

**CALIFORNIA SCHOOL BOARDS ASSOCIATION
AGENDA ONLINE "PREMIUM"
SERVICE AGREEMENT**

This Agreement is entered into by and between the California School Boards Association ("CSBA") and Martinez USD of Martinez, California ("Licensee") for the use of CSBA's Agenda Online platform in accordance with the terms and conditions contained herein. This Agreement shall be effective on the date executed by Licensee.

1. Term and Renewal. CSBA shall provide the services described in this Agreement for a two (2) year period from July 1, 2018 to June 30, 2020. THIS AGREEMENT MAY BE RENEWED ANNUALLY THEREAFTER BY LICENSEE PAYING TO CSBA THE AMOUNT SET FORTH IN THE RENEWAL NOTICE/INVOICE SENT BY CSBA TO LICENSEE NO LATER THAN 60 DAYS PRIOR TO THE EXPIRATION DATE OF THIS AGREEMENT.

2. Grant of License. CSBA hereby grants Licensee a non-exclusive, non-transferable use license to the Premium version of CSBA's Agenda Online, a web-based application that enables Licensee to create board meeting agendas, attach or link supporting documents, record minutes and publish these items on the web for public viewing. This license is a non-perpetual license that must be renewed in accordance with the terms of this Agreement. Licensee is authorized to use Agenda Online in executable format for its own use, subject to the terms and conditions of this Agreement. All rights not specifically granted to Licensee by this Agreement are reserved to CSBA.

3. Fees. For the license and the training and support services received pursuant to this Agreement, Licensee agrees to pay an annual fee, which as of the date of this Agreement is \$6,000. Provided however that, for being an Agenda Online client prior to January 1, 2018, Licensee shall receive the license at a promotional rate of \$2750 for the first year (July 1, 2018 – June 30, 2019) and for free for the second year (July 1, 2019 – June 30, 2020). To renew this Agreement thereafter, Licensee shall pay the full annual fee of \$6,000 or other amount then in force.

Licensee shall pay all invoices in full upon receipt. Licensee shall also pay any applicable fees, federal, state, provincial or local taxes that may apply to the use of the Agenda Online platform or application, or any maintenance or support services provided by CSBA pursuant to this Agreement. CSBA reserves the right to withhold or cancel access to Agenda Online if said fees are not paid within 60 days of Licensee's receipt of an invoice from CSBA.

4. Agenda Online User Accounts. Licensee is authorized to create an unlimited number of user accounts for its employees and officers, not more than two of whom shall be designated "Meeting Managers" to manage the creation, uploading, and publishing of meeting agendas, minutes and related documents on behalf of Licensee's governing body or any related committee or subcommittee.

Licensee is responsible for creating user accounts, determining access levels for each user, and informing all users of their obligations and responsibilities pursuant to this Agreement, including, but not limited to, maintenance of CSBA's trade secrets and proprietary rights and obligations. Licensee shall take reasonable measures to prevent unauthorized access to Agenda Online, including protecting its passwords and other log-in information.

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5. Training and Technical Support. Upon receipt of this signed Agreement, CSBA will contact Licensee to begin development of Licensee's Agenda Online site and to schedule training. Licensee may access online training webcasts and videos through CSBA's website. CSBA will also provide one (1) day of in-person training at Licensee's facility. CSBA may, upon request, provide additional customized training online at a rate of \$75 per hour, or in-person at a rate of \$500 per day. Additional training will be billed upon completion. CSBA will provide timely support to Licensee for the Agenda Online service. CSBA shall not be responsible for supporting third party software applications installed on Licensee's computers.

6. Proprietary Rights. Licensee acknowledges that the Agenda Online source code is confidential and constitutes a trade secret and proprietary information of CSBA. Licensee has a right to access Licensee's information hosted or stored on Agenda Online, but acknowledges and agrees that it holds no proprietary rights related to the Agenda Online software or application. Agendas and supporting documents created by Licensee on or uploaded to Agenda Online belong to Licensee, and Licensee may use them as it sees fit, subject to applicable state and federal law and local policy. Licensee agrees not to: (a) copy, (b) duplicate, (c) reverse engineer, (d) decompile, (e) decode, (f) decrypt, (g) disassemble, (h) record, (i) alter, (j) merge, (k) adapt, (l) translate, (m) create any derivative works, or (n) otherwise reproduce any part of Agenda Online or authorize or attempt to do any of the foregoing. Licensee agrees not to sell, rent, license, distribute, transfer, directly or indirectly permit the sale, rental, licensing, distribution, use or transfer of the license or any right granted thereby, including permitting the use or dissemination of documentation related to Agenda Online, to any other party, either during the term of this Agreement or at any time thereafter.

7. Data and Records. CSBA has no responsibility or liability for the accuracy of documents, data, or information uploaded to Agenda Online or processed by Agenda Online users. For the duration of this Agreement, CSBA agrees to take reasonable steps to preserve and protect Licensee information uploaded to Agenda Online. For as long as Licensee continues to subscribe to Agenda Online, CSBA agrees to store each of Licensee's uploaded agendas and supporting documents for a period of up to 20 years.

Licensee acknowledges that the cost of storing Licensee's documents, data, and information is beyond CSBA's control. CSBA reserves the right to adjust pricing to reflect Licensee's storage requirements.

CSBA may delete all of Licensee's stored information ninety (90) days after the termination of this Agreement.

Licensee acknowledges that documents, data, and information uploaded to Agenda Online are not the official Licensee record. Licensee also acknowledges its responsibility to create an archive of such materials when Licensee desires them to serve as official Licensee records. Licensee agrees not to hold CSBA liable for any damage to, any deletion of, or any failure to store Licensee's information.

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CSBA is not the custodian of Licensee's records for any purpose, and will direct any third party request for Licensee's information or records to Licensee. In the event Licensee records are requested pursuant to a lawfully issued subpoena or court order, to the extent possible, CSBA agrees to inform Licensee prior to responding.

Notwithstanding the provisions of this Agreement, CSBA may access, compile, record and/or distribute statistical analyses and reports utilizing aggregated data derived from information and data related to Licensee's use of Agenda Online.

8. Warranty. CSBA warrants that Agenda Online will work in substantial accordance with purposes expressed in the Grant of License clause above. CSBA provides no other warranty of any kind, either express or implied, including, but not limited to, the implied warranties of merchantability, satisfactory quality, accuracy, and fitness for a particular purpose. Licensee assumes all responsibility to provide and upgrade any hardware, computer operating system and/or software required to access Agenda Online. CSBA does not warrant that functions contained in Agenda Online will meet Licensee's business requirements or that the operation of the service will be uninterrupted or error free.

9. Limit of Liability. In the event of a breach of this Agreement or the warranty stated above, Licensee's damages shall be limited to the annual fee paid by Licensee. In no event shall CSBA be liable for any consequential damages (including damages for loss of profits and/or savings, business interruption, loss of business information or other pecuniary losses) arising from the use or inability to use the Agenda Online service.

10. Termination. This Agreement may be terminated by either party by giving the other party 60 days written notice. CSBA may also terminate this Agreement if Licensee breaches any provision of this Agreement. If termination results from Licensee's breach or request the annual fee paid by Licensee will not be refunded by CSBA. Termination for Licensee's breach shall not alter or affect CSBA's right to exercise any other remedies available in law or equity for the breach.

11. Compliance with Laws. Licensee is solely responsible for complying with state and federal laws, including the Americans with Disabilities Act of 1990 and those laws pertaining to open meetings and public information, including, but not limited to, the Ralph M. Brown Act and the California Public Records Act.

12. Indemnification and Duty to Defend. Except as otherwise provided in this Agreement, each party shall indemnify, defend, and hold harmless the other party, and its directors, officers, employees, agents and representatives, from and against any and all liabilities, obligations, losses, damages, penalties, fines, claims, actions, suits, costs and expenses, (including legal fees and expenses) of any kind whatsoever imposed on, asserted against, incurred or suffered by the other party, or its directors, officers, employees, agents or representatives by reason of damage, loss or injury (including death) to persons or property resulting in any way from (a) any negligent or intentional act by it or any of its directors, officers, employees, agents or representatives in its or their performance of Services hereunder; or (b) any neglect, omission or failure to act when under

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a duty to act on its part or the part of any of its directors, officers, employees, agents or representatives in its or their performance of Services hereunder.

It is expressly understood and agreed that in any third party action to obtain Licensee's records from CSBA which is opposed by Licensee, any cost to CSBA in opposing the request, including, but not limited to, attorney's fees and costs, shall be paid by Licensee. It is also expressly understood and agreed that no personal liability whatsoever shall attach to any member of CSBA's Board of Directors, or to any of the officers, employees, agents or representatives thereof, by virtue of this Agreement.

13. Third Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than CSBA and Licensee.

14. Modification. The scope of work and any other terms of this Agreement may be modified only by a written agreement signed by both parties.

15. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

16. Entire Agreement. This Agreement constitutes the entire agreement and understanding of the parties. There are no oral understandings or other terms or conditions as regards to the subject matter hereof and neither party has relied upon any representation, express or implied, that are not otherwise contained in this Agreement. This Agreement supersedes all prior understandings, whether written or oral, and any such terms or conditions are deemed merged into this Agreement.

IN WITNESS WHEREOF, the parties do hereby certify that they are duly authorized to execute this Agreement.

"CSBA"

"LICENSEE"

**California School Boards Association
(Federal Tax ID: 94-1510492)**

Martinez USD

By: _____
Signature

By: _____
Signature

Robert Tuerck
Assistant Executive Director,
Policy and Governance Technology Services

Name (print)

Title of Official

AGREEMENT FOR SERVICES

THIS CONTRACT is made and entered into this 15th day of March, 2018, by and between Martinez Sheet Metal, Inc. ("Contractor") and Martinez Unified School District ("District") ("Contract").

1. The Contractor shall furnish to the District for a total price of Thirty Five Thousand Seven Hundred Twenty Six and 00/100 Dollars (\$35,726.00) ("Contract Price"), the following services ("Services" or "Work")

Alhambra High School Ventilator Replacement for H201, H202, and H203 Project

2. Contractor shall perform the Work at Alhambra High School, 150 E Street, Martinez, CA 94553 ("Site"). The Project is the scope of Work performed at the Site.

Project consists of removal of the three (3) mechanical console units, and the installation of the new District provided mechanical units at Alhambra High School.

3. Work shall be completed within Thirty (30) consecutive calendar days ("Contract Time") from the date specified in the District's Notice to Proceed, pending receipt of the units by the District.
4. Contractor agrees that if the Work is not completed within the Contract Time and/or pursuant to the completion schedule, construction schedule, or project milestones developed pursuant to provisions of the Contract, it is understood, acknowledged, and agreed that the District will suffer damage which is not capable of being calculated. Pursuant to Government Code section 53069.85, Contractor shall pay to the District, as fixed and liquidated damages for these incalculable damages, the sum of one thousand Dollars (\$1,000.00) per day for each and every calendar day of delay beyond the Contract Time or beyond any completion schedule, construction schedule, or project milestones established pursuant to the Contract.

5. The Contract Documents include the following documents, as indicated:

<input checked="" type="checkbox"/> Proposal dated 3/14/18, Attachment "A"	<input checked="" type="checkbox"/> Drug-Free Workplace Certification
<input checked="" type="checkbox"/> Performance Bond	<input checked="" type="checkbox"/> Tobacco-Free Environment Certification
<input checked="" type="checkbox"/> Payment Bond	<input checked="" type="checkbox"/> Asbestos & Other Hazardous Materials Certification
<input checked="" type="checkbox"/> Noncollusion Declaration	<input checked="" type="checkbox"/> Lead-Product(s) Certification
<input checked="" type="checkbox"/> Prevailing Wage Certification	<input checked="" type="checkbox"/> Imported Materials Certification
<input checked="" type="checkbox"/> Workers' Compensation Certification	<input checked="" type="checkbox"/> Insurance Certificates and Endorsements
<input checked="" type="checkbox"/> Criminal Background Investigation Certification	

6. Contractor shall not commence the Work under this Contract until the Contractor has submitted and the District has approved the performance bond, payment (labor and material) bond, the certificate(s) and affidavit(s), and the endorsement(s) of insurance required under the Terms and Conditions and the District has issued a Notice to Proceed.
7. Payment for the Work shall be made in accordance with the Terms and Conditions.
8. The Architect for the Project is the District ("Architect"), the project manager on the Project is Jon Novero, RGM and Associates ("Project Manager"), and the project inspector on the Project is the District ("Project Inspector"). Contractor hereby acknowledges that the Architect, the Project Manager, and the District have authority to approve and/or stop Work if the Contractor's Work does not comply with the requirements of the Contract Documents, Title 24 of the California Code of Regulations, and all applicable laws. No work shall be carried on except with the knowledge and under the inspection of said Project Inspector. Project Inspector shall have free access to any or all parts of work at any time. Contractor shall furnish Project Inspector reasonable opportunities for obtaining such information as may be necessary to keep Project Inspector fully informed respecting progress, manner of work, and character of materials. The Contractor shall be liable for any delay caused by its non-compliant Work or its failure to provide proper notification for inspection.

9. Inspection and acceptance of the Work shall be performed by the Facilities and Maintenance Department of the District.
10. Any notice required or permitted to be given under this Contract shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

District

Martinez Unified School District
ATTN: Joe Schoenstein
921 Susana Street, Martinez, CA 94553
Phone: 925-335-5800 / Fax: 925-335-5961

Contractor

Martinez Sheet Metal, Inc.
ATTN: Dave Foster
4040 Pacheco Blvd., Martinez, CA 94553
Phone: 925-228-3380 / Fax: 925-228-3382

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

11. Contractor shall guarantee all labor and material used in the performance of this Contract for a period of one year from the date of the District's written approval of the Work.
12. This Contract incorporates by this reference the Terms and Conditions attached hereto. Contractor, by executing this Contract, agrees to comply with all the Terms and Conditions.
13. Each party has the full power and authority to enter into and perform this Contract, and the person signing this Contract on behalf of each party has been properly authority and empowered to enter into this Contract.
14. By signing this Contract, Contractor certifies, under penalty of perjury, that all the information provided in the Contract Documents is true, complete, and correct.

ACCEPTED AND AGREED on the date indicated below:

Dated: _____, 2018

Martinez Unified School District

Signature: _____

Print Name: _____

Print Title: _____

Address: 921 Susana Street, Martinez, CA 94553

Telephone: 925-335-5800

Facsimile: 925-335-5961

E-Mail: _____

Dated: _____, 2018

Contractor: Martinez Sheet Metal, Inc.

Signature: _____

Print Name: Dave Foster

Print Title: President

License No.: 222277

Registration No.: 1000004071

Address: 4040 Pacheco Blvd., Martinez, CA 94553

Telephone: 925-228-3380

Facsimile: 925-228-3382

E-Mail: dfoster@martinezsheetmetal.com

Information regarding Contractor:

Type of Business Entity:

☐ Individual

☐ Sole Proprietorship

☐ Partnership

☐ Limited Partnership

☒ Corporation, State: CA

☐ Limited Liability Company

☐ Other: _____

94-1565727 :

Employer Identification and/or
Social Security Number

NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of \$600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, the District requires the Contractor to furnish the information requested in this section.

TERMS AND CONDITIONS TO CONTRACT

1. **NOTICE TO PROCEED:** District shall provide a Notice to Proceed to Contractor pursuant to the Contract at which time Contractor shall proceed with the Work.
2. **STANDARD OF CARE:** Contractor shall perform, diligently prosecute and complete the Work in a good and workmanlike manner within the Contract Time, and in strict conformity with all Contract Documents.
3. **SITE EXAMINATION:** Contractor has examined the Site and certifies that it accepts all measurements, specifications and conditions affecting the Work to be performed at the Site. By submitting its quote, Contractor warrants that it has made all Site examination(s) that it deems necessary as to the condition of the Site, its accessibility for materials, workers and utilities, and Contractor's ability to protect existing surface and subsurface improvements. No claim for allowance of time or money will be allowed as to any other undiscovered condition on the Site.
4. **PERMITS, LICENSES AND REGISTRATION:** Contractor and all of its employees, agents, and subcontractors shall secure and maintain in force, at Contractor's sole cost and expense, all licenses, registration and permits as are required by law, in connection with the furnishing of materials, supplies, or services herein listed.
5. **LABOR, MATERIALS AND EQUIPMENT:** Contractor shall furnish all tools, equipment, apparatus, facilities, transportation, labor, and material necessary to furnish the services herein described, the services to be performed at such times and places as directed by and subject to the approval of the authorized District representative indicated in the Work specifications attached hereto. Unless otherwise specified, all materials shall be new and previously unused, and of the manufacturer's latest model or the best of their respective kinds and grades as noted or specified, and workmanship shall be of good quality.
6. **SUBSTITUTIONS:** No substitutions of material from those specified in the Work Specifications shall be made without the prior written approval of the District. Contractor shall be responsible for any re-design costs occasioned by District's acceptance and/or approval of any substitute, as well as any costs that the District incurs for professional services, including DSA fees. District may deduct those costs from any amounts owing to Contractor for the review of the request for substitution, even if the request for substitution is not approved. Contractor shall, in the event that a substitute is less costly than that specified, credit the District with one-hundred percent (100%) of the net difference between the substitute and the originally specified material.
7. **INDEPENDENT CONTRACTOR STATUS:** While engaged in carrying out the Services of this Contract, the Contractor is an independent contractor, and not an officer, employee, agent, partner, or joint venture of the District. Contractor shall be solely responsible for its own Worker's Compensation insurance, taxes, and other similar charges or obligations. Contractor 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.
8. **CONTRACTOR SUPERVISION:** Contractor shall provide competent supervision of personnel employed on the job Site, use of equipment, and quality of workmanship.
9. **WORKERS:** Contractor shall at all times enforce strict discipline and good order among its employees and the employees of its subcontractors and shall not employ or work any unfit person or anyone not skilled in work assigned to him or her. Any person in the employ of the Contractor or a subcontractor whom the District may deem incompetent or unfit shall be dismissed from the Site and shall not again be employed at Site without written consent from the District.
10. **SUBCONTRACTORS:** Subcontractors, if any, engaged by the Contractor for any Service or Work under this Contract shall be subject to the approval of the District. Contractor agrees to bind every subcontractor by the terms of the Contract as far as such terms are applicable to subcontractor's work, including, without limitation, all registration, indemnification, insurance, bond, and warranty requirements. If Contractor shall subcontract any part of this Contract, Contractor 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 the Contract Documents shall create any contractual relations between any subcontractor and the District.
11. **SAFETY AND SECURITY:** Contractor is responsible for maintaining safety in the performance of this Contract. Contractor shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.
12. **LEAD-BASED PAINT:** Pursuant to the Lead-Safe Schools Protection Act (Education Code Section 32240 et seq.) and other applicable law, no lead-based paint, lead plumbing and solders, or other potential sources of lead

contamination shall be utilized on this Project, and only trained and state-certified contractors, inspectors and workers shall undertake any action to abate existing risk factors for lead. Pursuant to the Renovation, Repair and Painting Rule (title 40 of the Code of Federal Regulations part 745 (40 CFR 745)), all contractors who disturb lead-based paint in a six-square-foot area or greater indoors or a 20-square-foot area outdoors must be trained by an EPA-accredited provider and certified by the EPA. Contractor must execute the Lead-Based Paint Certification, if applicable.

13. **CLEAN UP:** Debris shall be removed from the Site. The Site shall be in order at all times when work is not actually being performed and shall be maintained in a reasonably clean condition.
14. **PROTECTION OF WORK AND PROPERTY:** Contractor shall erect and properly maintain at all times, as required by conditions and progress of the Work, all necessary safeguards, signs, barriers, lights, and security persons for protection of workers and the public, and shall post danger signs warning against hazards created by the Work. In an emergency affecting life and safety of life or of Work or of adjoining property, Contractor, without special instruction or authorization from District, is permitted to act at his discretion to prevent such threatened loss or injury.
15. **FORCE MAJEURE:** The Contractor 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, products, plants, 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 the Contractor.
16. **CORRECTION OF ERRORS:** Contractor 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 Contractor's failure to comply with the standard of care required herein.
17. **DISTRICT'S RIGHT TO PERFORM WORK:** If the Contractor should neglect to prosecute the Work properly or fail to perform any provisions of this Contract, the District, after **FORTY-EIGHT (48)** hours written notice to the Contractor, may make good such deficiencies, without prejudice to any other remedy it may have, including but not limited to the District hiring its own forces or another contractor to replace the Contractor's nonconforming Work, in which case the District shall either issue a deductive Change Order, a Construction Change Directive, or invoice the Contractor for the cost of that work. Contractor shall pay any invoices within thirty (30) days of receipt of same or District may withhold those amounts from payment(s) to Contractor.
18. **ACCESS TO WORK:** District representatives, Architect, and Project Inspector shall at all times have access to the Work wherever it is in preparation or in progress. Contractor shall provide safe and proper facilities for such access.
19. **OCCUPANCY:** District reserves the right to occupy buildings at any time before formal Contract completion and such occupancy shall not constitute final acceptance or approval of any part of the Work covered by this Contract, nor shall such occupancy extend the date specified for completion of the Work.
20. **PAYMENT:** On a monthly basis, Contractor shall submit an application for payment based upon the estimated value for materials delivered or services performed under the Contract as of the date of submission ("Application for Payment"). Within thirty (30) days after District's approval of the Application for Payment, Contractor shall be paid a sum equal to ninety-five percent (95%) of the value of the Work performed (as verified by Architect and Inspector and certified by Contractor) up to the last day of the previous month, less the aggregate of previous payments and amount to be withheld. The District may withhold or deduct from any payment an amount necessary to protect the District from loss because of: (1) liquidated damages which have accrued as of the date of the application for payment; (2) any sums expended by the District in performing any of Contractor's obligations under the Contract which Contractor has failed to perform or has performed inadequately; (3) defective Work not remedied; (4) stop payment notices as allowed by state law; (5) reasonable doubt that the Work can be completed for the unpaid balance of the Total Contract price or by the scheduled completion date; (6) unsatisfactory prosecution of the Work by Contractor; (7) unauthorized deviations from the Contract; (8) failure of the Contractor to maintain or submit on a timely basis proper and sufficient documentation as required by the Contract or by District during the prosecution of the Work; (9) erroneous or false estimates by the Contractor of the value of the Work performed; (10) any sums representing expenses, losses, or damages, as determined by the District, incurred by the District for which Contractor is liable under the Contract; and (11) any other sums which the District is entitled to recover from Contractor under the terms of the Contract or pursuant to state law, including section 1727 of the California Labor Code. The failure by the District to deduct any of these sums from a progress payment shall not constitute a waiver of the District's right

to such sums. The District shall retain 5% from all amounts owing as retention. Retention shall be paid pursuant to Public Contract Code sections 7107, 7200 and 7201.

21. **CHANGE IN SCOPE OF WORK:** Any change in the scope of the Work, method of performance, nature of materials or price thereof, or any other matter materially affecting the performance or nature of the Work shall not be paid for or accepted unless such change, addition, or deletion is approved in advance and in writing by a valid change order executed by the District. Contractor specifically understands, acknowledges, and agrees that the District shall have the right to request any alterations, deviations, reductions, or additions to the Project or Work, and the cost thereof shall be added to or deducted from the amount of the Contract Price by fair and reasonable valuations. Contractor also agrees to provide the District with all information requested to substantiate the cost of the change order and to inform the District whether the Work will be done by the Contractor or a subcontractor. In addition to any other information requested, Contractor shall submit, prior to approval of the change order, its request for a time extension (if any), as well as all information necessary to substantiate its belief that such change will delay the completion of the Work. If Contractor fails to submit its request for a time extension or the necessary supporting information, it shall be deemed to have waived its right to request such extension.
22. **INDEMNIFICATION:** To the furthest extent permitted by California law, Contractor shall defend, indemnify, and hold harmless the District, their 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 or active negligence or willful misconduct of the indemnified parties. The District shall have the right to accept or reject any legal representation that Contractor proposes to defend the District.
23. **PAYMENT BOND AND PERFORMANCE BOND:** Contractor shall not commence the Work until it has provided to the District, in a form acceptable to the District, a Payment (Labor and Material) Bond and a Performance Bond, each in an amount equivalent to one hundred percent (100%) of the Contract Price issued by a surety admitted to issue bonds in the State of California and otherwise acceptable to the District.
24. **CONTRACTOR'S INSURANCE:**

24.1 The Contractor shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

Type of Coverage	Minimum Requirement
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments Each Occurrence General Aggregate	 \$ 1,000,000 \$ 2,000,000
Automobile Liability Insurance - Any Auto Each Occurrence General Aggregate	 \$ 1,000,000 \$ 2,000,000
Workers Compensation	Statutory Limits
Employer's Liability	\$ 1,000,000

- 24.1.1 **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect the Contractor, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)
- 24.1.2 **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, the Contractor shall be required to secure workers' compensation coverage for its employees.

If any class of employee or employees engaged in performing any portion of the Services under this Contract are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

- 24.2 **Proof of Carriage of Insurance.** The Contractor shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:
- 24.2.1 A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."
- 24.2.2 Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.
- 24.2.3 An endorsement stating that the District and its Governing Board, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Contractor's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.
- 24.2.4 All policies except the Professional Liability, Workers' Compensation Insurance, and Employers' Liability Insurance Policies shall be written on an occurrence form.
- 25 **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the District.
- 26 **WARRANTY/QUALITY:** Unless a longer warranty is called for elsewhere in the Contract Documents, the Contractor, manufacturer, or their assigned agents shall guarantee the workmanship, product or service performed against defective workmanship, defects or failures of materials for a minimum period of one (1) year from filing the Notice of Completion with the county in which the Site is located. All workmanship and merchandise must be warranted to be in compliance with applicable California energy, conservation, environmental, and educational standards.
- 27 **CONFIDENTIALITY:** The Contractor shall maintain the confidentiality of all information, documents, programs, procedures, and all other items that Contractor encounters while performing the Contractor's Work 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.
- 28 **LIMITATION OF DISTRICT LIABILITY.** 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.
- 29 **COMPLIANCE WITH LAWS:** Contractor shall give all notices and comply with all laws, ordinance, rules and regulations bearing on conduct of the Work as indicated or specified. If Contractor observes that any of the Work required by this Contract is at variance with any such laws, ordinance, rules or regulations, Contractor shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be terminated effective upon Contractor's receipt of a written termination notice from the District. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Contractor shall bear all costs arising therefrom.
- 30 **LABOR CODE REQUIREMENTS:** The Contractor shall comply with all applicable provisions of the California Labor Code, Division 3, Part 7, Chapter 1, Articles 1 – 5, including, without limitation, the payment of the general prevailing per diem wage rates for public work projects of more than one thousand dollars

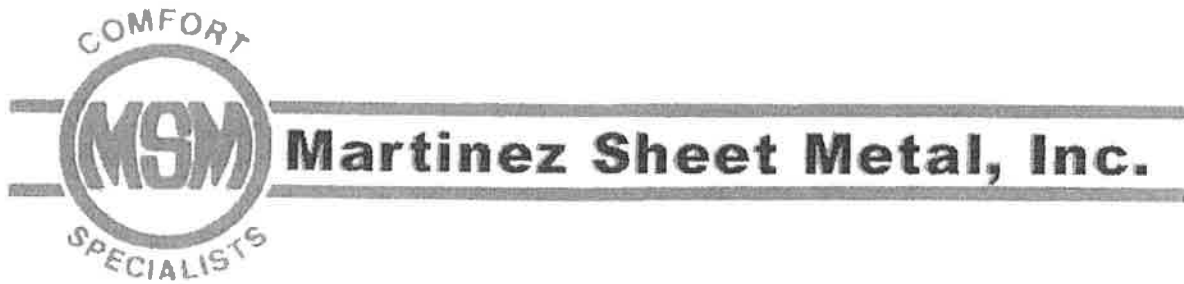
(\$1,000). Copies of the prevailing rate of per diem wages are on file with the District. In addition, the Contractor and each subcontractor shall comply with Chapter 1 of Division 2, Part 7 of the California Labor Code, beginning with Section 1720, and including Section 1735, 1777.5 and 1777.6, forbidding discrimination, and Sections 1776, 1777.5 and 1777.6 concerning the employment of apprentices by Contractor or subcontractors. Willful failure to comply may result in penalties, including loss of the right to bid on or receive public works contracts.

- 30.1 **Certified Payroll Records:** Contractor and its subcontractor(s) shall keep accurate certified payroll records of workers using the Public Works Payroll Reporting Form, including the certification (DIR Form A-1-131 or current version) and shall electronically submit certified payroll records directly to the Labor Commissioner weekly and within ten (10) days of any request by the District or the Labor Commissioner.
- 30.2 **Labor Compliance:** Contractor shall perform the Work of the Project while complying with all the applicable regulations, including section 16000, et seq., of Title 8 of the California Code of Regulations and is subject to labor compliance monitoring and enforcement by the Department of Industrial Relations.
- 31 **ANTI-DISCRIMINATION:** 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 race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age and therefore the Contractor 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 Contractor agrees to require like compliance by all its subcontractor(s).
- 32 **ANTI-TRUST CLAIM:** Contractor 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 Contractor, without further acknowledgment by the parties.
- 33 **DISPUTES:** In the event of a dispute between the parties as to performance of the Work, the interpretation of this Contract, or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute by those procedures set forth in Public Contract Code section 20104, et seq., if applicable. Pending resolution of the dispute, Contractor agrees it will neither rescind the Contract nor stop the progress of the Work, but will allow determination by the court of the State of California, in the county in which the District's administration office is located, having competent jurisdiction of the dispute. All claims of over \$375,000, which are outside the scope of Public Contract Code section 20104, et seq., may be determined by mediation if mutually agreeable, otherwise by litigation. Notice of the demand for mediation of a dispute shall be filed in writing with the other party to the Contract. The demand for mediation of any claim of over \$375,000 shall be made within a reasonable time after written notice of the dispute has been provided to the other party, but in no case longer than ninety (90) days after initial written notice, and the demand shall not be made later than the time of Contractor submission of the request for final payment. If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Contractor shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Contractor's right to bring a civil action against the District. For purposes of those provisions, the running of the time within which a claim must be presented to the District shall be tolled from the time the claimant submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process.
- 34 **ATTORNEY FEES/COSTS:** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
- 35 **TERMINATION:** If Contractor fails to perform the Services and Contractor's duties to the satisfaction of the District, or if Contractor fails to fulfill in a timely and professional manner Contractor's obligations under this Contract, or if Contractor violates any of the terms or provisions of this Contract, District shall have the right to terminate this Contract effective immediately upon the District giving written notice thereof to the Contractor. The Contractor and its performance bond surety, if any, shall be liable for all damages caused to the District by

reason of the Contractor's failure to perform and complete the Contract. District shall also have the right in its sole discretion to terminate the Contract for its own convenience upon District giving three (3) days written notice thereof to the Contractor. In case of a termination for convenience, Contractor shall be paid for the actual cost for labor, materials, and services performed that is unpaid and can be documented through timesheets, invoices, receipts, or otherwise, and five percent (5%) of the total cost of Work performed as of the date of termination, or five percent (5%) of the value of the Work yet to be performed, whichever is less. This five percent (5%) shall be full compensation for all of Contractor's and its subcontractor(s)' mobilization and/or demobilization costs and any anticipated loss profits resulting from termination of the Contractor for 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.

- 36 **ASSIGNMENT OF CONTRACT:** Contractor 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.
- 37 **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.
- 38 **CALCULATION OF TIME:** For the purposes of this Contract, "days" refers to calendar days unless otherwise specified.
- 39 **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 County in which the District administration office is located.
- 40 **BINDING CONTRACT:** This Contract shall be binding upon the parties hereto and upon their successors and assigns, and shall inure to the benefit of said parties and their successors and assigns.
- 41 **DISTRICT 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.
- 42 **CAPTIONS AND INTERPRETATIONS:** Paragraph headings in this Contract are used solely for convenience, and shall be wholly disregarded in the construction of this Contract. No provision of this Contract shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Contract shall be construed as if jointly prepared by the parties.
- 43 **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.
- 44 **PROVISIONS REQUIRED BY LAW DEEMED 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.
- 45 **ENTIRE CONTRACT:** This Contract sets forth the entire Contract between the parties hereto and fully supersedes any and all prior agreements, understanding, written or oral, between the parties hereto pertaining to the subject matter thereof. This Contract may be modified only by a writing upon mutual consent.

Attachment "A"



Bid Proposal
Revised

To: Martinez Unified School District

From: Dave Foster

Date: 3/14/2018

Subject: Alhambra High School Ventilator Replacement Bldg. H

Fax Number: _____ # of pages: 1

We propose to furnish labor and materials needed to remove the existing three-unit ventilators and replace with facility supplied units.

We include the demo of the existing units capping of the piping and safe off of controls and line voltage. Installation of the new units, securing the units to the wall, reconnecting the piping, line voltage, helping connect the controls, start up and check out of the units. All work is figured for regular working hours.

We exclude permits, off hours work, patching and equipment.

Base Bid \$35,726.00

Dave

4040 Pacheco Blvd. * Martinez, California 94553 * (925) 228-3380 * Fax (925) 228-3382
D.I. R. #1000004071

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

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

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the Governing Board ("Board") of the Martinez Unified School District, (or "District") and Martinez Sheet Metal, Inc. ("Principal") have entered into a contract for the furnishing of all materials and labor, services and transportation, necessary, convenient, and proper to perform the following project:

Alhambra High School Ventilator Replacement for H201, H202, and H203 Project

("Project" or "Contract") which Contract dated March 15, 2018 and all of the Contract Documents attached to or forming a part of the Contract, are hereby referred to and made a part hereof; and

WHEREAS, pursuant to law and the Contract, the Principal is required, before entering upon the performance of the work, to file a good and sufficient bond with the body by which the Contract is awarded in an amount equal to 100 percent (100%) of the Contract price, to secure the claims to which reference is made in sections 3179 through 3214 and 3247 through 3252 of the Civil Code of California, and division 2, part 7, of the Labor Code of California.

NOW, THEREFORE, the Principal and _____ ("Surety") are held and firmly bound unto all laborers, material men, and other persons referred to in said statutes in the sum Thirty Five Thousand Seven Hundred Twenty Six Dollars and 00/100 (\$35,726.00), lawful money of the United States, being a sum not less than the total amount payable by the terms of Contract, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns, jointly and severally, by these presents.

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

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under sections 3179 through 3214 and 3247 through 3252 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

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

And the Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of Contract or the specifications accompanying the same shall in any

manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

IN WITNESS WHEREOF, two (2) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the _____ day of _____, 2018.

(Affix Corporate Seal)

Principal:

By:

Surety

By

Name of California Agent of Surety

Address of California Agent of Surety

Telephone Number of California Agent of Surety

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

END OF DOCUMENT

PERFORMANCE BOND
(100% of Contract Price)

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

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the governing board ("Board") of the Martinez Unified School District, ("District") and Martinez Sheet Metal, Inc. ("Principal") have entered into a contract for the furnishing of all materials and labor, services and transportation, necessary, convenient, and proper to perform the following project:

Alhambra High School Ventilator Replacement for H201, H202, and H203 Project

("Project" or "Contract") which Contract dated March 15, 2018 and all of the Contract Documents attached to or forming a part of the Contract, are hereby referred to and made a part hereof; and

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

NOW, THEREFORE, the Principal and _____ ("Surety") are held and firmly bound unto the Board of the District in the penal sum of Thirty Five Thousand Seven Hundred Twenty Six Dollars and 00/100 (\$35,726.00), lawful money of the United States, for the payment of which sum well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally, firmly by these presents, to:

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

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

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

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

notice of any such change, extension of time, alteration, or addition to the terms of the Contract or to the work or to the specifications.

IN WITNESS WHEREOF, Two (2) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the _____ day of _____, 2018.

(Affix Corporate Seal)

Principal

By:

Surety

By

Name of California Agent of Surety

Address of California Agent of Surety

Telephone Number of California Agent of Surety

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

END OF DOCUMENT

NONCOLLUSION DECLARATION

Public Contract Code Section 7106

TO BE EXECUTED BY CONTRACTOR AND SUBMITTED WITH CONTRACT

The undersigned declares:

I am the _____ of _____,
(Title) (Bidder Name)

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

Any person executing this declaration on behalf of a bidder 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 bidder.

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 this ____ day of _____, 2018 at _____,
(City, State)

Proper Name of Bidder: Martinez Sheet Metal, Inc.

Signature: _____

Print Name: Dave Foster

Title: President

PREVAILING WAGE CERTIFICATION

I hereby certify that I will conform to the State of California Public Works Contract requirements regarding prevailing wages, benefits, on-site audits with 48-hours notice, payroll records, and apprentice and trainee employment requirements, for all Work on the above Project, including, without limitation, labor compliance monitoring and enforcement by the Department of Industrial Relations.

Date:

Proper Name of Bidder:

Martinez Sheet Metal, Inc.

Signature:

Print Name:

Dave Foster

Title:

President

WORKERS' COMPENSATION CERTIFICATION

Labor Code section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- a. By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this state.
- b. By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

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.

Date:

Proper Name of Bidder:

Martinez Sheet Metal, Inc.

Signature:

Print Name:

Dave Foster

Title:

President

(In accordance with Article 5 - commencing at section 1860, chapter 1, part 7, division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any Work under this Contract.)

CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION

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

- That I am a representative of the Contractor under contract with the District;
- That I am familiar with the facts herein certified; and
- That I am authorized and qualified to execute this certificate on behalf of Contractor.

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

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

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

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

Name: _____

Title: _____

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

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

Date: _____

Proper Name of Bidder: _____ Martinez Sheet Metal, Inc. _____

Signature: _____

Print Name: _____ Dave Foster _____

Title: _____ President _____

DRUG-FREE WORKPLACE CERTIFICATION

PROJECT: Alhambra High School Ventilator Replacement for H201, H202, and H203 Project between Martinez Unified School District ("District") and Martinez Sheet Metal, Inc. ("Contractor" or "Bidder") ("Contract" or "Project").

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

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

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

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

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

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

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

Date:

Name of Contractor:

Martinez Sheet Metal, Inc.

Signature:

Print Name:

Dave Foster

Title:

President

END OF DOCUMENT

TOBACCO-FREE ENVIRONMENT CERTIFICATION

PROJECT: Alhambra High School Ventilator Replacement for H201, H202, and H203 Project between Martinez Unified School District ("District") and Martinez Sheet Metal, Inc.. ("Contractor" or "Bidder") ("Contract" or "Project").

This Tobacco-Free Environment Certification form is required from the successful Bidder.

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 that I am aware of the District's policy regarding tobacco-free environments at District sites, including the Project site and hereby 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.

Date:

Name of Contractor:

Martinez Sheet Metal, Inc.

Signature:

Print Name:

Dave Foster

Title:

President

END OF DOCUMENT

ASBESTOS & OTHER HAZARDOUS MATERIALS CERTIFICATION

Contractor hereby certifies that no Asbestos, or Asbestos-Containing Materials, polychlorinated biphenyl (PCB), or any material listed by the federal or state Environmental Protection Agency or federal or state health agencies as a hazardous material, or any other material defined as being hazardous under federal or state laws, rules, or regulations "New Material Hazardous", shall be furnished, installed, or incorporated in any way into the Project or in any tools, devices, clothing, or equipment used to affect any portion of Contractor's work on the Project for District.

Contractor further certifies that it has instructed its employees with respect to the above-mentioned standards, hazards, risks, and liabilities.

Asbestos and/or asbestos-containing material shall be defined as all items containing but not limited to chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite. Any or all material containing greater than one-tenth of one percent (.1%) asbestos shall be defined as asbestos-containing material.

Any disputes involving the question of whether or not material is New Hazardous Material shall be settled by electron microscopy or other appropriate and recognized testing procedure, at the District's determination. The costs of any such tests shall be paid by Contractor if the material is found to be New Hazardous Material.

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

Contractor has read and understood the document Hazardous Materials Procedures & Requirements, and shall comply with all the provisions outlined therein.

Date: _____

Proper Name of Bidder: _____ Martinez Sheet Metal, Inc. _____

Signature: _____

Print Name: _____ Dave Foster _____

Title: _____ President _____

LEAD-PRODUCT(S) CERTIFICATION

California Occupational Safety and Health Administration (CalOSHA), Environmental Protection Agency (EPA), California Department of Health Services (DHS), California Department of Education (CDE), and the Consumer Product Safety Commission (CPSC) regulate lead-containing paint and lead products.

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

The CDE mandates that school districts utilize DHS lead-certified personnel when a lead-based hazard is identified. Examples of lead-certified personnel include: project designers, inspectors, and abatement workers. Furthermore, since it is assumed by the district that all painted surfaces (interior as well as exterior) within the District contain some level of lead, it is imperative that the Contractor, its workers and subcontractors fully and adequately comply with all applicable laws, rules and regulations governing lead-based materials (**Including Title 8, California Code of Regulations, Section 1532.1**). Any and all Work which may result in the disturbance of lead-containing building materials must be coordinated through the District.

The California Education Code also prohibits the use or import of lead-containing paint, lead plumbing and solders, or other potential sources of lead contamination in the construction of any new school facility or in the modernization or renovation of any existing school facility. The Contractor shall provide the District with any sample results prior to beginning Work, during the Work, and after the completion of the Work. The District may request to examine, prior to the commencement of the Work, the lead training records of each employee of the Contractor.

All contractors who disturb lead-based paint in a six-square-foot area or greater indoors or a 20-square-foot area outdoors shall comply with the Renovation, Repair and Painting Rule, shall receive training from a U.S. EPA-accredited training provider, and shall be certified by the U.S. EPA. Contractor, its workers and subcontractors must fully and adequately comply with all applicable laws, rules and regulations governing lead-based materials, including those rules and regulations appearing within title 40 of the Code of Federal Regulations as part 745 (40 CFR 745).

If failure to comply with these laws, rules, and regulations results in a site or worker contamination, the Contractor will be held solely responsible for all costs involved in any required corrective actions, and shall defend, indemnify and hold harmless the District, pursuant to the indemnification provisions of the Contract, for all damages and other claims arising therefrom. If lead disturbance is anticipated in the Work, only persons with appropriate accreditation, registrations, licenses and training shall conduct this Work.

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

THE UNDERSIGNED HEREBY ACKNOWLEDGES, UNDER PENALTY OF PERJURY, THAT HE OR SHE HAS RECEIVED NOTIFICATION OF POTENTIAL LEAD-BASED MATERIALS ON THE OWNER'S PROPERTY, AS WELL AS THE EXISTENCE OF APPLICABLE LAWS, RULES AND REGULATIONS GOVERNING WORK WITH, AND DISPOSAL OF, SUCH MATERIALS WITH WHICH IT MUST COMPLY. THE UNDERSIGNED ALSO WARRANTS THAT HE OR SHE HAS THE AUTHORITY TO SIGN ON BEHALF OF AND BIND THE CONTRACTOR.

Date:

Name of Contractor:

Martinez Sheet Metal, Inc.

Signature:

Print Name:

Dave Foster

Title:

President

Martinez Unified School District
AHS Ventilator Replacement – Bldg. H

AGREEMENT

IMPORTED MATERIALS CERTIFICATION

PROJECT: Alhambra High School Ventilator Replacement for H201, H202, and H203 Project between Martinez Unified School District ("District") and Martinez Sheet Metal, Inc. ("Contractor" or "Bidder") ("Contract" or "Project").

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

Certification of: ☐ Delivery Firm/Transporter ☐ Supplier ☐ Manufacturer
 ☐ Wholesaler ☐ Broker ☐ Retailer
 ☐ Distributor ☐ Other _____

Type of Entity ☐ Corporation ☐ General Partnership
 ☐ Limited Partnership ☐ Limited Liability Company
 ☐ Sole Proprietorship ☐ Other _____

Name of firm ("Firm"): _____

Mailing address: _____

Addresses of branch office used for this Project: _____

If subsidiary, name and address of parent company: _____

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

Date: _____

Name of Contractor: Martinez Sheet Metal, Inc.

Signature: _____

Print Name: Dave Foster

Title: President

END OF DOCUMENT

IMPORTED MATERIALS CERTIFICATION