

1. **NAME AND NATURE OF BIDDER'S LEGAL ENTITY** - The bidder shall specify in the bid and in the performance guarantee, if any, the full name and nature of its legal entity and any fictitious name under which it does business. The bid shall be signed under the full legal name by an authorized officer or person. Should a change be contemplated in the name or nature of the Contractor's legal entity, the contractor shall first notify the Contract Section of the District in order that proper steps may be taken to have the change reflected on the contract.

2. **PRICES** - Prices should be typed in duplicate on each item separately, on the units specified in the bid form. Taxes shall not be included (See Paragraph 3). Errors in price may be crossed off and corrections made prior to bid opening and should be initialed in ink by the person signing the bid or the bidder's authorized representative. During the period of deliveries under a contract resulting from this bid a decrease in prices of the items listed shall be made to the District for as long as the lower prices are in effect, but at no time shall the prices charged the District exceed the prices quoted. The District shall be given the lower prices which may (for comparable quality and delivery) be given by the contractor to any other school district or any other State, County, municipal, or local government agency in San Bernardino County of the products listed.

3. **TAXES** - Taxes shall not be included in bid prices (See Par. - 21 Invoices and Payment). The District will pay State Sales and Use Tax and/or the Rialto Uniform Local Sales and Use Tax, if applicable. The Federal Excise Tax is not applicable, as school districts are exempt. New or additional tax not in effect at the time of bid but in effect prior to delivery of merchandise shall be paid by the District.

4. **BRAND NAME AND NUMBER** - If specified by the District, it shall be understood that the bidder is quoting on the exact brand name and number specified. If the bidder desires to bid on an item of equal character and quality, he may offer such substitute item by indicating clearly that such substitution is intended and specify the brand. Such substitution shall be accepted only if deemed by the DISTRICT to be equal in all respects to that specified. If samples are requested by the DISTRICT for this determination, they shall be submitted in accordance with Paragraph 5 except that they may be submitted after bid opening. If not specified by the District, the bidder shall state the brand name and number on his bid.

5. **SAMPLES**-The District may reject the bid of any bidder failing to submit samples as requested. Samples shall be furnished free of cost, and shall be submitted when requested in the bid form before the bid opening to Purchasing Services, 260 S. Willow Ave, Rialto, California 92376 unless otherwise specified. Samples should be plainly marked with the name of bidder, bid number and date of bid opening. Samples of successful bidders may be retained for comparison with deliveries. Other bidders may pick up samples (if not destroyed by test) on notice from the Purchasing Branch. Within 30 calendar days after date of such notice, samples will be disposed of by the District. Supplier (or its agent) assumes all risk of loss or damage to samples.

6. **ACCEPTANCE OR REJECTION OF BIDS** - The District may award a contract on an individual item or combination of items, whichever is to the best interest of the District. A bidder may specify that the District's acceptance of one item shall be contingent upon the District's acceptance of one or more additional items submitted in the same bid. Bids shall remain open and valid for sixty (60) days after the bid opening date unless otherwise stipulated and may be accepted without further written notice by the Board of Education at a public meeting; upon mutual agreement by the District and the Bidder; the sixty (60) day period may be extended. The Bidder may withdraw his Bid at any time before the Bid opening. In compliance with Govt. Code Sections 4330 to 4334, inclusive, fitness and quality being equal, California-made products shall receive preference over materials made elsewhere.

7. **PERFORMANCE GUARANTEE**- A performance guarantee may be required on awards of annual contracts which exceed \$100,000.00.

8. **EXECUTION OF CONTRACT** -The successful bidder, who shall be called the contractor, shall sign the contract, and bond, if any, have the bond executed by a surety satisfactory to the District and return the contract and bond to the District Purchasing Department within ten (10) days after receipt of the contract.

9. **DELIVERY**- The District reserves the right to designate the carrier when the terms agreed upon are FOB origin, freight shipped collect, FOB destination and the carrier selected by the vendor does not meet the standards of the District. Vendors who fail to adhere to shipping terms as specified on our purchase order or a written agreement will have all additional costs deducted from their invoices. Each item shall be securely and properly packed and clearly marked as to contents. All shipments shall be accompanied by two (2) packing slips, and where practicable the District purchase order number shall appear on all cases and packages. NOTE: Failure to include the purchase order number on the packing slips or freight bill may result in refusal of delivery.

10. **QUANTITY AND QUALITY OF MATERIALS OR SERVICES**-The successful bidder shall furnish and deliver the quantities designated by the DISTRICT. All materials, supplies or services furnished under the contract shall be in accordance with the District specifications, or the sample furnished by the bidder and accepted by the District. Materials or supplies which, in the opinion of the Purchasing Agent, are not in accordance and conformity with such specifications shall be rejected and promptly removed from the District premises at the contractor's expense. When a sample is taken from a shipment and sent to a laboratory for test and the test shows that the sample does not comply with the specifications or contract sample, the cost of such tests shall be paid by the contractor.

11. **DEFAULT BY CONTRACTOR**- The District shall hold the contractor liable and responsible for all damages which may be sustained because of the failure or neglect of the contractor to comply with any term or condition listed. If the contractor fails or neglects to furnish or deliver any of the materials, supplies or services listed herein at the prices named and at the time and places herein stated or otherwise fails or neglects to comply with the terms of the contract. the District may, upon written notice to the contractor, cancel the contract in its entirety, or cancel any or all items affected by such default; and may, whether or not the contract is cancelled in whole or in part, purchase the materials, supplies or services elsewhere without notice to the contractor. The prices paid by the District at the time such purchases are made shall be considered the prevailing market prices. Any extra costs incurred by such default may be collected by the District from the contractor and the performance guarantee, if any.

12. **DISTRICT REQUIREMENTS** - The quantity shown for each item is an estimate of the District's needs for the contract period and is for information only. The District may order substantially more or less than these quantities. The contractor will be afforded the option by giving written notice to the District of refusing to delivery in excess of 25% over the quantity for each item. Refusal to delivery shall serve to terminate the item from the contract and the District reserves the right to terminate the entire contract when 50% of the contract line items have been terminated. The articles, supplies, or services listed on the contract and required during the contract period shall be ordered and purchased from the contractor during such period. The District shall have the right to issue purchase orders up to and including the last day of the contract period even though the time provided for delivery may extend beyond such period. The District reserves the right to acquire from other sources during the life of the contract such items as may be required for testing, evaluation, or experimental purposes, or for special programs of an emergency nature, and purchases made by individual schools.

13. **CONTRACT DOCUMENTS** - The complete contract includes the following documents: The advertisement for bids (if any), the bid and general contract conditions, the specifications and drawings, the bid of the contractor and its acceptance by the District, the contract, the performance bond and all amendments thereto. Any of these documents shall be interpreted to include all provisions of the other documents as though fully set out therein.

14. **ASSIGNMENT OF CONTRACT** - The supplier shall not assign or transfer any or all of its rights, burdens, duties or obligations without the prior written consent of the surety, if any, and the District.

15. **FORCE MAJEURE CLAUSE** - The parties to the contract shall be excused from performance there under during the time and to the extent that they are prevented from obtaining, delivering or performing by Act of God, fire, strike, loss or shortage of transportation facilities, lockout, or commandeering of materials, products, plants or facilities by the government; when satisfactory evidence thereof is presented to the other party, that satisfactorily establishes that the nonperformance is not due to the fault or neglect of the party not performing.

16. **HOLD HARMLESS CLAUSE** - The contractor shall hold harmless and indemnify the District and the Rialto Unified School District Board of Education, its officers and employees, from every claim or demand which may be made by reason of:
(a) Any injury to person or property sustained by the contractor or by any person, firm or corporation, employed directly or indirectly by it upon or in connection with its performance under the contract, however caused;
(b) Any injury to person or property sustained by any person, firm or corporation, caused by any act of the contractor or of any person, firm or corporation, directly or indirectly employed by it upon or in connection with its performance under the contract and
(c) Any liability that may arise from the furnishing or use of any copyrighted or un-copyrighted composition, secret process or patented or unpatented invention, under this contract. The contractor at its own expense and risk shall defend any legal proceedings that may be brought against the District or the Board, its officers or employees, on any such claim or demand, and satisfy any judgment that may be rendered against any of them.

17. **INSURANCE** - The contractor shall maintain insurance adequate to protect it from claims under Worker's Compensation Acts, and from claims, for damages for personal injury including, death, and damage to property, which may arise from operations under the contract. The contractor may be required to file with the District certificates of such insurance. Failure to furnish such evidence, if required, may be considered default by the contractor.

18. **PERMITS AND LICENSES** - The contractor and all of his employees or agents shall secure and maintain in force such licenses and permits as are required by law, in connection with the furnishing of materials, articles or services herein listed. All operations and materials shall be in accordance with law.

19. **TOLL CHARGES** - If it is necessary, that the District place toll or long distance telephone calls in connection therewith (for complaints, adjustments, shortages, failure to deliver, etc.), the contractor shall accept all charges for such calls on a reverse charge basis.

20. **INVOICES AND PAYMENT**- Unless otherwise specified, the supplier shall render invoices in duplicate for materials delivered or services performed under the purchase order, to the Accounts Payable Department of Fiscal Services of the District, 182 E. Walnut Ave, Rialto, California 92376. Invoices shall be submitted immediately in a form acceptable to the District, under the same firm name as shown on the purchase order. The supplier shall list separately any taxes payable by the District and shall certify on the invoice that the Federal Excise Tax is not included in the prices listed thereon. The District shall make payment for materials, supplies, or services furnished under the purchase order within a reasonable and proper time after acceptance thereof and approval of the invoice by the authorized District Representative. LATE PAYMENTS SHALL NOT CONSTITUTE A BREACH UNDER SECTIONS 3287 AND 3289 OF THE CIVIL CODE.

"SETOFF" - In any contract or purchase order resulting from this bid, the District will reserve the right to withhold payment as a set-off against amounts due or to become due to the District resulting from any other contracts or purchase orders entered into with the same contractor.

CASH DISCOUNTS - All Cash Discounts shall be taken and computed from the date of delivery of acceptable material or the date of the receipt of the invoice, whichever is the latter.

21. **CONTRACTOR NOT OFFICER, EMPLOYEE OR AGENT OF DISTRICT**- While engaged in carrying out the terms and conditions of the contractor, the contractor is an independent contractor, and not an officer, employee or agent of the District.

22. **FAIR EMPLOYMENT PRACTICES** - In the performance of this contract, the contractor will not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex, age, handicap or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, ancestry, sex, age, handicap, or national origin. Such action shall include, but not be limited to the following: Employment, Promotion, Demotion, or Transfer, Recruitment of Recruitment Advertising; Layoff or Termination; Rates of Pay or other forms of compensation; and Selection for Training, including Apprenticeship. The contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this fair employment practices section.

The contractor will permit access to his records of employment, employment advertisements, application forms, and other pertinent information and records by the Affirmative Action/Title IX Programs Section for the purposes of investigation to ascertain compliance with the Fair Employment Practices Section of this contract.

WILLFUL VIOLATION: The District may determine a willful violation of the Fair Employment Practices provision to have occurred upon receipt of a final judgment having that effect from a court in an action to which contractor was a party, or upon receipt of a written notice from the Department of Fair Employment and Housing that it has investigated and determined that the contractor has violated the fair employment practices act and has issued an order, under Labor Code Section 1426, which has become final, or obtained an injunction under Labor Code Section 1426.

For willful violation of this Fair Employment Practices Provision, the District shall have the right to terminate this contract either in whole or in part and any loss or damage sustained by the District in securing the goods or services hereunder the performance bond, if any, and the District may deduct from any monies due or that hereafter may become due to the contractor, the difference between the price named in the contract and the actual cost thereof of the District.

23. **CALIFORNIA LAW** - This agreement is to be construed and interpreted in accordance with California Law. With respect to statutory references that may be set forth in the purchase order documents, the District has attempted to the best of its ability to have such reference accurate and current. Because of the possibility of legislative changes, not reflected herein, however, bidders are hereby expressly informed that all statutory references may be subject to change or renumbering and that the contract will be deemed to incorporate and follow the specific statutes referred to herein, as amended, revised, or renumbered.

24. **AWARD OF CONTRACT** - If an award is made on a bid, the contract will be awarded according to the authority granted the Board of Education of the Rialto Unified School District under California law (e.g. the Public Contract Code, Education Code, and Government Code). Ordinarily contracts are awarded to the lowest responsible bidder. However, certain statutes (e.g. Education Code Sections 39645 and 39802) authorize award for certain contracts to other than the lowest responsible bidder, at the discretion of the Board of Education. The Board of Education reserves the right to award in accordance with fullest authority granted it under State law. Moreover, certain contracts are designed to be awarded to the lowest or best bidder on specific items or parts. In such situations, this intention is delineated in the bid documents. Bidder is cautioned and urged to pay specific attention to all the terms and conditions in the bid documents to such award (and all other matters)

25. **DISTRICT NAME MAY NOT BE USED**-The name and/or logo of the District or any school of the District may not be used in any advertisements of other communications which may convey the impression that the District authorizes the solicitation and/or that there may be some connection between the District and the contractor.