AGREEMENT FORM

THIS AGREEMENT, entered into this 17th day of January, 2012 in the County of San Joaquin, State of California, by and between the JEFFERSON ELEMENTARY SCHOOL DISTRICT, hereinafter called the "District," and Midstate Builders Specialties, Inc., hereinafter called the "Contractor."

WITNESSETH that the District and the Contractor for the consideration stated herein agree as follows:

ARTICLE I - SCOPE OF WORK: The Contractor shall furnish all labor, materials, equipment, tools, and utility and transportation services, and perform and complete all work required in connection with the:

District Re-Keying Project

in strict accordance with the contract documents enumerated in Article 7 below. The Contractor shall be liable to the District for any damages arising as a result of a failure to comply with that obligation, and the Contractor shall not be excused with respect to any failure to so comply by an act or omission of the Architect, Engineer, Inspector, or representative of any of them, unless such act or omission actually prevents the Contractor from fully complying with the contract documents and the Contractor protests, in accordance with the contract documents, that the act or omission is preventing the Contractor from fully complying with the contract documents. Such protest shall not be effective unless reduced to writing and filed with the District office within ten (10) calendar days of the date of occurrence of such act or omission preventing the Contractor from fully complying with the Contract Documents.

ARTICLE 2 - TIME OF COMPLETION: The District may give notice to proceed within ninety (90) calendar days of the award of the bid by the District. Once the Contractor has received a notice to proceed, the Contractor shall complete the work within 60 calendar days from the date of the Notice to Proceed. It is expressly understood that time is of the essence.

In the event that the District desires to postpone giving the notice to proceed beyond this **ninety (90) calendar day** period, it is expressly understood that with reasonable notice to the Contractor, giving the notice to proceed may be postponed by the District. It is further expressly understood by the Contractor, that the Contractor shall not be entitled to any claim of additional compensation as a result of the District's postponement of giving the notice to proceed.

If the Contractor believes that a postponement will cause hardship to it, the Contractor may terminate the contract with written notice to the District within ten (10) calendar days after receipt by the Contractor of the District's notice of postponement. It is further understood by the Contractor that in the event that the Contractor terminates the contract as a result of postponement by the District, the District shall only be obligated to pay the Contractor for the work performed by the Contractor at the time of notification of postponement. Should the Contractor terminate the contract as a result of a notice of postponement, the District shall have the authority to award the contract to the next lowest responsible bidder.

ARTICLE 3 - LIQUIDATED DAMAGES: It being impracticable and infeasible to determine the amount of actual damage, it is agreed that the Contractor will pay the District the sum of FIVE HUNDRED DOLLARS ($500.00) per calendar day for each and every day of delay beyond the time set forth in Article 2 of this Agreement for completing said work as liquidated damages and not as a penalty or forfeiture. In the event the same is not paid, the Contractor further agrees that the District may deduct such amount thereof from any money due or that may become due the Contractor under the contract. This Article shall not be construed as preventing the District from the recovery of damages under provisions of the contract documents.

ARTICLE 4 - CONTRACT PRICE: The District shall pay to the Contractor as full consideration for the faithful performance of the contract, subject to any additions or deductions as provided in the contract documents, the sum of Fifty Thousand Nine Hundred DOLLARS ($50,900.00), said sum being the total amount stipulated in the proposal. Payment shall be made as set forth in the General Conditions.

Should any change order or construction change directive result in an increase in the contract price, the cost of such change order or construction change directive shall be agreed to in advance by the Contractor and the District, subject to the monetary limitations set forth in Public Contract Code Section 20118.4. In the event that the Contractor proceeds with a change in work without an agreement between the District and Contractor regarding the cost of a change order or a construction change directive, the Contractor waives any claim of additional compensation for such additional work.

ARTICLE 5 - HOLD HARMLESS AGREEMENT: Contractor shall defend, indemnify and hold harmless District, Architect, Inspector, the State of California and their officers, employees, agents and independent contractors from all liabilities, claims, actions, liens, judgments, demands, damages, losses, costs or expenses of any kind arising from death, personal injury, property damage or other cause based or asserted upon any act, omission, or breach connected with or arising from the progress of Work or performance of service under this Agreement or the Contract Documents. As part of this indemnity, Contractor shall protect and defend, at its own expense, District, Architect, Inspector, the State of California and their officers, employees, agents and independent contractors from any legal action including attorneys fees or other proceeding based upon such act, omission, or breach.

Furthermore, Contractor agrees to and does hereby defend, indemnify and hold harmless District, Architect, Inspector, the State of California and their officers, employees, agents and independent contractors from every claim or demand made, and every liability, loss, damage, expense or attorneys fees of any nature whatsoever, which may be incurred by reason of:

(a) Liability for (1) death or bodily injury to persons; (2) damage or injury to, loss (including theft), or loss of use of, any property; (3) any failure or alleged failure to comply with any provision of law or the Contract Documents; or (4) any other loss, damage or expense, sustained by any person, firm or corporation or in connection with the Work called for in this Agreement or the Contract Documents, except for liability resulting from the sole or active negligence, or the willful misconduct of the District.

(b) Any bodily injury to or death of persons or damage to property caused by any act, omission or breach of Contractor or any person, firm or corporation employed by Contractor, either directly or by independent contract, including all damages or injury to, loss (including theft), or loss of use of, any property, sustained by any person, firm or corporation, including the District, arising out of or in any way connected with Work covered by this Agreement or the Contract Documents, whether said injury or damage occurs either on or off District property, but not for any loss, injury, death or damages caused by the sole or active negligence or willful misconduct of the District.

(c) Any dispute between Contractor and Contractor's subcontractors/supplies/sureties, including, but not limited to, any stop notice actions.

Contractor, at Contractor's own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings that may be brought or instituted against the District, its officers, agents or employees, on any such claim or liability, and shall pay or satisfy any judgment that may be rendered against the District, its officers, agents or employees in any action, suit or other proceedings as a result thereof.

ARTICLE 6 - PROVISIONS REQUIRED BY LAW: Each and every provision of law and clause required 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 herein, and if through mistake or otherwise any such provision is not inserted or is not inserted correctly, then upon application of either party the contract shall forthwith be physically amended to make such insertion or correction.

ARTICLE 7 - COMPONENT PARTS OF THE CONTRACT: The Contract entered into by this Agreement consists of the following Contract Documents, all of which are component parts of the Contract as if herein set out in full or attached hereto:

Notice Inviting Bids
Instructions to Bidders
Designation of Subcontractors
Non-Collusion Affidavit
Bid Guarantee Bid Form
Bid Bond
Bid Form
Contractor's Certificate Regarding Worker's Compensation
Acknowledgment of Bidding Practices Indemnity
Agreement Form
Payment Bond
Performance Bond
Guarantee
Escrow Agreement for Security Deposit In Lieu of Retention
Workers' Compensation/Employers Liability Endorsement
General Liability Endorsement

Automobile Liability Endorsement
Contractor's Certificate Regarding Drug-Free Workplace
Contractor's Certificate Regarding Alcohol and Tobacco
General Conditions
Supplementary and Special Conditions
Specifications
All Addenda as Issued
Drawings (if applicable)
Substitution Request Form
Labor Compliance Program
Disabled Veteran Business Enterprise Certification

All of the above named Contract Documents are intended to be complimentary. Work required by one of the above named Contract Documents and not by others shall be done as if required by all.

ARTICLE 8 - PREVAILING WAGES: Wage rates for this Project shall be in accordance with the general prevailing rate of holiday and overtime work in the locality in which the work is to be performed for each craft, classification, or type of work needed to execute the contract as determined by the Director of the Department of Industrial Relations. Copies of schedules of rates so determined by the Director of the Department of Industrial Relations are on file at the District's principal office and are available to any interested party on request.

The following Labor Code Sections are hereby referenced and made a part of this Agreement and Contractor stipulates to the provisions contained therein.

1. Section 1775, Penalty for Failure to Comply with Prevailing Wage Rates.

2. Section 1777.4, Apprenticeship Requirements.

3. Section 1813, Penalty for Failure to Pay Overtime.

4. Sections 1810 and 1811, Working Hour Restrictions.

5. Section 1775, Payroll Records.

6. Section 1773.8, Travel and Subsistence Pay.

7. All other provisions of Chapter 1 of Part 7 of Division 2 of the Labor Code.

8. California Code of Regulations, Title 8, Chapter 8, Subchapters 3 & 4.

9. The District's Labor Compliance Program

ARTICLE 9 - RECORD AUDIT: In accordance with Government Code Section 8546.7, records of both the District and the Contractor shall be subject to examination and audit by the Auditor General for a period of three (3) years after final payment.

ARTICLE 10 - CONTRACTOR'S LICENSE: The Contractor must possess General Contractor, Class B license, issued by and in good standing with the California Department of Consumer Affairs, Contractors State License Board, issued by the State of California, which must be current and in good standing throughout the Project.

IN WITNESS WHEREOF, this Agreement has been duly executed by the above named parties, on the day and year first above written.

Date February 16, 2012

JEFFERSON ELEMENTARY SCHOOL DISTRICT

By:_____

Dr. Dana Eaton, Superintendent

Date February 3, 2012

_____

Midstate Builders Specialties, Inc.

By: Michael L. Suggs

Signature

By: C.F.O.

Title

(CORPORATE SEAL)