

BOULDER VALLEY SCHOOL DISTRICT RE-2

REQUEST FOR PROPOSALS NO. 13-14

Energy Dashboard

DATE: 6-13-13

TO BE CONSIDERED, PROPOSALS **MUST BE RECEIVED** IN THE [Supplier Portal](#) **NO LATER THAN: July 18, 2013 AT 2:00 PM (MDT)**

LATE PROPOSALS WILL NOT BE ACCEPTED.

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GLOSSARY

Many abbreviations and acronyms are used throughout this document. The following glossary is presented in order to offer a quick reference for the reader who may not be familiar with all of these terms.

<u>Term</u>	<u>Meaning</u>
Contract	A written agreement entered into by the District and the successful vendor for performance of the services set forth in this RFP.
Contractor	See successful vendor
District or district	Boulder Valley School District RE-2 (BVSD)
Proposal	A written offer to provide services in accordance with the requirements, terms and conditions of the Request for Proposal. Any exceptions to the District's requirements, terms and conditions shall be clearly stated by the vendor in its proposal.
RFP	Request for Proposal, a formal vendor selection process
Successful vendor	The individual, company, corporation or firm to whom the contract is awarded.
Vendor	The individual, company, corporation, or firm to whom the contract is awarded. Until the contract is awarded, the term "vendor" shall be understood to mean the individual, company, corporation or firm formally submitting a response to this Request for Proposal.

Proposals Requested from Vendors: The purpose of this Request for Proposal (RFP) is to solicit proposals for a new web-based, vendor-hosted Energy Information System (EIS) dashboard, its required components, and implementation services for Boulder Valley School District RE-2 (BVSD) in Colorado. General Information about BVSD can be found on our website at www.bvbsd.org. BVSD's Operational Services Department manages over 4.5 million square feet of space in 56 schools and 4 support buildings within the District's boundaries of over 500 square miles.

SECTION I. INTRODUCTION AND OVERVIEW

Overview of Current Environment:

BVSD's Building Automation System is an Andover Continuum enterprise system, Version 1.94 software. There are 5 Web client licenses on two different web servers and 6 Workstation licenses. Equipment is monitored and controlled through 57 + CX and 11 BCX interface controllers that are on the BVSD-wide network. Data points are acquired from various LON, MSTP, Modbus RTU, Bacnet IP and Modbus IP interfaces. All of this data is accessible and stored on a 2005 SQL server. The existing building automation system uses industry-recognized programming and equipment to provide occupant comfort and energy efficiency.

Currently energy is monitored and reported based on Utility bills through manual and automated input of utility bill data into *Utility Manager* software. BVSD has 14 buildings with larger-scale PV solar systems owned by a third party that uses a metering system provided by SolarGuard. This system monitors PV performance and total building consumption. As part of Xcel Energy's SmartGridCity technology pilot initiative, approximately 25 BVSD facilities in the City of Boulder are equipped with pulse meters. Xcel Energy's partner, Power TakeOff, provides historical (not real-time) pulse metering reporting as a part of the initiative. Casey Middle School has a GreentouchScreen showing real time data of the systems (including solar, geothermal and wind) at the school. BVSD also has several schools with e-gauge systems, tracking the output of the PV and a small portion of each school's consumption.

The successful vendor will be awarded a contract to provide the services as described in this RFP for a period of one year (subject to annual appropriations as provided in the Contract), with potential option(s) to renew for four (4) additional one year periods, at the District's sole discretion.

SECTION 2. SCOPE OF WORK

Primary Project Goals:

1. The goal of this project is to maximize electricity efficiency through real-time and historic monitoring from one web-based dashboard application.
 - a. Provide and display to BVSD Operational Services personnel an automated real-time electrical usage to reduce kW and kWh.
 - b. Provide user-friendly dashboard to teachers, students and the general public for real-time energy usage, general information, and utility-reducing competitions.
 - c. Provide extensive reporting capabilities and graphical displays including but not limited to real-time data, trending, events and alarm notification at the District, site, and meter levels.
 - d. Provide capability to add future new BVSD sites to the product.

2. Implement the EIS for all BVSD sites; if cost prohibitive, the EIS would be phased-in as necessary.
3. Provide future ability for real-time and historic utilities consumed and produced within BVSD facilities including but not limited to water, natural gas, solar thermal, solar electric, wind electric, geothermal.
4. Attachment D includes electrical information for the all BVSD Sites to be included in the proposal.

Please answer and explain in your proposal how your company will meet and address the following questions:

1. Data collection

- a. Who owns data that result from the EIS?
- b. Are there data storage limits?
- c. What happens to data if your company goes out of business or merges?
- d. Does the energy information system (EIS) accept the following metered data?
 - i. Electricity
 - ii. Water
 - iii. Irrigation
 - iv. Natural gas
 - v. Wind Electric
 - vi. Solar Electric
 - vii. Solar Thermal
 - viii. Geothermal
- e. What is the minimum resolution of interval data?
 - i. Near real-time=15-min,
 - ii. Real-time=1-2 min
- f. What transmission protocols or standards does the EIS use/operate with? (i.e., Lonmark=propr., bacnet=open, mv 90=meter, etc)
- g. What export formats are supported for archived data?

2. Display/visualization

- a. Does the EIS include a package of standard reports? Can reports be customized?
- b. Does the EIS offer different levels of permissions for multiple individuals or groups?
- c. Does the EIS offer a News/Information module to communicate with various stakeholders?
- d. Is it possible to display an entire month of consumption profiles (time series)?
- e. Is it possible to display daily time series in hour-long intervals or less?
- f. Is it possible to display aggregated usage? - daily, weekly, ...
- g. Is it possible to overlay multiple days' trends on a single plot?
- h. Can the EIS provide customized branding capabilities such as colors, logos and other style elements?

3. Energy analysis

- a. Does the EIS calculate hourly, daily, weekly, or monthly average consumption?
- b. Does the EIS calculate the highest/lowest hourly, daily, or weekly consumption?
- c. Does the EIS calculate system (i.e., school) or component (i.e., chiller) efficiencies?
- d. Does the EIS calculate load duration - number of hours at a set of demand levels, usually annual
- e. Does the EIS normalize consumption by the following?
 - i. Cooling degree days
 - ii. Heating degree days

- iii. Outside air temperature
 - iv. Square footage
 - v. Students
 - f. Is it possible to comparatively analyze one building's energy use with respect to another to drive operational performance?
 - g. Is it possible to analyze a building's use with respect to a historic benchmark?
 - h. Does the EIS benchmarking analysis rely upon standards such as Energy Star?
 - i. Does the EIS have an automated data upload function to Energy Star?
- 4. Advanced analysis**
- a. Does the EIS forecast near-future load profiles?
 - b. Does the EIS perform fault detection and diagnostics, or anomaly detection?
 - c. Does the EIS identify corrupted data, or gaps in trends?
 - d. Does the EIS perform regression analysis?
 - e. Can the EIS integrate with weather forecasts to predict demand and consumption?
 - f. Does the EIS identify base load, peak demand, and other (ex. Weather-based) energy consumption patterns?
 - g. Does EIS track and report carbon footprint performance?
 - h. Please describe how the EIS notifies users of anomalous energy consumption/facility performance patterns.
 - i. Can the EIS produce alerts in real-time or in near real-time? Are alerts customizable? What is the format of an alert and to whom is it sent?
- 5. Financial analysis**
- a. Can the EIS manually or automatically record, audit and report utility billing data?
 - b. Does the EIS perform simple energy cost estimates?
 - c. Does the EIS include specific rate tariffs such as demand ratchets in energy cost analyses?
- 6. Demand response**
- a. Can the EIS be used as a Demand Response (D.R.) tool?
 - b. How does the system respond to D.R. signals? (Manual initiation of load-shed, or automated based on utility signal)
 - c. How is the operator notified of D.R. events?
 - d. Does the EIS quantify in real-time the amount of load shed?
 - e. Does the EIS calculate energy and/or \$ savings due to D.R. response?
 - f. Can the operator choose to ignore a D.R. event signal?
 - g. Can the operator pre-specify dates to ignore D.R. signals?
 - h. Can the operator test D.R. events (i.e. Simulate D.R. signals)?
- 7. Cost (This section needs work)**
- a. What are the associated startup costs for the EIS? (ex. Price per point, meter)
 - b. What is the cost of annual licensing and maintenance fees?
 - c. Please list any alternate funding mechanisms (i.e., utility rebates, performance contracting) you can provide to pay for or offset initial product cost and/or operating costs.
- 8. General**
- a. Describe in detail any specific integration the EIS can have with the District's existing Andover automated building control system.
 - b. What web browsers are supported?
 - c. How many years has your firm been in the energy management business?
 - d. What is the total number of square feet and number of buildings/facilities being monitored today by the EIS?

- e. Approximately how many customers who currently use the product are K-12 school districts?
- f. Describe the deployment process and expected timeline.
- g. Who performs any installation procedures? Does your system require partnering with a separate metering company? If so, with whom? Who owns the meters?
- h. Who performs maintenance procedures? Does your system require partnering with a separate metering company to maintain the meters? If so, who are your partners? What is the associated annual cost?
- i. Is meter data collected via Ethernet or Cellular connection?
- j. Describe training programs you offer after installation.
- k. Do you provide 24x7 customer support?
- l. What trouble-shooting services do you offer for issues that will inevitably arise after installation?
- m. Can the EIS connect seamlessly with other social networking websites and feeds, including Facebook and Twitter?
- n. Does the EIS interface with mobile device applications for real-time energy display and reporting?

SECTION 3. REQUIRED RESPONSE CHECKLIST

Although the District does not formally limit the size of responses, vendors are strongly encouraged to keep their response concise and brief. We ask that you consider limiting your response to 25 pages maximum (not including pricing and marketing materials).

The purpose of this section is to specify a format for responses to the RFP, to provide a guide for vendors to assure all required information is provided, and to facilitate review of proposals.

Vendors must submit one (1) complete set of all information in the [Supplier Portal](#). Pricing must be uploaded and labeled as a separate document.

Vendors shall submit the following in order and it is preferred that the RFP response be divided in sections with tabs or other device.

<u>INCLUDE</u>	<u>ITEM</u>
	<u>SIGNATURE PAGE</u> – Provide originally signed document, see Attachment A .
	<u>SUMMARY</u> – brief summary of the vendor’s proposed services.
	<u>SCOPE OF SERVICES</u> – The vendor’s proposal shall follow the same format as the RFP. List how your company can provide the required services per section in the order listed in the RFP, with a detailed breakdown and description of the specific services and data to be provided, ensuring, at a minimum, compliance with the RFP requirements. Confirm compliance with each RFP requirement. Identify and describe specific phases, deliverables and timelines.
	<u>USE OF DISTRICT STAFF</u> – specifically identify your anticipated needs of District staff assistance. Describe type(s) of assistance needed by job title and anticipated hours required for each District position.

	<u>OVERVIEW OF VENDOR FIRM</u> – Provide a brief description of the vendor’s organization and services. Include specific information concerning staff that would be assigned to work on this study, with their professional qualifications and related experience.
	<u>IDENTIFICATION OF VENDOR CONTACT</u> – Identify vendor point-of-contact for any questions or concerns relative to this response and the resulting services. Provide name, title, address, telephone and fax number, and e-mail address.
	<u>PROPOSED IMPLEMENTATION SCHEDULE</u> – provide proposed implementation process and schedule, including milestones and final report delivery date. Include any contingencies.
	<u>PROJECT START-UP</u> - Indicate how soon following the award, your staff will be assigned and available to work on the project.
	<u>REFERENCES</u> – include with your proposal at least three (3) business references for which your firm has performed similar services in other comparable settings. K-12 references are preferred. Please include specific project references for those staff members you have proposed to perform the services. Please include the company name, current contact person, address, telephone number and date and description of work/services performed for each listed reference. Provide a list of clients for which your company has provided similar consulting services to in the past three years and a key contact person within each organization.
	<u>INSURANCE</u> - Describe your current general liability and professional liability insurance coverage, listing carriers and the coverage limits.
	<u>ADDITIONAL SERVICES (OPTIONAL)</u> - Describe any additional/alternative services related to this RFP which may be of value to the District. Identify any associated cost within the pricing packaged separately from the proposal.
	<u>ADDITIONAL ASSISTANCE</u> - Provide a listing or narrative describing other recommended services.
	<u>ADDITIONAL COMMENTS</u> - Please add additional comments, background information, data, etc., which you feel are pertinent and would assist in the selection process.
	<u>ACCEPTANCE OF DISTRICT CONTRACT AND DISTRICT TERMS AND CONDITIONS</u> - This section is intended for informational purposes only and no response is expected nor encouraged. However, questions, comments, or concerns with regard to the contract terms and conditions must be included with your proposal . Absent any such attachment, the District will assume vendor’s full acceptance of the contract terms and conditions. Exceptions

	<p>requested, or alternative language suggested, will be treated as a “counter-offer.” The willingness and/or ability of the District to accept or negotiate such suggested changes will be considered on a case-by-case basis. Vendors please note, IF you do offer suggested modifications, the decision to reject, accept, or further negotiate requested changes will be at the District’s discretion.</p> <p>IF YOUR COMPANY NORMALLY SEEKS LEGAL REVIEW OF CONTRACT TERMS, THIS PROCESS SHOULD OCCUR PRIOR TO SUBMISSION OF YOUR OFFER AND YOUR OFFER MUST IDENTIFY ANY TERM OR CONDITION YOU ARE QUESTIONING AND HOW YOU WOULD SUGGEST IT BE RESOLVED.</p>
	<p>PRICING – The enclosed “Vendor Pricing Proposal”, Attachment B, must contain the vendor’s price proposal. As previously stated, one (1) set of pricing are to be separately packaged and provided. Pricing shall not be included within the RFP response.</p> <p>Vendors shall not reference pricing within their proposal.</p> <p>Pricing quoted by a vendor shall include all fees, costs and expenses, including, but not limited to: labor costs, travel expenses, administrative costs, copies, collating costs, faxes, mileage charges, supplies, mailing charges, communications, data compilation, analysis, reporting and delivery charges, unless otherwise indicated in the RFP.</p> <p>Estimated proposal prices are not acceptable. All of the proposal contents and fees must be guaranteed for ninety (90) days from the proposal date. The proposal price will be considered in determining the successful vendor.</p>

SECTION 4. EVALUATIONS OF PROPOSALS

The Evaluation Committee will judge the merit of proposals received in accordance with the criteria described below (in no particular order):

- Completeness of proposal and overall responsiveness to RFP
- Cost for services contained in the Proposal
- Qualifications and availability of resources to provide required services
- Qualifications and experience of the firm and track record of successfully providing similar services
- Quality of proposed implementation plan
- Quality of references

SECTION 5. RFP ADMINISTRATIVE INFORMATION

A. RFP Contact

Please direct all communications regarding this RFP to:

Molly McLoughlin
 Procurement Department
 Boulder Valley School District RE-2
 6500 Arapahoe Ave.

Boulder, CO 80303
 Email: molly.mcloughlin@bvsd.org

Molly McLoughlin is to be the **sole** point of contact and communication concerning this RFP.

B. Invitation to Submit Proposals

The District invites vendors who have an interest to submit a proposal in accordance with terms of this RFP.

C. Purpose

This RFP provides prospective vendors with sufficient information to enable them to prepare and submit proposals for consideration by the District to satisfy the need for expert assistance in the completion of the goals of this RFP.

D. Scope

This RFP contains the instructions governing the proposal to be submitted and the material to be included therein, the mandatory requirements which must be met to be eligible for consideration; and other requirements to be met by each proposal.

E. Schedule of Activities and Timeline

ACTIVITY	DATE
RFP sent to prospective vendors.	June 13, 2013
1. Deadline for vendor submission of written inquiries in the Supplier Portal (no inquiries accepted after this deadline.) Reference Section IV F of the RFP.	July 8, 2013 2:00 PM MDT
2. PROPOSAL SUBMISSION DEADLINE One (1) original. Pricing to be submitted as a separate document.	July 18, 2013 2:00 PM MDT
3. Evaluation of RFP responses	July 18-29 (estimated)
4. Interviews/demonstrations. See Section 5. DD of the RFP	July 18-29 (estimated)
5. Engage services of successful vendor/contract execution	August 1 (estimated)
6. Contract term.	To be determined upon award. See Section 1, page 4 of the RFP.

F. Inquiries

Vendors may make written inquiries in the [Supplier Portal](#) concerning this RFP to obtain clarification of requirements. Inquiries made by telephone will not be accepted. Inquiries shall not be accepted after the date and time indicated in the Schedule of Activities and Timeline.

As email delivery issues can occur from time to time, the District strongly recommends that vendors submitting inquiries electronically send a separate email to request District confirmation of receipt of the electronic inquiry.

Telephonic or in-person inquiries shall not be accepted. Vendors shall not contact District staff directly with questions and may not rely on any verbal statements by District staff that alters any specification or

other term or condition of the RFP. Clarifications and modifications to this RFP occur only if provided in writing by the District Director of Procurement or designee.

G. No Pre-Proposal Submission Conference

A pre-proposal submission conference will not be held. All inquiries regarding this RFP shall be made in writing prior to the Deadline for Written Inquiries set forth in the above Schedule of Activities and Timeline.

H. Modification or Withdrawal of Proposals

Proposals may be modified or withdrawn by the vendor prior to the Proposal Submission Deadline set forth in the above Schedule of Activities and Timeline.

I. Proposal Submission

Proposals shall be received on or before the proposal submission deadline as indicated in the above Schedule of Activities and Timeline. **Late proposals will not be accepted.** It is the responsibility of the vendor to ensure that the proposal is received by the District on or before the proposal submission deadline date and time. Proposals will be time-stamped by the [Supplier Portal](#) upon receipt.

The original proposal must be dated and signed in ink by a person who is legally authorized to bind the vendor to the proposal, with that person's name and title clearly identified on the Signature Page. The format of the Signature Page is provided at the end of this document. Vendors shall submit the proposal and any attachments electronically in the [Supplier Portal](#). Proposals that are determined to be at a variance with this requirement may not be accepted.

J. Addendum or Supplement to RFP

In the event that it becomes necessary to revise any part of this RFP, a modification notice will be issued by the District in the [Supplier Portal](#).

K. Objections to RFP Terms; Notice to District of RFP Errors

If a vendor objects on any ground to any provision or legal requirement set forth in this RFP, such vendor shall, not more than seven (7) calendar days after the RFP is issued, provide written notice to the District Representative setting forth with specificity the grounds for the objection. Any failure to object in the manner set forth in this section shall constitute a complete and irrevocable waiver of any such objection. This requirement excludes proposed modifications to a District contract or agreement if the process for proposing modifications is addressed elsewhere within this RFP.

Each vendor is responsible for reviewing all portions of this RFP and shall promptly notify the District Representative in writing if the vendor discovers any ambiguity, discrepancy, omission, or other error in this RFP (an "Error Notification"). Any Error Notification should be delivered via mail, facsimile or email promptly after discovery, but in no event later than the Deadline for Written Inquiries as set forth in this RFP.

L. Acceptance of RFP Terms

A proposal submitted in response to this RFP shall constitute a binding offer. The autographic signature of the vendor shall indicate acknowledgment of this condition. Signature shall be that of a person legally authorized to execute contractual obligations. A submission in response to this RFP acknowledges acceptance by the vendor of all terms and conditions including compensation, as set forth herein. A vendor shall identify clearly and thoroughly any variation between its proposal and the District's RFP requirements. Failure to do so shall be deemed a waiver of any rights to subsequently modify the terms of performance, except as outlined or specified in the RFP. Vendors, please note: if you do offer

suggested modifications, the decision to reject, accept or further negotiate requested changes will be at the District's sole discretion.

M. Confidential/Proprietary Information

Any proposed restrictions for the use or inspection of material contained within the proposal shall be clearly stated in the proposal itself.

Step 1. Written requests for confidentiality shall be submitted by the vendor with its proposal. The vendor must provide a justification and state specifically what elements of the proposal are to be considered confidential/proprietary.

Step 2. Confidential/proprietary information must be readily identified, marked, and packaged separately from the rest of the proposal. Upload of original and one (1) copies of the confidential/proprietary information as a separate document into the [Supplier Portal](#) is recommended. **Commingling of confidential and/or proprietary information with other information is NOT acceptable.**

Step 3. The District Representative will make a determination as to the apparent validity of any written request for confidentiality. **Neither a proposal in its entirety, nor proposal price information will be considered confidential and proprietary. Any information that will be included in a resulting contract cannot be considered confidential.**

N. Proposal Prices

Estimated proposal prices are not acceptable. Proposal prices will be considered a vendor's best and final offer, unless otherwise stated in the RFP. All of the proposal contents and fees must be guaranteed for ninety (90) days from the proposal date. The proposal price will be considered in determining the apparent Successful Vendor.

O. Selection of Proposal

As described within the RFP, an Evaluation Committee will review and score offers submitted and make a recommendation for award. This selection will be for award to the responsible vendor(s) whose proposal is determined to be most advantageous to the District.

P. Award of Contract(s)

The award(s) will be made to the responsible vendor whose proposal, conforming to the RFP, will be the most advantageous to the District, price and other factors considered. A contract must be completed and signed by all parties concerned. In the event the parties are unable to enter into a contract, the District may elect to cancel the award and make the award to the next most responsible vendor.

Q. Multiple Awards

The District reserves the right to award this RFP in part, to multiple vendors, if so determined by the District to be in the best interests of the District.

R. Standard Contract

A standard District template is included as an attachment to this solicitation (see Contract, attached).

If a vendor has any suggested modifications to the contract, the vendor must include and CLEARLY INDICATE such modifications in its response to the RFP. Vendors please note, if you do offer suggested modifications, the decision to reject, accept, or further negotiate requested changes

will be at the District's discretion. ***IF YOUR FIRM NORMALLY SEEKS COUNSEL ON CONTRACT TERMS, PLEASE DO SO BEFORE SUBMITTING A RESPONSE TO THIS RFP.***

The vendor's signature on its response to the RFP is confirmation that the vendor understands and acknowledges that any award will require that a contract between the District and the vendor be executed and that the contract will include the terms and conditions set forth in Attachment C.

S. Acceptance of Proposal Content

The contents of the proposal (including persons specified to implement the project) of the Successful Vendor will become contractual obligations if acquisition action ensues. Failure of the Successful Vendor to accept these obligations in a contract, purchase order, or similar authorized acquisition document may result in cancellation of the award and such vendor may be removed from future solicitations.

T. RFP Cancellation

The District reserves the right to cancel this RFP at any time, without penalty.

U. District Ownership of Contract Products/Services

Proposals, upon established opening time, become the property of the District. All products/services produced in response to the contract(s) resulting from this RFP will be the sole property of the District, unless otherwise noted in the RFP. The RFP requirement and the contents of the Successful Vendor's proposal, clarifications and/or best and final offers will become contractual obligations.

V. Incurring Costs

The District is not liable for any cost incurred by vendors prior to issuance of a legally executed contract, purchase order, or other authorized acquisition document. No property interest, of any nature, shall occur until a contract is awarded and signed by all concerned parties.

W. Non-Discrimination

The vendor shall comply with all applicable State and Federal laws, rules and regulations involving non-discrimination on the basis of race, color, religion, national origin, age or sex.

X. Rejection of Proposals

The District reserves the right to reject any or all proposals and to waive informalities and minor irregularities in proposals received and to accept any portion of a proposal or all items proposed if deemed in the best interest of the District.

Y. Parent Company

If a vendor is owned or controlled by a parent company, the name, main office address and parent company's tax identification number shall be provided in the proposal. The tax identification number provided must be that of the vendor responding to the RFP.

Z. News Releases

News releases pertaining to this RFP or any resulting contract shall NOT be made without prior written approval by the District.

AA. Certification of Independent Pricing Determination

Except as otherwise disclosed with particularity, through its submission of a quote, bid, or offer, the vendor certifies that the prices and other terms in the quote, bid, or offer have been arrived at independently without any consultation, communication, agreement with, or knowledge of the contents

of the quote, bid, or offer by, any other competing vendor. For purposes of this paragraph, "consultation, communication, agreement with, or knowledge" does not include knowledge of prices or terms gained through availability of established price lists or catalogues made available to the public by the competing vendor. No attempt has been made or will be made by the vendor to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

BB. Reservation of Rights

The District reserves the right to:

- reject any and all proposals received as a result of this RFP;
- waive or decline to waive any informalities and any irregularities in any proposal or responses received;
- request clarification(s) of the vendor's proposal;
- adopt all or any part of the vendor's proposal;
- negotiate changes in the scope of work or services to be provided;
- engage the Successful Vendor for future studies and/or reports related to the scope of work set forth in this RFP based upon future needs as determined by the District;
- withhold the award of contract
- select the vendor it deems to be most qualified to fulfill the needs of the District. The lowest priced response will not necessarily be the one most qualified, since a number of factors other than price are important in the determination of the most acceptable response.

CC. Confidentiality of District Information

The vendor acknowledges that it may come into contact with confidential information contained in the records of the District. The confidentiality of all information will be respected, and no confidential information shall be distributed or sold to any third party nor used by the vendor or the vendor's employees, subcontractors or assignees in any way except as expressly authorized in writing by the District, nor be retained in any files of the vendor. No reports, information, or data provided to the vendor or prepared by the vendor shall be made available by the vendor to any individual or organization without prior written approval of the District. Disclosure of such information may be cause for legal action against the vendor. Defense of any such action shall be the sole responsibility of the vendor. Successful vendor personnel may be required to sign a HIPAA Business Associate Agreement form.

DD. Personal Interviews/Demonstrations

Vendors may be invited by the evaluation committee to participate in personal interviews and/or demonstrations. If applicable, the date is set forth in the Schedule of Activities and Timeline within this RFP. Vendors, by responding to this RFP, are confirming their availability to participate in an interview on this date, if selected by the District as a finalist. Inability of a vendor to be available on the designated interview date may result in elimination of that vendor for consideration of award. Any costs associated with vendor participation in the Personal Interview/Demonstrations (i.e., travel costs) shall be at the vendor's expense.

EE. Best and Final Offers

The District may, at its sole option, either accept a vendor's initial proposal by award of a contract or enter into discussions with vendors whose proposals are deemed to be reasonably susceptible of being considered for award. In conducting discussions, there shall be no disclosure of any pricing information derived from proposals submitted by a competing vendor. Vendor(s) may be invited to submit a "Best and Final Offer" to the District for consideration. Best and Final Offers will be made at the vendors'

expense. After receipt and review of the Best and Final Offers, the District will determine the Successful Vendor.

FF. District Board of Education Approval

Depending on the final scope of work as determined by the District, it may be necessary to receive Board of Education approval prior to issuance by the District of a purchase order to the Successful Vendor or execution of a contract with the Successful Vendor. The District will make efforts to obtain Board approval as soon as reasonably possible.

GG. RFP Compliance

All participating vendors, by their signature, shall agree to comply with all of the conditions, requirements and instructions of this RFP as stated or implied herein. Should the District omit anything from this document which is necessary to a clear understanding of the work, or should it appear that various instructions are in conflict, the vendor shall inquire and secure written instructions from the District Representative by the written inquiry deadline set forth in the schedule for this RFP.

HH. Warranty-Guarantee

The Successful Vendor expressly warrants and guarantees complete performance of the work in a manner acceptable to the District. The vendor warrants and guarantees to the District that all equipment and materials to be furnished under this proposal are free from all defects in workmanship and materials. The Successful Vendor further warrants, guarantees and agrees to remedy all such defects and to replace, at vendor's expense and at no expense to the District, any or all labor, transportation, part or parts of the equipment or materials to be furnished under this proposal which are or become defective due to such defects within 12 months after date of receipt by the District. The foregoing warranties will be provided as part of the minimum work requirements of this contract, and as such will be at no additional cost to the District.

II. Indemnification and Insurance

The Successful Vendor shall indemnify, save, and hold harmless the District, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Successful Vendor or its employees, agents, subcontractors, or assignees pursuant to the terms of the resulting contract. The Successful Vendor will furnish insurance for worker's compensation as required by law and shall likewise furnish certificates that the vendor carries general liability insurance with limits not less than \$1,000,000.00, \$1,000,000.00 bodily injury and \$1,000,000.00 property damage. Comprehensive automobile liability insurance coverage is also required.

JJ. Legal Compliance

The vendor shall familiarize itself with all state and local laws, codes, ordinances and regulations which might in any manner affect the work to be done; the materials to be supplied, the taxes, permits and fees to be paid; or the labor to be employed in and about the work. A plea of misunderstanding or ignorance on the part of any vendor will not in any way excuse such vendor from the necessity of full compliance with every law, code ordinance or regulation. All federal, state and local laws, codes and ordinances and regulations which are applicable shall be complied with.

KK. Independent Contractor

The relationship created by the agreement resulting from this RFP shall be that of an independent contractor. Under this independent contractor relationship, the selected vendor and its employees are not entitled to any rights, privileges or benefits granted to District employees. Vendor employees shall not supervise, direct or control employees of the District.

LL. Assignment

The Successful Vendor agrees not to assign rights or delegate duties under this contract without the express, written consent of the District, which consent shall not be unreasonably withheld. Except as herein otherwise provided, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. This provision shall not be construed to prohibit assignments of the right to payment, provided that written notice of assignment adequate to identify the rights assigned is received, verified and approved by the District.

MM. Service Commitment

The Successful Vendor shall commit that the level of service (number and experience of people and hours) and identified personnel committed to the District in the Successful Vendor's proposal shall be maintained throughout the resulting contract, including extensions. If the Successful Vendor wishes to make key staff changes during the term of the contract, including any extensions, the District requires pre-approval by the District of that individual's replacement.

NN. Certification

The Vendor certifies that it shall comply with the provisions of C.R.S. § 8-17.5-101 *et seq.* The Vendor shall not knowingly employ or contract with an illegal alien to perform work under this contract; or enter into a contract with a subcontractor that fails to certify to the Vendor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

OO. The Vendor represents, warrants, and agrees that:

- (1) it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services through participation in either the federal E-Verify or the Colorado Department of Labor and Employment Program;
- (2) it is prohibited from using either the E-Verify Program or the Department Program procedures to undertake preemployment screening of job applicants while the public contract for services is being performed;
- (3) if it obtains actual knowledge that a subcontractor performing work under the public contract for services knowingly employs or contracts with an illegal alien, the contractor shall be required to:
 - (a) Notify the subcontractor and the School District within three days that the contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 - (b) Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to C.R.S. § 8-17.5-102(2)(b)(III)(A) the subcontractor does not stop employing or contracting with the illegal alien; except that the contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien;
- (4) it is required to comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to C.R.S. § 18-17.5-102(5).

PP. Premises Access

The Vendor shall not knowingly employ on Boulder Valley School District premises any persons convicted of any felony or misdemeanor crime of unlawful sexual behavior involving children.

QQ. Cooperative Purchasing Efforts: The District is a member of, or affiliated with, several regional professional procurement organizations within Colorado and Wyoming. These organizations are comprised of governmental purchasing agents, or agency representatives responsible for the purchasing function.

- 1) These organizations include:
 - i) Colorado Educational Purchasing Council (CEPC) - A cooperative purchasing organization comprised of purchasing agents/buyers representing all Colorado public school districts.
 - ii) Multiple Assembly of Procurement Officials (MAPO) - A cooperative purchasing organization comprised of procurement representatives from state, county, municipal, governments, special districts or school districts along the front range of the Rocky Mountains in Colorado.
 - iii) Rocky Mountain Governmental Purchasing Association (RMGPA) - A chapter member of the National Institute of Governmental Purchasing (NIGP), consisting of public procurement professionals and their representative agencies which include approximately 100 state, county, and municipal governments; school districts and higher education; and other special districts.
- 2) Any member of these organizations, at its discretion, may avail itself of the contracts or awards that result from this bid with reasonable allowances for service delivery areas or other material factors that can be documented as impacting the price structure. The District is not a legally bound to any contractual agreement made between a cooperative member and a successful Bidder(s).

ATTACHMENT A

SIGNATURE PAGE

NOTE: THIS PAGE MUST BE COMPLETED AND INCLUDED WITH THE VENDOR'S PROPOSAL RESPONSE

(COMPANY NAME)

(COMPANY STREET ADDRESS)

(COMPANY CITY, STATE AND ZIP CODE)

(COMPANY PHONE NUMBER)

(COMPANY FAX NUMBER)

(EMAIL ADDRESS)

(TYPED NAME OF AUTHORIZED AGENT)

(SIGNATURE OF AUTHORIZED AGENT)

(TITLE OF AUTHORIZED AGENT)

(DATE)

(FEDERAL EMPLOYEE IDENTIFICATION NUMBER)

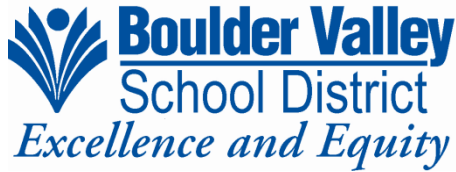
(ENTITY TYPE)

(STATE OF INCORPORATION, if applicable)

**ATTACHMENT B
 PRICING PROPOSAL**

PRICING	COST
Start Up Cost	\$
1. One time set up fee per meter	
2. Price of new meter or necessary hardware per each	
3. Price for new meter or hardware installation per each	
4. Other one time miscellaneous startup costs not included above (please itemize)	
Monthly Cost	\$
1. Price of data communication fee	
2. Price of dashboard service per meter	
Annual License or Maintenance Fees	\$
TOTAL PROJECT COST for all sites listed on Attachment D	\$ _____

ATTACHMENT C



DRAFT- CONTRACT

THIS CONTRACT, made this ____ day of _____ 2013, by and between **Boulder Valley School District RE-2**, 6500 Arapahoe, Boulder, Colorado, 80303, hereinafter referred to as the "District", and _____, a _____ (corporation/partnership, etc. e.g. "a Colorado corporation") (address), FEIN Number _____, hereinafter referred to as the "Contractor".

Recitals

Authority exists in the Law and Funds have been budgeted, appropriated and otherwise made available and a sufficient uncommitted balance thereof remains available for encumbering and subsequent payment of this contract; and

The District is authorized by Section 22-32-122, C.R.S. to contract for "...among other things, the purchase (outright or by installment sale) or renting or leasing, with or without an option to purchase, of necessary building facilities, equipment, supplies, and employee services."; and

The District requires a fuel management system. The desire is to have a single vendor for the purchase of dispensers, hardware, software, installation, training and ongoing annual technical support and maintenance of the fuel management solution.

The Contractor was selected in accordance with the District's issuance of RFP 13-14, Energy Dashboard Dated June 13, 2013, a copy of which is hereby attached as Exhibit A and incorporated herein by reference. A copy of the Contractor's proposal is attached as Exhibit B and incorporated herein by reference; and

NOW, THEREFORE, it is hereby agreed that in consideration of the mutual covenants and agreements set forth and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the District and the Contractor agree as follows:

1. PRIORITY OF INTERPRETATION

The provisions of this contract shall be governing over the relationship of the District and the Contractor. Should conflict in any provisions of this contract and any exhibits be identified, the priority of interpretation of the contract shall be: first, the terms and provisions of this contract; second, the (type of procurement and #) (Exhibit A), and third, the Contractor's proposal (Exhibit B).

2. SCOPE OF WORK

The Contractor shall provide the services to the District as more fully described on Exhibit C attached hereto.

3. CONTRACT PERIOD

The time period to be covered by this contract shall begin on _____, or the date the parties execute this contract, whichever is later, and shall end _____.

The District, in its sole discretion, may require continued performance for five (5) additional periods of twelve (12) months for any services at the rates and terms specified in the contract. The District may exercise the option by written notice of its intent to renew to the Contractor within 60 days prior to the end of the current contract term. Notice of intent does not commit the District to a renewal. The renewal shall be in a form substantially equivalent to Attachment A of this contract (option letter). The option letter shall not be valid until signed by the District.

The Contractor understands and agrees that the District shall not be liable for payment of work or services nor for costs or expenses incurred by the Contractor prior to the proper execution and District approval of this contract.

4. PRICE/COST

The District shall pay the Contractor _____ for _____.

The above rates shall include all fees, costs and expenses, including, but not limited to, labor costs, travel expenses, parts, service, repair, removal, replacement, mileage charges, supplies, mailing charges, installation, testing, communications, order and order tracking, reporting, debugging, analysis, delivery charges and other expenses.

Prices shall remain fixed through _____.

The Contractor may seek a price increase, not to exceed ___% of the then current price, in any succeeding period, by submitting detailed written justification to the District, pursuant to the "Notices" section of this contract. Only one such increase will be allowed in any twelve month period of the contract. Any request for increase must be submitted no less than _____ (__) days prior to the proposed effective date of the increase and must be accompanied by the above described justification. If an increase is requested and justification is not deemed acceptable by the District, an increase of less than ___% may be negotiated by the Contractor and the District. In the event the negotiations do not result in any agreement between both parties, the contract may be canceled and may be re-bid with no penalty to the District.

5. COMPENSATION

The maximum amount available for the purchase of goods and services under this contract for fiscal year 20__-20__, which ends on June 30, 20__, is \$_____.

The maximum amount available for the purchase of goods and services under this contract for fiscal year 20__-200__, which ends on June 30, 20__, is \$_____.

The maximum amount available for the purchase of goods and services under this contract for fiscal year 20__-20__, which ends on June 30, 20__, is \$_____.

Should this contract be renewed pursuant to Section 3, "Contract Period", the maximum amount available for services shall be defined in Attachment A, the option letter.

Should a price increase be requested and granted pursuant to Section 4, "Price/Cost", the maximum amount payable will be adjusted accordingly.

6. PAYMENT

Unless otherwise provided, and where appropriate, the District shall establish billing procedures and pay the Contractor the contract price or rate for services performed and accepted and/or goods delivered and accepted pursuant to the terms of this contract, based upon the submission of statements on forms and in a manner prescribed by the District. Payments pursuant to this contract shall be made as earned, in whole or in part, from available funds encumbered for the purchase of the described services and/or goods.

The liability of the District, at any time, for such payments shall be limited to the amount remaining of such encumbered funds.

Incorrect payments to the Contractor due to omission, error, fraud, or defalcation shall be recovered from the Contractor by deduction from subsequent payment under this contract or other contracts between the District and the Contractor, or by the District as a debt due to the District.

Invoices shall be sent to Boulder Valley School District, 6500 Arapahoe, PO Box 9011, Boulder, Colorado, 80301, Attention: Accounts Payable

Payment shall be mailed to _____, Attention: _____.

Colorado law and regulations provide that vendors will be paid within forty-five (45) days after acceptance of goods and/or services and a correct notice of amount due, unless otherwise agreed to by contract. A District liability not paid within forty-five days is considered delinquent and, unless otherwise agreed to, interest on the unpaid balance shall be paid beginning with the forty-sixth (46) day at a rate of one percent per month on the unpaid balance until paid in full. A liability shall not arise if a good faith dispute exists as to the District's obligation to pay all or a portion of the liability. The Contractor shall invoice the District separately for interest on delinquent amounts due. The billing shall reference the delinquent payment, the number of days interest to be paid and the applicable interest rate.

7. PRIME CONTRACTOR AND SUBCONTRACTORS

The Contractor will assume ALL responsibility for the delivery, installation, and quality of the goods and/or services provided by this contract, regardless of whether or not the Contractor uses subcontractors. The Contractor shall be the sole point of contact with the District with regard to all matters covered by this contract. The District shall not initiate or maintain contact with any subcontractor unless such contact becomes necessary to mitigate the District's damage in the event the Contractor is in default or breach of any term or obligation of this contract.

8. LEGAL AUTHORITY

The Contractor warrants that it possesses the legal authority to enter into this contract and that it has taken all actions required by its procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this contract and to bind the Contractor to its terms. The person(s) executing this contract on behalf of the Contractor warrant(s) that such person(s) have full authorization to execute this contract.

9. CONFIDENTIALITY

The Contractor acknowledges that it may come into contact with confidential information contained in the records of the District. The Contractor shall provide and maintain a secure environment that ensures confidentiality. The confidentiality of all information will be respected, and no confidential information shall be distributed or sold to any third party nor used by the Contractor or the Contractor's assignees and/or subcontractors in any way except as authorized by this contract. Confidential information shall not be retained in any files or otherwise by the Contractor. Disclosure of such information may be cause for legal action against the Contractor. Defense of any such action shall be the sole responsibility of the Contractor.

10. RIGHTS IN DATA, DOCUMENTS, AND COMPUTER SOFTWARE (DISTRICT OWNERSHIP)

Any software, research, reports, studies, data, photographs, negatives or other documents, drawings or materials prepared by the Contractor in the performance of its obligations under this contract shall be the exclusive property of the District and ALL such materials shall be delivered to the District by the Contractor upon completion, termination, or cancellation of this contract. The Contractor shall not use, willingly allow, or cause to have such materials used for any purpose other than the performance of the Contractor's obligations under this contract without the prior written consent of the District. The ownership rights described herein shall include, but not be limited to, the right to copy, publish, license, sell, display, transfer, prepare derivative works, or otherwise use the works.

11. WARRANTY

The Contractor shall warranty all Contractor developed deliverables, goods and services for a period of _____ (__) months following the District's final written acceptance of _____, at no additional cost to the District. This period will be referred to as the "warranty period." Support shall include but not be limited to: system performance assessment, problem determination and requisite software modification, testing, resolution, implementation, and documentation.

12. INSPECTION AND ACCEPTANCE

The District reserves the right to inspect services provided under this contract at all reasonable times and places during the term of the contract, including any extensions. "Services" as used in this clause includes services performed or tangible material produced or delivered in the performance of services. If any of the services do not conform to contract requirements, the District may require the Contractor to perform the services again in conformity with contract requirements, with no additional payment. When defects in the quality or quantity of service cannot be corrected by re-performance, the District may (1) require the Contractor to take necessary action to ensure that the future performance conforms to the contract

requirements and (2) equitably reduce the payment due the Contractor to reflect the reduced value of the services performed. These remedies in no way limit the remedies available to the District in the termination provisions of this contract, or remedies otherwise available at law.

13. REMEDIES

In addition to any other remedies provided for in this contract, and without limiting its remedies otherwise available at law, the District may exercise the following remedial actions if the Contractor substantially fails to satisfy or perform the duties and obligations in this contract. Substantial failure to satisfy the duties and obligations shall be defined to mean significant insufficient, incorrect or improper performance, activities, or inaction by the Contractor. These remedial actions are as follows:

- A. Suspend the Contractor's performance pending necessary corrective action as specified by the District without the Contractor's entitlement to adjustment in price/cost or schedule; and/or
- B. Withhold payment to the Contractor until the necessary services or corrections in performance are satisfactorily completed; and/or
- C. Request the removal from work on the contract of employees or agents of the Contractor whom the District justifies as being incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued employment on the contract the District deems to be contrary to the public interest or not in the best interest of the District; and/or
- D. Deny payment for those services or obligations which have not been performed and which due to circumstances caused by the Contractor cannot be performed, or if performed would be of no value to the District. Denial of the amount of payment must be reasonably related to the value of work or performance lost to the District.
- E. Terminate the contract for default.

The above remedies are cumulative and the District, in its sole discretion, may exercise any or all of them individually or simultaneously.

14. TERMINATION FOR CONVENIENCE

Termination

The District may, when the interests of the District so require, terminate this contract in whole or in part, for the convenience of the District. The District shall give at least ten (10) days advance written notice of the termination to the Contractor specifying the part(s) of the contract terminated and the effective date of termination. Exercise by the District of the Termination of Convenience Clause in no way implies that the District has breached the contract.

Contractor's Obligations

The Contractor shall incur no further obligations in connection with the terminated work and on the date specified in the notice of termination the Contractor shall stop work to the extent specified. The Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The District may direct the Contractor to assign the Contractor's right,

title, and interest under terminated orders or subcontracts to the District. The Contractor must still complete and deliver to the District the work not terminated by the Notice of Termination and may incur obligations as are necessary to do so.

Compensation

- A. The Contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with the cost or pricing data bearing on such claim. If the Contractor fails to file a termination claim within 90 days from the effective date of termination, the District may pay the Contractor, if at all, an amount set in accordance with subparagraph C of this Section.
- B. The District and the Contractor may agree to a settlement provided the Contractor has filed a termination claim supported by cost or pricing data and that the settlement does not exceed the total contract price plus settlement costs, reduced by payments previously made by the District, the proceeds of any sales of supplies and manufactured materials made under agreement of the parties, and the contract price of the work not terminated.
- C. Absent complete agreement, under subparagraph B of this Section, the District shall pay the Contractor the following amounts, provided the payments agreed to under subparagraph B shall not duplicate payments under this subparagraph:
 - 1. Contract prices for supplies or services accepted under the contract;
 - 2. Reasonable costs incurred in preparing to perform the terminated portion of the work plus a fair and reasonable profit on such portion of the work (such profit shall not include anticipatory profit or consequential damages) less amounts paid to or to be paid for accepted supplies or services; provided, however, that if it appears that the Contractor would have sustained a loss if the entire contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss.
 - 3. Reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to the Contractor's obligations paragraph of this clause. These costs shall not include costs paid in accordance with subparagraph B of this Section.
 - 4. The reasonable settlement costs of the Contractor including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the terminated portion of this contract.
 - 5. The total sum to be paid the Contractor under this subparagraph C shall not exceed the total contract price plus settlement costs, reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under subparagraph B, and the contract price of work not terminated.

15. TERMINATION FOR DEFAULT/CAUSE

The District

If the District fails to pay the amount due to the Contractor pursuant to this contract within sixty (60) days from the date of the invoice, the Contractor may, by written notice to the District, indicate that the District is in default and the Contractor's intent to terminate the contract. The District shall have ten (10) days' opportunity, or such time as mutually agreed, to cure the default or show reasonable cause why termination is otherwise not appropriate.

Non-payment by the District pursuant to the "Remedies" section of this contract shall not be cause for the Contractor to terminate this contract for default.

The Contractor

If the Contractor refuses or fails to perform any of the provisions of this contract, with such diligence as will ensure its completion within the time specified in this contract, the District may notify the Contractor in writing of the non-performance, and if not promptly corrected within the time specified, the District may terminate the Contractor's right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. In the event of termination, all finished or unfinished documents, data, studies, surveys, reports or other materials prepared by the Contractor pursuant to this contract shall, at the option of the District, become the District's property and, if in the possession of the Contractor, shall immediately be returned to the District. The Contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred by the District in procuring similar goods or services elsewhere.

Notwithstanding the above, the Contractor shall not be relieved of liability to the District for any damages sustained by the District by virtue of any breach of the contract by the Contractor, and the District may withhold any payment to the Contractor for the purpose of mitigating the District's damages until such time as the exact amount of damages due to the District from the Contractor is determined.

Notwithstanding termination of the contract and subject to any directions from the District, the Contractor shall take timely, reasonable and necessary action to protect and preserve property in the possession of the Contractor in which the District has an interest.

Compensation

Payment for completed supplies delivered and accepted by the District shall be at the contract price. The District may withhold amounts due to the Contractor as the District deems to be necessary to protect the District against loss because of outstanding liens or claims of former lien holders and to reimburse the District for the excess costs incurred in procuring similar goods and services.

Excuse for Nonperformance or Delayed Performance

The Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms if such failure arises as a result of "force majeure," as set forth in the "Force Majeure" section of this contract. Upon request of the Contractor, the District shall ascertain the facts and extent of such failure, and, if the District determines that any failure to perform was a result of force majeure, and that, but for the force majeure, the Contractor's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the District.

Erroneous Termination for Default

If after notice of termination of the Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the delay was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the termination for convenience clause.

16. INSURANCE

- A. **LIABILITY INSURANCE REQUIREMENTS:** The Contractor shall procure and maintain, at his/her own expense, until the contract performance is accepted by the District, liability insurance as hereinafter specified. All such insurance shall be subject to the approval of the District for adequacy of protection and shall name the District as an additional insured, and shall include a provision preventing cancellation without ten days prior notice to the District in writing. The liability insurance required is as follows:
- B. Contractor's General Public Liability and Property Damage insurance issued to the Contractor and protecting him/her from all claims for destruction of or damage to property, arising out of or in connection with any operations under this Contract, whether such operations be by the Contractor or by a subcontractor under him/her or anyone directly or indirectly employed by the Contractor or by any subcontractor. The District shall be named as an additional insured for the duration of the contract, including any extensions.
- C. All such insurance shall be written with a limit of liability of not less than \$1,000,000 per occurrence for all damages arising out of injury to or destruction of property during the policy period. All such insurance shall be written on a comprehensive policy form. Certificates evidencing the issuance of such insurance, addressed to the District, shall be filed with the District within five (5) calendar days after the Contractor signs the contract. The District shall be named as an additional insured for the duration of the contract, including any extensions.
- D. General Public Liability and Property Damage insurance issued to "Boulder Valley School District RE2 in Boulder and Gilpin Counties and State of Colorado, its directors and members of its Board of Education, its officers, its agents, and its employees acting in the scope and course of their employment", and protecting them from all claims for personal injury, including death, and all claims for destruction of or damage to property, arising out of or in connection with any operations under the Contractor's Contract, whether such operations be by the Contractor or by a subcontractor under him/her or by anyone directly or indirectly employed by the Contractor or by a subcontractor under him/her. All such insurance shall have the minimum limits of liability specified in the preceding paragraph. All such insurance policies shall be delivered to the District within five (5) calendar days after the Contractor signs the contract.
- E. Contractor's Automobile Liability and Property Damage insurance issued to the Contractor protecting the Contractor and the District from all claims for personal injury, including death, and all claims for destruction of or damage to property, arising out of or in connection with any operations under the Contractor's Contract, whether such operations be by the Contractor or by a subcontractor under him/her or by anyone directly or indirectly employed by the Contractor or a subcontractor under him/her. All such insurance shall be written with a limit of liability of not less than \$400,000. All such

insurance policies shall be delivered to the District within five (5) calendar days after the Contractor signs the contract. The District shall be named as an additional insured for the duration of the contract, including any extensions.

F. **INSURANCE - WORKERS' COMPENSATION:** The Contractor shall maintain at his/her own expense, until completion of this contract and acceptance thereof by the District, Workers' Compensation Insurance, including occupational disease provisions, covering the obligations of the Contractor in accordance with the provisions of the laws of the State of Colorado. The Contractor shall furnish the District with a certificate giving evidence that such Contractor is covered by the Workers' Compensation Insurance herein required, each certificate specifically stating that such insurance includes occupational disease provisions. All such certificates shall be furnished within five (5) calendar days after the Contractor signs the contract. The District shall be named as an additional insured for the duration of the contract period, including any extensions.

17. NOTICES

Any notice required or permitted by this contract shall be delivered in person or sent by first class mail, postage prepaid, to the party at the address as hereinafter provided. The named individuals or officials shall be the designated representatives of the respective parties. Either party may, from time to time, designate in writing a new or substitute representative or address.

For the Contractor:

() ____ - ____
Fax: _____
Email: _____

For the District:

Boulder Valley School District

_____, Colorado _____
Attn: _____
(720) 561-_____
Fax: _____
Email: _____

For notices sent to the District, an additional copy shall be sent first class mail, postage prepaid to:

Boulder Valley School District
Legal Department
6500 Arapahoe
PO Box 9011
Boulder, CO 80301

18. ASSIGNMENT AND SUCCESSORS

The Contractor agrees not to assign rights or delegate duties under this contract without the express, written consent of the District, which consent shall not be unreasonably withheld. Such consent may include, at the District's sole discretion: 1) the execution by the District, the Contractor and the Assignee of a Novation Agreement in a form prescribed by the District, which Novation Agreement will become effective upon District approval, or 2) verification by the District of the assignment. Except as herein otherwise provided, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors

and assigns. This provision shall not be construed to prohibit assignments of the right to payment, provided that written notice of assignment adequate to identify the rights assigned is received, verified and approved by the District.

19. FORCE MAJEURE

Neither the Contractor nor the District shall be liable to the other for any delay in, or failure of performance of, any covenant or promise contained in this contract, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to the extent that, such delay or failure is caused by "force majeure". As used in this contract "force majeure" means acts of God; acts of the public enemy; acts of the District and any governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes, freight embargoes; illegality, or unusually severe weather.

20. PRESS CONTACTS/NEWS RELEASES

The Contractor shall not initiate any press and/or media contact nor respond to press/media requests regarding this contract and/or any related matters concerning the District without the prior written approval of the District.

21. THIRD PARTY BENEFICIARIES

It is expressly understood and agreed that the enforcement of the terms and conditions of this contract and all rights of action relating to such enforcement shall be strictly reserved to the District and the Contractor. Nothing contained in this contract shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the District and the Contractor that any such person or entity, other than the District or the Contractor, receiving services or benefits under this contract shall be deemed an incidental beneficiary only.

22. GOVERNMENTAL IMMUNITY/LIMITATION OF LIABILITY

Notwithstanding anything herein to the contrary, no term or condition shall be deemed a waiver, express or implied, of any provision of the "Colorado Governmental Immunity Act", 24-10-101, et seq., C.R.S., as now or hereafter amended ("Immunity Act"), nor of the Risk Management self-insurance statutes at 24-30-1501, et seq., C.R.S., as now or hereafter amended ("Risk Management Act"). The parties understand and agree that the liability of the District for claims or injuries to persons or property arising out of negligence of the District, its departments, divisions, schools, board, officials and employees is controlled and limited by the provisions of the Immunity Act and the Risk Management Act. Any provision of this contract, whether or not incorporated herein by reference, shall be controlled, limited, and otherwise modified so as to limit any liability of the District to the above cited laws.

23. SEVERABILITY

To the extent that this contract may be executed and performance of the obligations of the parties may be accomplished within the intent of the contract, the terms of this contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof.

24. WAIVER

The waiver of any breach of a term, provision, or requirement of this contract shall not be construed or deemed as waiver of any subsequent breach of such term, provision, or requirement, or of any other term, provision, or requirement.

25. INTEGRATION OF UNDERSTANDING

This contract is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written contract executed and approved by the parties.

26. SURVIVAL OF CERTAIN CONTRACT TERMS

Notwithstanding anything herein to the contrary, the parties understand and agree that all terms and conditions of this contract and the exhibits and/or attachments hereto which may require continued performance, compliance, or effect beyond the termination or expiration date of the contract shall survive such termination or expiration date and shall be enforceable by the District as provided herein in the event of such failure to perform or to comply by the Contractor.

27. MODIFICATION AND AMENDMENT

This contract is subject to such modifications as may be required by changes in Federal or State law, or their implementing regulations. Any such required modification shall automatically be incorporated into and be part of this contract on the effective date of such change as if fully set forth herein. Except as provided above, no modification of this contract shall be effective unless agreed to in writing by both parties in an amendment to this contract that is properly executed and approved in accordance with applicable law.

28. COOPERATION OF THE PARTIES

The Contractor and the District agree to cooperate fully, to work in good faith, and to mutually assist each other in the performance of this contract. In connection herewith, the parties shall meet to resolve problems associated with this contract. Neither party will unreasonably withhold its approval of any act or request of the other to which the party's approval is necessary or desirable.

29. TAX EXEMPT STATUS

It is hereby recognized and acknowledged by the Contractor that the District is not liable for any sales, use, excise, property or other taxes imposed by any federal, state or local government tax authority, per Section 39-26-704, C.R.S. The District's Federal Identification Number (FEIN) is 84-6014683. The District's tax exemption number is 98-023823. The District is also not liable for any taxes of the Contractor for franchise or related to the income of the Contractor. No taxes of any kind shall be charged to the District.

30. VENUE & CHOICE OF LAW

This contract is made in the State of Colorado. The Contractor agrees that exclusive venue for any action between the parties for claims concerning this contract shall be in Boulder County, Colorado. The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract, whether or not incorporated herein by reference, which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

At all times during the performance of this contract, the Contractor shall strictly adhere to all applicable federal and State laws, rules, and regulations that have been or may hereafter be established.

31. SECTION HEADINGS

The section headings or titles are for convenience only and shall have no substantive effect in the interpretation of the contract.

32. INDEMNIFICATION

The Contractor shall indemnify, save, and hold harmless the District, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

33. INDEPENDENT CONTRACTOR

The Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither the Contractor nor any agent or employee of the Contractor shall be or shall be deemed to be an agent or employee of the District. The Contractor shall pay when due all required employment taxes and income tax and local head tax on any monies paid by the District pursuant to this contract. The Contractor acknowledges that the Contractor and its employees are not entitled to unemployment insurance benefits unless the Contractor or third party provides such coverage and that the District does not pay for or otherwise provide such coverage. The Contractor shall have no authorization, express or implied, to bind the District to any agreements, liability, or understanding except as expressly set forth herein. The Contractor shall provide and keep in force Workers' Compensation (and provide proof of such insurance when requested by the District) and unemployment compensation insurance in the amounts required by law, and shall be solely responsible for the acts of the Contractor, its employees and agents.

34. FUND AVAILABILITY.

Financial obligations of the District payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. In the event funds are not appropriated, budgeted or otherwise made available, the contract shall be terminated on the last day of

the period for which funds were appropriated or monies made available for such purposes. This provision shall not be construed to limit any other right of termination available to the District.

Pursuant to Section 22-44-115, C.R.S., any obligation of a contract which requires expenditures contrary to subsection (1) of Section 22-44-115, C.R.S., shall be null and void, and no school district monies shall be paid thereon.

35. NON-DISCRIMINATION

The Contractor agrees to comply with the letter and the spirit of all applicable state and federal laws respecting discrimination and unfair employment practices.

36. CERTIFICATION

The Contractor certifies that it shall comply with the provisions of C.R.S. § 8-17.5-101 *et seq.* The Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract; or enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

The Contractor represents, warrants, and agrees that:

- (1) it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services through participation in either the federal E-Verify or the Colorado Department of Labor and Employment Program;
- (2) it is prohibited from using either the E-Verify Program or the Department Program procedures to undertake preemployment screening of job applicants while the public contract for services is being performed;
- (3) if it obtains actual knowledge that a subcontractor performing work under the public contract for services knowingly employs or contracts with an illegal alien, the contractor shall be required to:
 - (a) Notify the subcontractor and the School District within three days that the contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 - (b) Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to C.R.S. § 8-17.5-102(2)(b)(III)(A) the subcontractor does not stop employing or contracting with the illegal alien; except that the contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien;
- (4) it is required to comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to C.R.S. § 18-17.5-102(5).

37. PREMISES ACCESS CERTIFICATION

BOULDER VALLEY SCHOOL DISTRICT RE-2
REQUEST FOR PROPOSALS NO. 13-14
Title: Energy Dashboard
Date: 6-13-13

The Contractor shall not knowingly employ on Boulder Valley School District premises any persons convicted of any felony or misdemeanor crime of unlawful sexual behavior involving children.

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

CONTRACTOR:

**BOULDER VALLEY SCHOOL DISTRICT RE-2
BOARD PRESIDENT**

By _____

Legal Name of Contracting Entity

Social Security Number or FEIN

**BOULDER VALLEY SCHOOL DISTRICT RE-2
BOARD SECRETARY**

Signature of Authorized Officer

SANDRA EICHER

Print Name & Title of Authorized Officer

DATE: _____

LEGAL REVIEW:

CORPORATIONS:

MELISSA BARBER

(A corporate attestation is required.)

Attest (Seal)

By: _____

(Corporate Secretary or Equivalent, or
Town/City/County Clerk)

By: _____

(Place corporate seal here, if available.)

ATTACHMENT A

OPTION LETTER

(Date)

Option Letter # ____, Fiscal Year ("FY") 20__ - 20__

(Contractor)

(Address)

SUBJECT: Option to renew Contract dated _____

Dear _____:

In accordance with Section ____ of the Contract dated _____, between the **Boulder Valley School District RE-2** and _____ (Contractor), the District hereby exercises the option for an additional ____ year's performance period from _____, 20__ through _____, 20__ for the additional cost of _____ dollars (\$_____).

As a result of this contract extension, the contract period is extended from _____, 20__ through _____, 20__.

This is the ____ of ____ renewal contract periods permitted by the contract.

APPROVED

BOULDER VALLEY SCHOOL DISTRICT RE-2

By: _____

Date: _____