Alum Rock Union School District

CALIFORNIA UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT ("CUPCCAA")

WILLIAM SHEPPARD MS

BID NUMBER: B2223 - BID PACKAGE BONDS08

INFORMAL BID DOCUMENTS

(CONSTRUCTION CONTRACTS OVER $60,000 AND LESS THAN $200,000)

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NOTICE INVITING INFORMAL BIDS

Notice is hereby given that the governing board ("Board") of the Alum Rock Union School District ("District") will receive sealed bids for the following project, Summer Projects – **Replace and Repair Asphalt at the Center Courtyard**, **Bid No. B2223 Bid Package Bonds08** ("Project" or "Contract"). The Project consists of all labor, materials equipment and services necessary to complete the work at the project site. Contract Documents are available as of July 1, 2022, by emailing request to jlarson@kleinfelder.com or by downloading from the district's website, www.arusd.org/district/departments/business-services/purchasing/bids using the "**Facilities Projects and Information"** link.

The district will only receive bids submitted electronically. Bids will be received until **2:00p.m., July 14, 2022**, only at the following email address kolvira.chheng@arusd.org after which time the bids will be opened and publicly read aloud via video conference. A link to the video conference will be provided by Addendum. Any bid that is submitted after this time shall be nonresponsive and returned to the bidder. Each bidder is solely responsible for timely submission of its bid; the district is not responsible for any technological issues in a bidder's ability to timely submit its bid or portion thereof. Any claim by a bidder of error in its bid must be made in compliance with section 5100 et seq. of the Public Contract Code. Prior to publicly reading aloud bids at the video conference, the district reserves the right to verify the genuineness of any bid security.

All bids shall be on the form provided by the district to be considered responsive.

To bid on this Project, the Bidder is required to be registered as a public works contractor with the Department of Industrial Relations and to possess one or more of the following State of California **Contractor Licenses: A, B, and/or C12, C32**. The Bidder's license(s) must remain active and in good standing throughout the term of the Contract.

A **mandatory pre-bid conference and site visit will be held on July 5, 2022, at the highlighted below time and location the referenced project**. There are 5 schools with concurrent Asphalt bidding requirements and schedules. All 5 sites will be included consecutively per the list of schools below. participants are required to sign in at each school they plan to bid. Meet outside the front entrance gates at each school. The site visits are expected to take approximately 30 minutes per school. Failure to attend or tardiness at any of the schools will render bid ineligible for that specific school. The route of site visits will be as follows.

1. San Antonio ES, 1721 E San Antonio St, San Jose, CA 95116 (11:30a.m.)
2. Adelante Academy, 2999 Ridgemont Dr., San Jose, CA 95127 (12:15p.m.)
3. Joseph George MS, 277 Mahoney Dr., San Jose, CA 95127 (1:00p.m.)
4. Russo/McEntee ES, 2851 Gay Ave, San Jose, CA 95127 (1:45p.m.)
5. **William Sheppard MS, 480 Rough & Ready Rd., San Jose, CA 95133 (2:30p.m.)**

The successful Bidder shall be required to furnish a 100% Performance Bond and a 100% Payment Bond if it is awarded the contract for the Work. The successful Bidder may substitute securities for any monies withheld by the district to ensure performance under the Contract, in accordance with the provisions of section 22300 of the Public Contract Code.

The successful Bidder shall comply with all requirements of Division 2, Part 7, Chapter 1, of the Labor Code and Title 8 of the California Code of Regulations. For all work performed pursuant to this Contract, the Contractor and all subcontractors shall pay all workers not less than the general prevailing rate of per diem wages and for holiday and overtime work as determined by the Director of the Department of Industrial Relations, State of California, ("DIR") for the type of

work performed and the locality in which the work is to be performed within the boundaries of the District, pursuant to sections 1770 et seq. of the California Labor Code. Prevailing wage rates are also available from the District or the DIR website at: http://www.dir.ca.gov. This Project is subject to labor compliance monitoring and enforcement by the DIR.

The Bidder and all Subcontractors under the Bidder shall comply with applicable federal, State, and local requirements relating to COVID-19 or other public health emergency/ epidemic/pandemic including, if required, preparing, posting, and implementing a Social Distancing Protocol. Bidder shall further comply with the California Department of Public Health's August 11, 2021, Order, or Board Policy, whichever is most stringent, requiring workers on District sites to be fully vaccinated against COVID-19, or else subject to weekly testing for COVID-19.

The Board reserves the right to reject all bids and/or waive any irregularity in any bid received. Unless otherwise required by law, no bidder may withdraw its bid for ninety (90) days after the date of the bid opening.

END OF DOCUMENT

INSTRUCTIONS TO BIDDERS

Contractors shall follow the instructions in this document, and shall submit all documents, forms, and information required for consideration of a Bid.

The Alum Rock Union School District ("District") will evaluate information submitted by the apparent low Bidder and, if incomplete or unsatisfactory to District, Bidder's bid may be rejected at the sole discretion of District.

1. Bids are requested for a general construction contract, or work described in general, ("Work") for the following project:

   Replace and Repair Asphalt at the Center Courtyard ("Project").

2. **Work shall commence upon receipt of a Notice to Proceed. Work will be completed within 14 days from the Notice to Proceed. Contractor and Construction Manager shall review the schedule and if warranted adjust the duration prior to executing the contract.**

3. The district will receive emailed Bids from Bidders as stipulated in the Notice to Bidders.

4. The district has prequalified bidders pursuant to Public Contract Code section 20111.5. Only prequalified Bidders will be eligible to submit a Bid for this Project. Any Bid submitted by a Bidder who is not prequalified shall be deemed non-responsive and will not be considered.

5. District will receive bids submitted electronically from bidders as stipulated in the Notice to Bidders.

   a. Email subject line must include the name of the Bidder, name of the Project, the Project Number and/or bid number, and time of bid opening.
   b. Bids must be electronically submitted to the following email address Kolvira.chheng@arusd.org by the date and time shown in the Notice to Bidders.
   c. Each bidder is solely responsible for timely submission of its bid; the district is not responsible for any technological issues affecting a bidder's ability to timely submit its bid or portion thereof.
   d. Bid emails must attach all documents as required herein.

6. Bidders are advised that on the date that bids are opened, the District Offices will not be open to bidders, or their representatives.

7. Bids will be opened and publicly read aloud via video conference. A link to the video conference will be provided by Addendum. Prior to publicly reading aloud bids at the video conference, the district reserves the right to verify the genuineness of any bid security.

8. Bidders must submit Bids on the documents titled Bid Form and Proposal and must submit all other required District forms. Bids not submitted on the district's required forms shall be deemed nonresponsive and shall not be considered. Additional sheets required to fully respond to requested information are permissible.

9. Bidders shall not modify the Bid Form and Proposal or qualify their bids. Bidders shall not submit to the district a re-formatted, re-typed, altered, modified, or otherwise recreated version of the Bid Form and Proposal or another District-provided document.

10. Bids shall be clearly written and without erasure or deletions. The district reserves the right to reject any bid containing erasures, deletions, or illegible content.

11. Bidders must supply all information required by each Bid Document. Bids must be full and complete. The district reserves the right in its sole discretion to reject any Bid as non-responsive as a result of any error or omission in the Bid. Bidders must complete and submit all the following documents with the Bid Form and Proposal:

    a. Photocopy of Bid Bond on the District's form, or other security.

    b. Designated Subcontractors List.

    c. Site Visit Certification if a site visit was required.

    d. Non-Collusion Declaration.

12. Bidders must submit with their Bids a legible photocopy of (i) a cashier's check or (ii) a certified check payable to District, or (iii) a bid bond by an admitted surety insurer of not less than ten percent (10%) of amount of base Bid, plus all additive alternates ("Bid Bond"). If the Bidder chooses to provide a Bid Bond as security, the Bidder must use the required form of corporate surety provided by District. The Surety on Bidder's Bid Bond must be an insurer admitted in the State of California and authorized to issue surety bonds in the State of California. The bidder must deposit the original of the bid bond, cashier's check, or certified check in the mail on the same day as the bid opening. Bids submitted without necessary bid security will be deemed non-responsive and will not be considered.

13. If Bidder to whom a contract is awarded ("Contract" or "Agreement") fails or neglects to enter into Contract and submit required bonds, insurance certificates, and all other required documents, within **SEVEN (7)** calendar days after the date of the Notice of Award, District may deposit Bid Bond, cashier's check, or certified check for collection, and proceeds thereof may be retained by District as liquidated damages for failure of Bidder to enter into Contract, in the sole discretion of District. It is agreed that calculation of damages District may suffer as a result of Bidder's failure to enter the Contract would be extremely difficult and impractical to determine and that the amount of the Bidder's required bid security shall be the agreed and conclusively presumed amount of damages.

14. Bidders must submit with the Bid the Designated Subcontractors List for those subcontractors who will perform any portion of the Project, ("Subcontractor") including labor, rendering of service, or specially fabricating and installing a portion of the Work or improvement according to detailed drawings contained in the plans and specifications, in excess of one half of one percent (0.5%) of the total Bid. Failure to submit this list when required by law shall result in the bid being deemed nonresponsive and the bid will not be considered.

15. All the listed subcontractors are required to be registered as a public works contractor with the Department of Industrial Relations pursuant to the Labor Code.

    a. An error in listing the California contractor license number on the Designated Subcontractors List shall not be grounds for filing a bid protest or grounds for

considering the bid nonresponsive if the correct contractor's license number is submitted to the district within 24 hours after the bid opening and the corrected number corresponds with the submitted name and location for that subcontractor.

b. An error listing an unregistered subcontractor shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive if any of the following apply:

(1) The subcontractor is registered prior to the bid opening.

(2) The subcontractor is registered and has paid the penalty registration fee within 24 hours after the bid opening.

(3) The subcontractor is replaced by another registered subcontractor pursuant to Public Contract Code section 4107.

16. If a mandatory pre-bid conference and site visit ("Site Visit") is required as referenced in the Notice to Bidders, then Bidders must submit the Site Visit Certification with their Bid. District will transmit to all prospective Bidders of record such Addenda as District in its discretion considers necessary in response to questions arising at the Site Visit. Oral statements shall not be relied upon and will not be binding or legally effective. Addenda issued by the district as a result of the Site Visit, if any, shall constitute the sole and exclusive record and statement of the results of the Site Visit.

17. Bidders shall submit the Non-Collusion Declaration with their Bids. Bids submitted without the Non-Collusion Declaration shall be deemed non-responsive and will not be considered.

18. The Contractor and all Subcontractors under the Contractor shall pay all workers on all work performed pursuant to this Contract not less than the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work as determined by the Director of the Department of Industrial Relations, State of California, for the type of work performed and the locality in which the work is to be performed within the boundaries of the District, pursuant to sections 1770 et seq. of the California Labor Code. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the Department of Industrial Relations, are available upon request at the district's principal office. Prevailing wage rates are also available on the internet at http://www.dir.ca.gov.

19. Submission of Bid signifies careful examination of the district's proposed Contract Documents for the Project and complete understanding of the nature, extent, and location of Work to be performed. Bidders must complete the tasks listed below as a condition to bidding, and submission of a Bid shall constitute the Bidder's express representation to District that Bidder has fully completed the following:

a. Bidder has visited the Site, if required, and has examined thoroughly and understood the nature and extent of the Contract Documents, Work, Project and Work sites, locality, actual conditions, as-built conditions, and all local conditions and federal, state and local laws, and regulations that in any manner may affect cost, progress, performance, or furnishing of Work or that relate to any aspect of the means, methods, techniques, sequences, or procedures of

construction to be employed by Bidder and safety precautions and programs incident thereto;

b. Bidder has conducted or obtained and has understood all examinations, investigations, explorations, tests, reports, and studies that pertain to the subsurface conditions, as-built conditions, underground facilities, and all other physical conditions at or contiguous to the Work Site or otherwise that may affect the cost, progress, performance, or furnishing of Work, as Bidder considers necessary for the performance or furnishing of Work at the Contract Sum, within the Contract Time, and in accordance with the other terms and conditions of Contract Documents, including specifically the provisions of the General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies, or similar information or data are or will be required by Bidder for such purposes;

c. Bidder has correlated its knowledge and the results of all such observations, examinations, investigations, explorations, tests, reports, and studies with the terms and conditions of the Contract Documents;

d. Bidder has given the district prompt written notice of all conflicts, errors, ambiguities, or discrepancies that it has discovered in or among the Contract Documents and the actual conditions, and the written resolution(s) thereof by the district is/are acceptable to Bidder;

e. Bidder has made a complete disclosure in writing to the district of all facts bearing upon any possible interest, direct or indirect, that Bidder believes any representative of the district or other officer, or employee of the district presently has or will have in this Contract or in the performance thereof or in any portion of the profits thereof;

f. The bidder must, prior to bidding, perform the work, investigations, research, and analysis required by this document and that Bidder represented in its Bid Form and Proposal and the Contract that it performed prior to bidding. Contractor under this Contract is charged with all information and knowledge that a reasonable bidder would ascertain from having performed this required work, investigation, research, and analysis. Bid prices must include the entire cost of all work "incidental" to completion of the Work.

g. Conditions Shown on the Contract Documents: Information as to underground conditions, as-built conditions, or other conditions or obstructions, indicated in the Contract Documents, e.g., on Drawings or in Specifications, has been obtained with reasonable care, and has been recorded in good faith. However, the District only warrants, and Contractor may only rely, on the accuracy of limited types of information.

   (1) As to above-ground conditions or as-built conditions shown or indicated in the Contract Documents, there is no warranty, express or implied, or any representation express or implied, that such information is correctly shown or indicated. This information is verifiable by independent investigation and Contractor is required to make such verification as a condition to bidding. In submitting its Bid, Contractor shall rely on the results of its own independent investigation. In submitting its Bid,

Contractor shall not rely on District-supplied information regarding above-ground conditions or as-built conditions.

(2) As to any subsurface condition shown or indicated in the Contract Documents, Contractor may rely only upon the general accuracy of actual reported depths, actual reported character of materials, actual reported soil types, actual reported water conditions, or actual obstructions shown or indicated. District is not responsible for the completeness of such information for bidding or construction; nor is District responsible in any way for any conclusions or opinions that the Contractor has drawn from such information; nor is the district responsible for subsurface conditions that are not specifically shown (for example, District is not responsible for soil conditions in areas contiguous to areas where a subsurface condition is shown).

h. Conditions Shown in Reports and Drawings Supplied for Informational Purposes: Reference is made to the document entitled Geotechnical Data, and the document entitled Existing Conditions, for identification of:

(1) Subsurface Conditions: Those reports of explorations and tests of subsurface conditions at or contiguous to the Site that have been utilized by Architect in preparing the Contract Documents; and

(2) Physical Conditions: Those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site that has been utilized by Architect in preparing the Contract Documents.

(3) These reports and drawings are **not** Contract Documents and, except for any "technical" data regarding subsurface conditions specifically identified in Geotechnical Data and Existing Conditions, and underground facilities data, Contractor may not in any manner rely on the information in these reports and drawings. Subject to the foregoing, Contractor must make its own independent investigation of all conditions affecting the Work and must not rely on information provided by District.

20. Bids shall be based on products and systems specified in Contract Documents or listed by name in Addenda. Whenever in the Specifications any materials, process, or article is indicated or specified by grade, patent, or proprietary name, or by name of manufacturer, that Specification shall be deemed to be followed by the words "or equal." Bidder may, unless otherwise stated, offer any material, process, or article that shall be substantially equal or better in every respect to that so indicated or specified. The district is not responsible and/or liable in any way for a Contractor's damages and/or claims related, in any way, to that Contractor's basing its bid on any requested substitution that the district has not approved in advance and in writing. Contractors and materials suppliers who submit requests for substitutions prior to the award of the Contract must do so in writing and in compliance with Public Contract Code section 3400. All requests must comply with the following:

a. District must receive any notice of request for substitution of a specified item a minimum of **FIVE (5)** calendar days prior to bid opening. The Successful Bidder will not be allowed to substitute specified items unless properly noticed.

b. Within 5 days after the date of the Notice of Award, the Successful Bidder shall submit data substantiating the request(s) for all substitution(s) containing sufficient information to assess acceptability of product or system and impact on Project, including, without limitation, the requirements specified in the Special Conditions and the Specifications. Insufficient information shall be grounds for rejection of substitution.

c. Approved substitutions, if any, shall be listed in Addenda. The district reserves the right not to act upon submittals of substitutions until after bid opening.

d. Substitutions may be requested after Contract has been awarded only if indicated in and in accordance with requirements specified in the Special Conditions and the Specifications.

21. Bidders may examine any available "as-built" drawings of previous work by giving District reasonable advance notice. District will not be responsible for accuracy of "as-built" drawings. The document entitled Existing Conditions applies to all supplied "as-built" drawings.

22. All questions about the meaning or intent of the Contract Documents are to be directed via email to jlarson@kleinfelder.com. Interpretations or clarifications considered necessary by the district in response to such questions will be issued in writing by Addenda and emailed, to all parties recorded by the district as having received the Contract Documents. Questions received less than **THREE (3)** calendar days prior to the date for opening Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

23. Addenda may also be issued to modify other parts of the Contract Documents, as deemed advisable by the district.

24. Each Bidder must acknowledge each Addendum in its Bid Form and Proposal by number, or its Bid shall be considered non-responsive. Each Addendum shall be part of the Contract Documents. A complete listing of Addenda may be obtained from the district.

25. The Contract may include alternates. Alternates are defined as alternate products, materials, equipment, systems, methods, or major elements of the construction that may, at the district's option and under terms established in the Contract and pursuant to section 20103.8 of the Public Contract Code, be selected for the Work.

26. The district shall award the Contract, if it awards it at all, to the lowest responsive responsible bidder based on the criteria as indicated in the Notice to Bidders. In the event two or more responsible bidders submit identical bids, the district shall select the Bidder to whom to award the Contract by lot. In the event all Bids exceed the informal bid threshold of $200,000, the District's Governing Board may elect to pass a resolution to award the Contract at $212,500 or less to the lowest responsible Bidder, in accordance with Public Contract Code section 22034(d).

27. Time for Completion: District may issue a Notice to Proceed within **NINETY (90) days** from the date of the Notice of Award. Once Contractor has received the Notice to Proceed, Contractor shall complete the Work within the period indicated in the Contract Documents.

a. If the District desires to postpone issuing the Notice to Proceed beyond this 90-day period, it is expressly understood that with reasonable notice to the Contractor, the District may postpone issuing the Notice to Proceed.

b. It is further expressly understood by Contractor that Contractor shall not be entitled to any claim of additional compensation as a result of the postponement of the issuance of the Notice to Proceed beyond a 90-day period. If the Contractor believes that a postponement of issuance of the Notice to Proceed will cause hardship to the Contractor, the Contractor may terminate the Contract. Contractor's termination due to a postponement beyond this 90-day period shall be by written notice to District within **TEN (10)** calendar days after receipt by Contractor of District's notice of postponement.

c. It is further understood by the Contractor that if Contractor terminates the Contract as a result of postponement by the District, the District shall only be obligated to pay Contractor for the Work that Contractor had performed at the time of notification of postponement and which the district had in writing authorized Contractor to perform prior to issuing a Notice to Proceed.

d. Should the Contractor terminate the Contract as a result of a notice of postponement, District shall have the authority to award the Contract to the next lowest responsive responsible Bidder.

28. The Bidder to whom a Contract is awarded shall execute and submit the following documents by 5:00 p.m. of the **SEVENTH (7th)** calendar day following the date of the Notice of Award. Failure to properly and timely submit these documents entitles District to reject the bid as non-responsive.

a. Agreement: To be executed by successful Bidder. A facsimile or electronic signature shall be deemed to be the equivalent of the actual original signature.

b. Performance Bond (100% of Contract Price): On the form provided in the Contract Documents and fully executed as indicated on the form.

c. Payment Bond (100%) (Contractor's Labor and Material Bond): On the form provided in the Contract Documents and fully executed as indicated on the form.

d. Insurance Certificates and Endorsements, as required.

e. Workers' Compensation Certification.

f. Prevailing Wage and Related Labor Requirements Certification.

g. Criminal Background Investigation/Fingerprinting Certification.

h. COVID-19 Vaccination / Testing Certification

29. Any Bid protest by any Bidder regarding any other Bid must be submitted in writing to the district, before 5:00 p.m. of the **THIRD (3rd)** business day following Bid opening.

a. Only a Bidder who has submitted a Bid, and who could be awarded the Contract if the bid protest is upheld, is eligible to submit a Bid protest. Subcontractors are not eligible to submit Bid protests. A Bidder may not rely on the bid protest submitted by another Bidder.

b. A Bid protest must contain a complete statement of all bases for the protest and all supporting documentation. Materials submitted after the Bid protest deadline will not be considered.

c. The protest must refer to the specific portions of all documents that form the basis for the protest.

(1) Without limitation to any other basis for protest, an error in listing the California contractor's license number on the Designated Subcontractors List shall not be grounds for filing a Bid protest or grounds for considering the Bid nonresponsive if the correct contractor's license number is submitted to the district within 24 hours after the bid opening and the corrected number corresponds with the submitted name and location for that subcontractor.

(2) Without limitation to any other basis for protest, an error listing an unregistered subcontractor shall not be grounds for filing a Bid protest or grounds for considering the bid nonresponsive if any of the following apply:

(i) The Subcontractor is registered prior to the Bid opening.

(ii) The Subcontractor is registered and has paid the penalty registration fee within 24 hours after the Bid opening.

(iii) The subcontractor is replaced by another registered Subcontractor pursuant to Public Contract Code section 4107.

d. The protest must include the name, address and telephone number of the person representing the protesting party.

e. The party filing the protest must concurrently transmit a copy of the protest and any attached documentation to all other parties with a direct financial interest that may be adversely affected by the outcome of the protest. Such parties shall include all other Bidders or proposers who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.

f. The procedure and time limits set forth in this paragraph are mandatory and are each Bidder's sole and exclusive remedy in the event of Bid protest. Failure to comply with these procedures shall constitute a waiver of any right to further pursue the Bid protest, including filing a Government Code Claim or legal proceedings.

30. District reserves the right to reject any or all Bids, including without limitation the right to reject any or all nonconforming, non-responsive, unbalanced, or conditional Bids, to re-bid, and to reject the Bid of any Bidder if District believes that it would not be in the best interest of the District to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by District. The district also reserves the right to waive any inconsequential deviations or irregularities in any bid. For purposes of this paragraph, an "unbalanced bid" is one having nominal prices for some work items and/or enhanced prices for other work items.

31. Discrepancies between written words and figures, or words and numerals, will be resolved in favor of figures or numerals.

32. It is the policy of the district that no qualified person shall be excluded from participating in, be denied the benefits of, or otherwise be subjected to discrimination in any consideration leading to the award of contract, based on race, color, gender, sexual orientation, political affiliation, age, ancestry, religion, marital status, national origin, medical condition or disability. The Successful Bidder and its subcontractors shall comply with applicable federal and state laws, including, but not limited to the California Fair Employment and Housing Act, beginning with Government Code section 12900, and Labor Code section 1735.

33. Prior to the award of Contract, District reserves the right to consider the responsibility of the Bidder. District may conduct investigations as District deems necessary to assist in the evaluation of any bid and to establish the responsibility, including, without limitation, qualifications and financial ability of Bidders, proposed subcontractors, suppliers, and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to District's satisfaction within the prescribed time.

34. Bidder expressly acknowledges that it is familiar with and capable of complying with applicable federal, State, and local requirements relating to COVID-19 or other public health emergency/epidemic/pandemic.

35. The Scope of Work includes furnishing any and all supervision, labor, material, equipment, tools, utilities, facilities, permits, taxes, fees and services necessary, inherent or incidental to perform the installation of the work as summarized below and in accordance with Alum Rock Union School District requirements and other codes and standards.

36. The following items are listed only as clarifications to the Contract and are not intended to define the complete scope of work. This attachment shall not limit more stringent requirements found elsewhere in the contract documents unless specifically listed as exclusions below. Where the asphalt requirements of this document conflict with the Asphalt Paving Specifications for new asphalt placement, then the new asphalt placement specification takes precedent

37. General work scope items include but are not necessarily limited to the following:

    1. Contractor to determine means and methods of accessing the work area within the covered walkways. As options, Contractor may be required to provide a crane to lift equipment over the covered walkways if the walkway covers are too low for equipment access. As options, Contractor may be required to remove and replace a section of the covered walkway, including any conduit or other items crossing the walkway cover.

    2. Provide flag persons for all deliveries and shall not stage trucks within vehicular right-of-ways or parking areas. The Contractor agrees that he will take all necessary steps to avoid damages to the existing construction and assure public safety. Any damages caused by this Contractor will be repaired by the Contractor at no additional cost to the Owner. The Contractor is aware that the work will

require special coordination involving traffic congestion, access, material deliveries, etc.

3. Construction schedule and phasing shall be submitted to Alum Rock Union School District for review and approval and will be based on summary schedule provided.
4. Contractor will provide all temporary power, water, air ventilation/circulation, lighting, spider boxes and extension cords while completing this, Scope.
5. Activities shall be limited to San Jose City ordinance.
6. Contractor has conducted field visits and is familiar with the site.
7. Contractor will store all fuel cells and other fluids in conformance with all city and county requirements.
8. Contractor will provide all traffic control devices and plans.
9. Contractor will be responsible to contact Dig Alert prior to any excavation work, if applicable.
10. Contractor will provide one individual on site at all times capable of accepting and making field changes/directives. Further, this individual will be fully accessible by means of telephone, email, and/or cellular phone.
11. Contractor will coordinate the onsite storage of all equipment and materials.
12. Contractor will attend all jobsite meetings.
13. Contractor will keep all common areas and staging areas free of debris.
14. Contractor will utilize all Best Management Practices while performing this scope.
15. Contractor will perform all aspects of scope in conformance with all current Cal OSHA regulations
16. Contractor will keep all roads clean and free from mud, dirt and other debris, and ensure that site is "safe" at end of shift.
17. Contractor is responsible to obtain City Business License prior to the start of the work.
18. Contractor will provide all fire watches and fire extinguishers per OSHA requirements.
19. Activities shall be scheduled so as to comply with the conditions of approval for city noise requirements.
20. Construction Manager reserves the right to prohibit Contractor, his subcontractors, suppliers, and agents from using the Site, the Project name, or their affiliation with Owner, Construction Manager, and its agents, for publicity or advertisement of any kind.
21. Attach copies of order and shipping confirmations for all materials to the Contractor's Payment Application.
22. A schedule of project meetings will be established by Construction Manager. During the construction phase, periodic meetings will be held at the project site and, as a minimum, attendance and participation by the Contractor's on-site Project Manager is mandatory. Representatives of various Contractors shall attend when, and if it is deemed necessary, by Construction Manager. Construction Manager will be responsible for meeting notes.

23. Contractor is responsible to clean up - including collecting, hoisting and removal from job site - all debris resulting from Contractor's operations on a daily basis no matter how incidental.

24. Provide temporary protection of surrounding materials while performing work in this contract. Temporary chain-link fencing is required around the construction area while school is in session and when Contractors are not on site.

25. Contractor shall be responsible for the structural integrity and / or damage to existing construction as a result of material handling, loading, staging, stocking, and installation operations. Contractor shall submit for approval, a material staging plan for Construction Manager Approval prior to stocking material, or as directed by Construction Manager. Such approval shall not relieve Contractor of any responsibility for damage or injury resulting from these activities.

26. Provide field measuring and coordination with other related and / or adjacent trades to insure proper fit and function.

27. All installations are to be in accordance with the manufacturer's installation instructions.

28. Contractor is responsible to tie into existing water source for temporary water.

29. Areas disturbed by clearing, grubbing, grading, etc., any stock areas, lay down areas, etc., exposed to the outside weather shall be maintained, protected, cleaned, etc., as necessary to comply with SWPPP requirements.

30. Streets / access roads shall be cleaned of spilled materials at the termination of each workday or as required by Construction Manager.

31. Contractor's on-site supervision must have a cell phone to communicate with Construction Manager's staff.

32. Contractor's on-site supervisor must be given a copy of this document.

33. Prepare and submit on a daily basis a 'Daily Report' which at a minimum, outlines the number of workmen on site, the major pieces of equipment used, a description of the work performed and any unusual occurrences. Submit a copy of the Daily Report to the Construction Manager for approval prior to commencement of work.

34. Limited parking is available on the project site. Parking for Contractor's personnel working on this project is confined to street parking in allowable areas for general parking, and between the hours of 7:00am and 6:00pm for sites with no summer school. Hours of work at schools with summer school in session will be during hours where students are not on campus, afternoons, weekends.

35. Coordinate potential conflicts with existing and new utility locations.

36. Relocate and reinstall existing construction fences and barricades and railings that interfere with Contractor's work as needed.

37. Assume all responsibility for any additional loading requirements due to Contractor's equipment and material locations.

38. Provide dust control for Contractor's work to protect surrounding materials.

39. Unnecessary construction noise transmitted to an adjacent residential homes must be minimized. Mufflers, whispered compressors, and other noise abatement and protection devices shall be used throughout the Contractor's work.

40. Schedule of Values: The following cost breakdown will be used as a basis of reviewing the Contractor's Applications for Payment for the duration of the contract and shall not be changed unless through written change order.

	Quantity	Amount
1. Mobilization	1 LS	$
2. Base	SF	$
3. Asphalt Paving New	SF	$
4. Asphalt Paving Repair	SF	$
4. Striping/Painting	LF, SF	$

END OF DOCUMENT

DOCUMENT 00 41 13

BID FORM AND PROPOSAL

To: Governing Board of the Alum Rock Union School District ("District" or "Owner")

From: _____
(Proper Name of Bidder)

The undersigned declares that Bidder has read and understands the Contract Documents, including, without limitation, the Notice to Bidders and the Instructions to Bidders, and agrees and proposes to furnish all necessary labor, materials, and equipment to perform and furnish all work in accordance with the terms and conditions of the Contract Documents, including, without limitation, the Drawings and Specifications for this project.

("Project" or "Contract") and will accept in full payment for that Work the following total lump sum amount, all taxes included:

Deductive Alternate: Contractor may provide deductive alternate, attach additional pages to describe the deductive alternate. (money savings options)

1. William Sheppard MS

a. 5,000SF Repair LS $_____ Unit Price $_____ Deductive Alternate $_____

b. 18,000SF New Asphalt LS $_____ Unit Price $_____ Deductive Alternate $_____

c. Remobilize for Asphalt Patching of Shade Structure Footing LS $_____

d. Add for Swing Shift and/or Saturday Premium if required LS $_____

Total Bid Lump Sum LS $_____

Deductive Alternate Description:

_____
_____
_____
_____
_____
_____
_____
_____

BASE BID

The bidder acknowledges and agrees that the Base Bid Unit Prices represent the base bid for the repair, replace and/or new asphalt, grading, and drainage (Unit Price X SF = lump sum), along with the additional mobilization to patch shade structure footings once they are installed. This will represent the Total Bid Lump Sum. Deductive Alternates will only be accepted after the selection of low bidder based on "Total Bid Lump Sum" referenced above.

After selection of the low bid, at the district's discretion, work area may be increased or decreased based on the needs of each school. The unit prices included above will be utilized to increase or decrease the base bid with the quantity actually installed at the school site. A Change Order will be processed to ratify the actual quantities and price at each school.

The winning bid will be the lowest Total Bid Lump Sum

Additional Detail Regarding Calculation of Base Bid and Unit Prices. The Bidder's Base Bid includes unit prices, which the Bidder must provide, and the district may, at its discretion, utilize in valuing additive and/or deductive change orders (Unit Prices shall include all labor, materials, services, profit, overhead, insurance, bonds, taxes, and all other incidental costs of Contractor, subcontractors, and suppliers):

Where scope of Work is decreased, all Work pertaining to the item, whether specifically stated or not, shall be omitted, and where scope of Work is increased, all work pertaining to that item required to render same ready for use on the Project in accordance with intentions of the Drawings and Specifications shall be included in the above agreed-upon price amount.

The undersigned has reviewed the Work outlined in the Contract Documents and fully understands the scope of Work required in this Proposal, understands the construction and project management function(s) is described in the Contract Documents, and that each Bidder who is awarded a contract shall be in fact a prime contractor, not a subcontractor, to the District, and agrees that its Proposal, if accepted by the District, will be the basis for the Bidder to enter into a contract with the District in accordance with the intent of the Contract Documents.

The undersigned has notified the district in writing of any discrepancies or omissions or of any doubt, questions, or ambiguities about the meaning of any of the Contract Documents and has contacted the Construction Manager before bid date to verify the issuance of any clarifying Addenda. The undersigned agrees to commence work under this Contract on the date established in the Contract Documents and to complete all work within the time specified in the Contract Documents.

The liquidated damages clause of the General Conditions and Agreement is hereby acknowledged.

It is understood that the district reserves the right to reject this bid and that the bid shall remain open to acceptance and is irrevocable for a period of ninety (90) days.

The following documents are attached hereto:

- Bid Bond on the District's form or other security
- Registered Subcontractors List
- Site Visit Certification
- Non-Collusion Declaration

Receipt and acceptance of the following Addenda is hereby acknowledged:

No.___, Dated	No.___, Dated

Bidder hereby certifies that Bidder can furnish labor that can work in harmony with all other elements of labor employed or to be employed on the Work. Bidder specifically acknowledges and understands that if it is awarded the Contract, that it shall perform the Work of the Project while complying with all requirements of the Department of Industrial Relations. Bidder hereby certifies that its bid includes sufficient funds to permit Bidder to comply with all local, state or federal labor laws or regulations during the Project, including payment of prevailing wage, and that Bidder will comply with the provisions of Labor Code section 2810(d) if awarded the Contract.

Bidder represents that it is competent, knowledgeable, and has special skills with respect to the nature, extent, and inherent conditions of the Work to be performed. Bidder further acknowledges that there are certain peculiar and inherent conditions existent in the construction of the Work that may create, during the Work, unusual or peculiar unsafe conditions hazardous to persons and property. Bidder

expressly acknowledges that it is aware of such peculiar risks and that it has the skill and experience to foresee and to adopt protective measures to perform the Work adequately and safely with respect to such hazards. Bidder expressly acknowledges that it is familiar with and capable of complying with applicable federal, State, and local requirements relating to COVID-19 or other public health emergency/ epidemic/pandemic including, if required, preparing, posting, and implementing a Social Distancing Protocol. Bidder expressly acknowledges that it is aware that if a false claim is knowingly submitted (as the terms "claim" and "knowingly" are defined in the California False Claims Act, Gov. Code, § 12650 et seq.), the district will be entitled to civil remedies set forth in the California False Claim Act. It may also be considered fraud and the Contractor may be subject to criminal prosecution.

The undersigned Bidder certifies that it is, at the time of bidding, and shall be throughout the period of the Contract, licensed by the State of California to do the type of work required under the terms of the Contract Documents and registered as a public works contractor with the Department of Industrial Relations. Bidder further certifies that it is regularly engaged in the general class and type of work called for in the Contract Documents. Furthermore, Bidder hereby certifies to the district that all representations, certifications, and statements made by Bidder, as set forth in this bid form, are true and correct and are made under penalty of perjury.

Dated this day of 2022

Name of Bidder:

Type of Organization:

Signature: _____
Print Name:
Title:

Address of Bidder:

Taxpayer Identification No. of Bidder:
Telephone Number:
Fax Number:
E-mail: Web Page:
Contractor's License No(s): No.: Class: Expiration Date:
No.: Class: Expiration Date:

Public Works Contractor Registration No.:

END OF DOCUMENT

BID BOND

(Note: If Bidder is providing a bid bond as its bid security, Bidder must use this form, NOT a surety company form.)

KNOW ALL PERSONS BY THESE PRESENTS:

That the undersigned,_____, as Principal ("Principal"),

and _____, as Surety ("Surety"), a corporation organized and existing under and by virtue of the laws of the State of California and authorized to do business as a surety in the State of California, are held and firmly bound unto the Alum Rock Union School District ("District") of Santa Clara County, State of California, as Obligee, in an amount equal to ten percent (10%) of the Base Bid plus alternates, in the sum of

_____ Dollars ($ _____)

lawful money of the United States of America, for the payment of which sum well and truly to be made, we, and each of us, bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that the principal has submitted a bid to the District for all Work specifically described in the accompanying bid for the following project:

("Project" or "Contract").

NOW, THEREFORE, if the Principal is awarded the Contract and, within the time and manner required under the Contract Documents, after the prescribed forms are presented to Principal for signature, enters into a written contract, in the prescribed form in accordance with the bid, and files two bonds, one guaranteeing faithful performance and the other guaranteeing payment for labor and materials as required by law, and meets all other conditions to the Contract between the Principal and the Oblige becoming effective, or if the Principal shall fully reimburse and save harmless the oblige from any damage sustained by the oblige through failure of the Principal to enter into the written contract and to file the required performance and labor and material bonds, and to meet all other conditions to the Contract between the Principal and the oblige becoming effective, then this obligation shall be null and void; otherwise, it shall be and remain in full force and effect. The full payment of the sum stated above shall be due immediately if Principal fails to execute the Contract within seven (7) days of the date of the District's Notice of Award to Principal.

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 to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation under this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or the call for bids, or to the work, or to the specifications.

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

If the District awards the bid, the security of unsuccessful bidder(s) shall be returned within sixty (60) days from the time the award is made. Unless otherwise required by law, no bidder may withdraw its bid for ninety (90) days after the date of the bid opening.

IN WITNESS WHEREOF, this instrument has been duty executed by the Principal and Surety above named, on the _____ day of _____, 20___.

_____
Principal

_____
By

_____
Surety

_____
By

_____
Name of California Agent of Surety

_____
Address of California Agent of Surety

_____
Telephone Number of California Agent of Surety

The Bidder must attach Power of Attorney and Certificate of Authority for Surety and a Notarial Acknowledgment for all Surety's signatures. The California Department of Insurance must authorize the Surety to be an admitted Surety Insurer.

END OF DOCUMENT

DESIGNATED SUBCONTRACTORS LIST
(Public Contact Code Sections 4100-4114)

Bidder acknowledges and agrees that it must clearly set forth below the name, location and California contractor license number of each subcontractor who will perform work or labor or render service to the Bidder in or about the construction of the Work or who will specially fabricate and install a portion of the Work according to detailed drawings contained in the plans and specifications in an amount in excess of one-half of one percent (0.5%) of Bidder's total Base Bid and the kind of Work that each will perform. Only vendors or suppliers of materials do not need to be listed.

Bidder acknowledges and agrees that, if Bidder fails to list as to any portion of Work, or if Bidder lists more than one subcontractor to perform the same portion of Work, Bidder must perform that portion itself or be subjected to penalty under applicable law. In case more than one subcontractor is named for the same kind of Work, state the portion of the kind of Work that each subcontractor will perform.

If alternate bid(s) is/are called for and Bidder intends to use subcontractors different from or in addition to those subcontractors listed for work under the Base Bid, Bidder must list subcontractors that will perform Work in an amount in excess of one half of one percent (0.5%) of Bidder's total Base Bid plus alternate(s).

If further space is required for the list of proposed subcontractors, attach additional pages if necessary, showing the required information, as indicated below.

Subcontractor Name: _____

CA Cont. Lic. #: _____ Location: _____

DIR Registration #: _____

Portion of Work: _____

Subcontractor Name: _____

CA Cont. Lic. #: _____ Location: _____

DIR Registration #: _____

Portion of Work: _____

Date: _____

Proper Name of Bidder: _____

Signature: _____

Print Name: _____

Title: _____

END OF DOCUMENT

SITE VISIT CERTIFICATION

TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID
MANDATORY SITE VISIT

PROJECT: Asphalt repair, replacement and restriping of playground and parking areas at Multiple Schools/

Check option that applies:

_____ I certify that I visited the Site of the proposed Work, received the attached ___ pages of information, and became fully acquainted with the conditions relating to construction and labor. I fully understand the facilities, difficulties, and restrictions attending the execution of the Work under contract.

_____ I certify that _____ (Bidder's representative) visited the Site of the proposed Work, received the attached _____ pages of information, and became fully acquainted with the conditions relating to construction and labor. The Bidder's representative fully understood the facilities, difficulties, and restrictions attending the execution of the Work under contract.

Bidder fully indemnifies the Alum Rock Union School District, its Architect, its Engineers, its Construction Manager, and all of their respective officers, agents, employees, and consultants from any damage, or omissions, related to conditions that could have been identified during my visit and/or the Bidder's representative's visit to the Site.

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

Date: _____

Proper Name of Bidder: _____

Signature: _____

Print Name: _____

Title: _____

ATTACHMENTS:

1. Non-Collusion Declaration
2. Agreement
3. Performance
4. Payment
5. Special Conditions
6. Prevailing Wage and Related Labor Requirements Certification
7. Workers' Compensation Certification
8. Criminal Background Investigation/Fingerprinting Certification
9. Attachment A - List of Employees and Subcontractors
10. Registered Subcontractors List
11. COVID-19 Vaccination/Testing Certification

END OF DOCUMENT

NON-COLLUSION DECLARATION
To Be Executed by Bidder and Submitted With Bid
Public Contract Code Section 7106

The undersigned declares:

I am the_____ of _____, the party making the foregoing Bid.

The Bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The Bid is genuine and not collusive or sham. The Bidder has not directly or indirectly induced or solicited any other Bidder to put in a false or sham Bid. The Bidder has not directly or indirectly colluded, conspired, connived, or agreed with any Bidder or anyone else to put in a sham Bid, or to refrain from bidding. 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. All statements contained in the Bid are true. 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, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham Bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a Bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the Bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration is executed on ___[date], at ___[city], ___[state].

Date: _____

Proper Name of Bidder: _____

Signature: _____

Print Name: _____

Title: _____

END OF DOCUMENT

AGREEMENT FOR CONSTRUCTION SERVICES (SMALL PROJECTS)

AGREEMENT NUMBER TBD

THIS AGREEMENT is made and entered into this TBD Day of TBD, 2022, by and between TBD ("Contractor") and Alum Rock Union School District ("District") ("Contract").

1. The Contractor shall furnish the district for a total price of TBD Dollars ($TBD) ("Contract Price"), the following services ("Services" or "Work"):

   Asphalt repair, replacement, restriping of certain areas of playground and parking areas

2. Contractor shall perform the Work at San Antonio ES, William Sheppard MS, Joseph George MS, Adelante Academy, Russo ES ("Sites"). The Project is the scope of Work performed at the Sites.

3. Work shall be completed within fourteen (14) consecutive calendar days ("Contract Time") from the date specified in the District's Notice to Proceed.

   It is understood and agreed that the Work shall be performed and completed as required in the Contract Documents (as defined herein) including, without limitation, the Drawings and Specifications and submission of all documents required to secure funding or by the Division of the State Architect ("DSA") for close-out of the Project, under the direction and supervision of, and subject to the approval of, the district or its authorized representative.

4. Contractor agrees that if the Work is not completed within the Contract Time and/or pursuant to the completion schedule, construction schedule, or project milestones developed pursuant to provisions of the Contract, it is understood, acknowledged, and agreed that the district will suffer damage which is not capable of being calculated. Pursuant to Government Code section 53069.85, Contractor shall pay to the district, as fixed and liquidated damages for these incalculable damages, the sum of Five Hundred Dollars ($500) per day for each calendar day of delay beyond the Contract Time or beyond any completion schedule, construction schedule, or project milestones established pursuant to the Contract.

5. This Contract incorporates by this reference the Terms and Conditions attached hereto. Contractor, by executing this Contract, agrees to comply with all the Terms and Conditions.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

6. This Contract incorporates by this reference the Contract Documents attached hereto. Contractor, by executing this Contract, agrees to comply with all obligations set forth in the Contract Documents. The Contract Documents include only the following documents, as indicated (X):

__X__ Notice to Bidders	_____ Lead-Product(s) Certification
__X__ Instructions to Bidders	_____ Roofing Project Certification
__X__ Bid Form and Proposal	_____ Registered Subcontractors List
__X__ Bid Bond	__X__ Insurance Certificates and Endorsements
__X__ Non-collusion Declaration	__X__ Performance Bond
_____ Iran Contracting Act Certification	__X__ Payment Bond
__X__ Designated Subcontractors List	__X__ Specifications
__X__ Notice to Proceed	__X__ Plans
__X__ Prevailing Wage Certification	_____ Special Conditions
__X__ Workers' Compensation Certification	__X__ Exhibit "A" ("Scope of Work")
__X__ Criminal Background Investigation / Fingerprinting Certification	_____ Federal Debarment Certification
	_____ Byrd Anti-Lobbying Certification
__X__ Drug-Free Workplace Certification	__X__ COVID-19 Vaccination / Testing Certification
__X__ Tobacco-Free Environment Certification	_____ _____ [Other]
_____ Asbestos & Other Hazardous Materials Certification	_____ _____ [Other]

7. Contractor shall not commence the Work under this Contract until the Contractor has submitted and the district has approved the performance bond, payment (labor and material) bond, the certificate(s) and the endorsement(s) of insurance required under the Terms and Conditions and the District has issued a Notice to Proceed.

8. Payment for the Work shall be made in accordance with the Terms and Conditions.

9. The Design Professional In General Responsible Charge for the Project ("Architect"), the construction manager on the Project is Kleinfelder Construction Services (KCS) ("Construction Manager"), and the project Inspector of Record (IOR) on the Project is Norma Jackson ("Project IOR"). Contractor hereby acknowledges that the Architect, the Construction Manager, the Project IOR, and the Division of the State Architect have authority to approve and/or suspend Work if the Contractor's Work does not comply with the requirements of the Contract Documents, Title 24 of the California Code of Regulations, and all applicable laws. No work shall be carried on except with the knowledge and under the inspection of said Project Inspector. The Project Inspector shall have free access to any or all parts of work at any time. The contractor shall furnish Project Inspector reasonable opportunities for obtaining such information as may be necessary to keep Project Inspector fully informed respecting progress, manner of work, and character of materials. The Contractor shall be liable for any delay caused by its non-compliant Work or its failure to provide proper notification for inspection.

10. Inspection and acceptance of the Work shall be performed by the District, Construction Manager, Special Inspectors, Testing Labs and when required DSA IOR.

11. Any notice required or permitted to be given under this Contract shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile or email, addressed as follows: Kolvira Chheng

District	**Contractor**
Alum Rock Union School District ATTN: Kolvira Chheng 2930 Gay Ave. San Jose, CA 95127 EMAIL: Kolvira.chheng@arusd.org	Name: _____ ATTN: _____ [ADDRESS] [EMAIL]

Any notice personally given or sent by facsimile or email shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

12. Contractor shall guarantee all labor and material used in the performance of this Contract for a period of one (1) year from the date of the district's written approval of the Work.

13. Each party has the full power and authority to enter into and perform this Contract, and the person signing this Contract on behalf of each party has been properly authorized and empowered to enter into this Contract.

14. By signing this Contract, Contractor certifies, under penalty of perjury, that all the information provided in the Contract Documents is true, complete, and correct.

ACCEPTED AND AGREED on the date indicated below:

Dated: TBD, 2022

ALUM ROCK UNION SCHOOL DISTRICT

Signature: _____

Print Name: _____

Print Title: _____

Address: _____

Telephone: _____

E-Mail: _____

Dated: TBD, 2022

Contractor: _____

Signature: _____

Print Name: _____

Print Title: _____

License No.: _____

Registration No.: _____

Address: _____

Telephone: _____

E-Mail: _____

INFORMATION REGARDING THE CONTRACTOR FOLLOWS]

Information regarding Contractor:

Type of Business Entity:
_____ Individual
_____ Sole Proprietorship
_____ Partnership
_____ Limited Partnership
_____ Corporation, State: _____
_____ Limited Liability Company
_____ Other: _____

_____:
Employer Identification and/or
Social Security Number

NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of $600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, the district requires the Contractor to furnish the information requested in this section.

[REMAINDER OF PAGE INTENTIONALLY BLANK; TERMS AND CONDITIONS FOLLOW]

TERMS AND CONDITIONS TO THE AGREEMENT

1. **NOTICE TO PROCEED: District** shall provide a Notice to Proceed to Contractor pursuant to the Contract at which time Contractor shall proceed with the Work.
2. **STANDARD OF CARE:** Contractor shall perform, diligently prosecute and complete the Work in a good and workmanlike manner within the Contract Time, and in strict conformity with all Contract Documents.
3. **SITE EXAMINATION:** Contractor has examined the Site and certifies that it accepts all measurements, specifications and conditions affecting the Work to be performed at the Site. By submitting its quote, Contractor warrants that it has made all Site examination(s) that it deems necessary as to the condition of the Site, its accessibility for materials, workers and utilities, and Contractor's ability to protect existing surface and subsurface improvements. No claim for allowance of time or money will be allowed as to any other undiscovered condition on the Site.
4. **PERMITS, LICENSES AND REGISTRATION:** Contractor and all its employees, agents, and subcontractors shall secure and maintain in force, at Contractor's sole cost and expense, all licenses, registration and permits as are required by law, in connection with the furnishing of materials, supplies, or services herein listed.
5. **PROJECT INSPECTION CARD: Contractor** shall verify that forms DSA 152 Project Inspection Card (or current version) are issued for the Project prior to commencement of construction.
6. **NOTIFICATION:** Contractor shall notify the Architect and Project Inspector, in writing, of the commencement and completion of construction of each and every aspect of the work at least 48 hours in advance by submitting form DSA 156 (or current version) to the Project Inspector. Forms are available on the DSA's website at: http://www.dgs.ca.gov/dsa/Forms.aspx.
7. **LABOR, MATERIALS AND EQUIPMENT:** Contractor shall furnish all tools, equipment, apparatus, facilities, transportation, labor, and material necessary to furnish the services herein described the services to be performed at such times and places as directed by and subject to the approval of the authorized District representative indicated in the Work specifications attached hereto. Unless otherwise specified, all materials shall be new and previously unused, and of the manufacturer's latest model or the best of their respective kinds and grades as noted or specified, and workmanship shall be of good quality.
8. **SUBSTITUTIONS:** No substitutions of material from those specified in the Work Specifications shall be made without the prior written approval of the district. Contractor shall be responsible for any re-design costs occasioned by District's acceptance and/or approval of any substitute, as well as any costs that the district incurs for professional services, including DSA fees. District may deduct those costs from any amounts owing to Contractor for the review of the request for substitution, even if the request for substitution is not approved. The contractor shall, if a substitute is less costly than that specified, credit the district with one hundred percent (100%) of the net difference between the substitute and the originally specified material.
9. **INDEPENDENT CONTRACTOR STATUS:** While engaged in carrying out the Services of this Contract, the Contractor is an independent contractor, and not an officer, employee, agent, partner, or joint venture of the district. The contractor shall be solely responsible for its own Workers' Compensation insurance, taxes, and other similar charges or obligations. Contractor shall be liable for its own actions, including its negligence or gross negligence, and shall be liable for the acts, omissions, or errors of its agents or employees.
10. **CONTRACTOR SUPERVISION:** Contractor shall provide competent supervision of personnel employed on the job Site, use of equipment, and quality of workmanship.
11. **WORKERS:** Contractor shall always enforce strict discipline and good order among its employees and the employees of its subcontractors and shall not employ or work any unfit person or anyone not skilled in work assigned to him or her. Any person in the employ of the Contractor or a subcontractor whom the district may deem incompetent or unfit shall be dismissed from the Site and shall not again be employed at Site without written consent from the district.
12. **SUBCONTRACTORS:** Subcontractors, if any, engaged by the Contractor for any Service or Work under this Contract shall be subject to the approval of the district. Contractor agrees to bind every subcontractor by the terms of the Contract as far as such terms are applicable to subcontractor's

work, including, without limitation, all registration, indemnification, insurance, bond, and warranty requirements. If Contractor shall subcontract any part of this Contract, Contractor shall be fully responsible to the district for acts and omissions of its subcontractor and of persons either directly or indirectly employed by itself. Nothing contained in the Contract Documents shall create any contractual relations between any subcontractor and the district.

13. **SAFETY AND SECURITY:** Contractor is responsible for maintaining safety in the performance of this Contract. The contractor shall be responsible for ascertaining from the district the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.

14. **GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES:**

    17.1 Contractor acknowledges that all California school districts are obligated to develop and implement the following requirements for the discharge of storm water to surface waters from its construction and land disturbance activities pursuant to the Clean Water Act and Porter Cologne Water Quality Act. The district has determined that the construction of this Project requires enrollment in the Construction Storm Water Permit. District has filed certain submittals referred to as Permit Registration Documents ("PRDS") with the Regional Water Control Board ("Storm Water Pollution Prevention Plan" or "SWPPP").

    17.2 The contractor shall comply with any District SWPPP that is approved by the district and applicable to the Project, at no additional cost to the district. Contractor shall pay any fees and any penalties that may be imposed by a regulatory agency for its non-compliance with the SWPPP during the Work.

    17.3 Contractor shall provide a Qualified Storm Water Practitioner ("QSP") at no additional cost to the district, who shall be onsite and implement and monitor all SWPPP requirements applicable to the Project, including but not limited to:

        17.3.1 All required visual observations, sampling, analysis, reporting and record keeping, including any Numeric Action Levels ("NALs"), if applicable;

        17.3.2 Rain Event Action Plan ("REAP") at least forty-eight (48) hours prior to any forecasted rain event requiring implementation of the REAP, including any erosion and sediment control measures needed to protect all exposed portions of the site, if applicable;

        17.3.3 Active Treatment System ("ATS"), if applicable; and

        17.3.4 Best management practices ("BMPs").

15. **CLEAN UP:** Debris shall be removed from the Site. The Site shall always be in order when work is not actually being performed and shall be maintained in a reasonably clean condition.

16. **PROTECTION OF WORK AND PROPERTY:** Contractor shall erect and properly always maintain, as required by conditions and progress of the Work, all necessary safeguards, signs, barriers, lights, and security persons for protection of workers and the public and shall post danger signs warning against hazards created by the Work. In an emergency affecting life and safety of life or of Work or of adjoining property, Contractor, without special instruction or authorization from District, is permitted to act at his discretion to prevent such threatened loss or injury.

17. **FORCE MAJEURE:** The Contractor shall be excused from performance hereunder during the time and to the extent that it is prevented from obtaining delivery, or performing by act of God, fire, strike, loss, or shortage of transportation facilities, lock-out, commandeering of materials, products, plants, or facilities by the government, when satisfactory evidence thereof is presented to the District, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the Contractor.

18. **CORRECTION OF ERRORS:** Contractor shall perform, at its own cost and expense and without reimbursement from the district, any work necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care required herein. Schedule delays resulting from unauthorized work shall be Contractor's responsibility.

19. **NO RELIEF FROM OBLIGATIONS BASED ON REVIEW BY OTHER PERSONS:** Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents by act or omission of the District, Architect, Construction Manager, Project Inspector, or DSA or other

entities having jurisdiction including, but not limited to, administration of the Contract, review of submittals, or by tests, observation, inspection, or permit/interconnection approvals.

20. **DISTRICT'S RIGHT TO PERFORM WORK:** If the Contractor should neglect to prosecute the Work properly or fail to perform any provisions of this Contract, the District, after **FORTY-EIGHT (48)** hours' written notice to the Contractor, may make good such deficiencies, without prejudice to any other remedy it may have, including but not limited to the District hiring its own forces or another contractor to replace the Contractor's nonconforming Work, in which case the District shall either issue a deductive Change Order, a Construction Change Directive, or invoice the Contractor for the cost of that work. Contractor shall pay any invoices within thirty (30) days of receipt of same or District may withhold those amounts from payment(s) to Contractor.
21. **ACCESS TO WORK:** District representatives, Architect, and Project Inspector shall always have access to the Work wherever it is in preparation or in progress. The contractor shall provide safe and proper facilities for such access.
22. **OCCUPANCY:** District reserves the right to occupy buildings at any time before formal Contract completion and such occupancy shall not constitute final acceptance or approval of any part of the Work covered by this Contract, nor shall such occupancy extend the date specified for completion of the Work.
23. **PAYMENT:** On a monthly basis, Contractor shall submit an application for payment based upon the estimated value for materials delivered or services performed under the Contract as of the date of submission ("Application for Payment"). Within thirty (30) days after District's approval of the Application for Payment, Contractor shall be paid a sum equal to ninety-five percent (95%) of the value of the Work performed (as verified by Architect and Inspector and certified by Contractor) up to the last day of the previous month, less the aggregate of previous payments and amount to be withheld. The District may withhold or deduct from any payment an amount necessary to protect the District from loss because of: (1) liquidated damages which have accrued as of the date of the application for payment; (2) any sums expended by the District in performing any of Contractor's obligations under the Contract which Contractor has failed to perform or has performed inadequately; (3) defective Work not remedied; (4) stop payment notices as allowed by state law; (5) reasonable doubt that the Work can be completed for the unpaid balance of the Total Contract price or by the scheduled completion date; (6) unsatisfactory prosecution of the Work by Contractor; (7) unauthorized deviations from the Contract; (8) failure of the Contractor to maintain or submit on a timely basis proper and sufficient documentation as required by the Contract or by District during the prosecution of the Work; (9) erroneous or false estimates by the Contractor of the value of the Work performed; (10) any sums representing expenses, losses, or damages, as determined by the District, incurred by the District for which Contractor is liable under the Contract; and (11) any other sums which the District is entitled to recover from Contractor under the terms of the Contract or pursuant to state law, including section 1727 of the California Labor Code. The failure by the district to deduct any of these sums from a progress payment shall not constitute a waiver of the district's right to such sums. The district shall retain five percent (5%) of all amounts owing as retention. Retention shall be paid pursuant to Public Contract Code sections 7107, 7200 and 7201.
24. **CHANGE IN SCOPE OF WORK:** Any change in the scope of the Work, method of performance, nature of materials or price thereof, or any other matter materially affecting the performance or nature of the Work shall not be paid for or accepted unless such change, addition, or deletion is approved in advance and in writing by a valid change order executed by the district. Contractor specifically understands, acknowledges, and agrees that the district shall have the right to request any alterations, deviations, reductions, or additions to the Project or Work, and the cost thereof shall be added to or deducted from the amount of the Contract Price by fair and reasonable valuations. The contractor also agrees to provide the district with all information requested to substantiate the cost of the change order and to inform the district whether the Work will be done by the Contractor or a subcontractor. In addition to any other information requested, Contractor shall submit, prior to approval of the change order, its request for a time extension (if any), as well as all information necessary to substantiate its belief that such change will delay the completion of the Work. If Contractor fails to submit its request for a time extension or the necessary supporting information, it shall be deemed to have waived its right to request such extension.
25. **INDEMNIFICATION:**

25.1 To the furthest extent permitted by California law, Contractor shall indemnify and hold harmless the District, its agents, representatives, officers, consultants, employees, and volunteers (the "Indemnified Parties") from any and all demands, injuries, losses, expenses, liabilities, claims, suits and actions (the "Claims") of any kind, nature, and description, including, but not limited to, attorneys' fees and costs, directly or indirectly arising from, arising out of, connected with, or resulting from, in whole or in part, the performance of this Contract unless the Claims are caused wholly by the sole or active negligence or willful misconduct of the Indemnified Parties and/or defects in design furnished by the Architect, as found by a court or arbitrator of competent jurisdiction, in which case the Contractor's indemnification and hold harmless obligation shall be reduced by the proportion of the Indemnitees' and/or Architect's liability.

25.2 Contractor shall also, to the furthest extent permitted by California law, defend the Indemnified Parties at Contractor's own expense, including attorneys' fees and costs, from any and all Claims directly or indirectly arising from, arising out of, connected with, or resulting from the performance of this Contract unless the claims are caused wholly by the sole or active negligence or willful misconduct of the Indemnified Parties and/or defects in design furnished by the Architect, as found by a court or arbitrator of competent jurisdiction, in which case, without impacting Contractor's obligation to provide an immediate and ongoing defense of the Indemnified Parties, the Contractor's defense obligation shall be retroactively reduced by the proportion of the Indemnitees' and/or Architect's liability. The district shall have the right to accept or reject any legal representation that Contractor proposes to defend the district.

25.3 Pursuant to Public Contract Code section 9201, the district shall provide timely notification to the Contractor of the receipt of any third-party claim relating to this Contract. The district shall be entitled to recover its reasonable costs incurred in providing said notification.

25.4 If the Indemnitees provide their own defense due to failure to timely respond to tender of defense, rejection of tender of defense, or conflict of interest of proposed counsel, Contractor shall reimburse Indemnitees for any expenditures, including reasonable attorney's fees and costs.

25.5 The district may retain so much of the moneys due the Contractor as shall be considered necessary, until disposition of any such suit, claims or actions for damages or until the district has received written agreement from the Contractor that it will unconditionally defend the Indemnified Parties, and pay any damages due by reason of settlement or judgment.

25.6 The Contractor's defense and indemnification obligations hereunder shall survive the completion of Work, including the warranty/guarantee period, and the termination of the Contract.

26. **PAYMENT BOND AND PERFORMANCE BOND:** Contractor shall not commence the Work until it has provided to the district, in a form acceptable to the District, a Payment (Labor and Material) Bond and a Performance Bond, each in an amount equivalent to one hundred percent (100%) of the Contract Price issued by a surety admitted to issue bonds in the State of California and otherwise acceptable to the district.

27. **CONTRACTOR'S INSURANCE:**

27.1 **Commercial General Liability** (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

27.2 **Automobile Liability**: Insurance Services Office Form CA 0001 covering Code 1 (any auto), with limits no less than **$1,000,000** per accident for bodily injury and property damage.

27.3 **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employers' Liability insurance with a limit of no less than **$1,000,000** per accident for bodily injury or disease.

27.4 **Builder's Risk** (Course of Construction) insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions.

27.5 **Contractors' Pollution Legal Liability** and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits no less than **$1,000,000** per occurrence or claim, and **$2,000,000** policy aggregate. This is only required if digging, trenching or disrupting soil.

27.6 If the contractor maintains broader coverage and/or higher limits than the minimums shown above, the Entity requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.

27.7 ***Self-Insured Retentions***

27.7.1 Self-insured retentions must be declared to and approved by the Entity. The Entity may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Entity.

27.8 **Other Insurance Provisions**

27.8.1 The insurance policies are to contain, or be endorsed to contain, the following provisions:

27.8.1.1 **The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds** on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, CG 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used).

27.8.2 For any claims related to this project, the **Contractor's insurance coverage shall be primary** insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

27.8.3 Each insurance policy required by this clause shall provide that coverage shall not be canceled, except with notice to the Entity.

27.9 ***Builder's Risk (Course of Construction) Insurance***

27.9.1 Contractors may submit evidence of Builder's Risk insurance in the form of Course of Construction coverage. Such coverage shall **name the Entity as a loss payee** as their interest may appear.

27.9.2 If the project does not involve new or major reconstruction, at the option of the Entity, an Installation Floater may be acceptable. For such projects, a Property Installation Floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery or equipment damaged, impaired, broken, or destroyed during the performance of the Work, including during transit, installation, and testing at the Entity's site.

27.10 ***Claims Made Policies – (If at all possible, avoid and require occurrence type CGL policies)***

27.10.1 If any coverage required is written on a claims-made coverage form:

27.10.1.1 The retroactive date must be shown, and this date must be before the execution date of the contract or the beginning of contract work.

27.10.2 Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of contract work.

27.10.3 If coverage is cancelled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective, or start of work date, the Contractor must purchase extended reporting period coverage for a minimum of five (5) years after completion of contract work.

27.10.4 A copy of the claims reporting requirements must be submitted to the Entity for review.

27.11 If the services involve lead-based paint or asbestos identification/remediation, the Contractors Pollution Liability policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractors Pollution Liability policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

27.12 ***Acceptability of Insurers***

27.12.1 Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best rating of no less than A: VII, unless otherwise acceptable to the Entity.

27.13 ***Waiver of Subrogation***

27.13.1 **Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire** from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. **The Workers' Compensation policy shall be endorsed with a waiver of subrogation** in favor of the Entity for all work performed by the Contractor, its employees, agents and subcontractors.

27.14 ***Verification of Coverage***

27.14.1 Contractor shall furnish the Entity with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to Entity before work begins. However, failure to obtain the required documents prior to the beginning of work shall not waive the Contractor's obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

27.15 ***Subcontractors***

27.15.1 Contractor shall require and verify that all subcontractors maintain insurance meeting all requirements stated herein, and Contractor shall ensure that Entity is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractors shall provide coverage with a form at least as broad as CG 20 38 04 13.

27.16 ***Special Risks or Circumstances***

27.16.1 Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

28. **WARRANTY/QUALITY:** Unless a longer warranty is called for elsewhere in the Contract Documents, the Contractor, manufacturer, or their assigned agents shall guarantee the workmanship, product or service performed against defective workmanship, defects or failures of materials for a minimum period of one (1) year from filing the Notice of Completion with the county in which the Site is located. All workmanship and merchandise must be warranted to be in compliance with applicable California energy, conservation, environmental, and educational standards.

29. **CONFIDENTIALITY:** The Contractor shall maintain the confidentiality of all information,

documents, programs, procedures, and all other items that Contractor encounters while performing the Contractor's Work to the extent allowed by law. This requirement shall be ongoing and shall survive the expiration or termination of this Contract and specifically includes all student, parent, and disciplinary information.

30. **LIMITATION OF DISTRICT LIABILITY:** District's financial obligations under this Contract shall be limited to the payment of the compensation provided in this Contract. Notwithstanding any other provision of this Contract, 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, or lost bonding capacity, arising out of or in connection with this Contract for the services performed in connection with this Contract.

31. **COMPLIANCE WITH LAWS:** Contractor shall give all notices and comply with all laws, ordinance, rules and regulations relating to 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. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the district of the violation, Contractor shall bear all costs arising therefrom.

32. **LABOR CODE REQUIREMENTS:** Contractor represents that Contractor, and all Subcontractors shall not be presently debarred, suspended, proposed for disbarment, declared ineligible or excluded pursuant to either Labor Code section 1777.1 or Labor Code section 1777.7. The 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). Copies of the prevailing rate of per diem wages are on file with the district or available online at http://www.dir.ca.gov/. In addition, the Contractor and each subcontractor shall comply with Chapter 1 of Division 2, Part 7 of the California Labor Code, beginning with Section 1720, and including Section 1735, 1777.5 and 1777.6, forbidding discrimination, and Sections 1776, 1777.5 and 1777.6 concerning the employment of apprentices by Contractor or subcontractors. Willful failure to comply may result in penalties, including loss of the right to bid on or receive public works contracts.

    35.1 **Registration**: Contractor and its subcontractor(s) shall be registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 and in accordance with Labor Code section 1771.1.

    35.2 **Registered Subcontractor List**: Within 30 days of the award of contract or prior to commencing the Work under this Contract, whichever occurs first, Contractor shall provide District all information required by Labor Code section 1773.3, as amended by Stats. 2017, Ch. 28, Sec. 21, for Company and all tiers of Subcontractors to enable District to provide notice to the Department of Industrial Relations (DIR) of the Contract (PWC-100 form). Contractors shall submit and maintain an updated Registered Subcontractor List including all Subcontractors of any tier furnishing labor, material, or equipment to the Project.

    35.3 **Certified Payroll Records**: Contractor and its subcontractor(s) shall upload certified payroll records ("CPR") electronically using California Department of Industrial Relations' (DIR) eCPR System by uploading the CPRs by electronic XML file or entering each record manually using the DIR's iform (or current form) online directly to the DIR on no less than every 30 days while Work is being performed and within 30 days after the final day of Work performed on the Project, and within ten (10) days of any request by the District or Labor Commissioner at http://www.dir.ca.gov/Public-Works/Certified-Payroll-Reporting.html or current application and URL, showing the name, address, social security number, work classification, straight time, and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the Contractor and/or each subcontractor in connection with the Work.

    35.4 **Labor Compliance**: Contractor shall perform the Work 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.

33. **ANTI-DISCRIMINATION:** Contractor herein agrees to comply with the provisions of the California Fair Employment and Housing Act as set forth in part 2.8 of division 3 of the California Government Code, commencing at section 12900; the Federal Civil Rights Act of 1964, as set forth in Public Law 88-352, and all amendments thereto; Executive Order 11246; and all administrative rules and regulations found to be applicable to Contractor and all its subcontractors. In addition, the Contractor agrees to require like compliance by all its subcontractor(s).

34. **ANTI-TRUST CLAIM:** Contractor and its subcontractor(s) agree to assign to the district all rights, title, and interest in and to all causes of action they may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Contract or a subcontract. This assignment shall be made and become effective at the time of the district tender's final payment to the Contractor, without further acknowledgment by the parties.

35. **CONTRACTOR CLAIMS:** In the event of any demand by Contractor for (A) a time extension, including, without limitation, for relief from damages or penalties for delay assessed by the District under the Contract, (B) payment by the District of money or damages arising from work done by, or on behalf of, the Contractor pursuant to the Contract and payment of which is not otherwise expressly provided for or to which Contractor is not otherwise entitled to, or (C) an amount of payment disputed by the District, the parties shall attempt to resolve the dispute by those procedures set forth in Public Contract Code section 9204 and/or Article 1.5 (commencing with section 20104) of Chapter 1, Part, 3, Division 2, of the Public Contract Code, if applicable, the provisions of which are each attached hereto and incorporated herein by this reference. 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. For purposes of those provisions, the running of the time within which a claim must be presented to the district shall be tolled from the time the Contractor submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process. Pending resolution of the dispute, Contractor and its subcontractors shall continue to perform the Work under the Contract and shall not cause a delay of the Work, including the disputed work, during any dispute, claim, negotiation, mediation, or arbitration proceeding, except by written agreement of the district.

36. **ATTORNEY FEES/COSTS:** Should litigation be necessary to enforce any terms or provisions of this Contract, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.

37. **TERMINATION:** If Contractor fails to perform the Services and Contractor's duties to the satisfaction of the District, or if Contractor fails to fulfill in a timely and professional manner Contractor's obligations under this Contract, or if Contractor violates any of the terms or provisions of this Contract, District shall have the right to terminate this Contract and/or Contractor's right to perform the Work of the Contract for cause effective immediately upon the District giving written notice thereof to the Contractor. The Contractor and its performance bond surety, if any, shall be liable for all damages caused to the district by reason of the Contractor's failure to perform and complete the Contract. District shall also have the right in its sole discretion to terminate the Contract and/or Contractor's right to perform the Work of the Contract for its own convenience upon District giving three (3) days' written notice thereof to the Contractor. In case of a termination for convenience, Contractor shall be paid for the actual cost for labor, materials, and services performed including, without limitation, Contractor's and its subcontractor(s)' mobilization and or demobilization costs, that is unpaid and can be documented through timesheets, invoices, receipts, or otherwise. Termination shall have no effect upon any of the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of termination. In the event termination for cause is determined to have not been for cause, the termination shall be deemed to have been a termination for convenience effective as of the same date as the purported termination for cause.

38. **ASSIGNMENT OF CONTRACT: Contractor** shall not assign or transfer in any way any or all its rights, burdens, duties, or obligations under this Contract without the prior written consent of the district.

39. **TIME IS OF THE ESSENCE:** Time is of the essence in the performance of and compliance with each of the provisions and conditions of this Contract.
40. **CALCULATION OF TIME:** For the purposes of this Contract, "days" refers to calendar days unless otherwise specified.
41. **GOVERNING LAW:** This Contract shall be governed by and construed in accordance with the laws of the State of California with venue of any action in a County in which the district administration office is located.
42. **BINDING CONTRACT:** This Contract shall be binding upon the parties hereto and upon their successors and assigns and shall inure to the benefit of said parties and their successors and assigns.
43. **DISTRICT WAIVER:** District's waiver of any term, condition, covenant or waiver of a breach of any term, condition or covenant shall not constitute the waiver of any other term, condition or covenant or the waiver of a breach of any other term, condition or covenant.
44. **CAPTIONS AND INTERPRETATIONS:** Paragraph headings in this Contract are used solely for convenience and shall be wholly disregarded in the construction of this Contract. No provision of this Contract shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Contract shall be construed as if jointly prepared by the parties.
45. **INVALID TERM:** If any provision of this Contract is declared or determined by any court of competent jurisdiction to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining parts, terms and provisions shall not be affected thereby, and said illegal, unenforceable or invalid part, term or provision will be deemed not to be a part of this Contract.
46. **PROVISIONS REQUIRED BY LAW DEEMED INSERTED:** Every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and this Contract shall be read and enforced as though it were included therein.
47. **ENTIRE CONTRACT:** This Contract sets forth the entire agreement between the parties hereto and fully supersedes all prior agreements, understandings, written or oral, between the parties hereto pertaining to the subject matter thereof.
48. **NO ORAL MODIFICATIONS:** No oral agreement or conversation with any officer, agent, or employee of District, either before or after execution of Contract, shall affect or modify any of the terms or obligations contained in any of the documents comprising the Contract.

Public Contract Code section 9204

(a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.

(b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.

(c) For purposes of this section:

(1) "Claim" means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) Payment of an amount that is disputed by the public entity.

(2) "Contractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered a direct contract with a public entity for a public works project.

(3) (A) "Public entity" means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(B) "Public entity" shall not include the following:

(i) The Department of Water Resources as to any project under the jurisdiction of that department.

(ii) The Department of Transportation as to any project under the jurisdiction of that department.

(iii) The Department of Parks and Recreation as to any project under the jurisdiction of that department.

(iv) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(v) The Military Department as to any project under the jurisdiction of that department.

(vi) The Department of General Services as to all other projects.

(vii) The High-Speed Rail Authority.

(4) "Public works project" means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

(5) "Subcontractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.

(d) (1) (A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

(B) The claimant shall furnish reasonable documentation to support the claim.

(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the

public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.

(2) (A) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate regarding the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has commenced.

(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on their own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

(e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.

(f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

(g) This section applies to contracts entered on or after January 1, 2017.

(h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

(i) This section shall remain in effect only until January 1, 2027, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2027, deletes or extends that date.

§ 20104.

(a) (1) This article applies to all public works claims of three hundred seventy-five thousand dollars ($375,000) or less which arise between a contractor and a local agency.

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

(b) (1) "Public work" means "public works contract" as defined in Section 1101 but does not include any work or improvement contracted for by the state or the Regents of the University of California.

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

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

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

§ 20104.2.

For any claim subject to this article, the following requirements apply:

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

(b) (1) For claims of less than fifty thousand dollars ($50,000), the local agency shall respond in writing to any written claim within 45 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant.

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

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

(c) (1) For claims of over fifty thousand dollars ($50,000) and less than or equal to three hundred seventy-five thousand dollars ($375,000), the local agency shall respond in writing to all written claims within 60 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant.

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

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

(d) If the claimant disputes the local agency's written response, or the local agency fails to respond within the time prescribed, the claimant may so notify the local agency, in writing, either within 15 days of receipt of the local agency's response or within 15 days of the local agency's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon request, the local agency shall schedule a meet and confer conference within 30 days for settlement of the dispute.

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

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

§ 20104.4.

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

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

(b) (1) If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act (Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.

(2) Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law, and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.

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

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

§ 20104.6.

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

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

END OF DOCUMENT

PERFORMANCE BOND
(100% OF CONTRACT PRICE)

(Note: Contractor must use this form, NOT a surety company form.)

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS the Governing Board ("Board") of the Alum Rock Union School District ("District") and ("Principal") have entered into a contract ("Agreement") for the furnishing of all materials and labor, services and transportation, necessary, convenient, and proper to perform the following project:

_____ (Project Name)

("Project") which Agreement dated , 20___, and all the Contract Documents attached to or forming a part of the Agreement, are hereby referred to and made a part hereof; and

WHEREAS, said Principal is required under the terms of the Agreement to furnish a bond for the faithful performance of the Agreement.

NOW, THEREFORE, the Principal and _____ _____ ("Surety") are held and firmly bound unto the Board of the District in the penal sum of

_____

Dollars ($_____), lawful money of the United States, for the payment of which sum well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally, firmly by these presents, to:

- Perform all the work required to complete the Project; and
- Pay to the District all damages the district incurs as a result of the principal's failure to perform all the Work required to complete the Project.

The condition of the obligation is such that, if the above bounden Principal, his or its 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 the Agreement and any alteration thereof made as therein provided, on his or its part to be kept and performed at the time and in the intent and meaning, including all contractual guarantees and warrantees of materials and workmanship, and shall indemnify and save harmless the District, its trustees, officers and agents, as therein stipulated, then this obligation shall become null and void, otherwise it shall be and remain in full force and virtue.

Surety expressly agrees that the district may reject any contractor or subcontractor proposed by Surety to fulfil its obligations in the event of default by the principal. Surety shall not utilize Principal in completing the Work nor shall Surety accept a Bid from Principal for completion of the Work if the district declares the principal to be in default and notifies Surety of the District's objection to Principal's further participation in the completion of the Work.

As a condition precedent to the satisfactory completion of the Agreement, the above obligation shall hold good for a period equal to the warranty and/or guarantee period of the Agreement, during which time Surety's obligation shall continue if Contractor shall fail to make full, complete, and satisfactory repair and replacements and totally protect the district from loss or damage resulting from or caused by defective materials or faulty workmanship. The obligations of Surety hereunder shall continue so long as any obligation of Contractor remains. Nothing herein shall limit the district's rights or the Contractor or Surety's obligations under the Agreement, law or equity, including, but not limited to, California Code of Civil Procedure section 337.15.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Agreement or to the Work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Agreement or to the work or to the specifications.

IN WITNESS WHEREOF, two (2) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the _____ day of _____, 20___.

(Affix Corporate Seal)

_____
Principal

_____
By

_____
Surety

_____
By

_____
Name of California Agent of Surety

_____
Address of California Agent of Surety

_____
Telephone No. of California Agent of Surety

The contractor must attach a Notarial Acknowledgment for all Surety's signatures and a Power of Attorney and Certificate of Authority for Surety. The California Department of Insurance must authorize the Surety to be an admitted surety insurer.

END OF DOCUMENT

PAYMENT BOND

Contractor's Labor & Material Bond
(100% Of Contract Price)

(Note: Contractor MUST use this form, NOT a surety company form.)

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS the Governing Board ("Board") of the Alum Rock Union School District (or "District") and , ("Principal") have entered into a contract ("Agreement") for the furnishing of all materials and labor, services and transportation, necessary, convenient, and proper to perform the following project:

_____ (Project Name) ("Project") which Agreement dated _____, 20___, and all the Contract Documents attached to or forming a part of the Agreement, are hereby referred to and made a part hereof; and

WHEREAS, pursuant to law and the Contract, the Principal is required, before entering upon the performance of the Work, to file a good and sufficient bond with the body by which the Agreement is awarded in an amount equal to one hundred percent (100%) of the Contract price, to secure the claims to which reference is made in sections 9000 through 9510 and 9550 through 9566 of the Civil Code, and division 2, part 7, of the Labor Code.

NOW, THEREFORE, the Principal and_____
_____ ("Surety")
are held and firmly bound unto all laborers, material men, and other persons referred to in said statutes in the sum of _____
Dollars ($_____), lawful money of the United States, being a sum not less than the total amount payable by the terms of Contract, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns, jointly and severally, by these presents.

The condition of this obligation is that if the Principal or any of his or its subcontractors, of the heirs, executors, administrators, successors, or assigns of any, all, or either of them shall fail to pay for any labor, materials, provisions, provender, 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 required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Principal or any of his or its subcontractors of any tier under Section 13020 of the Unemployment Insurance Code with respect to such work or labor, that the Surety will pay the same in an amount not exceeding the amount herein above set forth, and also in case suit is brought upon this bond, will pay a reasonable attorney's fee to be awarded and fixed by the Court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of all persons, companies, and corporations entitled to file claims under section 9100 of the Civil Code, to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and affect.

And the Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of Agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

IN WITNESS WHEREOF, two (2) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the _____ day of _____, 20___.

(Affix Corporate Seal)

_____
Principal

_____
By

_____
Surety

_____
By

_____
Name of California Agent of Surety

_____
Address of California Agent of Surety

_____
Telephone No. of California Agent of Surety

The contractor must attach a Notarial Acknowledgment for all Surety's signatures and a Power of Attorney and Certificate of Authority for Surety. The California Department of Insurance must authorize the Surety to be an admitted surety insurer.

END OF DOCUMEN

SPECIAL CONDITIONS

1. Mitigation Measures

Contractor shall comply with all applicable mitigation measures, if any, adopted by any public agency with respect to this Project pursuant to the California Environmental Quality Act. (*See* Public Resources Code section 21000 *et seq.*)

2. Modernization Projects

2.1. **Access**. Access to the school site, for construction purposes, must be coordinated with the District, Construction Manager, and onsite District personnel before Work is to start.

2.2. **Master Key.** Upon request, the district may, at its own discretion, provide a master key to the school site entrance gate for the convenience of the Contractor. The Contractor agrees to pay all expenses to re-key the gates with common locks if the issued key is lost or stolen, or if any unauthorized party obtains a copy of the key or access to the school.

2.3. **Maintaining Services.** The Contractor is advised that Work is to be performed in spaces/areas regularly scheduled for summer school instruction. Interruption and/or periods of shutdown of public access, playground and parking areas shall be only as arranged in advance with the district. Contractor shall provide temporary fencing around all areas interrupted by Contractor's Work.

2.4. **Confidentiality**. Contractor shall maintain the confidentiality of all information, documents, programs, procedures and all other items that Contractor encounters while performing the Work. This requirement shall be ongoing and shall survive the expiration or termination of this Agreement and specifically includes, without limitation, all student, parent, and employee disciplinary information and health information.

2.5. **Work During Non-instructional Time**. By submitting its bid, Contractor affirms that Work shall not be performed during ongoing school instruction at existing sites. Contractor agrees to work at non-instruction times, after 5:00p.m. and Saturday and/or Sunday and will cooperate to the best of its ability to minimize any disruption to school operations and any use of school facilities by the public up to, and including, rescheduling specific work activities, at no additional cost to District. At some school locations where there's no summer school, work may proceed during normal working hours. Some schools will allow work to start at 3:00 p.m.

2.6. **No Work During Student Testing**. Contractor shall, at no additional cost to the district and at the district's request, coordinate its Work to not disturb District students including, without limitation, not performing any Work when students at the Site are taking State or Federally required tests.

3. Badge Policy For Contractors

3.1. All Contractors doing work for the district will provide their workers with identification badges. These badges will be worn by all members of the Contractor's staff

who are working on District property. Badges must be filled out in full and contain the following information:

3.1.1. Name of Contractor

3.1.2. Name of Employee

3.1.3. Contractor's address and phone number

3.2. Badges are to be worn when the Contractor or his/her employees are on site and must always be visible. Contractors must inform their employees that they are required to allow District employees, the Construction Manager, the Program Manager, or the Project Inspector to review the information on the badges upon request.

3.3. Continued failure to display identification badges as required by this policy may result in the individual being removed from the Project or assessment of fines against the Contractor.

4. Substitution for Specified Items

Replace paragraph 8 in the Terms and Conditions to Agreement with the following provisions:

8.1 Whenever in the Specifications any materials, process or article is indicated or specified by grade, patent, or proprietary name, or by name of manufacturer, that Specification shall be deemed to be followed by the works "or equal." The contractor may, unless otherwise stated, offer any material, process, or article that shall be substantially equal or better in every respect to that so indicated or specified.

8.1.1 If the material, process, or article offered by Contractor is not, in the opinion of the district, substantially equal or better in every respect to that specified, then Contractor shall furnish the material, process, or article specified in the Specifications without any additional compensation or change order.

8.1.2 This provision shall be applicable with respect to any material, product, thing or service for which District made findings and gave notice in accordance with Public Contract Code section 3400(c); therefore, Contractor shall not be

entitled to request a substitution with respect to those material, products or services.

8.2 A request for a substitution shall be submitted as follows:

8.2.1 The contractor shall notify the district in writing of any request for substitution at least three (3) days prior to bid opening as indicated in the Instruction to bidders.

8.2.2 Requests for Substitutions after award of the Contract shall be submitted within three (3) days of the date of the Notice of Award.

8.3 Within 3 days after the Notice of Award, Contractor shall provide data substantiating a request for substitution of "an equal" item, including but not limited to the following:

8.3.1 All variations of the proposed substitute from the material specified including, but not limited to, principles of operation, materials, or construction finish, thickness or gauge of materials, dimensions, wight, and tolerances;

8.3.2 Available maintenance, repair or replacement services;

8.3.3 Increases or decreases in operating, maintenance, repair, replacement, and spare parts costs;

8.3.4 Whether or not acceptance of the substitute will require other changes in the Work (or in work performed by the district or others under Contract with the District); and

8.3.5 The time impact on any part of the Work resulting directly or indirectly from acceptance of the proposed substitute.

8.4 No substitutions shall be made until approved, in writing, by the district. The burden of proof as to the equality of any material, process, or article shall rest with the Contractor. The Contractor warrants that if substitutes are approved:

8.4.1 The proposed substitute is equal or superior in all respects to that specified, and that such proposed substitute is suitable and fit for the intended purpose and will perform adequately the function and achieve the results called for by the general design and the Contract Documents;

8.4.2 The Contractor provides the same warranties and guarantees for the substitute that would be provided for that specified;

8.4.3 The Contractor shall be fully responsible for the installation of the substitute and any changes in the Work required, either directly or indirectly, because of the acceptance of such substitute, with no increase in Contract Price or Contract Time. Incidental changes or extra component parts required to

accommodate the substitute will be made by the Contractor without a change in the Contract Price or Contract Time;

8.4.4 The Contractor shall be responsible for any re-design costs occasioned by District's acceptance and/or approval of any substitute; and

8.4.5 The Contractor shall, if a substitute is less costly than that specified, credit the district with one hundred percent (100%) of the net difference between the substitute and the originally specified material. In this event the Contractor agrees to execute a deductive Change Order to reflect that credit.

8.5 In the event Contractor furnishes a material, process, or article more expensive than that specified, the difference in the cost of that material, process, or article so furnished shall be borne by Contractor.

8.6 In no event shall the district be liable for any increase in Contract Price or Contract Time due to any claimed delay in the evaluation of any proposed substitute or in the acceptance or rejection of any proposed substitute.

8.7 Contractor shall be responsible for any costs the district incurs for professional services, DSA fees, or delay to the Project Schedule, if applicable, while DSA reviews changes for the convenience of Contractor and/or to accommodate Contractor's means and methods. District may deduct those costs from any amounts owing to the Contractor for the review of the request for substitution, even if the request for substitution is not approved. District, at its sole discretion, shall deduct from the payments due to and/or invoice Contractor for all the professional services and/or DSA fees or delay to the Project Schedule, if applicable, while DSA reviews changes for the convenience of Contractor and/or to accommodate Contractor's means and methods arising herein.

5. Permits, Certificates, Licenses, Fees, Approvals

Insert paragraph 4.1 in the Terms and Conditions of the Agreement with the following provisions:

4.1 Payment for Permits, Certificates, Licenses, Approvals and Fees. The contractor shall secure and pay for all permits, licenses, approvals, and certificates necessary for the prosecution of the Work except for the following:

{FOR EXAMPLE, WATER CONNECTION FEES}

With respect t the above listed items, Contractor shall be responsible for securing such items; however, District will be responsible for payment of these charges or fees. Contractor shall notify the district of the amount due with respect to such items and to whom the amount is payable. The contractor shall provide the district with an invoice and receipt with respect to such charges or fees.

6. COVID-19 Safety Requirements

The contractor shall, at its cost, timely comply with all applicable federal, State, and local requirements relating to COVID-19 or other public health emergency/epidemic/pandemic. Further, except to the extent the Order provides otherwise, Contractor and Contractor's

personnel, subcontractors and suppliers shall continue to comply with all applicable terms in the California Department of Public Health's State Public Health Officer Orders.

7. COVID-19 Vaccination/Testing Requirements

Vaccination Requirements

Contractor shall fill out, sign, date and submit to District the COVID-19 Vaccination/Testing Certification Form, attached hereto.

According to the August 11, 2021, California Department of Public Health ("CDPH") State Public Health Officer Order ("Order"), a person is "fully vaccinated" for COVID-19 if two weeks or more have passed since they have received the second dose in a 2-dose series (Pfizer-BioNTech or Moderna or vaccine authorized by the World Health Organization), or two weeks or more have passed since they received a single-dose vaccine (Johnson and Johnson[J&J]/Janssen).

Pursuant to the CDPH Guidance for Vaccine Records Guidelines & Standards, Contractor shall only accept the following as proof of vaccination:

(a) COVID-19 Vaccination Record Card (issued by the Department of Health and Human Services Centers for Disease Control & Prevention or WHO Yellow Card which includes name of person vaccinated, type of vaccine provided, and date last dose administered);

(b) a photo of a Vaccination Record Card as a separate document;

(c) a photo of a Vaccination Record Card stored on a phone or electronic device;

(d) documentation of COVID-19 vaccination from a health care provider;

(e) digital record that includes a QR code that when scanned by a SMART Health Card reader displays to the reader's name, date of birth, vaccine dates and vaccine type; or

(f) documentation of vaccination from other contracted employers who follow these vaccination records guidelines and standards.

In the absence of knowledge to the contrary, Contractor may accept the documentation presented in (a) through (f) above as valid.

Contractor shall have a plan in place for tracking verified Contractor personnel vaccination status. Records of vaccination verification must be made available, upon request, to the local health jurisdiction for purposes of case investigation.

Contractor personnel, including any and all tiers of subcontractor, supplier, and any other personnel entering the Project site, who are not fully vaccinated, or for whom vaccine status is unknown or documentation is not provided, must be considered unvaccinated.

Weekly Testing Requirements

Contractor shall ensure that Contractor personnel, including any and all tiers of subcontractor, supplier, and any other worker entering the Project site, who are

unvaccinated or who are not fully vaccinated are required to undergo diagnostic screening testing, as specified below:

(a) Contractor personnel may be tested with either antigen or molecular tests to satisfy this requirement, but unvaccinated or incompletely vaccinated workers must be tested at least once weekly with either PCR testing or antigen testing. Any PCR (molecular) or antigen test used must either have Emergency Use Authorization by the U.S. Food and Drug Administration or be operating per the Laboratory Developed Test requirements by the U.S. Centers for Medicare and Medicaid Services.

(b) Unvaccinated or not fully vaccinated Contractor personnel must also observe all other infection control requirements and are not exempted from the testing requirement even if they have a medical contraindication to vaccination, since they are still potentially able to spread the illness. Previous history of COVID-19 from which the individual recovered more than 90 days earlier, or a previous positive antibody test for COVID-19, do not waive this requirement for testing.

Contractor shall have a plan in place for tracking test results and conducting workplace contact tracing, and must report results to local public health departments, if applicable.

END OF DOCUMENT

WORKERS' COMPENSATION CERTIFICATION

PROJECT/CONTRACT NO.: _____ between Alum Rock Union School District ("District") and _____ ("Contractor" or "Bidder") ("Contract" or "Project").

Labor Code section 3700, in relevant part, provides:

> Every employer except the State shall secure the payment of compensation in one or more of the following ways:
>
> a. By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this state; and/or
>
> b. By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

I am aware of the provisions of 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 the Work of this Contract.

Date: _____

Proper Name of Contractor: _____

Signature: _____

Print Name: _____

Title: _____

(In accordance with Labor Code sections 1860 and 1861, the above certificate must be signed and filed with the awarding body prior to performing any Work under this Contract.)

END OF DOCUMENT

PREVAILING WAGE AND
RELATED LABOR REQUIREMENTS CERTIFICATION

PROJECT/CONTRACT NO.: _____ between Alum Rock Union School District ("District") and _____ ("Contractor" or "Bidder") ("Contract" or "Project").

I hereby certify that I will conform to the State of California Public Works Contract requirements regarding prevailing wages, benefits, on-site audits with 48-hours' notice, payroll records, and apprentice and trainee employment requirements, for all Work on the above Project including, without limitation, labor compliance monitoring and enforcement by the Department of Industrial Relations.

Date: _____

Proper Name of Contractor: _____

Signature: _____

Print Name: _____

Title: _____

END OF DOCUMENT

CRIMINAL BACKGROUND
INVESTIGATION/ FINGERPRINTING CERTIFICATION

The undersigned does hereby certify to the district that I am a representative of the Contractor currently under contract with the district; that I am familiar with the facts herein certified; and that I am authorized and qualified to execute this certificate on behalf of Contractor.

The contractor certifies that it has taken at least one of the following actions (check all that apply):

☐ Pursuant to Education Code section 45125.2(a), Contractor has installed or will install, prior to commencement of Work, a physical barrier at the Work Site, that will limit contact between Contractor's employees, Subcontractors or suppliers and District pupils at all times; and/or

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

Name: _____

Title: _____

NOTE: If Contractor is a sole proprietor, and elects the above option, Contractor must have the above-named employee's fingerprints prepared and submitted by District for submission to the DOJ, in accordance with Education Code section 45125.1(h). No work shall commence until such a determination by DOJ has been made.

☐ Pursuant to Education Code section 45125.2(a), the district will take appropriate steps to protect the safety of any pupils that may come in contact with Contractor's employees, subcontractors or suppliers so that the fingerprinting and criminal background investigation requirements of Education Code section 45125.2 shall not apply to Contractor under the Contract.

☐ The Work on the Contract is either (i) at an unoccupied school site and no employee of Contractor and/or subcontractor or supplier of any tier of the Contract shall come in contact with the District pupils or (ii) if Contractor's employees or any subcontractor or supplier of any tier of the Contract interacts with pupils, outside of the immediate supervision and control of the pupil's parent or guardian or a school employee, the District will take appropriate steps to protect the safety of any pupils that may come in contact with Contractor's employees, subcontractors or suppliers so that the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 shall not apply to Contractor under the Contract.

☐ The Contractor, who is not a sole proprietor, has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Contractor's employees and all of its Subcontractors' employees who may have contact with District pupils in the course of providing services pursuant to the Contract, and the DOJ has determined (A) that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1 and/or (B) that the prohibition does not apply to an employee as provided by Education Code section 45125.1(e)(2) or (3). When the Contractor performs the criminal background check, it shall immediately provide any subsequent arrest and conviction information it receives to the district pursuant to the subsequent arrest service. No work shall commence until the Department of Justice ascertains that Contractor's employees and any subcontractors' employees have not been convicted of a felony as defined in Government Code Section 45122.1.

A complete and accurate list of Contractor's employees and of all of its subcontractors' employees who may encounter District pupils during the course and scope of the Contract is attached hereto as ATTACHMENT "A;" and/or

☐ The Contractor is a sole proprietor and intends to comply with the fingerprinting requirements of Education Code section 45125.1(h) with respect to all Contractor's employees who may have contact with District pupils in the course of providing services pursuant to the Contract, and hereby agrees to the District's preparation and submission of fingerprints such that the DOJ may determine (A) that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1 and/or (B) that the prohibition does not apply to an employee as provided by Education Code section 45125.1(e)(2) or (3). No work shall commence until the Department of Justice ascertains that Contractor's employees and any subcontractors' employees have not been convicted of a felony as defined in Government Code Section 45122.1.

Contractor's responsibility for background clearance extends to all its employees, Subcontractors or suppliers, and employees of Subcontractors or suppliers encountering District pupils regardless of whether they are designated as employees or acting as independent contractors of the Contractor.

[CONTINUED ON NEXT PAGE]

ATTACHMENT "A"

List of Employees/Subcontractors

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

If further space is required for the list of employees/subcontractors, attach additional copies of this page.

Date: _____

Proper Name of Contractor: _____

Signature: _____

Print Name: _____

Title: _____

END OF DOCUMENT

REGISTERED SUBCONTRACTORS LIST
(Labor Code Section 1771.1)

PROJECT: _____

Date Submitted (for Updates): _____

Contractor acknowledges and agrees that it must clearly set forth below the name and Department of Industrial Relations (DIR) registration number of each subcontractor **for all tiers** who will perform work or labor or render service to Contractor or its subcontractors in or about the construction of the Work **at least two (2) weeks before the subcontractor is scheduled to perform work**. This document is to be updated as all tiers of subcontractors are identified.

Contractor acknowledges and agrees that, if Contractor fails to list as to any subcontractor of any tier who performs any portion of Work, the Contract is subject to cancellation and the Contractor will be subjected to penalty under applicable law.

If further space is required for the list of proposed subcontractors, attach additional copies of page 2 showing the required information, as indicated below.

Subcontractor Name: _____
DIR Registration #: _____
Portion of Work: _____

Subcontractor Name: _____
DIR Registration #: _____
Portion of Work: _____

Subcontractor Name: _____
DIR Registration #: _____
Portion of Work: _____

Subcontractor Name: _____
DIR Registration #: _____
Portion of Work: _____

Subcontractor Name: _____
DIR Registration #: _____
Portion of Work: _____

Portion of Work: _____

Date: _____

Name of Contractor: _____

Signature: _____

Print Name: _____

Title: _____

END OF DOCUMENT

COVID-19 VACCINATION/TESTING CERTIFICATION

Contractor: _____

The California Department of Public Health ("CDPH") requires, pursuant to its August 11, 2021, Order ("Order"), that all public and private schools serving students in transitional kindergarten through grade twelve, unless exempt, are required to verify the vaccine status of all K-12 school workers, effective October 15, 2021. Further, pursuant to the Order, all such schools are required to verify that all workers are either fully vaccinated or undergo weekly diagnostic testing.

Considering these CDPH requirements, Contractor certifies that the following entity:

_____

has verified that the Contractor personnel providing services at District's Project site(s):

☐ Have all been fully vaccinated in accordance with the CDPH Order.

☐ Have not all been fully vaccinated, but those who are unvaccinated or not fully vaccinated undergo weekly diagnostic testing in accordance with the CDPH Order.

☐ Have not been fully vaccinated and do not undergo weekly diagnostic testing in accordance with the CDPH Order.

Contractor understands that the District's Project site will need to comply with the CDPH Order's COVID-19 requirements for fully vaccinated personnel or unvaccinated personnel. Personnel who are not fully vaccinated or decline to state their vaccination status will be treated as unvaccinated, and Contractor will comply with the CDPH Order, and all applicable state and local laws for vaccinated and unvaccinated personnel.

CERTIFICATION

I, , certify that I am Contractor's
and that I have made a diligent effort to ascertain the facts regarding the representations made herein.

Date: _____

Proper Name of Contractor: _____

Signature: _____

Print Name: _____

Title: _____

END OF DOCUMENT