

SIERRA SANDS UNIFIED SCHOOL DISTRICT

**Board of Education
Special Meeting**

**October 30, 2013
District Office Conference Room
113 Felspar
*www.ssusdschools.org***

We, the members of the Board of Education of the Sierra Sands Unified School District, are committed to providing the highest quality education in a safe environment to all K-12 students. We believe the school shares with the family, church, and community the responsibility for developing life-long learners who are responsible, productive

A G E N D A

CALL TO ORDER AND PLEDGE TO THE FLAG

6:15 P.M.

Amy Castillo-Covert
Judy Dietrichson
Bill Farris, President
Tom Pearl
Kurt Rockwell, Vice President/Clerk
Michael Scott

Joanna Rummer, Superintendent

MOMENT OF SILENCE

1. ADOPTION OF AGENDA

2. PUBLIC HEARING

2.1 Ridgecrest Charter School: A Charter School Renewal Proposal

3. CONSTRUCTION ADMINISTRATION

3.1 Approval of a Contract for Project Management for Construction Services

4. ADJOURNMENT

2. PUBLIC HEARING

2.1 Ridgecrest Charter School: A Charter School Renewal Proposal

BACKGROUND INFORMATION: On or about October 1, 2013, the Sierra Sands Unified School District Board of Education received a charter school renewal petition from the Ridgecrest Charter School.

CURRENT CONSIDERATIONS: Education Code section 47605(b) states that within 30 days of the board's receipt of a charter renewal petition, the board must hold a public hearing on the provisions of the charter renewal proposal, at which time the governing board of the district shall consider the level of support for the petition by the teachers employed by the district, other employees of the district, and parents.

FINANCIAL IMPLICATIONS: None at this time.

SUPERINTENDENT'S RECOMMENDATION: In accordance with Education Code, it is the superintendent's recommendation that the board conduct a public hearing on the provisions of the charter renewal petition submitted to the district by the Ridgecrest Charter School and hear from teachers employed by the district, other employees of the district, and parents as well as members of the community, regarding the level of support for the petition.

3. CONSTRUCTION ADMINISTRATION

3.1 Approval of a Contract for Project Management for Construction Services

BACKGROUND INFORMATION: In September of 2010, Sierra Sands Unified School District was contacted by the Naval Air Weapons Station Community Rehabilitation Liaison, Ms. Deborah Ernst, regarding the upcoming DoD school facility inspection. Staff was told that facility inspections of all schools located on DoD property were taking place as part of a facility assessment initiative. Representations inspected all five S.S.U.S.D. sites located on federal property (Richmond Elementary School, Pierce Elementary School, Murray Middle School, Sherman E. Burroughs High School, and the Vieweg Administrative Center being used at that time during the modernization of Las Flores Elementary School). The final report was provided to S.S.U.S.D. in the Spring of 2011. As a result of that report, in September 2011, the District was notified that it was being invited to apply for a DoD school facilities construction and modernization grant being administered by the Office of Economic Adjustment. The District participated in the grant proposal and application process and in November of 2012, the District received an approximate thirty-one million dollar grant for the completion of the Sherman E. Burroughs High School and an approximate thirty-nine million dollar grant for the construction of Murray Middle School across the street from Burroughs High School.

CURRENT CONSIDERATIONS: The project manager for construction who worked with the District during the Measure A modernization retired at the end of the first phase of those efforts in October of 2012. Because the provisions of both grants are stringent and challenging in terms of schedule as well as budget, staff believes that the requirement for the services of a project manager for construction is immediate. The services should include the provision of daily on-site representation, creation of documentation and record keeping. In this regard, staff began a competitive process to obtain the project management services in accordance with the established protocol of the District, eg:

1. Convene District selection committee.
2. Publish an R.F.P. This was done on the dates below:
 - District Website on 8/23/2013

- News Publications
 - Orange County Register on 8/27/13
 - Antelope Valley Press on 8/27/13
 - Bakersfield Californian on 8/27/13
 - Daily Independent on 8/30/13
 - News Review on 8/28/13
 - C.A.S.H. on 8/26/13
 - CASBO on 8/23/13

- Interested Parties on 8/23/13

3. Responses were received September 10, 2013 at 10:30 a.m. and were distributed to the District Selection Committee the same day.

4. The District selection committee composed of administrators and a community member, as well as a representative of the District architectural and engineering firm and District Counsel as non-voting observers met September 12, 2013 to review and rank the responses.

5. The top (3) respondents were invited to interview on September 17, 2013.

6. Interviews were held on September 17, 2013.

It was the consensus of the committee that the firm of MAAS be recommended for the position of Project Manager for Construction at the September 19, 2013 board meeting. District staff were given approval to enter into negotiations with MAAS for services in support of both DoD grant projects. With guidance from counsel, an agreement has been reached with MAAS upon approval of the board. Maas will begin services immediately.

FINANCIAL IMPLICATIONS: The amount of the contract is not to exceed \$1,355,887.00. The District plans to use several fund sources including Fund 14 and IKSFA to support this contract

SUPERINTENDENT'S RECOMMENDATION: It is the Superintendent's recommendation that the agreement between MAAS and the District be approved as negotiated with the District.

PROJECT MANAGEMENT SERVICES AGREEMENT

This Project Management Services Agreement (“Agreement”) is made and entered into this _____ day of _____, 2013 (the “Effective Date”) by and between Sierra Sands Unified School District (hereinafter “District”) and MAAS Companies, Inc. (hereinafter referred to as “Project Manager”). The District and Project Manager are sometimes collectively referred to as the Parties.

WHEREAS, District desires to obtain comprehensive professional project management services which includes the administration and management of the Burroughs High School and Murray Middle School Projects (collectively, the “Project”);

WHEREAS, Project Manager understands that the size of the Project and the type and quality of construction are dependent upon the funds available for the Project and specifically funds from the federal government through the Department of Defense Program for Construction, Renovation, Repair or Expansion of Public Schools Located on Military Installations (“Program”). Thus, the Project Manager will exercise its best judgment to determine the balance between the size of the Project, the type of construction, and the quality of construction to achieve a satisfactory solution within budget limitations;

WHEREAS, Project Manager has represented that Project Manager is intimately familiar with the rules, regulations and submittal requirements of the California Department of Education, the Office of Public School Construction, the Division of State Architect, all applicable federal regulations, the requirements of the grant agreement between the District and the Department of Defense, and is capable of meeting each and every requirement of these agencies in an efficient manner in order to meet both time and budget expectations. Further, Project Manager is in complete compliance with all requirements under local, state and federal law.

ARTICLE 1

PROJECT MANAGER’S SERVICES AND RESPONSIBILITIES

1.1 Scope. The Project Manager shall provide to the District, on the terms herein set forth, all of the management services necessary to complete the Project, including all services necessary to provide the organization, coordination, management, and administration required for the District’s facilities needs for the development and completion of the Project, including, without limitation, planning, programming, site investigations, design, construction administration and project close out. The Project Manager shall be responsible for performing all of the services and meet all requirements described in the District’s Request for Proposal which is attached hereto and incorporated herein by this reference as Exhibit “A” (the “RFP”). Specifically, Project Manager shall provide all services necessary to provide the Project Manager Duties, listed in Section IV of the RFP. With respect to the Projects’ financial records and accounting, Project Manager shall work with the District’s Project Team to track all financial aspects of the Project and comply with all accounting requirements of the Project, as set forth in the RFP. The Project Manager shall also comply with all applicable requirements described in the grant agreement between the District and the Department of Defense, which is attached hereto as Exhibit “B” (the Grant Agreement”). Finally, the Project Manager shall provide all services described in the Project Manager’s Proposal in response to the RFP which is attached

hereto and incorporated herein by this reference as Exhibit "C" (the "Proposal"). The Proposal is only attached to this Agreement for purposes of describing the scope of work that shall be performed by the Project Manager in addition to the services set forth in this Agreement. The Parties agree that the terms of this Agreement and the RFP shall be controlling over any of the terms contained within the Project Manager's Proposal. Any references to any Master Agreement or general conditions within the Project Manager's Proposal is inapplicable to this Agreement. This Agreement, the RFP, Grant Agreement, and Proposal collectively form the scope of work required by the Project Manager.

1.2 Master Budget and Cash-Flow Monitoring and Control. The Project Manager acknowledges that the District's funding for the Project is limited to the funds provide by the federal government through the Grant Agreement, Thus, the Project Manager shall provide all services necessary to ensure the Project meets the requirements and budget amounts set forth in the Grant Agreement. Project Manager shall review the District's Project requirements, scheduled requirements and existing budget data. Where Project Manager's initial estimate indicates that projected costs may be at variance with the District's budgetary requirements, Project Manager will present such issues to the District and in writing, along with any readily apparent alternatives which may be identified. Project Manager will cooperate with the District in identifying and implementing additional potential cost adjustment measures which might be employed in order to reach budgetary requirements.

1.3 Progress Reporting. Project Manager shall document and submit written progress reports to the District regarding the funding of the Project along with updated budget and cost tracking, to include the impact of all proposed and executed change orders. Project Manager shall, on a bi-monthly basis, review the progress of construction on the Project, shall evaluate the percentage complete of each construction activity as indicated in each Project's schedule and shall review such percentages with the District. Project Manager's review shall indicate the actual progress compared to scheduled progress. Project Manager shall advise and make recommendations to the District concerning the alternative courses of action that the District may take in its efforts to achieve the required Project completion.

1.4. Meetings. Project Manager shall regularly coordinate and/or attend meetings with the District and Project personnel to ensure the successful administration of the Project.

1.5 Monitoring and Administering the Program Communication Plan. Project Manager shall assist the District in public relations activities relating to the Project, including preparing information for and attending public meetings other than regular District meetings (i.e. School Board and other meetings that may be required). Project Manager shall provide and maintain a management team for the Project to provide contract administration as an agent of the District and to establish and implement coordination and communication procedures among the District staff, Design Professionals and all contractors on the Project.

1.6 Monitoring and Coordination of Project Parties. Project Manager shall assist in the coordination of all consultants involved on the Project including the District staff, geotechnical, survey, soils, inspection (including IOR), and other professional consultant services. Project Manager shall ensure all consultant work is coordinated with the architectural services for the Project and shall assist in the evaluation of the performance of all consultants. Project Manager

may provide input or suggestions as to the consultants hired by the District for the Project. However, the District shall select and hire all consultants for the Project, to be determined at the District's sole discretion. Any consultant that Project Manager needs to hire to complete its contractual obligations on the Project shall be the sole responsibility of the Project Manager, but must be approved in writing.

1.7 Assistance in Procurement of Professional Services. Project Manager shall assist the District in selecting, coordinating and retaining the professional services of surveyors, special consultants including the Inspector of Record, Labor Compliance Program consultants, testing laboratories, and other consultants necessary for the Project. Project Manager shall assist in the coordination of the services of all professional consultants. Project Manager shall draft all Request for Proposals and statement of work for all parties participating on the Project.

1.8 Closeout Services. Project Manager shall coordinate with the District and the Architect to secure and process all necessary paperwork and close-out documents with the Office of Public School Construction, Division of the State Architect (DSA) and any other applicable public agencies for the Project, including the federal government and the Department of Defense. Project Manager shall work with the Project Architect to prepare and provide all information and documents necessary to close out the Project with DSA and will help the District address any issues that may arise during the DSA Close Out process. However, Project Architect shall be responsible for obtaining final DSA Close Out of the Project.

1.9 Office Space. The District and Project Manager shall enter into a separate agreement to address the Project Manager's use of District office space and equipment during the Project. This Office Space Agreement shall establish the terms and conditions of the Project Manager's use of District property, the insurance requirements, and payment plan applicable to the Project. All property and equipment granted by the District for the Project Manager's use shall remain the property of the District and Project Manager shall be responsible for its care, maintenance, and proper use.

ARTICLE 2 THE DISTRICT'S RESPONSIBILITIES

2.1 The District shall provide full information regarding the requirements of the Project including the District's objectives, constraints and criteria.

2.2 Prior to the commencement of the Design Phase for the Project, the District shall provide a financial plan and budget to be utilized by Project Manager.

2.3 The District shall designate a representative ("District Representative") to act on the District's behalf with respect to the Project. The District, or the District Representative, if authorized, shall render decisions promptly to avoid unreasonable delay in the progress of the Project Manager's services.

2.4 The District shall furnish tests, inspections and reports as required by law or the contract documents.

2.5 If the District observes or otherwise becomes aware of any fault or defect in the Project, or nonconformance with the contract documents, prompt notice not to exceed two calendar days thereof shall be given by the District to the Project Manager.

2.6 The District shall retain an Architect and whose services, duties and responsibilities are described in separate agreements. The terms and conditions of the agreements shall be furnished to the Project Manager.

ARTICLE 3
BASIS OF COMPENSATION AND PAYMENT

3.1 District agrees to pay Project Manager for all the services set forth in this Agreement for a total cost not to exceed ONE MILLION THREE HUNDRED FIFTY FIVE THOUSAND EIGHT HUNDRED EIGHTY SEVEN DOLLARS (\$1,355,887.00) inclusive of all reimbursable expenses, for all services performed and expenses incurred pursuant to this Agreement (“TOTAL FEE”).

District agrees to pay Project Manager for the services set forth in this Agreement at the professional fee rates and the monthly schedule set forth in the Project Manager’s Proposal. As stated in the Project Manager’s Proposal, Project Manager’s payment shall be broken down on a monthly basis and the total payment for each month shall not exceed the amounts stated in the Project Manger’s Proposal. Project Manager must obtain written preapproval from District prior to engaging in any work that will raise the total payment owed to Project Manager over the amounts set forth in the Project Manager’s Proposal in any given month. To obtain preapproval, Project Manager must submit a detailed description of the proposed work or services to be provided, along with an estimate of the total cost. Project Manager shall not receive any compensation or payment for any work that is not preapproved in writing by the District.

If Project Manager believes that the monthly fees set forth in its Proposal need to be adjusted, so the Project Manager is paid more in one month and less in another, Project Manager must obtain written approval for any such adjustment. However, in no event shall any adjustments in monthly payments increase the total not-to-exceed amount to be paid to the Project Manager for the Project. All costs must be supported by an invoice, receipt, an employee time sheet, or other acceptable documentation. District may reject any cost claimed by Project Manager, even if it was preapproved, if District determines, at its sole discretion, that the cost was not required to provide the services contemplated by this Agreement or if Project Manager fails to provide adequate documentation that both substantiates the cost and demonstrates why the service was necessary to meet the requirements of this Agreement or the needs of the District. District may also require Project Manager to reduce the number of hours Project Manager charges for certain services if the District determines, at its sole discretion, that the hours claimed are excessive or unnecessary for the services allegedly provided. If the District, at its sole discretion, rejects any cost, the Project Manager shall not receive any payment or reimbursement for the rejected cost.

3.2 Payment of Invoices. District shall make payments to Project Manager within thirty (30) days of receipt of the appropriate and approved invoice from Project Manager.

3.3 Additional Compensation. Project Manager shall not be entitled to additional compensation unless there are unusual and unanticipated circumstances and only when approved in writing by District, in advance of such services being provided. If the Project Manager shall claim compensation for any damage sustained by reason of the acts of the District or its agents, Project Manager shall, within ten (10) days after sustaining of such damage, make to the District a written statement of the damage sustained. On or before the 15th day of the month succeeding that in which such damage shall have been sustained, the Project Manager shall file with the District an itemized statement of the details and amount of such damage in accordance with this Article, and unless such statement is submitted, any claims by Project Manager shall be forfeited and invalidated and Project Manager shall not be entitled to consideration for payment on account of any such damage. In the event extra compensation is approved, extra compensation shall be computed at cost plus ten percent (10%) of billings to Project Manager by Project Manager's consultants and for other costs incurred by the Project Manager.

ARTICLE 4
PERIOD OF PERFORMANCE, TERMINATION, ABANDONMENT
OR SUSPENSION OF WORK

4.1 Period of Performance. This AGREEMENT shall commence on the Effective Date and shall terminate on the dates of completion of the Projects as follows: for the Murray Middle School Project, construction must complete by September 30, 2016 and for the Burroughs High School Project, completion must be complete by December 31, 2015 (collectively, the "Completion Dates"). Project Manager shall complete all services for each project by the Completion Dates. Project Manager acknowledges that receiving and maintaining federal funding for the Project is contingent on completing all construction by the Completion Dates. After the Completion Dates, Project Manager shall be required to provide any services necessary to ensure all remaining punch list items are resolved to the District's satisfaction.

4.1.1 Liquidated Damages. As established herein, the Program requires construction to be completed by the Completion Dates or the Program funding will be in jeopardy. Thus, District shall be damaged in the event the Project Manager does not provide the services necessary to meet the Completion Dates. It being impracticable and infeasible to determine the amount of actual damage, it is agreed that the Project Manager will pay the District the sum of **Five Hundred Dollars (\$500) per calendar day** for each and every day of delay beyond the Completion Dates as liquidated damages and not as a penalty or forfeiture unless Project Manager establishes that the delays in the Project completion were not related to any delays caused by Project Manager. In the event the same is not paid, the Project Manager further agrees that the District may deduct such amount thereof from any money due or that may become due the Project Manager under the Agreement. This Article shall not be construed as preventing the District from the recovery of damages under provisions of the Project documents.

4.2 Termination for Cause. The District may give seven (7) days written notice to Project Manager of District's intent to suspend or terminate the Project Manager's services under this Agreement for failure to satisfactorily perform or provide prompt, efficient or thorough service or Project Manager's failure to complete its services or otherwise comply with the terms of this

Agreement. If after the expiration of such seven (7) days, Project Manager fails to cure the performance as set forth in the District's notice of intent to suspend or terminate the Project Manager's services, District may issue a notice of termination or suspension. At that time, Project Manager's services shall be suspended or terminated as set forth in District's notice.

4.3 Termination for Convenience. District shall also have the right in its absolute discretion to terminate this Agreement in the event the District is not satisfied with the working relationship with Project Manager and without cause following fifteen (15) days prior written notice from District to Project Manager.

In the event Project Manager believes the District is in breach of this Agreement in any manner, including failure to issue prompt payment owed to Project Manager, Project Manager shall issue a written notification to District describing the breach and describing the remedial actions requested. The Parties shall then meet in good faith to resolve the issue. If the District and Project Manager fail to reach an agreement to rectify the issue, Project Manager may request the parties hire a neutral mediator to attempt to resolve the issue. In no event shall Project Manager cease to provide any of the service required under this Agreement and District shall continue to make timely payments of all undisputed amounts.

4.4 Abandonment of Project. The District may suspend or abandon all or any portion of the work on the Project upon written notice to the Project Manager. Upon notice of suspension or abandonment, Project Manager shall as soon as practicable discontinue any further action on the Project or portion thereof. If the entire work to be performed on the Project is abandoned, the Parties shall each be relieved of the remaining executory obligations of the Agreement, as it relates to the Project, but shall not be relieved of any obligations arising prior to said abandonment.

4.5 Compensation In The Event Of Termination for Convenience Or Abandonment. This Agreement may be terminated without cause by District upon ten (10) days written notice to the Project Manager. In the event of a termination without cause, the District shall pay Project Manager for all Services performed and all expenses incurred under this Agreement supported by documentary evidence, including payroll records, and expense reports up until the date of notice of termination plus any sums due the Project Manager for Additional Services approved by the District's Board in writing.

4.6 Compensation In The Event Of Termination for Cause. In the event of termination due to a breach of this Agreement by Project Manager, any compensation due Project Manager upon termination shall be reduced by the amount of damages sustained by the District due to such breach, upon evidence of such damages by the District. The compensation due to Project Manager in the event of termination for cause shall only be for the approved services performed and all approved expenses incurred under this Agreement before the date of the District's written notice of termination, provided under the terms of Article 4.2, supported by documentary evidence, including payroll records, and expense reports. This amount shall be reduced by all costs incurred by the District due to Project Manager's breach which shall include all costs related to the District's efforts to identify Project Manager's breach, remedy any damage or harm incurred as a result of the breach, and costs incurred through the hiring of any additional parties to complete project management services necessary to complete the Project. The District shall

provide Project Manager, upon request, documentation demonstrating the District's costs. In the event Project Manager does not agree with the District's determination of damages, the Parties shall meet in good faith to discuss the termination and damages.

4.7 Delivery of Documents. Upon termination, abandonment or suspension, Project Manager shall deliver to District all documents and matters related to the Project.

ARTICLE 5 INDEMNIFICATION

5.1 To the fullest extent permitted by law, Project Manager agrees to indemnify, defend and hold District, its board members, employees, and officers harmless from liability arising out of:

(a) Any and all claims under workers' compensation acts and other employee benefit acts with respect to Project Manager's employees or Project Manager's subcontractor's employees arising out of Project Manager's work under this Agreement;

(b) Liability for damages for: (1) death or bodily injury to person; (2) injury to, loss or theft of property; (3) any failure to comply with any provision of law; or (4) any other loss, damage or expense arising under either (1), (2), or (3) above, sustained by the Project Manager or any person, firm or corporation employed by the Project Manager upon or in connection with the Project, except for liability resulting from the sole or active negligence, or willful misconduct of the District, its board members, officers, employees, agents or independent consultants who are directly employed by the District; and

(c) Any loss, injury to or death of persons or damage to property caused by any act, neglect, default or omission of the Project Manager, or any person, firm or corporation employed by the Project Manager, either directly or by independent contract, including all damages due to loss or theft, sustained by any person, firm or corporation including the District, arising out of, or in any way connected with the Project, including injury or damage either on or off District property; but not for any loss, injury, death or damages caused by sole or active negligence, or willful misconduct of the District.

(d) Any and all claims, demands, causes of action, lawsuits or other action by any third party arising out of, or in any way connected with the District's retention of Project Manager or the District entering into this Agreement.

The Project Manager at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings that may be brought or instituted against the District, its board members, officers, or employees, on account of any of the causes identified within sub-sections (a), (b), (c) and (d) herein, and shall pay or satisfy any judgment that may be rendered against the District, its officers, or employees in any actions, suit or other proceedings as a result thereof.

Said indemnity is intended to apply during the period of this Agreement of Project Manager's performance and shall survive the expiration or termination of this Agreement until such time as action against District on account of any matter covered by such waiver of indemnity is resolved or barred by the applicable statute of limitation. Project Manager shall not be responsible for injury or damage that is in no way caused by, or arising out of the services provided by, Project

Manager, or any person, firm or corporation employed by the Project Manager upon or in connection with the Project.

ARTICLE 6
SUCCESSORS AND ASSIGNS

This Agreement is binding upon and inures to the benefit of the successors, executors, administrators, and assigns of each party to this Agreement, provided, however, that the Project Manager shall not assign or transfer by operation of law or otherwise any or all rights, burdens, duties, or obligations without prior written consent of the District. Any attempted assignment without such consent shall be invalid.

ARTICLE 7
APPLICABLE LAW

This Agreement shall be governed by the laws of the State of California, however, in the event that the District receives any state funding for the Project from the SAB, this Agreement shall also be governed by any applicable laws and/or regulations relating to such state funding from the SAB ("Applicable Law"). As discussed in the RFP, the Project is funded by the Program and therefore this agreement shall also be governed by all applicable federal regulations, procedures, and requirements to maintain federal funding. To the extent that there is any inconsistency between this Agreement and the Applicable Law, or this Agreement omits any requirement of the Applicable Law, the language of the Applicable Law, in effect on the date of the execution of this Agreement, shall prevail.

ARTICLE 8
PROJECT MANAGER NOT AN OFFICER
OR EMPLOYEE OF DISTRICT

While engaged in carrying out and complying with the terms and conditions of this Agreement, the Project Manager is an independent contractor and not an officer or employee of the District.

The Project Manager hereby represents, warrants and covenants that: (i) at the time of execution of this Agreement, the Project Manager has no interest and shall not acquire any interest in the future, whether direct or indirect, which would conflict in any manner or degree with the performance of services under this Agreement; (ii) Project Manager has no business or financial interests which are in conflict with Project Manager 's obligations to the District under this Agreement; and (iii) the Project Manager shall not employ in the performance of services under this Agreement any person or entity having any such interests.

ARTICLE 9
INSURANCE

9.1 The Project Manager shall purchase and maintain policies of insurance with an insurer or insurers, qualified to do business in the State of California and acceptable to District which will protect Project Manager and District from claims which may arise out of or result from Project

Manager's actions or inactions relating to the Agreement, whether such actions or inactions be by themselves or by a subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. In addition, if any insurance requirements are issued by the federal government, and specifically the Department of Defense, that are applicable to the Project, Project Manager shall immediately comply by providing any additional insurance or changes to existing insurance to meet any new requirements. At a minimum, the aforementioned insurance shall include coverage for:

(a) The Project Manager shall carry Workers' Compensation and Employers Liability Insurance in accordance with the laws of the State of California in an amount not less than Two Million Dollars (\$2,000,000).

(b) Comprehensive general and auto liability insurance with limits of not less than TWO MILLION DOLLARS (\$2,000,000) combined single limit, bodily injury and property damage liability per occurrence, including:

1. Owned, non-owned and hired vehicles;
2. Blanket contractual;
3. Broad form property damage
4. Products/completed operations; and
5. Personal injury.

(c) Professional liability insurance, including contractual liability, with limits of \$1,000,000, per occurrence. Such insurance shall be maintained during the term of this AGREEMENT and renewed for a period of at least three (3) years thereafter and/or at rates consistent with the time of execution of this Agreement adjusted for inflation.

9.2 Each policy of insurance required in (b) above shall name District and its officers, agents and employees as additional insureds; shall state that, with respect to the operations of Project Manager hereunder, such policy is primary and any insurance carried by District is excess and non-contributory with such primary insurance; shall state that no less than thirty (30) days' written notice shall be given to District prior to cancellation; and, shall waive all rights of subrogation. Project Manager shall notify District in the event of material change in, or failure to renew, each policy. Prior to commencing work, Project Manager shall deliver to District certificates of insurance as evidence of compliance with the requirements herein. In the event Project Manager fails to secure or maintain any policy of insurance required hereby, District may, at its sole discretion, secure such policy of insurance in the name of and for the account of Project Manager, and in such event Project Manager shall reimburse District upon demand for the costs thereof.

ARTICLE 10 EXTENT OF AGREEMENT

10.1 This Agreement represents the entire and integrated agreement between the District and the Project Manager and supersedes all prior negotiations, representations or agreements, either written oral. This Agreement may be amended only by written instrument signed by both the District and the Project Manager.

ARTICLE 11
MISCELLANEOUS

11.1 NOTICE. All notices required to be delivered under this Agreement to the other Party must be in writing and shall be effective (i) when personally delivered by the other Party or messenger or courier thereof; (ii) three (3) business days after deposit in the United States mail, registered or certified; (iii) twenty-four (24) hours after deposit before the daily deadline time with a reputable overnight courier or service; or (iv) upon receipt of a telecopy or fax transmission, provided a hard copy of such transmission shall be thereafter delivered in one of the methods described in the foregoing (i) through (iii); in each case postage fully prepaid and addressed to the respective Party as set forth below or to such other persons as the PARTIES may hereafter designate by written notice to the other Party hereto:

TO THE DISTRICT:

Elaine Janson
Sierra Sands Unified School District
113 Felspar
Ridgecrest, CA 93555

TO PROJECT MANAGER:

Lori O'Keefe
20280 Acacia Street, Suite 220
Newport Beach, CA 92660

11.2 FINGERPRINTING REQUIREMENTS. Education Code Section 45125.1 states that if employees of any consultant providing services at a school site might have any contact with any underage pupils (younger than 18 years of age); those employees shall be fingerprinted by the Department of Justice (DOJ) before entering to determine that they have not been convicted of a serious or violent felony. If the District determines that more than limited contact with students will occur during the performance of this Agreement by Project Manager, Project Manager will not perform any such service until all employees providing services have been fingerprinted by the DOJ and DOJ fingerprinting clearance certification has been provided to District.

11.3 No Boilerplate Terms. THIS AGREEMENT SHALL NOT INCLUDE OR INCORPORATE THE TERMS OF ANY TERMS AND CONDITIONS, GENERAL CONDITIONS, CONDITIONS, MASTER AGREEMENT OR ANY OTHER BOILERPLATE TERMS OR FORM DOCUMENTS PREPARED BY THE PROJECT MANAGER. THE ATTACHMENT OF ANY SUCH DOCUMENT TO THIS AGREEMENT SHALL NOT BE INTERPRETED OR CONSTRUED TO INCORPORATE SUCH TERMS INTO THIS AGREEMENT UNLESS THE DISTRICT APPROVES OF SUCH INCORPORATION IN A SEPARATE WRITING SIGNED BY THE DISTRICT. ANY REFERENCE TO SUCH BOILERPLATE TERMS AND CONDITIONS IN ANY PROPOSAL OR QUOTE SUBMITTED BY THE PROJECT MANAGER SHALL BE NULL AND VOID AND HAVE NO EFFECT UPON THIS AGREEMENT. PROPOSALS, QUOTES, STATEMENT OF QUALIFICATIONS AND/OR OTHER SIMILAR DOCUMENTS PREPARED BY THE PROJECT MANAGER MAY BE INCORPORATED INTO THIS AGREEMENT AS EXHIBIT

“A” BUT SUCH INCORPORATION SHALL BE STRICTLY LIMITED TO THOSE PARTS DESCRIBING THE PROJECT MANAGER’S SCOPE OF WORK, RATE AND PRICE SCHEDULE AND QUALIFICATIONS.

11.4 Timing. Time is of the essence with respect to all provisions of this AGREEMENT.

11.5 Litigation. If either Party becomes involved in litigation arising out of this AGREEMENT or the performance thereof, each Party shall bear its own litigation costs and expenses, including reasonable attorneys’ fees. In no event shall the District be responsible or liable for any attorney fees and costs, court costs, collection costs, or any other costs incurred by the Project Manager which arise out of, relate to, or pertain to any payment dispute(s) between the Project Manager and the District.

The parties, through their authorized representatives, have executed this Agreement as of the day and year first written above.

PROJECT MANAGER:

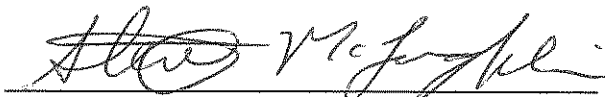
DISTRICT:

By: _____

By: _____

APPROVED AS TO FORM:

Atkinson, Andelson, Loya, Ruud & Romo



Stephen M. McLoughlin, Esq.
Attorneys for Pomona Unified School District

EXHIBIT "A"

[INSERT RFP]

EXHIBIT "B"

[INSERT GRANT AGREEMENT]

EXHIBIT "C"

[INSERT PROJECT MANAGER PROPOSAL]