each bidder is expected to thoroughly examine the actual conditions (if applicable), specifications, general conditions, and all other related contractual documents. Failure to do so will be at the bidder's risk, and will not bar the bidder's obligation to perform if a contract is awarded pursuant to this Invitation to Bid. Each bidder must satisfy himself/herself by personal examination and by such other means as he/she may prefer as to the actual conditions and requirements under which the contract will be performed.
2. In order to be considered for award, bids must be returned on forms furnished by the McSwain Union Elementary School District (MCSW). Failure to do so will disqualify the bid. **Return two copies (the original plus one copy) of all bid pages and additional information or supporting documentation.**
3. It is the total responsibility of the bidder to return the bid to the place called for, by the deadline. No bid or modifications received after the time specified in this Invitation to Bid will be considered for award. The MCSW is closed on weekends, holidays, and between 12:00 noon and 1:00 P.M. weekdays, and cannot receive bids during these times.
4. Changes, additions, or any other modifications which are not specifically called for in the bid may cause the bid to be rejected as not being responsive to the Invitation to Bid.
5. All information requested of the bidder shall be entered in the appropriate space on the form. Corrections, if necessary, must be initialed by the person signing the bid, in the margin adjacent to the correction. All bids shall be signed in longhand in ink in all indicated areas. Failure to sign bid documents or initial corrections on bid documents may cause rejection of the bid.
6. Unless otherwise requested by the MCSW, all items supplied pursuant to this bid shall be new and unused.

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

APPROVAL OF SUBSTITUTIONS AND ALTERNATIVES FOR “FUNCTIONALLY EQUIVALENT” ITEMS

1. Vendors may propose to furnish alternatives or substitutes for a particular item specified in the RFP Documents, provided that such proposed substitution or alternative complies with the requirements of the Specifications relating to substitutions of specified items and the Vendor certifies to the MCSW in writing that the quality, performance capability and functionality (including visual and/or aesthetic effect) of the proposed alternative or substitute will meet or exceed the quality, performance capability and functionality of the item or process specified, and must demonstrate to the MCSW that the use of the substitution or alternative is appropriate and will not result in an increase to the Contract Price. The Vendor shall submit engineering, construction, dimension, visual, aesthetic and performance data, and samples if requested by/to the MCSW to permit proper evaluation of the proposed substitution or alternative. If requested by the MCSW, Vendor shall promptly furnish any additional information or data regarding a proposed substitution or alternative which the MCSW deems reasonably necessary for the evaluation of the proposed substitution or alternative. The Vendor shall not provide, furnish or install any substitution or alternative without the MCSW's review and final action on the proposed substitution or alternative; any alternative or substitution installed or incorporated into the Work without first obtaining MCSW review and final action of the same shall be subject to removal and immediate replacement with the specified item(s) in the RFP. The MCSW decision evaluating the Vendor's proposed substitutions or alternatives shall be final. Neither the Contract Time nor the Contract Price shall be increased on account of any substitution or alternative proposed by the Vendor and which is accepted by the MCSW; provided, however, that in the event a substitution or alternative accepted by the MCSW and purchase, fabrication and/or installation or such accepted substitution or alternative shall be less expensive than the originally specified item, the Contract Price shall be reduced by the actual cost savings realized by the Vendor's furnishing and/or installation of such approved substitution or alternative. The Vendor shall be solely responsible for all costs and fees incurred by the MCSW to review a proposed substitution or alternative, including without limitation fees of the MCSW, of any MCSW consultant(s) and/or governmental agencies to review and/or approve any proposed substitution or alternative. The Vendor shall be solely responsible for any increase in the cost of any accepted substitution or alternative or any Work affected by such alternative or substitution. The foregoing notwithstanding, **all requests for the Vendor's review and approval of any proposed substitution or alternative and all engineering and performance data substantiating the equivalency of the proposed substitution or alternative shall be submitted by Vendor by Wednesday, January 27, 2016** as specified herein. Any request for approval of proposed alternatives or substitutions submitted thereafter may be rejected summarily. The foregoing process and time limits shall apply to any proposed substitution or alternative regardless of whether the substitute or alternate item is to be provided, furnished or installed by Vendor, any Subcontractor, any Sub-Subcontractor, Material Supplier or Manufacturer.

2. Final approval of a functional equivalent system shall be determined at the time of job completion. The filing of Form 486 will remain pending until installation is complete and tested to be functionally equivalent.

Failure to provide the “precise functional equivalent” shall result in the removal of the functional equivalent system at the contractor's expense. In that event, MCSW will not be financially responsible for the payment of the “functional equivalent” system and the labor to install that system.

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

3. Throughout this RFP, technical specifications, attachments and possible amendments, numerous references may have been made to products or services from specific Original Equipment Manufacturers (OEMs), generally in the context of providing information about MCSW's existing telecommunications and technology infrastructure. MCSW hereby strongly emphasizes its belief in open and fair competitive bidding compliant with the rules of the E-Rate program as well as all applicable state and local rules. Mention of brands is purely intended to convey required functional or quantitative information about the products and services in use. For each such reference, the phrase "or equivalent functionality" is hereby inserted by reference, especially where a description might be interpreted to convey possible future services sought. MCSW seeks the most cost effective and compatible solutions consistent with the RFP requirements.
4. The following types of equipment must include the specific functions (as stated below) to be compatible with the current network environment and be deemed functionally equivalent
 - a). Network switches must support the following functions
 - i). CDP
 - ii). VTPv3
 - iii). IPv6
 - iv). QoS
 - v). NetFlow
 - b). Routers must support the following functions
 - i). EIGRP
 - ii). QoS
 - iii). NetFlow
 - c). Wireless devices must support the following functions
 - i). Current 802.11 wireless specifications
 - ii). Ability to map Active Directory OU to VLAN
 - iii). QoS
 - iv). Switch port auto configuration for Access Points
 - v). Cisco WCS management software
5. Substitutions that may interfere with manufacturer warranty or support will NOT be permitted

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

PRICES

1. All prices and notations must be typed or written in ink. Verify all prices before submission, since they may not be corrected after bids are opened. No oral or telegraphic modification will be considered.
2. Prices shall remain firm and in effect for a minimum of one hundred eighty (180) days after the date of the E-Rate 2016 Funding Commitment Decision Letter, unless a longer period is specified by the vendor (if so, specify on bid forms).

CASH DISCOUNTS

1. Unless otherwise specified, all prices bid shall be considered to be net. Cash discounts will be considered for bid evaluation purposes for timely payment only. Timely payment by the MCSW shall be in no case less than twenty (20) days. Further discounts for payments in less than twenty days may be accepted if determined to be in the best interest of the MCSW, but such discounts shall not be considered for the purpose of bid evaluation.
2. In connection with any cash discount offered, time will be calculated from the date of complete delivery of the supplies, labor, or equipment specified, or from the date correct invoices are received in the MCSW Accounting Office, whichever is later. For the purposes of earning the discount, payment is deemed to be made on the date of mailing of the MCSW warrant.

BID CLARIFICATION, CHANGES, ADDENDA

1. Any request(s) for clarification on or correction to the bid documents must be submitted to the MCSW via mail, fax, or e-mail. The contact information is found in Appendix 1 of this document.

The MCSW will not be responsible for oral interpretations.

A copy of the request for clarification and the response thereto will be mailed, faxed, or e-mailed to all bidders.

2. Changes in the bid documents shall be made by addenda and processed through MCSW Purchasing. The MCSW will not be responsible for oral interpretations. All addenda issued during the time of bidding shall be incorporated into the bid.
3. No changes in the bid documents will be made by MCSW staff when notice of said change in bid documents is received by the MCSW office less than six (6) business days before the formal close of bidding.

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

RENEWAL OF ONGOING SERVICE

1. The MCSW may wish to renew ongoing service for telecommunications and wireless service for up to **two (2) years** following the initial agreement, contractually permissible. Such renewal shall be in writing, and subject to availability of funds in subsequent years.

ACTUAL CONDITIONS

1. VENDOR shall be responsible for examining actual site(s) and certify all measurements, specifications, and conditions affecting the work to be performed at the site(s).
2. By submitting a bid, VENDOR warrants that they have made such site examination(s) as they deem necessary as to the condition of the site(s), its accessibility for materials, workers, and utilities, and ability to protect existing surface or subsurface improvements.
3. No claim for allowance of time or money will be allowed as to such matters for any other undiscovered conditions on the site(s).

DELIVERY / RISK OF LOSS OR DAMAGE

1. Unless otherwise requested all items supplied to the MCSW shall be bid F.O.B. destination (U.C.C. 2-319 (1). a.). The bidder is required to absorb all delivery costs. The MCSW shall not be liable for any delivery, storage, demurrage, packing, or freight charges involved in the shipment of the item(s).
2. The Vendor shall be responsible for all transportation, loading, and unloading of materials or equipment associated with the project.
3. The Vendor agrees to assume all risk of loss or damage until the project is accepted by the MCSW.

TAXES

1. State and local taxes and all other applicable taxes are to be included in bids.

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

LIABILITIES

1. The Vendor or Vendor shall save, defend, hold harmless, and indemnify the MCSW against any and all liability, claims, and costs of whatsoever kind and nature for injury to or death of any person or persons, and for loss or damage to any property occurring in connection with or in any way incident to or arising out of the occupancy, use, service, operations, or performance of work or supply of material under the terms of this contract, resulting in whole or in part from the negligent acts or omissions of Vendor, and subcontractor, or any employee, agent, or representative of Vendor or subcontractor.
2. The Vendor or Vendor shall hold the MCSW, its officers, agents, servants, and employees harmless from liability of any nature or kind, including the use of any copyrighted or non-copyrighted composition, secret process, patented or unpatented invention, articles, or appliances furnished or used under this bid. The Vendor agrees to defend, at his own expense, any and all actions brought against the MCSW or himself because of unauthorized use of such articles.

BONDS FOR NON-TELECOMMUNICATIONS RELATED ITEMS

1. Bids for non-telecommunication related items must be accompanied by one of the following forms of bidder's security: (1) a cashier's check made payable to the MCSW; (2) a certified check made payable to the MCSW; or (3) a bidder's bond executed by a California admitted surety as defined in Code of Civil Procedure Section 995.120, made payable to the MCSW in the form set forth in the contract documents. Such bidder's security must be in an amount not less than TEN PERCENT (10%) of the maximum amount of bid as a guarantee that the bidder will enter into the proposed contract, if the same is awarded to such bidder, and will provide the required Performance and Payment Bonds and insurance certificates. In the event of failure to enter into said contract or provide the necessary documents, said security will be forfeited.
2. Separate payment and performance bonds, each in an amount equal to ONE HUNDRED PERCENT (100%) of the total contract amount, are required, and shall be provided to the MCSW prior to execution of the contract and shall be in the form set forth in the contract documents.
3. All bonds (Bid, Performance, and Payment) must be issued by a California admitted surety as defined in California Code of Civil Procedure Section 995.120.

INSURANCE

1. The Vendor agrees to maintain insurance adequate for protection from claims under Workers Compensatory Acts, and from claims for damages for personal injury, including death and damage to property, which may arise from operations under the contract.

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

2. The Vendor shall not allow any Subcontractor, employee or agent to commence work on this contract or any subcontract until the insurance required of the Vendor, subcontractor, or agent has been obtained.

DEFAULT BY BIDDER

1. In case of default by bidder, the MCSW may procure the articles or services from other sources and may deduct from any moneys due, or that may thereafter become due to the Vendor, the difference between the price named in the contract or Purchase Order and the actual cost thereof to the MCSW. Prices paid by the MCSW shall be considered the prevailing market price at the time such purchase is made.
2. Default by the bidder may be sufficient cause to remove bidder from the approved Vendor list for subsequent bids.
3. Periods of performance may be extended if the facts as to the cause of delay justify such extension in the opinion of the Purchasing Agent.

ATTORNEY FEES / LEGAL FORUM

1. In the event that suit or action is brought by either party in this contract to enforce any of the rights thereunder, the prevailing party shall be entitled to recover such additional sums as the court may adjudge reasonable attorney fees.
2. The parties hereby agree that any legal dispute arising from this agreement shall be settled in the appropriate jurisdiction IN CLOSEST PROXIMITY to Merced County, California.

ASSIGNMENT OF CONTRACT

1. The Vendor shall not assign the whole or any part of this agreement or any payment due or to become due thereunder, without the written consent of the MCSW and all sureties who have executed bonds on behalf of the Vendor in connection with this contract.

WARRANTY

1. The Vendor warrants that the services and items provided shall be merchantable within the meaning of Articles 2313-2317, et. seq. of the California Commercial Code in effect on the date of this offer. In addition to all warranties which may be prescribed by law, the item(s) shall conform

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

- to specifications, drawings, and other descriptions and shall be free from defects in materials or workmanship.
2. The Vendor also warrants that, to the extent the item(s) are not manufactured pursuant to detailed designs furnished by the MCSW, they will be free from defects in design.
 3. Such warranties for any equipment provided, including warranties prescribed by law, shall run to MCSW, its successors, assigns, and customers, and to users of the items, for a period of one (1) year, after delivery, or such longer period as may be prescribed by law or by additional agreement.

AWARD OF BID

1. The MCSW will award bids to the lowest responsive and responsible bidder(s). (P.C.C. 20111). The MCSW reserves the right: (1). to award bids received on the basis of individual items or groups of items, or on the entire list of items; (2). to reject any or all bids, or any part thereof; (3). to waive any informality or irregularity in the bid; and (4). to accept the bid that is in the best interest of the MCSW, price and other factors considered.
2. The MCSW may contract with an acceptable party who is one of the three (3) lowest responsible bidders for the procurement, maintenance, or both, of electronic data-processing systems and supporting software in any manner the MCSW deems appropriate (P.C.C. 20118.1).
3. A Purchase Order or written notice of award that is faxed, e-mailed, mailed, or otherwise delivered to the vendor with the time specified shall create a binding contract without further action by either party.

OSHA COMPLIANCE / MATERIAL SAFETY DATA SHEETS

1. The article(s) covered in this bid must conform to the safety orders of the Division of Occupational Safety and Health of the State of California, and the Federal Occupational Safety and Health Act, whichever is more restrictive.

WITHDRAWAL OF BID

1. Any bidder may withdraw his or her bid personally or by written request at any time prior to the scheduled due date and time for receipt of bids.

INSPECTION / ACCEPTANCE

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

1. All items provided under this bid shall be subject to inspection and test by the MCSW. All items must meet or exceed bid specifications, and/or, at a minimum, be merchantable per the definition of the California Commercial Code. Acceptance shall include (as applicable) complete delivery of all components, installation, training, testing, and other requirements of the contract, as verified by the MCSW.
2. In case any supplies or lots of supplies are defective in material or workmanship or otherwise not in conformity with the requirements of this contract, the MCSW shall have the right either to reject them or to require their correction. Supplies or lots of supplies which have been rejected or required to be corrected shall be removed, or if permitted or requested by the MCSW, corrected in place and at the expense of the Vendor promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed.
3. If the Vendor fails to promptly replace or correct such supplies or lots of supplies, the MCSW either (1) may, by contract or otherwise, replace or correct such supplies and charge to the Vendor the cost occasioned the MCSW thereby; or (2) may terminate this contract for default as provided in the clause of this contract entitled "Default."
3. Unless the Vendor corrects or replaces such supplies within the delivery schedule, the MCSW may require the delivery of such supplies at a reduction in price which is equitable under the circumstances.
4. Except as otherwise provided in this contract, acceptance shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud

PERMITS AND LICENSES

1. In connection with the furnishing of materials, articles, or services listed herein, the Vendor and all of his or her employees shall secure and maintain in force such licenses and permits as are required by law.
2. All operations, materials, handling, transportation, labeling, and production shall comply with all Federal, State, and Local laws.

INVOICES AND PAYMENTS

1. Unless otherwise specified, the Vendor shall render invoices in triplicate for materials delivered or services performed under this bid to the MCSW Accounting Office, 926 Scott Road, Merced, CA 95341. All invoices and packing lists must reference the MCSW Purchase Order number.
2. Terms are net 30 days for the portion to be paid by McSwain Union Elementary School District following acceptance and satisfactory operation of network equipment and services. McSwain Union Elementary School District is not responsible for portion and payment terms as set out by the Schools & Libraries Corporation for E-Rate.

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

BID DOCUMENTS AND SAVINGS CLAUSE

1. The complete bid packet may include, as applicable, the Request for Proposal, General Conditions, Specifications, Addenda, or other supplementary information. If this bid has been transmitted or received via computer or electronic media, bidder warrants that the bid submitted is a verbatim copy of hard copy bid on file.
2. Any of the above shall be interpreted to include all of the provisions of the other documents as though fully set out therein. The Vendor should fully acquaint himself or herself with the conditions and terms affecting the performance of this contract.
3. Submission of a bid shall be taken as prima facie evidence of compliance with this provision.
4. The Vendor agrees that in the event any provision(s) specified herein are finally held, or determined to be, illegal or void, or as being in contravention of any applicable law, the remainder of the agreement shall remain in full force and effect.

PREVAILING WAGE

1. If the CONTRACTOR employs workers and the bid is for a "public project" (i.e., construction) greater than \$1,000 in value, the CONTRACTOR hereby agrees that the project described in this Invitation for Bids is a public work, in accordance with Section 1720-1861 of the California Labor Code, and waives any right to later object or contend that the project or any portion of the project is not a public work.
2. The Director of the Department of Industrial Relations of the State of California, in the manner provided by law, has ascertained the general prevailing wage rate per diem wages and rate of legal holidays and overtime work. CONTRACTOR must pay any labor therein described or classified in an amount not less than the rates specified. Wage rates are available at the Department of Industrial Relations (<http://www.dir.ca.gov/dlsr/main.htm>). However, this does not relieve the CONTRACTOR or Subcontractor from paying the latest up-to-date Wage Rates as set forth by the California Labor Code. Specify that all labor provided in this proposal shall be performed in accord with the California Labor Code.
3. In a timely manner following completion of the project, the CONTRACTOR agrees to provide the MCSW with certified payroll records for each employee of the CONTRACTOR and all subcontractors who worked on the project.
4. The CONTRACTOR understands and agrees that at least the final payment (10% of the contract amount) will be withheld by the MCSW until the contract is complete, and MCSW is in possession of complete certified payroll records for all work performed by the CONTRACTOR and all subcontractors in connection with this contract, and is satisfied that prevailing wages are paid to employees on this project.

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

COMPLIANCE WITH LAWS

1. No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.
2. No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
3. Public Works projects are subject to compliance monitoring and enforcement by the Department of Industrial Relations.
4. Before commencing any portion of the Work, Contractor shall check and review the Drawings and Specifications for such portion for conformance and compliance with all laws, ordinances, codes, rules and regulations of all governmental authorities and public and municipal utilities affecting the construction and operation of the physical plant of the Project, all quasi-governmental and other regulations affecting the construction and operation of the physical plant of the Project, and other special requirements, if any, designated in the Contract Documents. Such checking shall include Title 21 and Title 24 of the California Code of Regulations, California Building Code, local utility, local water connection, local grading and all other applicable agencies. In the event Contractor observes any violation of any law, ordinance, code, rule or regulation, or inconsistency with the Contract Documents, Contractor shall, within five (5) days, notify MCSW in writing of same and shall ensure that any such violation or inconsistency shall be corrected in the manner provided hereunder prior to the construction of that portion of the Project.

The Contractor shall bear all expenses of correcting Work done contrary to said laws, ordinances, rules, and regulations if the Contractor performed same (1) without first consulting the Architect for further instructions regarding said Work or (2) disregarded the Architect's instructions regarding said work.

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

DESIGNATION OF SUBCONTRACTORS

1. Subcontractors shall be licensed pursuant to California law for the trades necessary to perform the work called for in the contract documents.
2. In compliance with the Subletting and Subcontracting Fair Practices Act (California Public Contract Code Sections 4100 et seq.,) and any amendments thereof, each bidder shall set forth below: (a) the name, license number, and location of the place of business of each subcontractor who will perform work or labor or render service to the prime contractor, who will perform work or labor or work or improvement to be performed under this contract, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvements according to detailed drawings contained in the plans and specifications in an amount in excess of one-half of one percent of the prime contractor's total bid; and (b) the portion and description of the work which will be done by each subcontractor under this Act. The prime contractor shall list only one subcontractor for each such portion as is defined by the prime contractor in this bid. All subcontractors shall be properly licensed by the California State Licensing Board.

If a prime contractor fails to specify a subcontractor, or if a prime contractor specifies more than one subcontractor for the same portion of work to be performed under the contract in excess of one-half of one percent of the prime contractor's total bid, the CONTRACTOR shall be deemed to have agreed that the CONTRACTOR is fully qualified to perform that portion, and that the CONTRACTOR alone shall perform that portion.

No prime contractor whose bid is accepted shall (a) substitute any subcontractor, (b) permit any subcontractor to be voluntarily assigned or transferred or allow the relevant portion of the work to be performed by anyone other than the original subcontractor listed in the original bid, or (c) sublet or subcontract any portion of the work in excess of one-half of one percent of the prime contractor's total bid where the original bid did not designate a subcontractor, except as authorized in the Subletting and Subcontracting Fair Practices Act.

Subletting or subcontracting of any portion of the work in excess of one-half of one percent of the prime contractor's total bid where no subcontractor was designated in the original bid shall only be permitted in cases of public emergency or necessity, and then only after a finding, reduced to writing as a public record, of the authority awarding this contract setting forth the facts constituting the emergency or necessity.

NOTE: If alternate bids are called for and bidder intends to use different or additional subcontractors on the alternates, a separate list of subcontractors must be provided for each such alternate.

**SUPPLEMENTARY CONDITIONS
(PUBLIC WORKS PROJECTS)**

***DESIGNATION OF SUBCONTRACTORS FORM**

This Form Must Be Submitted With Your BID

Description & Portion of Work	Name of Subcontractor	Location & Place of Business	Contactor License Number of Subcontractor	Public Works Contractor Registration Number of Subcontractor

**Add Additional copies of this Form if necessary (all copies must be signed).*

Date: _____

Bidder/Company Name (dba): _____

Bidder/Company Address (Street, City, ZIP): _____

Bid Preparer (officer/agent completing this bid): _____

Signature of Bidder (office/agent completing this bid) Phone: _____

By Signing Below, the above Bidder acknowledges that NO subcontractor(s) will be used in any of the projects bid on this RFP:

(Signature of Bidder)

Do not sign if sub-contractor have been acknowledged above.

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

WORK OF THE CONTRACTOR OR SUBCONTRACTOR

1. Work of the Contractor or Subcontractor shall include all labor, materials and equipment necessary for the Contractor to fulfill all of its obligations pursuant to the Contract Documents. It shall include the initial obligation of any Contractor or Subcontractor who performs any portion of the Work, to visit the Site of the proposed Work (a continuing obligation after the commencement of the Work), to fully acquaint and familiarize itself with the conditions as they exist and the character of the operations to be carried out under the Contract Documents, and make such investigation as it may see fit so that it shall fully understand the facilities, physical conditions, and restrictions attending the Work under the Contract Documents. Each such Contractor or Subcontractor shall also thoroughly examine and become familiar with the Drawings, Specifications, and associated bid documents before preparing and submitting any bid.

UTILITIES

1. Contractor, except in an emergency, shall contact the appropriate regional notification center at least two working days prior to commencing any excavation if the excavation will be conducted in an area or in a private easement which is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the MCSW, and obtain an inquiry identification number from that notification center. No excavation shall be commenced and carried out by the Contractor unless such an inquiry identification number has been assigned to the Contractor or any subcontractor of the Contractor and the MCSW has been given the identification number by the Contractor. Any damages arising from failure to make appropriate regional notification shall be at the sole risk of Contractor. Any delays caused by failure to make appropriate regional notification shall be at the sole risk of Contractor and shall not be considered for extension of time pursuant to the agreement **OFFER TO THE MCSW**.
2. The MCSW has endeavored to determine the existence of utilities at the Site of the Work from the records of the MCSW of known utilities in the vicinity of the Work. The positions of these utilities as derived from such records are shown in the Contract Documents.

No excavations were made to verify the locations shown for underground utilities. The service connections to these utilities may not be shown on the plans. It shall be the responsibility of the Contractor to determine the exact location of all service connections. The Contractor shall make its own investigations, including exploratory excavations, to determine the locations and type of service connections, prior to commencing work which could result in damage to such utilities. The Contractor shall immediately notify the MCSW's representative as to any utility discovered by Contractor in a different position than shown in the Contract Documents or which is not shown on the Contract Documents.

Contractor shall coordinate its Work with all utilities, including, but not limited to electricity, water, gas, and telephone and meet with said utilities prior to the start of any work.

3. In case it should be necessary to remove, relocate, or temporarily maintain a utility because of interference with the Work, the work on the utility shall be performed and paid for as follows:

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

When it is necessary to remove, relocate or temporarily maintain a service connection, the cost of which is not required to be borne by the owner thereof, the Contractor shall bear all expenses incidental to the work on the service connection. The work on the service connection shall be done in a manner satisfactory to the owner thereof; it being understood that the owner of the service connection has the option of doing such work with his own forces or permitting the work to be done by the Contractor.

When it is necessary to remove, relocate, or temporarily maintain a utility which is in the position shown on the plans, the cost of which is not required to be borne by the owner thereof, the Contractor shall bear all expenses incidental to the work on the utility. The work on the utility shall be done in a manner satisfactory to the owner thereof; it being understood that the owner of the utility has the option of doing such work with his own forces or permitting the work to be done by the Contractor.

When it is necessary to remove, relocate, or temporarily maintain a utility which is not shown on the plans or is in a position different from that shown on the plans and were it in the position shown on the plans would not need to be removed, relocated, or temporarily maintained, and the cost of which is not required to be borne by the owner thereof, the MCSW will make arrangements with the owner of the utility for such work to be done at no cost to the Contractor, or will require the Contractor to do such work in accordance with **CHANGES IN THE WORK** section or will make changes in the alignment and grade of the Work to obviate the necessity to remove, relocate, or temporarily maintain the utility. Changes in alignment and grade will be ordered in accordance with **CHANGES IN THE WORK** section herein.

No representations are made that the obligations to move or temporarily maintain any utility and to pay the cost thereof is or is not required to be borne by the owner of such utility, and it shall be the responsibility of the Contractor to investigate to find out whether said cost is required to be borne by the owner of the utility.

The right is reserved to governmental agencies and to owners of utilities to enter at any time upon any street, alley, right-of-way, or easement for the purpose of making changes in their property made necessary by the Work and for the purpose of maintaining and making repairs to their property.

MCSW'S RIGHT TO CARRY OUT THE WORK

1. If the Contractor defaults or neglects to carry out the Work in accordance with the Contract, including, but not limited to:
 - a. Failure to supply adequate workers on the entire Project or any part thereof;
 - b. Failure to supply a sufficient quantity of materials;
 - c. Failure to perform any provision of this Contract;
 - d. Failure to comply with safety requirements, or due to Contractor is creation of an unsafe condition;
 - e. In the case of bona fide emergency;
 - f. Failure to order materials in a timely manner;
 - g. Failure to prepare deferred-approval items or shop drawings in a timely manner;

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

- h. Failure to comply with Contractor's schedule which would result in a delay to the critical path;
- i. Failure to comply with the Subletting and Subcontracting Fair Practices, Public Contract Code section 4100, et seq.

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents, and fails (within a five-day period after receipt of written notice or a shorter time period expressly stated in the written notice from the MCSW in an emergency situation) to commence and continue correction of such default with diligence and promptness, the MCSW may correct such deficiencies without prejudice to other remedies the MCSW may have, including those set forth in Article 14 after providing five-day written notice to Contractor and Surety. If during this five (5) day period, Surety personally delivers notice to MCSW that it intends to perform such work, MCSW shall allow Surety seven (7) days to perform. In an emergency situation, the MCSW may correct such deficiencies without prejudice to other remedies the MCSW may have, including those set forth in Article 14 after providing 48 hours notice to the Contractor. In either case, the Contractor will be invoiced the cost of correcting such deficiencies, including compensation for additional services and expenses made necessary by such default, or neglect. The invoice amount shall be deducted from the next payment due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the MCSW

- 2. Right to Remove - MCSW shall have the right, but not the obligation, to require the removal from the Project of any superintendent, staff member, agent, or employee of any Contractor, Subcontractor, material or equipment supplier.

STAFF

- 1. Notwithstanding other requirements of the contract documents, the Contractor and each Subcontractor shall: (1) furnish a competent and adequate staff as necessary for the proper administration, coordination, supervision, and superintendence of its portion of the Work; (2) organize the procurement of all materials and equipment so that the materials and equipment will be available at the time they are needed for the Work; and (3) keep an adequate force of skilled and fit workers on the job to complete the Work in accordance with all requirements of the Contract.
- 2. Right to Remove - MCSW shall have the right, but not the obligation, to require the removal from the Project of any superintendent, staff member, agent, or employee of any Contractor, Subcontractor, material or equipment supplier.

LABOR AND MATERIALS

- 1. Unless otherwise specified, the Contractor shall provide and pay for labor, material, equipment, tools, construction equipment and machinery, transportation, and other facilities, services and permits necessary for proper execution and completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

2. Quality - unless otherwise specified, all materials and equipment to be permanently installed in the Project shall be new and shall be of the highest quality or as specifically stated in the technical specifications. The Contractor shall, if requested, furnish satisfactory evidence as to kind and quality of all materials and equipment within ten (10) days of a written request by the MCSW, including furnishing the MCSW with bona fide copies of invoices for materials or services provided on the Project. All labor shall be performed by workers skilled in their respective trades, and shall be of the same or higher quality as with the standards of other installations.
3. Replacement - any work, materials, or equipment, which do not conform to these requirements or the standards set forth in the technical specifications, may be disapproved by the MCSW, in which case, they shall be removed and replaced by the Contractor at no additional cost or extension of time to the MCSW.
4. Delivery of Material - Contractor shall place orders for materials or equipment so that the Work may be completed in accordance with the time frame for the delivery of Work as set forth in **OFFER TO MCSW** agreement. Contractor shall, upon demand from the MCSW, furnish to the MCSW documentary evidence including, but not limited to purchase orders, invoices, bills of materials, work orders and bills of lading, showing that orders have been placed.
5. Liens and Other Security Interests of Subcontractors and Material Suppliers - No material, supplies, or equipment for the Work shall be purchased subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or in any part thereof is retained by seller or supplier. Contractor warrants good title to all material, supplies, and equipment installed or incorporated in Work and agrees upon completion of all Work to deliver premises, together with all improvements and appurtenances constructed or placed thereon by it, to MCSW free from any claims, security interests, liens, or charges. Contractor further agrees that neither it nor any person, firm, or corporation furnishing any materials or labor for any Work covered by this Contract shall have any right to place a lien upon the premises or any improvement or appurtenance thereof, except that Contractor may install metering devices or other equipment of a utility company or political subdivision, title to which is commonly retained by the utility company or political subdivision. In event of installation of any such metering device or equipment, Contractor shall advise MCSW as to its owner within five (5) days of such installation in writing, prior to making the installation
6. Title to Materials - the title to new materials or equipment for the Work of this Contract, and attendant liability for its protection and safety, shall remain with Contractor until incorporated in the Work of this Contract and accepted by the MCSW and Architect; no part of said materials shall be removed from its place of storage, and Contractor shall keep an accurate inventory of all said materials and equipment in a manner satisfactory to the MCSW or its authorized representative.
7. Assemblies - for all material and equipment specified or indicated in the technical specifications, the Contractor shall provide all labor, materials, equipment, and services necessary for complete assemblies and complete working systems. Incidental items not indicated nor mentioned on the technical specifications that can legitimately and reasonably be inferred to belong to the Work described, or be necessary in good practice to provide a complete assembly or system, shall be furnished as though itemized in the Contract Documents in every detail. In all instances, material and equipment shall be installed in strict accordance with each manufacturer's most recent published recommendations and specifications.

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

8. Noise Control - the Contractor shall be responsible for the installation of noise reducing devices on construction equipment. Contractor shall comply with the requirements of the city and county having jurisdiction with regard to noise ordinances governing construction sites and activities. Construction equipment noise is subject to the control of the Environmental Protection Agency's Noise Control Program (Part 204 of Title 40, Code of Federal Regulations). If school is in session at any point during the progress of the Project, and, in the MCSW's reasonable discretion, the noise from such Work disrupts or disturbs the students or faculty or the normal operation of the school, at the MCSW's request, the Contractor shall schedule the performance of all such Work around normal school hours or make other arrangements so that the Work does not cause such disruption or disturbance. In no event shall Contractor have a right to receive additional compensation or an extension to the contract time as a result of any such rescheduling or the making of such arrangements. These controls shall be implemented during site preparation and construction, if applicable.

WARRANTY

1. The Contractor warrants to the MCSW and Architect that material and equipment furnished under the Contract will be of the highest quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. Contractor's warranty to MCSW includes, but is not limited to the following representations:
- a. In addition to any other warranties provided elsewhere, Contractor shall, and hereby does, warrant all Work after the date of Notice of Completion of Work by MCSW and shall repair or replace any or all such work, together with any other work, which may be displaced in so doing that may prove defective in workmanship or materials within a three (3) year period from date of completion as defined in Public Contract Code Section 7107(c) without expense whatsoever to MCSW, ordinary wear and tear, unusual abuse or neglect excepted. MCSW will give notice of observed defects with reasonable promptness. Contractor shall notify MCSW upon completion of repairs.
 - b. In the event of failure of Contractor to comply with above mentioned conditions within one week after being notified in writing, MCSW is hereby authorized to proceed to have defects repaired and made good at expense of Contractor who hereby agrees to pay costs and charges therefore immediately on demand.
 - c. If, in the opinion of the MCSW, defective Work creates a dangerous condition or requires immediate correction or attention to prevent further loss to the MCSW, the MCSW will attempt to give the notice required by this Article. If the Contractor cannot be contacted or does not comply with the MCSW's requirements for correction within a reasonable time as determined by the MCSW, the MCSW may, notwithstanding the provisions of this article, proceed to make such correction or attention which shall be charged against Contractor. Such action by the MCSW will not relieve the Contractor of the guarantee provided in this Article or elsewhere in this Contract.
 - d. This Article does not in any way limit the guarantee on any items for which a longer warranty is specified or on any items for which a manufacturer gives a guarantee for a longer period. Contractor shall furnish MCSW all appropriate guarantee or warranty certificates upon completion of the project.

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

CUTTING AND PATCHING

1. Scope

- a. Contractor shall be responsible for all cutting, fitting, and patching, including associated excavation and backfill, required to complete the Work or to:
 - i. Make several parts fit together properly.
 - ii. Uncover portions of Work to provide for installation of ill-timed Work.
 - iii. Remove and replace defective Work.
 - iv. Remove and replace Work not conforming to requirements of Contract Documents.
 - v. Remove Samples of installed Work as specified for testing.
 - vi. Provide routine penetrations of non-structural surfaces for installation of piping and electrical conduit.
 - vii. Attaching new materials to existing remodeling areas - - including painting (or other finishes) to match existing conditions.
- b. Contractor shall be responsible for ensuring that all trades are coordinated and scheduled so as to ensure the timely and proper execution of the work.
- c. When modifying existing work or installing new Work adjacent to existing work, Contractor shall match, as closely as conditions of Site and materials will allow, the finishes, textures, and colors of the original work, refinishing existing work at no additional cost to MCSW.
- d. All cost caused by defective or ill-timed work shall be borne by Contractor.
- e. Contractor shall be solely responsible for protecting existing work on adjacent properties and shall obtain all required permits for shoring and excavations near property lines.
- f. In addition to Contract requirements, upon written instructions from the MCSW, Contractor shall uncover Work to provide for observations of covered Work in accordance with the Contract; remove samples of installed materials for testing as directed by the MCSW; and remove Work to provide for alteration of existing Work.
- g. Contractor shall not cut or alter Work, or any part of it, in such a way that endangers or compromises the integrity of the Work, the Project, or work of others.

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

2. Submittals

- a. Prior to any cutting or alterations that may affect the structural safety of Project, or work of others, and well in advance of executing such cutting or alterations, Contractor shall submit written notice to District pursuant to the applicable notice provisions of the Contract Documents, requesting consent to proceed with the cutting or alteration, including the following:
 - i. The Work of the District or other trades.
 - ii. Structural value or integrity of any element of Project.
 - iii. Integrity or effectiveness of weather-exposed or weather-resistant elements or systems.
 - iv. Efficiency, operational life, maintenance or safety of operational elements.
 - v. Visual qualities of sight-exposed elements.
- b. Contractor's Request shall also include:
 - i. Identification of Project.
 - ii. Description of affected Work.
 - iii. Necessity for cutting, alteration, or excavations.
 - iv. Affects of Work on District, other trades, or structural or weatherproof integrity of Project.
 - v. Description of proposed Work:
 - Scope of cutting, patching, alteration, or excavation.
 - Trades that will execute Work.
 - Products proposed to be used.
 - Extent of refinishing to be done.
 - vi. Alternates to cutting and patching.
 - vii. Cost proposal, when applicable.
 - viii. The scheduled date the Contractor intends to perform the Work and the duration of time to complete the Work.
 - ix. Written permission of other trades whose Work will be affected.

3. Quality Assurance

- a. New or existing structural members and elements, including reinforcing bars and seismic bracing, shall not be cut, bored, or drilled except by written authority of the MCSW. Work done contrary to such authority is at the Contractor's risk and subject to replacement at its own expense without reimbursement under the Contract. Schedule delays resulting from Agency approvals for unauthorized work shall be the Contractor's responsibility.
- b. Contractor shall ensure that cutting, fitting, and patching shall achieve security, strength, weather protection, appearance for aesthetic match, efficiency, operational life, maintenance, safety of operational elements, and the continuity of existing fire ratings.
- c. Contractor shall ensure that cutting, fitting, and patching shall successfully duplicate undisturbed adjacent profiles, materials, textures, finishes, colors, and that materials shall match existing construction. Where there is dispute as to whether duplication is successful or has been achieved to a reasonable degree, the District's decision shall be final.

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

4. Payment for Costs

- a. Cost caused by ill-timed or defective Work or Work not conforming to the Contract, including costs for additional services of the MCSW, will be paid by Contractor and/or deducted from the Contract by the MCSW.
- b. The MCSW shall only pay for cost of Work if it is part of the original Contract Price or if a change has been made to the contract in compliance with the provisions of the General Conditions. Cost of Work performed upon instructions from the MCSW, other than defective or nonconforming Work, will be paid by the MCSW on approval of written Change Order. Contractor shall provide written cost proposals prior to proceeding with cutting and patching.

5. Materials

- a. Contractor shall provide for replacement and restoration of Work removed. Contractor shall comply with the Contract and with the Industry Standard(s), for the type of Work, and the Specification requirements for each specific product involved. If not specified, Contractor shall first recommend a product of a manufacturer or appropriate trade association for approval by the MCSW.
- b. Materials to be cut and patched include those damaged by the performance of the Work.

6. Inspection

- a. Contractor shall inspect existing conditions of the Site and the Work, including elements subject to movement or damage during cutting and patching, excavating and backfilling. After uncovering Work, Contractor shall inspect conditions affecting installation of new products.
- b. Contractor shall report unsatisfactory or questionable conditions in writing to District as indicated in the General Conditions and shall proceed with Work as indicated in the General Conditions by District.

7. Preparation

- a. Contractor shall provide shoring, bracing and supports as required to maintain structural integrity for all portions of the Project, including all requirements of the Project.
- b. Contractor shall provide devices and methods to protect other portions of Project from damage.
- c. Contractor shall, provide all necessary protection from weather and extremes of temperature and humidity for the Project, including without limitation, any work that may be exposed by cutting and patching Work. Contractor shall keep excavations free from water.

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

8. Erection, installation, and application

- a. With respect to performance, Contractor shall:
 - i. Execute fitting and adjustment of products to provide finished installation to comply with and match specified tolerances and finishes.
 - ii. Execute cutting and demolition by methods that will prevent damage to other Work, and provide proper surfaces to receive installation of repairs and new Work.
 - iii. Execute cutting, demolition excavating, and backfilling by methods that will prevent damage to other Work and damage to settlement.
- b. Contractor shall employ original installer or fabricator to perform cutting and patching for:
 - i. Weather-exposed surfaces and moisture-resistant elements such as roofing, sheet metal, sealants, waterproofing, and other trades.
 - ii. Sight-exposed finished surfaces.
- c. Contractor shall execute fitting and adjustment of products to provide a finished installation to comply with specified products, functions, tolerances, and finishes as shown or specified in the Contract including, without limitation, the Drawings and Specifications.
- d. Contractor shall fit Work airtight to pipes, sleeves, ducts, conduit, and other penetrations through surfaces. Contractor shall conform to all Code requirements for penetrations or the Drawings and Specifications, whichever calls for a higher quality or more thorough requirement. Contractor shall maintain integrity of both rated and non-rated fire walls, ceilings, floors, etc.
- e. Contractor shall restore Work which has been cut or removed. Contractor shall install new products to provide completed Work in accordance with requirements of the Contract Documents and as required to match the surrounding areas and surfaces.
- f. Contractor shall refinish all continuous surfaces to nearest intersection as necessary to match the existing finish to any new finish..

9. Subsequent Removal

Permission to patch any areas or items of the Work shall not constitute a waiver of the MCSW's right to require complete removal and replacement of the areas of items of the Work if, in the opinion of the MCSW, the patching does not satisfactorily restore quality and appearance of the Work or does not otherwise conform to the Contract.

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

CLEANING UP

1. Contractor at all times shall keep premises free from debris such as waste, dust, excess water, storm water runoffs, rubbish, and excess materials and equipment. Contractor shall not leave debris under, in, or about the premises, but shall promptly remove same from the premises and dispose of it in a lawful manner. Upon completion of Work, Contractor shall clean interior and exterior of buildings, including fixtures, equipment, walls, floors, ceilings, roofs, window sills and ledges, horizontal projections, and any areas where debris has collected, so surfaces are free from foreign material or discoloration; Contractor shall clean and polish all glass, plumbing fixtures, equipment, finish hardware and similar finish surfaces. Upon completion of the Work, Contractor shall also remove temporary utilities, fencing, barricades, planking, sanitary facilities and similar temporary facilities from Site.

Contractor shall remove rubbish and debris resulting from the Work on a daily basis. Contractor shall maintain the structures and Site in a clean and orderly condition at all times until acceptance of the project by the MCSW. Contractor shall keep its access driveways and adjacent streets, sidewalks, gutters and drains free of rubbish, debris and excess water by cleaning and removal each day.
2. In addition to the general cleaning, the following special cleaning shall be done at the completion of the work in accordance with the specifications including, but not limited to:
 - a. Remove putty stains from glazing, then wash and polish glazing.
 - b. Remove marks, stains, fingerprints and other soil or dirt from painted, stained or decorated work.
 - c. Remove temporary protection and clean and polish floors and waxed surfaces.
 - d. Clean and polish hardware and plumbing trim; remove stains, dust, dirt, plaster and paint.
 - e. Remove spots, soil, plaster and paint from tile work, and wash tile.
 - f. Clean all fixtures and equipment, remove excess lubrication, clean light fixtures and lamps, polish metal surfaces.
 - g. Vacuum-clean carpeted surfaces.
 - h. Remove debris from roofs, down spout and drainage system.
3. If the Contractor fails to clean up as provided in the Contract Documents, the MCSW may do so, and the cost thereof shall be the responsibility of the Contractor and deducted from the next progress payment.

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

CHANGES IN THE WORK

1. There shall be no change whatsoever in the drawings, specifications, or in the Work without an executed Change Order, Construction Change Directive, or order by the MCSW for a minor change in the Work as herein provided. MCSW shall not be liable for the cost of any extra work or any substitutions, changes, additions, omissions, or deviations from the Drawings and Specifications unless the MCSW has authorized the same and the cost thereof approved in writing by Change Order or executed Construction Change Directive. No extension of time for performance of the Work shall be allowed hereunder unless claim for such extension is made at the time changes in the Work are ordered, and such time duly adjusted in writing in the Change Order. The provisions of the Contract Documents shall apply to all such changes, additions, and omissions with the same effect as if originally embodied in the Drawings and Specifications. Notwithstanding anything to the contrary in this section, all Change Orders shall be prepared and issued by the MCSW and shall become effective when executed by the MCSW.
2. Should any Change Order result in an increase in the Contract price, the cost of such Change Order shall be agreed to, in writing, in advance by Contractor and MCSW and be subject to the monetary limitations set forth in Public Contract Code Section 20118.4. In the event that Contractor proceeds with any change in Work without first notifying MCSW and obtaining the Architect's and MCSW's consent to a Change Order, Contractor waives any claim of additional compensation for such additional work.

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

ROYALTIES AND PATENTS

1. Contractor shall hold and save the MCSW and its officers, agents, and employees harmless from liability of any nature or kind, including cost and expense, for or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract, including its use by the MCSW, unless otherwise specifically provided in the contract documents, and unless such liability arises from the sole negligence, or active negligence, or willful misconduct of the MCSW.

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

INDEMNIFICATION

1. Contractor shall defend, indemnify and hold harmless MCSW, the State of California and their officers, employees, agents and independent contractors from all liabilities, claims, actions, liens, judgments, demands, damages, losses, costs or expenses of any kind arising from death, personal injury, property damage or other cause based or asserted upon any act, omission, or breach connected with or arising from the progress of Work or performance of service under this Agreement or the Contract Documents. As part of this indemnity, Contractor shall protect and defend, at its own expense, MCSW, the State of California and their officers, employees, agents and independent contractors from any legal action including attorneys fees or other proceeding based upon such act, omission, breach or as otherwise required by this **INDEMNIFICATION** section.

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

- a. Liability for (1) death or bodily injury to persons; (2) damage or injury to, loss (including theft), or loss of use of, any property; (3) any failure or alleged failure to comply with any provision of law or the Contract; or (4) any other loss, damage or expense, sustained by any person, firm or corporation or in connection with the Work called for in this Agreement or the Contract, except for liability resulting from the sole or active negligence, or the willful misconduct of the MCSW.
- b. Any bodily injury to or death of persons or damage to property caused by any act, omission or breach of Contractor or any person, firm or corporation employed by Contractor, either directly or by independent contract, including all damages or injury to, loss (including theft), or loss of use of, any property, sustained by any person, firm or corporation, including MCSW, arising out of or in any way connected with Work covered by this agreement **OFFER TO MCSW** or the Contract, whether said injury or damage occurs either on or off MCSW property, but not for any loss, injury, death or damages caused by the sole or active negligence or willful misconduct of the MCSW.
- c. Any dispute between Contractor and Contractor's subcontractors/supplies/sureties, including, but not limited to, any failure or alleged failure of the Contractor (or any person hired or employed directly or indirectly by the Contractor) to pay any Subcontractor or Materialman of any tier or any other person employed in connection with the Work and/or filing of any stop notice or mechanic's lien claims.

CONTRACTOR, at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings that may be brought or instituted against the MCSW, its officers, agents or employees, on account of or founded upon any cause, damage, or injury identified herein **INDEMNIFICATION** section and shall pay or satisfy any judgment that may be rendered against the MCSW, its officers, agents or employees in any action, suit or other proceedings as a result thereof.

Contractor shall ensure that its contract with each of its subcontractors contains provisions requiring the subcontractors to defend, indemnify and hold harmless the MCSW and the State of

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

California to a minimum level as set forth in this RFP and consistent with the language of **INDEMNIFICATION** section.

The Contractor's and Subcontractors' obligation to defend, indemnify and hold harmless the MCSW, the State of California and their officers, employees, agents and independent contractors hereunder shall include, without limitation, any and all claims, damages, and costs for the following: (1) any damages or injury to or death of any person, and damage or injury to, loss (including theft), or loss of use of, any property; (2) breach of any warranty, express or implied; (3) failure of the Contractor or Subcontractors to comply with any applicable governmental law, rule, regulation, or other requirement; and (4) products installed in or used in connection with the Work.

TERMINATION OR SUSPENSION OF THE CONTRACT

1. Termination by the contractor for cause
 - a. Grounds for termination - The Contractor may terminate the Contract if the Work is stopped for a period of thirty (30) consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons performing portions of the Work for whom the Contractor is contractually responsible, for only the following reasons:
 - i. Issuance of an order of a court or other public authority having jurisdiction; or
 - ii. An act of government, such as a declaration of national emergency.
 - b. Notice of Termination - If one of the above reasons exists, the Contractor may, upon written notice of seven (7) additional days to the MCSW, terminate the Contract and recover from the MCSW payment for Work executed and for reasonable costs verified by the Architect with respect to materials, equipment, tools, construction equipment, and machinery, including reasonable overhead, profit, and damages
2. Termination by the MCSW for cause
 - a. Grounds for termination - the MCSW may terminate the Contractor and/or this Contract for the following reasons:
 - i. Persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
 - ii. Persistently or repeatedly is absent, without excuse, from the job site;
 - iii. Fails to make payment to Subcontractors, suppliers, materialmen, etc.;
 - iv. Persistently disregards laws, ordinances, rules, regulations, or orders of a public authority having jurisdiction;
 - v. Becomes bankrupt or insolvent, including the filing of a general assignment for the benefit of creditors; or
 - vi. Otherwise is in substantial breach of a provision of the Contract.

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

- b. Notice of Termination - when any of the above reasons exist, the MCSW may, without prejudice to any other rights or remedies of the MCSW and after giving the Contractor and the Contractor's surety, if any, written notice of seven (7) days, terminate the Contractor and/or this Contract and may, subject to any prior rights of the surety:
 - i. Take possession of the Project and of all material, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
 - ii. Accept assignment of Subcontracts. Contractor acknowledges and agrees that if the MCSW (in its sole and absolute discretion) decides to takeover completion of the Project, the Contractor agrees to immediately assign all subcontracts to the MCSW which the MCSW has chosen to accept; and
 - iii. Complete the Work by any reasonable method the MCSW may deem expedient, including contracting with a replacement contractor or contractors

- c. Payments Withheld - If the MCSW terminates the Contract for one of the reasons stated in paragraph 2a above, the Contractor shall not be entitled to receive further payment until the Work is complete. All costs associated with the termination and completion of the Project shall be the responsibility of the Contractor and/or its surety.

3. Termination of contract by the MCSW (contractor not at fault)

a. Termination for Convenience

MCSW may terminate the Contract upon fifteen (15) calendar days of written notice to the Contractor and use any reasonable method the MCSW deems expedient to complete the project, including contracting with replacement contractor or contractors, if it is found that reasons beyond the control of either the MCSW or Contractor make it impossible or against the MCSW's interest to complete the work. In such a case, the Contractor shall have no claims against the MCSW except: (1) the actual cost for labor, materials, and services performed which may be documented through timesheets, invoices, receipts, or otherwise, and (2) ten percent (10%) profit and overhead, and (3) five percent (5%) termination cost of the total of items (1) and (2). Contractor acknowledges and agrees that if the MCSW (in its sole and absolute discretion) decides to takeover completion of the Project, the Contractor agrees to immediately assign all subcontracts to the MCSW which the MCSW has chosen to accept:

b. Non-Appropriation of Funds/ Insufficient Funds

In the event that sufficient funds are not appropriated to complete the Project or the MCSW determines that sufficient funds are not available to complete the Project, MCSW may terminate or suspend the completion of the Project at any time by giving written notice to the Contractor. In the event that the MCSW exercises this option, the MCSW shall pay for any and all work and materials completed or delivered onto the site for which value is received, and the value of any and all work then in progress and orders actually placed which cannot be canceled up to the date of notice of termination. The value of work and materials paid for shall include a factor of fifteen percent (15%) for the Contractor's overhead and profit and there shall be no other costs or expenses paid to Contractor. All work, materials and orders paid for pursuant to this provision shall become the property of the MCSW. MCSW may, without cause, order Contractor in writing to suspend, delay or interrupt the Project in whole or in part for such period of time as MCSW may determine. Adjustment shall be made for increases in the cost of performance of the Agreement caused by suspense, delay or interruption.

SUPPLEMENTARY CONDITIONS (PUBLIC WORKS PROJECTS)

4. Remedies other than termination

If a default occurs, the MCSW may, without prejudice to any other right or remedy, including, without limitation, its right to terminate the Contract pursuant to paragraph 2 above, do any of the following:

- a. Permit the Contractor to continue under this Contract, but make good such deficiencies or complete the Contract by whatever method the MCSW may deem expedient, and the cost and expense thereof shall be deducted from the Contract Price or paid by the Contractor to the MCSW on demand;
- b. If the workmanship performed by the Contractor is faulty or defective materials are provided, erected or installed, then the MCSW may order the Contractor to remove the faulty workmanship or defective materials and to replace the same with work or materials that conform to the Contract Documents, in which event the Contractor, at its sole costs and expense, shall proceed in accordance with the MCSW's order and complete the same within the time period given by the MCSW in its notice to the Contractor; or
- c. Initiate procedures to declare the Contractor a non-responsible bidder for a period of two to five years thereafter.

All amounts expended by the MCSW in connection with the exercise of its rights hereunder shall accrue interest from the date expended until paid to the MCSW at the maximum legal rate. The MCSW may retain or withhold any such amounts from the Contract Price. If the Contractor is ordered to replace any faulty workmanship or defective materials pursuant to Paragraph 4b above, the Contractor shall replace the same with new work or materials approved by the MCSW, and, at its own cost, shall repair or replace, in a manner and to the extent the MCSW shall direct, all work or material that is damaged, injured or destroyed by the removal of said faulty workmanship or defective material, or by the replacement of the same with acceptable work or materials. In no event shall anything in this Paragraph be deemed to constitute a waiver by the MCSW of any other rights or remedies that it may have at law or in equity, it being acknowledged and agreed by the Contractor that the remedies set forth in this Paragraph are in addition to, and not in lieu of, any other rights or remedies that the MCSW may have at law or in equity.

REQUIRED FORMS

CERTIFICATION OF NON-COLLUSION

“NONCOLLUSION AFFIDAVIT TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID”

State of California)
)
County of _____) ss.

_____, being first duly sworn, deposes and says that he or she is

_____ of _____ the party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid." (Public Contract Code, Section 7106).

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

Signature

Date

REQUIRED FORMS

VENDOR'S CERTIFICATE REGARDING WORKERS' COMPENSATION

Labor Code Section 3700:

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

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

I am aware of the provision of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of this contract.

NAME: _____

TITLE: _____

SIGNATURE: _____

DATE: _____

(In accordance with Article 5 {commencing at Section 1860}, Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under this contract).

REQUIRED FORMS

CONTRACTOR'S CERTIFICATE REGARDING DRUG-FREE WORKPLACE

This Drug-Free Workplace Certification form is required from all successful bidders pursuant to *the requirements mandated by Government Code Sections 8350 et seq., the Drug-Free Workplace Act of 1990*. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract or grant for the procurement of any property or service from any State agency must certify that it will provide a drug-free workplace by performing certain specified acts. In addition, the Act provides that each contract or grant awarded by a State agency may be subject to suspension of payments or termination of the contract or grant, and the CONTRACTOR or grantee may be subject to debarment from future contracting, if the contracting agency determines that specified acts have occurred.

Pursuant to Government Code Section 8355, every person or organization awarded a contract or grant from a State agency shall certify that it will provide a drug-free workplace by doing all of the following:

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

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

- a. The dangers of drug abuse in the workplace;
- b. The person's or organization's policy of maintaining a drug-free workplace;
- c. The availability of drug counseling, rehabilitation and employee-assistance programs; and
- d. The penalties that may be imposed upon employees for drug abuse violations;

Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

I, the undersigned, agree to fulfill the terms and requirements of Government Code Section 8355 listed above and will (a) publish a statement notifying employees concerning the prohibition of controlled substance at the workplace, (b) establish a drug-free awareness program, and (c) require each employee engaged in the performance of the contract be given a copy of the statement required by section 8355(a) and require such employee agree to abide by the terms of that statement.

I also understand that if the MCSW determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of Section 8355, that the contract awarded herein is subject to termination, suspension of payments, or both. I further understand that, should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of Sections 8350 et. seq.

REQUIRED FORMS

I acknowledge that I am aware of the provisions of Government Code Sections 8350 et. seq. and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

Date: _____

Contractor: _____

Signature of Authorized Agent or Representative: _____

REQUIRED FORMS

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

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

DATE: _____

CONTRACTOR

By: _____
Signature

REQUIRED FORMS

WORKPLACE CONTRACTOR CERTIFICATION REGARDING BACKGROUND CHECKS

_____ certifies that it has performed one of the following:
[Authorized Employee/Agent of Contractor]

- Pursuant to Education Code Section 45125.1, Contractor has conducted criminal background checks, through the California Department of Justice, of all employees providing services to the MCSW, pursuant to the contract/purchase order dated _____, and that none have been convicted of serious or violent felonies, as specified in Penal Code Sections 1192.7(c) and 667.5(c), respectively.

As further required by Education Code Section 45125.1, attached hereto as Attachment "A" is a list of the names of the employees of the undersigned who may come in contact with pupils.

OR

- Pursuant to Education Code Section 45125.2, Contractor will ensure the safety of pupils by one or more of the following methods:
- (1) The installation of a physical barrier at the worksite to limit contact with pupils.
 - (2) Continual supervision and monitoring of all employees of the entity by an employee of the entity whom the Department of Justice has ascertained has not been convicted of a violent or serious felony.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

DATE: _____

CONTRACTOR

By: _____
Signature

REQUIRED FORMS

**CONTRACTOR CERTIFICATION REGARDING BACKGROUND
CHECKS**

ATTACHMENT "A"

(BELOW INCLUDE ALL NAMES OF EMPLOYEES WHO MAY COME IN CONTACT WITH PUPILS)

REQUIRED FORMS

*** BID GUARANTEE FORM (in lieu of BID BOND)**

Accompanying this proposal is cash, a cashier's check or a certified check payable to the order of the MCSW in an amount equal to TEN PERCENT (10%) of the base bid and alternates (\$_____).

This cash or the proceeds of this check shall become the property of said MCSW, if, this proposal shall be accepted by the MCSW through the MCSW's GOVERNING BOARD, and the undersigned fails to execute a contract with and furnish the sureties required by the MCSW within the required time; otherwise, said cash or check is to be returned to the undersigned.

Bidder

REQUIRED FORMS

BID BOND

KNOW ALL MEN BY THESE PRESENTS

that we, the undersigned, _____
(hereafter called "Principal"), and _____ (hereafter called "Surety"),
are hereby held and firmly bound unto the McSwain Union Elementary School District (hereafter called
"Owner") in the sum of _____ Dollars (\$_____) for the payment of which, well and
truly to be made, we hereby jointly and severally bind ourselves, successors, and assigns.

SIGNED this _____ day of _____, 20_____.

The condition of the above obligation is such that whereas the Principal has submitted to the Owner a certain
Bid, attached hereto and hereby made a part hereof, to enter into a contract in writing.

NOW, THEREFORE,

- a. If said Bid is rejected, or
- b. If said Bid is accepted and the Principal executes and delivers a contract or the attached example
Agreement form within five (5) days after acceptance (properly completed in accordance with said Bid), and
furnishes bonds for his faithful performance of said Contract and/or for payment of all persons performing
labor or furnishing materials in connection therewith,

Then this obligation shall be void; otherwise, the same shall remain in force and effect.

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

In the event suit is brought upon this bond by the Owner and judgment is recovered, the Surety shall pay all
costs incurred by the Owner in such suit, including without limitation, attorneys' fees to be fixed by the court

REQUIRED FORMS

IN WITNESS WHEREOF, Principal and Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, on the day and year first set forth above.

PRINCIPAL: _____

ATTEST: (if individual, two witnesses are required)

By: _____

Title: _____

ATTEST: (if corporation)

By: _____

Title: _____
(Corporate Seal)

SURETY: _____

ATTEST:

By: _____

Title: _____
(Corporate Seal)

REQUIRED FORMS

IMPORTANT: Surety companies executing bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in California Insurance Code Section 105, and if the work or project is financed, in whole or in part, with federal, grant, or loan funds, it must also appear on the Treasury Department's most current list (Circular 570 as amended).

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and address of Surety):

Name: _____

Address: _____

City: _____ State: _____ Zipcode: _____

Name and address of agent or representative for service of process in California (if different from above):

Name: _____

Address: _____

City: _____ State: _____ Zipcode: _____

Telephone number of Surety and agent or representative for service of process in California:

Telephone Number: _____

REQUIRED FORMS

LABOR AND MATERIAL PAYMENT BOND (CALIFORNIA PUBLIC WORKS)

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, the MCSW (sometimes referred to hereinafter as "Obligee") has awarded to _____ (hereinafter designated as the "Principal" or "Contractor"), an agreement for the work described as follows: (Project Name: _____) (hereinafter referred to as the "Public Work"); and

WHEREAS, said Contractor is required to furnish a bond in connection with said Contract, and pursuant to California Civil Code Section 9550;

NOW, THEREFORE, We, _____, the undersigned Contractor, as Principal; and _____, a corporation organized and existing under the laws of the State of _____, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the MCSW and to any and all persons, companies, or corporations entitled by law to file stop notices under California Civil Code Section 9100, or any person, company, or corporation entitled to make a claim on this bond, in the sum being not less than ONE HUNDRED PERCENT (100%) of the total amount payable by said Obligee under the terms of said Contract, for which payment will and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, its heirs, executors, administrators, successors, or assigns, or subcontractor, shall fail to pay any person or persons named in Civil Code Section 9100; or fail to pay for any materials, provisions, or other supplies, used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code, with respect to work or labor thereon of any kind; or shall fail to deduct, withhold, and pay over to the Employment Development Department, any amounts required to be deducted, withheld, and paid over by Unemployment Insurance Code Section 13020 with respect to work and labor thereon of any kind, then said Surety will pay for the same, in an amount not exceeding the amount herein above set forth, and in the event suit is brought upon this bond, also will pay such reasonable attorneys' fees as shall be fixed by the court, awarded and taxed as provided in California Civil Code Section 9550 et seq.

This bond shall inure to the benefit of any person named in Civil Code Section 9100 giving such person or his/her assigns a right of action in any suit brought upon this bond.

It is further stipulated and agreed that the Surety of this bond shall not be exonerated or released from the obligation of the bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, or specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described; or pertaining or relating to the furnishing of labor, materials, or equipment therefor; nor by any change or modification of any terms of payment or extension of time for payment pertaining or relating to any scheme or work of improvement herein above described; nor by any rescission or attempted rescission of the contract, agreement or bond; nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond; nor by any fraud practiced by any person other than the claimant seeking to recover on the bond; and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given; and under no circumstances shall the Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the Obligee and the Contractor or on the part of any obligee named in such bond; that the sole condition of recovery shall be that the

REQUIRED FORMS

claimant is a person described in California Civil Code Section 9100, and who has not been paid the full amount of his or her claim; and that the Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__.

PRINCIPAL/CONTRACTOR:

By: _____

SURETY:

By: _____
Attorney-in-Fact

REQUIRED FORMS

IMPORTANT: THIS IS A REQUIRED FORM.

Surety companies executing bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in California Insurance Code Section 105, and if the work or project is financed, in whole or in part, with federal, grant or loan funds, Surety's name must also appear on the Treasury Department's most current list (Circular 570 as amended).

Any claims under this bond may be addressed to:

(Name and Address of Surety)

(Name and Address of agent or representative for service for service of process in California)

Telephone: _____

Telephone: _____

STATE OF CALIFORNIA

)

COUNTY OF _____

) ss.

)

On _____ before me, _____,
(insert name and title of the officer)

a Notary Public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument as the Attorney-in-Fact of the _____ (Surety) and acknowledged to me that he/she/they subscribed the name of the _____ (Surety) thereto and his own name as Attorney-in-Fact on the executed instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public in and for said State

(SEAL)

Commission expires: _____

NOTE: A copy of the power-of-attorney to local representatives of the bonding company must be attached hereto.

REQUIRED FORMS

CONTRACT PERFORMANCE BOND (CALIFORNIA PUBLIC WORKS)

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, MCSW (sometimes referred to hereinafter as "Obligee") has awarded to _____ (hereinafter designated as the "Principal" or "Contractor"), an agreement for the work described as follows: (Project Name: _____) (hereinafter referred to as the "Public Work"); and

WHEREAS, the work to be performed by the Contractor is more particularly set forth in that certain contract for said Public Work dated _____, (hereinafter referred to as the "Contract"), which Contract is incorporated herein by this reference; and

WHEREAS, the Contractor is required by said Contract to perform the terms thereof and to provide a bond both for the performance and guaranty thereof.

NOW, THEREFORE, we, _____, the undersigned Contractor, as Principal, and _____, a corporation organized and existing under the laws of the State of _____, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the MCSW in the sum being not less than 100% (ONE HUNDRED PERCENT) of the total amount payable by said Obligee under the terms of said Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the bounded Contractor, his or her heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, and agreements in said Contract and any alteration thereof made as therein provided, on his or her part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill guarantees of all materials and workmanship; and indemnify, defend and save harmless the Obligee, its officers and agents, as stipulated in said Contract, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

The Surety, for value received, hereby stipulates and agrees that it shall not be exonerated or released from the obligation of this bond (either by total exonerated or pro tanto) by any change, extension of time, alteration in or addition to the terms of the contract or to the work to be performed there under or the specifications accompanying the same, nor by any change or modification to any terms of payment or extension of time for any payment pertaining or relating to any scheme of work of improvement under the contract. Surety also stipulates and agrees that it shall not be exonerated or released from the obligation of this bond (either by total exonerated or pro tanto) by any overpayment or underpayment by the Obligee that is based upon estimates approved by the Architect. The Surety stipulates and agrees that none of the aforementioned changes, modifications, alterations, additions, extension of time or actions shall in any way affect its obligation on this bond, and it does hereby waive notice of any such changes, modifications, alterations, additions or extension of time to the terms of the contract, or to the work, or the specifications as well notice of any other actions that result in the foregoing.

REQUIRED FORMS

Whenever Principal shall be, and is declared by the Obligee to be, in default under the Contract, the Surety shall promptly either remedy the default, or shall promptly complete the Contract through its agents or independent contractors, subject to acceptance and approval of such agents or independent contractors by Obligee as hereinafter set forth, in accordance with its terms and conditions and to pay and perform all obligations of Principal under the Contract, including, without limitation, all obligations with respect to warranties, guarantees and the payment of liquidated damages; or, at Obligee's sole discretion and election, Surety shall obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Obligee of the lowest responsible bidder, arrange for a contract between such bidder and the Obligee and make available as Work progresses (even though there should be a default or succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the "balance of the Contract price" (as hereinafter defined), and to pay and perform all obligations of Principal under the Contract, including, without limitation, all obligations with respect to warranties, guarantees and the payment of liquidated damages. The term "balance of the Contract price," as used in this paragraph, shall mean the total amount payable to Principal by the Obligee under the Contract and any modifications thereto, less the amount previously paid by the Obligee to the Principal, less any withholdings by the Obligee allowed under the Contract.

Surety expressly agrees that the Obligee may reject any agent or contractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Principal. Unless otherwise agreed by Obligee, in its sole discretion, Surety shall not utilize Principal in completing the Contract nor shall Surety accept a bid from Principal for completion of the work in the event of default by the Principal.

No final settlement between the Obligee and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

Surety shall remain responsible for all patent and latent defects that arise out of or relate to the Contractor's failure and/or inability to properly complete the Public Work as required by the Contract and the Contract Documents. The obligation of the Surety hereunder shall continue so long as any obligation of the Contractor remains.

Contractor and Surety agree that if the Obligee is required to engage the services of an attorney in connection with enforcement of the bond, Contractor and Surety shall pay Obligee's reasonable attorneys' fees incurred, with or without suit, in addition to the above sum.

In the event suit is brought upon this bond by the Obligee and judgment is recovered, the Surety shall pay all costs incurred by the Obligee in such suit, including reasonable attorneys' fees to be fixed by the Court.

REQUIRED FORMS

IN WITNESS WHEREOF, we have hereunto set our hands and seals this ____ day of _____, 20__.

PRINCIPAL/CONTRACTOR:

By: _____

SURETY:

By: _____
Attorney-in-Fact

The rate of premium on this bond is _____ per thousand.

The total amount of premium charged: \$_____ (This must be filled in by a corporate surety).

REQUIRED FORMS

GUARANTEE

Guarantee for _____ . We hereby guarantee that the _____, which we have installed in (Project Name: _____) has been done in accordance with the Contract Documents, including without limitation, the drawings and specifications, and that the work as installed will fulfill the requirements included in the bid documents. The undersigned and its surety agree to repair or replace any or all such work, together with any other adjacent work, which may be displaced in connection with such replacement, that may prove to be defective in workmanship or material within a period of _____ (_____) years from the date of the Notice of Completion of the above-mentioned structure by MCSW, ordinary wear and tear and unusual abuse or neglect excepted.

In the event the undersigned or its surety fail to comply with the above-mentioned conditions within a reasonable period of time, as determined by the MCSW, but not later than ten (10) days after being notified in writing by the MCSW, the undersigned and its surety authorize the MCSW to proceed to have said defects repaired and made good at the expense of the undersigned and its surety, who will pay the costs and charges therefor upon demand. The undersigned and its surety shall be jointly and severally liable for any costs arising from the MCSW's enforcement of this Guarantee.

Countersigned

(Proper Name)

(Proper Name)

By: _____

By: _____

(Signature of Subcontract or Contractor)

(Signature of General Contractor if for Subcontractor)

Representatives to be contacted for service:

Name: _____

Address: _____

Phone Number: _____

REQUIRED FORMS

CONTRACTOR'S CERTIFICATE REGARDING PAYMENT OF PREVAILING WAGE

(This certification must be completed if bidding on a "public works project")

Labor Code Section 1771:

"Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works...."

I am aware of the provision of Section 1771 et. Seq. of the Labor Code which require every employer to pay employees prevailing wage for public works projects, in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of this contract.

NAME: _____

TITLE: _____

SIGNATURE: _____

DATE: _____

The above certificate must be signed and filed with the awarding body prior to performing any work under this contract.

McSwain Union Elementary School District
926 Scott Road
Merced, CA 95341
Telephone: (209) 354-2700 / Fax: (209) 723-2267

REQUIRED FORMS

INSURANCE DOCUMENTS & ENDORSEMENTS

The following insurance endorsements and documents must be provided to the MCSW within five (5) calendar days after receipt of notification of award. If the apparent low bidder fails to provide the documents required below, the MCSW may award the contract to the next lowest responsible and responsive bidder or release all bidders, and the bidder's bid security will be forfeited. All insurance provided by the bidder shall fully comply with the requirements set forth in Article 11 of the General Conditions.

1. General Liability Insurance: Certificate of Insurance with all specific insurance coverages set forth in Article 11 of the General Conditions, proper Project description, designation of the MCSW as the Certificate Holder, a statement that the insurance provided is primary to any insurance obtained by the MCSW and minimum of 30 days' cancellation notice. Bidder shall also provide required additional insured endorsement(s) designating all parties required in Article 11 of the General Conditions. The additional insured endorsement shall be an ISO CG 20 10 (11/85), or an ISO CG 20 10 (10/93 or 07/04) and ISO CG 20 37 (10/93 or 07/04) or their equivalent as determined by the MCSW in its sole discretion.

Incidents and claims are to be reported to the insurer at:

Attn: _____
(Title) (Department)

(Company)

(Street Address)

(City) (State) (Zip Code)

(_____) _____
(Telephone Number)

2. Workers' Compensation/ Employer's Liability Insurance: Certificate of Workers' Compensation Insurance meeting the coverages and requirements set forth in Article 11 of the General Conditions, minimum of 30 days' cancellation notice, proper Project description, waiver of subrogation and any applicable endorsements.

REQUIRED FORMS

3. Automobile Liability Insurance: Certificate of Automobile Insurance meeting the coverages and requirements set forth in Article 11 of the General Conditions, minimum 30 days' cancellation notice, any applicable endorsements and a statement that the insurance provided is primary to any insurance obtained by the MCSW.

Incidents and claims are to be reported to the insurer at:

Attn: _____
(Title) (Department)

(Company)

(Street Address)

(City) (State) (Zip Code)

(_____) _____
(Telephone Number)

DATE: _____

CONTRACTOR

By: _____
Signature

REQUIRED FORMS

CONDITIONAL WAIVER AND RELEASE UPON PAYMENT

CALIFORNIA CIVIL CODE SECTION 3262 (D)(3)

Upon receipt by the undersigned of a check from McSwain Union Elementary School District in the sum of \$_____ payable to _____ (*hereinafter Payee*) and when the check has been properly endorsed and has been paid by the bank upon which it is drawn, this document shall become effective to release any mechanic's lien, stop notice, or bond right the Payee has on the job specified on Payee's invoice number _____ (*hereinafter Job*). This release covers the final payment to the undersigned for all labor, services, equipment or material furnished on this Job, except for disputed claims for additional work in the amount of \$_____. Before any recipient of this document relies on it, said party should verify evidence of payment to the undersigned.

Dated: _____

Payee: _____

By: _____

Title: _____

NOTE: CIVIL CODE 3262 (d)(3) PROVIDES: *Where the claimant is required to execute a waiver and release in exchange for, or in order to induce the payment of, a final payment and the claimant is not, in fact, paid in exchange for the waiver and release or a single payee check or joint payee check is given in exchange for the waiver and release, the waiver and release shall follow substantially the form set forth above.*

**OFFER TO THE MCSWAIN UNION ELEMENTARY SCHOOL DISTRICT
(MCSW)**

IN COMPLIANCE WITH THE GENERAL CONDITIONS AND SUPPLEMENTARY CONDITIONS (IF APPLICABLE), ATTACHED LIST OF ITEMS, ADDENDA (IF ANY), AND OTHER BID DOCUMENTS, THE UNDERSIGNED OFFERS AND AGREES THAT IF THIS OFFER IS ACCEPTED BY MCSW, WITHIN ONE HUNDRED EIGHTY (180) DAYS FROM THE DATE OF MCSW'S PURCHASE ORDER, TO FURNISH ANY AND ALL ITEMS FOR WHICH PRICES ARE OFFERED, AT THE TERMS, CONDITIONS, SPECIFICATIONS, AND PRICES LISTED, DELIVERED, F.O.B. DESTINATION, WITHIN THE TIME SPECIFIED. THE UNDERSIGNED HEREBY CERTIFIES THAT HE/SHE IS AN AUTHORIZED AGENT TO SIGN ON BEHALF OF THE COMPANY.

VENDOR TO COMPLETE PUBLIC WORKS PROJECTS OR DELIVERY OF MATERIALS, EQUIPMENT, SUPPLIES, AND/OR SERVICES WITHIN **120** DAYS AFTER DATE OF THE MCSW PURCHASE ORDER OR ACCORDING TO E-RATE GUIDELINES, WHICHEVER OCCURS FIRST

SIGNATURE: _____ DATE: _____

PRINTED NAME: _____

TITLE: _____

COMPANY NAME: _____

ADDRESS: _____

CITY/STATE/ZIP: _____

PHONE: _____ FAX: _____

"SPIN" NUMBER: _____

SERVICE PROVIDER INVOICING (SPI) (YES/NO): _____

CISCO PARTNER CERTIFICATION: ___ GOLD ___ SILVER

OTHER (SPECIFY) _____

CA STATE CONTRACTOR LICENSE NUMBER: _____

CA PUBLIC WORKS CONTRACTOR REGISTRATION: _____

RETURN ALL BIDS TO:

*Attention: Stephanie Morris, Director Fiscal Services
McSwain Union Elementary School District
926 Scott Road
Merced, CA 95341
Telephone: (209) 354-2706 / Fax: (209) 723-2267*

[PAGE INTENTIONALLY LEFT BLANK]