

**ROWLAND UNIFIED SCHOOL DISTRICT
Purchasing Department
1830 S. Nogales St.
Rowland Heights, CA 91748**



**REQUEST FOR PROPOSALS (“RFP”) FOR
High Speed Data Infrastructure Upgrade Project - WAN
E-RATE FUNDING YR 2022**

RFQ/RFP # 2021/22: (R4)

The Rowland Unified School District (“District”) is requesting submission of statements of qualifications and proposals (“Proposals”) from qualified persons, firms, partnerships corporations, associations or professional organizations (“Vendor(s)”) to provide High Speed Data Infrastructure for Wide Area Network Equipment, Services and associated equipment from qualified E-Rate vendors which fully described in **Exhibit “A”**.

Rowland Unified School District is soliciting qualified contractors to submit an installation and ongoing service bid for (including, but not limited to) equipment racks, digital equipment, data cabling, and associated termination equipment as required to provide this service. All equipment included in this request will be owned and maintained by the awarded service provider.

This RFP depends on funding from the Federal E-Rate Program. The establishing E-Rate Form 470 number is **#220010587**. Vendors are required to participate and be in full compliance with all current and future requirements issued by the Schools and Libraries Division of the Universal Service Corporation (“SLD”) for participation in the E-Rate Program.

This RFP is issued pursuant to Public Contract Code section 20118.2. Any award under this RFP shall be made to the qualified proposer whose proposal meets the evaluation standards in this RFP and whose proposal will be most advantageous to the District with price and all other factors considered.

Responding entities must have a valid and active Service Provider Identification Number (SPIN) and Federal Registration Number (FCC-FRN).

Proposals may be made using an existing piggybackable bid and/or an existing State of California contract, i.e. CMAS, or Western States Contracting Alliance, now known as NASPO ValuePoint.

Interested Vendors are invited to submit a Proposal in response to this RFP by delivering five (5) bound copies, one (1) unbound copy and one (1) electronic copy on thumb drive of their Proposal, as further described herein, to:

**Rosana McLeod
Director of Purchasing
Purchasing Department
Rowland Unified School District
1830 S. Nogales Street
Rowland Heights, CA 91748**

Proposals must be **clearly labeled with the Title of the RFP “High Speed Data Infrastructure Upgrade Project - WAN” and RFP# 2021/22 (R4)** on the outside of the package.

ALL PROPOSALS MUST BE RECEIVED ON OR BEFORE February 17, 2022, NO LATER THAN 10:00 A.M.

Questions regarding this RFP must be received in writing and directed to Rosana McLeod at rmcleod@rowlandschools.org on or before **January 27, 2022** no later than **10:00 a.m.** Emails must be titled as follows: **RUSD RFP No. 2021/22: (R4) - RFI [company]**. District reserves the right to disregard emails with an incorrect title. Answers will be posted on the District website and on USAC’s EPC website on or before **February 3, 2022**, at **10:00 a.m.** Phone calls to the District regarding this RFP will not be accepted.

The District hereby notifies all Interested Vendors that it will affirmatively ensure that, in any contract entered into pursuant to this RFP, minority business enterprises will be afforded full opportunity to submit responses to this RFP and no respondent will be discriminated against on the grounds of race, color, sex, age, ancestry, religion, marital status, national origin, medical condition or physical disability, or sexual orientation in consideration for the award.

Proposals and pricing shall be held open and valid for the duration of the E-Rate Year 2022, fiscal year 2022-2023, or until the procurement and installation of all products has been completed, including any Schools and Libraries Division approved extensions. Proposing Vendors are hereby made aware that the District will not reimburse costs for the preparation of the Proposal to any proposing Vendor for any reason.

Thank you for your interest in working with the Rowland Unified School District.

San Gabriel Valley Tribune:
1st Publication: January 7, 2022
2nd Publication: January 14, 2022

1. General Information.

1.1. The District invites qualified Vendors with a record of excellence in providing the products requested in this RFQ/RFP.

1.1.1 **E-Rate Compliance.** Vendors must make themselves thoroughly familiar with any rules or regulations set forth by the E-Rate Program. Vendors shall provide all necessary E-Rate and contracting credentials necessary pursuant to E-Rate procurement requirements located at : <https://www.usac.org/e-rate/service-providers/>

1.1.2 Vendors shall be and remain, in compliance with all current E-Rate program guidelines established by the Federal Communications Committee (FCC). This procurement is entirely contingent upon available funding from the Federal E-Rate Program (Schools and Libraries Division) and the District may or may not undertake the procurement at its sole discretion. Information regarding eligibility of goods and services, invoicing requirements, documentation requirements and other program rules are available from the SLD by calling Schools and Libraries Division ("SLD") of the Universal Service Administrative Company at (1-888) 203-8100 or see their website at <https://www.usac.org/e-rate/>.

1.1.3 Vendors must have experience in providing the installation of secure and dedicated land based fiber optic connectivity in similar quantities for similar size projects to larger **California K-12** school districts and must be able to provide references.

1.1.4 Vendors must be capable of providing local sales support and on-site technical support. Vendors must have a physical presence within 50 miles of the District's administrative offices, and have on-staff support engineers.

1.1.5 Vendors must have experience in integrating the equipment called for under this RFP into an existing network configuration such as that currently in place at the District.

1.1.6 Engineers should be fully qualified e.g. CCNA, CCIE or equivalent.

1.1.7 It is preferred to the District that engineers be CCIE qualified or equivalent.

1.2. **General Description of District's Needs.**

Rowland Unified currently has a Cisco based District LAN/WAN covering 21 sites. The LANs at each site comprise of Cisco 3850X and 2960X switches and are currently linked over a fiber 10Gb Ethernet Private LAN (EP-LAN). The current EP-LAN provides each site's WAN connection back to Spectrum Enterprise datacenters. Each of the 21 sites (spokes) link back to the District's Central (hub) office via a single 100Gb EP-LAN link through the Spectrum Enterprise datacenters.

The district is looking to add to its existing WAN network hub to support one (1) additional 100Gb Ethernet Private LAN (EP-LAN) hub link. The district currently has a network that is Cisco based including Switches, Routers, Wireless Controllers and Access Points and 1,000 Cisco One ISE licenses.

The district intends to purchase the equipment necessary to meet these goals. The bid must include any associated licensing, software and other costs where required.

This equipment must be able to co-exist with the existing equipment and be compatible and/or stackable with existing equipment.

All equipment should be single vendor.

Vendors may upgrade existing equipment where applicable or replace equipment.

Equipment specifications are based on Cisco switches. Equipment should be bid as specified or be functionally equivalent.

Specifications and vendor requirements are further described in **Exhibit "A"**.

- 1.3. Proposals.** Proposals must contain all requested information about the Vendor as well as pricing identified in the Pricing Proposal Form. Proposals should be complete and prepared to provide an insightful, straightforward, and concise overview of the Vendor's Proposal.

2. Vendor's Proposal.

Vendor's Proposal must be concise, well organized, and demonstrate Vendor's qualifications and proposed pricing. Vendor's Proposal shall be formatted as outlined below, and shall be no longer than **thirty (30) pages**, 8½" x 11" paper, inclusive of résumés, forms, and pictures, and tabbed according to the numbering system reflected below.

- 2.1. Letter of Interest.** A dated Letter of Interest must be submitted, including the legal name of the Vendor(s), address, telephone, and fax numbers, and the name, title, and signature of the person(s) authorized to submit the Proposal on behalf of the Vendor. The Letter of Interest should provide a brief statement of Vendor's experience indicating the unique background and qualities of the Vendor, its personnel, and its sub-consultants, and what will make the Vendor a good fit for work in the District.
- 2.2. Table of Contents.** A table of contents of the material contained in the Proposal should follow the letter of interest.
- 2.3. Executive Summary.** The executive summary should contain an outline of Vendor's approach, along with a brief summary of Vendor's qualifications.

- 2.4. Proposal Form.** A completed Proposal Form attached as **Exhibit “C”**
- 2.5. Proposal Pricing Form.** A completed Proposal Pricing Form attached as **Exhibit “B”**
- 2.6. Product Pricing/Terms.**
Proposals must include the Proposal Pricing Form attached as **Exhibit “B”** and include the details as outlined below.
- 2.6.1. Equipment Costs.** Provide a detailed breakdown of the costs of each item to be installed. Identify each item as eligible or ineligible for funding under the E-Rate Program.
 - 2.6.2. Shipping Costs.** Provide a detailed breakdown of the costs for shipping. Identify each item as eligible or ineligible for funding under the E-Rate Program.
 - 2.6.3. Taxes.** Proposal prices shall include a detailed breakdown of allowances for all taxes including but not limited to all Federal, State and Local taxes. Identify each item as eligible or ineligible for funding under the E-Rate Program.
 - 2.6.4. All Other Costs, Fees, Expenses or Charges.** Identify each item as eligible or ineligible for funding under the E-Rate Program.
 - 2.6.5.** All equipment provided in Vendor’s Proposal must be new equipment purchased from an authorized reseller. No grey market, third party, or used equipment will be considered. Vendor must provide one year on-site fully warranty of equipment, installation and configuration.
- 2.7. Certificate of Compliance.** A signed Certificate of Compliance, attached as **Exhibit “D”**.
- 2.8. Proposed Personnel.** Include resumes of key personnel who would provide on-line and/or local sales or local technical support. Specifically, define the role of each person and outline his or her individual experience and responsibilities. Indicate personnel who will serve as primary contact(s) for the District. Indicate Vendor’s and personnel’s availability to provide the local sales and technical support. If the Vendor will utilize resources from more than one office, indicate office locations and how work would be coordinated. Provide information on sub-consultant team members, if any.
- 2.9. Narrative.** Provide a comprehensive narrative of the pricing and services offered by Vendor. The narrative should include the following:
- 2.9.1. Proposed Schedule of Delivery.** Products requested under this RFP will be expected for delivery and installation at the District no later than 60 days from the issuance of the District’s Purchase Order. Vendor shall affirmatively state its ability to meet this schedule.

2.9.2. Vendor Information.

- 2.9.2.1.** Provide a brief history of Vendor, and, if a joint venture, of each participating entity. Identify legal form, ownership, and senior officials of company(ies). Describe number of years in business and types of business conducted.
- 2.9.2.2.** Provide Vendor's preferred contact information and email address to send Vendor notifications hereunder.
- 2.9.2.3.** Discuss Vendor's ability to meet strict schedules for comparable projects, Vendor's schedule management procedures, and how Vendor has successfully handled potential delays.
- 2.9.2.4.** Provide a statement of ALL claim(s) filed against Vendor in the past five (5) years, if any. Briefly indicate the nature of the claim and the resolution, as applicable, of the claim(s).
- 2.9.2.5.** Include letters of reference or testimonials, if available. Vendors should limit letters of references or testimonials to no more than ten (10).

2.9.3. Prior Relevant Experience.

- 2.9.3.1.** Provide a list of **ALL** K-12 and community college districts for which Vendor has provided the same or similar products in the past five (5) years. Limit your response to no more than the ten (10) most recent districts. Include the names of the district, a description of services and/or products provided, and the name of the contact person and telephone number at the district. Also, indicate the Vendor's personnel that performed services for each district.

2.10. Additional Data. Provide additional information about the Vendor as it may relate to Vendor's Proposal. Include letters of reference or testimonials. Indicate ongoing commitment to professional education of staff, total number of permanent employees, and any other data that may assist the District in understanding Vendor's qualifications and expertise.

2.11. Non Collusion Declaration. Include the Vendor's executed Non-Collusion Declaration (attached to this RFP).

3. Form of Agreement.

- 3.1.** Attached as **Exhibit "E"** to this RFP is a standard form Agreement. This Form of Agreement is subject to change if piggybackable contract pricing or other pricing available through existing public procured contracts is used.
- 3.2.** Please indicate in Vendor's response if Vendor has any comments or objections to the form of Agreement. The District does not intend to consider any substantive changes

to the form of Agreement if they are not submitted at or before this time.

4. E-RATE SUPPLEMENTAL TERMS AND CONDITIONS.

4.1. Attached as **Exhibit “F”** to this RFP is a standard form Agreement.

4.2. **Exhibit “F”** must be signed and returned with bid response.

5. District’s Evaluation / Selection Process.

5.1. Consistent with public Contract Code section 20118.2, the District intends to select one of the Vendors—but reserves the right to select no Vendor or more than one Vendor—that best meet(s) the District’s needs for products and technical support as described in this RFP. The Successful Vendor will be selected based on the highest score based on the selection criteria in Article 5.2.

5.2. A “best value” method of selection will be utilized to select the qualified Vendor with the most advantageous proposal. The “best value” method evaluates the selection criteria listed below based on the designated relative weight given to each criteria as a percentage of the RFQ/RFP’s total points possible, where Cost/Pricing is given the greatest relative weight:

Selection Criteria	Relative Weight (%)
E-Rate Eligible Cost/Pricing	50
Compatibility and inter-operability of equipment with existing District system	35
Proximity to District offices/availability of local staffing	5
Similar K-12 experience	5
Qualifications and experience of engineers	5

5.3. **Schedule.** The following is the tentative schedule for this RFP, which is subject to change:

RFP and E-Rate 470 Issuance Date: January 6, 2022
Deadline for Questions: January 27, 2022, 10:00 a.m.
Deadline for Proposal Submission: February 17, 2022, 10:00 a.m.
Board of Education Approval: March 10, 2022
Notice to Proceed: Subject to E-Rate Approval

6. Terms and Conditions.

6.1. The District reserves the right to contract with any Vendor responding to this RFP for all or portions of the above-described products, to reject any Proposal as non-responsive, and not to contract with any Vendor for the products described herein. The District makes no representation that participation in the RFP process will lead to

an award of contract or any consideration whatsoever. The District reserves the right to amend this RFP by means of addenda.

- 6.2.** The District is not responsible for late delivery of a Proposal. It is the responsibility of the responding Vendor to ensure that the Proposal is submitted on time to the District. Proposals that are received after the deadline may not be considered.

- 6.3.** Responses to this RFP will become the property of the District and subject to the California Public Records Act, Government Code sections 6250 et seq. Those elements in each response that are trade secrets as that term is defined in Civil Code section 3426.1(d) or otherwise exempt by law from disclosure and which are prominently marked as "TRADE SECRET," "CONFIDENTIAL," or "PROPRIETARY" may not be subject to disclosure. The District shall not be liable or responsible for the disclosure of any such records including, without limitation, those so marked if disclosure is deemed to be required by law or by an order of the Court. A Vendor that indiscriminately identifies all or most of its response as exempt from disclosure without justification may be deemed non-responsive. In the event the District is required to defend an action on a Public Records Act request for any of the contents of a response marked "Confidential," "Proprietary," or "Trade Secret," the Vendor agrees, by submission of its response for the District's consideration, to defend and indemnify the District from all costs and expenses, including attorneys' fees, in any action or liability arising under the Public Records Act.

- 6.4.** Issuance of this RFP does not commit the District to award a contract for products or to pay any costs incurred with the preparation of a response. Vendors should note that the execution of any contract pursuant to this RFP is dependent upon successful negotiation of terms and fees as well as approval by the District's Board of Education.

- 6.5.** The selected Vendor(s) and each of its (their) sub-consultants and/or co-venture partners, shall comply with all applicable federal and California laws, including, but not limited to, Title VII of the Civil Rights Act of 1964, as amended, Executive Orders 11246, 11375, and 12086, the California Fair Employment and Housing Act beginning with Government code section 12900, Labor Code section 1735, and any other applicable federal and state laws and regulations hereinafter enacted, including the Federal Americans with Disabilities Act (ADA). Vendors shall be responsible for establishing and implementing an ADA program within the Vendor's work place. Vendors shall not discriminate against any prospective or active employee based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. The selected respondent shall cause the above provisions to be inserted in all subcontracts for any work covered by this RFQ/RFP so that such provisions will be binding upon each sub-consultant.

- 6.6.** Fingerprinting of all personnel who will visit school sites is also required.

7. Protests.

Any protest regarding this RFP must be submitted, without exception, in writing to the District, before **5:00p.m.** of the **THIRD (3rd)** business day following the date of notification by the District that a Vendor has been selected following the evaluation / selection process.

- 7.1. The protest must contain a complete written statement of any and all bases for the protest.
- 7.2. The protest must refer to the specific portions of any documents that form the bases for the protest.
- 7.3. The protest must include the name, address, telephone and fax numbers, and e-mail address of the person representing the protesting party.
- 7.4. The party filing the protest must concurrently transmit a copy of the protest and any attached documentation to all other parties with a direct financial interest that may be adversely affected by the outcome of the protest, and all other Vendors or proposers who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.
- 7.5. The procedure and time limits set forth in this paragraph are mandatory and are each Vendor's sole and exclusive remedy in the event of protest. Failure to comply with any of these procedures, at the District's sole discretion, shall constitute a waiver of any right to further pursue the protest, including filing a Government Code Claim or legal proceedings.

8. Disclosure

- 8.1. All proposals received shall remain confidential until a contract resulting from this Request for Proposal is signed by the District and the apparent successful Bidder; thereafter the proposals shall be deemed public records. In the event that a Bidder desires to have portions of its proposal remain confidential, it is incumbent upon the Bidder to identify those portions in its transmittal letter deposited with the proposal package. The transmittal letter must identify the page, the particular exemption(s) from disclosure and the contended justification for exemption upon which it is making its claim. Each page, or part thereof, claimed to be confidential must be clearly identified by the word "confidential" printed on the lower right hand corner of the page.
- 8.2. The District will consider a Bidder's request(s) for confidentiality; however, the District will not be bound by the assertion that a page contains confidential material. An assertion by a Bidder that an entire volume of its proposal is confidential will not be honored. The District reserves the right to disclose all information in the proposal, even if the Bidder requests that it remain confidential, if the District determines that disclosure is not prohibited by law or court order.
- 8.3. Until a contract resulting from this Request for Proposal is executed, no employee, agent or representative of an Bidder shall make available or discuss its proposal with the press, any elected or appointed official or officer of the District, or any employee,

agent, or other representative of the District, unless specifically allowed to do so in the Request for Proposal or in writing by the District for the purpose of clarification and evaluation.

- 8.4.** Bidders shall not issue any news release(s) or make any statement to the news media pertaining to this Request for Proposal or any proposal and/or contract or work resulting therefrom without the prior approval of the District which may be given or withheld in its sole and absolute discretion and then only in cooperation with the District.

EXHIBIT 'A'

High Speed Data Infrastructure Upgrade Project - WAN E-RATE FUNDING YR 2022

RFP # 2021/22: (R4)

Rowland Unified School District currently has an extensive LAN/WAN Network primarily utilizing Cisco equipment supporting over 20,000 devices at 22 sites. As part of the district's plan to support the increasing demand in network bandwidth, the district desires to add one (1) additional HUB link to its existing Spectrum Enterprise Ethernet Private LAN (EP-LAN). The district currently operates a 10 GB WAN link from each site that is aggregated and presented to the District Office as a single 100 GB link configured as an Ethernet Private LAN (EP-LAN). The district is looking to upgrade this network and add one (1) additional 100 GB Hub link to its North side data center. This data center is located at Nogales High School (401 S. Nogales St., La Puente, CA 91744) and is currently connected to the RP-LAN via a 10GB link. The District is looking to upgrade this link from a 10 GB SPOKE link to a new 100 GB HUB link. The additional connectivity is designed to accommodate both the present and future digital application needs. The intent is to achieve an industry standard based scalable infrastructure that will enhance the educational and administrative capacity at all sites with the flexibility and reliability to support the future needs of the users. With the upgraded 100 GB Hub link, the district will route half of its various campuses out of the current 100 GB. The other half of the District's various campuses will then be routed out the new 100 GB Hub link provided through this bid process.

Rowland Unified School District is soliciting qualified contractors to submit an installation and ongoing service bid for (including, but not limited to) equipment racks, digital equipment, data cabling, and associated termination equipment as required to provide this service. All equipment included in this request will be owned and maintained by the awarded service provider.

This project is contingent upon Federal E-Rate Funding (Schools and Libraries Division). In addition, Rowland Unified School District will require that the awarded service provider ensure that all eligible components of service are filed with the California Public Utilities Commission (CPUC) and are eligible for the California Teleconnect Fund (CTF) discount.

This project encompasses the following:

1. The upgrade/installation of secure and dedicated land-based fiber optic connectivity between Nogales High School (401 Nogales St, La Puente, California 91744) and the existing Spectrum Enterprise Ethernet Private LAN (EP-LAN).
2. All remote sites (21) shall maintain their current connection through the HUB link located at the District Office (1830 Nogales St, Rowland Heights, California 91748) and in addition be able to connect through this new HUB link located at Nogales High School (401 Nogales St, La Puente, California 91744).

3. All remote school sites (21) shall have a minimum data connection to the Nogales High School location of 10 Gigabit (10,000Mbs) with full duplex capability through this new HUB link.
4. The vendor is responsible to obtain all necessary right of ways necessary for this project.
5. During the term of this contract, any changes in the routing of the fiber cable due to city/county infrastructure changes and/or requirements (street widening, new underground cabling requirements, etc.) will be the responsibility of the vendor at no expense to the District.
6. The vendor will guarantee a maximum 4 hour response time on all network outages.
7. The minimum of a three (3) year contract will be provided with an expiration of June 30, 2025. Please provide both 12 and 24-month renewal options. Future contracts and/or renewals will be at the discretion of the Rowland Unified School District.

SCOPE OF PROJECT

Please provide the installation (one time) costs, if applicable and monthly (ongoing) cost bids for this project as follows:

1. A land based minimum 100-gigabit (100,000Mbs full duplex) fiber optic (Ethernet capable) connection from the District's current Spectrum Enterprise Ethernet Private LAN (EP-LAN) to the following site:

Nogales High School	401 S. Nogales St.	La Puente	91744
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2. Nogales High School should be re-configured as an additional HUB Link in the current Ethernet Private LAN and a minimum of 100 GB.
3. Please include any installation (one time) costs, if applicable and monthly (ongoing) costs for all sites.
4. The site demark shall be determined by Rowland Unified School District technical staff.
5. Any Network outage resolution should be coordinated with designated Rowland Unified School District technical staff.
6. An uptime guarantee of 99.95% or better shall be provided
7. The circuits shall be capable of carrying multiple data services such as computer networks, voice over IP, digital video, etc.

8. All equipment necessary to provide this connectivity shall be provided by the vendor.
9. All vendor equipment installed shall be under repair maintenance at no cost to Rowland Unified School District for the life of the contract agreement.
10. The Rowland Unified School District shall be the sole judge of the quality, methodology and suitability of the service proposed by the Vendor. Pursuant to the State of California Public Contract Code section 20118.2 the award of the contract, if made, will be made by the Governing Board and shall be based upon whose proposal meets the needs as set forth in this RFP and will be the most suitable and advantageous with price and all other factors considered.
11. Selection will be made primarily on price, but other factors may be considered including, but not limited to, the degree to which the proposed services meet the functional and service level requirements and support procedures and upgradeability.
12. The District reserves the right to reject any or all proposals.
13. The Vendor, upon award of the contract shall provide evidence of appropriate Workers' Compensation Insurance.
14. The Vendor, upon award of the contract shall provide evidence of General Liability Insurance
15. The Vendor shall bear any costs involved in responding to this proposal.
16. The District requires the Vendor to have a valid and current SPIN (Service Provider Identification Number) as issued by USAC (Universal Service Administration Company), as well as a valid and current FCC registration Number (FCC-FRN). The Vendor must be in good standing with USAC/FCC.
17. The project should be ready to start on or after July 1, 2022 and will begin upon receipt of the Funding Commitment decision letter (E-Rate) from the Schools and Libraries Division.
18. The vendor shall provide three (3) references consisting of similar work and scope.
19. The bid should be delivered to:

Purchasing Department - Attn: Rosana McLeod
1830 Nogales St
Rowland Heights, CA 91748
20. The bid closing date/time will be **Thursday, February 17, 2022 at 10:00 a.m.**

21. Any additional requests for information may be directed to:

Rowland Unified School District – Attn: Rosana McLeod
1830 Nogales St
Rowland Heights, CA 91748
E-mail: rmcleod@rowlandschools.org

Response

The circuit should be capable of carrying 100 GB to the existing EP-LAN with the ability to upgrade if necessary.

Please indicate the typical routing and distance of the circuit – (e.g. routed/switched through vendor communication center in Pomona)

Please indicate the type and speed of handoff and any equipment provided by the vendor for the handoff included in the bid.

Please clearly indicate any initial or one-time costs and/or any equipment that the District would need to provide.

Initial/One Time costs (if any):

Cost in written form.

\$

Cost in numbers

EXHIBIT “B”

**High Speed Data Infrastructure Upgrade Project – WAN
E-RATE FUNDING YR 2022**

RFP # 2021/22: (R4)

PROPOSAL PRICING FORM – Mandatory

THE PRICES DESCRIBED HEREIN ARE INCLUSIVE OF THE FOLLOWING: (1) ALL PRODUCTS, EQUIPMENT, MATERIAL AND SUPPLY COSTS FOR EACH INDIVIDUAL ITEM AND WILL REMAIN CURRENT UNDER E-RATE YR. 2022.

Monthly Ongoing Costs	<i>Monthly Cost</i>
Nogales High School – 100Gb	
Nogales High School <i>Optional</i> – additional 10 Gb	
Nogales High School <i>Optional</i> – additional 100 Gb	
Total Monthly Cost	

EXHIBIT "C"

**High Speed Data Infrastructure Project – WAN
E-RATE FUNDING YR 2022**

RFP # 2021/22: (R4)

**PROPOSAL FORM
(MANDATORY)**

Submitted herewith is our Proposal for High Speed Data Infrastructure Upgrade Project - WAN E-Rate Funding Yr. **2022**, E-Rate Form 470 number # **220010587** for the Rowland Unified School District.

We propose the pricing and terms attached hereto in Exhibit "B" and certify that pricing and terms are in compliance with all current E-Rate program guidelines established by the Federal Communications Committee (FCC).

The Vendor will enter into an agreement with the District in the form submitted with this Request for Proposal.

Name of Vendor

By

SPIN Number _____

Federal Registration Number (FCC-FRN) _____

EXHIBIT "D"

**High Speed Data Infrastructure Upgrade Project - WAN
E-RATE FUNDING YR 2022**

RFP # 2021/22: (R4)

**ROWLAND UNIFIED SCHOOL DISTRICT
CERTIFICATION OF COMPLIANCE**

(MANDATORY FORM)

I/we have received and reviewed the RFP and any Addenda issued by the Rowland Unified School District and this submission is our entire submittal.

Vendor Name:

Authorized Signature: _____

Printed Name: _____

Date: _____, 2022 Number of Addenda Received: _____

EXHIBIT “E”

**High Speed Data Infrastructure Upgrade Project – WAN
E-RATE FUNDING YR 2022**

RFP # 2021/22: (R4)

FORM OF AGREEMENT

FORM OF AGREEMENT
High Speed Data Infrastructure Upgrade Project – WAN
E-RATE FUNDING YR 2022

RFP # 2021/22: (R4)

AGREEMENT FOR SALE OF EQUIPMENT, MATERIALS, SUPPLIES AND SERVICES

This Agreement for **High Speed Data Infrastructure Upgrade Project – WAN**, E-Rate Funding Yr. _____, is made and entered into this _____ day of _____, 20____ (“Contract”), by and between _____ (“Seller”) and **Rowland Unified School District** (“Buyer” or “District”). Seller and Buyer may be referred to herein individually as a “Party” or collectively as the “Parties.”

1. **Sale and Description of Goods.** Seller shall sell to the Buyer and Buyer shall purchase from Seller the products, equipment, materials, or supplies in the quantities and prices described in the document attached hereto as **Exhibit “G”** (the “Goods”).

1.1.2 Vendor shall be and remain, in compliance with all current E-Rate program guidelines established by the Federal Communications Committee (FCC). This procurement is entirely contingent upon available funding from the Federal E-Rate Program (Schools and Libraries Division) and the District may or may not undertake the procurement at its sole discretion.

2. **Delivery.** The Goods shall be delivered by Seller at Seller’s sole expense (“Delivery”) pursuant to the terms of the Purchase Order attached hereto as **Exhibit “H”**. Packing slips must accompany all shipments. Seller shall strictly adhere to the delivery and completion schedules specified in this Contract. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If Seller delivers in excess of the quantities specified herein, the Buyer shall not be required to make any payment for the excess equipment, materials, or supplies, and may return them to Seller at Seller’s expense or utilize any other rights available to the Buyer at law or in equity. The risk of loss or damage to the Goods shall not pass to buyer until buyer receives physical possession of the Goods.
3. **Compensation and Payment.** Buyer agrees to pay Seller for Goods satisfactorily provided under this Contract a total fee of _____ Dollars (\$_____.__) or from time to time on the same terms as the Purchase Order attached hereto as **Exhibit “H”** in the event that the Buyer’s duly authorized representative issues a purchase order to the Seller (collectively, the “Contract Price”). Payment for the Goods shall be made for all undisputed amounts within thirty (30) days after the Seller submits an itemized invoice to the Buyer for Goods actually and satisfactorily provided under this Contract and after the later of the following two events: (i) the date of acceptance of Goods; or (ii) receipt of an undisputed invoice.

Pursuant to Civil Code Section 1671 and Cal. U. Com. Code Section 2718, subd. (a), because it would be impracticable or extremely difficult to fix the actual value of damages to Buyer if Seller failed to timely deliver the Goods within the Contract Time, it has been agreed upon by the Parties that Seller shall pay Buyer liquidated damages of _____

_____ Dollars (\$_____.__) per day as liquidated damages for each and every day's delay beyond the time herein prescribed for Delivery under the Contract Time, which represents the result of a reasonable endeavor by the Parties to estimate a fair average compensation for any loss that may be sustained by Buyer if it is deprived of the beneficial use and enjoyment of the Goods to further its educational and governmental mission, and, as such, this amount is not intended to be a penalty in any manner whatsoever.

4. **Entire Contract.** This Contract including the Terms and Conditions attached hereto set forth the entire Contract between the Parties hereto and fully supersedes any and all prior agreements, understanding, written or oral, between the Parties hereto pertaining to the subject matter thereof. This Contract may be modified only by a writing evidencing the Parties' mutual consent.

5. **Notices and Communications.** Notices and communications between the Parties may be sent to the following addresses:

Buyer:

Alejandro Flores
 Asst. Superintendent, Admin. Svcs.
 Rowland Unified School District
 1830 S. Nogales Street
 Rowland Heights, CA 91748
 E-mail: aflores@rowlandschools.org
 Tel. 626-854-8309

Seller:

 _____, ____
 ATTN: _____
 E-mail _____
 Telephone: _____

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

6. **Contract Documents.** The Contract Documents include only the following documents, as indicated:

 X **Exhibit "H"** Purchase Order

 X **Exhibit "I"** Terms and Conditions to Contract

ACCEPTED AND AGREED on the date indicated below. By signing this Contract, Seller certifies, under penalty of perjury, that all the information provided in the Contract Documents is true, complete, and correct:

Dated: _____, 20__

Dated: _____, 20__

Rowland Unified School District

_____ **[Seller]**

By: _____

By: _____

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: _____

Information regarding Seller:

Type of Business Entity:

- ____ Individual
- ____ Sole Proprietorship
- ____ Partnership
- ____ Limited Partnership
- ____ Corporation
- ____ Limited Liability Company
- ____ Other:

Employer Identification and/or Social Security Number
NOTE: United States Code, title 26, sections 6041 and 6109 require non-corporate recipients of \$600 or more to furnish their taxpayer identification number to the payer. The United States Code also provides that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these rules, the District requires your federal tax identification number or Social Security number, whichever is applicable.

EXHIBIT "F"

**High Speed Data Infrastructure Upgrade Project – WAN
E-RATE FUNDING YR 2022**

RFP # 2021/22: (R4)

E-RATE SUPPLEMENTAL TERMS AND CONDITIONS

E-RATE SUPPLEMENTAL TERMS AND CONDITIONS
High Speed Data Infrastructure Upgrade Project – WAN
E-RATE FUNDING YR 2022

RFP # 2021/22: (R4)

Signed copy to be returned with bid response.

The Telecommunications Act of 1996 established a fund by which Schools and Libraries across the Country could access discounts on eligible telecommunications products and services. The program is commonly known as the E-rate Program. The eligibility for discounts on internet access, telecommunications products and services, internal connection products, services and maintenance is determined by the Federal Communications Commission (FCC). Funding is made available upon application approval by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC), which was established by the Act. The amount of discount is based on the numbers of students receiving free and reduced price meals.

1) E-RATE CONTINGENCY

The project herein is contingent upon the approval of funding from the Universal Service Fund's Schools and Libraries Program, otherwise known as E-rate. Even after award of contract(s) and/or E-rate funding approval is obtained, the District may or may not proceed with the project, in whole or in part. Execution of the project, in whole or in part, is solely at the discretion of the District.

2) SERVICE PROVIDER REQUIREMENTS

The District expects Service Providers to make themselves thoroughly familiar with any rules or regulations regarding the E-rate program.

- a. Service Providers are required to be in full compliance with all current requirements and future requirements issued by the SLD throughout the contractual period of any contract entered into as a result of this RFP.
- b. Service Providers are responsible for providing a valid SPIN (Service Provider Identification Number). More information about obtaining a SPIN may be found at this website: <https://www.usac.org/e-rate/service-providers/step-1-obtain-a-spin/>
- c. Service Providers are responsible for providing a valid Federal Communications Commission (FCC) Registration Number (FRN) at the time the bid is submitted. More information about obtaining an FRN may be found at this website: <https://fjallfoss.fcc.gov/coresWeb/publicHome.do>
- d. Service Providers are responsible for providing evidence of FCC Green Light Status at the time the bid is submitted. Any potential bidder found to be in Red

Light Status must provide an explanation of the steps it is undertaking to be removed to Red Light Status and the expected timeframe for resolution. A Service Provider's sustained Red Light Status may be grounds for contract termination as it could prohibit the Service Provider from providing E-rate discounts in a timely manner which would cause harm to the Applicant. More information about FCC Red and Green Light Status may be found at this website: http://www.fcc.gov/debt_collection/welcome.html

- e. Products and services must be delivered before billing can commence. At no time may the Service Provider invoice before July 1, 2022.
- f. Prices must be held firm for the duration of the associated E-rate Funding Year(s) or until all work associated with the project is complete (including any contract and USAC approved extensions).
- g. Goods and services provided shall be clearly designated as "E-rate Eligible". Non-eligible goods and services shall be clearly called out as 100% non-eligible or shall be "cost allocated" to show the percentage of eligible costs per SLD guidelines.
- h. Within one (1) week of award, the awarded Service Provider must provide the District a bill of materials using a completed USAC "Item 21 Template". Subsequent schedules of values and invoices for each site must match Item 21 Attachment or subsequent service substitutions. A summary sheet must also be provided to provide the cumulative amount for all sites.**
- i. In the event of questions during an E-rate pre-commitment review, post-commitment review and/or audit inquiry, the awarded Service Provider is expected to reply within 3 days to questions associated with its proposal.
- j. The awarded Service Provider is required to send copies of all forms and invoices to the District prior to invoicing USAC for pre-approval. Failure to comply with this requirement may result in the District placing the vendor on an "Invoice Check" with the USAC <https://www.usac.org/e-rate/applicant-process/invoicing/invoice-check/>
- k. Services providers must comply with the FCC rules for Lowest Corresponding Price ("LCP"). Further details on LCP may be obtained at USAC's website: <https://www.usac.org/e-rate/service-providers/step-2-responding-to-bids/lowest-corresponding-price/>

3) SERVICE PROVIDER ACKNOWLEDGEMENTS

- a. The Service Provider acknowledges that no change in the products and/or services specified in this document will be allowed without prior written approval from the district and a USAC service substitution approval with the exception of a Global Service Substitutions.
- b. The Service Provider acknowledges that all pricing and technology infrastructure information in its bid shall be considered as public and non-confidential pursuant to §54.504 (2)(i)(ii).
- c. The Service Provider acknowledges that its offer is considered to be the lowest corresponding price pursuant to § 54.511(b). Further details on LCP may be obtained at USAC's website: <https://www.usac.org/e-rate/service-providers/step-2-responding-to-bids/lowest-corresponding-price/>. Should it not be the lowest corresponding price, the service provider must disclose the conditions leading to the applicant being charged in excess of lowest corresponding price.
- d. BIDDERS are required to comply with the FCC's Lowest Corresponding Price ("LCP") Requirement for all equipment and Services. BIDDER acknowledges that BIDDER is solely responsible to comply with LCP requirements. To the extent that USAC finds an LCP violation and reduces the E-rate Funding, BIDDER agrees that it will not hold the DISTRICT liable for any shortfall in E-rate funding and will be responsible for any ensuing appeals, COMADS and/or RIDFS.
- e. The Service Provider attests that its offer does not violate the FCC's Supply Chain certifications included in the FCC Form 473. Supply Chain requirements and certifications can be viewed at USAC's Website: <https://www.usac.org/about/reports-orders/supply-chain/>.
- f. This offer is in full compliance with USAC's Free Services Advisory <https://www.usac.org/e-rate/applicant-process/competitive-bidding/free-services-advisory/>. There are no free services offered that would predicate an artificial discount and preclude the applicant from paying its proportionate non-discounted share of costs. The service provider agrees to provide substantiating documentation to support this assertion should the applicant, USAC, or the FCC request it.

4) STARTING SERVICES/ADVANCE INSTALLATION – Category 1 Services


The annual E-rate Funding Year begins on July 1 and expires on June 30 of each calendar year. Regardless of the contract “effective date”, E-rate eligible goods and/or services requested in this RFP shall be delivered no earlier than the start of the 2022 funding year (July 1, 2022). If Category 1 services (Telecommunication Services and Internet access) will begin on or shortly after July 1 of a funding year, the service provider, in some cases, may need to undertake some construction and installation work prior to the beginning of that funding year. Within the limitations indicated below, the infrastructure costs of a service provider can be deemed to be delivered at the same time that the associated Category 1 services begin. That is, if services begin on July 1, then the delivery of service provider infrastructure necessary for those services can be considered as also delivered on July 1. However, NO INVOICING can take place prior to July 1 of the associated Funding Year.

EARLY FUNDING CONDITIONS

Category 1

There are four conditions that must be met in order for USAC to provide support in a funding year for Category 1 infrastructure costs incurred prior to that funding year.

- *Initiation of installation cannot take place before selection of the service provider pursuant to a posted Form 470 and in any event no earlier than six months prior to July 1 of the funding year.*
- *The Category 1 service must depend on the installation of the infrastructure.*
- *The underlying Category 1 service cannot have a service start date prior to July 1 of the funding year.*
- *No invoices can be submitted to USAC for reimbursement prior to July 1 of the funding year.*

For more information, please refer to the FCC Order involving the Nassau County Board of Cooperative Educational Services (DA 02-3365 )

The complete text can be found at the following URL:

<https://www.usac.org/e-rate/applicant-process/starting-services/advance-installation/>

Category 2

There is one condition that allows USAC to provide support in a funding year for Category 2 installation costs incurred prior to that funding year.

• *We also amend our rules for category two non-recurring services to permit applicants to seek support for category two eligible services purchased on or after April 1, three months prior to the start of funding year on July 1. This will provide schools with the flexibility to purchase equipment in preparation for the summer recess and provide the maximum amount of time during the summer to install these critical networks.*

For more information, please refer to the FCC Report and Order and Further Notice of Proposed Rulemaking ([FCC 14-99](#) 

However, NO INVOICING can take place prior to July 1 of the funding year.

5) INVOICING

- a. The Service Provider agrees to bill and receive a portion of the payment for the provisions of goods and services described herein directly from USAC via the Form 474 Service Provider Invoice (SPI). The District will only be responsible for paying its non-discounted share of costs and does not intend to use the BEAR process (Form 472). The maximum percentage the District will be liable for is the pre-discount amount minus the funded amount as shown on the FCC Form 471 Block 5 and any identified ineligible costs. Upon the successful receipt or posting of a Funding Commitment Decision Letter from the SLD and submission, certification and USAC approval of Form 486, the District shall pay only the discounted amount beginning with the billing cycle immediately following said approval. Alternatively, should the District decide that it is in the best interest of the District to file a Form 472, the District will inform the Service Provider of its intent.
- b. All Service Provider invoicing to USAC must be completed within 120 days from the last day of service. Should the Service Provider fail to invoice USAC in a timely manner, the District will only be responsible for paying its non-discounted share.

6) FCC/SLD AUDITABILITY

The E-rate program requires that all records be retained for at least ten (10) years from the last date of service provided on a particular funding request. Respondent hereby agrees to retain all books, records, and other documents relative to any

Agreement resulting from this RFP for ten (10) years after final payment. The District, its authorized agents, and/or auditors reserves the right to perform or have performed an audit of the records of the Respondent and therefore shall have full access to and the right to examine any of said materials within a reasonable period of time during said period.

7) PROCUREMENT OF ADDITIONAL GOODS AND/OR SERVICES/COTERMINOUS EXPIRATION

During the term of any Agreement resulting from this RFP, the District may elect to procure additional or like goods and/or services offered by the Respondent. Such services shall be negotiated and obtained via an official amendment to this Agreement and approval by the District’s Governing Board. All terms, conditions, warranties, obligations, maintenance and support of said goods or services shall have a coterminous expiration date with the original date of this Agreement. The District shall not enter into a separate Agreement for said goods or services. Respondents must state in their proposal that they acknowledge, accept and are in agreement with coterminous expiration conditions.

I, the undersigned, as an authorized agent of _____ (Service Provider Name), hereby certify that I have read the E-rate Supplemental Terms and Conditions, am fully compliant and intend to cooperate with the E-rate process as outlined above.

Signature: _____ **Title:** _____

Phone Number: _____ **Email:** _____

Service Provider Name: _____

EXHIBIT "G"
PRODUCT DESCRIPTION

EXHIBIT "H"
RUSD – PURCHASE ORDER

Left blank intentionally until vendor selection and award of bid.

EXHIBIT "I"

Terms and Conditions to Purchase Order / Agreement for Sale of Equipment, Materials, or Supplies

1. **Parties.** Vendor also known as "Seller" and **Rowland Unified School District** also known as "Buyer" or "District".
2. **Freight Terms.**

All prices shall be quoted F.O.B. destination, unpacked, assembled (if necessary) to the designated site(s) at the time of order. No additional freight, drayage or labor charges will be permitted. All cartons and other packaging materials to be removed from the site by the Seller or his agents.
3. **Shipments.**

All line items shall be delivered to the District's warehouse, complete as requested in one shipment. Partial line item delivery shall not be accepted without prior consent. Payment for partial line items shall be delayed until the complete quantity has been received at the District's warehouse. NOTE: This does not mean that the District will not accept a partial purchase order delivery, as long as the total quantity requested for each line item is included in the shipment.
4. **Marking of Packages.**

Each package contained in each shipment shall be clearly marked with the District purchase order number. Failure to mark the packages may delay District acceptance and payment for the shipment. Each package shall be marked with the sequential package number of threat shipment with the first package being marked Number 1, and PACKING SLIP ENCLOSED.
5. **Inspection, Acceptance, and Rejection.**
 - a. Seller and its subcontractors will provide and maintain a quality assurance system acceptable to the Buyer covering the Goods and will tender to the Buyer only those Goods that have been inspected and found to conform to this Contract's requirements. Seller will keep records evidencing inspections and their result, and will make these records available to the Buyer during Contract performance and for three years after final payment. Seller shall permit the Buyer to review procedures, practices, processes and related documents to determine the acceptability of Seller's quality assurance system or other business practices related to performance of the Contract.
 - b. All Goods may be subject to inspection and test by the Buyer or its authorized representatives.
 - c. Seller and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to the Buyer. Seller shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
 - d. All Goods to be delivered hereunder may be subject to final inspection, test and acceptance by the Buyer at destination, notwithstanding any payment or inspection at source.
 - e. Buyer shall give written notice of rejection of equipment, materials, or supplies delivered or services performed hereunder within a reasonable time after receipt of such equipment, materials, or supplies. Such notice of rejection will state the respects in which the equipment, materials, or supplies do not substantially conform to the specifications of the Goods. If the Buyer does not provide such notice of rejection within thirty (30) days of delivery, such equipment, materials, or supplies will be deemed to have been accepted. Acceptance by the Buyer will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that the Buyer might have at law or by express reservation in this Contract with respect to any nonconformity.
6. **Warranties.**
 - a. *Warranty of Supplies of a Noncomplex Nature* (Note-Intended to Implement terms substantially similar to 48 C.F.R. section 52.246-17 [UPDATED JUNE 2003])
 - i. Definitions. As used in this section entitled *Warranty of Supplies of a Noncomplex Nature* of the Article entitled *Warranties*
 - (1) Acceptance means the act of an authorized representative of the Buyer by which the Buyer assumes for itself, or as an agent of another, ownership of existing supplies, or approves specific

- services as partial or complete performance of the contract.
- (2) Supplies means the end items furnished by the Seller and related services required under this contract. The word does not include "data."
- ii. Seller's obligations.
 - (1) Notwithstanding inspection and acceptance by the Buyer of supplies furnished under this contract, or any condition of this contract concerning the conclusiveness thereof, the Seller warrants that for five (5) years after delivery ("Warranty Period")
 - a. All supplies furnished under this contract will be free from defects in material or workmanship and will conform with all requirements of this contract; and
 - b. The preservation, packaging, packing, and marking, and the preparation for, and method of, shipment of such supplies will conform with the requirements of this contract.
 - (2) When return, correction, or replacement is required, transportation charges and responsibility for the supplies while in transit shall be borne by the Seller. However, the Seller's liability for the transportation charges shall not exceed an amount equal to the cost of transportation by the usual commercial method of shipment between the place of delivery specified in this contract and the Seller's plant, and return.
 - (3) Any supplies or parts thereof, corrected or furnished in replacement under this clause, shall also be subject to the terms of this clause to the same extent as supplies initially delivered. The warranty, with respect to supplies or parts thereof, shall be equal in duration to the Warranty Period and shall run from the date of delivery of the corrected or replaced supplies.
 - iii. Remedies available to the Buyer.
 - (1) Buyer shall give written notice to the Seller of any breach of warranty within 45 days after discovery of the defect.
 - (2) Within a reasonable time after the notice, the Buyer may either—
 - (3) Require, by written notice, the prompt correction or replacement of any supplies or parts thereof (including preservation, packaging, packing, and marking) that do not conform with the requirements of this Contract; or
 - (4) Retain such supplies and reduce the Contract Price by an amount equitable under the circumstances.
 - (5) If the contract provides for inspection of supplies by sampling procedures, conformance of supplies or components subject to warranty action shall be determined by the applicable sampling procedures in the contract.
 - a. The Buyer may, for sampling purposes, group any supplies delivered under this contract;
 - b. Shall require the size of the sample to be that required by sampling procedures specified in the contract for the quantity of supplies on which warranty action is proposed;
 - c. May project warranty sampling results over supplies in the same shipment or other supplies contained in other shipments even though all of such supplies are not present at the point of reinspection; provided, that the supplies remaining are reasonably representative of the quantity on which warranty action is proposed; and
 - d. Need not use the same lot size as on original inspection or reconstitute the original inspection lots.
 - (6) Within a reasonable time after notice of any breach of the warranties specified above, the Buyer may exercise one or more of the following options:
 - a. Require an equitable adjustment in the Contract Price for any group of supplies.
 - b. Screen the supplies grouped for warranty action under this clause at the Seller's expense and return all nonconforming supplies to the Seller for correction or replacement.
 - c. Require the Seller to screen the supplies at locations designated by the Buyer within the jurisdictional boundaries of the District and to correct or replace all nonconforming supplies.
 - d. Return the supplies grouped for warranty action under this clause to the Seller (irrespective of the f.o.b. point or the point of acceptance) for screening and correction or replacement.
 - (7) The Buyer may, by contract or otherwise, correct or replace the nonconforming supplies with similar supplies from another source and charge to the Seller the cost occasioned to the Buyer

thereby if the Seller:

- a. Fails to make redelivery of the corrected or replaced supplies within the time established for their return; or
 - b. Fails either to accept return of the nonconforming supplies or fails to make progress after their return to correct or replace them so as to endanger performance of the delivery schedule, and in either of these circumstances does not cure such failure within a period of 10 days (or such longer period as the Buyer may authorize in writing) after receipt of notice from the Buyer specifying such failure.
- (8) Instead of correction or replacement by the Buyer, the Buyer may require an equitable adjustment of the Contract Price. In addition, if the Seller fails to furnish timely disposition instructions, the Buyer may dispose of the nonconforming supplies for the Seller's account in a reasonable manner. The Buyer is entitled to reimbursement from the Seller, or from the proceeds of such disposal, for the reasonable expenses of the care and disposition of the nonconforming supplies, as well as for excess costs incurred or to be incurred.
- (9) The rights and remedies of the Buyer provided in this section entitled Warranties are in addition to and do not limit any rights afforded to the Buyer by any other clause of this Contract.
- b. Supplement to Section Entitled Warranty of Supplies of a Noncomplex Nature (Note-Intended to Implement terms substantially similar to California Multiple Award Schedules (CMAS) General Terms and Conditions for Non-Information Technology Services section entitled CMAS-WARRANTY)
 - i. Unless otherwise specified, the warranties contained in this contract begin after acceptance has occurred.
 - (1) Seller warrants goods furnished hereunder will conform to the requirements of this Contract.
 - (2) All warranties, including special warranties specified elsewhere herein, shall inure to the Buyer, its successors, assigns, customer agencies and users of the goods.

7. Disputes.

- a. The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, Seller shall submit to the District's Superintendent or designee a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to or involving this Contract, unless the District, on its own initiative, has already rendered such a final decision. Seller's written demand shall be fully supported by factual information, and if such demand involves a cost adjustment to the Contract, Seller shall include with the demand a written statement signed by an authorized person indicating that the demand is made in good faith, that the supporting data are accurate and complete and that the amount requested accurately reflects the Contract adjustment for which Seller believes the District is liable.
- b. Pending the final resolution of any dispute arising under, related to or involving this Contract, Seller agrees to diligently proceed with the performance of this Contract, including the delivery of Goods or providing of services in accordance with the District's instructions. Seller's failure to diligently proceed in accordance with the District's instructions shall be considered a material breach of this Contract.
- c. Any final decision of the District shall be expressly identified as such, shall be in writing, and shall be signed by the District Superintendent or designee. If the District fails to render a final decision within 90 days after receipt of Seller's demand, it shall be deemed a final decision adverse to Seller's contentions. The District's final decision shall be conclusive and binding regarding the dispute unless Seller commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.

- 8. Termination.** If Seller fails to perform the Contract and Seller's duties to the satisfaction of the Buyer, or if Seller fails to fulfill in a timely and professional manner Seller's obligations under this Contract, or if Seller violates any of the Terms or Provisions of this Contract, the Buyer shall have the right to terminate this Contract effective immediately upon the Buyer giving written notice thereof to the Seller. Buyer shall also have the right in its sole discretion to terminate the Contract for its own convenience. Termination shall have no effect upon any of the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of termination.

- 9. Assignment of Contract.** Seller shall not assign or transfer in any way any or all of its rights, burdens, duties,

or obligations under this Contract without the prior written consent of the Buyer.

10. **Time is of the Essence.** Time is of the essence in the performance of and compliance with each of the provisions and conditions of this Contract.
11. **Delivery and Installation Charges**
 - a. Seller is cautioned to bid on the full and complete cost of each item.
 - b. Seller must establish a dedicated project manager to coordinate all aspects of this delivery.
 - c. Seller must coordinate all deliveries with freight carriers, expedite factory ship dates and verify project status with customer two weeks prior to shipment. The District is not responsible to monitor freight deliveries.
 - d. Seller must provide follow-up reports, on a bi-weekly basis, regarding damage replacements, returns, credits and freight claims. Seller is responsible for all freight claim issues. The District is not responsible for any additional charges due to freight damage replacements.
12. **Force Majeure Clause.** Seller shall be excused from performance hereunder during the time and to the extent that it is prevented from obtaining delivery, or performing by act of God, fire, strike, loss, or shortage of transportation facilities, lock-out, commandeering of materials, product, plant, or facilities by the government, when satisfactory evidence thereof is presented to the Buyer, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of Seller.
13. **Indemnification / Hold-Harmless.** To the furthest extent permitted by California law, Seller shall defend, indemnify, and hold harmless the Buyer, its agents, representatives, officers, consultants, employees, and volunteers (the "indemnified parties") from any and all demands, losses, liabilities, claims, suits, and actions (the "claims") of any kind, nature, and description, including, but not limited to, attorneys' fees and costs, directly or indirectly arising from personal or bodily injuries, death, property damage, or otherwise arising out of, connected with, or resulting from the performance of this Contract unless the claims are caused wholly by the sole negligence or willful misconduct of the indemnified parties. The Buyer shall have the right to accept or reject any legal representation that Seller proposes to defend the Buyer.
14. **Permits and Licenses.** Seller and all of its employees, agents, and subcontractors shall secure and maintain in force, at Seller's sole cost and expense, all licenses and permits as are required by law, in connection with the furnishing of materials, supplies, or Contract herein listed.
15. **Independent Contractor Status.** While engaged in carrying out the Contract, the Seller is an independent contractor, and not an officer, employee, agent, partner, or joint venture of the Buyer. Seller shall be solely responsible for its own Worker's Compensation insurance, taxes, and other similar charges or obligations. Seller shall be liable for its own actions, including its negligence or gross negligence, and shall be liable for the acts, omissions, or errors of its agents or employees.
16. **Anti-Discrimination Policy.** It is the policy of the Buyer that in connection with all work performed under contracts there be no discrimination against any employee engaged in the work because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of any person, and therefore the Seller agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment Practice Act beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, the Seller agrees to require like compliance by all its subcontractor(s).
17. **Compliance with Laws.** Seller shall give all notices and comply with all laws, ordinance, rules and regulations bearing on conduct of the Contract as indicated or specified. If Seller observes that any of the work required by this Contract is at variance with any such laws, ordinance, rules or regulations, Seller shall notify the Buyer, in writing, and, at the sole option of the Buyer, any necessary changes to the scope of the Contract shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be terminated effective upon Seller's receipt of a written termination notice from the Buyer. If Seller performs any work of the Contract that is in violation of any laws, ordinances, rules or regulations, without first notifying the Buyer of the violation, Seller shall bear all costs arising therefrom.
18. **Anti-Trust Claim.** Seller and its subcontractor(s) agree to assign to the Buyer all rights, title, and interest in and to all causes of action they may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and

Professions Code), arising from purchases of goods, services, or materials pursuant to the Contract or a subcontract. This assignment shall be made and become effective at the time the Buyer tenders final payment to the Seller, without further acknowledgment by the Parties.

19. **Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the State of California with venue of any action in a in the county in which the Buyer's administration office is located.
20. **Provisions Required by Law to be Inserted.** Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and this Contract shall be read and enforced as though it were included therein.
21. **Binding Contract.** This Contract shall be binding upon the Parties hereto and upon their successors and assigns, and shall inure to the benefit of the Parties and their successors and assigns.
22. **Buyer Non-Waiver.** Buyer's waiver of any term, condition, covenant or waiver of a breach of any term, condition or covenant shall not constitute the waiver of any other term, condition or covenant or the waiver of a breach of any other term, condition or covenant.
23. **Invalid Term.** If any provision of this Contract is declared or determined by any court of competent jurisdiction to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining parts, terms and provisions shall not be affected thereby, and said illegal, unenforceable or invalid part, term or provision will be deemed not to be a part of this Contract.

