

AGREEMENT FOR GOODS AND SERVICES BY AND BETWEEN

SAN JOSÉ UNIFIED SCHOOL DISTRICT AND METRO MOBILE COMMUNICATIONS

THIS CONTRACT is made and entered into this 5th day of May, 2025 (“**Contract**”), by and between Metro Mobile Communications (“**Seller**”) and San José Unified School District (“**District**”). Seller and District may be referred to herein individually as a “**Party**” or collectively as the “**Parties**.”

RECITALS

WHEREAS, Public Contract Code section 20118.2 (the “Technology Statute”) allows public school districts to contract for the procurement of technology, telecommunications, related equipment, software and services due to their highly specialized and unique nature; and

WHEREAS, the District issued Request for Proposals #2025- 1023 (“RFP”) for the Goods and Services, defined herein, pursuant to the requirements of the Technology Statute; and

WHEREAS, Seller submitted a proposal in response to the RFP and was determined to offer the best value to the District for the Goods and Services pursuant to the evaluation requirements of the RFP; and

WHEREAS, the Seller has the required qualifications and technical expertise to provide the Goods and Services; and

WHEREAS, the Parties therefore seek to enter into a contract with each other for Seller’s provision of the Goods and Services; and

NOW THEREFORE, for and in consideration of the mutual covenants herein contained, the Parties hereto agree as follows:

AGREEMENT

1. **Sale and Description of Goods and Services.** Seller shall sell to the District and District shall purchase from Seller the products, equipment, materials, or supplies in the quantities and prices described in the document attached hereto as **Exhibit A** (the “**Goods**”), and Seller shall provide related services, including, delivery, software licensing, programming, and maintenance services for the Goods (“**Services**”). Maintenance services include the repair/replacement of damaged/broken radios, replacement of failed batteries, and annual audit services of radios to ensure devices are functioning properly, are in compliance with safety regulations, are correctly assigned to personnel, and to identify any potential issues or areas for improvement with the radio system (“**Maintenance Services**”).
2. **Delivery.** The Goods shall be delivered by Seller at Seller’s sole expense (“**Delivery**”) pursuant to the terms of this Contract and the Purchase Order attached hereto as **Exhibit B** (“**Purchase Order**”). Packing slips must accompany all shipments. Seller shall strictly adhere to the delivery and completion schedules specified in this Contract. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If Seller delivers in excess of the quantities specified herein, the District shall not be required to make any payment for the excess equipment, materials, or supplies, and may return them

to Seller at Seller's expense or utilize any other rights available to the District at law or in equity. The risk of loss or damage to the Goods shall not pass to District until District receives physical possession of the Goods.

3. **Compensation and Payment.**

3.1. **Goods & Start-Up Services.** District agrees to pay Seller for Goods satisfactorily provided and delivery, software licensing and programming services ("**Start-Up Services**") satisfactorily rendered under this Contract a total fee of Dollars a fee of Two Hundred Twenty Two Two Hundred Twelve Dollars and Fifty Cents. (\$ 222,212.50) on the same terms as the Purchase

Order attached hereto as **Exhibit B** in the event that the District's duly authorized representative issues a purchase order to the Seller (collectively, the "**Goods & Start-Up Price**"). Payment for the Goods and Start-Up Services shall be made for all undisputed amounts within thirty (30) days after the Seller submits an itemized invoice to the District for Goods and Start-Up Services actually and satisfactorily provided and rendered under this Contract and after the later of the following two events: (i) completion of Start-Up Services; or (ii) receipt of an undisputed invoice.

3.2. **Maintenance Services.** District agrees to pay Seller for Maintenance Services satisfactorily rendered under this Contract a total fee not to exceed Seven Thousand One Hundred Fifty Dollars (\$ 7,150.00) per month (the "**Maintenance Services Price**"). Payment for Maintenance Services shall be made on a monthly/quarterly/annual basis for all undisputed amounts within thirty (30) days after Seller submits an itemized invoice for Ongoing Services actually rendered.

3.3. The Goods and Start-Up Price and the Maintenance Services Price shall together be the "**Contract Price.**"

4. **Contract Time & Liquidated Damages.**

4.1. **Goods & Start-Up Services.** Seller shall deliver the Goods to District by [manner of delivery] to [location(s)] and complete Start-Up Services for those Goods no later than the date and time specified herein or pursuant to a Purchase Order ("**Goods & Start-Up Time**"). Pursuant to Civil Code Section 1671 and Cal. Com. Code Section 2718, because it would be impracticable or extremely difficult to fix the actual value of damages to District if Seller failed to timely deliver the Goods within the Contract Time, it has been agreed upon by the Parties that Seller shall pay District liquidated damages of **\$500** per day as liquidated damages for each and every day's delay beyond the Goods & Start-Up Time, which represents the result of a reasonable endeavor by the Parties to estimate a fair average compensation for any loss that may be sustained by District if it is deprived of the beneficial use and enjoyment of the Goods to further its educational and governmental mission, and, as such, this amount is not intended to be a penalty in any manner whatsoever.

4.2. **Maintenance Services.** The Maintenance Services shall commence upon the completion of the Start-Up Services and continue for five (5) years ("**Maintenance Services Time**"). This Contract for Maintenance Services may be renewed upon the same terms and prices in yearly increments for up to One (1) years with the written agreement of both Seller and District.

4.3. Goods & Start-Up Time & Maintenance Services Time shall together be the "**Contract Time.**"

5. **Insurance:** Seller shall have and maintain in force during the term of this Contract, with the minimum indicated limits, the following insurance:

Commercial General Liability , with Products and Completed Operations Coverage	\$2,000,000 per occurrence; \$4,000,000 aggregate
Automobile Liability, Any Auto , Combined Single Limit	\$1,000,000 per occurrence; \$2,000,000 aggregate
Workers Compensation	Statutory limits pursuant to State law
Employers' Liability	\$1,000,000
Professional Liability (E&O)	\$1,000,000
Umbrella / Excess Liability (In addition to CGL)	\$5,000,000

Seller shall provide to the District certificate(s) of insurance and endorsements satisfactory to the District. The policy(ies) shall not be amended or modified, and the coverage amounts shall not be reduced without thirty (30) days written notice to the District prior to cancellation. Except for worker's compensation insurance, the District shall be named as an additional insured on all policies. Seller's policy(ies) shall be primary; any insurance carried by the District shall only be secondary and supplemental. Seller shall not allow any subcontractor, employee, or agent to commence work on this Contract or any subcontract until the insurance required of Seller, subcontractor, or agent has been obtained.

6. **Entire Contract.** This Contract including the Terms and Conditions attached hereto set forth the entire Contract between the Parties and fully supersedes any and all prior agreements, understanding, written or oral, between the Parties pertaining to the subject matter thereof. This Contract may be modified only by a writing evidencing the Parties' mutual consent. Seller agrees to comply with the Terms and Conditions.
7. **Notices and Communications.** Notices and communications between the Parties may be sent to the following addresses:

District:
San José Unified School District
855 Lenzen Avenue
San Jose, CA 95126
ATTN: Purchasing Department

Seller:
Metro Mobile Communications
1140 Old County Road, Suite A
Belmont, CA
ATTN: Pearl Chan

Any notice personally given shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the day after delivery.

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

<input checked="" type="checkbox"/> Exhibit A (Description of Goods)	<input checked="" type="checkbox"/> Exhibit C (Terms and Conditions to Contract)
<input checked="" type="checkbox"/> Exhibit B (Purchase Order)	<input checked="" type="checkbox"/> Exhibit D (Certifications)
	<input checked="" type="checkbox"/> Insurance Certificates & Endorsements

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

Dated: _____, 20__

Dated: April 25, 20 25

San José Unified School District

Metro Mobile Communications [Seller]

By: _____

By:  _____

Print Name: _____

Print Name: Pearl Chan

Print Title: _____

Print Title: CEO

Information regarding Seller:

Type of Business Entity:

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

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

EXHIBIT A
DESCRIPTION OF GOODS

Item No.	Item Description/Manufacturer/Part No.	Price per Unit	Quantity	Total
1	Kenwood NX-1300DUK digital portable radio including battery, antenna, charger, and belt clip	\$250.00	760	\$190,000.00
Subtotal				\$190,000.00
Start-Up costs				\$12,900.00
Shipping and handling				\$1,500.00
Tax				\$17,812.50
Total cost				\$222,212.50

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

ATTACHMENT A
SCOPE OF SERVICES AND EQUIPMENT REQUIREMENTS

1. Summary

- 1.1. Replace the Risk Management Department current analog radios with seven hundred and sixty (760) portable two (2) way digital radios, licensing, programing, maintenance, and delivery services.

Radio Specification:

General Specification	
Make/Model	Motorola Mototrbo and/or equal
Display	Non-Keypad CP100d
Band	Ultra-High Frequency (UHF) Band 1
Channel Capacity	Sixteen (16)
Typical RF Output	4 W High Power RF Output
Radio Dimensions (H x W x D) with battery:	120.0 x 55.0 x 34.7 mm
Weight with Battery	276g
Battery	Li-Ion 1700mAH or similar
Frequency	403 – 480 MHz
IP Level	IP54 or higher
Manufacturer warranty required	Two (2) year minimum
Accessories required	
Stubby antenna	
Belt clip	
Single charge station	
Services Required	
Software licensing	
Radio programing	
Equipment delivery to coverage locations	
Maintenance Services	

2. Goals – The replacement system must:

- 2.1. Provide the overall most cost-effective solution for ongoing operating costs.
- 2.2. Provide equal or improved radio equipment, accessories and service.
- 2.3. Increase reliability, radio system availability and voice quality while improving efficiency.

3. Schedule. All radios must be delivered, programming, and ready for use by June 2, 2025.

ATTACHMENT A
SCOPE OF SERVICES AND DELIVERY LOCATIONS CONTINUED

Service Location	Service Address	Equipment Quantity
Allen at Steinbeck	820 Steinbeck Drive, San Jose, Ca 95123	15
Almaden Elementary	1295 Dentwood Drive, San Jose, CA 95118	15
Anne Darling Elementary	333 N. 33rd Street, San Jose, CA 95133	15
Booksin Elementary	1590 Dry Creek Road, San Jose, CA 95125	15
Canoas Elementary	880 Wren Drive, San Jose, CA 95125	15
Carson Elementary	4245 Meg Drive, San Jose, CA 95136	15
Empire Gardens Elementary	1060 E. Empire Street, San Jose, CA, 95112	15
Ernesto Galarza Elementary	1610 Bird Avenue, San Jose, CA 95125	15
Gardner Elementary	502 Illinois Avenue, San Jose, CA 95125	15
Grant Elementary	470 East Jackson Street, San Jose, CA 95112	15
Graystone Elementary	6982 Shearwater Drive, San Jose, CA 95120	15
Hacienda Science/Environmental Magnet	1290 Kimberly Drive, San Jose, CA 95118	15
Hammer Montessori at Galarza Elementary	1610 Bird Ave, San Jose, CA 95125	15
Horace Mann Elementary	55 North 7th Street, San Jose, CA 95112	15
Los Alamitos Elementary	6130 Silberman Drive, San Jose, CA 95120	15
Lowell Elementary	625 South 7th Street, San Jose, CA 95112	15
Merritt Trace Elementary	651 Dana Avenue, San Jose, CA 95126	15
Reed Elementary	1524 Jacob Avenue, San Jose, CA 95118	15
River Glen K-8	1088 Broadway Avenue, San Jose, CA 95125	15
Schallenberger Elementary	1280 Koch Lane, San Jose, CA 95125	15
Selma Olinder Elementary	890 East William Street, San Jose, CA 95116	15
Simonds Elementary	6515 Grapevine Way, San Jose, CA 95120	15
Terrell Elementary	3925 Pearl Avenue, San Jose, CA 95136	15
Walter Bachrodt Elementary	102 Sonora Avenue, San Jose, 95110	15
Washington Elementary	100 Oak Street, San Jose, CA 95110	15
Williams Elementary	1150 Rajkovich Way, San Jose, CA 95120	15
Willow Glen Elementary	1425 Lincoln Avenue, San Jose, CA 95125	15
Bret Harte Middle	7050 Bret Harte Drive, San Jose, CA 95120	25
Castillero Middle	6384 Leyland Park Drive, San Jose, CA 95120	25
Herbert Hoover Middle	1635 Park Avenue, San Jose, CA 95126	25
John Muir Middle	1260 Branham Lane, San Jose, CA 95118	25
Muwekma Ohlone Middle	850 North 2 nd Street, San Jose, CA 95112	25
Willow Glen Middle	2105 Cottle Avenue, San Jose, CA 95125	25
Abraham Lincoln High	555 Dana Avenue, San Jose, CA 95126	25
Broadway High	4825 Speak Lane, San Jose, CA 95118	15
Gunderson High	622 Gaundabert Lane, San Jose, CA 95136	25
Liberty Alternative School	4849 Pearl Avenue, San Jose, CA 95123	15
Leland High	6677 Camden Avenue, San Jose, CA 95120	25
Pioneer High	1290 Blossom Hill Road, San Jose, CA 95118	25
San Jose High	275 North 24th Street, San Jose, CA 95116	25
Willow Glen High	2001 Cottle Avenue, San Jose, CA 95125	25
District Office	855 Lenzen Avenue., San Jose, CA 95126	25

ATTACHMENT B
PROPSAL RADIO SPECIFICATION SHEET

Proposer should complete and provide the requested information for the equipment to be provided:

Proposals Radio Specifications	
Make/Model	Kenwood NX-1300DUK
Display	4-color LED - Tx/Rx/Busy/Emergency
Band	UHF
Channel Capacity	64 channels (16 channels x 4 zones)
Typical RF Output	5 watts
Radio Dimensions (H x W x D) with battery:	123x54x33
Weight with Battery	10.41 oz (295 g)
Battery	Li-Ion 2000 mAh
Frequency	450-520 MHz
IP Level	IP 54/55
Length of Manufacturer warranty in years	3 years (1 year for accessories)

Required Equipment/Services	Yes	No
Stubby antenna	X	
Belt Clip	X	
Single Charge Station	X	
Software Licensing	X	
Radio Programming	X	
Delivery	X	
(Maintenance Services) Repair/Replacement services	X	
(Maintenance Services) Annual equipment audit services	X	

Note: Please see Appendix 3 for further detail on proposed radio.

ATTACHMENT B
PROPOSAL PRICING SHEETS

Proposer to include information in, or attached to, this Proposal Form as specified in this RFP, including, but not limited to, Attachment A to this RFP and summarized here. *Provide the Purchase pricing options:*

Purchase Option:

Equipment			
Item	Number of Units	Purchase Price per Unit	Total Purchase Price
Radio & Battery	760	\$ 250.00	\$ 190,000.00
Stubby antenna	760	\$ Included	\$ 0.00
Belt clip	760	\$ Included	\$ 0.00
Single charge station	760	\$ Included	\$ 190,000.00
(A) Subtotal Equipment Amount			\$ 190,000.00
Additional Fees			
Software/License fees			\$ 0.00
Programming Service Fees			\$ 11,400.00
Shipping/Delivery Fees			\$ 1,500.00
Sales Tax			\$ 17,812.50
Additional Fees, not listed above <u>Please Describe:</u> FCC licensing (15 UHF frequencies, Form 601 construction notice, government application and processing, expedited handling)			\$ 1,500.00
(B) Subtotal Additional Fees Amount			\$ 32,212.50
Maintenance Services (annual audit and replacement/repairs of damaged equipment)			
Note: maintenance will be more intensive in outer years, but we have annualized this over 5 years for simplicity of the contract.		Year 1	\$ 7,195.00
		Year 2	\$ 7,195.00
		Year 3	\$ 7,195.00
		Year 4	\$ 7,195.00
		Year 5	\$ 7,195.00
(C) Subtotal Maintenance Services Amount (Years 1 through 5)			\$ 35,975.00
Total Purchase Price [(A)+(B)+(C)]			\$ 258,187.50

Please see Attachment B - Appendix 1 and 2 for additional breakdown on purchasing and a purchase or rental option for Purchase Price (A) and (B).

EXHIBIT D
CERTIFICATION

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

- The undersigned is a representative of the Seller,
- The undersigned is familiar with the facts herein certified and acknowledged,
- The undersigned is authorized and qualified to execute this Contract and these certifications on behalf of Seller and that by executing this Contract undersigned 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.

EXHIBIT D
CERTIFICATION CONTINUED

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.

Russian Sanctions Certification

On February 21, 2022, President Biden issued Executive Order 14065 (<https://www.whitehouse.gov/briefing-room/presidential-actions/2022/02/21/executive-order-on-blocking-property-of-certain-persons-and-prohibiting-certain-transactions-with-respect-to-continued-russian-efforts-to-undermine-the-sovereignty-and-territorial-integrity-of-ukraine/>; “**Federal Order**”) imposing economic sanctions and prohibiting many activities including, but not limited to, investing in, importing to, exporting from, and contracting with, areas of Ukraine and in Russia. On March 4, 2022, California Governor Newsom issued Executive Order N-6-22 requiring state agencies to take steps to ensure any agency and entity under contract with state agencies comply with the Federal Order (<https://www.gov.ca.gov/wp-content/uploads/2022/03/3.4.22-Russia-Ukraine-Executive-Order.pdf>; “**State Order**”).

The District requires the Seller, as a vendor with the District, to comply with the economic sanctions imposed in response to Russia’s actions in Ukraine, including the orders and sanctions identified on the U.S. Department of the Treasury website (<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions>).

If your Firm’s contract with the District has a cumulative value of \$5 million or more, your certification here constitutes your written response to the District, indicating:

- (1) that your Firm is in compliance with the required economic sanctions of the Federal and State Orders;


EXHIBIT D
CERTIFICATION CONTIUED

(2) the steps your Firm has taken in response to Russia's actions in Ukraine, including, but not limited to, desisting from making new investments in, or engaging in financial transactions with, Russian entities, not transferring technology to Russia or Russian entities, and directly providing support to the government and people of Ukraine.

I ACKNOWLEDGE AND CERTIFY UNDER PENALTY OF PERJURY THAT I AM DULY AUTHORIZED TO LEGALLY BIND THE SELLER 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: 4/23/25

Proper Name of Seller: Metro Mobile Communications

Signature: 

Print Name: Pearl Chan

Title: CEO

EXHIBIT D
CERTIFICATION CONTINUED

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 Seller, is familiar with the facts herein certified, is authorized and qualified to execute this certificate on behalf of Seller; and that the information in this Criminal Background Investigation / Fingerprinting Certification is true and correct.

1. **Education Code.** Seller has taken at least one of the following actions (check all that apply):

All Workers Fingerprinted. The Seller has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Seller's employees and all of its subcontractors' employees who interact with pupils, outside of the immediate supervision and control of the pupil's parent or guardian or a school employee and has a valid criminal records summary as described in Education Code section 44237 (Seller shall "require each applicant for employment in a position requiring contact with minor pupils to submit two sets of fingerprints prepared for submittal by the employer to the Department of Justice for the purpose of obtaining criminal record summary information from the Department of Justice and the Federal Bureau of Investigation."). A complete and accurate list of Seller's employees and of all of its subcontractors' employees who may interact with District pupils during the course and scope of the Contract is attached hereto; and/or

Physical Barrier. Pursuant to Education Code section 45125.2, Seller has installed or will install, prior to commencement of work, a physical barrier at the Project site, that will limit contact between Seller's employees and District pupils at all times; and/or

Continual Supervision by Fingerprinted Employee. Pursuant to Education Code section 45125.2, Seller certifies that all employees will be under the continual supervision of, and monitored by, an employee of the Seller 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 Seller's employees and its subcontractors' employees is:

Name: _____ **Title:** _____

Unoccupied Site. 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 Seller that will be on the Project sites and the employees of the subcontractor(s) that will be on the Project sites are **not** listed on California's "Megan's Law" Website (<http://www.meganslaw.ca.gov/>).

Seller'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 Seller.

I certify that to the best of my knowledge, the contents of this disclosure are true, or are believed to be true.

Date: 4/23/25

Proper Name of Seller: Metro Mobile Communications

Signature: 

Print Name: Pearl Chan Title: CEO

ADDENDA ACKNOWLEDGMENT

Receipt and acceptance of the following addenda is hereby acknowledged:

No. <u>1</u> , Dated <u>4/22/25</u>	No. _____, Dated _____
No. _____, Dated _____	No. _____, Dated _____
No. _____, Dated _____	No. _____, Dated _____
No. _____, Dated _____	No. _____, Dated _____
<input type="checkbox"/> Or check here if no addenda were issued.	

1. **General Acknowledgement.** The Proposer represents that it is competent, knowledgeable, and has special skills with respect to the nature, extent, and inherent conditions of the Services to be performed.

2. **False Claims Act.** Proposer expressly acknowledges that it is aware that if a false claim is knowingly submitted (as the terms “claim” and “knowingly” are defined in the California False Claims Act, Cal. Gov. Code, §12650 et seq.), the District will be entitled to civil remedies set forth in the California False Claim Act. It may also be considered fraud, and the Proposer may be subject to criminal prosecution.

Furthermore, Proposer hereby certifies to the District that all representations, certifications, and statements made by Proposer, as set forth in this RFP form, are true and correct and are made under penalty of perjury.

Dated: 4/23/25

Name of Proposer: Metro Mobile Communications

Type of Organization: LLC

Signed by: Pearl Chan 

Title of Signer: CEO

Address of Proposer: 1140 Old County Road, Suite A, Belmont, CA 94002

Taxpayer's Identification No. of Proposer: 99-3921995

Telephone Number: 650-367-1992

Fax Number: N/A

E-mail: pearl@metromobile.com

NON-COLLUSION DECLARATION

Public Contract Code § 7106

The undersigned declares:

I am the CEO of Metro Mobile Communications,
(Print your Title) (Print Firm Name)

of the party making the foregoing Proposal.

The Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The Proposal is genuine and not collusive or sham. The Firm has not directly or indirectly induced or solicited any other firm to put in a false or sham proposal. The Firm has not directly or indirectly colluded, conspired, connived, or agreed with any firm or anyone else to put in a sham proposal, or to refrain from proposing. The Firm has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the Firm or any other firm, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other firm. All statements contained in the Proposal are true. The Firm has not, directly or indirectly, submitted his or her Proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, proposal depository, or to any member or agent thereof, to effectuate a collusive or sham proposal, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a firm that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the Firm.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration is executed on the following date:

Date: 4/23/25

Proper Name of Firm: Metro Mobile Communications

City, State: Belmont, California

Signature: 

Print Name: Pearl Chan

Title: CEO

Appendix 3

Kenwood NX1300 □ DUK

- Cost effective and reliable portable radio with great performance specifications and voice quality
- Deployed successfully across numerous school districts (e.g., PAUSD, Belmont Redwood Shores, San Mateo Foster City, etc.)
- Meets or exceeds all required specifications
- **Note: given that this model is an alternative, Metro Mobile is happy to demo the product or drop it off at an SJUSD location for further evaluation**



Appendix 3 (Continued)

Radio Equipment Comparison

Radio Model	Kenwood NX-1300DUK	Motorola CP100D
Made in	Malaysia	Malaysia
Battery	2,000 mAh Li-Ion*	1,750 mAh Li-Ion
Belt Clip	Spring Action*	Plastic
Factory Warranty	3 radio (1 accessories)	3 radio (1 accessories)
Number of Channels	64*	16
LCD Indicator	4-color multi-use*	Low battery only
Emergency Features	Yes	Yes
Power Output	5 watts*	4 watts
Digital Technology	DMR (industry standard)	DMR (industry standard)
Dust/Water Protection	IP 54/55	IP 54/55
Quality Standard	MIL-STD-810C, D, E, F, G*	MIL-STD-810C, D, E, F
Housing	High-Impact Polycarbonate	High-Impact Polycarbonate
Size	123x54x33	120x55x35
Weight	295 g	276 g
Receiver Sensitivity	.25uV	.25uV
Audio Output	1 watt*	.5 watt

* Denotes where the Kenwood NX-1300DUK provides better specification features.

NX-1200DV/1300DU

MULTI-PROTOCOL DIGITAL & ANALOG PORTABLE RADIOS

NXDN™ **DMR** **DMR Auto Slot Select** **FleetSync®**

A SINGULAR SOLUTION

If you are thinking of harnessing the latest digital protocols – NXDN™ or DMR – to enhance business efficiency or FM analog for its simplicity, the NEXEDGE NX-1200DV/1300DU radios have you covered. Our singular solution offers the widest selection of two-way radios for everyday use. The model matrix also includes basic and keypad variations, with or without a high-contrast backlit LCD. Other features include a 7-color LED indicator and the popular KENWOOD 2-pin audio accessory connector. Plus, mixed-mode operation ensures seamless integration with legacy radios while smoothing the onward migration path to digital. But whatever your specific needs, audio quality is what determines clear voice communications – which is why KENWOOD radios are used under the most grueling conditions, like the cockpit of a racing car. Thanks to our extensive experience with professional systems, reliability is second to none. So whatever your radio requirements, KENWOOD's NEXEDGE NX-1200DV/1300DU radios offer a single platform that's right for you.



Standard Keypad & Basic Models

Features

Multi-protocol digital radio: Designed to operate under NXDN or DMR digital and FM analog protocols

Choose from direct & intuitive LCD with standard keypad or basic enclosures

Easy visible Display: 8-digit LCD models featuring high-contrast, white backlit LCD

Large 7-Color LED indicator on the top panel

- Selective Power-on LED
- Selective Call Alert LED
- Battery Level Indication
- Multi-status function indication

RF output power 5W both on VHF/UHF

Mixed Zone - analog and digital

Renowned KENWOOD Audio Quality: TX/RX audio profile with optimizable digital processor

- Audio Equalizer: Flat, High, Low
- Auto Gain Control: On, High, Low, Off
- Noise Suppressor
- Microphone type settings

Multiple Scan Functions; Dual Priority, Single Priority, Single Zone, Multi, Normal Scan

VOX & PTT –triggered Semi- VOX, Voice-operated TX

Emergency Function: Customizable Emergency Profile

Lone Worker

Max / Min Volume setting & Volume control

Voice Announcement

Remote Stun / Kill / Check

Front Panel Programming Mode (for Keypad model)

Electronic Serial Number (ESN)

MIL-STD-810 C/D/E/F/G

IP54 and IP55

Intrinsically Safe Option

Digital – DMR Mode

TDMA 2-slot 12.5 kHz bandwidth equivalent to 6.25 kHz very narrow bandwidth

DMR Tier II Conventional Operation

Site Roaming

DMR Auto Slot Select

Dual Slot Direct Mode

Digital / Analog Mixed mode

Call Interruption

Group / Individual Call

Status / Short data, Paging Call

Remote Stun / Kill, Monitor, Check & Control

Enhanced Encryption (ARC4)

Digital Bit Scrambler

Late Entry

Over-the-Air Alias (OAA)

Analog – FM

FM Conventional Operation

FleetSync: PTT ID, Stun/Revive, Talk back, Selcall

MDC1200: PTT ID, Radio Inhibit/Uninhibit, Radio check, Emergency

QT / DQT, DTMF, 2-tone

Built-in Programmable Voice Inversion Scrambler (per channel)

Built-in Compander (per channel)

Digital – NXDN™ Mode (Optional)

FDMA – Very narrow 6.25 kHz & narrow 12.5 kHz bandwidths

NXDN Conventional Operation

Site Roaming

NXDN Type-D Trunking Option

Digital / Analog Mixed mode

Group / Individual Call

Status / Short data, Paging Call

Remote Stun / Kill, Monitor, Check & Control

Digital Bit Scrambler

Late Entry

Over-the-Air Alias (OAA)

Accessories

All accessories may not be available in all markets. Contact an authorized KENWOOD dealer for details and complete list of all accessories.

KNB-45L 2,000mAh/7.4V Li-Ion Battery Pack		KSC-35SK Fast Charger For the KNB-45L/69L 82LCM (3-Hour)		KRA-22/23 VHF/UHF Low Profile Helical Antenna		KMC-45D Speaker Microphone		KHS-31C C-Ring PTT Ear Hanger Headset	
KNB-69L 2,550mAh/7.4V Li-Ion Battery Pack		KSC-43K Dual Chemistry Fast Charger For the KNB 29N/45L/69L/82LCM		KRA-26/ 27 VHF Helical Antenna UHF Whip Antenna		KHS-26 Earbud In-line PTT Headset		KBH-10 Belt Clip	
KNB-82LCM 1,900mAh/7.4V, Intrinsically Safe Li-Ion Battery Pack		KVC-22 DC Vehicular Charger Adapter		KRA-41/42 VHF/UHF Stubby Antenna		KHS-27A D-Ring In-line PTT Headset			

Specifications

General	NX-1200DV	NX-1300DU
Pre-set Frequencies		
Type 1	136-174 MHz	450-520 MHz
Type 2		400-470 MHz
Max. Channels per Radio	260 (64 for basic model)	
Number of Zones	128 (4 for basic model)	
Max. Channels per Zone	250 (16 for basic model)	
Channel Spacing		
Analog	30 ¹ / 25 ¹ / 15 / 12.5 kHz	
Digital	12.5 / 6.25 kHz	
Power Supply	7.5 VDC ±20 %	
Battery Life	DMR	Analog/NXDN
KNB-45L (2000mAh)	Approx. 14.5 hours (15 hours for Basic model)	Approx. 11 hours (11.5 hours for Basic model)
KNB-69L (2550mAh)	Approx. 19 hours (19.5 hours for Basic model)	Approx. 14 hours (14.5 hours for Basic model)
Operating Temperature(Radio only) ²	-22°F to +140°F (-30°C to +60°C)	
Frequency Stability (-30 to +60°C; +25°C Ref.)	±0.5 ppm	
Antenna Impedance	50 Ω	
Dimensions	(W x H x D) Projections Not Included	
Radio with KNB-45L/82LCM	2.13 x 4.84 x 1.32 in (54 x 123 x 33.5 mm)	
Radio with KNB-69L	2.13 x 4.84 x 1.48 in (54 x 123 x 37.5 mm)	
Weight	(Basic model)	(Standard keypad model)
Radio Only	5.64 oz (160 g)	6.17 oz (175 g)
Radio with KNB-45L/82LCM	9.88 oz (280 g)	10.41 oz (295 g)
Radio with KNB-69L	10.41 oz (295 g)	10.93 oz (310 g)
FCC ID		
Type 1	K44501000 ³ / K44501001 ⁴	K44501101 ³ / K44501103 ⁴
Type 2		K44501100 ³ / K44501102 ⁴
IC Certification	282F-501000 ³ / 282F-501001 ⁴	282F-501100 ³ / 282F-501102 ⁴

¹ 125 / 30 kHz in VHF/UHF Bands excluding T-Band are not included in the models sold in the USA or US territories.
² Operating temperature specification for a Li-ion battery is -10°C to +60°C [14°F to +140°F].
³ Productions before end of May, 2021 have this FCC ID and IC Certification.
⁴ Productions after end of May, 2021 have this FCC ID and IC Certification.

Analog measurements made per TIA603. Specifications are measured according to applicable standards. Specifications are subject change without notice, due to advancements in technology.

Receiver	NX-1200DV	NX-1300DU
Sensitivity		
NXDN 6.25 kHz Digital (3% BER)		0.18 µV
NXDN 12.5 kHz Digital (3% BER)		0.22 µV
DMR 12.5 kHz Digital (1% BER)		0.25 µV
DMR 12.5 kHz Digital (5% BER)		0.18 µV
Analog 12.5/25 kHz (12 dB SINAD)		0.20 µV / 0.24 µV
Selectivity	Analog @ 12.5 / 25 kHz	68 dB / 74 dB
Intermodulation Distortion		70 dB
Spurious Rejection		70 dB
Audio Distortion		7%
Audio Output Power	1 W / 12 Ω (Internal Output)	
Transmitter	NX-1200DV	NX-1300DU
RF Power Output (High / Low)	5 W / 4 W / 1 W	
Spurious Emission	-70 dB	
FM Hum & Noise	Analog @ 12.5 / 25 kHz	
Analog	40 dB / 45 dB	
Audio Distortion	2%	
DMR Digital Protocol	ETSI TS 102 361-1, -2, -3	
Emission Designator	16K0F3E, 11K0F3E, 8K30F1E, 8K30F1D, 8K30F7W, 4K00F1E, 4K00F1D, 4K00F7W, 4K00F2D, 7K60FXD, 7K60F7W	

FleetSync® is a registered trademark of JVCケンウッド Corporation in the United States and/or other countries. NXDN™ is a trademark of JVCケンウッド Corporation and Icom Inc. NEXEDGE® is a registered trademark of JVCケンウッド Corporation. All other trademarks are the property of their respective holders.

MIL-STD & IP

MIL Standard	MIL 810C Methods/Procedures	MIL 810D Methods/Procedures	MIL 810E Methods/Procedures	MIL 810F Methods/Procedures	MIL 810G Methods/Procedures
Low Pressure	500.1/Procedure I	500.2/Procedure I, II	500.3/Procedure I, II	500.4/Procedure I, II	500.5/Procedure I, II
High Temperature	501.1/Procedure I, II	501.2/Procedure I, II	501.3/Procedure I, II	501.4/Procedure I, II	501.5/Procedure I, II
Low Temperature	502.1/Procedure I	502.2/Procedure I, II	502.3/Procedure I, II	502.4/Procedure I, II	502.5/Procedure I, II
Temperature Shock	503.1/Procedure I	503.2/Procedure I	503.3/Procedure I	503.4/Procedure I, II	503.5/Procedure I
Solar Radiation	505.1/Procedure I	505.2/Procedure I	505.3/Procedure I	505.4/Procedure I	505.5/Procedure I
Rain*	506.1/Procedure I, II	506.2/Procedure I, II	506.3/Procedure I, II	506.4/Procedure I, III	506.5/Procedure I, III
Humidity	507.1/Procedure I, II	507.2/Procedure II, III	507.3/Procedure II, III	507.4	507.5/Procedure II
Salt Fog	509.1/Procedure I	509.2/Procedure I	509.3/Procedure I	509.4	509.5
Dust	510.1/Procedure I	510.2/Procedure I	510.3/Procedure I	510.4/Procedure I, III	510.5/Procedure I
Vibration	514.2/Procedure VIII, X	514.3/Procedure I	514.4/Procedure I	514.5/Procedure I	514.6/Procedure I
Shock	516.2/Procedure I, II, V	516.3/Procedure I, IV	516.4/Procedure I, IV	516.5/Procedure I, IV	516.6/Procedure I, IV

International Protection Standard
 Dust & Water Protection* IP54/55* To meet IP54/55, the 2-pin connector cover has to be connected on the radio or the locking bracket has to be attached to the external speaker microphone.

JVCケンWOOD USA Corporation
 Communications Sector Headquarters
 1440 Corporate Drive | Irving, TX 75038
 Order Administration/Distribution
 4001 Worsham Ave. | Long Beach, CA 90808
www.kenwood.com/usa

JVCケンWOOD Canada Inc.
 Canadian Headquarters and Distribution
 6685 Millcreek Drive, Unit 8, Mississauga, ON L5N 5M5
www.kenwood.com/ca



ISO9001 Registered
 Communications Systems Business Unit
 JVCケンWOOD Corporation
 ADS#21522 Print in U.S.A.

EXHIBIT B
TERMS AND CONDITIONS TO PURCHASE ORDER (OR "PO" OR "CONTRACT")
PURCHASE OF EQUIPMENT, MATERIALS, OR SUPPLIES

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

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

3. MARKING OF PACKAGES. Each package contained in each shipment shall be clearly marked with the District purchase order number. Failure to mark the packages may delay District acceptance and payment for the shipment. Each package shall be marked with the sequential package number of threat shipment with the first package being marked Number 1, and PACKING SLIP ENCLOSED.

4. INSPECTION, ACCEPTANCE, AND REJECTION.

4.1. Seller and its subcontractors will provide and maintain a quality assurance system acceptable to the District covering the Goods and will tender to the District only those Goods that have been inspected and found to conform to this Contract's requirements. Seller will keep records evidencing inspections and their result and will make these records available to the District during Contract performance and for three years after final payment. Seller shall permit the District to review procedures, practices, processes and related documents to determine the acceptability of Seller's quality assurance system or other business practices related to performance of the Contract.

4.2. All Goods may be subject to inspection and test by the District or its authorized representatives.

4.3. Seller and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to the District. Seller shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.

4.4. All Goods to be delivered hereunder may be subject to final inspection, test and acceptance by the District at destination, notwithstanding any payment or inspection at source.

4.5. District shall give written notice of rejection of

equipment, materials, or supplies delivered or services performed hereunder within a reasonable time after receipt of such equipment, materials, or supplies. Such notice of rejection will state the respects in which the equipment, materials, or supplies do not substantially conform to the specifications of the Goods. If the District does not provide such notice of rejection within thirty (30) days of delivery, such equipment, materials, or supplies will be deemed to have been accepted. Acceptance by the District will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that the District might have at law or by express reservation in this Contract with respect to any nonconformity.

5. WARRANTY/QUALITY: Unless specified otherwise, Seller, manufacturer, or their assigned agents shall guarantee all equipment, materials, supplies, workmanship, products or Work against defects or failures for a minimum of one (1) year from acceptance of each item. All workmanship and merchandise must comply with California energy, conservation, environmental, and educational standards. The rights and remedies of the District provided in this section entitled Warranties are in addition to and do not limit any rights afforded to the District by any other clause of this Contract. Seller warrants goods furnished hereunder will conform to the requirements of this Contract. All warranties, including special warranties specified elsewhere herein, shall inure to the District, its successors, assigns, customer agencies and users of the goods.

6. DISPUTES. The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, Seller shall submit to the District's Superintendent or designee a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to or involving this Contract, unless the District, on its own initiative, has already rendered such a final decision. Seller's written demand shall be fully supported by factual information, and if such demand involves a cost adjustment to the Contract, Seller shall include with the demand a written statement signed by an authorized person indicating that the demand is made in good faith, that the supporting data are accurate and complete and that the amount requested accurately reflects the Contract adjustment for which Seller believes the District is liable.

6.1. Pending the final resolution of any dispute arising under, related to or involving this Contract, Seller agrees to diligently proceed with the performance of this

Contract, including the delivery of Goods or providing of services in accordance with the District's instructions. Seller's failure to diligently proceed in accordance with the District's instructions shall be considered a material breach of this Contract.

6.2. Any final decision of the District shall be expressly identified as such, shall be in writing, and shall be signed by the District Superintendent or designee. If the District fails to render a final decision within 90 days after receipt of Seller's demand, it shall be deemed a final decision adverse to Seller's contentions. The District's final decision shall be conclusive and binding regarding the dispute unless Seller commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.

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

8. ASSIGNMENT OF CONTRACT. Seller shall not assign or transfer in any way any or all of its rights, burdens, duties, or obligations under this Contract without the prior written consent of the District.

9. TIME IS OF THE ESSENCE. Time is of the essence in the performance of and compliance with each of the provisions and conditions of this Contract.

10. DELIVERY AND INSTALLATION CHARGES. Seller must coordinate all deliveries with freight carriers, expedite factory ship dates and verify project status with District two weeks prior to shipment. The District is not responsible to monitor freight deliveries. Seller must provide follow-up reports, on a bi-weekly basis, regarding damage replacements, returns, credits and freight claims. Seller is responsible for all freight claim issues. The District is not responsible for any additional charges due to freight damage replacements.

11. FORCE MAJEURE CLAUSE. Seller shall be excused from performance hereunder during the time and to the extent that it is prevented from obtaining delivery, or performing by act of God, fire, strike, loss, or shortage of transportation facilities, lock-out, commandeering of materials, product, plant, or facilities by the government, when satisfactory evidence thereof is presented to the

District, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of Seller.

12. INDEMNIFICATION / HOLD-HARMLESS. To the furthest extent permitted by California law, Seller shall defend, indemnify, and hold harmless the District, its agents, representatives, officers, consultants, employees, and volunteers (the "**indemnified parties**") from any and all demands, losses, liabilities, claims, suits, and actions (the "**claims**") of any kind, nature, and description, including, but not limited to, attorneys' fees and costs, directly or indirectly arising from personal or bodily injuries, death, property damage, or otherwise arising out of, connected with, or resulting from the performance of this Contract unless the claims are caused wholly by the sole negligence or willful misconduct of the indemnified parties. The District shall have the right to accept or reject any legal representation that Seller proposes to defend the District.

13. PERMITS AND LICENSES. Seller and all of its employees, agents, and subcontractors shall secure and maintain in force, at Seller's sole cost and expense, all licenses and permits as are required by law, in connection with the furnishing of materials, supplies, or Contract herein listed.

14. INDEPENDENT CONTRACTOR STATUS. While engaged in carrying out the Contract, the Seller is an independent contractor, and not an officer, employee, agent, partner, or joint venture of the District. Seller shall be solely responsible for its own Worker's Compensation insurance, taxes, and other similar charges or obligations. Seller shall be liable for its own actions, including its negligence or gross negligence, and shall be liable for the acts, omissions, or errors of its agents or employees.

15. ANTI-DISCRIMINATION POLICY. It is the policy of the District that in connection with all work performed under contracts there be no discrimination against any employee engaged in the work because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of any person, and therefore the Seller agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment Practice Act beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, the Seller agrees to require like compliance by all its subcontractor(s).

16. COMPLIANCE WITH LAWS. Seller shall give all notices and comply with all laws, ordinance, rules and regulations bearing on conduct of the Contract as indicated or specified. If Seller observes that any of the work required by this Contract is at variance with any such laws, ordinance, rules or regulations, Seller shall notify the District, in writing, and, at the sole option of the District,

any necessary changes to the scope of the Contract shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be terminated effective upon Seller's receipt of a written termination notice from the District. If Seller performs any work of the Contract that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Seller shall bear all costs arising therefrom.

17. ANTI-TRUST CLAIM. Seller and its subcontractor(s) agree to assign to the District all rights, title, and interest in and to all causes of action they may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Contract or a subcontract. This assignment shall be made and become effective at the time the District tenders final payment to the Seller, without further acknowledgment by the Parties.

18. GOVERNING LAW. This Contract shall be governed by and construed in accordance with the laws of the State of California with venue of any action in a in the county in which the District's administration office is located.

19. PROVISIONS REQUIRED BY LAW TO BE INSERTED. Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and this Contract shall be read and enforced as though it were included therein.

20. BINDING CONTRACT. This Contract shall be binding upon the Parties hereto and upon their successors and assigns and shall inure to the benefit of the Parties and their successors and assigns.

21. BUYER NON-WAIVER. District's waiver of any term, condition, covenant or waiver of a breach of any term, condition or covenant shall not constitute the waiver of any other term, condition or covenant or the waiver of a breach of any other term, condition or covenant.

22. INVALID TERM. If any provision of this Contract is declared or determined by any court of competent jurisdiction to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining parts, terms and provisions.

EXHIBIT C

**TERMS AND CONDITIONS OF CONTRACT FOR SALE OF EQUIPMENT, MATERIALS,
OR SUPPLIES AND ONGOING SERVICES**

1. **Parties.** _____ also known as “**Seller**” and San José Unified School District also known as “**District**”.
2. **Freight Terms.** All prices shall be quoted F.O.B. destination, unpacked, assembled (if necessary) to the designated Site(s) at the time of order. No additional freight, drayage or labor charges will be permitted. All cartons and other packaging materials to be removed from the Site(s) by the Seller or his agents.
3. **Shipments.** All line items shall be delivered to the District’s warehouse, complete as requested in one shipment. Partial line item delivery shall not be accepted without prior consent. Payment for partial line items shall be delayed until the complete quantity has been received at the District’s warehouse. NOTE: This does not mean that the District will not accept a partial purchase order delivery, as long as the total quantity requested for each line item is included in the shipment.
4. **Marking of Packages.** Each package contained in each shipment shall be clearly marked with the District purchase order number. Failure to mark the packages may delay District acceptance and payment for the shipment. Each package shall be marked with the sequential package number of the shipment with the first package being marked Number 1, and PACKING SLIP ENCLOSED.
5. **Inspection, Acceptance, and Rejection.**
 - 5.1. Seller and its subcontractors will provide and maintain a quality assurance system acceptable to the District covering the Goods and will tender to the District only those Goods that have been inspected and found to conform to this Contract’s requirements. Seller will keep records evidencing inspections and their result and will make these records available to the District during Contract performance and for three years after final payment. Seller shall permit the District to review procedures, practices, processes and related documents to determine the acceptability of Seller’s quality assurance system or other business practices related to performance of the Contract.
 - 5.2. All Goods may be subject to inspection and test by the District or its authorized representatives.
 - 5.3. Seller and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to the District. Seller shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
 - 5.4. All Goods to be delivered hereunder may be subject to final inspection, test and acceptance by the District at destination, notwithstanding any payment or inspection at source.
 - 5.5. District shall give written notice of rejection of equipment, materials, or supplies delivered or services performed hereunder within a reasonable time after receipt of that equipment, materials, or supplies. The notice of rejection will state the respects in which the equipment, materials, or supplies do not substantially conform to the specifications of the Goods. If the District does not provide the notice of rejection within thirty (30) days of delivery, that equipment, materials, or supplies will be deemed to have been accepted. Acceptance by the District will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that the District might have at law or by express reservation in this Contract with respect to any nonconformity.
6. **Warranties.**
 - 6.1. Warranty of Supplies of a Noncomplex Nature (Note: Intended to implement terms substantially similar to 48 C.F.R. section 52.246-17 [UPDATED JUNE 2003])

- 6.1.1. **Definitions.** As used in this section:
- 6.1.1.1. "Acceptance" means the act of an authorized representative of the District by which the District assumes for itself, or as an agent of another, ownership of existing supplies, or approves specific services as partial or complete performance of the Contract.
- 6.1.1.2. "Supplies" means the end items furnished by the Seller and related services required under this Contract. The word does not include "data."
- 6.1.2. **Seller's obligations.**
- 6.1.2.1. Notwithstanding inspection and acceptance by the District of Supplies furnished under this Contract, or any condition of this Contract concerning the conclusiveness thereof, the Seller warrants that for **3 years after delivery ("Warranty Period")**:
- 6.1.2.1.1. All Supplies furnished under this Contract will be free from defects in material or workmanship and will conform with all requirements of this Contract; and
- 6.1.2.1.2. The preservation, packaging, packing, and marking, and the preparation for, and method of, shipment of that Supplies will conform with the requirements of this Contract.
- 6.1.2.2. When return, correction, or replacement is required,

transportation charges and responsibility for the Supplies while in transit shall be borne by the Seller. However, the Seller's liability for the transportation charges shall not exceed an amount equal to the cost of transportation by the usual commercial method of shipment between the place of delivery specified in this Contract and the Seller's plant, and return.

- 6.1.2.3. Any Supplies or parts thereof, corrected or furnished in replacement under this clause, shall also be subject to the terms of this clause to the same extent as Supplies initially delivered. The warranty, with respect to Supplies or parts thereof, shall be equal in duration to the Warranty Period and shall run from the date of delivery of the corrected or replaced Supplies.

6.1.3. **Remedies available to the District.**

- 6.1.3.1. District shall give written notice to the Seller of any breach of warranty within 45 days after discovery of the defect.
- 6.1.3.2. Within a reasonable time after the notice, the District may either:
- 6.1.3.2.1. Require, by written notice, the prompt correction or replacement of any Supplies or parts thereof (including preservation, packaging, packing, and marking) that do not conform with the requirements of this Contract; or

- 6.1.3.2.2. Retain the Supplies and reduce the Contract Price by an amount equitable under the circumstances.
- 6.1.3.3. If the Contract provides for inspection of Supplies by sampling procedures, conformance of Supplies or components subject to warranty action shall be determined by the applicable sampling procedures in the Contract.
 - 6.1.3.3.1. The District may, for sampling purposes, group any Supplies delivered under this Contract;
 - 6.1.3.3.2. Shall require the size of the sample to be that required by sampling procedures specified in the Contract for the quantity of Supplies on which warranty action is proposed;
 - 6.1.3.3.3. May project warranty sampling results over Supplies in the same shipment or other Supplies contained in other shipments even though all of those Supplies are not present at the point of reinspection; provided, that the Supplies remaining are reasonably representative of the quantity on which warranty action is proposed; and
 - 6.1.3.3.4. Need not use the

same lot size as on original inspection or reconstitute the original inspection lots.

- 6.1.3.4. Within a reasonable time after notice of any breach of the warranties specified above, the District may exercise one or more of the following options:
 - 6.1.3.4.1. Require an equitable adjustment in the Contract Price for any group of Supplies.
 - 6.1.3.4.2. Screen the Supplies grouped for warranty action under this clause at the Seller's expense and return all nonconforming Supplies to the Seller for correction or replacement.
 - 6.1.3.4.3. Require the Seller to screen the Supplies at locations designated by the District within the jurisdictional boundaries of the District and to correct or replace all nonconforming Supplies.
 - 6.1.3.4.4. Return the Supplies grouped for warranty action under this clause to the Seller (irrespective of the f.o.b. point or the point of acceptance) for screening and correction or replacement.
- 6.1.3.5. The District may, by contract

or otherwise, correct or replace the nonconforming Supplies with similar supplies from another source and charge to the Seller the cost occasioned to the District thereby if the Seller:

6.1.3.5.1. Fails to make redelivery of the corrected or replaced Supplies within the time established for their return; or

6.1.3.5.2. Fails either to accept return of the nonconforming Supplies or fails to make progress after their return to correct or replace them so as to endanger performance of the delivery schedule, and in either of these circumstances does not cure that failure within a period of ten (10) days (or longer period as the District may authorize in writing) after receipt of notice from the District specifying the failure.

6.1.3.6. Instead of correction or replacement by the District, the District may require an equitable adjustment of the Contract Price. In addition, if the Seller fails to furnish timely disposition instructions, the District may dispose of the nonconforming Supplies for the Seller's account in a reasonable manner. The District is

entitled to reimbursement from the Seller, or from the proceeds of that disposal, for the reasonable expenses of the care and disposition of the nonconforming Supplies, as well as for excess costs incurred or to be incurred.

6.1.3.7. The rights and remedies of the District provided in this section are in addition to and do not limit any rights afforded to the District by any other clause of this Contract.

6.2. Supplement to Section Entitled Warranty of Supplies of a Noncomplex Nature (Note: Intended to implement terms substantially similar to California Multiple Award Schedules (CMAS) General Terms and Conditions for Non-Information Technology Services section entitled CMAS-WARRANTY)

6.2.1. Unless otherwise specified, the warranties contained in this Contract begin after acceptance has occurred.

6.2.1.1. Seller warrants Goods furnished hereunder will conform to the requirements of this Contract.

6.2.1.2. All warranties, including special warranties specified elsewhere herein, shall inure to the District, its successors, assigns, customer agencies and users of the Goods.

7. Standard of Care.

7.1. Seller represents that Seller has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of the District. Seller's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services in California school districts. Seller's Services will be performed with due care and in accordance with

applicable law, code, rule, regulation, and/or ordinance.

- 7.2. Seller hereby represents that it possesses the necessary professional capabilities, qualifications, licenses, skilled personnel, experience, expertise, and financial resources, and it has available and will provide the necessary equipment, materials, tools, and facilities to perform the Services in an efficient, professional, and timely manner in accordance with the terms and conditions of the Contract.
- 7.3. Seller shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the Services, and Seller understands that the District relies upon such professional quality, accuracy, completeness, and coordination by Seller in performing the Services.
- 7.4. Seller shall ensure that any individual performing work under the Contract requiring a California license shall possess the appropriate license required by the State of California. All personnel shall have sufficient skill and experience to perform the work assigned to them.

8. Originality of Services. Seller agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Contract, shall be wholly original to Seller and shall not be copied in whole or in part from any other source, except that submitted to Seller by District as a basis for those services.

9. Copyright/Trademark/Patent. Seller understands and agrees that all matters produced under this Contract shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. Seller consents to use of Seller's name in conjunction with the sale, use,

performance and distribution of the matters, for any purpose and in any medium.

10. Substitutions. No substitutions of material from those specified in the Purchase Order shall be made without the prior written approval of the District.

11. Disputes.

11.1. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, Seller shall submit to the District's Superintendent or designee a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to or involving this Contract, unless the District, on its own initiative, has already rendered a final decision. Seller's written demand shall be fully supported by factual information, and if the demand involves a cost adjustment to the Contract, Seller shall include with the demand a written statement signed by an authorized person indicating that the demand is made in good faith, that the supporting data are accurate and complete and that the amount requested accurately reflects the Contract adjustment for which Seller believes the District is liable.

11.2. Pending the final resolution of any dispute arising under, related to or involving this Contract, Seller agrees to diligently proceed with the performance of this Contract, including the delivery of Goods or providing of services in accordance with the District's instructions. Seller's failure to diligently proceed in accordance with the District's instructions shall be considered a material breach of this Contract.

11.3. Any final decision of the District shall be expressly identified as that, shall be in writing, and shall be signed by the District Superintendent or designee. If the District fails to render a final decision within ninety (90) days after receipt of Seller's demand, it shall be deemed a final decision adverse to Seller's

contentions. The District's final decision shall be conclusive and binding regarding the dispute unless Seller commences an action in a court of competent jurisdiction to contest that decision within ninety (90) days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.

12. Termination.

12.1. **District's Termination for Cause:** If Seller fails to perform the Contract and Seller's duties to the satisfaction of the District, or if Seller fails to fulfill in a timely and professional manner Seller's obligations under this Contract, or if Seller violates any of the terms or provisions of this Contract, the District shall have the right to terminate this Contract effective immediately upon the District giving written notice thereof to the Seller. In the event of this termination, the District may secure the required Goods & Services from another vendor. If the expense, fees, and/or costs to the District exceeds the cost of providing the Goods & Services pursuant to this Contract, the Vendor shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expenses, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

12.2. **District's Termination for Convenience:** District shall also have the right in its sole discretion to terminate the Contract for its own convenience.

12.3. Termination shall have no effect upon any of the rights and obligations of the Parties arising out of any transaction occurring prior to the effective date of termination.

13. Assignment of Contract. Seller shall not assign or transfer in any way any or all of its rights, burdens, duties, or obligations under this Contract without the prior written consent of the District.

14. Time is of the Essence. Time is of the essence in the performance of and compliance with each of the provisions and conditions of this Contract.

15. Delivery and Start-Up Charges.

15.1. Seller is cautioned to bid on the full and complete cost of each item.

15.2. Seller must establish a dedicated project manager to coordinate all aspects of this delivery.

15.3. Seller must coordinate all deliveries with freight carriers, expedite factory ship dates and verify project status with customer two (2) weeks prior to shipment. The District is not responsible to monitor freight deliveries.

15.4. Seller must provide follow-up reports, on a bi-weekly basis, regarding damage replacements, returns, credits and freight claims. Seller is responsible for all freight claim issues. The District is not responsible for any additional charges due to freight damage replacements.

16. Equipment and Labor. Seller shall furnish all tools, equipment, apparatus, facilities, transportation, labor, and material necessary for the Services herein described. The Services are to be performed at the times and places as directed by and subject to the approval of the authorized District representative.

17. Correction of Errors. Seller shall perform, at its own cost and expense and without reimbursement from the District, any work necessary to correct errors or omissions which are caused by the Seller's failure to comply with the standard of care required herein.

18. Safety and Security. Seller is responsible for maintaining safety in the performance of this Contract. Seller shall be responsible for complying with the District's rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.

19. Subcontractors. Any subcontractor engaged by Seller for any service under this Contract, including programming and maintenance services, must be approved by the District. Seller agrees to bind every subcontractor by

the terms of the Contract as far as those terms are applicable to subcontractor's work, including, without limitation, all indemnification, insurance, bond, and warranty requirements. If Seller subcontracts any part of this Contract, Seller shall be fully responsible to the District for acts and omissions of its subcontractor and of persons either directly or indirectly employed by itself. Nothing contained in this Contract shall create any contractual relations between any subcontractor and the District.

20. **Drug-Free/Smoke Free Policy.** No drugs, alcohol and/or smoking are allowed at any time in any buildings and/or grounds on District property. No students, staff, visitors, consultants or contractors are to use drugs on these Sites.
21. **Force Majeure Clause.** Seller shall be excused from performance hereunder during the time and to the extent that it is prevented from obtaining delivery, or performing by act of God, fire, strike, loss, or shortage of transportation facilities, lock-out, commandeering of materials, product, plant, or facilities by the government, when satisfactory evidence thereof is presented to the District, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of Seller.
22. **Indemnification / Hold-Harmless.** To the furthest extent permitted by California law, Seller shall defend, indemnify, and hold harmless the District, its agents, representatives, officers, consultants, employees, and volunteers (the "**indemnified parties**") from any and all demands, losses, liabilities, claims, suits, and actions (the "**claims**") of any kind, nature, and description, including, but not limited to, attorneys' fees and costs, directly or indirectly arising from personal or bodily injuries, death, property damage, or otherwise arising out of, connected with, or resulting from the performance of this Contract unless the claims are caused wholly by the sole negligence or willful misconduct of the indemnified parties. The District shall have the right to accept or reject any legal representation that Seller proposes to defend

the District.

23. **Permits and Licenses.** Seller and all of its employees, agents, and subcontractors shall secure and maintain in force, at Seller's sole cost and expense, all licenses and permits as are required by law, in connection with the furnishing of materials, supplies, or services under the Contract herein listed.
24. **Independent Contractor Status.** While engaged in carrying out the Contract, the Seller is an independent contractor, and shall not be considered an officer, employee, agent, partner, or joint venture of the District. Seller shall be solely responsible for its own Worker's Compensation insurance, taxes, and other similar charges or obligations. Seller shall be liable for its own actions, including its negligence or gross negligence, and shall be liable for the acts, omissions, or errors of its agents or employees.
25. **Anti-Discrimination Policy.** It is the policy of the District that in connection with all work performed under contracts there be no discrimination against any employee engaged in the work because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of any person, and therefore the Seller agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment Practice Act beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, the Seller agrees to require like compliance by all its subcontractor(s).
26. **Compliance with Laws.** Seller shall give all notices and comply with all laws, ordinances, rules and regulations bearing on conduct of the Contract as indicated or specified. If Seller observes that any of the work required by this Contract is at variance with any laws, ordinances, rules or regulations, Seller shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Contract shall be made and this Contract shall be appropriately amended

in writing, or this Contract shall be terminated effective upon Seller's receipt of a written termination notice from the District. If Seller performs any work of the Contract that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Seller shall bear all costs arising therefrom.

- 27. Confidentiality.** Seller shall maintain the confidentiality of all information, documents, programs, procedures, and all other items that Seller encounters while providing the Goods and Services to the extent allowed by law. This requirement shall be ongoing and shall survive the expiration or termination of this Contract and specifically includes all student, parent, and disciplinary information and terms of the simultaneously executed Nondisclosure Agreement by the Parties, incorporated herein by reference.
- 28. Audit.** Seller shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Seller transacted under this Contract. Seller shall retain these books, records, and systems of account during the Contract Time of this Contract and for three (3) years thereafter. Seller shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Goods and Services covered by this Contract. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Seller and shall conduct audit(s) during Seller's normal business hours, unless Seller otherwise consents.
- 29. District's Evaluation of Seller and Seller's Employees and/or Subcontractors.** The District may evaluate the Seller in any manner which is permissible under the law. The District's evaluation may include, without limitation: requesting that District employee(s) evaluate the Seller and the Seller's employees and subcontractors and each of their performance and announced and unannounced

observance of Seller, Seller's employee(s), and/or subcontractor(s).

- 30. Limitation of District Liability.** Other than as provided in this Contract, District's financial obligations under this Contract shall be limited to the payment of the compensation provided in this Contract. Notwithstanding any other provision of this Contract, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Contract for the services performed in connection with this Contract.
- 31. Anti-Trust Claim.** Seller and its subcontractor(s) agree to assign to the District all rights, title, and interest in and to all causes of action they may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Contract or a subcontract. This assignment shall be made and become effective at the time the District tender's final payment to the Seller, without further acknowledgment by the Parties.
- 32. Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the State of California with venue of any action in the county in which the District's administration office is located.
- 33. Provisions Required by Law to be Inserted.** Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and this Contract shall be read and enforced as though it were included therein.
- 34. Binding Contract.** This Contract shall be binding upon the Parties hereto and upon their successors and assigns and shall inure to the benefit of the Parties and their successors and assigns.
- 35. Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and

agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.

36. District Non-Waiver. District's waiver of any term, condition, covenant or waiver of a breach of any term, condition or covenant shall not constitute the waiver of any other term, condition or covenant or the waiver of a breach of any other term, condition or

covenant.

37. Invalid Term. If any provision of this Contract is declared or determined by any court of competent jurisdiction to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining parts, terms and provisions shall not be affected thereby, and said illegal, unenforceable or invalid part, term or provision will be deemed not to be a part of this Contract.