



BEARCATS -ORRICK-

Orrick R-XI School District

INVITATION TO BID

Notice is hereby given that the Orrick R-XI School District, Orrick, MO, requests written, sealed bids on the items specified on the attached sheet(s).

DATE: April 16, 2024

PROJECT NAME: Parking Lot Crack Sealing, Seal Coating, Striping, 2” Mill Patching & 4” Asphalt Base Repair

PROJECT LOCATION: Orrick R-XI School District
100 Kirkham St.
Orrick, Missouri 64077

PROJECT OWNER: Orrick R-XI School District (hereinafter “District”)
100 Kirkham St.
Orrick, Missouri 64077

SEALED BIDS MUST be labeled “Parking Lot Improvements” and received on or before **April 30,**

2024 at 3:00 PM CST at Orrick R-XI School District, Attention: Mr. Scott Guilkey,

Superintendent, 100 Kirkham Street, Orrick, Missouri 64077.

Faxed or emailed bids will not be accepted.

All bids must contain a signed copy of the Bid Form contained in this ITB.

All bid documents become public record once a contract has been executed.

All bids must be valid for a period of sixty (60) days from the opening of bids.

Copies of addenda, if any, shall be signed and attached to bid documents. Failure to provide any requested information may result in the rejection of your bid.

The District shall review bids, prepared in compliance with the Instructions to Bidders/Contractors issued by the District, and delivered as follows:

Calendar of Events

Tuesday, April 16, 2024: Bid Opening Date

Wednesday, April 17, 2024 - Friday, April 26, 2024: Opportunity to Arrange for On-Site Walk-Through

Friday, April 26, 2024: Question Deadline

Tuesday, April 30, 2024: Submittal of Bid Deadline

Wednesday, May 1, 2024: Recommendation to Board for

Approval Thursday, May 2, 2024: Vendor Award Notification

Bids will be thereafter publicly opened and read aloud. The District reserves the right to reject any and all bids and to waive minor informalities and irregularities. The District will review bids and make a determination and selection of the lowest responsible bidder. Any bidder may withdraw his bid prior to the scheduled closing time for receipt of bids.

AWARD OF CONTRACT

The District reserves the right to reject any and all bids, waive any and all informalities, and disregard all non-conforming or conditional bids or counter proposals. No bids shall be entertained by the District which are not made in accordance with the specifications furnished by the District and all contracts shall be let to the lowest responsible bidder complying with the terms of the letting, provided that the District shall have the right to reject any and all bids. The District reserves the right to declare deviations from the terms of the letting as minor, and to waive the same, in its sole and absolute discretion. Selection of the lowest responsible bidder shall in no way constitute the creation of a contract between the District and the selected bidder. The selected bidder must enter into a formal contract with the District upon selection, as explained more fully below.

BOND

All contracts exceeding \$50,000 shall have a Performance and Payment Bond . A Performance Bond and a Material and Labor Payment Bond each in amounts equal to one hundred percent (100%) of the Bid shall be furnished by the successful Bidder. Such bonds shall be issued by sureties authorized to do business in the State of Missouri, and made payable to Orrick R.

COMPLIANCE WITH STANDARDS AND LAWS

All bidders are subject to and must comply with applicable state and federal anti-discrimination laws.

The successful Bidder shall enter into a contract with the District that, to the fullest extent not prohibited by law, requires the Bidder to indemnify, defend, and hold harmless the District, its Board of Education, officers, agents, and employees from and against all claims, damages, losses

and expenses (including but not limited to attorney's fees) arising by reason of any act or failure to act, negligent or otherwise, of Bidder, of any subcontractor (meaning anyone, including but not limited to consultants having a contract with Bidder or a subcontractor for a part of the services), or of anyone directly or indirectly employed by Bidder or by any subcontractor, or of anyone for whose acts the Bidder or its subcontractor may be liable, in connection with completing the project. The successful Bidder shall not, however, be required to indemnify, hold harmless or defend the District from the District's own negligence.

The District will not agree to indemnify, defend, or hold harmless any contractor in any manner.

The successful Bidder will agree to perform work on District property in compliance with all District-wide policies and applicable local, state, and federal laws, regulations, and codes. Bidders shall ensure work complies with all codes in place at the time of final completion.

WAGE RATES

General

To the extent that the bid submitted by the Bidder is above \$75,000, or if the cost of the work exceeds \$75,000 during completion of the project, the contract with the successful bidder shall require and be based upon payment by the Bidder and any subcontractors of wage rates not less than the prevailing hourly wage rate or public works contracting minimum wage for each craft or classification of worker engaged on the work as determined by the Labor & Industrial Relations Commission of Missouri on behalf of the Division of Labor Standards.

SPECIAL CONDITIONS

The District will not conduct business with entities providing products or services to the District for more than one (1) day unless the contract includes a provision that prohibits the business from utilizing an employee on District's property who is a registered sex offender. The District will also require business entities to require subcontractors to agree to the same condition. The District requires that all vendors working in the District have on file with the District background checks for employees or subcontract employees who will be working unescorted on/in any District campus and/or buildings. The following types of background checks required are:

- Missouri Child Abuse or Neglect/Criminal Record Check;
- Missouri State Highway Patrol Criminal Record Check.

Upon entering into a contract, the contractor will be required to submit background checks for all employees who will be working unescorted on/in any District campus and/or building. All background checks are required to be on file prior to authorization to proceed. All background check documentation shall be delivered to Mr. Scott Guilkey, Superintendent, 100 Kirkham Street, Orrick, Missouri 64077.. The District shall have the sole and unlimited discretion in determining if any background check received is unsatisfactory.

It shall be the responsibility of the contractor to ensure all their staff and their subs are in compliance with District access security requirements.

All work shall meet or exceed the American with Disabilities Guidelines.

Federal Work Authorization: All bidders must provide a sworn affidavit and supporting documentation that affirms the bidder's participation in E-Verify, a federal work authorization program, or any other equivalent electronic verification of work authorization program operated by the United States Department of Homeland Security under the Immigration Reform and Control Act of 1986 (IRCA) as well as an affidavit that the bidder does not knowingly employ any person who is an unauthorized alien in conjunction with the contracted services.

PRE-BID INFORMATION

Prior to submitting a bid, bidders are required to visit the site, familiarize themselves with the conditions and actual quantities that are to be installed, and gather all other information necessary to complete the project in its entirety. An opportunity for a pre-bid walk through will be scheduled upon request.

Interested contractors shall meet with the Director of Maintenance, Kyle Moyer.

All prospective bidders are encouraged to attend. The successful bidder shall not be allowed any extra compensation by reason of any matter concerning which the bidder might have fully informed him/herself because of his or her failure to do so prior to the opening of the bids. The successful contractor must employ, so far as possible, such methods and means in the carrying out of the work as will not cause any interruption or interference with any other contractors and/or District operations.

All Missouri sales taxes which might lawfully be assessed against the District are to be paid by the District and shall not be included in the proposal cost.

Bids must state whether Bidder has any professional, business, or familial relationship with any current member of the Board of Education of the District or with any administrator of the District.

TIME OF COMPLETION

Successful bidders shall begin work upon receipt of Notice to proceed and to complete the work by August 2, 2024 . The District may assess liquidated damages in the amount of \$100.00 per day for work not completed as agreed upon in a contract.

BIDDER'S QUALIFICATIONS

Bidders must be properly licensed under the state laws governing their respective trades. A Performance Bond, separate Labor and Material Payment Bond, and Insurance in a form acceptable to the District will be required of the successful Bidder.

Submission of a bid shall serve as evidence that the Bidder has confirmed that the Bidder is properly qualified to perform the work and is capable of obtaining the required bonds and insurance. Bidders shall, if requested, submit evidence in affidavit form of applicable experience,

licensure, approvals, and certifications, adequate financial resources, work in hand capacity, adequate organization, and acceptable past performance.

Definitions

- A. Bidding Documents include the Bidding Requirements and the proposed Contract Documents. The Bidding Documents consist of the Invitation to Bid, Instructions to Bidders, the Scope of the Project, and other sample Bidding and Contract forms. The Contract Documents consist of the Form of Agreement between Owner and Contractor, Drawings, Specifications, and all Addenda issued prior to execution of the Subcontract.
- B. Definitions set forth in the Contract Documents are applicable to the Bidding Documents.
- C. The Contract is the Agreement between the Owner and Contractor for the performance of work by a Contractor.
- D. The Work is the work to be performed or materials and equipment to be supplied under the scope of work of a Contract.
- E. Addenda are written or graphic instruments issued prior to the execution of the Contract which modify or interpret the Bidding Documents by additions, deletions, clarifications, or corrections.
- F. A Bid is a complete and properly signed proposal to do the Work for the sums stipulated therein, submitted in accordance with the Bidding Documents.
- G. The Base Bid is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents as the base, to which Work may be added or deleted for sums stated in Alternate Bids and Unit Prices.
- H. An Alternate Bid (or Alternate) is an amount stated in the Bid to be added to or deducted from the amount of the Base Bid if the corresponding change in the Work, as described in the Bidding Documents and the Specifications, is accepted.
- I. A Unit Price is an amount stated in the Bid as a price per unit of measurement for materials, equipment, or labor, as described in the Bidding Documents.
- J. A Bidder is a person or entity who submits a Bid.
- K. A Sub-Bidder is a person or entity who submits a Bid to a Bidder for materials or labor for a portion of the Work.

Bidder's Representations

Each Bidder by making his Bid represents that:

1. The Bidder has read and understands the Bidding Documents and his Bid is made in accordance therewith.

2. The Bidder has visited the site, has familiarized himself with the local conditions under which the work is to be performed, and has correlated his observation with the requirements of the proposed Contract Documents.
3. The Bid is based upon the materials, systems, and equipment required by the Bidding Documents without exception.
4. The Bidder will not later request, and will not later expect to receive, additional payment for work related to conditions which can be determined by examination of the site and the Bidding Documents.

Bidders and Sub-Bidders shall promptly notify the Owner of any ambiguity, inconsistency, or error which they may discover upon examination of the Bidding Documents or of the site and local conditions.

All interpretations, corrections, or changes of the Bidding documents will be made by Addendum. Interpretations, corrections, or changes made in any other manner will not be binding and Bidders shall not rely upon them.

Bidding Documents

Bidding Documents will be distributed by the Owner only. Bidders shall use complete sets of Bidding Documents in preparing Bids; the Owner does not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents. Bidders must use the bid form provided in the specifications. Bid forms must be completed in full. The Owner, in making copies of the Bidding Documents available on the above terms does so only for the purpose of obtaining Bids on the work and does not confer a license or grant for any other use.

Interpretations and Substitutions

- A. Bidders and Sub-Bidders requiring clarification or interpretation of the Bidding Documents shall make a written request which must reach the Owner at least two (2) business days prior to the date for receipt of Bids. All questions are to be addressed to Dr. Aerin O'Dell, superintendent.
- B. Reference in the specifications to any product, material, type, or form of construction establish a minimum standard of quality, spare parts availability, strength, durability, usefulness, serviceability, operating cost, convenience and purpose intended and shall not be construed as limiting competition. Reference to standard specifications for basic materials shall not be modified for any substitutions proposed. Proposed substitutions shall be submitted by the Bidder to the Owner in writing no later than five (5) business days prior to Bid Date. The submittal shall clearly describe the substitution for which approval is requested, including all drawings and data necessary to demonstrate acceptability. A statement setting forth the changes in other materials, equipment, or other portions of Work, including changes in the work of other contracts that incorporation of the proposed substitution would require shall be included in the submittal. The burden of proof of the merit of the proposed substitution is on the Bidder. All acceptable substitutions will be approved in Addenda prior to Bid Date. Bidders shall not rely upon approval made in any other manner.

Requests for substitutions other than as qualified above will not be considered.

C. No substitutions will be allowed subsequent to the award of a Contract except as specifically provided in the General Requirements.

Addenda

- A. Notice of Addenda will be emailed or faxed to all who are known to have received a complete set of Bidding Documents.
- B. No Addenda will be issued later than one (1) calendar day prior to the date for receipt of Bids except an Addendum withdrawing the request for Bids or one which includes postponement of the date for receipt of Bids.
- C. Each Bidder shall ascertain, prior to submitting his Bid, that he has received all Addenda issued and shall acknowledge their receipt on the Bid.
- D. Copies of Addenda will be made available for inspection wherever Bidding Documents are on file for that purpose.

Form and Style of Bids

- A. Bids must be submitted on bid forms included in the contract documents. All requested information shall be filled out on the respective bid forms. Should a line item not apply for a particular bid, contractors are asked to put an "NA" on such lines.
- B. Bid proposals shall be delivered to Orrick R-XI School District, Attention: Mr. Scott Guilkey, Superintendent, 100 Kirkham Street, Orrick, Missouri 64077 in a sealed envelope by 3:00 P.M. CST on April 29, 2024. A Sealed envelope shall indicate company name and bid project name for which they are submitted. Contractors submitting bids for multiple bid packages shall submit a different sealed envelope per bid package.
- C. A Bid shall state the total lump sum price to do all Work described in the Bidding Documents under a single contract. Dollar amounts shall be stated in both words and figures and in case of discrepancy between the two, the amount written in words shall govern.
- D. Bidder shall bid all Alternate and Unit Prices requested in the Bidding Documents. The bid for Alternate and Unit Prices described in the Bidding Documents shall include all overhead, profit, and the cost of all changes required from the Base Bid conditions in order to incorporate such Work.
- E. Each Bid shall be executed and signed (with name and title typed below the signature) by and in the name of the Bidder.

Modification or Withdrawal of Bid

Bids may not be withdrawn, modified, or canceled for a period of thirty (30) calendar days following time and date finally designated for the receipt of Bids. Prior to the time and date finally designated for receipt of Bids, any Bid submitted may be modified or withdrawn by notice to the Contractor at the place designated for receipt of Bids. Such notice shall be in writing over the signature of the Bidder.

Miscellaneous Instruction to Bidders

Wage Order

Contractor shall comply with wage order requirements. Should any overtime be worked notification to the Owner will be required and will be strictly enforced. Overtime requirements for each wage order vary and will be handled on a case by case basis.

Unit Prices

All unit prices stated on the Bid by the Bidder are prices per unit of measurement for materials or services that will be added to or deducted from the Contract Sum by Change Order if quantities of work required are increased or decreased. All unit prices shall include necessary material, labor, equipment, overhead, profit, supervision, permits, and fees.

Alternates

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division-1 Sections, apply to Alternates.
- B. Bidders shall submit on the Bid the amount to furnish and install the Alternates as detailed on Drawings and Specifications, and as herein described.
- C. The Bidder shall be responsible for all trades, materials, and workmanship involved in the Alternates to the same extent as though they were specified in the Base Bid.
- D. Alternates which are accepted that affect other alternates will be negotiated with the Bidder after taking bids.
- E. The Owner shall have the right to exercise or reinstate any alternate any time within 60 days after the signing of the Contract at the prices quoted on the Bid.

Consideration of Bids and Subcontract Award

- A. Bids will not be accepted after the actual time and date established for receipt of Bids. Bidders shall assume full responsibility for timely delivery at the location designated for receipt of Bids.
- B. Owner shall have the right to reject any or all Bids and further to waive all informalities in bidding when deemed in the Owner's best interest.
- C. In awarding a Contract, the Owner may take into consideration the Bidder's skill, facilities, capacity, experience, responsibility, previous work record, and financial standing and the necessity of prompt and efficient completion of work herein described. Inability of any Bidder to meet the requirements mentioned above may be cause for rejection of the Bid.
- D. Bids shall not be withdrawn for a period of thirty (30) calendar days immediately following the actual date of Bid opening.
- E. Bidders to whom a Contract is awarded shall execute a Contract with the Owner within seven (7) days after written notice of the award.

- F. It is the intent of the Owner to award a Contract to the lowest responsible Bidder, provided the Bid has been submitted in accordance with the requirements of the Bidding Documents and does not exceed the funds available. The Owner shall have the right to waive informalities or irregularities in a Bid received and to accept the Bid which, in the Owner's judgment, is in the Owner's best interest.
- G. The Owner may interview the apparent low Bidders before Contracts are awarded. The interview will be to ask the Bidder questions about materials, labor, duration, scope of work, or the Subcontract Documents.
- H. The Owner shall have the right to accept Alternates in any order or combination, unless otherwise specifically provided for in the Bidding Documents, and to determine the low Bidder on the basis of the sum of the Base Bid and the Alternates accepted.
- I. A responsible vendor is one who, in the opinion of the District, possesses the skill, experience, ability, integrity and financial and other resources necessary for providing the equipment. In evaluating a Vendor's responsibility, or in evaluating any aspect of the Bid, the District may consider previous dealings with the District, references from the Vendor's customers, inspections of other equipment supplied by the vendor, and may use other information the district obtains regarding the Vendor or that the District deems relevant.

Submittals

- A. The Bidder shall, within seven (7) calendar days of notification of selection for the award of a Contract for the work, submit the following information to the Owner:
1. A designation of the Work to be performed by the Bidder with his own forces.
 2. The proprietary names and suppliers of principal items or systems of materials and equipment proposed for the Work.
 3. A list of names of the subcontractors or other persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for the principal portions of the Work.
- B. The Bidder will be required to establish to the satisfaction of the Owner the reliability and responsibility of the persons or entities proposed to furnish and perform the Work described in the Bidding Documents.
- C. Prior to the award of a Contract, the Owner will notify the Bidder in writing if the Owner, after due investigation, has reasonable objection to a person or entity proposed by the Bidder. If the Owner has reasonable objections to a proposed person or entity, the Bidder may, at the Bidder's option:
1. Withdraw the Bid; or
 2. Submit an acceptable substitute person or entity with an adjustment in the Base Bid or Alternate Bid to cover the difference in cost occasioned by such substitution.

The Owner may accept the adjusted Bid price or disqualify the Bidder. In the event of either withdrawal or disqualification, Bid security will not be forfeited.

Persons and entities proposed by the Bidder and to whom the Owner has made no reasonable objection must be used on the Work for which they were proposed and shall not be changed except with the written consent of the Owner.

Post Bid Information

- A. The Owner will prepare and forward two (2) original drafts of the Owner/ Contractor Agreement with the notice of award of Contractor to the successful Bidder. Bidder shall return properly executed drafts of the Contract, together with required evidence of insurance, and Performance and Payment Bonds, if required, to the Owner within seven (7) calendar days.
- B. Not less than the prevailing hourly rate of wages, as set out in the wage order attached to and made part of the specification for work under the contract, must be paid to all workers performing work under the contract. The contractor will forfeit a penalty to the contracting public body of \$100 per day (or portion of a day) for each worker that is paid less than the prevailing rate for any work under the contract by the contract (for state wage rates). The contractor shall also be responsible for any penalties for failing to comply with federal wage rates.
- C. All contractors must require all on-site employees to complete the ten-hour safety training program required under Section 292.675, RSMo, if they have not previously completed the program and have documentation of having done so. Contractors will forfeit a penalty to the contracting public body of \$2500 plus an additional \$100 for each employee employed by the contractor or subcontractor, for each calendar day, or portion thereof, such employee is employed without the required training.
- D. Every transient employer, as defined in section 285.230, RSMo, enclosed in the laws section, must post in a prominent and easily accessible place at the work site a clearly legible copy of the following; (1) The notice of registration for employer withholding issued to such transient employer by the director of revenue; (2) Proof of coverage for workers' compensation insurance or self-insurance signed by the transient employee and verified by the department of revenue through the records of the division of workers' compensation; and (3) The notice of registration for unemployment insurance issued to such transient employer by the division of employment security. Any transient employer failing to comply with these requirements shall, under section 285.234 RSMo, enclosed in the laws section, be liable for penalty of \$500 per day until the notices required by this section are posted as required by that statute.
- E. Pursuant to Missouri Revised Statute 285.530, Contractor shall provide to District sworn affidavit or other sufficient documentation to affirm its enrollment and participation in E-Verify.
- F. Contractors may be required, following award, to provide further cost breakdowns as required for accounting purposes. This information shall be used by the owner for documentation associated with various funding mechanisms.

Timeline Completion/Schedule

It is anticipated that the Work could begin on May 23, 2024.

The Work should be substantially complete by July 31, 2024.

Site Investigations & Conditions Affecting Work

The Contractor acknowledges that before it submits a proposal for specific work under this contract, that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has

investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to (1) conditions bearing upon transportation, disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and roads; (3) uncertainties of weather, river stages, tides, or similar physical conditions at the site; (4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Orrick School District as well as from any drawings and specifications provided at the time of the proposal being requested for a specific project. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Orrick School District. The District assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the District. Nor does the District assume responsibility for any understanding reached or representation made concerning conditions, which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

Insurance

The Contractor shall purchase and maintain, at his expense, insurance of such types, and in such amounts as are specified in this announcement, to protect District and contractor from claims which may arise out of result from the contractor's operations under the contract documents, whether such operations be by the contractor or by any subcontractor or for anyone whose acts contractor or any subcontractor may be legally liable. Such insurance shall cover claims for damages because of bodily injury or death to the contractor's employees including claims brought under:

- Worker's Compensation Laws
- Disability Benefit Laws
- Disability Sickness or Disease Laws
- Other similar employee benefit laws

Such insurance shall cover claims for damages because of Personal Injury, Bodily Injury, Sickness, Disease or Death of any person or persons other than contractor's employees, and claims arising out of destruction of property, including loss of use thereof.

Contractor must also carry liability insurance naming Orrick R-XI School District as "additional Named Insured" with a \$1,000,000 umbrella. Failure of the contractor to maintain proper insurance coverage will not relieve contractor of any contractual responsibility or obligations. If part of the work is to be subcontracted, the contractor shall either cover any and all subcontractors in contractor's insurance policy or require each subcontractor not so covered, to obtain insurance of same type and with the same limits as the contractor is required to carry. Any payment of an insured loss under policies of property insurance, including but not limited to, the insurance required shall be made payable to the Orrick R-XI School District.

Certificate of Insurance shall be provided and become effective upon execution of the contract.

Additional Equipment and Change Orders

- A. The Contractor will not be compensated for Equipment that is not required by the Contract and that is performed without the prior written approval of the District.

B. A request by the Contractor for a change order shall be submitted to the District in writing and must be approved by the District in writing before the Contractor proceeds with the Equipment that is the subject of the change order.

Safety of Persons and Property

The Contractor shall take all reasonably necessary steps to provide for the safety of and prevent damage, injury or loss to:

1. all persons;
2. the District's building(s) and all other real or personal property at or adjacent to the work site; and
3. the Equipment and all associated materials and equipment, under the care, custody or control of the Contractor or any of its employees, agents, representatives or subcontractors whether in storage on or off the site.

Termination

Subject to the provisions below, any contract derived from this ITB may be terminated by either party upon thirty (30) days advance written notice to the other party; but if any work or service hereunder is in progress, but not completed as of the date of termination, then said contract may be extended upon written approval of the District until said work or services are completed and accepted.

Termination for Convenience:

In the event that the contract is terminated or cancelled upon request and for the convenience of the District, without the required 30 days advance written notice, the District shall negotiate reasonable termination costs, if applicable.

Termination for Cause:

Termination by the District for cause, default or negligence on the part of the contractor shall be excluded from the foregoing provision; termination costs, if any, shall not apply. The 30 days advance notice requirement is waived in the event of Termination for Cause.

Termination Due to Unavailability of Funds:

When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, the contract shall be cancelled and the contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under the contract.

Law Governing

All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Missouri. Venue of any litigation arising out of any contract derived from this ITB shall be in the courts of Ray County, Missouri.

SPECIFICATIONS & SCOPE OF WORK

The scope of work for the Project shall include, but is not limited to, the following:

- Crack Sealing
 - Clean vegetation and debris from cracks using wire brooms and mechanical forced air blowers. All debris to be removed from job site. Seal cracks 1/4 inch or greater NOT ASSOCIATED WITH ALLIGATORED AREAS using hot rubberized crack sealant meeting ASTM D-3405. Curb joints are excluded unless otherwise noted.
- Seal Coating: 2-Coat Spray Application
 - Areas of excessive oil buildup will be scraped and Tarloc MPC primer will be brush applied to area to help promote adhesion of seal coat material. The entire parking area will be thoroughly cleaned using wire brooms and mechanical forced air blowers. All debris to be removed from job site. Apply two coats of Seal Master Ultra Coal Tar emulsion reinforced with two pounds of silica sand per gallon.
- Striping
 - Surface area to be striped will be free of all loose debris. Apply federal-specified striping paint to parking area. Paint will be applied by an airless striping machine to ensure crisp, neat lines without over spray. All stenciling and markings will be applied per the existing layout unless otherwise notified ahead of time by owner.
- 2" Mill Patching
 - Mill failed surface to depth of two (2) inches. Clean areas of all loose debris upon completion of milling. Apply SS-1H tack oil to promote proper bonding of the new asphalt. Install two (2) inches of hot mix and roll for compaction. Finish roll upon completion of asphalt installation.
- 4" Asphalt Base Repair
 - Remove failed asphalt in designated area to a depth of 4 inches. Compact existing base to provide sound base for new asphalt. Install 4 inches hot mix asphalt in lifts, thoroughly compacting each lift upon installation. Finish roll the final lift. Clean area upon completion of all loose debris and dust.

Area A: Elementary Parking Lot (shown in pink)

Approximate SY = 4,067

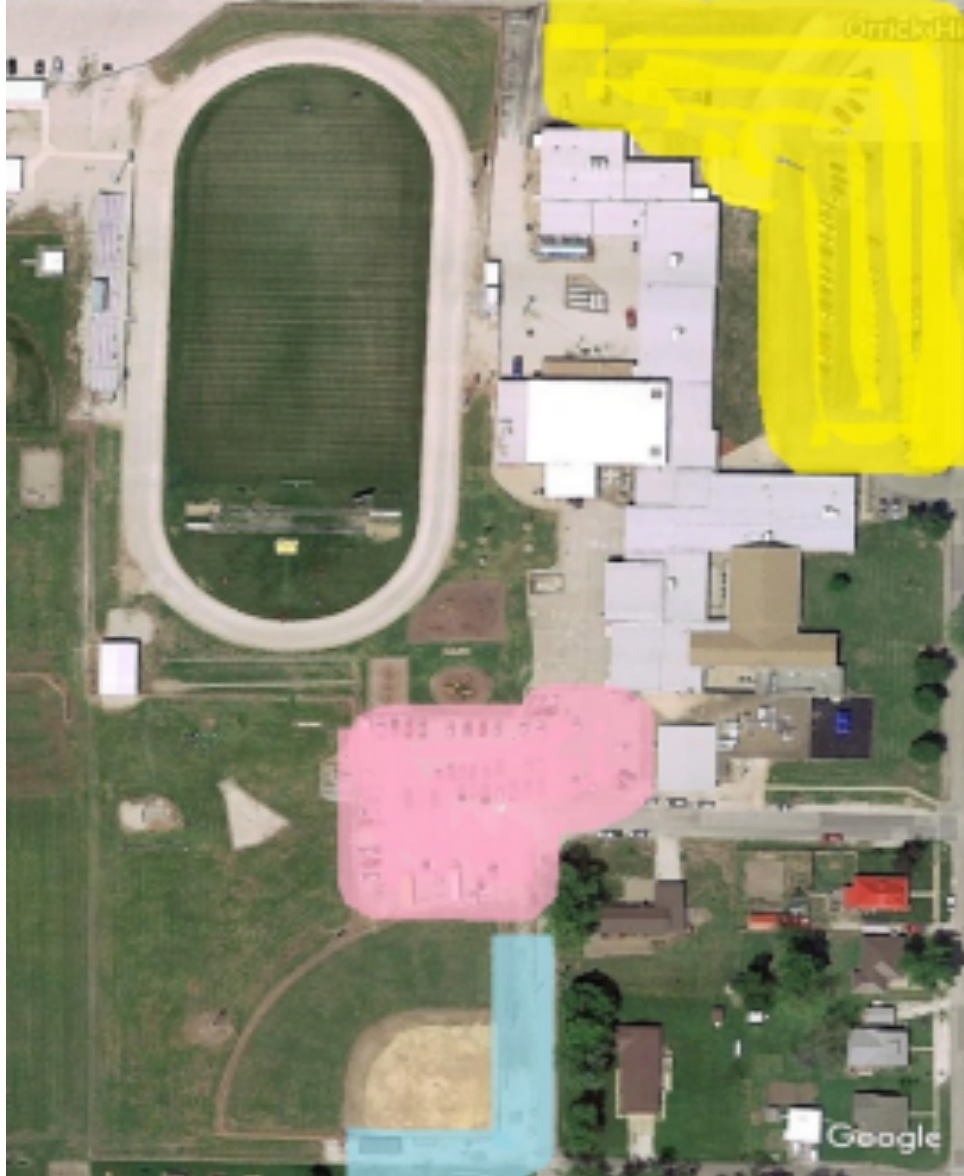
Area B: High School Parking Lot (shown in yellow)

Approximate SY = 9,583

Area C: Asphalted areas of Softball Field complex (shown in blue)

Approximate SY = 1,100

North



South

To the extent that the Specifications call for specific materials manufactured by specific providers, bidders may submit bids which include alternate materials manufactured by providers not named, only to the extent that such alternate materials and alternate providers are comparable, in the Board's discretion, and each bid must specify the alternate materials/providers proposed within the submitted bid response.

Preference will be given to making District purchases to all commodities manufactured, mined, produced, or grown within the state of Missouri and to all firms, corporations, or individuals doing business as Missouri firms, corporations, or individuals when quality and price are approximately the same.

CONTRACT NEGOTIATIONS

By submitting a bid, each bidder acknowledges and agrees that the Board's selection of their firm shall in no way create a valid or binding contract between the firm and the District. Any firm submitting a bid agrees, by submitting a bid, that these Instructions for Bidders/Contractors shall be made an exhibit to and incorporated into the final contract between the firm and the District. Any firm submitting a bid further agrees that the final contract between the submitting firm and the District shall be in substantially the same form as the one attached hereto as Exhibit A. The submitting firm further agrees that it will make no attempt to change, delete or otherwise modify these contractual terms through the firm's submittal or after selection of the firm as the lowest responsible bidder, and further agrees that any attempt to do so shall be grounds for the District to reject the firm's bid or otherwise cease negotiations with the selected firm and select the next lowest bid.

END OF DOCUMENT

BID RESPONSE FORM

The undersigned agrees and understands:

That the District has the right to reject any and all bids, to waive technicalities or other requirements for its benefits, and to accept the bid as genuine and is not made in the interest of or on behalf of any undisclosed person, firm or corporation, and is not submitted in conformity with any agreement or rule of any group, association, or corporation;

That there has been no attempt on their part to directly or indirectly induce or solicit any other vendor to submit a false or sham bid;

That there has been no attempt on their part to solicit or induce any person, firm or corporation to refrain from submitting a bid;

That the undersigned, if selected as the lowest responsible bidder, will enter into a contract in substantially the same form as the one attached to the ITB as Exhibit A, and failure to do so or any attempt to modify the terms of said contract shall be grounds for the District to reject the bid;

And that they have not sought by collusion or otherwise to obtain for themselves any advantage over any other bidder or over the District.

Materials provided during this process cannot be guaranteed to be held in confidentiality due to Missouri Sunshine laws.

Signature _____

Print Name _____

Bidding Company Name _____

Mailing Address _____

Phone _____

Email _____

Date _____

Total cost for all areas as described in the Specifications & Scope of Work: \$ _____

FEDERAL WORK AUTHORIZATION PROGRAM AFFIDAVIT

I, _____, being of legal age and having been duly sworn upon my oath, state the following facts are true:

1. I am over twenty-one years of age; and know of the matters set forth.
2. I am employed by _____ (“Company”) and have authority to issue this affidavit on its behalf.
3. Company is enrolled in and participating in the United States E-Verify federal work authorization program regarding Company’s employees working in connection with the services Company is providing to, or will provide to, the District, to the extent allowed by E-Verify.
4. Company does not knowingly employ any person who is an unauthorized alien in connection with the services the Company is providing to, or will provide to, the District.

FURTHER AFFIANT SAYETH NOT.

By: _____

(individual signature)

For: _____

(company name)

Title: _____

Subscribed and sworn to before me on this ____ day of _____, 2021.

My commission expires: _____

NOTARY PUBLIC

EXHIBIT A

CONSTRUCTION AGREEMENT

This Agreement is entered into this [redacted] day of [redacted], 2024 by and between the Orrick R-XI School District (hereinafter referred to as “District”), and [redacted] (hereinafter referred to as “Contractor”).

WHEREAS, on [redacted], the District issued an Invitation to Bid on a project involving [redacted];

WHEREAS, on [redacted], Contractor submitted a bid in response to the District’s Invitation to Bid;

WHEREAS, the District has determined that Contractor was the lowest responsible bidder that responded to the District’s Invitation to Bid;

WHEREAS, the District and Contractor desire that Contractor provide labor, materials and equipment for the project as set forth herein, and the parties further desire to set forth the terms and conditions of their Agreement in writing.

NOW, THEREFORE, in consideration of these agreements and certain covenants contained herein and other valuable consideration, the sufficiency of which is hereby acknowledged, the District and Contractor agree as follows:

1.0 Scope of Work.

Contractor shall complete the project and provide all labor, materials, and equipment necessary for completion of the project. The scope of work for the project shall consist of [redacted], and includes all work necessary and identified in the Specifications & Scope of Work (hereinafter referred to as the “Specifications”), which are incorporated and made part of this Agreement by this reference as if fully stated herein. The scope of work shall be performed in accordance with this Agreement and the Attachments incorporated into this Agreement and attached hereto. The project shall be referred to throughout the remainder of this Agreement as the “Work”. All Work under this Agreement shall be done by Contractor in compliance with all applicable local, county, state, and federal laws, codes, ordinances, and regulations, and shall also comply with [redacted]. In the event of any inconsistency or conflict between provisions of this Agreement and the provisions of the Specifications or any documents referenced and attached hereto, then at the option of the District, the stricter shall prevail and control.

2.0 Completion of Work.

Work shall commence no later than **June 24, 2024**. All time limits are of the essence of the Agreement. Contractor shall diligently continue Work under this Agreement to achieve final completion of the entire Work not later than **July 31, 2024**. In the event that Work is not completed by this time, the parties agree that this will cause serious and substantial damages to the District, and it will be difficult, if not impossible to prove the amount of such damages. Contractor therefore agrees to pay to the District as liquidated damages for such delay the sum of [redacted] dollars and zero cents (\$ [redacted].00) per day until the Work is complete, subject to an event of Force Majeure as set forth below. This sum is agreed upon as

liquidated damages and not as a penalty. The parties hereto have computed, estimated and agreed upon the sum as an attempt to make a reasonable forecast of probable actual loss because of the difficulty of estimating with exactness the damages that will result.

3.0 Payment.

The District shall pay the Contractor a lump sum amount (hereinafter referred to as "Payment") not to exceed [REDACTED] dollars and [REDACTED] cents (\$ [REDACTED]) to complete the Work.

Contractor shall invoice the District for payment as the Work progresses. Invoices for payment shall be submitted by Contractor to the District for processing. With each invoice for payment, Contractor will submit the following:

- All applicable lien waivers in the same or substantially the same form as that attached to this Agreement;
- Contractor's Affidavit of Release of Liens;
- A Work Completion Report;
- A complete list of all employees and subcontractors' employees performing the Work during that period of time;
- Complete copies of its records for that period of time reflecting payment of material suppliers, subcontractors and employees; and,
- An Affidavit of Compliance with the Prevailing Wage Law.

Provided any invoice and all other required documents are received by the District not later than the [REDACTED] of the month and if the Work is completed in accordance with all of the terms of this Agreement and the Attachments, the District shall make payment to Contractor not later than the [REDACTED] of the same month. If the invoice and all other required documents are received in original signed form by the District after the date affixed above, payment shall be made by the District not later than the [REDACTED] of the month following that in which the documents are received.

All original pay applications and invoices shall be mailed to [REDACTED].

4.0 Retainage.

Prior to final payment, any payments owed to Contractor by the District for portions of the Work completed will be reduced by five percent (5%) as retainage. Payments and retainage shall be calculated as follows: that portion of the total Payment amount under this Agreement that is properly allocable to complete Work, as determined by multiplying the percentage completion of each portion of the Work by the share of the total Payment amount under this Agreement allocated to that portion of the Work, less retainage of five percent (5%).

5.0 Final Payment.

Pending final determination of cost to the District of changes in the Work, amounts not in dispute shall be included as provided. Final acceptance of the total scope of Work shall be approved by the District. Contractor shall submit an invoice for final payment upon final acceptance of the Work by the District. Such invoice shall include all the requirements for other invoices as required by this Agreement, as well as Final Lien Waivers and all other documentation required under this Agreement. **All provisions and**

requirements in this Agreement and the Attachments must be completed, met, and/or fulfilled prior to final payment.

6.0 Insurance.

Contractor shall acquire and maintain for the duration of this Agreement, the insurance described below in a form acceptable to the District. A certificate of insurance which names the District as an additional insured per the requirements described below is to be furnished at the time of execution of this Agreement and prior to the Work proceeding under this Agreement. Purchase of any insurance required by this Agreement shall not constitute a waiver of the District's sovereign or governmental immunity. Umbrella Coverage sufficient to meet collective requirements is acceptable.

A. Worker's Compensation Insurance:

Contractor shall take out and maintain during the life of this Agreement, employer's liability and worker's compensation insurance for all of Contractor's employees employed at the site of the Work, and in case any Work is sublet, Contractor shall require the subcontractor similarly to provide worker's compensation insurance for all of the latter's employees unless such employees are covered by the protection afforded by Contractor. In case any class of employees engage in hazardous work under this Agreement at the site of the Work and are not protected under Missouri's worker's compensation statutes, Contractor shall provide and shall cause each subcontractor to provide employer's liability insurance for the protection of their employees not otherwise protected. The Contractor is to maintain and provide the District a copy of proof of Worker's Compensation Insurance. Employer's liability limits shall at all times be not less than those amounts required by Missouri's worker's compensation statutes.

B. Public Liability and Property Damage Insurance:

The Contractor shall take out and maintain during the life of this Agreement, such public liability and property damage insurance as shall protect them and any subcontractor performing Work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from operations under this Agreement, whether such operations be by themselves or by any subcontractor or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall have policy limits that are no less than the maximum legal liability limits set forth in § 537.610, RSMo., and shall include the following types of policies:

- Public Liability Insurance covering both bodily injury and property damage, including accidental death.
- Automobile Public Liability and Property Damage covering both bodily injury, including accidental death, and property damage, and applying to any and all claims arising from the use of the Contractor's own automobiles, teams and trucks; hired automobiles, teams and trucks; and automobiles both on and off the site of the Work.
- Owner's Contingent or Protective Liability and Property Damage, which shall protect the District against any and all claims which might arise as a result of the operations of the Contractor or its subcontractors in fulfilling the terms of this Agreement during the life of the Agreement. It is preferred that this policy include a provision for alleged assault and battery.

C. Proof of Insurance:

Contractor shall furnish the District with a certificate of insurance which names the District as an additional insured in amounts as required by this Agreement and requiring a thirty (30) day mandatory cancellation

notice. In addition, such insurance shall remain in effect until such time as the District has determined that the Agreement is complete.

7.0 No Waiver of Immunity.

The District preserves all immunities recognized at law. Nothing herein shall be construed as a waiver of Sovereign Immunity or Governmental Immunity by whatever name as set forth in common law, statutes, ordinances, regulations, the Missouri Constitution, and/or the United States Constitution, including but not limited to § 537.600 RSMo, et seq.

8.0 Warranty Documentation.

Contractor shall provide duplicate, notarized copies of all warranty documentation. Contractor shall also execute Contractor's submittals and assemble warranty documents executed by subcontractors, suppliers, and manufacturers, and assemble the same in a binder with a durable plastic cover and a table of contents. This binder shall be delivered by Contractor to the District prior to Contractor submitting an invoice for final payment. For warranty documentation related to equipment put into use with the District's permission during construction, Contractor shall submit the required warranty documentation to the District within 10 days of the equipment first operating. For warranty documentation related to items of the Work delayed materially beyond the completion date stated in this Agreement, Contractor shall submit the required warranty documentation to the District within ten (10) days after acceptance of the Work by the District, and will list the date of acceptance of the Work as the start of the warranty period.

9.0 Payment/Performance Bonds.

Contractor will provide to the District within one (1) week of the full execution of this Agreement a separate performance bond and statutory/public works payment bond, each in the sum of one hundred percent (100%) of the cost of the Work contemplated by this Agreement and the Attachments.

10.0 Force Majeure.

In the event either party is unable to carry out any of its obligations under this Agreement due to causes beyond its control, including, but not limited to, acts of God, governmental or judicial authority, insurrection, riots, material shortages, fires, explosions, floods, acts of terrorism, or other Force Majeure, this Agreement shall remain in effect but Contractor's obligation shall be suspended for a period equal to the disabling circumstances. However, in the event that Contractor is claiming an event of Force Majeure, Contractor must give the District prompt written notice describing the particulars of the Force Majeure, including but not limited to the nature of the occurrence and its expected duration, and must continue to furnish timely regular reports with respect thereto during the period of Force Majeure. Contractor agrees to use reasonable efforts to remedy its inability to perform during any period of Force Majeure. Contractor shall not be entitled to an adjustment in the amount paid under this Agreement or the time for performing the Work for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or supplier shall be deemed to be delays within the control of Contractor.

11.0 Representations of the Parties.

- A. Each party to this Agreement represents to the other that:
 - i. It has all requisite power, authority, licenses, permits, and franchises, corporate or otherwise, to execute and deliver this Agreement and performs its obligations hereunder;

ii. Its execution, delivery, and performance of this Agreement have been duly authorized, executed, and delivered for it by the signatory so authorized, and constitutes its legal, valid, and binding obligation;

iii. The persons executing this Agreement are fully authorized to do so; and

iv. It has not received any notice, nor to the best of its knowledge there is pending or threatened any notice of any violation of any applicable laws, ordinances, regulations, rules, decrees, awards, permits, or orders which would materially adversely affect its ability to perform hereunder.

B. Contractor's Representations:

i. Contractor has examined and carefully studied the Attachments and any other related data identified in the Attachments;

ii. Contractor has visited the site and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, and performance of the Work;

iii. Contractor is familiar with and is satisfied as to all federal, state, and local laws and regulations that may affect cost, progress, and performance of the Work;

iv. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Agreement price, within the Agreement times, and in accordance with the other terms and conditions of the Agreement and Attachments;

v. Contractor is aware of the general nature of the work to be performed by the District and others at the site that relates to the Work as indicated in the Agreement and the Attachments;

vi. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the site, reports and drawings identified in the Attachments, and all additional examinations, investigations, explorations, tests, studies, and data with the Attachments and this Agreement;

vii. The Agreement and the Attachments are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work;

viii. Contractor is responsible for verifying viability of any Plans or Specifications, and the District does not warrant that any such Plans or Specifications will be free from defect or error; and,

ix. Contractor warrants and guarantees to the District that all Work will be in accordance with the Agreement and the Attachments and will not be defective. Contractor's obligation to perform and complete the Work in accordance with the Agreement and the Attachments shall be absolute.

12.0 Relationship of the Parties.

Nothing in this Agreement shall be construed as reserving to the District any right to exercise any control over or to direct in any respect the conduct or management of business or operations of Contractor. The entire control or direction of such business and operation shall be in and shall remain in Contractor, subject only to Contractor's performance of its obligations under this Agreement. Neither Contractor nor any person performing any duties engaged in any Work on behalf of Contractor shall be deemed an employee or agent of the District.

13.0 Subcontractors.

Contractor shall provide the District with a list of all subcontractors Contractor intends to use on the project. The District shall have the right from time to time to require Contractor to furnish evidence that these subcontractors are being paid in a timely fashion for their Work.

14.0 Construction of Agreement.

This Agreement and the construction and enforceability thereof shall be under the laws of the state of Missouri. The venue for any action or proceeding between the parties in connection with this Agreement shall be in the County of Ray, State of Missouri.

15.0 Prevailing Wage.

The following provision shall only apply in the event that the Work is subject to Missouri's Prevailing Wage Law:

Contractor at all times agrees to comply with the provisions and requirements set out in Chapter 290, Sections 290.210 through and including 290.340, Revised Statutes of Missouri, pertaining to the payment of wages to workers employed on public work projects. Not less than the prevailing hourly rate of wages or the public works contracting minimum wage identified in the Wage Order attached hereto as an Attachment shall be paid by Contractor to each worker completing the Work under this Agreement. Contractor further agrees to comply with all requests for information regarding compliance with the Prevailing Wage Law, including but not limited to, the execution of an affidavit prepared by the Missouri Department of Labor and Industrial Relations, Division of Labor Standards pertaining to compliance with the Prevailing Wage Law.

While the Work is being performed, the Contractor and all subcontractors shall submit certified copies of their payrolls to the District with any invoice/pay application. Prior to payment of the retainage, the Contractor shall submit an affidavit to the District stating that it has fully complied with the Prevailing Wage Law.

The Contractor shall forfeit as a penalty to the District, on whose behalf this Agreement is made or awarded, One Hundred dollars (\$100.00) for each worker employed, for each calendar day, or portion thereof such worker is paid less than the said stipulated rates, for any Work done under the Agreement, by the contractor or by any subcontractor under them.

In all Contractors' bonds the Contractor shall include such provisions as will guarantee the faithful performance of this prevailing hourly wage clause.

The District and Contractor may withhold assessed penalties from Contractors and any of its subcontractors, respectively, and for any fines imposed upon the District for non-compliance to procedures outlined in the respective laws.

16.0 OSHA Training.

Contractors and subcontractors who perform the Work shall provide, at a minimum, a ten (10) hour Occupational Safety and Health instruction and safety program, or similar program approved by the Department of Labor, for their employees relative to Work being performed. All employees performing the Work must have completed the course within 10 days of beginning Work and shall keep evidence of completion on the worksite.

Contractors and subcontractors in violation will forfeit a lump sum of \$2,500.00 to the District, plus \$100.00 for each worker employed without training for each day the worker is employed without training.

17.0 Transient Employers.

Every transient employer, as defined in § 285.230, RSMo, must post in a prominent and easily accessible place at the Work site a clearly legible copy of the following: (1) The notice of registration for employer withholding issued to such transient employer by the Director of Revenue; (2) Proof of coverage for workers' compensation insurance or self-insurance signed by the transient employer and verified by the Department of Revenue through the records of the Division of Workers' Compensation; and (3) The notice of registration for unemployment insurance issued to such transient employer by the Division of Employment Security. Any transient employer failing to comply with these requirements shall, under § 285.234, RSMo, be liable for a penalty of \$500.00 per day until the notices required by this section are posted as required by that statute.

18.0 Hold Harmless.

To the fullest extent permitted by law, Contractor shall indemnify and hold harmless the District, its Board of Education, Officers, Directors, Partners, Agents, Consultants, Employees and Sub-Contractors of each and any of them from and against all claims, damages, losses and expenses (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals in all courts or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, damage or expense is attributable to any act or failure to act, negligent or otherwise, of Contractor, of any subcontractor (meaning anyone, including but not limited to consultants having a contract with Contractor or a subcontractor for a part of the Work), or of anyone directly or indirectly employed by Contractor or by any subcontractor, or of anyone for whose acts the Contractor or its subcontractor may be liable, in connection with performing the Work.

19.0 Background Checks.

Contractor shall have on file with the District two types of background checks for all employees or subcontractors' employees who will be working unescorted on/in any District campus and/or buildings. The two checks are:

- Missouri Child Abuse or Neglect/Criminal Record Check
- Missouri State Highway Patrol Criminal Record Check

Contractor shall provide these background checks to the District. All background checks are required to be on file and approved by the District, in the District's sole and absolute discretion, prior to authorization to proceed. The District will notify the Contractor of approved and unapproved background checks. It shall be the responsibility of the Contractor to ensure all of its employees and its subcontractors' employees are in compliance with District access security requirements.

Contractor shall not utilize an employee, including a subcontractor or his employee, on District property who is a registered sex offender.

Contractor, its employees, agents, subcontractors, and representatives shall comply with all Districtwide Policies and Procedures, including the District's tobacco-free campus Policy.

20.0 Change Orders.

Changes in the Work may be accomplished after execution of this Agreement, and without invalidating the Agreement, by a written Change Order. A Change Order is a written instrument prepared by the Contractor or the District, and signed by the Contractor and the District stating their agreement upon the change in the Work, the amount of the adjustment in payment, if any, and the extent of the adjustment in the completion time for the Work, if any. Any markups in Change Orders shall be made in accordance with the Attachments, but Contractor shall limit the markup, including but not limited to overhead and profit, on all Change Orders so that the same shall not exceed 10% total, which shall include the markup of both the Contractor and any subcontractors combined.

Contractor may submit a Request for Information to the District requesting clarification of any portion of the Agreement, including Change Orders. The District shall respond to all Requests for Information promptly.

21.0 Attachments.

The following documents shall comprise the Attachments, and are incorporated into this Agreement as if fully stated herein:

- A. [REDACTED] Specifications.
- B. Prevailing Wage Order No. [REDACTED], dated [REDACTED].
- C. Contractor's Performance Bond
- D. Contractor's Payment Bond
- E. Any written Change Orders issued after execution of this Agreement.
- F. Contractor's Bid
- G. The District's "Invitation to Bid"

H. Notarized Lien Waiver Form

In the event of any inconsistency or conflict between provisions of this Agreement and the provisions of any Attachment, then at the option of the District, the stricter shall prevail and control.

The Attachments may only be amended, modified, or supplemented with the written agreement of the District and Contractor.

22.0 Termination.

A. At any time and without cause, the District may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to Contractor which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the total Payment amount or an extension of the time to complete the Work, or both, directly attributable to any such suspension.

B. The occurrence of any one or more of the following events will justify termination for cause:

i. Contractor's failure to perform the Work in accordance with this Agreement and the Attachments (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment);

ii. Contractor's disregard of applicable laws, regulations, ordinances, or District Policies and Procedures; or

iii. Contractor's violation in any substantial way of any provisions of this Agreement or the Attachments.

C. If one or more of the events identified in the preceding paragraph occur, the District may, after giving Contractor (and surety) seven days written notice of its intent to terminate the services of Contractor:

i. Exclude Contractor from the Work site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion),

ii. Incorporate in the Work all materials and equipment stored at the site or for which the District has paid Contractor but which are stored elsewhere, and

iii. Complete the Work as the District may deem expedient.

D. If the District proceeds as provided in the preceding paragraph, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of this Agreement exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by the District arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to the

District. When exercising any rights or remedies under this paragraph the District shall not be required to obtain the lowest price for the Work performed.

E. Notwithstanding the foregoing, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.

F. Where Contractor's services have been so terminated by the District, the termination will not affect any rights or remedies of the District against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by the District will not release Contractor from liability.

G. If and to the extent that Contractor has provided a performance bond under this Agreement, the termination procedures of that bond shall supersede the preceding termination provisions.

H. Upon seven days written notice to Contractor, the District may, without cause and without prejudice to any other right or remedy of the District, terminate this Agreement. In such case, Contractor shall be paid for (without duplication of any items):

i. Completed and acceptable Work executed in accordance with this Agreement and the Attachments prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

ii. Expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by this Agreement and the Attachments in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and

iii. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

I. The District and Contractor shall make a good faith effort to resolve all disputes with an informal meeting between representatives of both parties with decision-making authority before resorting to other means of resolution. By written agreement, the parties may decide to enter into formal mediation or arbitration proceedings to resolve a dispute, although neither is required. Nothing in this paragraph shall limit either party's ability to file a lawsuit in a court of law regarding a dispute.

23.0 Miscellaneous Provisions.

A. Prior to commencement of the Work, Contractor shall provide to the District a sworn affidavit and other sufficient documentation to affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with this Agreement. Contractor shall also provide the District a sworn affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the Work.

B. Contractor will be required to comply with the President's Executive Order No. 11246, Title VI and Section 3 of the 1968 HUD Act as pertaining to Equal Employment Opportunity through Affirmative Action. Contractor must comply with all applicable requirements of federal and state civil rights law and rehabilitation statutes and shall not discriminate based on race, religion, color, sex, national origin, age, or disability.

C. The District is a public entity exempt from payment of state sales taxes and will furnish Contractor with all required information to allow Contractor to benefit from this status. Contractor shall apply the exemption in accordance with state law for purchases required for the Work. Contractor shall pay all other required sales, consumer, use, and other similar taxes, if any.

D. Whenever any provision of this Agreement or the Attachments requires the giving of written notice, it will be deemed to have been validly given if delivered in person or sent by registered or certified mail, postage prepaid, to:

- i. Orrick R-XI School District
c/o Scott Guilkey
100 Kirkham St.
Orrick, MO 64077

- ii. _____

E. When any period of time is referred to in this Agreement or the Attachments by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

F. The duties and obligations imposed by this Agreement and the Attachments and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of this Agreement and the Attachments. The provisions of this Paragraph will be as effective as if repeated specifically in this Agreement and the Attachments in connection with each particular duty, obligation, right, and remedy to which they apply.

G. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with this Agreement and the Attachments, as well as all continuing obligations indicated in this Agreement and the Attachments, will survive final payment, completion, and acceptance of the Work or termination or completion of this Agreement or termination of the services of Contractor.

H. Article and paragraph headings are inserted for convenience only and do not constitute parts of this Agreement.

I. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and which, when taken together, shall constitute one entire Agreement. It shall be fully executed when each party whose signature is required has signed at least one counterpart even though no one counterpart contains the signatures of all the parties to this Agreement.

J. Neither party may assign their rights and obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld.

K. This Agreement and Attachments constitutes the entire agreement between the parties hereto and there are no other understandings, written or oral, relating to the subject matter hereof, and may not be changed, modified, or amended, in whole or in part, except in writing signed by the District and Contractor.

L. To the extent that § 34.600, RSMo. applies to this Agreement, Provider hereby certifies pursuant to said statute that it is not currently engaged in and shall not for the duration of this Agreement engage in a boycott of goods or services from: the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or, persons or entities doing business in the State of Israel.

REMAINDER OF PAGE INTENTIONALLY BLANK

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CONTRACTOR

By: _____

Name (Printed): _____

Title: _____

Date: _____

Orrick R-XI

By:

_____ Date: _____

Board of Education President

Attested by:

_____ Date: _____

Board of Education Secretary

NOTARIZED LIEN WAIVER

State of _____

County of _____

The undersigned _____ hereby releases, waives, and quitclaims rights to a construction lien in the amount of \$_____ for improvements to, or materials furnished to, the property described as _____ through

the date of _____.

The undersigned warrants that all laborers and subcontractors employed by it, and all suppliers from which it has acquired materials, have been paid their respective portion of prior claims, and that none of such laborers, subcontractors, or suppliers have any claim of lien against the project through ___.

This waiver is conditioned upon full satisfaction of the amount shown above.

Signed on _____

Signature: _____

Address: _____
