

DOCUMENT 00 45 10

AGREEMENT

This agreement is made and entered into on **November 4, 2022**, by and between the **Mountain View Whisman School District** ("District") and **Guerra Construction Group** ("Contractor") ("Agreement"). The District and the Contractor agree as follows:

1. **The Work:** Contractor shall furnish all tools, equipment, apparatus, facilities, labor, and material necessary to perform and complete in a good and workmanlike manner, the work of the following project:

Storage Buildings at Various Sites Project - Rebid ("Project" or "Contract" or "Work")

The Work shall be performed and completed as required in the Contract Documents as defined in the General Conditions including, without limitation, the Drawings and Specifications, under the direction and supervision of, and subject to, the approval of the District or its authorized representative.

2. **The Contract Documents:**

- a. The complete Contract consists of all Contract Documents as defined in the General Conditions and incorporated herein by this reference. All obligations of the District and Contractor are fully set forth and described in the Contract Documents. The Contract Documents are intended to cooperate so that Work called for in one and not mentioned in the other or vice versa is to be performed the same as if mentioned in all Contract Documents.
- b. **Interpretation of Contract Documents/Order of Precedence:** Questions concerning the intent, precedence, or meaning of the Contract Documents, including the Drawings or Specifications, shall be submitted to the District for interpretation. Inconsistencies in the Contract Documents shall be resolved by giving precedence in the following order:
 - (i) District-approved modifications, beginning with the most recent (if any);
 - (ii) Agreement;
 - (iii) Special Conditions (if any);
 - (iv) Supplemental Conditions (if any);
 - (v) General Conditions;
 - (vi) Remaining Division 0 documents (Documents beginning with "00");
 - (vii) Division 1 Documents (Documents beginning with "01");
 - (viii) Division 2 through Division 49 documents (Technical Specifications);
 - (ix) Figured dimensions;
 - (x) Large-scale drawings;
 - (xi) Small-scale drawings.

In case of conflict, the greater quantity and/or higher standard of workmanship shall apply unless the District expressly in writing (e.g., via a Change Order) accepts a lesser quantity or lower quality of workmanship and the Contract Price is adjusted accordingly. The decision of the District in the matter shall be final.

3. **Integration / Modification.** The Contract Documents and any documents specifically incorporated by reference are completely integrated as the complete and exclusive statement of the terms of the Agreement. This Agreement supersedes all previous contracts, agreements, and / or communications, both oral and written, and constitutes the entire understanding of the District and Contractor. No extrinsic evidence whatsoever shall be admissible or used to explain or supplement the terms of the Contract, Contract

Documents, or any items incorporated by reference. No changes, amendments or alterations shall be effective unless in writing, signed by both Parties, and unless provided otherwise by the Contract Documents.

4. **Time for Completion:** It is hereby understood and agreed that the Contractor shall complete the Work within **Eighty-One (81)** consecutive calendar days ("Contract Time") from the date specified in the District's Notice to Proceed. The District shall not approve an early completion schedule by Contractor. A schedule showing the Work completed in less than the Contract Time indicated in the Contract, shall be considered to have Project Float.
5. **Completion-Extension of Time:** If Contractor fails to complete the Work within the Contract Time, due allowance being made for the contingencies provided for herein, Contractor shall become liable to District for all loss and damage that District may suffer on account thereof. Contractor shall coordinate its Work with the work of all other contractors. The District shall not be liable for delays resulting from Contractor's failure to coordinate its Work with other contractors in a manner that allows for timely completion of Contractor's Work. Contractor shall be liable for delays to other contractors caused by Contractor's failure to coordinate its Work with the work of other contractors.
6. **Liquidated Damages:** Time is of the essence for all Work to be performed. It is hereby understood and agreed that it is and will be difficult and/or impossible to ascertain and determine the actual damage that District will sustain in the event of and by reason of Contractor's delay; therefore, pursuant to Government Code section 53069.85 and Public Contract Code section 7203, Contractor shall forfeit and pay to District the following sum(s) as liquidated damages ("Liquidated Damages"): **\$ 500.00 per calendar day.**
 - a. Each portion of the Liquidated Damages shall be calculated cumulatively. For example, if Contractor is late in completing two milestones and the entire Project, Contractor will forfeit and pay three separate Liquidated Damages amounts. It is hereby understood and agreed that neither the total cumulative Liquidate Damages amount nor any portion of the Liquidated Damage amount are penalties.
 - b. District may deduct Liquidated Damages from money due or that may become due Contractor under this Agreement. Contractor's forfeiture of Liquidated Damages to District, and District's right to retain Liquidated Damages, are as indicated in Government Code section 53069.85 and as indicated herein and in the General Conditions. Liquidated Damages are automatically and without notice of any kind forfeited and payable by Contractor upon the accrual of each day of delay. Neither District's failure or delay in deducting Liquidated Damages from payments otherwise due the Contractor, nor District's failure or delay in notifying Contractor of the forfeiture and payment of Liquidated Damages, shall be deemed a waiver of District's right to Liquidated Damages and/or the District's right to withhold Liquidated Damages from any amounts that would otherwise be payable to the Contractor.
 - c. Contractor and Surety shall be liable for and pay to District the entire amount of Liquidated Damages including any portion that exceeds the amount of the Contract Price then held, retained or controlled by District.
 - d. Liquidated Damages shall be in addition, and not in lieu of, District's right to charge Contractor for the District's cost of completing or correcting items of the Work.
7. **Contract Price:** In consideration of the foregoing covenants, promises, and agreements, Contractor offers, in the amounts stated below, to perform the Work according to the Contract Documents. District covenants, promises, and agrees that it will pay and cause to be paid to Contractor in full, and as the Contract Price the following amount(s):

Five Hundred Eighty-Seven Thousand Four Hundred Forty-Four Dollars (\$587,444.00)
(Base Contract Amount)

+ **Ten Thousand Dollars (\$10,000.00)**
Allowance Amount

= **Five Hundred Ninety-Seven Thousand Four Hundred Forty-Four Dollars (\$597,444.00)**
("Contract Price")

- a. THE ABOVE ALLOWANCES ARE WITHIN THE CONTRACT PRICE ONLY TO THE EXTENT CONTRACTOR HAS PERFORMED WORK ENCOMPASSED BY THE ALLOWANCE DESCRIPTION, CONTRACTOR HAS APPROPRIATELY INVOICED FOR THAT WORK, AND DISTRICT HAS APPROVED CONTRACTOR'S INVOICE. CONTRACTOR SHALL INVOICE ONLY FOR COMPONENTS OF THE WORK ENCOMPASSED BY THE ALLOWANCE DESCRIPTION, IN THE IDENTICAL STRUCTURE AS A CHANGE ORDER. THE UNUSED PORTION OF EACH ALLOWANCE SHALL BE RETAINED BY THE DISTRICT.
 - b. The Contract Price shall be paid in lawful money of the United States pursuant to the payment provisions in the General Conditions.
 - c. The District may, at its sole discretion, increase or decrease the Contract Price by unit prices or alternates contained in Contractor's original bid. If the Bid for the Work included proposal(s) for Alternate Bid Item(s), during Contractor's performance of the Work, the District may elect to add any such Alternate Bid Item(s) if the item did not form a basis for award of the Agreement or delete any such Alternate Bid Item(s) if that item formed a basis for award of the Agreement. If the District elects to add or delete an Alternate Bid Item(s) pursuant to the foregoing, the cost or credit for that Alternate Bid Item(s) shall be as set forth in the Contractor's Bid, at the District's discretion. If any Alternate Bid Item is added or deleted from the Work pursuant to the foregoing, the Contract Time shall be adjusted by the number of days allocated for the added or deleted Alternate Bid Item in the Contract Documents; if days are not allocated for any Alternate Bid Item added or deleted pursuant to the foregoing, the Contract Time shall be equitably adjusted.
8. **Insurance and Bonds:** Contractor shall provide all required certificates of insurance, and payment and performance bonds.
 9. **Performance of Work:** If Contractor fails to perform the Work properly or fails to perform any provisions of this Contract, the District, may, pursuant to the General Conditions and without prejudice to any other remedy it may have, cure the deficiencies and deduct the cost thereof from the payment then or thereafter due Contractor.
 10. **COVID-19.** Contractor is responsible for complying with all applicable and existing federal, state, and/or local statutes, orders, rules, regulations, ordinances, and/or directives relating to construction site safety in connection with COVID-19, and/or any similar virus or derivative strain. Contractor shall ensure it has supervisor employees onsite that are trained and knowledgeable of all of these requirements to ensure full compliance on Project Site(s).
 11. **Authority of Architect, Project Inspector, and DSA:** Contractor hereby acknowledges that the Architect(s), the Project Inspector(s), and the Division of the State Architect have authority to approve and/or stop Work if Contractor's Work does not comply with the requirements of the Contract Documents, Title 24 of the California Code of Regulations, and all applicable laws. Contractor shall be liable for any delay caused by its non-compliant Work.

12. **Assignment of Contract:** Neither the Contract, nor any part thereof, nor any moneys due or to become due thereunder, may be assigned by Contractor without the written approval of District, nor without the written consent of the Surety on Contractor's Performance Bond (the "Surety"), unless the Surety has waived in writing its right to notice of assignment.

13. **Classification of Contractor's License:** Contractor hereby acknowledges that it currently holds valid **Type B** Contractor's license(s) issued by the State of California, Contractor's State Licensing Board, in accordance with division 3, chapter 9, of the Business and Professions Code and in the classification called for in the Contract Documents.

14. **Payment of Prevailing Wages:** Contractor and all Subcontractors under Contractor shall pay all workers on Work performed pursuant to this Contract not less than the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work as determined by the Director of the Department of Industrial Relations, State of California, for the type of work performed and the locality in which the work is to be performed within the boundaries of the District, pursuant to sections 1770 et seq. of the California Labor Code.

15. **Contractor & Subcontractor Registration:** Contractor shall comply with the registration and compliance monitoring provisions of Labor Code section 1771.4, including complying with any applicable enforcement by the Department of Industrial Relations.

16. **Authority of Contractor's Representative:** Contractor hereby certifies that its legal representative as defined in the General Conditions and the person(s) it employees on the Project at or above the level of project superintendent, each have the authority to legally bind the Contractor.

17. **Severability:** If any term, covenant, condition, or provision of the Contract Documents is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions in the Contract Documents shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

IN WITNESS WHEREOF, accepted and agreed on the date indicated above:

Dated: _____, 2022

Dated: _____, 2022

Mountain View Whisman School District

Guerra Construction Group

Signature: _____

Signature: _____

Print Name: Rebecca Westover, Ed. D.

Print Name: _____

Print Title: Chief Business Officer

Print Title: _____

NOTE: If the Contractor is a corporation, Contractor must attach a certified copy of the corporation's by-laws, or of the resolution of the Board of Directors of the corporation, authorizing the above person to execute this Agreement and the bonds required by the Contract Documents.

END OF DOCUMENT

DOCUMENT 00 45 40

CERTIFICATIONS TO BE COMPLETED BY CONTRACTOR

THE UNDERSIGNED MUST CHECK EACH BOX AND EXECUTE THIS FORM AND HEREBY CERTIFIES TO THE GOVERNING BOARD OF THE DISTRICT THAT:

- He/she is a representative of the Contractor,
- He/she is familiar with the facts herein certified and acknowledged,
- He/she is authorized and qualified to execute this Agreement and these certifications on behalf of Contractor and that by executing this Agreement he/she is certifying the following items.

Labor Code Sections 1860-1861 (Workers' Compensation). In accordance with Labor Code section 3700, every contractor will be required to secure the payment of compensation to his or her employees. I acknowledge and certify under penalty of perjury that I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

Government Code Sections 8355-8357 (Drug-Free Workplace). I acknowledge and certify under penalty of perjury that I will provide a drug-free workplace by doing all of the following:

- (1) 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 the actions that will be taken against employees for violations of the prohibition.
- (2) Establishing a drug-free awareness program to inform employees about all of the following:
 - (A) The dangers of drug abuse in the workplace.
 - (B) The person's or organization's policy of maintaining a drug-free workplace.
 - (C) Any available drug counseling, rehabilitation, and employee assistance programs.
 - (D) The penalties that may be imposed upon employees for drug abuse violations.
- (3) Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

I also acknowledge that this Contract may be subject to suspension of payments under the contract or grant or termination of the contract or grant, or both, and the contractor or grantee thereunder may be subject to debarment, in accordance with the requirements of the above-referenced statute, if the contracting or granting agency determines that any of the following has occurred:

- (1) The contractor or grantee has made a false certification under Section 8355.
- (2) The contractor or grantee violates the certification by failing to carry out the requirements of subdivisions (a) to (c), inclusive, of Section 8355.

I also acknowledge that the Department of General Services shall establish and maintain a list of individuals and organizations whose contracts or grants have been canceled due to failure to comply with the above-referenced statute. This list shall be updated monthly and published each month. No state agency shall award a contract or grant to a person or organization on the published list until that person or organization has complied with the above-referenced statute.

Tobacco-Free Environment. Pursuant to, without limitation, 20 U.S.C. section 6083, Labor Code section 6400 et seq., Health & Safety Code section 104350 et seq. and District Board Policies, all District sites, including the Project site, are tobacco-free environments. Smoking and the use of tobacco products by all persons is prohibited on or in District property. District property includes school buildings, school grounds, school owned vehicles and vehicles owned by others while on District property.

I acknowledge and certify under penalty of perjury that I am aware of the District's policy regarding tobacco-free environments at District sites, including the Project site and acknowledge and certify that I will adhere to the requirements of that policy and not permit any of my firm's employees, agents, subcontractors, or my firm's subcontractors' employees or agents to use tobacco and/or smoke on the Project site. The District also prohibits electronic cigarettes, "vaping" or similar product uses on District sites.

No Hazardous Materials. I acknowledge and certify under penalty of perjury 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. I have instructed our employees with respect to the above-mentioned standards, hazards, risks, and liabilities.

- (i) 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. 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.
- (ii) All Work or materials found to be New Hazardous Material or Work or material installed with equipment containing "New Hazardous Material," will be immediately rejected and this Work will be removed at Contractor's expense at no additional cost to the District.

The Contractor must immediately notify the District within two (2) Business Days, if the Contractor finds and before it disturbs, any material that the Contractor believes may be hazardous waste, as defined in section 25117 of the Health and Safety Code, and requires removal to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law

I acknowledge and certify under penalty of perjury that 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.

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, chinks, 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.

(i) **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, § 32241.)

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.

(ii) **Renovation, Repair and Painting Rule, Section 402(c)(3) of the Toxic Substances Control Act**

In 2008, the U.S. Environmental Protection Agency, issued a rule pursuant to the authority of Section 402(c)(3) of the Toxic Substances Control Act, requiring lead safe work practices to reduce exposure to lead hazards created by renovation, repair and painting activities that disturb lead-based paint (Renovation, Repair and Painting Rule). Renovations in homes, childcare facilities, and schools built prior to 1978 must be conducted by certified renovations firms, using renovators with accredited training, and following the work practice requirements to reduce human exposures to lead.

Contractor, its workers and subcontractors must fully and adequately comply with all applicable laws, rules and regulations governing lead-based materials, including those rules and regulations appearing within title 40 of the Code of Federal Regulations as part 745 (40 CFR 745).

The requirements apply to all contractors who disturb lead-based paint in a six-square-foot area or greater indoors or a 20-square-foot area outdoors. If a DPH-certified inspector or risk assessor determines that a home constructed before 1978 is lead-free, the federal certification is not required for anyone working on that particular building.

(iii) **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.

I acknowledge and certify under penalty of perjury, that:

1. I have received notification of potential lead-based materials on the District's property;
2. I am knowledgeable regarding and will comply with all applicable laws, rules, and regulations governing work with, and disposal of, lead.

Imported Materials. All soils, aggregate, or related materials ("Fill") that Contractor, a Subcontractor, agent or supplier, in any way, provides or delivers and/or supplies to the Project Site shall be free of any and all hazardous material as defined in section 25260 of the Health and Safety Code, shall satisfy the requirements of any

environmental review of the Project performed pursuant to the statutes and guidelines of the California Environmental Quality Act, sections 21000 et seq. of the Public Resources Code ("CEQA"), and shall comply with the requirements of sections 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. I acknowledge that, to the furthest extent permitted by California law, the indemnification provisions in the Contract Documents apply to, without limitation, any claim(s) connected with providing, delivering, and/or supplying Fill.

Roofing Contract Financial Interest Certification (Public Contract Code § 3006)

I, _____ **[Your Name]**, _____ **[Firm Name]**
certify that I have not offered, given, or agreed to give, received, accepted, or agreed to accept, any gift, contribution, or any financial incentive whatsoever to or from any person in connection with a roof project contract or subcontract on the Project. As used in this certification, "person" means any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

I, _____ **[Your Name]**, _____ **[Firm Name]**
certify that I do not have, and throughout the duration of the Contract, I will not have, any financial relationship in connection with the performance of the Contract with any architect, engineer, roofing consultant, materials manufacturer, distributor, or vendor that is not disclosed below.

I, _____ **[Your Name]**, _____ **[Firm Name]**
have the following financial relationships with an architect, engineer, roofing consultant, materials manufacturer, distributor, or vendor, or other person in connection with the following roof project contract:

Name of firm ("Firm"): _____
Mailing address: _____
Address of branch office used for this Project: _____
If subsidiary, name and address of parent company: _____

For Projects without substantive roofing components, check the following box and execute this certification:

The Work on the Contract (1) does not include the replacement or repair of a roof or (2) is a repair of twenty five percent (25%) or less of the roof, (3) or is a repair project that has a total cost of twenty one thousand dollars (\$21,000) or less.

I acknowledge and certify under penalty of perjury that I am duly authorized to legally bind the Contractor to all provisions and items included in these certifications, that the contents of these certifications are true, and that these certifications are made under the laws of the State of California.

Date: _____

Proper Name of Contractor: _____

Signature: _____

Print Name: _____

Title: _____

END OF DOCUMENT

DOCUMENT 00 45 55

DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION CERTIFICATION

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(s)") of at least three percent (3%), per year, of the overall dollar amount expended each year by the school district on projects that receive state funding.

Section 2001 of the Public Contract Code requires school districts to require each Bidder to provide in its bid certain information about its Subcontractors. In addition to completing this certification as indicated herein, each Bidder must provide the information related to DVBEs as required in the Designated Subcontractors List.

1. **Disabled Veteran Business Enterprise.** A DVBE is a business enterprise certified by the California Office of Small Business as a DVBE.
2. **DVBE Participation Policy.** The District is committed to achieving this DVBE participation goal. The District encourages Contractor to ensure maximum opportunities for the participation of DVBEs in the Work of the Contract.
3. **DVBE Participation Goal.** The three percent (3%) participation goal is not a quota, set-aside or rigid proportion.
4. **Certification of Participation.** At the time of execution of the Contract, the Contractor will provide a statement to the District of anticipated participation of DVBEs in the contract.
5. **Submission of Report.** During performance of the Contract, Contractor shall monitor the Work of the Contract, award of subcontracts and contracts for materials, equipment and supplies for the purpose of determining DVBE participation in the Work of the Contract.
 - a) Contractor shall report on a monthly basis all DVBEs utilized in the performance of the Work, the type or classification of the Work performed by each DVBE, and the dollar value of the Work performed by each DVBE.
 - b) Upon completion of the Work of the Contract, Contractor shall submit a report to the District in the form attached hereto identifying all DVBEs utilized in the performance of the Work, the type or classification of the Work performed by each DVBE, and the dollar value of the Work performed by each DVBE.
 - i) The submission to the District of this report is a condition precedent to the District's obligation to make payment of the Final Payment under the Contract Documents. The submission of this report shall be in addition to, and not in lieu of, any other conditions precedent set forth in the Contract Documents for the District's obligation to make payment of the Final Payment.
 - ii) The District reserves the right to request additional information or documentation from the Contractor evidencing efforts to comply with the three percent (3%) DVBE participation goal.

DOCUMENT 00 45 85

CRIMINAL BACKGROUND INVESTIGATION / FINGERPRINTING CERTIFICATION

The undersigned does hereby certify to the governing board of the District that he/she is a representative of the Contractor, is familiar with the facts herein certified, is authorized and qualified to execute this certificate on behalf of Contractor; and that the information in this Criminal Background Investigation / Fingerprinting Certification is true and correct.

1. **Education Code.** Contractor has taken at least one of the following actions with respect to the Project (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 ("DOJ") has determined (per the DOJ process for Applicant Agencies described more fully on its website, located at:) that none of those employees have 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 Project 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.

2. **Megan's Law (Sex Offenders).** I have verified and will continue to verify that the employees of Contractor that will be on the Project site and the employees of the Subcontractor(s) that will be on the Project site are **not** listed on California's "Megan's Law" Website (<http://www.meganslaw.ca.gov/>).

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

DOCUMENT 00 61 14

PERFORMANCE BOND (100% of Contract Price)

(Note: Contractors must use this form, NOT a surety company form.)

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the governing board ("Board") of the **Mountain View Whisman School District**, ("District") and **Guerra Construction Group**, ("Principal") have entered into a contract for the furnishing of all materials and labor, services and transportation, necessary, convenient, and proper to perform the following project:

Storage Buildings at Various Sites Project - Rebid ("Project" or "Contract")

which Contract dated **November 4, 2022**, and all of the Contract Documents attached to or forming a part of the Contract, are hereby referred to and made a part hereof, and

WHEREAS, said Principal is required under the terms of the Contract to furnish a bond for the faithful performance of the Contract;

NOW, THEREFORE, the Principal and _____ ("Surety") are held and firmly bound unto the Board of the District in the penal sum of:

Five Hundred Ninety-Seven Thousand Four Hundred Forty-Four Dollars (\$597,444.00), lawful money of the United States, for the payment of which sum well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally, firmly by these presents, to:

- Perform all the work required to complete the Project; and
- Pay to the District all damages the District incurs as a result of the Principal's failure to perform all the Work required to complete the Project.

In the event the Principal is declared by the District to be in breach or default in the performance of the Contract, then, after written notice from the District to the Surety, as provided for herein, the Surety shall either remedy the default or breach of the Principal or shall take charge of the Work of the Contract and complete the Contract with a Contractor other than the Principal at its own expense; provided, however, that the procedure by which the Surety undertakes to discharge its obligations under this Bond shall be subject to the advance written approval of the District.

The condition of the obligation is such that, if the above bounden Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, and agreements in the Contract and any alteration thereof made as therein provided, on his or its part to be kept and performed at the time and in the intent and meaning, including all contractual guarantees and warranties of materials and workmanship, and shall indemnify and save harmless the District, its trustees, officers and agents, as therein stipulated, then this obligation shall become null and void, otherwise it shall be and remain in full force and virtue.

As a condition precedent to the satisfactory completion of the Contract, the above obligation shall hold good for a period equal to the warranty and/or guarantee period of the Contract, during which time Surety's obligation shall continue if Contractor shall fail to make full, complete, and satisfactory repair, replace, and totally protect the District from loss or damage resulting from or caused by defective materials or faulty workmanship. The obligations of Surety hereunder shall continue so long as any obligation of Contractor remains. Nothing herein shall limit the District's rights or the Contractor's or Surety's obligations under the Contract, law or equity, including, but not limited to, California Code of Civil Procedure section 337.15.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract or to the Work to be performed thereunder shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the Contract Documents or to the Work.

Any claims under this bond may be addressed to the Surety at the following address. This cannot be the Contractor's broker for this bond, but must be an employee of the Surety or the Surety's legal counsel:

Attention: _____

Telephone No.: (_____) _____ - _____

Fax No.: (_____) _____ - _____

E-mail Address: _____

IN WITNESS WHEREOF, two (2) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the _____ day of _____, 20__.

Principal

Surety

(Name of Principal)

(Name of Surety)

(Signature of Person with Authority)

(Signature of Person with Authority)

(Print Name)

(Print Name)

(Name of California Agent of Surety)

(Address of California Agent of Surety)

(Telephone Number of California Agent of Surety)

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

END OF DOCUMENT

DOCUMENT 00 61 15

PAYMENT BOND -- Contractor's Labor & Material Bond (100% of Contract Price)

(Note: Contractors must use this form, NOT a surety company form.)

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the governing board ("Board") of the **Mountain View Whisman School District**, (or "District") and **Guerra Construction Group**, ("Principal") have entered into a contract for the furnishing of all materials and labor, services and transportation, necessary, convenient, and proper to

Storage Buildings at Various Sites Project - Rebid ("Project" or "Contract")

which Contract dated **November 4, 2022**, and all of the Contract Documents attached to or forming a part of the Contract, are hereby referred to and made a part hereof, and

WHEREAS, pursuant to law and the Contract, the Principal is required, before entering upon the performance of the work, to file a good and sufficient bond with the body by which the Contract is awarded in an amount equal to 100 percent (100%) of the Contract price, to secure the claims to which reference is made in the Civil Code of California, including section 9100, and the Labor Code of California, including section 1741.

NOW, THEREFORE, the Principal and _____, ("Surety") are held and firmly bound unto all laborers, material men, and other persons referred to in said statutes in the penal sum of:

Five Hundred Ninety-Seven Thousand Four Hundred Forty-Four Dollars (\$597,444.00), lawful money of the United States, being a sum not less than the total amount payable by the terms of Contract, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns, jointly and severally, by these presents.

The condition of this obligation is that if the Principal or any of his or its subcontractors, of the heirs, executors, administrators, successors, or assigns of any, all, or either of them shall fail to pay for any labor, materials, provisions, provender, or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that the Surety will pay the same in an amount not exceeding the amount herein above set forth, and also in case suit is brought upon this bond, will pay a reasonable attorney's fee to be awarded and fixed by the Court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under sections 9000 through 9566 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void; otherwise it shall be and remain in full force and affect.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract or to the Work to be performed thereunder shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the Contract Documents or to the Work.

IN WITNESS WHEREOF, two (2) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the _____ day of _____, 2022.

Principal

Surety

(Name of Principal)

(Name of Surety)

(Signature of Person with Authority)

(Signature of Person with Authority)

(Print Name)

(Print Name)

(Name of California Agent of Surety)

(Address of California Agent of Surety)

(Telephone Number of California Agent of Surety)

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

END OF DOCUMENT