

PURCHASE ORDER TERMS AND CONDITIONS

1. Definitions.

- 1.1. **"Agreement"** means Contractor's Proposal; drawings or specifications, if any; these proposal/purchase order terms and conditions; and any other documents identified therein or herein as incorporated by reference and inclusive of any subsequently issued addenda and/or amendments.
- 1.2. **"Contractor"** means the business entity designated on the face of this purchase order that is supplying the Deliverables to the District. Contractor shall be synonymous with "supplier", "vendor", or other similar term.
- 1.3. **"Deliverables"** means the tangible and/or intangible personal property, product, service, software, information technology, telecommunications technology, and other items to be delivered pursuant to this purchase order including any such items furnished incident to the provision of services
- 1.4. **"District"** means the Culver City Unified School District.
- 1.5. **"Proposal"** means the Contractor's offer made in response to a solicitation to perform a contract to supply goods or perform services at a specified price.

2. **Award of Agreement.** The Contractor's Proposal or quotation is deemed a firm offer; issuance of this document as a purchase order evidences the District's acceptance of that offer. If an award is made on a proposal, the contract will be awarded according to the authority granted by the Board of Education of the District ("Board") pursuant to California law.
3. **District Name May Not Be Used.** The name and/or logo of the District or any school of the District may not be used in any advertisements or communications which may convey the impression that the District authorizes the solicitation and/or that there may be some connection or endorsement between the District and the Contractor.
4. **Services.** The Contractor shall provide the services as described in the Proposal ("Services").
5. **Expenses and Materials.** District shall not be liable to Contractor for any costs or expenses paid or incurred by Contractor in performing services for District. Contractor shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement.
6. **Independent Contractor.** Contractor, in the performance of this Agreement, shall be and act as an independent contractor. Contractor understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Contractor shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Contractor's employees.
7. **Performance of Services: Standard of Care; District Approval; New Project Approval.** Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Contractor's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts. Contractor shall carefully study and compare all documents, findings, and other instructions and shall at once report to District, in writing, any error, inconsistency, or omission that Contractor or its employees may discover. Contractor shall have responsibility for discovery of errors, inconsistencies, or omissions. The work completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof. Contractor shall obtain the approval of District prior to the commencement of a new project.
8. **Audit.** Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Contractor transacted under this Agreement. Contractor shall retain these books, records, and systems of account during the Term of this Agreement and for five (5) years thereafter. Contractor shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.
9. **Disputes.** In the event of a dispute between the parties as to performance of the Services, Agreement interpretation, or payment, the parties shall attempt to resolve the dispute by mediation, if mutually agreeable. The demand for mediation shall be made within ninety (90) days after initial written notice, and the demand shall not be made later than the time for Contractor to submit its request for final payment. If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Contractor shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Contractor's right to bring a civil action against the District.

10. **Indemnification.** To the furthest extent permitted by California law, Contractor shall indemnify, hold harmless, and defend, at Contractor's own expense including attorneys' fees and costs, the District, its Governing Board, agents, representatives, officers, Contractors, employees, trustees, and volunteers (the "indemnified parties") from any and all claims arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the Contractor. The District shall have the right to accept or reject any legal representation that Contractor proposes to defend the indemnified parties.
11. **Insurance.** The Contractor shall procure and maintain at all times it performs any portion of the Services the following insurance, from insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the District, with minimum limits equal to the amount indicated below.

Type of Coverage	Minimum Requirement
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, & Medical Payments	Each Occurrence: \$1,000,000 General Aggregate: \$2,000,000
Automobile Liability Insurance - Any Auto	Each Occurrence: \$1,000,000 General Aggregate: \$2,000,000
Professional Liability	\$1,000,000
Workers Compensation	Statutory Limits
Employer's Liability	\$1,000,000

- 11.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect the Contractor, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)
- 11.2. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, the Contractor shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.
- 11.3. **Professional Liability (Errors and Omissions).** Professional Liability Insurance as appropriate to the Contractor's profession, coverage to continue through completion of construction plus two (2) years thereafter.
- 11.4. **Proof of Carriage of Insurance.** The Contractor shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:
- 11.4.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."
- 11.4.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.
- 11.4.3. An endorsement stating that the District and its Governing Board, agents, representatives, employees, trustees, officers, Contractors, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Contractor's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.
- 11.4.4. All policies except the Professional Liability, Workers' Compensation Insurance, and Employers' Liability Insurance Policies shall be written on an occurrence form.
12. **Assignment; Subcontracting.** The obligations of the Contractor pursuant to this Agreement shall not be assigned by the Contractor. All subcontractors must be approved in advance by the District.
13. **Termination.**
- 13.1. **Without Cause by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Contractor only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Contractor. Notice shall be deemed given when received by the Contractor, at or via the physical or e-mail address or facsimile number in the Proposal, or no later than three (3) days after the day of mailing, whichever is sooner.

- 13.2. **Without Cause by Contractor.** Contractor may, upon sixty (60) days notice, with or without reason, terminate this Contract. Upon this termination, District shall only be obligated to compensate Contractor for services rendered in accordance with the Contract to the date of termination. Written notice by Contractor shall be sufficient to stop further performance of services to District. Contractor acknowledges that this sixty (60) day notice period is acceptable so that the District can attempt to procure the Deliverables from another source.
- 13.3. **For Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:
- 13.3.1. material violation of this Agreement by the Contractor; or
 - 13.3.2. any act by Contractor exposing the District to liability to others for personal injury or property damage; or
 - 13.3.3. Contractor is adjudged a bankrupt, Contractor makes a general assignment for the benefit of creditors or a receiver is appointed on account of Contractor's insolvency. Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required services from another Contractor. If the expense, fees, and/or costs to the District exceed the cost of providing the service pursuant to this Agreement, the Contractor shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.
- 13.4. Upon termination, Contractor shall provide the District with all documents produced maintained or collected by Contractor pursuant to this Contract, whether or not such documents are final or draft documents.
14. **Compliance with Laws.** Contractor shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Contractor shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Work as indicated or specified. If Contractor observes that any of the Work required by this Contract is at variance with any such laws, ordinance, rules or regulations, Contractor shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be terminated effective upon Contractor's receipt of a written termination notice from the District.
- 14.1. **LABOR CODE REQUIREMENTS:** Contractor shall comply with all applicable provisions of the California Labor Code, Division 3, Part 7, Chapter 1, Articles 1 – 5, including, without limitation, the payment of the general prevailing per diem wage rates for public work projects of more than one thousand dollars (\$1,000). **Registration:** If applicable, before a public works contract can be awarded, Contractor and its subcontractor(s) shall be registered with the Department of Industrial Relations in accordance with Labor Code section 1771.1. At least one week before commencing work, Contractor shall provide to the District the name and DIR registration number for Contractor and any applicable subcontractor. **Certified Payroll Records:** Contractor and its subcontractor(s) shall keep accurate certified payroll records of workers and shall electronically submit certified payroll records directly to the Department of Industrial Relations weekly or within ten (10) days of any request by the District or the Department of Industrial Relations. **Labor Compliance:** Contractor shall perform the Services of the Project while complying with all the applicable regulations, including section 16000, et seq., of Title 8 of the California Code of Regulations and is subject to labor compliance monitoring and enforcement by the Department of Industrial Relations.
15. **Certificates/Permits/Licenses/Registration.** Contractor and all Contractor's employees or agents shall secure and maintain in force such certificates, permits, licenses, and registration as are required by law in connection with the furnishing of Services pursuant to this Agreement.
16. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under contracts there be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age and therefore the Contractor agrees to comply with applicable federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code section 1735 and District policy. In addition, the Contractor agrees to require like compliance by all of its subcontractor(s).
17. **Ownership of Documents.** Documents, data, reports, graphs, maps ("Work Product") created by the Contractor shall be considered works for hire, and as such shall become the property of the District and cannot be used without District's express written permission. Contractor shall not be held liable for any re-use or modification of the District-owned Work Product for purposes outside this Agreement.

18. **Fingerprinting of Employees.** As applicable, the Contractor shall comply with the provisions of Education Code section 45125.1 regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees. The Contractor shall not permit any employee to have any contact with District pupils until such time as the Contractor has verified in writing to the governing board of the District that the employee has not been convicted of a felony, as defined in Education Code section 45122.1. The Contractor's responsibility shall extend to all employees, subcontractors, agents, and employees or agents of subcontractors regardless of whether those individuals are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Contractor. Verification of compliance with this section shall be provided in writing to the District prior to each individual's commencement of employment or performing any portion of the Services and prior to permitting contact with any student.
19. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
20. **Waiver of Consequential Damages.** In no event, shall District or Contractor be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connect with this Agreement.
21. **Substitutions.** Product substitutions require the prior, express written authorization from an authorized District representative.
22. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District's administrative offices are located.
23. **Order of Precedence.** This Agreement constitutes the entire agreement between the parties and supersedes any prior or contemporaneous written or oral understanding or agreement and any contrary provisions on packing slips, invoices, or other documents submitted by the Contractor. Any conflict or inconsistency among the components of this Agreement shall be resolved by giving precedence in the following order: (1) these Contract Terms and Conditions; (2) Contractor's Proposal; and (3) all other attachments incorporated into the Agreement by reference. No term or condition of this Agreement may be terminated, modified, rescinded, or waived except by a writing signed by both parties. No modification or waiver of this Agreement shall be deemed effected by Contractor's acknowledgment, confirmation or other documentation containing other or different terms. Should any such document from Contractor contain additional or different terms than this Agreement, those terms shall be considered proposals by Contractor which are hereby rejected.
24. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
25. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Contract shall be read and enforced as though it were included therein.