

# New Haven Unified School District

UNION CITY • SOUTH HAYWARD • (510) 471-1100

34200 ALVARADO NILES ROAD • UNION CITY • CA 94587

## BOARD OF EDUCATION

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## CO-SUPERINTENDENTS

Arlando Smith  
Akur Varadarajan



**DATE:** November 30, 2016

**OWNER:** New Haven Unified School District

**PROJECT:** Bid Schedule #700 - Itliong-Vera Cruz Middle School 21<sup>st</sup> Century Classroom Design Build Project

**SUBJECT:** **ADDENDUM NO. 1**

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### CHANGES, CLARIFICATIONS, AND/OR ADDITIONS TO THE RFP AND FRONT END DOCUMENTS AS FOLLOWS:

1. RFP - Replace in its entirety with attached.
2. DB Agreement - Replace in its entirety with attached
3. Division 00040 Geotechnical Data - Replace in its entirety with attached.
4. Division 00050 Existing Conditions - Replace in its entirety with attached.
5. Division 00110 Instruction to Bidders - Omit
6. Division 00140 Bid Form - Omit
7. Division 00150 Bid Bond - Replace in its entirety with attached.
8. Division 00160 Designated Subcontractors List - Replace in its entirety with attached.
9. Division 00310 Site-Visit Certification - Replace in its entirety with attached.
10. Division 00330 NonCollusion Affidavit - Replace in its entirety with attached.
11. Division 00510 Notice of Award - Replace in its entirety with attached.
12. Division 00530 Agreement - Omit
13. Division 00540 Escrow Bid Documentation - Replace in its entirety with attached.
14. Division 00700 General Conditions - Omit (Use Design-Build General Conditions)
15. Division 00890 Guarantee Form - Replace in its entirety with attached.
16. Division 00912 Disabled Veteran Business - Replace in its entirety with attached.
17. Division 0915 Drug-Free Workplace Certification - Replace in its entirety with attached.
18. Division 00925 Hazardous Materials Certification - Replace in its entirety with attached.
19. Division 00930 Lead Based Paint Certification - Replace in its entirety with attached.
20. Division 00935 Imported Materials Certification - Replace in its entirety with attached.
21. Division 00940 Criminal Background Fingerprinting Certification - Replace in its entirety with attached.

**Please acknowledge receipt by email no later than today, Friday December 2, 2016.**

Email address: [narps@nhusd.k12.ca.us](mailto:narps@nhusd.k12.ca.us)

New Haven Unified School District

A handwritten signature in black ink, appearing to read "Arlando Smith", is written over a horizontal line.

Co-Superintendent/  
Chief Business Officer

# New Haven Unified School District

\*\*\*November 18, 2016\*\*\*

## DESIGN-BUILD ENTITY REQUEST FOR PROPOSALS

As noted in the Notice to Bidders issued on November \_\_, 2016, the New Haven Unified School District ("District") anticipates selecting a Design-Build Entity in accordance with Education Code section 17250.10 *et seq.* for the construction of the 21<sup>st</sup> Century Building at Itliong Vera Cruz Middle School ("Project"). The District's primary objective in utilizing the design-build approach is to bring the best available integrated design and construction experience to this Project in a cost-effective manner.

It is the intention of the District to select a Design-Build entity and seek approval to negotiate with the selected entity at the District's Governing Board meeting in January of 2017.

The District anticipates the following schedule for this RFP, which procurement schedule shall be subject to modification at the District's discretion:

<b>Issue RFP</b>	<b>November 18, 2016</b>
<b>Last Day to Submit Pre-RFP product substitution request</b>	<b>December 5, 2016</b>
<b>Last Day to Submit Questions Regarding RFP</b>	<b>December 12, 2016</b>
<b>RFP Proposal Due Date</b>	<b>December 15, 2016</b>
<b>Intent to Award Letter Issued</b>	<b>December 16, 2015</b>

In the event that the Respondent has not been previously prequalified by the District, the Respondent must undergo the prequalification process. Prequalification forms are available at the District office, and must be submitted no later than December 5, 2016.

Please note this Project is subject to compliance monitoring, electronic certified payroll records reporting and compliance monitoring by the Department of Industrial Relations ("DIR").

No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 (with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)). No contractor or subcontractor may be awarded a contract for work on a public works project (awarded on or

after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

All RFP Responses shall be submitted in a sealed package(s) plainly marked with the words “*Response to RFP for Design-Build Services for 21<sup>st</sup> Century Design Build Project; Do Not Open Until December 5, 2015, 2:00 P.M.*” Five (5) hard copies and one (1) compact disc (CD) with a PDF copy of your completed proposal must be received by the District via hand delivery by **2:00 PM on December 15, 2015** at the following address:

**New Haven Unified School District  
Attn: Akur Varadarajan  
34200 Alvarado Niles Road,  
Union City, CA 94587**

The District also requests that an electronic version of your proposal be sent to Nicholas Arps at [narps@nhusd.k12.ca.us](mailto:narps@nhusd.k12.ca.us) (due by the same deadline).

Any proposals not received by such time may be disqualified at the sole discretion of the District.

Questions regarding this RFP may be directed to Nicholas Arps, District’s Director of Facilities & Construction, at (510) 476-2642, or email at [narps@nhusd.k12.ca.us](mailto:narps@nhusd.k12.ca.us). No other members of the District's staff or Board should be contacted about this procurement during the procurement process. Any and all inquiries and comments regarding this RFP must be communicated in writing, unless otherwise instructed by the District. The District may, in its sole discretion, disqualify any proposer who engages in any prohibited communications.

The District reserves the right to cancel or revise, for any or no reason, in part or in its entirety, this RFP either by addenda or otherwise. If the District cancels or revises the RFP prior to the deadline for the submission of proposals, notification will be placed on the District's website. The District makes no representation that any contract will be awarded to any proposer responding to this RFP. The District expressly reserves the right to postpone proposal consideration for its own convenience, to waive any informality or irregularity in a proposal received, and to reject any and all proposals received in response to this RFP.

Sincerely,

Akur Varadarajan  
Co-Superintendent/Chief Business Officer  
New Haven Unified School District

# STATEMENT OF PROPOSAL

## I. INTRODUCTION

With this RFP, the District is inviting submittals from qualified and experienced Design-Build Entities ("DBE") that have demonstrated familiarity with the Design-Build delivery method and experience successfully completing public school construction projects of similar size and scope using the Design-Build construction delivery method advertised and released by the District.

The successful proposer will be responsible for providing the design services and construction as indicated below and described in greater detail in the Design-Build contract, which is attached hereto and incorporated herein as **Exhibit A**.

The District has established a Project Budget for completing the Project Design Documents and Construction of the Project in the amount of One million eight hundred seventy two thousand dollar (\$1,872,000), inclusive of a 4% contingency, architectural, engineering, construction, labor, materials, equipment, supervision/management of the design and construction process. The foregoing Project Budget excludes the costs, fees or expenses of the Project Consultant to the District, the Project Inspector during Project construction and the initial test and subsequent inspections of the Project during Project construction.

The District has established a tentative schedule for the commencement and completion of various activities necessary to complete the successful DBE's obligations under the DBE Contract, as set forth below. The primary objective of the District's tentative schedule is to achieve completion of the, Project so that it can be used and occupied not later than August, 2017. As set forth in the RFP, DBEs responding to the RFP will be required to address schedule related matters in their respective RFP Responses.

## II. PROJECT DESCRIPTION

The general scope of the Project includes: A new classroom type building with associated site improvements for modular construction on two different sized buildings. Restrooms, Seating, HVAC System, Electrical System, Tech/Data System on the prepared site at the District's selected location on the campus. All design criteria shall conform to Department of State Architects (DSA) codes, regulations, review and input.

As noted in the RFP, the District has engaged LPA, INC. to develop the bridging documents, the Basis of Design (BOD), which consist of the program, the schematic design, performance specifications and preliminary cost estimate. Such documents are attached hereto as **Exhibit B** and incorporated herein by this reference.

All Reference Documents are provided by the District for reference by Respondents in preparing RFP Responses and for reference by the successful DBE during its development of the Design Documents and/or construction of the Project. Reference

Documents are available for electronic transfer upon request. During the RFP process, Respondents may make copies of Reference Documents, at each Respondent's sole cost and expense. Upon request, the District will provide each Respondent with an electronic version of each Reference Document requested. Information contained in the reference documents is believed to be reliable but the District neither guarantees or warrants that such information is complete and accurate. **All requests for any Reference Documents shall be received by December 12, 2016.**

**While the District is still in the process of finalizing its Project schedule, the District anticipates starting construction on the Project in the Spring/Summer of 2016.**

The selected Design-Build entity will be required to work cooperatively with the Construction Manager/Director of Facilities, Nicholas Arps and as directed by the District, the selected bridging architect that assisted in the development of the specific performance specifications developed for the Project and included with the RFP.

The successful proposer will be responsible for providing services for development of the project including Design Development (Phase 1), Finalization of Construction Documents (Phase 2) and Construction of the Project (Phase 3). Work under Phases 2 and 3 will only commence if the District elects to exercise its Options for these Phases, which will be dependent upon the Design-Build entity's successful completion of the previous Phase (for example, moving on to Phase 3 will only be done if District elects option and Design-Build entity has successfully completed Phase 2). The sealed cost proposal submitted by the proposer shall include a breakdown of costs for each Phase, in addition to a total amount for the completion of all three Phases, as described further below.

### **III. RFP ACTIVITIES AND TIMELINE**

The following is a description of the principal activities to be completed under this RFP and the timeline for completion of each activity. Notwithstanding the following description of RFP activities and the RFP timeline, the District expressly reserves the right to modify RFP activities and/or date(s) for completing RFP activities by issuance of addenda reflecting such modifications.

Date	Activity
November 28, 2016 (10:00 a.m. @ IVCMS Campus)	Mandatory Pre-RFP Response Submission Meeting
December 5, 2016	Last day for submittal of Pre-RFP Response product substitution requests (by 3:00 p.m.)
December 12, 2016	Last day for submittal of questions by email (by 3:00 p.m.)
December 15, 2016	Deadline for submittal of RFP (by 3:00 p.m.)
January 17, 2016	Board of Trustees action to award DBE contract

Mandatory Pre-RFP Response Submission Meeting. Respondents must attend a Mandatory Pre-RFP Response Submission Meeting conducted by the District on November 28, 2016, beginning at 10:00 A.M. in the Main Building on the campus, located at 31604 Alvarado Bl., Union City, CA. DBEs may contact the District's Director of Facilities & Construction for directions to the Mandatory Pre-RFP Submission Meeting, parking, and other related matters. The failure of a DBE to have its representatives attend the entirety of the Mandatory Pre-RFP Response Submission Meeting may result in the District's rejection of such DBE RFP Response for non-responsiveness. Attendance by management/supervisory personnel of the General Contractor and Architect of Record members of the DBE at the Mandatory Pre-RFP Response Submission Meeting is required and compulsory. DBEs may have other DBE members, including Subcontractors to the General Contractor and Sub-Consultants to the Architect of Record attend the Mandatory Pre-RFP Response Submission Meeting; provided that attendance by Subcontractors or Sub-Consultants is in addition to and not in lieu of attendance by the General Contractor and Architect of Record management/supervisory personnel.

Respondent Questions and Clarification Requests. Respondents are asked to defer all questions regarding this RFP or the Project until the Mandatory Pre-RFP Response Submission Meeting has been completed. After the Pre-RFP Responses Submission Meeting, questions or clarification requests regarding this RFP (except to inquire about the number of addenda issued) must be put in writing and must be received by the District no later than 3:00 P.M. (PST) December 12, 2016. Written questions are to be emailed to Nicholas Arps at [narps@nhusd.k12.ca.us](mailto:narps@nhusd.k12.ca.us). The District shall not be obligated to answer any questions received after the above-specified deadline or any questions submitted in a manner other than as set forth above. The District will respond to timely submitted questions in writing or in the form of Drawings. The District's response(s) to a Respondent's question(s) will be emailed to the Respondent submitting the question. If, in the sole and exclusive determination of the District, the question of a Respondent or the District's response to a Respondent's question affects or may affect the RFP, RFP requirements or the RFP Responses of other Respondents, the District may issue an addenda distributed to all Respondents setting forth the question(s) posed by Respondent(s) and the District's response(s) thereto.

RFP Addenda/Clarifications. If it becomes necessary for the District to revise any part of this RFP, or to provide clarification or additional information after issuance of the RFP, a written addendum will be sent to Respondents. All addenda issued by or on behalf of the District shall become part of the RFP. Addenda will be sent by email only. If the District issues any addenda, it is the sole and exclusive responsibility of each Respondent to distribute such addenda to members of the Respondent's DBE.

No Oral Clarifications/Modifications. The District will not provide any oral clarifications or modifications to these Instructions, the RFP or the requirements thereof; no employee, officer, agent or representative of the District is authorized to provide oral clarifications or modifications to the RFP. No Respondent shall rely on any oral clarification or modification to the RFP.

Unauthorized Communications. Unless and except when requested to do so in writing by the District or as otherwise permitted by these Instructions, Respondents (including, without limitation, members of the DBE, Sub-Consultants and Subcontractors) shall not, prior to completion of the RFP process, communicate, either verbally or in writing, with: (i) any member of the RFP Selection Committee; (ii) any consultant or professional retained by the District for the purpose of providing the District advice or professional services in respect to the Project or the RFP; or (iii) any employee or representative of the New Haven Unified School District.

RFP Response Expenses. “RFP Response Expenses” are all costs, fees or expenses incurred by a Respondent to: (i) prepare its RFP Response; (ii) submit the RFP Response to the District; (iii) engage in negotiations/discussions with the District on any matter related to this RFP, including award of the DBE Contract; or (iv) engaging in any other activity prior to the effective date of award, if any, of the DBE Contract. Except as expressly set forth herein, the District shall not, under any circumstance, be liable for any RFP Response Expenses incurred by any Respondent. Respondents shall not include any RFP Response Expenses as part of a pricing proposal incorporated into a RFP Response.

Presentations/Interviews. The District may require Respondents to make an oral presentation to the Selection Committee and/or to be interviewed by the Selection Committee. If such presentations/interviews are conducted, the District's appraisals of the presentations/interviews will also be factored into the final determination of the responses. The foregoing notwithstanding, Respondents are advised that the RFP process, including without limitation award of the DBE Contract, may proceed without presentations/interviews or further discussion between the District and any Respondent.

DBE Contract. A form of DBE Agreement and General Conditions is incorporated into this RFP as **Exhibit A/A.1**. The District anticipates that the DBE Contract awarded pursuant to this RFP will reflect the terms and conditions set forth in the attached DBE Contract. Nevertheless, the District, pursuant to this RFP will afford each Respondent and opportunity to propose modifications to the DBE Contract attached hereto, provided that the District is not bound by nor are such modifications enforceable against the District unless the District has unequivocally accepted such proposed modifications. Each Respondent must thoroughly review the entirety of the DBE Contract and must in their respective RFP Responses set forth any proposed modifications or indicate such Respondent’s acceptance of the entirety of the DBE Contract. A Respondent who does not propose modifications and is awarded the DBE Contract will be required to execute the DBE Contract attached to this RFP, subject to modifications thereto to incorporate elements of the Respondent’s RFP Response accepted by the District.

DBE Negotiations. The District expressly reserves the right to conduct negotiations and discussions with Respondents submitting responsive RFP Responses. Such negotiations and discussions, if conducted by the District shall be conducted fairly and impartially. To ensure fair and impartial negotiations and discussions, the following procedures will be implemented: (i) Respondents timely submitting a responsive RFP Response may be invited to participate in negotiations/discussions at the District’s discretion; (ii) the order

of negotiations/discussions with Respondents will be randomly selected by the District; and (iii) each Respondent must have present at the scheduled date/time of its negotiation/discussion with the District, its principals or others with full and complete authority to bind the Respondent.

### III. REQUEST FOR PROPOSALS

The District's primary objective in utilizing the Design-Build delivery method for this Project is to bring together the best available design and construction experience and expertise to work with the District as a team to successfully complete the Project on-time and within budget.

The District desires to select a cooperative, highly functional Design-Build entity to provide a “design-build” project that fully meets the District's established budget, on-going operations' needs, design standards, performance specifications and site development guidelines. The Design Build approach is intended to allow designers and contractors to work together to address each of these challenges concurrently, to produce an effective and comprehensive design concept that meets all these needs, and to complete construction in a cost-efficient manner.

The District requests integrated design concepts that will provide the needed amount of space, with the highest design and construction quality, all within the established budget for the Project.

#### 1. Proposal Documents

This RFP includes the following documents, as may be modified by addenda, for use by the prequalified proposers in the preparation of their proposals. The proposals must comply with the specific requirements herein as well as the provisions contained in the Design-Build contract which is a part of this RFP. Each prequalified proposer may submit only one Proposal.

<b>RFP Document</b>	<b>Description</b>
Exhibit A/A.1	DBE Contract (Agreement for Design-Build Services and General Conditions)
Exhibit B	Bridging Documents; Basis of Design (B.O.D.)
Certification	RFP Certification
RFP Form A	Proposal Submittal Acknowledgment
Price Proposal Form	Proposal List & Breakdown
Schedule	Proposed Project Schedule
Substitution Form	Product Substitution Request Form
Division 00 & 01 Documents	Division 00 & 01 Documents and Certifications

Designation of Subcontractors; Subcontractors List. Each Respondent shall, concurrently with submission of the Respondent's RFP Response, submit a list of its proposed Subcontractors for the Project as required by the Subletting and Subcontracting Fair Practices Act (California Public Contract Code §§4100 *et seq.*) on the form of Subcontractors List included as Attachment B with this RFP. Subcontractors identified by a Respondent in its Pre-Qualification Application must be identified in the Subcontractors List submitted with the Respondent's RFP Response for the same trade or portion of the Work set forth for each such Subcontractor in the Respondent's Pre-Qualification Application. If a Respondent identifies a Subcontractor for a portion of the Work in the Subcontractors List submitted with the Respondent's RFP Response who is different from the Subcontractor identified by the Respondent in its Pre-Qualification Application for the same portion of Work may result in the Respondent's RFP Response being deemed non-responsive and rejected.

Subcontractors Not Identified In Subcontractors List. Subcontractors engaged by the successful Respondent to construct a portion of the Project who are not identified in the Subcontractors List submitted with the Respondent's Proposal shall be selected by the successful Respondent and the Subcontracts therefor awarded by the successful Respondent in strict conformity with all applicable public bidding requirements, including those set forth in Public Contract Code section 20111 and Education Code section 17250.30.

Project Schedule. The Respondent's proposed schedule shall utilize Microsoft Project software and related materials (text, site plans, etc.) must enable the District to evaluate the proposed progression for completion of the design and construction obligations under the Contract Documents. This Project Schedule shall be submitted electronically to the District's Director of Facilities & Construction in original Microsoft Project format (no pdf format). Based upon review of the Project Documents, provide a proposed Design/Construction Schedule which incorporates significant milestone events, including without limitation: (i) completion of Design Documents sufficient for District review and input (ii) completion of Construction Documents ready for DSA submittal; (iii) Final District review and comments to completed Construction Documents; (iv) incorporation of District review comments into Design Documents; (v) submittal of Design Documents to DSA for review and permitting; (vi) DSA plan review meetings (at least two); (vii) projected DSA approval; (viii) commencement of construction; (ix) significant construction milestones (7 minimum); (x) Project Substantial Completion; and (xi) Project Final Completion. Respondents may incorporate additional materials setting forth or describing the Respondent's proposed schedule, provided that such additional materials are supplemental to and not in lieu of completing the Schedule. Each Respondent's proposed schedule must be in the critical path method schedule without cost or resource loading. The proposed schedule is a detailed preliminary schedule which reflects the Respondent's skill in schedule development, reflecting all requirements of the Project and the Respondent's approach to completion of activities necessary for design and construction of the Project. Incorporate into the schedule or related documents a Site logistics plan indicating ingress/egress routes, temporary utilities, temporary facilities, staging and lay-down areas and other conditions during construction.

2. Instructions for Submitting a RFP Response

All proposals should include materials that demonstrate an understanding of the Project rather than general marketing materials. All information provided shall be submitted in an organized fashion with tabs that track the following sections. A proposal shall not exceed 50 pages in length, excluding table of contents, certificate(s) of good standing, and listing of proposed subcontractors.

a. Cover Letter

A maximum one-page, dated introductory letter must be submitted including the legal name of the proposer, address, telephone and fax numbers, RFP number and the name, title, and signature of the person(s) authorized to submit the qualifications on behalf of the Design-Build entity.

b. Table of Contents

A table of contents of the material contained in the proposal should follow the cover letter.

c. Executive Summary

The executive summary should contain (1) an outline of the proposer's philosophy concerning Design-Build projects, particularly public school construction projects; (2) a synopsis of the proposer's approach to successfully working with school districts on the design and construction of school facilities, particularly gymnasiums; and, (3) a brief summary of the Design-Build entity's qualifications to engage in a professional relationship with the District.

d. Description of Firm

Provide specific information regarding the size, financial strength, location, nature of work performed, number of employees, years in business, California business license number (if applicable), and tax identification number of the firm or each firm if the proposer is a joint venture. Please identify the principal-in-charge who will serve as the District's main contact throughout the Project. Include the address, telephone, and fax number of the office that will be primarily responsible for providing services under the proposal.

Please also provide evidence that the firm or each firm is in good standing and able to complete business in the State of California.

e. Background of Firm's Personnel

Identify and provide the background, including resumes, of employees whom the proposer expects will be utilized on the Project and will make up the Project team. The team proposed must remain intact during the procurement process and the life of the Project, if the proposer is selected, unless agreed to otherwise in writing by

District. By submitting a proposal, proposer acknowledges that the District is making a selection based on the experience and qualifications of the team presented in the proposal and any changes to the team without the consent of the District may constitute a breach of contract by the proposer.

f. Preliminary Design Submittal

Each prequalified proposer will be responsible for developing a Preliminary Design Submittal based upon the information made available by the District in this RFP, including the specific performance specifications that have been developed for the Project.

The Preliminary Design Submittal shall be comprised of the following:

Design narratives, site model, drawings, perspectives, presentation boards, Design Innovations (if submitted), and outline specifications. Each prequalified proposer shall provide such information with the content and format as described below. Additional presentation boards, slides, models, videos, computer animation, or other presentation materials not specifically identified in this RFP are not allowed.

Graphic Materials. The graphic materials portion of the presentation shall include the Respondent's proposed solutions for: (i) floor plans; (ii) building sections; (iii) locations and general description of building systems equipment; (iv) locations and descriptions of building/seismic joints; (v) exterior elevations, reflecting design style and exterior colors and finish materials; and (vi) interior elevations reflecting design style and interior colors and finish material.

Requirements stated herein are minimum. Innovative, creative and life cycle cost effective solutions, which meet or exceed these requirements are encouraged.

g. Budget/Completion History

Provide project budget information from your five (5) most recent school construction projects. Include original budgets, change orders, and final budget at close out. Please give detailed information for each job including a contact name with contact information. Provide original schedule and completion dates.

h. Litigation History

Each firm shall list all litigation in the last five (5) years, filed either by a client, a client's representative, or a contractor, which names the firm, firm's employees, or firm's consultants as defendants of any type. State the nature of the complaint, the beginning and end date, or anticipated end date, of each lawsuit, case number of proceeding, and the judgment or resolution or the anticipated judgment or resolution, including any settlement outside of court.

Each firm shall also provide specific information on termination for default and information concerning any convictions for filing false claims within the past five (5) years.

Each firm shall state whether the firm has or has not filed a petition for bankruptcy. If the firm has filed a petition for bankruptcy, the firm shall provide the date the petition was filed and identify the jurisdiction in which the petition was filed.

i. Complaints Lodged with Local, State, or Professional Agencies

Each firm shall disclose complaint(s), if any, that have been lodged against the firm with any local public agency, any agency of the State of California, or any professional organization with which the firm is affiliated and, if so, describe the nature of the complaint(s) and outcome(s) or anticipated outcome(s).

j. Insurance

Each firm shall describe the outcome of claims, if any, filed against firm's general liability, professional liability, or automobile liability insurance carriers during the past five (5) years.

The selected proposer will be required to provide the following minimum amount of insurance coverage:

Prior to commencement of Work, Contractor shall maintain the following insurance coverages and minimum limits until the earlier of final completion of the Work or Termination of this Contract except for Products and Completed Operations coverage as described in the sections below. The minimum limits of coverage required by this Agreement may be satisfied by a combination of primary and Excess/Umbrella insurance policies provided that the form of the Excess/Umbrella coverage follows the form of the primary liability insurance. Contractor shall bear all cost for payment of insurance premiums and any and all deductibles or self-insurance retentions under its policies and shall remain solely and fully liable for the full amount of any claim or item not compensated by insurance.

*Minimum Scope of Insurance*

**Coverage shall be at least as broad as:**

1. Commercial General Liability on an occurrence form (no sunset clauses). Liability deductible or Self-Insured Retention not to exceed \$5,000. Claims Made or Modified Occurrence Liability coverage will not be accepted. Coverage shall be at least as broad as ISO form CG0001. Products and Completed Operations coverage shall continue for three (3) years after the earlier of Final Completion of the Work, or Termination of this Agreement.
2. Umbrella/Excess Liability insurance following form of the primary General Liability, Auto Liability and Employer's Liability insurance.
3. Business Automobile Liability insurance including coverage for owned, non-owned, hired vehicles and trailers. Such insurance shall cover occurrences both at and away from the Project Site.

4. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
5. Builder's Risk (Course of Construction). Deductible not to exceed \$2,500.
6. Performance & Payment Bonds.

*Minimum Limits of Insurance*

**Contractor shall maintain limits no less than:**

- |                                  |  |   |
|----------------------------------|--|---|
| 1. General Liability:            | \$2,000,000<br>\$2,000,000<br>\$1,000,000<br>\$1,000,000       | General Aggregate (Per Project)<br>Products/Completed Operations<br>Aggregate<br>Personal & Advertising Injury<br>Each Occurrence |
| 2. Umbrella/Excess Liability:    | \$3,000,000  | Per Occurrence  |
| 3. Automobile Liability:         | \$1,000,000  | Per Accident for Bodily Injury &<br>Property Dmg.   |
| 4. Workers' Compensation:        | As required by the State of California                         |   |
| 5. Employer's Liability:         | \$1,000,000  | Per Accident for Bodily Injury or<br>Disease  |
| 6. Errors & Omissions Liability: | \$1,000,000 per occurrence and \$2,000,000<br>aggregate.       |   |
| 7. Builder's Risk:               | Completed Value of the Project with no<br>Coinsurance Penalty. |   |

*Insurance Provisions*

The general liability policy is to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured:** The **Owner**, its elected or appointed officials, employees, agents and volunteers are to be covered as Additional Insured's (utilizing Form CG2010 11/85 edition or an acceptable equivalent) by an endorsement to the general liability policy. A CG2010 11/85 acceptable equivalent is an additional insured endorsement that includes the named insured's "ongoing" operations and completed operations.
2. **Primary Insurance:** For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the **Owner**, its elected or appointed officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the **Owner**, its elected or appointed officials, employees, agents and volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

3. **Cancellation Provision:** Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) day's prior written notice has been provided to the **Owner**.

*Waiver of Subrogation*

The Contractor's General Liability and Workers' Compensation insurance policies shall provide a Waiver of Subrogation in favor of the **Owner**.

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

If and only if the Contract Sum exceeds \$250,000 at the time of award, Contractor shall procure and maintain Builder's Risk insurance (all-risk, special form with valuation on a replacement cost basis) on a one hundred percent completed value of the project for the benefit of the **Owner**, and the Contractor and Subcontractor, as their interest may appear. The policy shall contain a clause which provides coverage until the building is accepted by the **Owner**. If the Builder's Risk policy contains an occupancy provision, permission for early occupancy must be obtained from the insurance company. The Policy should include debris removal, collapse, theft, and transit coverage with no coinsurance penalty provisions. The Builders' Risk Policy is primary and no insurance held or owned by the **Owner** shall be called upon to contribute to a loss.

*Contractor's Property*

Contractor shall be responsible for and shall bear the risk of loss and damage to any property including but not limited to (1) tools and equipment of Contractor (owned or rented) and (2) any property for which it is responsible or that is in its care, custody and control, wherever located.

*Transit Insurance*

Where Contractor has responsibility to coordinate transportation of construction materials (whether ocean, air or inland transit), Contractor shall bear responsibly for providing transit coverage on an all-risk basis, including lightering operations, loading and unloading at each point of delivery, including final destination, unless total risk of loss in transit is borne by the shipper or supplier, or Owner provides notification that it will carry such coverage. Such coverage shall provide a limit of full replacement value of each conveyance. Any marine inspections and/or survey fees under this coverage shall be for the account of Contractor.

*Workers' Compensation*

Before the Contract is entered into, the Respondent to whom it is awarded shall furnish to the **Owner** satisfactory proof that he and all Subcontractors he intends to employ have taken out, for the period covered by the proposed Contract, full compensation insurance and Employer's Liability with limits of at least \$1,000,000 with an insurance carrier satisfactory to the **Owner** for all persons whom they may employ in carrying out the work contemplated under this Contract in accordance with the Act of the Legislature of the State of California, known as the "Workers' Compensation Insurance and Safety Act" approved May 26, 1913, and all Acts amendatory or supplemental thereto. Such insurance shall be maintained in full force and effect during the period covered by the Contract. In the event the Contractor is self-insured, he shall furnish a Certificate of

Permission to Self-Insure, signed by the Department of Industrial Relations Administration of Self-Insurance, Sacramento, California.

If the Contractor fails to maintain such insurance, the **Owner** may take out compensation insurance to cover any compensation which the **Owner** might be liable to pay under the provisions of said Act as amended, by reason of any employee of the Contractor being injured or killed, and deduct and retain the amount of the premiums for such insurance from any sums due the Contractor under the Contract.

If an injury occurs to any employee of the Contractor for which the employee, or the employee's dependents in the event of the employee's death, is entitled to compensation from the **Owner** under the provisions of said Act as amended, or for which compensation is claimed from the **Owner**, the **Owner** may retain out of the sums due the Contractor under this Contract, an amount sufficient to cover such compensation, as fixed by said Act as amended, until such compensation is paid, or until it is determined that no compensation is due, and if the **Owner** is compelled to pay such compensation, it will deduct and retain from such sums the amount so paid.

The policies represented by the certificates must contain the provision (and the certificates must so state) that the insurance cannot be cancelled until thirty (30) days after written notice of intended revocation has been given to the **Owner** by Certified Mail.

#### *Indemnity*

Contractor shall indemnify, hold harmless and defend **Owner** and its elected or appointed officials, agents and employees from and against all claims, damages, losses and expenses, including reasonable costs and attorneys' fees, arising out of or resulting from Contractor's performance of the Work, or work performed by Contractor's agents or employees, or subcontractors employed on the project, their agents or employees, or products installed on the project by Contractor or subcontractors, excepting only such injury or harm as may be caused solely and exclusively by **Owner's** fault or negligence. Such indemnification shall extend to all claims, demands, or liabilities occurring after completion of the project as well as during the progress of work.

#### *Subcontractors*

Contractor shall require all Subcontractors of any tier that may work on or in connection with the Agreement to maintain the coverages required in this Contract; provided however, that Contractor may vary the limits of such coverage of subcontractors depending on the services provided, but such limits shall be comparable to those customarily provided by others within similar size and scope of business. In no event shall the insurance requirements be deemed to limit the liability or responsibility of Contractor or any of its Subcontractors to Owner.

Contractor shall require all tiers of Subcontractors to waive the rights of recovery against Owner, its elected or appointed officials, employees, agents and volunteers. Contractor shall be responsible for any loss resulting from the failure of any Subcontractor to maintain sufficient insurance.

Subcontractor shall be responsible for and shall bear the risk of loss and damage to any property including but not limited to (1) tools and equipment of subcontractor (owned or rented) and (2) any property for which it is responsible or that is in its care, custody and control, wherever located.

*Acceptability of Insurers*

All required insurance must be written by an admitted company licensed to do business in the State of California at the time the policy is issued. All required Insurance as set forth in this Contract shall be underwritten by a company with a balance sheet strength, operating performance and business profile that are equal to or exceed an A VIII rating as listed in the A.M. Best Insurance Guide's latest edition. On a case-by-case basis, the **Owner** may accept insurance written on a company listed on the State of California Department of Insurance List of Eligible Surplus Lines ("LESLI List") with a rating of A VIII or above as listed in Best's Insurance Guide's latest edition. Exception may be made for Workers' Compensation Insurance provided by the State Compensation Insurance Fund when not specifically rated.

*Proof of Insurance*

Contractor shall furnish the **Owner** with original certificates and amendatory endorsements effecting coverage required by this contract. All certificates and endorsements are to be received and approved by the **Owner** before work commences. However, failure to do so shall not operate as a waiver of these insurance requirements. If the Contractor fails to maintain such insurance as specified by this Contract, the **Owner** may take out such insurance to cover any damages of the above mentioned classes for which the **Owner** might be held liable on account of the Contractor's failure to pay such damages, and deduct and retain the amount of the premium from any sums due the Contractor under the Contract.

The **Owner** reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

**Mail all certificates and endorsements to:**

NEW HAVEN UNIFIED SCHOOL DISTRICT

Attn: Nicholas Arps

34200 Alvarado Niles Road

Union City, CA 94587

*Performance Bond & Payment Bond*

Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds may be obtained through the Contractor's usual source and the cost thereof shall be included in the Contract Sum. The amount of each bond shall be equal to 100 percent of the Contract Sum. The surety must be an admitted surety insurer in the State of California. These bonds shall be maintained for the life of the Contract and one year after the date of filing the Notice of Completion.

The Contractor shall deliver the required bonds to the **Owner** not later than ten days following the date of the Agreement is entered into. If the Work is to be commenced prior thereto in response to a letter of intent, the Contractor shall, prior to commencement of Work, submit evidence satisfactory to the **Owner** that such bonds will be furnished.

The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney, and to have the signature acknowledged by a notary public.

k. References

The proposer shall list a minimum of five (5) references for whom each firm has provided services in California for state and/or federally funded public schools. Please include the following information for each reference provided on separate pages:

- 1) Year(s) of services
- 2) School district
- 3) Current contact person
- 4) Title/position
- 5) Contact phone number
- 6) Project description
- 7) Dollar value of the project

l. Project Management and Staffing Plan

Each prequalified proposer shall also be responsible for developing a Management and Staffing plan which illustrates the management approach to performing the work necessary to complete the Project and the required staff, including the key personnel, along with their identified time commitments required to perform the work plan.

The Management and Staffing Plan must indicate all staff required to complete the Design Development and Construction Documents Phases as well as the management staff required by the prequalified proposer for Design Development through completion of Construction.

Each prequalified proposer must submit a staffing schedule tied to the preliminary schedule showing the time commitment of each individual identified under the key personnel item herein.

m. Subcontractors

Proposer shall list all Subcontractors identified at the time of submitting its proposal.

n. Current Projects and Workload

Please describe current projects that the entity, or member firms, is/are engaged in of similar size and scope. Please describe how current workload demands on the firm may impact providing the requested construction management and engineering services for the Project.

Each prequalified proposer shall also be responsible for developing and providing as part of this RFP submittal a table or matrix showing the prequalified proposer's current and pending major project commitments. Include in this table or matrix all Key Personnel, their current and planned project commitments and the percentage of time assigned to those commitments and the percentage of time available for this Project.

o. Joint Ventures and Associations

If the Project is to be undertaken by the firm in joint venture or in association with one or more other entities, identify the parties involved in such a joint effort, the roles and responsibilities of each party, and whether all parties will be jointly and severally liable for performance and all contractual liabilities. In the event of a joint venture, please provide a copy of the joint venture agreement and identify which firm will be the lead member of the venture. The District reserves the right to require the lead firm to sign a Guaranty concerning the work to be completed.

p. Sealed Fee Estimate Range and Terms

Each prequalified proposer shall be responsible for submitting a completed and signed Price Proposal Form as contained within this RFP. The price shall be the proposed price for all phases, which shall then be broken down to each project Phase. Failure to submit a completed, sealed and signed form may result in the prequalified proposer's RFP submittal being rejected as nonresponsive.

The Price Proposal shall be submitted in a sealed envelope and marked as Confidential.

The District seeks to negotiate a fixed not to exceed fee based on the final negotiated scope of work with any "additional work" being subject to reimbursement based on agreed to rates for each member of the Design-Build entity's team.

q. Exceptions to Design-Build Contract

District desires to enter into a Design-Build contract that is substantially similar to the attached draft contract. Proposer is required to list any exceptions to the proposed contract with its proposal. By submitting its proposal without any exceptions, the prequalified proposer agrees to all of the terms and conditions contained therein and further agrees to execute, if selected for award, a contract including such terms and conditions.

**V. DISTRICT'S EVALUATION PROCESS**

Upon the District's receipt of the RFP proposals from the prequalified firms, each proposal will be reviewed for (a) minor informalities, irregularities, and apparent clerical mistakes which are unrelated to the substantive content of the proposal; (b) conformance to the RFP instructions regarding organization and format; and (c) the responsiveness of the proposer to the requirements set forth in the RFP. Those proposals determined to not be responsive to the requirements of the RFP may be excluded from further consideration and the proposer will be so advised. The District may also exclude from consideration any proposer whose RFP contains a material misrepresentation. The District reserves the right to reject any or all proposals, to waive minor technicalities or to advertise for new proposals, if in the judgment of the District, such course of action is in the best interests of the District.

The District makes no representation that participation in the RFP process will lead to an award of a contract or any agreement whatsoever.

The District may perform an investigation of the proposers that extends beyond contacting the school districts or other entities identified in the proposals. The District shall have the right to request any additional information from any or all of the proposing firms, to select, in its sole discretion, the firm that best meets the needs of the District and to initiate negotiations to engage that firm. The District shall recommend the responsible firm which provides the lowest proposal price as interpreted by the District under California law and the Agreements, including this RFP and process. Upon governing board approval, the proposer selected for final negotiations will be sent a Notice of Intent to Enter into Final Negotiations. Proposers who are not selected for final negotiations will be sent a Notice of Intent to Enter into Final Negotiations with Another Proposer. In the event that such final negotiations are determined, in the District's sole discretion, to be unsuccessful, the District shall have the right to terminate such negotiations and enter final negotiations with the next most preferred firm.

## **VI. GENERAL RFP REQUIREMENTS**

### **1. Questions / Inquiries**

Any questions regarding this RFP or the Project shall be directed, in writing, to the District representative specified below. Transmission of questions may be made in writing by e-mail only, and must be received by the District not later than the date and time established above in the tentative schedule. All such requests must be accompanied by all relevant information supporting the request for modification, interpretation, or clarification of this RFP. The District will evaluate any question or request submitted, but reserves the right at its sole discretion to determine whether to respond or accept the requested change.

Proposers are strongly cautioned to refrain from contacting any other member of the District staff, administration or any member of the District's Board of Education prior to the final selection of a Design-Build entity for the Project. Any prohibited

communications may result in immediate disqualification of a proposer's response to this RFP.

District Representative:Nicholas Arps  
Telephone: (510) 476-2642  
Email: narps@nhusd.k12.ca.us

2. Proposal Validity Period

The proposer agrees that its proposal will remain valid for 180 calendar days ("Validity Period") following the proposal due date. The District may request an extension of the Validity Period. Once award is made to a proposer, all elements of that proposer's proposal shall remain valid until the completion of the Project(s) where an agreement is executed, including exercise of any potential options.

3. Public Records

All proposals submitted in response to this RFP become the property of the District and responses to this RFP are subject to the provisions of the California Public Records Act (Government Code Section 6250 *et seq.*) and Public Contract Code (PCC) Section 10165.

Documents provided by the proposer marked Trade Secret, Confidential, or Proprietary; and any financial records provided by the proposer shall be clearly identified, labeled, and addressed. The District agrees to safeguard the documents to the best of its ability, and all information contained therein, against disclosure to the fullest extent permitted by law. However, in the event of arbitration or litigation, the documents shall be subject to discovery, and the District assumes no responsibility for safeguarding the documents, unless the proposer has obtained an appropriate protective order issued by the arbitrator or the court. A proposer has the duty of clearly labeling any Trade Secret, Confidential or Proprietary information as such. No liability will attach to the District for the errant release of Trade Secret information by the District under any circumstances.

4. Labor Compliance Monitoring

In accordance with California Labor Code section 1771.4, unless exempted, all public works projects are subject to compliance monitoring and enforcement by the Department of Industrial Relations (DIR), which includes the following requirements:

- a. Each contractor and subcontractor shall furnish electronically certified payroll records directly to the Labor Commissioner in accordance with the instructions and requirements posted by DIR on its website and other sources. As of January 1, 2016, the requirement to furnish electronic certified payroll records to the Labor Commissioner will apply to all public works projects, whether new or ongoing.
- b. The District will have direct and immediate access to the certified payroll records submitted to DIR in order to monitor compliance, identify suspected violations and respond to Public Records Act requests.

- c. At each job site, Contractor shall post the notice(s) required by California Labor Code section 1771.4(a)(2) and the California Code of Regulations.
- d. The District may withhold contract payments when payroll records are delinquent or inadequate, or not submitted as required by the Labor Commissioner. The amount withheld shall be limited to those payments due or estimated to be due to the contractor or subcontractor whose payroll records are delinquent or inadequate, plus any additional amount that the Labor Commissioner has reasonable cause to believe may be needed to cover a back wage and penalty assessment against the contractor or subcontractor whose payroll records are delinquent or inadequate. Further, a contractor may be required in turn to cease all payments to a subcontractor whose payroll records are delinquent or inadequate until the Labor Commissioner provides notice that the subcontractor has cured the delinquency or deficiency.
- e. The District shall cooperate with any investigation of suspected violations of the requirement to pay prevailing wages on all public works projects, and withhold contract payments in accordance with any lawful order by DIR or any other agency with jurisdiction over labor compliance enforcement.
- f. Contractor shall provide site access to DIR personnel upon request.
- g. Contractors and subcontractors listed in the bid or who are required to be identified or prequalified shall participate in a pre-job conference before commencement of the work. At the pre-job conference, applicable federal and state labor law requirements shall be discussed, and copies of suggested reporting forms furnished. A checklist, showing which federal and state labor law requirements were discussed, shall be kept for each conference.

Contractor and any subcontractors are required to review and comply with the provisions of the California Labor Code beginning with Section 1720, and the regulations of the Department of Industrial Relations implementing those provisions as more fully discussed in the Contract documents, as they may be amended from time to time. These statutory and regulatory provisions contain specific requirements, for example, concerning the determination and payment of prevailing wages, retention, inspection and auditing of payroll records, use of apprentices, payment of overtime compensation, securing of workers compensation insurance, contractor registration with DIR, and various criminal penalties or fines which may be imposed for violations of the requirements of the chapter. Submission of a bid constitutes Contractor's representation that it has thoroughly reviewed, understands and acknowledges these requirements, and will keep up to date on all such requirements as they may be updated or amended for time to time.

In the event any funds used on this Project, including Proposition 84 funds, require compliance with the previously established DIR Labor Compliance Program, such requirements shall be adhered to in the addition to the requirements noted herein.

5. Bid Security and Payment and Performance Bonds.

Prospective proposers are informed that they will be required to provide a performance and payment bond that each total 100% of the total contract price.

6. Compliance with all Applicable Laws

All architectural and engineering services to be provided by proposer must be provided in accordance with the professional registration requirements of the State of California and all applicable laws and regulations. Consultants listed must meet State licensing requirements. The Proposer and its subcontractors must have full bonding and insurance for the project, including the required professional liability insurance.

7. Protests

a. Protest Procedures

This section sets forth the exclusive protest remedies available with respect to this RFP. Each proposer, by submitting its proposal, expressly recognizes the limitation on its rights to protest contained herein and expressly waives all other rights and remedies. Each proposer agrees that the decision on any protest, as provided herein, will be final and conclusive. These provisions are included in this RFP expressly in consideration for such waiver and agreement by the proposers.

All protests and related statements described in this section shall be physically delivered to the District during normal business hours with delivery confirmation of District's receipt at the following address:

NEW HAVEN UNIFIED SCHOOL DISTRICT  
Attn: Nicholas Arps  
34200 Alvarado Niles Road  
Union City, CA 94587

Communications concerning the protest must only be directed through the Protest Administrator. Violation of this prohibition on all other communications may result in an automatic finding of the protest to be invalid. Any protests determined to be incomplete will be rejected.

b. Protests Regarding RFP Documents

Proposers may protest the terms of this RFP on the grounds that (a) a material provision in this RFP is ambiguous; (b) any aspect of the procurement process described herein is contrary to legal requirements applicable to this procurement; or (c) this RFP in whole or in part exceeds the authority of the District.

Protests regarding this RFP shall be filed only after the proposer has informally discussed the nature and basis of the protest with the District in an effort to remove the grounds for protest.

Protests regarding the RFP documents shall completely and succinctly state the grounds for protest, and shall include all factual and legal documentation in sufficient detail to establish the merits of the protest. Evidentiary statements, if any, shall be submitted under penalty of perjury.

Protests shall be physically delivered to District during normal business hours with confirmation of District's receipt as soon as the basis for protest is known to the proposer, but in no event later than ten (10) business days before the RFP Due Date. The Protest Administrator shall issue a decision within seven (7) business days of receipt of the protest.

No hearing will be held on the protest, but it shall be decided, on the basis of the written submissions, by the Protest Administrator, or designee, whose decision shall be final and conclusive. If necessary to address the issues raised in a protest, the District may make appropriate revisions to the RFP documents by issuing addenda. Notwithstanding the existence of a protest, the District may continue the procurement process or any portion thereof.

The failure of a proposer to physically deliver a basis for a protest regarding the RFP documents within the applicable period stated herein shall preclude consideration of that ground in any protest of a selection or qualification unless such ground was not and could not have been known to the proposer in time to protest prior to the final date for such protests. The District may extend the RFP Due Date, if necessary, to address any such protest issues. If the protest is granted, the District shall not be liable for payment of the protestor's costs or attorneys' fees, if any. The District shall not be liable for any damages to the proposer filing the protest or to any participant in the protest, on any basis, express or implied.

c. Protests Regarding District's Determination of Non-Responsiveness

In the event the District determines that a proposal is not responsive to the requirements of this RFP, the District will send the proposer a Notice of Non-Responsiveness. Protests relating to any Notice of Non-Responsiveness must be physically delivered to the District during normal business hours with confirmation of District's receipt, within five (5) calendar days after the confirmed date of receipt of the Notice of Non-Responsiveness by the proposer, whether such notice is sent via overnight delivery or electronic mail. Failure to physically deliver a protest concerning the non-responsiveness determination within the deadline stated herein constitutes a waiver of any protest on these grounds and District shall not be obligated to send proposer any further notices. The protest shall specifically state the grounds for the protest and the protestor shall include a detailed statement of the grounds, legal authority and facts, including all documents and any evidentiary statements in support of the protest. Evidentiary statements, if any, shall be submitted under penalty of perjury. The protestor shall have the burden of proving its protest by clear and convincing evidence.

The Protest Administrator or designee will issue a written decision regarding the protest within ten (10) business days after the filing of the detailed statement of protest.

Unless otherwise required by law, no evidentiary hearing or oral argument shall be provided, except in the sole discretion of the Protest Administrator, or designee, a hearing or argument may be permitted, if necessary for the protection of the public interest or an express legally recognized interest of a proposer.

If the protest is granted, the District shall not be liable for payment of the protestor's costs or attorneys' fees, if any. The District shall not be liable for any damages to the entity filing the protest or to any participant in the protest, on any basis, express or implied.

d. Protests to Award of the Contract

Any protest regarding the decision to award the Design-Build contract to a specific proposer must be physically delivered to the District during normal business hours with delivery confirmation of the District's receipt, within five (5) calendar days after the confirmed date of receipt of the Notice of Intent to Negotiate by proposer, whether such notice is sent via overnight delivery or electronic mail.

The protest shall specifically state the grounds for the protest and the protestor shall include a detailed statement of the grounds, legal authority and facts, including all documents and any evidentiary statements in support of the protest. Evidentiary statements, if any, shall be submitted under penalty of perjury. The protestor shall have the burden of proving its protest by clear and convincing evidence. Failure to physically deliver a protest within the applicable period stated herein shall constitute a waiver of the right to protest. The Protest Administrator, or designee, will issue a written decision regarding the protest within ten (10) business days after the filing of the detailed statement of protest.

Unless otherwise required by law, no evidentiary hearing or oral argument shall be provided, except, in the sole discretion of the Protest Administrator, or designee, a hearing or argument may be permitted if necessary for the protection of the public interest or an express, legally recognized interest of a proposer.

Protests concerning a Notice of Intent to Negotiate may be filed only after the proposer has informally discussed the nature and basis of the protest with the District. Informal discussions shall be initiated by a request to the Contract Administrator for such discussions. The District will set up a time as soon as practicable to discuss the nature of the allegations with the proposer, taking into account the protest deadline noted herein.

If the protest is granted, the District shall not be liable for payment of the protestor's costs or attorneys' fees, if any. The District shall not be liable for any damages to the entity filing the protest or to any participant in the protest, on any basis, express or implied.

8. Miscellaneous

The individual or official of the Design-Build entity who has the authority to contractually bind proposer must sign the RFP response.

The RFP response preparation and associated costs are the sole responsibility of the proposer and no proposer will be reimbursed by the District for any costs associated with responding to this RFP.

Submission of proposals by facsimile or email is not acceptable. Each proposer is entirely responsible for the means of delivering the proposal to the appropriate office on time and in accordance with the requirements herein.

Each proposer shall be solely responsible for examining this RFP and all its parts with appropriate care and diligence. Each proposer is also responsible for monitoring the information concerning this RFP and the procurement.

Throughout this procurement and any subsequent contract executed, all proposers are required to comply with all applicable state, federal, and local laws and regulations; including but not limited to the California Labor Code. Proposers shall be responsible for complying with all applicable prevailing wage requirements and any applicable reporting and registration requirements as required by the California Department of Industrial Relations.

Each proposer agrees to complete and submit the following documents, as required by District upon receipt of a Notice to Proceed: Workers' Compensation Certification, Fingerprinting / Criminal Background Investigation Certification, Drug-Free Workplace / Tobacco-Free Environment Certification, Insurance Certificates and Endorsements.

Each proposer agrees that the District shall be entitled to use all work product that is not returned to the proposer (including concepts, ideas, technology, techniques, methods, processes, drawings, and reports) contained in its proposal or generated by or on behalf of the proposer for the purpose of developing its proposal without compensation or consideration to the proposer, except such work product specifically labeled as a Trade Secret or Proprietary. By submitting a proposal, each proposer acknowledges that the District may incorporate and use such work product or concepts based thereon in the performance of its functions. The use of any of the work product by the District is at the sole risk and discretion of the District, and shall in no way be deemed to confer liability on the unsuccessful proposer. By submitting a proposal, each proposer acknowledges and agrees that it does not have the right to keep the contents of its proposal from being used by the District, as described herein. However, District shall have the right to use any Design Innovations proposed by a Design-Build entity not selected for contract award by paying \$500 for the Design Innovation.

Responses may be rejected if they do not provide the information requested herein in the format requested, or if submitted without all required information and signatures.

**CERTIFICATION**

I certify that I have read the attached **Request for Proposals – Design-Build Entity** and the instructions for providing a response. I further certify that I acknowledge having to submit five (5) copies and one (1) compact disc (CD) with a PDF copy of the firm’s response to this request and that I am authorized to commit the firm to the qualifications submitted.

<b>Signature</b>	<b>Type or Print Name</b>
<b>Title</b>	<b>Company</b>
<b>Address</b>	
<b>Telephone</b>	<b>Fax</b>
<b>Date</b>	

If you are responding as a corporation please provide your corporate seal here:

**All materials submitted in response to this RFP shall become the property of the New Haven Unified School District.**

**RFP ATTACHMENTS**

PROPOSAL SUBMITTAL ACKNOWLEDGMENT  
(Proposer to complete and return form with proposal)

Proposer: \_\_\_\_\_

Project Name: \_\_\_\_\_

RFP Advertisement Date: \_\_\_\_\_

RFP Submittal Date: \_\_\_\_\_

NEW HAVEN UNIFIED SCHOOL DISTRICT  
Attn: Nicholas Arps  
34200 Alvarado Niles Road  
Union City, CA 94587

Ladies and Gentlemen:

The undersigned (“Proposer”) submits this Proposal in response to the RFP issued by the District, including any and all Addenda, to complete the work described in the RFP. Please note that initially capitalized terms not otherwise defined herein shall have the meanings set forth in the RFP.

By signing below, Proposer acknowledges receipt, understanding, and full consideration of all materials posted on the website including all Addenda. Proposer represents and warrants that it has read the RFP and agrees to abide by the contents and terms of the RFP.

Proposer further understands that all costs and expenses incurred by it in preparing a response to this RFP and participating in the procurement process will be borne solely by the Proposer.

This RFP shall be governed by and construed in all respects according to the laws of the State of California.

Name of Authorized Representative  
of Proposer (Point of Contact): \_\_\_\_\_

Representative Title: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Proposer's business address, if different than Authorized Representative:

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

ZIP: \_\_\_\_\_

State or Country of  
Incorporation/Formation/Organization: \_\_\_\_\_

By executing and submitting this form, the Proposer confirms that the Authorized Representative named above is authorized to act as agent on behalf of the Respondent with regard to this RFP.

\_\_\_\_\_  
Signature of Authorized Representative

Date: \_\_\_\_\_

00405-00005/3363513.4

**PRODUCT SUBSTITUTION REQUEST FORM**

Failure to complete this Substitution Request Form with information required including signature, will result in the District’s summary rejection of a request to substitute a Specified Project Item.

TO: New Haven Unified School District

PROJECT: 21<sup>st</sup> Century Design Build Project

FROM: \_\_\_\_\_

The above-identified Respondent hereby submits for the District’s consideration the proposed substitutions for Specified Project Items.

Project Document Reference	Specified Project Item	Proposed Substitution

For each proposed substitution set forth above, the Respondent certifies to each of the following (check boxes).

Complete technical data, including laboratory test results, if applicable for each proposed substitution is attached. The Respondent acknowledges that failure to attach complete technical data, including laboratory test results will result in the District’s summary rejection of a proposed substitution.

All necessary samples and substantiating data for each proposed substitution which establish the equivalent quality and performance to the Specified Project Item are attached. The Respondent acknowledges that failure to attach samples and substantiating data will result in the District’s summary rejection of a proposed substitution.

The manufacturer's product literature and product specifications are completely attached for each proposed substitution. The Respondent acknowledges that failure to attach manufacturer product literature and product specifications will result in the District's summary rejection of a proposed substitution.

The functional capabilities, quality, appearance and other components of each proposed substitution are equal to or greater than the Specified Project Item.

Each proposed substitution does not materially affect dimensions reflected in the Project Documents.

Each proposed substitution complies with all applicable regulatory, legal and/or building code/building standards requirements.

I am authorized by the above-identified Respondent to complete, execute and submit this Substitution Request Form on behalf of the Respondent. I have reviewed all of the foregoing and have confirmed that all of the information set forth above and in any attachments hereto are complete, accurate, true and correct.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

## DESIGN DOCUMENT SUBMITTAL STANDARDS

### 1. PROGRESS SUBMITTALS

Design-Builder shall submit the In-Progress Drawings and Specifications for the Project for review and approval in accordance with the following schedule. In addition to the requirements, the descriptions herein are the minimum requirements for the submittal noted. Submittals which fail to meet the requirements herein will be returned to the Design-Builder without review and/or comment.

It is the District's intent that Design-Builders utilize BIM (Revit) in this project to provide a fully coordinated, consistent and computed model of all disciplines' detailed design work. The BIM will be used to generate all drawings for approvals and sign off up to and including Design Development. It should also be noted that the District requires that all listed entities of the Design-Build team **MUST** demonstrate the capacity and technical expertise to provide design documents using the BIM, including but not limited to construction shop drawings, submittals and coordination drawings.

1.1 Schematic Design Documents. The Design-Builder shall prepare, for written approval by the District, Schematic Design Documents for the Project, which shall include:

- a.** Site plans, floor plans, elevations, sections, and other sketches and graphic materials needed to describe the Project in three dimensions; and
- b.** Descriptive outline Specifications indicating proposed architectural, structural, mechanical and electrical systems and materials and other systems and materials to be used on the Project.
- c.** Schematic Design Documents shall be submitted for District review at 100% complete.

1.2 Design Development Documents. Upon receipt of approval by the District of the Schematic Design Documents, the Design-Builder shall prepare, for written approval by the District, Design Development Documents for the Project which shall include:

- a.** Drawings, outline Specifications and design narratives as needed to establish and describe the character of the Project; and
- b.** A "basis of design" narrative and supporting documentation for the design criteria for the structural elements (including structural loading), HVAC, plumbing, electrical, lighting and communication systems and other specialized building systems. The Design-Builder shall incorporate into the Design Development Documents architectural, structural, mechanical, and electrical systems, materials, and such elements and systems appropriate to the Project.
- c.** Design Development Documents shall be submitted for District review at 100% complete.

1.3 Construction Documents. Upon receipt of approval by District of the Design Development design Documents, the Design-Builder shall prepare for written approval by the District, Construction Documents for the Project. The Design-Builder shall submit

the Construction Documents for review by District and Director of Facilities & Construction at the following points in time:

- a. 50% completion;
- b. 100% completion / Ready-to-Submit to DSA
- c. Approval by DSA (Final 100% Construction Documents Submittal)

The Construction Documents shall not be considered Final 100% Construction Documents until all approvals by District, Agencies Having Jurisdiction and Governmental Authorities have been obtained by the Design-Builder. Each submittal required by this Paragraph 1.3 shall include a summary of the calculations for the structural, HVAC, electrical, plumbing, communications and other specialized building systems.

1.4 Closeout Documents. Provide all Closeout Documents as required by DSA and the District, including, but not limited to:

- a. all guarantees and/or warranties and operation manuals,
- b. all necessary documentation required by DSA certifying that the building project has been completed in accordance with the requirements as to the safety of design and construction pursuant to Education Code Sections 17280-17316 and 81130-81147.
- c. a complete, As-built full-size vellum set of As-Built drawings,
- d. complete, bound As-built specifications,
- e. hard copy of As-built structural and all other engineering calculations,
- f. CD of the electronic CADD drawings (in AutoCAD dwg format and pdf) and specifications and calculations, all revised to include recorded construction changes. All changes in the specifications shall be itemized on a duplicating master and the master submitted to the District. All addenda and change orders shall be incorporated in these documents. All As-Built drawings will comply with District standards, unless otherwise approved in writing by the District

## **2. ELECTRONIC DRAWING FILES**

- a. The design documents shall be submitted following DSA Procedure PR 14-06, Plan Review Submittal for Electronic Submission and Review.
- b. In addition to the native CADD design files, provide separate electronic drawing files (in editable CADD format and Adobe Acrobat PDF) for each project drawing. Each file (both CADD and PDF) shall represent one complete drawing from the drawing set, including the date, submittal phase, and border. Each drawing file shall be completely independent of any data in any other file, including fonts and shapes not included with the basic CADD software program utilized. Drawing files with external references or special fonts are not acceptable. All displayed graphic elements on all levels of the drawing files shall be part of the project drawing image. The drawing files shall not contain any graphic element that is not part of the drawing image.
- c. Drawing Index. Provide an index of drawings sheet in CADD as part of the drawing set, and an electronic list in Microsoft Excel of all drawings on the CD. Include the electronic file name, the sheet reference number, the sheet number, and the sheet title, containing the data for each drawing.
- d. Hard Copies. Submitted hard copy drawings shall be plotted directly from the “electronic drawing files” and copied for quantities and sizes indicated.

### 3. PERMITS AND APPROVALS

The Design-Builder shall take all steps necessary to submit applications and promptly secure all approvals and permits by Governmental Authorities for the completed Construction Documents for the entire Work. The Design-Builder shall notify the District of all appointments with Governmental authorities so that they can attend, if desired. The Design-Builder shall notify the District in writing upon receipt of such approvals and permits. The Design-Builder shall furnish copies of all permits to the District.

### DESIGN DOCUMENT SUBMITTAL STANDARDS

Unless otherwise directed by District, Architect shall submit to the Director of Facilities & Construction, at the conclusion of each phase of service, the following documents in the types and quantities indicated:

<b>PHASE</b>	<b>DRAWINGS</b>	<b>SPECIFICATIONS, BASIS OF DESIGN, CALCULATIONS AND COST ESTIMATE AS APPLICABLE TO PHASE</b>
Program Documents	4 sets	4 sets
Schematic Design: 100%	4 sets of 1/2 size prints, plus electronic copy in PDF	4 sets of 8 1/2" x 11" bond copies bound (outline specification and cost estimate only) plus electronic copy in PDF
Design Development: 100%	3 sets of 1/2 size prints plus electronic copy in PDF	3 sets of 8 1/2" x 11" bond copies bound (outline specification update basis of design and cost estimate only) plus electronic copy in PDF
50% Construction Documents	3 sets of 1/2 size prints, plus electronic copy per FUSD format plus electronic copy in PDF	3 sets of 8 1/2" x 11" bond copies bound: Final specifications, basis of design, calculations, cost estimate, plus electronic copy in PDF
100% Construction Documents (DSA Submittal)	1 set of full size prints, 3 sets of 1/2 size prints, plus electronic copy per FUSD format	3 sets of 8 1/2" x 11" bond copies bound: Final specifications, basis of design, calculations, cost estimate, plus electronic copy in PDF
Final 100% Construction Documents (DSA-approved Drawings with Approved Drawings from other Agencies Having Jurisdiction)	1 set of wet seal Originals, 1 set full size, 5 sets of 1/2-size prints, plus electronic copy in AutoCAD dwg format per FUSD standards and in pdf	1 set wet seal originals, 3 sets of 8- 1/2" x 11" bond copies, bound plus electronic copy Microsoft Word format and in PDF on CD

Close Out Documents / Record Documents	Initial submittal for review: 3 sets of Record Drawings. Upon approval: 3 sets of full size and 3 half-size prints of Record Drawings; 1 copy of electronic file of Record Drawings in AutoCAD dwg	Initial submittal for review: 3 sets of Record Project Manual. Upon approval: 3 sets of Record Manual/As- built Specifications, revised structural and all other engineering calculations; 1 copy of electronic files of Record Project Manual in Microsoft Word format and in PDF
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In addition to the above described submittals, the required quantities of documents shall be submitted for review and approval to the appropriate governing agencies, which may include, but may not be limited to:

Division of State Architect

City of Union City

County Health Department

**PRICE PROPOSAL FORM**

Request for Proposals  
 Design-Build Entity  
 21<sup>st</sup> Century Design Build Project

Proposer is encouraged to enclose documentation that supports Proposal Price, including estimates for quantities, supplies and labor, or any other supporting information.

Name of Respondent: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_ Fax: \_\_\_\_\_

**Proposal Price:** Lump Sum Amount of \_\_\_\_\_

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_)

	Enter Amount
<b>I. Design</b>	
A. Architect Fees ( for performance measures, conceptual drawings, and design development )	
B. Design Management	
C. Preliminary Tests	
C. Office of the State Architect Plan Check Fee	
E. Other Costs	
<b>Total Design Costs</b>	
<b>II. Build</b>	
A. Construction Drawings and Specifications	
B. Project Management	
C. Other Costs	
D. Utility Service	
E. Site Development Service	
F. Site Development General	
G. Other Site Development	
H. Reconstruction	
I. New Construction	
J. Other Construction	
K. Other Costs	
L. Contingency	
<b>Total Construction Costs</b>	
<b>TOTAL PROJECT COSTS</b>	



**EXHIBIT A**

**FORM OF AGREEMENT**

**EXHIBIT A.1**

**GENERAL CONDITIONS**

**EXHIBIT B**  
**BASIS OF DESIGN**

*(Attached)*

EXHIBIT A  
AGREEMENT FOR DESIGN-BUILD SERVICES  
(21<sup>ST</sup> CENTURY DESIGN BUILD PROJECT)  
by and between  
NEW HAVEN UNIFIED SCHOOL DISTRICT

and  
[CONTRACTOR]

Effective Date:                     , 2016

## AGREEMENT FOR DESIGN-BUILD SERVICES

THIS AGREEMENT FOR DESIGN-BUILD SERVICES ("Agreement") is made as of \_\_\_\_\_, 2016 ("Effective Date") by and between the New Haven Unified School District, a public school district organized and existing under the laws of the State of California ("District") and [CONTRACTOR] (referred to herein as "Design-Build Contractor" or "Design-Build Entity"). District or Design-Build Contractor or Design-Build Contractor may be referred to individually as a "Party," or collectively as the "Parties."

### RECITALS

- A. District is the owner of certain real property located at 31604 Alvarado Blvd. Union City, CA 94587, which property is also known as the Itliong Vera Cruz Middle School ("Project Site").
- B. California Education Code § 17250.10 *et seq.* permits a school district to enter into a design-build contract for the design and construction of a school facility if that expenditure exceeds One Million Dollars (\$1,000,000) ("Design-Build Process");
- C. District desires to use the Design-Build Process authorized by California Education Code § 17250.10 *et seq.* for the permanent improvement of the Project Site with the design and construction of 21<sup>st</sup> Century Building ("Project"). The scope of work contemplated for the Project is included in **Attachment 1**, attached hereto and incorporated herein.
- D. On November 28, 2016, the District released a Request for Proposals ("RFP") to [REDACTED] firms.
- E. As result of the review and scoring of the proposals received in response to the RFP in accordance with the stated evaluation criteria, the Design-Build Contractor was recommended to and approved by the Board on [REDACTED], 2017.
- F. District desires that the Design-Build Contractor design and construct the Project in accordance with the terms and conditions of this Agreement, including all documents incorporated herein.
- G. Design-Build Contractor is willing to provide the design-build services under the terms and conditions set forth in this Agreement, including all documents incorporated herein.

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained in this Agreement, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

### ARTICLE I Work

Section 1. Subject to District's funding, design concepts, budgets, and approvals, Design-Build Entity shall provide, furnish, and perform all necessary planning, architectural,

engineering, and all other design services of any type, procurement, permitting and support services, construction, landscaping, clean-up, and all other construction services of any type, provide and furnish all necessary supplies, materials and equipment (except those to be provided by District, if any) and all necessary supervision, labor, and services required for the complete engineering, design, procurement, quality assurance, construction and all necessary installation, start-up and testing (except that testing to be provided by the District) required for a complete, operational, and fully functional Project. The all-inclusive obligations of the Design-Build Entity set forth in this sentence shall be referred to as the “Work” and the term “Project” will be used to describe generally the entirety of the Work to be performed by Design-Build Entity, including all construction activities as described variously throughout this Agreement and all documents incorporated herein. Except with regard to any material to be provided and/or installed by District, Design-Build Entity shall fully commission and turn over a complete, operational, and fully functional Project to District. The above listed Work shall be subject to approvals by applicable governmental entities, which may impact scope and cost of the design and/or Work. Without limiting the generality of this Agreement, Design-Build Entity shall provide the following Work and Services:

(a) Design-Build Entity shall prepare complete designs, engineering, working drawings, shop drawings and generate drawings and/or engineering analysis setting forth in detail the specifications and requirements for the purchasing and procurement of the services, materials and equipment, and for the construction of the complete, operational, and fully functional Project and shall furnish the services of all necessary supervisors, engineers, designers, draftsmen, and other personnel necessary for the preparation of those drawings and specifications required for the Work, including the pertinent information for natural gas, water supply, and any other utilities, as required. District shall review and approve the above-listed design documents, which shall not be unreasonably withheld.

(b) Design-Build Entity shall provide, install and complete as specified, and pay for all labor, materials and equipment, tools, supplies, construction equipment and machinery, construction, start-up and testing (except that testing to be provided by the District), utilities, transportation, and other facilities and services (including any temporary materials, equipment, supplies and facilities) necessary for the proper execution and completion of the complete, operational, and fully functional Project, including required permanent interconnection for electricity, and any other utilities, and demonstration of fully satisfactory operation of all systems and equipment. To the extent any materials or equipment are deemed to be Sole Source(d) by the District, Design-Build Entity shall not be responsible for the Sole Source selection(s).

(c) Design-Build Entity shall supervise and direct the Work, and shall furnish the services of all supervisors, forepersons, skilled and unskilled labor, and all other personnel necessary to design and construct the complete, operational, and fully functional Project. Design-Build Entity shall provide, manage and organize such personnel as necessary to complete the Work in accordance with all requirements of the Contract Documents.

(d) Design-Build Entity shall obtain, at Design-Build Entity’s expense, all governmental and private approvals (to the extent possible), licenses, and permits required to complete the Work, including all Division of State Architect document review fees. Design-

Build Entity shall design and construct a complete, operational, and fully functional Project in full compliance with all applicable laws, codes and standards (both public and private), including the Field Act and all other laws and regulations applicable to the Project and known at the time of design and/or construction.

**ARTICLE II**  
**District's Project Manager and Representatives**

Section 1. District may assign all or part of its rights, responsibilities and duties to a District Construction Manager or other representative. District shall inform Design-Build Entity in writing of such assignment and the extent of its representative's authority.

Section 2. All notices or demands to District under the Contract Documents shall be to District's Representative at:

New Haven Unified School District  
Attn: Nic Arps  
34200 Alvarado Niles Road  
Union City, CA 94587

(or to such other person(s) and address(es) as District shall provide to Design-Build Entity)

**ARTICLE III**  
**Contract Time and Liquidated Damages**

Design-Build Entity shall complete the Work within the "Milestone Schedule" in **Attachment 2**, hereby made part of this Agreement with this reference. If Design-Build Entity or its Subcontractors is/are delayed at any time in the commencement or progress of the Work by changes ordered or occurring in the Work, or by occurrences beyond the control and without the fault or negligence of Design-Build Entity or its Subcontractors or suppliers and which, by the exercise of reasonable diligence, Design-Build Entity is unable to prevent or provide against, including fire, unusual delay in deliveries not reasonably anticipated, unavoidable casualties, unusually adverse weather conditions not reasonably anticipated, or by other occurrences which may justify delay, then, provided that Design-Build Entity is in compliance with the Agreement, the parties agree as follows: (i) the Contract Time shall be extended by Change Order for the length of time Design-Build Entity's critical path to completion of the entire Work is actually and directly delayed by such occurrence as documented and demonstrated by Design-Build Entity (or its subcontractor(s)) in writing; provided, however, that such extension of Contract Time shall be net of any delays caused by or due to the fault or negligence of Design-Build Entity or its subcontractors or suppliers; and (ii) Design-Build Entity (and/or its subcontractors) shall, in addition to any extension of Contract Time, also be entitled to an adjustment of the Contract Sum, due to impacts (including additional overhead costs) and damages, whether direct, indirect, or consequential, incurred by Design-Build Entity (and/or its Subcontractors) arising from any claimed delay for which Design-Build Entity is entitled to an extension of Contract Time. In the event of a delay for which Design-Build Entity contends it and/or its Subcontractors

is/are entitled to an adjustment to the Contract Sum and/or Contract Time, Design-Build Entity shall give the District written notice thereof within fourteen (14) calendar days after the occurrence giving rise to the claim or within fourteen (14) calendar days after Design-Build Entity first recognizes the condition giving rise to the claim, whichever is later.

Design-Build Entity shall, in the event of any such occurrence likely to cause a delay, cooperate in good faith with the District to minimize and mitigate the impact of any such occurrence and do all things reasonable under the circumstances to achieve this goal; provided, however, the foregoing shall not require Design-Build Entity to incur additional costs to make up delays for which Design-Build Entity is entitled to a time extension under this Article.

Section 1. District and Design-Build Entity recognize that time is of the essence with regard to this Agreement and that District will suffer financial loss in the form of contract administration expenses (including project management and consultants' expenses), delay and loss of public use, if the Work is not completed within the time specified herein, plus any extensions thereof allowed in accordance with the Contract Documents. Consistent with the General Conditions, Design-Build Entity and District agree that because of the complexity of the Project, it would be impractical or extremely difficult to fix the amount of actual damages incurred by District caused by a delay in completion of the Work. Accordingly, District and Design-Build Entity agree that Design-Build Entity shall pay the District liquidated damages in the event that Design-Build Entity fails to meet any agreed upon deadline in the manner described below:

(a) If Design-Build Entity shall fail to achieve Substantial Completion of its Work by the date (or dates) specified in **Attachment 2** regarding the achievement of identified Construction Milestones, Design-Build Entity shall pay District liquidated damages, at the daily rate of One Thousand Dollars (\$1,000.00) per day for each day Design-Build Entity exceeds the Substantial Completion Date for the Project; said amount accruing daily and continuing to accrue until Design-Build Entity achieves Final Completion of the Work in accordance with these Contract Documents.

(b) If Design-Build Entity shall fail to achieve Final Completion of the Work by the date so specified in these Contract Documents, Design-Build Entity shall pay District liquidated damages, at the daily rate of One Thousand Dollars (\$1,000) per day for each day Design-Build Entity exceeds the Final Completion Date for the Project; said amount accruing daily and continuing to accrue until Design-Build Entity achieves Final Completion of the Work in accordance with these Contract Documents.

Section 2. This Article III shall not limit any other rights and remedies available under applicable law or the Contract Documents.

#### **ARTICLE IV**

##### **Contract Sum**

Section 1. The parties shall establish an initial Guaranteed Maximum Contract Sum of \_\_\_\_\_ (\$\_\_\_\_\_) for completion of the Work in accordance with the Contract Documents. The parties shall undertake

extensive value engineering analysis to reduce the Project budget to One million eight hundred seventy two thousand dollar (\$1,872,000) or less. Design-Build Entity shall prepare recommendations to District for reducing the Project budget and shall expedite necessary design reviews, including modifications, if any, based on value analysis. The parties acknowledge that obtaining a mutually agreed upon final Guaranteed Maximum Contract Sum is a condition precedent to the Construction Phase of the Project. The parties further establish a flat fee of \$\_\_\_\_\_ for services during the Design Phase of the Project (final DSA approval of the Construction Drawings). This fee shall be paid in accordance with the schedule found in Attachment 2. The Design-Build Entity fee shall be deducted from the final Guaranteed Maximum Contract Sum.

Section 2. The Guaranteed Maximum Contract Sum is all inclusive and includes all Work; all federal, state, and local taxes on materials and equipment, and labor furnished by Design-Build Entity, its subcontractors, subconsultants, architects, engineers, and vendors or otherwise arising out of Design-Build Entity's performance of the Work, including any increases in any such taxes during the term of this Agreement; and any duties, fees, and royalties imposed with respect to any materials and equipment, labor or services and any changes in the law. The taxes covered hereby include (but are not limited to) occupational, sales, use, excise, unemployment, FICA, and income taxes, customs, duties, and any and all other taxes on any item or service that is part of the Work, whether such taxes are normally included in the price of such item or service or are normally stated separately. Notwithstanding the foregoing, each party shall bear such state or local inventory, real property, personal property or fixtures taxes as may be properly assessed against it by applicable taxing authorities.

## **ARTICLE V**

### **PREVAILING RATES OF WAGES AND LABOR COMPLIANCE MONITORING**

Section 1. The Design-Build Contractor is aware of the requirements of Labor Code Sections 1720 *et seq.* and 1770 *et seq.*, as well as California Code of Regulations, Title 8, Section 16000 *et seq.* ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Since this Project involves an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and since the total compensation is \$1,000 or more, Design-Build Contractor agrees to fully comply with such Prevailing Wage Laws. The Design-Build Contractor shall obtain a copy of the prevailing rates of per diem wages at the commencement of this Agreement from the website of the Division of Labor Statistics and Research of the Department of Industrial Relations located at [www.dir.ca.gov/dlsr/](http://www.dir.ca.gov/dlsr/). Design-Build Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to perform work on the Project available to interested parties upon request, and shall post copies at the Design-Build Contractor's principal place of business and at the Project site as required by applicable laws and regulations. Design-Build Contractor shall defend, indemnify and hold the District, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws except if the claim arises out of District's failure to timely and fully pay Design-Build Entity.

Section 2. These statutory and regulatory provisions also contain specific requirements concerning the retention, inspection and auditing of payroll records, use of apprentices, payment of overtime compensation, securing of workers compensation insurance, contractor registration with the Department of Industrial Relations (DIR), and various criminal penalties or fines which may be imposed for violations of the requirements of the chapter. By signing below, Design-Build Contractor represents that it has thoroughly reviewed, understands and acknowledges these requirements, and will keep up to date on all such requirements as they may be updated or amended for time to time.

Section 3. Pursuant to Labor Code Section 1775, the Design-Build Contractor shall pay a penalty of not more than two hundred dollars (\$200) to the District for each calendar day, or portion thereof, for each worker paid less than the prevailing rate of per diem wages for such craft or classification in which such worker is employed for any work done under the Agreement by the Design-Build Contractor or by any Subcontractor under it. The amount of the penalty shall be determined by the Labor Commissioner. A mistake, inadvertence, or neglect in failing to pay the correct prevailing rate of per diem wage is not excusable if the Design-Build Contractor had knowledge of it or the obligations under this part.

Section 4. Design-Build Contractor shall post, at appropriate conspicuous points on the Project Site, a schedule showing all determined general prevailing wage rates and all authorized deductions, if any, from unpaid wages actually earned.

Section 5. In accordance with California Labor Code section 1771.4, unless exempted, all public works projects are subject to compliance monitoring and enforcement by the DIR, which includes the following requirements:

(a) Design-Build Contractor and its subcontractors shall be registered and continue to comply with all DIR contractor registration requirements in accordance with section 1725.5 of the California Labor Code.

(b) Design-Build Contractor and its subcontractors shall furnish electronically certified payroll records directly to the Labor Commissioner in accordance with the instructions and requirements posted by DIR on its website and other sources. As of January 1, 2016, the requirement to furnish electronic certified payroll records to the Labor Commissioner will apply to all public works projects, whether new or ongoing.

(c) District will have direct and immediate access to the certified payroll records submitted to DIR in order to monitor compliance, identify suspected violations and respond to Public Records Act requests.

(d) At each job site, Design-Build Contractor shall post the notice(s) required by California Labor Code section 1771.4(a)(2) and the California Code of Regulations.

(e) The District may withhold contract payments when payroll records are delinquent or inadequate, or not submitted as required by the Labor Commissioner. The amount withheld shall be limited to those payments due or estimated to be due to the contractor or

subcontractor whose payroll records are delinquent or inadequate, plus any additional amount that the Labor Commissioner has reasonable cause to believe may be needed to cover a back wage and penalty assessment against the contractor or subcontractor whose payroll records are delinquent or inadequate. Further, a contractor may be required in turn to cease all payments to a subcontractor whose payroll records are delinquent or inadequate until the Labor Commissioner provides notice that the subcontractor has cured the delinquency or deficiency.

(f) The District shall cooperate with any investigation of suspected violations of the requirement to pay prevailing wages on all public works projects, and withhold contract payments in accordance with any lawful order by DIR or any other agency with jurisdiction over labor compliance enforcement.

(g) Design-Build Contractor shall provide site access to DIR personnel upon request.

(h) Design-Build Contractor and subcontractors listed in the bid or who are required to be identified or prequalified shall participate in a pre-job conference before commencement of the work. At the pre-job conference, applicable federal and state labor law requirements shall be discussed, and copies of suggested reporting forms furnished. A checklist, showing which federal and state labor law requirements were discussed, shall be kept for each conference.

Section 6. In the event any funds used on this Project, including Proposition 84 funds, require compliance with the previously established DIR Labor Compliance Program, such requirements shall be adhered to in the addition to the requirements noted herein.

## **ARTICLE VI**

### **Design-Build Entity's Representations and Warranties**

Section 1. As inducement for District to enter into this Agreement, Design-Build Entity makes the following representations and warranties:

(a) Design-Build Entity has visited the Project Site and has observed the nature and extent of the Work, Project Site, locality, actual conditions, as-built conditions, and all local conditions; and has reviewed all federal, state and local laws and regulations that in any manner may affect cost, progress, performance or furnishing of Work, or which relate to any aspect of the design and the means, methods, techniques, sequences or procedures of construction to be employed by Design-Build Entity and safety precautions and programs incident thereto. The District shall provide full information in a timely manner regarding requirements for the Project, including any schematic design documents and other relevant information. The District shall also provide all available information describing the physical characteristics of the site, including surveys, site evaluations, legal descriptions, existing conditions, subsurface and environmental studies, reports and investigations; inspection and testing services during design and/or system process phases as required by law or as mutually agreed. Unless otherwise provided in the Contract Documents, the District shall also provide necessary approval, site plan review, rezoning, easements and assessments, fees and charges

required for the construction, use, occupancy or renovation of permanent structures, including legal and other required services, and physical access to the Project site to allow Design-Build Entity to perform its obligations under the Prime Contract.

(b) Design-Build Entity has performed due diligence to fully understand the attached Scope of Work and the conditions associated with the Work, including a thorough review of the bridging documents provided with the RFP. Design-Build Entity has made all reasonable efforts to locate all reports, surveys or other documents reflecting exploration and testing of subsurface conditions; and has reviewed all known as-built drawings, drawings or reports showing physical conditions, including underground facilities, which are identified in the RFP; and has examined all geotechnical data and existing conditions, including those that may be apparent at the Project Site.

(c) Design-Build Entity has given District prompt written notice of all conflicts, errors, ambiguities, or discrepancies that it has discovered in or among the Contract Documents, including the performance specifications and bridging documents.

(d) Design-Build Entity is duly organized, existing and in good standing under applicable state law, and is duly qualified and licensed (for every business, trade or profession) to conduct business in the State of California.

(e) Design-Build Entity has duly authorized the execution, delivery and performance of this Agreement, the Contract Documents, and the Work to be performed herein. The Contract Documents do not violate or create a default under any instrument, agreement, order or decree binding on Design-Build Entity.

(f) Prior to the District's Issuance of a Notice to Proceed with Construction, the Design-Build Entity will list all Subcontractors performing Work pursuant to the Subcontractor Listing requirements of California Public Contracting Code Section 4104 and provide a copy thereof to District.

(g) Design-Build Contractor represents and warrants that it is financially solvent, able to pay its debts as they mature, and is possessed of sufficient working capital to complete the Project in accordance with this Agreement; that it is able to furnish the plant, tools, materials, supplies, equipment, and labor, and is experienced in and competent to perform the work contemplated by this Agreement; and that it is authorized to do business in the State of California where the Project Site is located.

## **ARTICLE VII**

### **Contract Documents**

The Contract Documents consist of the following documents, including all changes, addenda and modifications thereto, which comprise the entire agreement between District and Design-Build Entity concerning the Work:

Agreement and all Amendments  
Supplemental General Conditions and all Amendments, if applicable  
General Conditions and all Amendments

Request for Qualifications, including all Attachments  
Request for Proposals, including all Attachments  
Design-Build Entity Proposal to RFP  
Design-Build Entity Response to RFQ  
Governing Board Resolutions

## **ARTICLE VIII Miscellaneous**

Section 1. This Agreement, together with all Contract Documents, represents the entire Agreement between the Design-Build Contractor and the District and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended or modified only in writing signed by both District and Design-Build Contractor.

Section 2. Time is of the essence for all provisions of this Agreement in which a definite time for performance is specified.

Section 3. This Agreement shall be governed by and construed in accordance with the laws of the State of California. The Parties acknowledge that the work being performed pursuant to this Agreement is being done in New Haven, California.

Section 4. The Effective Date of this Agreement shall mean the date when this Agreement has been approved by the District's governing board and executed by Design-Build Contractor and District, or their authorized and designated agents. District shall advise Design-Build Contractor of the occurrence of the Effective Date.

Section 5. Neither the Parties nor their respective counsel shall be deemed the drafters of this Agreement for purposes of construing its provisions. The language in all parts of this Agreement shall in all cases be construed according to fair meaning, not strictly for or against any of the Parties.

Section 6. This Agreement constitutes the entire agreement between the Parties and may be modified only by a written amendment executed by the Parties.

Section 7. District shall have the right to review all phases of Design-Build Entity's design including, but not limited to, drawings, specifications, shop drawings, samples and submittals, as specified in the Contract Documents. Such review, approval and other action shall not relieve Design-Build Entity of its responsibility for a complete design complying with the requirements of the Contract Documents; but rather, such review shall be in furtherance of District's interests in monitoring and accepting the design as developed and issued by the Design-Build Entity, to the extent consistent with these Contract Documents. Design-Build Entity's responsibility to design and construct the Project in conformance with the Contract Documents shall be absolute.

Section 8. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

Section 9. The standard of care for design services performed under this Agreement shall be the care and skill ordinarily used by members of the design profession practicing under similar conditions at the same time and locality.

Section 10. Upon making all payments as required under the Agreement, District shall receive ownership of the property rights of all documents, Plans, Drawings, Specifications, electronic data and information prepared, provided or procured by Design-Build Entity and its consultants, the Architect/Engineer, and Subcontractors for this Project ("Design-Build Documents"). Except as to software licenses, District may use, reproduce and make derivative works from the Design-Build Documents as authorized in this Agreement. Notwithstanding the foregoing, however, Design-Build Entity shall continue to own the underlying, generic design concepts set forth in the Design-Build Documents, including engineering/architectural details and system arrangements, and shall have the right to use such concepts in connection with the design of other projects without District's consent. Design-Build Entity specifically agrees to incorporate the provisions of this Article in all contracts for the services of any Architect/Engineer and/or other Subcontractors. District agrees that Design-Build Entity may retain a set of Design-Build Documents for record. District is permitted to retain copies, including reproducible copies, computer disks and electronic data, of the Design-Build Documents, and shall have the right to use the Design-Build Documents and the ideas and designs contained therein for information and reference in connection with District's use, maintenance, repair and occupancy of the Project and in connection with additions, alterations or future construction to the Project without paying Design-Build Entity or its Subcontractors any compensation other than the amounts required by this Contract, but District shall not use, reproduce or make derivative works from the Design-Build Documents for other projects without the written authorization and agreement of Design-Build Entity. In the event that District uses the Design-Build Documents for any project other than the Project Design-Build Entity shall not be responsible for such use, and District shall defend, indemnify and hold Design-Build Entity and its consultants, the Architect/Engineer, Subcontractors, and the agents, officers, directors and employees of each of them, harmless from and against any and all damages, losses, costs and expenses, including reasonable attorneys' fees and court costs, arising out of or resulting from the District's use of the Design-Build Documents.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized respective officers, as of \_\_\_\_\_, 2016.

**DESIGN-BUILD CONTRACTOR**

[CONTRACTOR]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**DISTRICT**

NEW HAVEN UNIFIED SCHOOL DISTRICT

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to Form:  
FAGEN FRIEDMAN & FULFROST, LLP

\_\_\_\_\_  
Mark Williams, Legal Counsel  
for New Haven Unified School District

ATTACHMENT 1

**(Scope of Work)**

The general scope of the Project includes:

Documents submitted to DSA.

**ATTACHMENT 2**

**MILESTONE SCHEDULE**

100% Design Development	TBD
100% Construction Documents (DSA ready)	TBD
Start of Construction on or before	April 3, 2017
Substantial Completion of Construction	August 11, 2017
Final Completion of Construction	August 16, 2017

<b>DESIGN PAYMENT SCHEDULE</b>	<b>% Total Fee</b>	<b>DBE Fee</b>
100% Schematic Submittal	15%	\$ _____
100% DD Submittal	20%	\$ _____
90% CD Submittal	40%	\$ _____
100% CD Submittal (DSA Submission)	10%	\$ _____
DSA Approval	15%	\$ _____
<b>Total Design Phase</b>	<b>100%</b>	\$ _____

**Construction Manager to input payment terms for review.**

00405-00005/3361590.3

**GEOTECHNICAL DATA**

**1. Summary**

This document describes geotechnical data at or near the Project that is in the District's possession available for Contractor's review, and use of data resulting from various investigations. **See General Conditions for definition(s) of terms used herein.**

**2. Geotechnical Reports**

- a. Geotechnical reports may have been prepared for and around the Site by soil investigation engineers hired by \_\_\_\_\_ School District ("District"), and its consultants, contractors, and tenants.
- b. Geotechnical reports may be inspected at the District offices, and copies may be obtained at cost of reproduction and handling upon Respondent's agreement to pay for such copies. These reports are **not** part of the Contract Documents.
- c. The reports and drawings of physical conditions that may relate to the Project are the following:

**[LIST ALL GEOTECHNICAL REPORTS HERE]**

**3. Use of Data**

- a. Geotechnical data were obtained only for use of District and its consultants, contractors, and tenants for planning and design and are **not** a part of Contract Documents.
- b. Except as expressly set forth below, District does not warrant, and makes no representation regarding, the accuracy or thoroughness of any geotechnical data. Respondent represents and agrees that in submitting a Response it is not relying on any geotechnical data supplied by District, except as specifically allowed below.
- c. Under no circumstances shall District be deemed to make a warranty or representation of existing above ground conditions, as-built conditions, or other actual conditions verifiable by independent investigation. These conditions are verifiable by Contractor by the performance of its own independent investigation that Contractor should perform as a condition to bidding and Contractor must not and shall not rely on information supplied by District.

#### **4. Limited Reliance Permitted on Certain Information**

- a. Reference is made herein for identification of:

Reports of explorations and tests of subsurface conditions at or contiguous to the Site that have been utilized by District in preparation of the Contract Documents.

Drawings of physical conditions in or relating to existing subsurface structures (except underground facilities) that are at or contiguous to the Site and have been utilized by District in preparation of the Contract Documents.

- b. Respondent may rely upon the general accuracy of the "technical data" contained in the reports and drawings identified above, but only insofar as it relates to subsurface conditions, provided Respondent has conducted the independent investigation required pursuant to Instructions to Respondents, and discrepancies are not apparent. The term "technical data" in the referenced reports and drawings shall be limited as follows:

- (1) The term "technical data" shall include actual reported depths, reported quantities, reported soil types, reported soil conditions, and reported material, equipment or structures, that were encountered during subsurface exploration. The term "technical data" does not include, and Respondent may not rely upon, any other data, interpretations, opinions or information shown or indicated in such drawings or reports that otherwise relate to subsurface conditions or described structures.
- (2) The term "technical data" shall not include the location of underground facilities.
- (3) Respondent may not rely on the completeness of reports and drawings for the purposes of bidding or construction. Respondent may rely upon the general accuracy of the "technical data" contained in such reports or drawings.
- (4) Respondent is solely responsible for any interpretation or conclusion drawn from any "technical data" or any other data, interpretations, opinions, or information provided in the identified reports and drawings.

#### **5. Investigations/Site Examinations**

- a. Before submitting a Response, each Respondent should be responsible for conducting or obtaining any additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and underground facilities) at or contiguous to the Site or

otherwise, that may affect cost, progress, performance, or furnishing of Work or that relate to any aspect of the means, methods, techniques, sequences, or procedures of construction to be employed by Respondent and safety precautions and programs incident thereto or that Respondent deems necessary to determine its Response for performing and furnishing the Work in accordance with the time, price, and other terms and conditions of Contract Documents.

- b. On request, District will provide each Respondent access to the Site to conduct such examinations, investigations, explorations, tests, and studies, as each Respondent deems necessary for submission of a Bid. Respondents must fill all holes and clean up and restore the Site to its former condition upon completion of its explorations, investigations, tests, and studies. Such investigations and Site examinations may be performed during any and all Site visits indicated in the Notice to Respondents and only under the provisions of the Contract Documents, including, but not limited to, proof of insurance and obligation to indemnify against claims arising from such work.

END OF DOCUMENT

**EXISTING CONDITIONS**

**1. Summary**

This document describes existing conditions at or near the Project, and use of information available regarding existing conditions. See General Conditions for definition(s) of terms used herein.

**2. Reports and Information on Existing Conditions**

- A. Documents providing a general description of the Site and conditions of the Work may have been collected by New Haven Unified School District ("District"), its consultants, contractors, and tenants. These documents may include previous contracts, contract specifications, tenant improvement contracts, as-built drawings, utility drawings, and information regarding underground facilities.
- B. Information regarding existing conditions may be inspected at District offices, and copies may be obtained at cost of reproduction and handling upon Respondent's agreement to pay for such copies. These reports, documents, and other information are **not** part of the Contract Documents.
- C. Information regarding existing conditions may also be included in the Project Manual, but shall **not** be considered part of the Contract Documents.
- D. The reports and other data or information regarding existing conditions and underground facilities at or contiguous to the Project are the following:
  - (1) Original Construction Drawings.
  - (2) Survey of Site.

**3. Use of Information**

- A. Information regarding existing conditions was obtained only for use of District and its consultants, contractors, and tenants for planning and design and is **not** part of the Contract Documents.
- B. District does not warrant, and makes no representation regarding, the accuracy or thoroughness of any information regarding existing conditions. Respondent represents and agrees that in submitting a bid it is not relying on any information regarding existing conditions supplied by District.
- C. Under no circumstances shall District be deemed to warrant or represent existing above-ground conditions, as-built conditions, or other actual conditions, verifiable

by independent investigation. These conditions are verifiable by Contractor by the performance of its own independent investigation, that Contractor must perform as a condition to submitting a response, and Contractor should not and shall not rely on this information or any other information supplied by District regarding existing conditions.

- D. Any information shown or indicated in the reports and other data supplied herein with respect to existing underground facilities at or contiguous to the Project may be based upon information and data furnished to District by the District's employees and/or consultants or builders of such underground facilities or others. District does not assume responsibility for the completeness of this information, and Respondent is solely responsible for any interpretation or conclusion drawn from this information.
- E. District shall be responsible only for the general accuracy of information regarding underground facilities, and only for those underground facilities that are owned by District, and only where Respondent has conducted the independent investigation required of it pursuant to the Instructions to Respondents, and discrepancies are not apparent.

#### **4. Investigations/Site Examinations**

- A. Before submitting a Bid, each Respondent should be responsible for conducting or obtaining any additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and underground facilities) at or contiguous to the Site or otherwise, that may affect cost, progress, performance, or furnishing of Work or that relate to any aspect of the means, methods, techniques, sequences, or procedures of construction to be employed by Respondent and safety precautions and programs incident thereto or that Respondent deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price, and other terms and conditions of Contract Documents.
- B. On request, District will provide each Respondent access to the Site to conduct such examinations, investigations, explorations, tests, and studies, as each Respondent deems necessary for submission of a Bid. Respondents must fill all holes and clean up and restore the Site to its former condition upon completion of its explorations, investigations, tests, and studies. Such investigations and Site examinations may be performed during any and all Site visits indicated in the Notice to Respondents and only under the provisions of the Contract Documents, including, but not limited to, proof of insurance and obligation to indemnify against claims arising from such work.

END OF DOCUMENT

**PAYMENT BOND**

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

KNOW ALL PERSONS BY THESE PRESENTS:

That the undersigned, as \_\_\_\_\_ as Principal (“Principal”),

and \_\_\_\_\_ as Surety (“Surety”),

a corporation organized and existing under and by virtue of the laws of the State of \_\_\_\_\_ and authorized to do business as a surety in the State of California, are held and firmly bound unto the New Haven Unified School District (“District”) of Alameda County, State of California as Obligee, in the sum of

\_\_\_\_\_ (\$ \_\_\_\_\_)

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

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal has submitted a proposal to the District for all Work specifically described in the accompanying proposal;

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

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

time, alteration or addition to the terms of the Contract or the call for proposal, or to the work, or to the specifications.

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

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

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Affix Corporate Seal)

\_\_\_\_\_  
Principal

\_\_\_\_\_  
By

(Affix Corporate Seal)

\_\_\_\_\_  
Surety

\_\_\_\_\_  
By

\_\_\_\_\_  
Name of California Agent of Surety

\_\_\_\_\_  
Address of California Agent of Surety

\_\_\_\_\_  
Telephone Number of California Agent of Surety

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

END OF DOCUMENT

**DESIGNATED SUBCONTRACTORS LIST**

PROJECT:  
**ITLIONG-VERA CRUZ MIDDLE SCHOOL  
21<sup>ST</sup> CENTURY CLASSROOM BUILDING**

Respondent must list hereinafter the name and location of each subcontractor who will be employed, and the kind of Work that each will perform if the Contract is awarded to the Respondent. Respondent acknowledges and agrees that under Public Contract Code section 4100, et seq., it must clearly set forth below the name, location, and license # of each subcontractor who will perform work or labor or render service to the Respondent in or about the construction of the Work in an amount in excess of one-half of one percent (1/2 of 1%) of Respondent's total Proposal, and that as to any Work that Respondent fails to list, Respondent agrees to perform that portion itself or be subjected to penalty under applicable law.

In case more than one subcontractor is named for the same kind of Work, state the portion that each will perform. Vendors or suppliers of materials only do not need to be listed.

If further space is required for the list of proposed subcontractors, additional sheets showing the required information, as indicated below, shall be attached hereto and made a part of this document.

**Subcontractor Name:** \_\_\_\_\_ **Location:** \_\_\_\_\_

**Portion of Work:** \_\_\_\_\_ **License #:** \_\_\_\_\_

**Subcontractor Name:** \_\_\_\_\_ **Location:** \_\_\_\_\_

**Portion of Work:** \_\_\_\_\_ **License #:** \_\_\_\_\_

**Subcontractor Name:** \_\_\_\_\_ **Location:** \_\_\_\_\_

**Portion of Work:** \_\_\_\_\_ **License #:** \_\_\_\_\_

**Subcontractor Name:** \_\_\_\_\_ **Location:** \_\_\_\_\_

**Portion of Work:** \_\_\_\_\_ **License #:** \_\_\_\_\_

**Subcontractor Name:** \_\_\_\_\_ **Location:** \_\_\_\_\_

**Portion of Work:** \_\_\_\_\_ **License #:** \_\_\_\_\_

**Subcontractor Name:** \_\_\_\_\_ **Location:** \_\_\_\_\_

Portion of Work: \_\_\_\_\_ License #: \_\_\_\_\_

**Subcontractor Name:** \_\_\_\_\_ **Location:** \_\_\_\_\_

Portion of Work: \_\_\_\_\_ License #: \_\_\_\_\_

**Subcontractor Name:** \_\_\_\_\_ **Location:** \_\_\_\_\_

Portion of Work: \_\_\_\_\_ License #: \_\_\_\_\_

**Subcontractor Name:** \_\_\_\_\_ **Location:** \_\_\_\_\_

Portion of Work: \_\_\_\_\_ License #: \_\_\_\_\_

**Subcontractor Name:** \_\_\_\_\_ **Location:** \_\_\_\_\_

Portion of Work: \_\_\_\_\_ License #: \_\_\_\_\_

**Subcontractor Name:** \_\_\_\_\_ **Location:** \_\_\_\_\_

Portion of Work: \_\_\_\_\_ License #: \_\_\_\_\_

**Subcontractor Name:** \_\_\_\_\_ **Location:** \_\_\_\_\_

Portion of Work: \_\_\_\_\_ License #: \_\_\_\_\_

**Subcontractor Name:** \_\_\_\_\_ **Location:** \_\_\_\_\_

Portion of Work: \_\_\_\_\_ License #: \_\_\_\_\_

Date: \_\_\_\_\_

Proper Name of Respondent: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

END OF DOCUMENT

**SITE-VISIT CERTIFICATION**

PROJECT:

**ITLIONG-VERA CRUZ MIDDLE SCHOOL  
21<sup>ST</sup> CENTURY CLASSROOM BUILDING**

Check whichever option applies:

\_\_\_\_\_ I certify that I visited the Site of the proposed Work and became fully acquainted with the conditions relating to construction and labor. I fully understand the facilities, difficulties, and restrictions attending the execution of the Work under contract.

\_\_\_\_\_ I certify that \_\_\_\_\_ (Respondent's representative) visited the Site of the proposed Work and became fully acquainted with the conditions relating to construction and labor. The Respondent 's representative fully understood the facilities, difficulties, and restrictions attending the execution of the Work under contract.

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

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

Date: \_\_\_\_\_

Proper Name of Bidder: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

END OF DOCUMENT



END OF DOCUMENT

**NOTICE OF AWARD**

Dated: \_\_\_\_\_ 20\_\_

To: \_\_\_\_\_  
(Contractor)

To: \_\_\_\_\_  
(Address)

From: Governing Board (“Board”)of New Haven Unified School District (“District” or “Owner”)

**PROJECT:  
JITLIONG-VERA CRUZ MIDDLE SCHOOL  
21<sup>ST</sup> CENTURY CLASSROOM BUILDING**

(“Project” or “Contract”).

Contractor has been awarded the referenced Contract on \_\_\_\_\_, 20\_\_, by action of the District's Board.

The Contract Price is \_\_\_\_\_ Dollars (\$\_\_\_\_\_), and includes alternates \_\_\_\_\_.

Three (3) copies of each of the Contract Documents (except Drawings) accompany this Notice of Award. Three (3) sets of the Drawings will be delivered separately or otherwise made available. Additional copies are available at cost of reproduction.

You must comply with the following conditions precedent within seven (7) calendar days of the date of this Notice of Award.

The Respondent to whom Contract is awarded shall execute and submit the following documents by 5:00 p.m. of the seventh (7<sup>th</sup>) calendar day following the date of the Notice of Award. Failure to properly and timely submit these documents entitles District to reject the bid as non-responsive.

- A. Agreement: To be executed by successful Respondent. Submit four (4) copies, each bearing an original signature.
- B. Escrow of RespondentDocumentation: This must include all required documentation. See the document Escrow of RespondentDocumentation for more information.

- C. Performance Bond (100%): On the form provided in the Contract Documents and fully executed as indicated on the form.
- D. Payment Bond (100%) (Contractor's Labor and Material Bond): On the form provided in the Contract Documents and fully executed as indicated on the form.
- E. Insurance Certificates and Endorsements as required.
- F. Workers' Compensation Certification.
- G. Prevailing Wage and Related Labor Requirements Certification.
- H. Disabled Veterans' Business Enterprise Participation Certification.
- I. Drug-Free Workplace Certification.
- J. Hazardous Materials Certification.
- K. Lead-Based Paint Certification.
- L. Imported Materials Certification.
- M. Criminal Background Investigation/Fingerprinting Certification.
- N. Contractor's Safety Plan specifically adapted for the Project.

Failure to comply with these conditions within the time specified will entitle District to consider your bid abandoned, to annul this Notice of Award, and to declare your Proposal Security forfeited, as well as any other rights the District may have against the Contractor.

After you comply with those conditions, District will return to you one fully signed counterpart of the Agreement.

NEW HAVEN UNIFIED SCHOOL DISTRICT

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

END OF DOCUMENT

**ESCROW PROPOSAL DOCUMENTATION**

**1. Requirement to Escrow Bid Documentation**

- A. Contractor shall submit, within seven (7) days after the date of the Notice of Award, one copy of all documentary information received or generated by Contractor in preparation of prices for this Contract, as specified herein. This material is referred to herein as "Escrow Proposal Documentation." The Escrow Proposal Documentation of the Contractor will be held in escrow for the duration of the Contract.
- B. Contractor agrees, as a condition of award of the Contract, that the Escrow Proposal Documentation constitutes all written information used in the preparation of its proposal, and that no other written bid preparation information shall be considered in resolving disputes or claims. Contractor also agrees that nothing in the Escrow Proposal Documentation shall change or modify the terms or conditions of the Contract Documents.
- C. The Escrow Proposal Documentation will not be opened by District except as indicated herein. The Escrow Proposal Documentation will be used only for the resolution of change orders and claims disputes.
- D. Contractor's submission of the Escrow Proposal Documentation, as with the bonds and insurance documents required, is considered an essential part of the Contract award. Should the Contractor fail to make the submission within the allowed time specified above, District may deem the Contractor to have failed to enter into the Contract, and the Contractor shall forfeit the amount of its bid security, accompanying the Contractor's bid, and District may award the Contract to the next lowest responsive responsible bidder.
- E. NO PAYMENTS WILL BE MADE, NOR WILL DISTRICT ACCEPT PROPOSED CHANGE ORDERS UNTIL THE ABOVE REQUIRED INFORMATION IS SUBMITTED AND APPROVED.
- F. The Escrow Proposal Documentation shall be submitted in person by an authorized representative of the Contractor to the District.

**2. Ownership of Escrow Proposal Documentation**

- A. The Escrow Proposal Documentation is, and shall always remain, the property of Contractor, subject to review by District, as provided herein.

- B. Escrow Proposal Documentation constitute trade secrets, not known outside Contractor's business, known only to a limited extent and only by a limited number of employees of Contractor, safeguarded while in Contractor's possession, extremely valuable to Contractor, and could be extremely valuable to Contractor's competitors by virtue of it reflecting Contractor's contemplated techniques of construction. Subject to the provisions herein, District agrees to safeguard the Escrow Proposal Documentation, and all information contained therein, against disclosure to the fullest extent permitted by law.

### **3. Format and Contents of Escrow Proposal Documentation**

- A. Contractor may submit Escrow Proposal Documentation in its usual cost-estimating format; a standard format is not required. The Escrow Proposal Documentation shall be submitted in the language (e.g., English) of the specification.
- B. Escrow Proposal Documentation must clearly itemize the estimated costs of performing the work of each bid item contained in the bid schedule, separating bid items into sub-items as required to present a detailed cost estimate and allow a detailed cost review. The Escrow Proposal Documentation shall include all subcontractor bids or quotes, supplier bids or quotes, quantity takeoffs, crews, equipment, calculations of rates of production and progress, copies of quotes from subcontractors and suppliers, and memoranda, narratives, add/deduct sheets, and all other information used by the Contractor to arrive at the prices contained in the bid proposal. Estimated costs should be broken down into Contractor's usual estimate categories such as direct labor, repair labor, equipment ownership and operation, expendable materials, permanent materials, and subcontract costs as appropriate. Plant and equipment and indirect costs should be detailed in the Contractor's usual format. The Contractor's allocation of indirect costs, contingencies, markup, and other items to each bid item shall be identified.
- C. All costs shall be identified. For proposal items amounting to less than \$10,000, estimated unit costs are acceptable without a detailed cost estimate, provided that labor, equipment, materials, and subcontracts, as applicable, are included and provided that indirect costs, contingencies, and markup, as applicable, are allocated.
- D. Proposal Documentation provided by District should not be included in the Escrow Proposal Documentation unless needed to comply with the following requirements.

### **4. Submittal of Escrow Proposal Documentation**

- A. The Escrow Proposal Documentation shall be submitted by the Contractor in a sealed container within seven (7) days after the date of the Notice of Award. The

container shall be clearly marked on the outside with the Contractor's name, date of submittal, project name and the words "Escrow Proposal Documentation – Intended to be opened in the presence of Authorized Representatives of Both District and Contractor".

- B. By submitting Escrow Proposal Documentation, Contractor represents that the material in the Escrow Proposal Documentation constitutes all the documentary information used in preparation of the bid and that the Contractor has personally examined the contents of the Escrow Proposal Documentation container and has found that the documents in the container are complete.
- C. If Contractor's proposal is based upon subcontracting any part of the work, each subcontractor whose total subcontract price exceeds 5 percent of the total contract price proposed by Contractor, shall provide separate Escrow Documents to be included with those of Contractor. Those documents shall be opened and examined in the same manner and at the same time as the examination described above for Contractor.
- D. If Contractor wishes to subcontract any portion of the Work after award, District retains the right to require Contractor to submit Escrow Documents for the Subcontractor before the subcontract is approved.

#### **5. Storage, Examination and Final Disposition of Escrow Bid Documentation**

- A. The Escrow Proposal Documentation will be placed in escrow, for the life of the Contract, in a mutually agreeable institution. The cost of storage will be paid by Contractor for the duration of the project until final Contract payment. The storage facilities shall be the appropriate size for all the Escrow Proposal Documentation and located conveniently to both District's and Contractor's offices.
- B. The Escrow Proposal Documentation shall be examined by both District and Contractor, at any time deemed necessary by either District or Contractor, to assist in the negotiation of price adjustments and change orders or the settlement of disputes and claims. In the case of legal proceedings, Escrow Proposal Documentation shall be used subject to the terms of an appropriate protective order if requested by Contractor and ordered by a court of competent jurisdiction. Examination of the Escrow Proposal Documentation is subject to the following conditions:
  - (1) As trade secrets, the Escrow Proposal Documentation is proprietary and confidential to the extent allowed by law.
  - (2) District and Contractor shall each designate, in writing to the other party seven (7) days prior to any examination, the names of representatives who

are authorized to examine the Escrow Proposal Documentation. No other person shall have access to the Escrow Proposal Documentation.

- (3) Access to the documents may take place only in the presence of duly designated representatives of the District and Contractor. If Contractor fails to designate a representative or appear for joint examination on seven (7) days notice, then the District representative may examine the Escrow Proposal Documents alone upon an additional three (3) days notice if a representative of the Contractor does not appear at the time set.
- (4) If a subcontractor has submitted sealed information to be included in the Escrow Proposal Documents, access to those documents may take place only in the presence of a duly designated representative of the District, Contractor and that subcontractor. If that subcontractor fails to designate a representative or appear for joint examination on seven (7) days notice, then the District representative and/or the Contractor may examine the Escrow Proposal Documentation without that subcontractor present upon an additional three (3) days notice if a representative of that subcontractor does not appear at the time set.

- C. The Escrow Proposal Documentation will be returned to Contractor at such time as the Contract has been completed and final settlement has been achieved.

END OF DOCUMENT

**GUARANTEE FORM**

\_\_\_\_\_ ("Contractor") hereby agrees that the  
\_\_\_\_\_ ("Work" of Contractor) which Contractor has installed for  
the New Haven Unified School District ("District") for the following project:

**ITLIONG-VERA CRUZ MIDDLE SCHOOL  
21<sup>ST</sup> CENTURY CLASSROOM BUILDING**

("Project" or "Contract")

has been performed in accordance with the requirements of the Contract Documents and that the Work as installed will fulfill the requirements of the Contract Documents.

The undersigned agrees to repair or replace any or all of such Work that may prove to be defective in workmanship or material together with any other adjacent Work that may be displaced in connection with such replacement within a period of two (2) years from the date of completion as defined in Public Contract Code section 7107, subdivision (c), ordinary wear and tear and unusual abuse or neglect excepted. The date of completion is \_\_\_\_\_, 20\_\_\_\_.

In the event of the undersigned's failure to comply with the above-mentioned conditions within a reasonable period of time, as determined by the District, but not later than seven (7) days after being notified in writing by the District, the undersigned authorizes the District to proceed to have said defects repaired and made good at the expense of the undersigned. The undersigned shall pay the costs and charges therefor upon demand.

Date: \_\_\_\_\_

Proper Name of Contractor: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Representatives to be contacted for service subject to terms of Contract:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE NO.: \_\_\_\_\_

END OF DOCUMENT

**DISABLED VETERAN BUSINESS  
ENTERPRISE PARTICIPATION CERTIFICATION**

PROJECT/CONTRACT NO.: #700 between New Haven Unified School District (the “District”) and \_\_\_\_\_ (the “Contractor” or the “Bidder”) (the “Contract” or the “Project”).

**GENERAL INSTRUCTIONS**

Section 17076.11 of the Education Code requires school districts using funds allocated pursuant to the State of California School Facility Program (“Program”) for the construction and/or modernization of school buildings to have a participation goal for disabled veteran business enterprises (DVBE) of at least 3 percent, per year, of the overall dollar amount expended each year by the school district on projects that receive state funding. Therefore, low bidder must submit this document to the District with its executed agreement, identifying the steps contractor took to solicit DVBE participation in conjunction with this Contract. Bidders should not submit this form with their bids.

**NOTE:** *Architectural, engineering, environmental, land surveying, or construction management firms must indicate their method of compliance by completing this form after selection by the District and before the contract is signed.*

---

**Part I – Method Of Compliance With DVBE Participation Goals.** Check the appropriate box to indicate your method of committing the contract dollar amount.

<b>YOUR BUSINESS ENTERPRISE IS:</b>	<b>AND YOU WILL</b>	<b>AND YOU WILL</b>
<b>A.</b> ↑ Disabled veteran owned and your forces will perform at least 3 percent of this contract	Include a copy of your DVBE letter from Office of Small Business (“OSB”)* and Disabled Veterans Business Enterprise Services	Complete Part 1 of this form and the Certification
<b>B.</b> ↑ Disabled veteran owned but is unable to perform 3 percent of this contract with your forces	USE DVBE subcontractors / suppliers to bring the contract participation to at least 3 percent	Include a copy of each DVBE’s letter from OSB (including yours, if applicable), and complete Part 1 of this form and the certification
<b>C.</b> ↑ <i>NOT</i> Disabled Veteran Owned	Use DVBE subcontractors / suppliers for at least 3 percent of this contract	
<b>D.</b> ↑ Unable to meet the required participation goals	Complete all of this Certification form	

\* A DVBE letter from OSB is obtained from the participating DVBE. If the letter is not provided, the bidder may be ineligible for award of the contract.

You must complete the following table to show the dollar amount of DVBE participation:

	TOTAL CONTRACT PRICE
A. Prime Bidder, if DVBE (own participation)	\$
B. DVBE Subcontractor or Supplier	
1.	
2.	
3.	
4.	
C. Subtotal (A & B)	
D. Non-DVBE	
E. Total Bid	

**Part II – Contacts.** To identify DVBE subcontractors/suppliers for participation in your contract, you must contact each of the following categories. You should contact several DVBE organizations.

CATEGORY	TELEPHONE NUMBER	DATE CONTACTED	PERSON CONTACTED
1. The District			*
2. OSB, which publishes a list of DVBE's; Internet Address: <a href="http://www.dgs.ca.gov/osbcr">Http://www.dgs.ca.gov/osbcr</a>	(916) 323-5478 (916) 322-5060		*
3. DVBE Organization (List)			*

\*Write "recorded message" in this column, if applicable.

**Part III – Advertisement.** You must advertise for DVBE participation in both a trade and focus paper. List the advertisement you place to solicit DVBE participation. Advertisements should be published at least 14 days prior to bid/proposal opening; if you cannot advertise 14 days prior, advertisements should be published as soon as possible. Advertisements must include that your firm is seeking DVBE participation, the project name and location, and you firm's name, your contact person, and telephone number. Attach copies of advertisements to this form.

FOCUS/TRADE PAPER NAME	CHECK ONE		DATE OF ADVERTISEMENT
	TRADE	FOCUS	

**Part IV. – DVBE Solicitations.** List DVBE subcontractors/suppliers that were invited to bid. Use the following instructions to complete the remainder of this section (read the three columns

as a sentence from left to right). If you need additional space to list DVBE solicitations, please use a separate page and attach to this form.

<b>IF THE DVBE.....</b>	<b>THEN.....</b>	<b>AND.....</b>		
was selected to participate	Check “yes” in the Selected column, include the applicable dollar amount in Part III of the Form SAB 515PB	include a copy of their DVBE letter from OSB		
was <i>NOT</i> selected to participate	Check “no” in the “SELECTED” column	state why in the “REASON NOT SELECTED” column		
did not respond to your solicitation	Check the “NO RESPONSE” column.			
<b>DISABLED VETERANS BUSINESS ENTERPRISES CONTACTED</b>	<b>SELECTED</b>		<b>REASON NOT SELECTED</b>	<b>NO RESPONSE</b>
	<b>YES</b>	<b>NO</b>		

A copy of this form must be retained by you and may be subject to a future audit.

**CERTIFICATION**

I, \_\_\_\_\_ certify that I am the bidder’s \_\_\_\_\_ and that I have made a diligent effort to ascertain the facts with regard to the representations made herein. In making this certification, I am aware of section 12650 et seq. of the Government Code providing for the imposition of treble damages for making false claims.

Date: \_\_\_\_\_

Proper Name of Contractor: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

END OF DOCUMENT

**DRUG-FREE WORKPLACE CERTIFICATION**

PROJECT/CONTRACT NO.: #700 between New Haven Unified School District (the “District” or the “Owner”) and \_\_\_\_\_ (the “Contractor” or the “Respondent”) (the “Contract” or the “Project”).

This Drug-Free Workplace Certification form is required from the successful Respondent pursuant to Government Code section 8350 et seq., the Drug-Free Workplace Act of 1990. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract or grant for the procurement of any property or service from any state agency must certify that it will provide a drug-free workplace by doing certain specified acts. In addition, the Act provides that each contract or grant awarded by a state agency may be subject to suspension of payments or termination of the contract or grant, and the contractor or grantee may be subject to debarment from future contracting, if the contracting agency determines that specified acts have occurred.

The District is not a “state agency” as defined in the applicable section(s) of the Government Code, but the District is a local agency and public school district under California law and requires all contractors on District projects to comply with the provisions and requirements of Government Code section 8350 et seq., the Drug-Free Workplace Act of 1990.

Contractor shall certify that it will provide a drug-free workplace by doing all of the following:

- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person’s or organization’s workplace and specifying actions which will be taken against employees for violations of the prohibition;
- b. Establishing a drug-free awareness program to inform employees about all of the following:
  - (1) The dangers of drug abuse in the workplace.
  - (2) The person’s or organization’s policy of maintaining a drug-free workplace.
  - (3) The availability of drug counseling, rehabilitation, and employee-assistance programs.
  - (4) The penalties that may be imposed upon employees for drug abuse violations.
- c. Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required above, and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

I, the undersigned, agree to fulfill the terms and requirements of Government Code section 8355 listed above and will publish a statement notifying employees concerning (a) the prohibition of controlled substance at the workplace, (b) establishing a drug-free awareness program, and (c) requiring that each employee engaged in the performance of the contract be given a copy of the statement required by section 8355(a), and requiring that the employee agree to abide by the terms of that statement.

I also understand that if the District determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of section 8355, that the Contract awarded herein is subject to termination, suspension of payments, or both. I further understand that, should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of section 8350 et seq.

I acknowledge that I am aware of the provisions of Government Code section 8350 et seq. and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

Date: \_\_\_\_\_

Proper Name of Contractor: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

END OF DOCUMENT

**HAZARDOUS MATERIALS CERTIFICATION**

PROJECT/CONTRACT NO.: #700 between New Haven Unified School District (“District” or “Owner”) and \_\_\_\_\_ (“Contractor” or “Respondent”) (“Contract” or “Project”).

1. Contractor hereby certifies that no Asbestos, or Asbestos-Containing Materials, polychlorinated biphenyl (PCB), or any material listed by the federal or state Environmental Protection Agency or federal or state health agencies as a hazardous material, or any other material defined as being hazardous under federal or state laws, rules, or regulations (“New Hazardous Material”), shall be furnished, installed, or incorporated in any way into the Project or in any tools, devices, clothing, or equipment used to affect any portion of Contractor's work on the Project for District.
2. Contractor further certifies that it has instructed its employees with respect to the above-mentioned standards, hazards, risks, and liabilities.
3. Asbestos and/or asbestos-containing material shall be defined as all items containing but not limited to chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite. Any or all material containing greater than one-tenth of one percent (.1%) asbestos shall be defined as asbestos-containing material.
4. Any disputes involving the question of whether or not material is New Hazardous Material shall be settled by electron microscopy or other appropriate and recognized testing procedure, at the District’s determination. The costs of any such tests shall be paid by Contractor if the material is found to be New Hazardous Material.
5. All Work or materials found to be New Hazardous Material or Work or material installed with “New Hazardous Material” containing equipment will be immediately rejected and this Work will be removed at Contractor's expense at no additional cost to the District.
6. Contractor has read and understood the document Hazardous Materials Procedures & Requirements, and shall comply with all the provisions outlined therein.

Date: \_\_\_\_\_

Proper Name of Contractor: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

END OF DOCUMENT

**LEAD-BASED MATERIALS CERTIFICATION**

PROJECT/CONTRACT NO.: #700 between New Haven Unified School District (“District” or “Owner”) and \_\_\_\_\_ (“Contractor” or “Respondent”) (“Contract” or “Project”).

This certification provides notice to the Contractor that:

- (1) The Contractor's work may disturb lead-containing building materials.
- (2) The Contractor must notify the District if any work may result in the disturbance of lead-containing building materials.

**1. Lead as a Health Hazard**

Lead poisoning is recognized as a serious environmental health hazard facing children today. Even at low levels of exposure, much lower than previously believed, lead can impair the development of a child's central nervous system, causing learning disabilities, and leading to serious behavioral problems. Lead enters the environment as tiny lead particles and lead dust disburse when paint chips, chalks, peels, wears away over time, or is otherwise disturbed. Ingestion of lead dust is the most common pathway of childhood poisoning; lead dust gets on a child’s hands and toys and then into a child’s mouth through common hand-to-mouth activity. Exposures may result from construction or remodeling activities that disturb lead paint, from ordinary wear and tear of windows and doors, or from friction on other surfaces.

Ordinary construction and renovation or repainting activities carried out without lead-safe work practices can disturb lead-based paint and create significant hazards. Improper removal practices, such as dry scraping, sanding, or water blasting painted surfaces, are likely to generate high volumes of lead dust.

Because the Contractor and its employees will be providing services for the District, and because the Contractor's work may disturb lead-containing building materials, CONTRACTOR IS HEREBY NOTIFIED of the potential presence of lead-containing materials located within certain buildings utilized by the District. All school buildings built prior to 1993 are presumed to contain some lead-based paint until sampling proves otherwise.

**2. Overview of California Law**

Education Code section 32240 et seq. is known as the Lead Safe Schools Protection Act. Under this act, the Department of Health Services ("DHS") is to conduct a sample survey of schools in the State of California for the purpose of developing risk factors to predict lead contamination in public schools. (Ed. Code, § 3224 1.)

Any school that undertakes any action to abate existing risk factors for lead is required to utilize trained and state-certified contractors, inspectors, and workers. (Ed. Code, § 32243, subd. (b).) Moreover, lead-based paint, lead plumbing, and solders, or other potential sources of lead contamination, shall not be utilized in the construction of any new school facility or the modernization or renovation of any existing school facility. (Ed. Code, § 32244.)

Both the Federal Occupational Safety and Health Administration ("Fed/OSHA") and the California Division of Occupational Safety and Health ("Cal/OSHA") have implemented safety orders applicable to all construction work where a contractor's employee may be occupationally exposed to lead.

The OSHA Regulations apply to all construction work where a contractor's employee may be occupationally exposed to lead. The OSHA Regulations contain specific and detailed requirements imposed on contractors subject to that regulation. The OSHA Regulations define construction work as work for construction, alteration, and/or repair, including painting and decorating. It includes, but is not limited to, the following:

- a. Demolition or salvage of structures where lead or materials containing lead are present;
- b. Removal or encapsulation of materials containing lead;
- c. New construction, alteration, repair, or renovation of structures, substrates, or portions thereof, that contain lead, or materials containing lead;
- d. Installation of products containing lead;
- e. Lead contamination/emergency cleanup;
- f. Transportation, disposal, storage, or containment of lead or materials containing lead on the site or location at which construction activities are performed; and
- g. Maintenance operations associated with the construction activities described in the subsection.

Because it is assumed by the District that all painted surfaces (interior as well as exterior) within the District contain some level of lead, it is imperative that the contractor, its workers and subcontractors fully and adequately comply with all applicable laws, rules and regulations governing lead-based materials (including title 8, California Code of Regulations, section 1532.1).

**The Contractor must notify the District if any Work may result in the disturbance of lead-containing building materials. Any and all Work that may result in the disturbance of lead-containing building materials must be coordinated through the District. A signed**

**copy of this Certification must be on file prior to beginning Work on the Project, along with all current insurance certificates.**

**3. Contractor's Liability**

If the Contractor fails to comply with any applicable laws, rules, or regulations, and that failure results in a site or worker contamination, the Contractor will be held solely responsible for all costs involved in any required corrective actions, and shall defend, indemnify, and hold harmless the District, pursuant to the indemnification provisions of the Contract, for all damages and other claims arising therefrom.

If lead disturbance is anticipated in the Work, only persons with appropriate accreditation, registrations, licenses, and training shall conduct this Work.

It shall be the responsibility of the Contractor to properly dispose of any and all waste products, including, but not limited to, paint chips, any collected residue, or any other visual material that may occur from the prepping of any painted surface. It will be the responsibility of the Contractor to provide the proper disposal of any hazardous waste by a certified hazardous waste hauler. This company shall be registered with the Department of Transportation (DOT) and shall be able to issue a current manifest number upon transporting any hazardous material from any school site within the District.

The Contractor shall provide the District with any sample results prior to beginning Work, during the Work, and after the completion of the Work. The District may request to examine, prior to the commencement of the Work, the lead training records of each employee of the Contractor.

THE CONTRACTOR HEREBY ACKNOWLEDGES, UNDER PENALTY OF PERJURY, THAT IT:

1. HAS RECEIVED NOTIFICATION OF POTENTIAL LEAD-BASED MATERIALS ON THE OWNER'S PROPERTY;
  
2. IS KNOWLEDGEABLE REGARDING AND WILL COMPLY WITH ALL APPLICABLE LAWS, RULES, AND REGULATIONS GOVERNING WORK WITH, AND DISPOSAL OF, LEAD.

THE UNDERSIGNED WARRANTS THAT HE/SHE HAS THE AUTHORITY TO SIGN ON BEHALF OF AND BIND THE CONTRACTOR. THE DISTRICT MAY REQUIRE PROOF OF SUCH AUTHORITY.

Date: \_\_\_\_\_

Proper Name of Contractor: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

END OF DOCUMENT

**IMPORTED MATERIALS CERTIFICATION**

PROJECT/CONTRACT NO.: #700 between New Haven Unified School District (“District” or “Owner”) and \_\_\_\_\_ (“Contractor” or “Respondent”) (“Contract” or “Project”).

This form shall be executed by the Contractor and by all entities that, in any way, provide or deliver and/or supply any soils, aggregate, or related materials (“Fill”) to the Project Site. All Fill shall satisfy all requirements of any environmental review of the Project performed pursuant to the statutes and guidelines of the California Environmental Quality Act, section 21000 et seq. of the Public Resources Code (“CEQA”), and all requirements of section 17210 et seq. of the Education Code, including requirements for a Phase I environmental assessment acceptable to the State of California Department of Education and Department of Toxic Substances Control.

To the furthest extent permitted by California law, Contractor shall defend, indemnify, and hold harmless the District, its agents, representatives, officers, consultants, employees, trustees, and volunteers pursuant to the indemnification provisions in the Contract Documents for, without limitation, any claim(s) connected with providing, delivering, and/or supplying Fill.

Certification of:     Delivery Firm/Transporter     Supplier     Manufacturer  
                           Wholesaler                                    Broker                                    Retailer  
                           Distributor                                    Other \_\_\_\_\_

Type of Entity     Corporation                                    General Partnership  
                           Limited Partnership                            Limited Liability Company  
                           Sole Proprietorship                            Other \_\_\_\_\_

Name of firm ("Firm"): \_\_\_\_\_

Mailing address: \_\_\_\_\_

Addresses of branch office used for this Project: \_\_\_\_\_

If subsidiary, name and address of parent company: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

By my signature below, I hereby certify that I am aware of section 25260 of the Health and Safety Code and the sections referenced therein regarding the definition of hazardous material. I

further certify on behalf of the Firm that all soils, aggregates, or related materials provided, delivered, and/or supplied or that will be provided, delivered, and/or supplied by this Firm to the Project Site are free of any and all hazardous material as defined in section 25260 of the Health and Safety Code. I further certify that I am authorized to make this certification on behalf of the Firm.

Date: \_\_\_\_\_

Proper Name of Contractor: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CRIMINAL BACKGROUND**  
**INVESTIGATION/ FINGERPRINTING CERTIFICATION**

PROJECT/CONTRACT NO.: #700 between the New Haven Unified School District (“District”) and \_\_\_\_\_ (“Contractor” or “Respondent”) (“Contract” or “Project”).

The undersigned does hereby certify to the governing board of the District as follows:

That I am a representative of the Contractor currently under contract ("Contract") with the District; that I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Contractor.

Contractor certifies that it has taken at least one of the following actions with respect to the construction Project that is the subject of the Contract (check all that apply):

\_\_\_\_\_ The Contractor has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Contractor's employees and all of its subcontractors' employees who may have contact with District pupils in the course of providing services pursuant to the Contract, and the California Department of Justice has determined that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of Contractor's employees and of all of its subcontractors' employees who may come in contact with District pupils during the course and scope of the Contract is attached hereto; and/or

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

\_\_\_\_\_ Pursuant to Education Code section 45125.2, Contractor certifies that all employees will be under the continual supervision of, and monitored by, an employee of the Contractor who the California Department of Justice has ascertained has not been convicted of a violent or serious felony. The name and title of the employee who will be supervising Contractor's employees and its subcontractors' employees is

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_ The Work on the Contract is at an unoccupied school site and no employee and/or subcontractor or supplier of any tier of Contract shall come in contact with the District pupils.

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

Date: \_\_\_\_\_

Proper Name of Contractor: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

END OF DOCUMENT