

**Request for Proposals  
School Food Services  
RFP No. 2024-001**

<b>RFP Issued:</b>	<b>Friday July 7, 2023</b>
<b>Proposals Due:</b>	<b>Not Later than 2:00:00 PM Pacific Time, Wednesday July 26, 2023</b> Late proposals will not be accepted or considered.
<b>Submit Proposals to:</b>	<p><b><u>ELECTRONIC SUBMITTAL</u></b> Submit One (1) electronic proposal via email: <a href="mailto:nbassen@riverdale.k12.or.us">nbassen@riverdale.k12.or.us</a></p> <p><b>OR</b></p> <p><b><u>HARDCOPY SUBMITTAL</u></b> Submit one (1) original proposal to Nicole Bassen, 11733 S Breyman Ave, Portland, OR 97219</p> <p>The Proposal, including all required documentation, must be submitted <b>not later than 2:00 PM on Wednesday July 26, 2023</b> Late Proposals will not be accepted.</p>
<b>Procurement Contact:</b>	<p>Nicole Bassen, Business Manager Email: <a href="mailto:nbassen@riverdale.k12.or.us">nbassen@riverdale.k12.or.us</a> <b>Deadline for Questions: 5:00 PM PST on Thursday July 20, 2023</b></p>

**Purpose:**

The purpose of this Request for Proposals (Solicitation) is to obtain competitive Proposals from qualified vendors to provide food services for Riverdale School District.

**Pre-Proposal Conference:**

A non **mandatory Pre-Proposal Conference** will be held on Tuesday July 18, 2023 at 11:00 AM Pacific Time at Riverdale Grade School, 11733 S Breyman Ave, Portland, OR 97219. A virtual option will be available. Riverdale School District conducts such meetings in order to clarify information provided in the RFP and to provide interested proposers an opportunity to ask questions about the RFP. Statements made by the District's representatives at the pre-proposal meeting are not binding on the District unless confirmed by written addendum.

**Proposals & Opening:**

Interested Proposers must submit a Proposal pursuant to the provisions of this Solicitation as outlined above **NOT LATER THAN: 2:00 PM, PST on Wednesday, July 26, 2023**. No public opening will occur. The number of Proposals received, the identity of Proposers, or the contents of any proposal will not be disclosed to the public until all proposals have been evaluated, negotiations completed if required, and a recommendation for Award has been published.

**Interview:**

In addition, selected proposers must be available for an interview if requested with the Selection Committee on Friday July 28, 2023.

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# ADVERTISEMENT

## REQUEST FOR PROPOSALS

### FOOD SERVICES

Issuance of Request for Proposal: 7/7/2023

Proposals Due: 7/26/2023

RIVERDALE SCHOOL DISTRICT is seeking proposals from qualified vendors to provide food service for our school per the specifications of the solicitation document. The contract period is expected to begin August 28, 2023, with an initial two-year term. A copy of the proposal instructions may be obtained by contacting:

Nicole Bassen  
Business Manager  
11733 S Breyman Ave  
Portland, OR 97219  
nbassen@riverdale.k12.or.us

There will be a non-mandatory pre-proposal meeting on Tuesday July 18, 2023. A virtual attendance option will be offered. Interested proposers must submit a Proposal pursuant to the provisions of this Solicitation by email or mail to the above contact **NOT LATER THAN**: 2:00 PM, PST on Wednesday, July 26, 2023.

The District reserves the right to reject any or all proposals.

Published:  
*Lake Oswego Review*  
*Portland business Tribune*

## I. INTRODUCTION

RIVERDALE SCHOOL DISTRICT is soliciting proposals for Food Services. The District will determine the number of contracts to be awarded at the time of contract award. This determination will be based upon the evaluation of scores underlying the rank of each proposal and the capacity of the proposers, and shall be at the sole discretion of the District. The evaluation criteria include, but are not limited to, price (overall cost of services to be rendered), proposed menu, quality of management and operations, company stability, service reputation, length of time in business and safety program. The proposals will be evaluated from the standpoint of capability to best serve the District needs.

### A. ABOUT THE DISTRICT

RIVERDALE SCHOOL DISTRICT is an independent public school district founded in 1888. Today, Riverdale Grade School (K-8) and Riverdale High School (9-12) serve more than 600 families living in a residential wooded area of Multnomah County. The District is Located seven miles south of downtown Portland, Oregon and adjacent to the City of Lake Oswego.

### B. TIMELINE

ACTIVITY	DATE
Issuance of Request for Proposal	7/7/2023
Non-Mandatory Pre-Proposal Conference	7/18/2023
Deadline for Questions or Clarifications	7/20/2023
Final Addenda Deadline	7/23/2023
Proposals Due	7/26/2023
Interviews	7/28/2023
Notice of Intent to Award	8/4/2023
Contract Award (when is the board meeting)	8/14/2023
Anticipated Contract Start	8/28/2023

The District reserves the right to deviate from this schedule.

### **C. PRE-PROPOSAL MEETING**

A **Non-Mandatory Pre-Proposal Conference** will be held on Tuesday July 18, 2023 at 11:00 AM Pacific Time at 11733 S Breyman Ave, Portland, OR 97219. A virtual attendance option is available, see below. Riverdale School District conducts such meetings in order to clarify information provided in the RFP and to provide interested proposers an opportunity to ask questions about the RFP. Statements made by the District's representatives at the pre-proposal meeting are not binding on the District unless confirmed by written addendum.

Food Service RFP Pre-Proposal Meeting  
Tuesday, July 18 · 11:00am – 12:00pm  
Google Meet joining info  
Video call link: <https://meet.google.com/uaf-etqw-gtc>  
Or dial: (US) +1 442-666-1879 PIN: 707 266 611#

### **D. QUESTIONS**

All questions or comments regarding this Request for Proposals or related technical issues must be submitted in writing via email to [nbassen@riverdale.k12.or.us](mailto:nbassen@riverdale.k12.or.us). To be considered, questions must be received by the District prior to the deadline (See Timeline). A written response will be provided to those questions that are deemed appropriate. The response will be in the form of an addendum and will be sent to all firms in receipt of this RFP.

### **E. ADDENDA**

1. Addenda, if any, will be issued anytime up until three (3) calendar days prior to the proposal due date.
2. Modifications to this RFP shall be made only by addenda to the solicitation. Verbal or other instructions, interpretations, and changes shall not serve as official expressions of Riverdale School District and shall not be binding. All cost adjustments or other changes resulting from said addenda shall be taken into consideration by Proposer and included in their Proposals. All addenda issued by the District shall be acknowledged by Proposer on the Proposer Certifications and Representations Form.

## **II. SCOPE OF WORK**

### **A. SCOPE OF CONTRACT**

1. Meal Planning and Preparation
  - a) Designing well-balanced menus that meet the nutritional requirements for students of all ages. Including both hot and cold lunch options, field trip sack lunches and occasional catering.
  - b) Preparing meals in compliance with all food safety and sanitation regulations.
  - c) Accommodating dietary restrictions and special dietary needs as necessary.
2. Meal Delivery and Service
  - a) Delivering meals to designated serving areas within the school at the agreed-upon times.

- b) Setting up food stations, ensuring proper food presentation, and maintaining cleanliness and organizations.
  - c) Training and supervising cafeteria staff, if required, to ensure efficient service.
- 3. Inventory Management and Staffing
  - a) Managing inventory of food, supplies, and equipment to ensure adequate stock levels.
  - b) Monitoring food quality and freshness, and ensuring compliance with expiration dates.
  - c) Provide staff and management to oversee and operate the program.
- 4. Financial Management:
  - a) Provide transparent and accurate financial reports related to food service operations.
  - b) Implementing efficient payment systems for students and staff.
- 5. Health & Safety
  - a) The Contractor shall obtain necessary health permits and certification for the facilities. The premises and equipment provided by each party in performance of this Agreement shall comply with all applicable building, safety, sanitation, and health laws; and shall satisfy all permit requirements, ordinances, rules, and regulations, including the federal Occupational Health and Safety Act of 1970 or applicable state act and standards promulgated thereunder.
  - b) Contractor shall take reasonable and proper care of all premises and equipment in its custody and control and shall use them in a manner that will not cause violation of applicable laws, ordinances, rules, and regulations, including any reporting and record-keeping requirements. If at any time the Contractor is notified by an authorized government agency that the premises or equipment are not in compliance with any law, ordinance, rule, or regulation, the Contractor shall immediately inform the Riverdale School District of such notification.

**B. CURRENT SERVICE LEVEL**

The following information is intended to provide Proposers with a general understanding of current District operations and food service requirements within the district. Proposals should meet the requirements specified within this solicitation.

- 1. [DISTRICT MAP](#)
- 2. [SCHOOL CALENDAR](#)
- 3. **CURRENT SCHEDULE**
  - a) School Days: 179
  - b) Grade School:
    - (1) 2 lunch sections - 4 total serving times
      - (a) 11:13 am - 12:00 (K-4) - Rotates ½ way through K-2, and then 3rd-4th
      - (b) 12:03 pm - 12:50 (5-8) - Rotates ½ way through, 5-6, and then 7-8
  - c) High School:
    - (1) Snack break

- (a) 10:10 am
- (2) Lunch
- (a) 12:45 pm

Proposers may describe other service alternatives within their proposal but may not include such changes in their pricing proposal. The Successful Proposer will have the opportunity to discuss implementation of such proposals once under Agreement with the District.

### **C. STAFF**

#### **1. CONTRACTOR STAFF ALL**

- a) **Contractor** shall provide a sufficient and qualified workforce to manage and operate the food service operations. The Contractor will provide a detailed summary of staffing proposed for the contract.
- b) **Contractor** bears the responsibility of selecting, hiring, training, supervising, disciplining, and discharging of employees. In the selection and hiring process, Contractor shall conduct a nationwide criminal records check in accordance with ORS 326.603 and request the Department of Education to verify whether the department has any ongoing investigation or has a substantiated report relating to conduct by the person that may constitute sexual conduct.

(1) The Contractor will be responsible for fingerprinting all employees that come in contact with students in accordance with ORS 181A.200 and OAR 581-021-0500 and other applicable laws, statutes, codes, ordinances, rules, regulations and lawful orders. The Contractor shall not knowingly employ anyone who has:

- (a) A felony or misdemeanor conviction within the past 10 years or any conviction for a crime of violence, sexual offense, drug use or sale, child abuse or child pornography.

### **D. REPORTS**

#### **1. MONTHLY BILLING**

Contractor will provide to the District a monthly billing. Electronic invoices and supporting documents are preferred.

### **E. COST/FEE STRUCTURE**

Rate proposals should include not-to-exceed rates for Breakfast, Snacks, Lunches and a la carte options presented in the menu being offered. All future meals should fall into the same range unless discussed with the district beforehand.

### **F. RESPONSIBILITIES**

The responsibilities of the food service Contractor include, but are not limited to, the following:

- 1. Preparing and serving meals and meal supplements (snacks) to students;
- 2. Preparing and serving meals to staff, parent organizations, and for some scheduled events (conferences, business partnerships, etc.), whether in or out of the Riverdale School District;
- 3. Purchasing food and supplies;



4. Except for equipment provided by Riverdale School District, purchasing, maintaining and repairing all equipment used in the kitchen;
5. Maintaining all kitchen areas and working environments in a safe and sanitary condition;
6. Complying with all health requirements including blood pathogen training, safety, and sanitation requirements; and
7. Maintaining full and complete program, financial and inventory records sufficient to meet federal and state requirements and in accordance with generally accepted accounting principles.

### **G. PROGRAM GOALS**

1. Provide an appealing and nutritionally sound program for students as economically as possible and set good examples for healthy eating behaviors.
2. Promote educational value and nutritional awareness wherever the food service operation can interface with the District programs.
3. Maintain reasonable, competitive prices in the program.
4. Consistently maximize the use of fresh, whole, seasonal, locally and regionally grown foods.
5. Consistently minimize the use of processed foods and foods that are high in additives, saturated fat and sodium.
6. Reasonably accommodate the needs of students with special dietary requirements.
7. Include at least one entrée daily that has been prepared fresh from scratch.
8. Demonstrate environmental and energy awareness and responsibility by minimizing waste in any form.
9. Maintain a food service program that is self-supporting.
10. Maintain a well-trained and supportive food service staff that have successfully completed background checks for previous criminal activity and who are certified for safe food handling by the appropriate agency of the State of Oregon.
11. Provide catering as requested for school-related events.
12. Work closely and effectively with the District including its students and teachers.

## **III. PROPOSAL FORMAT, CONTENT, AND SUBMISSION**

### **A. PROPOSAL FORMAT**

To simplify and expedite the review process each Proposer is asked to submit a proposal in the order and format specified below.

1. Proposal includes a one-page cover letter as the first page of the proposal.
2. Company Qualifications, proposed food, nutrition and wellness programs
3. One month menu with rates
4. Employee staffing, training and development plan
5. School/Community Involvement and Communications plan
6. Payment System
7. Experience and References
8. Insurance Data
9. Recycling Program
10. Independent Contractor Certification Form
11. Proposer Certification and Representation Form

12. Non-Conflict of Interest Form

**B. MULTIPLE PROPOSALS**

No more than one proposal may be submitted by each proposing firm.

**C. PROPOSAL RESPONSES TO EVALUATION CRITERIA**

In addition to the required proposal forms, the Proposer must include discrete information to address each of the areas listed below which will provide a major basis for evaluation. Proposer is encouraged to include other information not listed that will assist in the understanding of its proposed services and which may distinguish them from its competitors.

**1. COMPANY QUALIFICATIONS – 20 Points**

- a) How many years has the company been in business?
- b) List food service experience with other comparable public school districts.
- c) Describe any present or prior litigation your company has or had with any customer.
- d) We have a la carte options at our HS, are you able to provide that service?
- e) What snacks would be offered at the HS for morning break?

**2. ONE MONTH MENU WITH RATES – 20 Points**

- a) Please note whether you are quoting on one or both schools, if one please identify which school the proposal is for.
- b) Grade School Lunch
- c) High School Morning Snack
- d) High School Lunch
- e) A la carte options
- f) Staff lunches if different from the above

**3. EMPLOYEE STAFFING AND TRAINING – 20 Points**

- a) Describe the proposed staffing plan for the Grade School and High School.
- b) Describe employee training and development programs.
- c) In case of absences, what is your emergency plan for coverage and service?

**4. SCHOOL COMMUNITY INVOLVEMENT AND COMMUNICATIONS PLAN – 20 Points**

- a) Explain how you intend to involve and communicate with staff, students and parents about the food service program.
- b) Describe how you would accommodate schedule changes at the GS and HS (field trips, assemblies etc.)
- c) How flexible can you be in response to parent and student feedback about meal options?

**5. PAYMENT SYSTEM – 20 Points**

- a) Describe the payment system that families and staff would use to pay for the meals.
- b) Is there an option to place upfront monthly orders as well as on demand orders?

**6. FACILITIES**

If not using Riverdale's kitchens, provide a detailed description of Proposer's facilities.

**7. INSURANCE DATA**

- a) Provide copies covering Workers' Compensation, commercial general liability, automobile liability, umbrella excess liability, additional insured working, and hold harmless wording.
- b) Provide the names and addresses of the insurance companies, insuring your operation for: Commercial General Liability and Property Damage, Automobile Liability, Umbrella/Excess Liability and Workers' Compensation.

8. **REFERENCES**

Provide three (3) professional references from projects similar to the scope of this solicitation. K-12 school district references shall be preferred. Provide the name, telephone number, and email address of each reference. These contacts will be used by the District for reference checks.

**D. PROPOSAL SUBMISSION**

All proposals shall be emailed or mailed to:

Nicole Bassen, Business Manager  
Proposal for Food Services  
11733 S Breyman Ave  
Portland, OR 97219  
nbassen@riverdale.k12.or.us

Proposals are strongly encouraged to be sent by email with a subject line "Proposal for Food Services". Hardcopy proposals must be submitted in a sealed envelope with the name and address of the Proposer and the title of the proposal ("Proposal for Food Services") must appear on the outside of said envelope. **The District must receive all proposals no later than 2:00 PM PST on Wednesday July 26, 2023.** Delivery is the sole responsibility of the proposer. The proposer accepts all risks of late delivery of mailed proposals or of miss-delivery regardless of fault. All proposals received after the date and time indicated above will be returned unopened. ***Facsimile (fax) transmissions of proposals and postmarks will not be accepted.***

**IV. PROPOSAL EVALUATION AND AWARD**

**A. CLARIFICATION OF RESPONSES**

In the event that one or more proposals are in need of clarification, the District will request such clarification in writing and will afford the Proposer(s) contacted an opportunity to respond in kind, with the necessary clarification.

## B. PROPOSAL EVALUATION

Proposals will be evaluated by a selection committee of not less than three (3) individuals. Each evaluator will independently evaluate and score proposals in accordance with the Evaluation Criteria listed below. All proposals from qualified contractors that provide the minimum required qualifications and that pass the financial strength tests will then be evaluated on the following criteria:

Criteria	Points Available
1. Company Qualifications	20
2. Menu and Rate proposals	20
3. Employee Staffing and Training	20
4. School Community Involvement and Communications Plan	20
5. Payment System	20
<b>SUB-TOTAL (without interview)</b>	100
14. Interview (if required)	20
<b>TOTAL (including interview)</b>	120

### 1. RANKING OF PROPOSALS

Evaluations will be scored by rank. The highest-ranked proposal will be determined as follows:

- a) Each evaluator will assign a ranking to each proposal, based on the total score he or she awarded each proposal based on the evaluation criteria points.
- b) The proposal to which the evaluator awarded the most points will receive an Evaluator Final Rank of 1. The proposal to which the evaluator awarded the second most points will receive an Evaluator Final Rank of 2, and so forth.
- c) The District will then sum the Evaluator Final Ranks for each proposal. The proposal with the lowest total final rank (the sum of all Evaluator Final Ranks) will be ranked first. The proposal with the second lowest final rank will be ranked second, and so on. The proposal with the highest final rank will be ranked last.

### 2. INTERVIEW EVALUATIONS

If necessary for completing selection, finalists will be selected for an interview. This will provide an opportunity to clarify or elaborate on the proposal, but will in no way provide an opportunity to change any fee amount originally proposed.

3. **BEST AND FINAL OFFER**

The District at its sole discretion reserves the right to either: a) request "Best and Final Offers" from the two highest scoring vendors and award to the lowest priced or b) to re-assess the proposals and award to the vendor determined to best meet the overall needs of the District.

4. **REFERENCES**

The District reserves the right to investigate references, including customers other than those listed in a Proposer's submission. This inquiry may include without limitation, investigation of past performance of any Proposer with respect to its successful performance of similar projects, compliance with specifications and contractual obligations, completion or delivery of a project on schedule, and its lawful payment of employees and subcontractors.

**C. AWARD**

Pursuant to OAR 137-47-0600

1. Award in part or in whole is contingent upon available funding. In the event adequate funds are not appropriated and allocated by the School Board, the District reserves the right to cancel any Solicitation at no penalty.
2. The District may award all or none Offers if the evaluation shows an all or none Award to be the most Advantageous or in the best interest of the District.
3. The District may reject all or part of Proposals and may issue a new Solicitation on the same or revised terms, conditions and Specifications.
4. When Proposals are identical the District must Award the contract Pursuant to OAR 137-046-0300

**D. NOTICE OF INTENT TO AWARD**

The District will provide a written Notice of Intent to Award (NOI) to all Proposers at least seven (7) calendar days before the Award of a Contract, unless the District determines that circumstances require prompt execution of the Contract. The District's Award will not be final until the later of the following:

1. SEVEN (7) calendar days after the date of the NOI, or
2. Until the District provides written response(s) to all timely filed protest(s) denying the protest(s) and affirming the Award.

**V. SOLICITATION TERMS AND CONDITIONS; PROTEST OF SOLICITATION OR AWARD**

**A. PROPOSAL COST**

Proposers responding to solicitations are responsible for all costs that they may incur in connection with submitting proposals.

**B. SUBMITTED MATERIALS**

All materials submitted for any proportion of a Proposal in response to this RFP become the property of the District and will not be returned to proposers.

**C. PROPOSAL VALIDITY PERIOD**

Each proposal shall be irrevocable for a period of sixty (60) days from the Proposal Due Date.

**D. SOLICITATION CANCELLATION, REJECTION OF A PROPOSAL OR ALL PROPOSALS**

The District may cancel the Procurement or reject any or all Proposals in accordance with ORS 279B.100.

The District is not liable to any Proposer for any loss or expense caused by or resulting from the cancellation of a solicitation or rejection of a Proposal.

**E. PREFERENCE FOR RECYCLED MATERIALS**

Contractors shall use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this document.

**F. PROTEST**

**1. PROTEST OF SOLICITATION OR CONTRACT DOCUMENTS**

- a) Any Proposer wishing to protest this RFP or any provision, specification or contract term herein in accordance with ORS 279B.405, must submit such questions, comments or protest to the Procurement Contact listed on the first page of this RFP
- b) The deadline for submitting such protests is the same date as the deadline for question listed on the first page of this RFP

**2. CONTENT OF SOLICITATION PROTEST**

The prospective Proposer's written solicitation protest must include all of the following:

- a) Sufficient information to identify the solicitation that is the subject of the protest;
- b) The grounds that demonstrate how the procurement process is contrary to law or how the solicitation document is unnecessarily restrictive, is legally flawed, or improperly specifies a Brand Name;
- c) Evidence or supporting documentation that supports the grounds on which the protest is based; and
- d) A statement of the desired changes to the Procurement process or the solicitation document that the prospective Proposer believes will remedy the conditions upon which the prospective Proposer based its protest.

**3. PROTEST OF CONTRACT AWARD**

In accordance with ORS279B.410, any adversely affected Proposer has seven (7) calendar days from the date of the written notice of intent to award to file a written protest.

- a) All protests must be in writing and physically received by the Procurement Contact listed on the first page of this RFP no later than 5:00 PM PST on the seventh (7th) calendar day after the posted Notice of Intent to Award.
- b) The Proposer's protest must specify the grounds for the protest to be considered by the District pursuant to ORS 279B.410(2)
- c) The District will not consider any protest that is submitted after the submission deadline.

#### **G. PROPOSAL RESULTS**

The District is subject to the Oregon Public Records Law (ORS 192.410 to 192.505), which requires the District to disclose all records generated or received in the transaction of District business, except as expressly exempted in ORS 192.501, 192.502, or other applicable law.

1. Proposals will not be made a part of the public record until after the selection process is completed at which time they will be available for public review
2. The District may withhold from disclosure confidential information pursuant to ORS 192.501 or 192.502

### **VI. CONTRACT TERMS AND CONDITIONS**

#### **A. TERM**

District will award a contract for an initial two-year period. This initial term shall begin on August 28, 2023 and expire on August 27, 2025. The contract may be extended in years subsequent to the initial contract by mutual written agreement of the parties. Subsequent contract terms may occur in increments of one to three years. Such extensions must be agreed upon by March 31 of the final contract year or the contract will expire at the ending date of the term then in effect.

#### **B. TIME IS OF THE ESSENCE**

Time is of the essence in the performance of this contract.

#### **C. PAYMENT OF INVOICES**

1. **Method of Payment.** District shall pay Contractor net 30 days upon invoice approval and work acceptance. Please send all invoice via email to [accountspayable@riverdale.k12.or.us](mailto:accountspayable@riverdale.k12.or.us)
2. **Payment on Early Termination.** Upon termination pursuant to paragraph K, payment shall be made as follows:
  - a) If District terminates this Contract for its convenience under Section K(1) or K(2), then District must pay Contractor for work performed before the termination date if and only if Contractor performed in accordance with this Contract. District shall not be liable for any direct, indirect, or consequential damages. Termination by District shall not constitute a waiver of any other claim District may have against Contractor.
  - b) If Contractor terminates this Contract under Section K(3) due to District's breach, then District shall pay Contractor for work performed before the termination date if and only if Contractor performed in accordance with this Contract.

- c) If District terminates this Contract under Sections K(3) or K(4) due to Contractor's breach, then District must pay Contractor for work performed before the termination date less any setoff to which District is entitled and if and only if Contractor performed such work in accordance with this Contract.
3. **Payment of Laborers.** This provision is required by statute. In addition to applicable federal and local laws, ORS 279B.220 requires that Contractor
- a) Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract.
  - b) Pay all contributions or amounts due the Industrial Accident Fund by the contractor or subcontractors, if permitted, incurred in the performance of the contract.
  - c) Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.
  - d) Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

If Contractor neglects or refuses to make prompt payment of any claim for labor or services furnished to it by any party in connection with this Contract as such claim becomes due, District may pay such claim to the party furnishing the goods or services and subtract the payment amount from funds due or to become due the Contractor. District's payment of such a claim shall not relieve Contractor or Contractor's surety, if any, from its obligation to any unpaid claims.

4. **Payment for Medical Care.** This provision is required by statute. As required by ORS 279B.230 and to the extent any of Contractor's employees are covered by Oregon employment laws, Contractor shall promptly, as due, make payment to any person, co-partnership, association, or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of Contractor, of all sums that Contractor agrees to pay for such services and all moneys and sums that Contractor collected or deducted from the wages of employees under any law, contract, or agreement for the purpose of providing or paying for such service.
5. **Non-Appropriation; Adequate Funding.** District is prohibited from contracting for services for which it has not received appropriated funds. If payment for work under this Contract extends into the District's next fiscal year, the District's obligation to pay for such work shall be subject to approval of future School Board appropriations to fund this Contract. Moreover, continuation of this Contract at specified levels is specifically conditioned on adequate funding under the District's budget adopted in June of each year. District reserves the right to adjust the level of services provided for in this Contract in accordance with funding levels adopted by its Board of Education.

#### ***D. COST ADJUSTMENTS***

Both parties agree that contracted prices shall be fixed for the first 12 months of this Contract. Contractor must submit to the District any proposed cost adjustments at least 60 days before the proposed effective date of such increases with a detailed explanation for each adjustment. District reserves the right to reject any changes to this Contract it deems unacceptable.

#### ***E. INDEPENDENT CONTRACTOR STATUS***



Contractor shall certify status as an independent contractor in accordance with the Certification Statement for Corporation or Independent Contractor Status.

**F. SUBCONTRACTS AND ASSIGNMENT**

Contractor shall not subcontract any of the work required by this Contract or assign or transfer any of its interest in this Contract, without the prior written consent of the District, which may be withheld without cause. In addition to any other provisions the District may require, Contractor shall require of any permitted subcontract under this Contract, that the Sub-Contractor be bound by all the same terms and conditions of this agreement. Such sub-contracts are solely between the Contractor and the Sub-Contractor and shall not have any binding effect on the District.

*This contract is not assignable by the Contractor, either whole or in part, unless Contractor has obtained the prior written consent of the District.*

**G. SUCCESSORS IN INTEREST**

The provisions of this Contract shall be binding upon and inure to the benefit of the parties and their successors and approved assigns, if any.

**H. NO THIRD PARTY BENEFICIARIES**

The District and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives or provides any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name in this Contract and expressly described as intended beneficiaries of this Contract.

**I. OTHER CONTRACTORS**

The District may undertake or award other contracts for additional or related work, and the Contractor shall fully cooperate with such other contractors and with any District employees concerned with such additional or related work, and shall coordinate its performance under this contract with such additional or related work. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by District employees.

**J. NONPERFORMANCE SUBSTITUTED SERVICES**

As used in this Contract, "failure to perform" means failure (for whatever reason) to deliver the services as specified and/or scheduled in this Contract. If Contractor fails to perform under this Contract and does not cure that failure within seven days' written notice from District, then District has the right to complete the services itself, to obtain the services from other sources, or to a combination thereof as necessary to accomplish the purpose of this Contract. Both parties agree that Contractor shall bear any reasonable cost difference for these substituted services.

**K. EARLY TERMINATION**

This Contract may be terminated as follows unless otherwise specified herein:

1. **Mutual.** District and Contractor may terminate this Contract at any time by their written agreement.

2. **District's Sole Discretion.** The District in its sole discretion may terminate this Contract for any reason by giving 180 days written notice of termination to the Contractor.
3. **Breach.** Either party may terminate this Contract in the event of a breach by the other party. To be effective, the party seeking termination must give to the other party written notice of the breach and its intent to terminate. If the breaching party does not entirely cure the breach within 15 days of the date of the notice, then the non-breaching party may terminate this Contract at any time thereafter by giving a written notice of termination.
4. **Contractor Licensing, etc.** Notwithstanding Section J(3), District may terminate this Contract immediately by written notice to Contractor upon denial, suspension, revocation, or non-renewal of any license, permit, or certificate that Contractor must hold to provide services under this Contract.

**L. FORCE MAJEURE; SUSPENSION OF WORK; COMPENSATION**

A party to this Contract shall not be held responsible for delay or default due to Force Majeure acts, events or occurrences unless they could have been avoided by the exercise of reasonable care, prudence, foresight, and diligence by that party. In the event of a Force Majeure act, event, or occurrence:

1. District may terminate this Contract upon written notice after determining that delay or default caused by Force Majeure acts, events or occurrences will reasonably prevent successful performance of the Contract; or
2. District may suspend portions of or all of the Work upon written notice.

When a suspension is required by reason of Force Majeure, through no fault of Contractor or the District, neither party owes the other for the impact of the suspension.

**M. REMEDIES**

In case of Contractor breach and in addition to the provisions of Sections I and J of this Contract, the parties agree that District is entitled to any other available legal and equitable remedies. In case of District breach, the parties agree that Contractor's remedy is limited to Contract termination and receipt of Contract payments to which Contractor is entitled.

**N. HOURS OF LABOR**

This provision is required by statute. As required and except as provided by ORS 279B.020(7) and (8), 279B.235(5), and 279C.540(8), for Contractor's employees subject to Oregon employment laws:

1. **Maximum Hours.** Employees shall be paid at least time and a half pay for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater. Employees shall also be paid at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement or on Saturdays, Sundays, New Year's Day (Jan. 1), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (first Monday in September), Thanksgiving Day (fourth Thursday in November), and Christmas Day (December 25).
2. **Notice to Employees.** Contractor must give notice in writing to its employees who perform work on this Contract, either at the time of hire or before commencement of work on this Contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

**O. TIME LIMITATION ON CLAIM FOR OVERTIME**

This provision is required by statute. For Contractor's employees subject to Oregon employment laws and as required by ORS 279C.545, any worker employed by Contractor shall be foreclosed from the right to collect for any overtime provided in ORS 279C.540 unless a claim for payment is filed with Contractor within 90 days from the completion of this Contract, providing Contractor has

1. **Posted circular.** Caused a circular clearly printed in boldfaced 12-point type and containing a copy of this section to be posted in a prominent place alongside the door of the timekeeper's office or in a similar place that is readily available and freely visible to workers employed on the work, and
2. **Maintaining posted circular.** Maintained such circular continuously posted from the inception to the completion of this Contract on which workers are or have been employed.

**P. HAZARDOUS MATERIALS**

Contractor shall notify the District before using any products containing hazardous materials to which District employees, students, or the general public may be exposed. Products containing hazardous materials are those products defined by Oregon Administrative Rules, Chapter 437. Upon District request, Contractor must immediately provide Material Safety Data Sheets to District for all materials subject to this provision.

**Q. ERRORS**

Contractor shall perform any additional work necessary to correct Contractor errors in the services it performs under this Contract and shall do so without undue delays or additional cost to District.

**R. ACCESS TO RECORDS; CONTRACTOR FINANCIAL RECORDS**

Contractor agrees that District and its authorized representatives are entitled to review all Contractor books, documents, papers, plans, and records, electronic or otherwise ("Records"), directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts.

Contractor shall maintain all Records, fiscal and otherwise, directly relating to this Contract in accordance with generally accepted accounting principles so as to document clearly Contractor's performance. Contractor shall retain and keep accessible all Records for a minimum of three (3) years, or such longer period as may be required by law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Contract, whichever date is later.

**S. OWNERSHIP OF WORK PRODUCTS**

Contractor agrees that all work products created or developed for District by Contractor pursuant to this Contract are intended as "works made for hire" and shall be the exclusive property of the District. If any such work products contain Contractor's intellectual property that is or could be protected by federal copyright, patent, or trademark laws, Contractor hereby grants District a perpetual, royalty-free, fully-paid, non-exclusive, and irrevocable license to copy, reproduce, deliver, publish, perform, dispose of, and use or re-use, in whole or in part, and to authorize others to do so, all such work products. *District claims no right to any pre-existing work product of Contractor provided to District by Contractor in the performance of this Contract, except to copy, use, or re-use any such work product for District use only.*

## **T. WORK PERFORMED ON DISTRICT PROPERTY**

Contractor shall comply with the following:

1. **IDENTIFICATION.** When performing work on District property, the Contractor shall be in appropriate work attire (or uniform, if applicable) at all times. If Contractor does not have a specific uniform, then Contractor shall provide identification tags and/or any other mechanism the District in its sole discretion determines is required to easily identify Contractor. Contractor and its employees shall (i) display on their clothes the above-mentioned identifying information and (ii) carry photo identification and present it to any District personnel upon request. If Contractor cannot produce such identification or if the identification is unacceptable to District, District may provide at its sole discretion, District-produced identification tags to Contractor, costs to be borne by Contractor.
2. **SIGN-IN REQUIRED.** As required by schools and other District locations, each day Contractor's employees are present on District property, those employees must sign into the location's main office to receive an in-school identification/visitors tag. Contractor's employees must display this tag on their person at all times while on District property.
3. **NO SMOKING.** All District properties are tobacco-free zones; Contractor is prohibited from using any tobacco product on District property.
4. **NO DRUGS.** All District properties are drug-free zones as enforced by the Portland Police Bureau.
5. **NO WEAPONS OR FIREARMS.** Except as provided by statute and District policy, all District properties are weapons- and firearms-free zones; Contractor is prohibited from possessing on its persons or in its vehicles any weapons or firearms while on District property.

## **U. UNSUPERVISED CONTACT WITH STUDENTS; CRIMINAL BACKGROUND CHECKS**

This provision is required by statute. "Unsupervised contact" with students means contact that provides the person opportunity and probability for personal communication or touch with students when not under direct supervision by District personnel. ORS 326.603; OAR 581-021-0500.

1. Performance under this Contract may require or cause Contractor to have direct, unsupervised contact with students. As required by ORS 326.603, **Contractor must undergo a finger-print based criminal background check before beginning work under this Contract.**
  - a) Contractor authorizes District to obtain information about Contractor and its history and to conduct a criminal background check, including fingerprinting, of any Contractor officers, employees, or agents who will have unsupervised contact with students. Contractor shall cause its employees and/or subcontractors, if any, to authorize the District to conduct these background checks.

- b) Contractor shall pay all fees assessed by the Oregon Department of Education for processing the background check. District may deduct the cost of such fees from a progress or final payment to Contractor under this Contract, unless Contractor elects to pay such fees directly.
- c) After completion of the criminal background check, Contractor will be provided with a District badge.
- d) Contractor must wear the badge provided by the District while on District property or in the presence of District students.

**V. CONFIDENTIALITY; FERPA REDISCLOSURE**

**Family Education Rights and Privacy Act (“FERPA”) prohibits the re-disclosure of confidential student information.** Contractor agrees to protect the confidentiality of student education records, including personally identifiable information found in education records, in compliance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) and its implementing regulations (34 C.F.R. Part 99), collectively “FERPA.” Contractor acknowledges that information disclosed to Contractor by District may include records that are subject to FERPA, and that to the extent this is the case, Contractor will be considered a “school official” as that term is used in FERPA. As such, the Contractor agrees that it will hold all information disclosed to it in strict confidence and will not use such information except as required to perform its obligations under this Contract. Contractor further agrees that it will not disclose or re-disclose any such information except (a) with the express written authorization of the District, or (b) as required by law but only to the extent permitted by law and only in the manner prescribed by law. If a Contractor receives a court order or subpoena seeking education records or information contained in education records, it shall immediately notify the District in writing. If Contractor re-discloses personally identifiable information from education records on behalf of District in response to an order or subpoena under 34 C.F.R. § 99.31(a)(9), Contractor must provide the notification required under 34 C.F.R. § 99.31(a)(9)(ii). District will assist the Contractor with complying with this notification requirement.

**W. SECURITY**

Any disclosure or removal of any District matter or property by Contractor shall be cause for immediate termination of this Contract. Contractor shall bear sole responsibility for any liability including, but not limited to attorney fees, resulting from any action or suit brought against District because of Contractor’s willful or negligent release of information, documents, or property contained in or on District property. District hereby deems all information, documents, and property contained in or on District property privileged and confidential.

**X. EMPLOYEE REMOVAL**

At District’s request, Contractor shall immediately remove any Contractor employee from all District properties in cases where the District in its sole discretion determines that removal of that employee is in the District’s best interests.

**Y. COMPLIANCE WITH APPLICABLE LAW**

For the services provided under this Contract, Contractor shall comply with all federal, state, and local laws applicable to public contracts and the work done under this Contract, and with all regulations and administrative rules established pursuant to those laws.

**Z. INDEMNIFICATION AND HOLD HARMLESS**

Contractor shall defend, indemnify, and hold th District, its officers, directors, employees, and agents harmless against all liabilities, losses, expenses, claims, actions, or judgments (including attorney fees) recovered or made against District for any damage, injury, or death to persons or damage to property caused by the negligent or intentional acts or omissions of Contractor, its officers, employees, agents, or subcontractors related to Contractor’s performance under this Contract. Contractor’s indemnification of District extends to conditions created by this Contract or based upon violation of any statute, ordinance, or regulation. This provision is in addition to any common law or statutory liability and indemnification rights available to the District. Contractor’s indemnification of District shall not apply to damage, injury, or death caused by the negligent actions of District, its officers, directors, employees, or agents. District must promptly notify Contractor in writing of any such claim or demand to indemnify and shall cooperate with Contractor in a reasonable manner to defend such claim.

**AA. WAIVER; SEVERABILITY**

Waiver of any default or breach under this Contract by District does not constitute a waiver of any subsequent default or a modification of any other provisions of this Contract. If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held invalid.

**BB. NON-DISCRIMINATION CLAUSE**

Both parties agree that no person shall be subject to unlawful discrimination based on race; national or ethnic origin; color; sex; religion; age; sexual orientation; gender expression or identity; pregnancy; marital status; familial status; economic status or source of income; mental or physical disability or perceived disability; or military service in programs, activities, services, benefits, or employment in connection with this contract. The parties further agree not to discriminate in their employment or personnel policies.

**CC. CONTROLLING LAW; VENUE**

The parties agree that Oregon law will govern any dispute related to this Contract and to conduct any litigation arising out of the Contract in courts located in Multnomah County, Oregon.

**DD. MERGER CLAUSE**

This Contract and the attached exhibits constitute the entire agreement between the parties. All understandings and agreements between the parties and representations by either party concerning this Contract are contained in this Contract. No waiver, consent, modification or change in the terms of this Contract shall bind either party unless in writing signed by both parties. Any written waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given.

**EE. INSURANCE**

During the term of this Contract, or such other time period provided herein, Contractor shall maintain in force at its own expense, each insurance coverage or policy noted below:

1. **INSURANCE COVERAGES** Contractor shall procure and maintain at its expense during the performance of the Contract and thereafter as required below the following insurance from one or more companies authorized to do business in the State of Oregon with a policyholder's rating of not less than A-IX in the most recent edition of Best's Rating Guide. Except as approved otherwise by the District in advance, such insurance shall protect against claims which arise out of or relate to all of the Contractor's services under the Contract, whether performed by the Contractor or a person or entity for which either of them may be responsible.
2. **WORKERS' COMPENSATION INSURANCE** with statutory limits covering all employees of Contractor who will be working on this contract.
3. **EMPLOYER'S LIABILITY INSURANCE** with a limit of not less than \$1,000,000 in the aggregate.
4. **COMMERCIAL GENERAL LIABILITY INSURANCE** applicable to all premises and operations, including Bodily Injury, Property Damage, Personal Injury, Contractual Liability, Abuse and Molestation, Independent Contractors, Broad Form Property Damage with limits of not less than \$1,000,000 in the aggregate.
5. **BUSINESS AUTOMOBILE LIABILITY INSURANCE** applicable to owned, non-owned and hired automobiles, with a limit of not less than \$1,000,000 combined single limit each accident.
6. **COMMERCIAL CYBER LIABILITY INSURANCE** with a limit of not less than \$1,000,000 per occurrence.
7. **DEDUCTIBLES** Contractor shall pay all deductibles on all policies.
8. **WAIVERS OF SUBROGATION RE LIABILITY INSURANCE** The Workers' Compensation and Employer's Liability policies shall be subject to a waiver of subrogation in favor of the District.
9. **CROSS-LIABILITY COVERAGES** The Commercial General Liability and Automobile Liability policies shall provide cross-liability coverage's as would be achieved under the standard International Organization of Standardization ("ISO") separations of insureds clause.
10. **ADDITIONAL INSUREDS** The Commercial General Liability, Automobile Liability and other policies required under this Contract shall name the RIVERDALE SCHOOL DISTRICT as additional insured. Such coverage provided to the additional insured's shall
  - a) be primary and noncontributory with respect to any insurance or self-insurance retention of the additional insured's, including but not limited to any Excess Liability coverage maintained by the additional insured's,
  - b) provide the same types and extents of coverage as the coverage provided to the primary insured, and shall not be limited to the "vicarious liability" of the additional insured's,
  - c) waive all rights of subrogation against the additional insured's,
  - d) cover all additional insured's that are a partnership or joint venture, if any, as "Named Insured's" as expressly stated in endorsements, and
  - e) be maintained for the duration of the Contract.

11. **CYBER SECURITY** District and Contractor acknowledge that it may be necessary to electronically transfer data regarding students, staff, and general business information to ensure Contractor is able to provide the services required by the Agreement. It is the expectation of the District that the Contractor has taken industry accepted and appropriate steps to ensure the security and confidentiality of electronic data. District is not responsible for any third-party injury(ies) and/or claim(s) that may arise in connection with Contractor's actions or inactions in this area.
12. **SEXUAL CONDUCT** The Contractor acknowledges that the District has adopted policy in response to Oregon legislation addressing sexual grooming behavior by school employees towards students and, therefore, does not tolerate any form of sexual conduct with students. It is the expectation of the District that Contractor will provide information regarding sexual conduct to all personnel, employees, affiliates, and agents of Contractor who may be interacting with students under the scope of the Agreement in support of the District's policy. This information may be obtained free of charge from the District's Human Resources Department.

## **VII. ATTACHMENTS**

- A. PROPOSER CERTIFICATIONS AND REPRESENTATIONS**
- B. INDEPENDENT CONTRACTOR CERTIFICATION**
- C. NON-CONFLICT OF INTEREST CERTIFICATION**
- D. REFERENCES**
- E. DISTRICT MAP**
- F. SCHOOL CALENDAR**