

**MESA COUNTY VALLEY SCHOOL DISTRICT NO. 51
PURCHASE ORDER
TERMS AND CONDITIONS FOR CONSTRUCTION TRADE SERVICES**

ENTIRE AGREEMENT

This Purchase Order embodies the entire agreement between DISTRICT 51 and CONTRACTOR and supersedes all other writings. The parties shall not be bound by, or be liable for, any statement, representation, promise, inducement or understanding not set forth herein.

INDEPENDENT CONTRACTOR

CONTRACTOR represents that it is fully experienced, properly qualified, registered, licensed, equipped, organized, and financed to perform the Work under this Purchase Order. CONTRACTOR shall act as an independent contractor and not as the agent of DISTRICT 51 in performing this Work, maintaining complete control over its employees and all of its lower-tier suppliers and subcontractors. Nothing contained in this Purchase Order or any lower-tier purchase order or subcontract awarded by CONTRACTOR shall create any contractual relationship between any lower-tier supplier or subcontractor and DISTRICT 51. CONTRACTOR shall perform the Work hereunder in accordance with its own methods subject to compliance with the Purchase Order.

COMMENCEMENT, EXECUTION AND COMPLETION OF THE WORK

The CONTRACTOR shall commence performance of the Work under this Contract on the date specified in the formal Notice To Proceed, and shall furnish sufficient forces, facilities, and shall work such hours necessary so as to accomplish the Work in accordance with the following major Contract dates as specified in the Notice of Award or Notice to Proceed letter or Purchase Order.

AUTHORITY OF DISTRICT 51 PERSONNEL

DISTRICT 51 will designate a Contract Administrator who will be responsible for administering the Contract terms and conditions and who shall act as DISTRICT 51's authorized representative. Additionally, all correspondence shall be issued and received by the designated Contract Administrator. The only individual authorized to direct the CONTRACTOR to deviate from the express, written terms of the Contract is the authorized Contract Administrator.

DISTRICT 51 will designate a Technical Representative (TR) who will be responsible for the technical aspects of the performance of the Contract. The TR may designate other personnel to oversee the performance of the Work. However, the designated TR retains ultimate authority over the technical aspects of the Work. Should the CONTRACTOR and TR disagree over the technical requirements of the Contract, such matters will be immediately referred to the DISTRICT 51 Contract Administrator for resolution. The TR does not possess authority, express or implied, to direct the CONTRACTOR, to authorize changes to the scope of the Work, or to deviate from the terms and conditions of the Contract.

NOTICES

Any notices provided for hereunder shall be in writing and may be served either personally or by first class mail, facsimile, or electronic mail on the authorized representative of the receiving party.

CHANGES

DISTRICT 51 may at any time, by written revision, direct additions, deletions or changes, including, acceleration or deceleration, to all or any part of the Work and CONTRACTOR agrees to perform such Work as changed. If any such revision causes an increase or decrease in CONTRACTOR's cost of, or the time required for the performance of any part of the Work, DISTRICT 51 shall make an equitable adjustment to the price, the delivery schedule, or both, and the Purchase Order shall be modified accordingly. Nothing in this clause shall excuse CONTRACTOR from proceeding with the Purchase Order as changed, whether or not an equitable adjustment has been made. The CONTRACTOR must assert its claim for an adjustment under this clause within 20 days of receipt of the change order.

INSURANCE

Unless otherwise specified in this Contract, CONTRACTOR shall, at its sole expense, maintain in effect at all times during the performance of the Work, insurance coverage with limits not less than those set forth below with insurers and under forms of policies satisfactory to CONTRACTOR. CONTRACTOR shall deliver to CONTRACTOR no later than ten (10) calendar days after Contract award, but in any event prior to commencing the Work or entering the jobsite, certificates of insurance as evidence that policies providing such coverage and limits of insurance are in full force and effect. Certificates shall be issued in the form acceptable to CONTRACTOR and provide that not less than thirty (30) calendar days advance written notice will be given to CONTRACTOR prior to cancellation,

**MESA COUNTY VALLEY SCHOOL DISTRICT NO. 51
PURCHASE ORDER
TERMS AND CONDITIONS FOR CONSTRUCTION TRADE SERVICES**

Termination or material alteration of said policies of insurance. Certificates shall identify on their face the project name and the applicable Contract number.

A. Standard Coverage:

1. Workers' Compensation in accordance with State Worker's Compensation Laws and Employers' Liability Insurance.

Statutory: Amounts and coverage as required by Workman's Compensation Laws for the State of Colorado.

Employer's Liability: A minimum of \$500,000 each accident

2. Public Liability and Property Damage Insurance Coverage including but not limited to:

Comprehensive General Liability: Limits shall not be less than Bodily Injury Liability, including personal injuries, \$1,000,000 each.

Property Damage Liability: \$1,000,000 each occurrence.

3. Automobile Insurance including "B" extension (uninsured motorists). Limits shall not be less than:

Bodily Injury Liability: Including personal injuries, \$1,000,000 each.

Property Damage Liability: \$1,000,000 each occurrence.

The requirements contained herein as to types and limits, as well as DISTRICT 51's approval of insurance coverage to be maintained by CONTRACTOR, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by CONTRACTOR under this Contract.

CONTRACTOR shall require its subcontractors, if any, to maintain the same insurance coverage, terms and conditions as mentioned in this Special Conditions article. CONTRACTOR must furnish evidence of such insurance to DISTRICT 51 prior to commence of the work.

In accordance with the submittal requirements outlined above, CONTRACTOR shall deliver the original copy of the Certificate(s) of Insurance required by this clause and all subsequent notices of cancellation, termination and alteration of such policies to:

Mesa County Valley School District No. 51
Purchasing and Warehouse Services
330 24th Court
Grand Junction, CO 81501

CONTRACT INTERPRETATION

All questions concerning interpretation or clarification of this Contract, including the discovery of conflicts, errors and omissions, or the acceptable performance thereof by CONTRACTOR, shall be immediately submitted in writing to DISTRICT 51 for resolution. All determinations, instructions, and clarifications by DISTRICT 51 shall be final, and conclusive unless wholly inconsistent with the language of the Contract. CONTRACTOR shall proceed with the Work in accordance with the determinations, instructions, and clarifications by DISTRICT 51. CONTRACTOR shall be solely responsible for requesting instructions or interpretations and shall be solely liable for any cost and expenses arising from its failure to do so.

WARRANTY

CONTRACTOR warrants that it will perform the Work under this Purchase Order with the degree of high professional skill and sound practices and judgment that is normally exercised by recognized professional firms with respect to Work of a similar nature. In addition to all other rights and remedies that DISTRICT 51 may have, CONTRACTOR shall re-perform the Work to correct any deficiencies from CONTRACTOR's failure to perform

**MESA COUNTY VALLEY SCHOOL DISTRICT NO. 51
PURCHASE ORDER
TERMS AND CONDITIONS FOR CONSTRUCTION TRADE SERVICES**

In accordance with the Purchase Order statement of Work, specifications and drawings, and the above standards, at CONTRACTOR's expense

Definitions. "Acceptance," as used in this clause, means the act of an authorized representative of the CONTRACTOR by which the CONTRACTOR assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services, as partial or complete performance of the contract.

"Correction," as used in this clause, means the elimination of a defect.

Notwithstanding inspection and acceptance by DISTRICT 51 or any provision concerning the conclusiveness thereof, the CONTRACTOR warrants that all services performed under this Contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this Contract. DISTRICT 51 shall give written notice of any defect or nonconformance to the CONTRACTOR within 30 days from the date of acceptance. This notice shall state either: (1) that the CONTRACTOR shall correct or re-perform any defective or nonconforming services; or (2) that DISTRICT 51 does not require correction or re-performance.

If the CONTRACTOR is required to correct or re-perform, it shall be at no cost to DISTRICT 51, and any services corrected or re-performed by the CONTRACTOR shall be subject to this clause to the same extent as work initially performed. If the CONTRACTOR fails or refuses to correct or re-perform, DISTRICT 51 may, by Contract or otherwise, correct or replace with similar services and charge to the CONTRACTOR the cost occasioned to DISTRICT 51 thereby, or make an equitable adjustment in the Contract price.

If DISTRICT 51 does not require correction or re-performance, DISTRICT 51 shall make an equitable adjustment in the Contract price.

WAIVER

The failure of either party to insist on performance of any provision of this Purchase Order shall not be construed as a waiver of that provision in any later instance.

INDEMNITY AND HOLD HARMLESS

CONTRACTOR hereby releases and shall indemnify, defend and hold harmless DISTRICT 51, their officers, agents, employees, successors and assigns and authorized representatives of all the foregoing from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorney's fees, costs and expenses of whatsoever kind or nature, including, but not limited to those arising out of injury to or death of CONTRACTOR's employees, whether arising before or after completion of the Work hereunder and in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part, or claimed to be caused, occasioned or contributed to in whole or in part, by reason of any act, omission, fault or negligence whether active or passive of CONTRACTOR, its lower-tier suppliers, subcontractors or of anyone acting under its direction or control or on its behalf in connection with or incidental to the performance of this Purchase Order.

CONTRACTOR's aforesaid release, indemnity and hold harmless obligations, or portions or applications thereof, shall apply even in the event of the fault or negligence, whether active or passive, or strict liability of the parties released, indemnified or held harmless to the fullest extent permitted by law, but in no event shall they apply to liability caused by the willful misconduct or sole negligence of the party released, indemnified or held harmless.

DISTRICT 51 FACILITY REQUIREMENTS

No on-site office or storage space shall be provided as a part of this Contract.

DISTRICT 51 is a tobacco-free environment. No smoking or chewing of tobacco is permitted on school grounds or in any DISTRICT 51 facility.

Any damages caused by the CONTRACTOR in the performance of this Contract shall be repaired at no cost to DISTRICT 51.

No official or employee of DISTRICT 51 who exercises any functions or responsibilities in the review or approval of this undertaking, or carrying out of the Statement of Work shall voluntarily acquire any personal interest, directly or indirectly, in the Contract.

**MESA COUNTY VALLEY SCHOOL DISTRICT NO. 51
PURCHASE ORDER
TERMS AND CONDITIONS FOR CONSTRUCTION TRADE SERVICES**

The CONTRACTOR covenants that it presently has no interest and shall not acquire any interest, directly or indirectly, that conflict in any manner or degree with the performance of the services hereunder. The CONTRACTOR further covenants that no person having any such known interests shall be employed or conveyed an interest directly or indirectly, in the Contract.

INTEGRATION OF SAFETY, AND HEALTH INTO WORK PLANNING AND EXECUTION

The CONTRACTOR shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:

- a. All employees on the WORK, all other persons who may be affected thereby;
- b. All the Work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the CONTRACTOR or any of his lower-tier contractors; and
- c. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavement, roadways, structures and utilities, and,
- d. Designated areas within DISTRICT 51 facilities.

FAIR LABOR STANDARDS ACT AND EQUAL OPPORTUNITY EMPLOYMENT ACT

The CONTRACTOR agrees to comply with the Fair Labor Standards Act, the Equal Opportunity Employment Act, and all other applicable Federal and State laws, regulations, and executive orders in connection with the furnishing of supplies or performance of work under this Contract, to the extent that the same may be applicable; and further agrees to insert the foregoing provision in all subcontracts or purchase orders awarded in connection with this Contract.

LABOR, PERSONNEL AND WORK RULES

CONTRACTOR shall employ only competent and skilled personnel to perform the Work under this Contract. CONTRACTOR shall, at DISTRICT 51's request, remove from the Work any CONTRACTOR personnel who are either (1) acting in violation of any provision of this Contract, including, but not limited to Site Work, safety or security rules, or (2) at DISTRICT 51's sole discretion, determined to be undesirable for the Work. In the event an employee is so removed, CONTRACTOR shall promptly replace such individual with another who is fully competent and skilled to perform the Work.

For Work performed on DISTRICT 51 premises, CONTRACTOR shall observe DISTRICT 51's procedures, regulations and Work rules.

INSURANCE, TAXES, AND CONTRIBUTIONS

CONTRACTOR shall pay all taxes, levies, duties and assessments of every nature due in connection with the Work under this Contract and shall make any and all payroll deductions required by law and hereby indemnifies and holds harmless DISTRICT 51 from any liability on account of any and all such taxes, levies, duties, assessments and deductions.

The CONTRACTOR shall comply with the terms and conditions of applicable workers' compensation law. If, for any reason, the CONTRACTOR does not qualify for, or for any reason does not carry insurance under these Acts, the CONTRACTOR herewith agrees to save harmless DISTRICT 51 from all liabilities resulting from any injury of an occupational nature as described in these Acts.

The CONTRACTOR agrees to, and does hereby accept, full and exclusive liability for the payment of any and all contributions for taxes for Unemployment Insurance and/or Old Age Retirement Benefits, pensions or annuities, now or hereafter imposed by the Government of the United States, and/or by the Government of any state or territory of the United States which are measured by the wages, salaries or other remunerations paid to persons employed by the CONTRACTOR for Work performed under the terms of this Contract.

APPLICABLE LAW

Any suit filed relative to this Purchase Order must be filed in a court of competent jurisdiction in Mesa County, Colorado.

MESA COUNTY VALLEY SCHOOL DISTRICT NO. 51
PURCHASE ORDER
TERMS AND CONDITIONS FOR CONSTRUCTION TRADE SERVICES

TITLE

Title to all Work and materials will pass directly to the District 51 upon the earlier of (1) delivery to the Work Site, or (2) payment to the CONTRACTOR.

STANDARDS AND CODES

Wherever references are made in this Contract to industry standards or codes in accordance with which the Work under this Contract is to be performed, the edition or revision of the standards or codes current on the effective date of this Contract or Task Order under this Contract shall apply, unless otherwise expressly stated. In case of any conflict between any referenced standards and codes and any Contract Documents, the latter shall govern.

LAWS AND REGULATIONS

All applicable Federal, State, and local laws, ordinances, statutes, rules, regulations, orders or decrees in effect at the time the Work under this Contract is performed, shall apply to CONTRACTOR and its employees and representatives.

If CONTRACTOR discovers any discrepancy or inconsistency between this Contract and any law, ordinance, statute, rule, regulation, order, or decree, CONTRACTOR shall report the same immediately, in writing, to DISTRICT 51 who will issue such further instructions as may be necessary.

If during the term of this Contract there are changed or new laws, ordinances, statutes, rules, regulations, orders or decrees not known or foreseeable at the time of signing this Contract which become effective and which affect the cost or time of performance of this Contract, CONTRACTOR shall immediately notify DISTRICT 51 in writing and submit detailed documentation of such effect in terms of both time and cost of performing the Contract. If such changes or new laws, ordinances, etc. affect the Work, and DISTRICT 51 concurs with the effect of such changes, an equitable adjustment in compensation and/or time of performance will be made. No such adjustment shall be made for changes to tax laws where such taxes are based on CONTRACTOR'S inventory, income, profits, or cost of finance.

INVOICING AND PAYMENT

This Contract shall be performed as a single Lump Sum payment. Failure to specify the full Contract Number or to submit full supporting documentation may be cause for invoice rejection or delay in payment.

CONTRACTOR shall submit an original Invoice detailed by Contract Line Item Number to:

Mesa County Valley School District No. 51
Purchasing and Warehouse Services
330 24th Court
Grand Junction, CO 81501
Attention: (as specified on Purchase Order)
Purchase Order Number -

AVAILABILITY OF FUNDS

In accordance with Article X, Section 20(4)(b) of the Colorado Constitution, this Purchase Order shall neither create nor be construed to create any multiple-fiscal year direct or indirect DISTRICT 51 debt or other financial obligation whatsoever. The parties recognize that the purchase is dependent upon the continuing availability and appropriation of funds (including per pupil funding for Program students from the State of Colorado) beyond the terms of DISTRICT 51's current fiscal period ending upon the next succeeding June 30, and that financial obligations of DISTRICT 51 payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available.

TERMINATION

DISTRICT 51 may unilaterally terminate this Contract upon CONTRACTOR's nonobservance of any of the foregoing or for failure to comply with any of the clauses and provisions of this Contract, including any modifications, upon seven (7) days notice to the CONTRACTOR.

**MESA COUNTY VALLEY SCHOOL DISTRICT NO. 51
PURCHASE ORDER
TERMS AND CONDITIONS FOR CONSTRUCTION TRADE SERVICES**

DISPUTES RESOLUTION

Any claim, dispute, or other matter in questions between the CONTRACTOR and DISTRICT 51 shall be subject to such remedies of law or equity as may be available for the enforcement of contract rights pursuant to Colorado law. However, no action shall be instituted on any such claim, dispute, or other matter until the earlier of (1) the date on which DISTRICT 51 has rendered a written decision, or (2) the 10th day after the parties have presented their evidence to DISTRICT 51 or have been given a reasonable opportunity to do so, if DISTRICT 51 has not rendered a written decision by that date. When such a written decision of DISTRICT 51 states that the decision is final but subject to appeal as provided by law, and that any claim must be pursued and litigation or other means agreeable to the parties with 30-days after the date on which the party making the claim receives the written decision, failure to assert such claim within said 30-day period will result in DISTRICT 51's decision becoming final and binding upon both parties. The submission o a claim or dispute or other matter in question between the CONTRACTOR and DISTRICT 51 relating to the execution and progress of the Work, shall be a condition precedent to the institution of any litigation or other dispute resolution proceeding.

DEBARMENT

The CONTRACTOR certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written explanation for review by the DISTRICT.

BUY AMERICAN – AMERICAN RECOVERY AND REINVESTMENT ACT

Section 1605 – FAR Case 2009-008, American Recovery and Reinvestment Act (the Recovery Act) – Buy American Requirements for Construction Material;

Section 1512 – FAR Case 2009-009, American Recovery and Reinvestment Act (the Recovery Act) – Reporting Requirements;

Sections 902, 1514, and 1515 – FAR Case 2009-011, American Recovery and Reinvestment Act (the Recovery Act) – GAO/IG Access; and

Section 1553 – FAR Case 2009-012, American Recovery and Reinvestment Act (the Recovery Act) – Whistleblower Protections.