

**EL TEJON UNIFIED SCHOOL DISTRICT
BOARD OF TRUSTEES
SPECIAL MEETING**

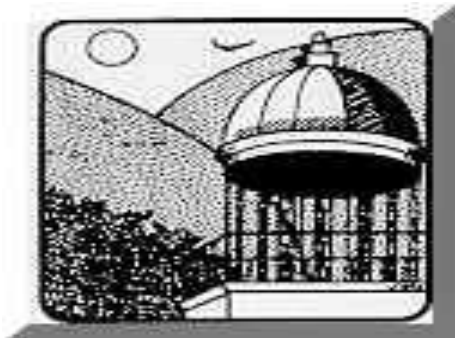
TO: Members of the Governing Board

You are hereby notified that a Special Meeting of the Board of Trustees of the El Tejon Unified School District is called for:

DATE: Thursday, January 15, 2015
TIME: Open Session: 5:45 P.M.
PLACE: El Tejon Continuation High School

SAID MEETING IS CALLED FOR THE PURPOSE OF:

OPEN SESSION: Approval of MOUs between Imperial County Office of Education and El Tejon Unified School District for connectivity needs at Frazier Mountain High School, El Tejon School and Frazier Park School.



El Tejon Unified School District
BOARD OF TRUSTEES

4337 Lebec Road; Lebec, CA 93243

PH: 248-6247

FAX: 248-6714

Vickie Mullen, President

John Fleming, Trustee

Misty Johnston, Trustee

Barbara Newbold, Clerk

Lark Shillig, Trustee

BOARD OF TRUSTEES
SPECIAL BOARD MEETING

Thursday, January 15, 2015

El Tejon Continuation High School

700 Falcon Way, Lebec, CA 93243

OPEN SESSION:

5:45 p.m.

ETCHS

AGENDA

Agendas are posted at the El Tejon Unified School district at least 72 hours prior to each meeting as well as at each school site. Any materials required by law to be made available to the public prior to the meeting of the Board of Trustees of the El Tejon Unified School District can be inspected at the following address between the hours of 7:30 a.m. to 3:30 p.m., Monday through Friday: El Tejon Unified School District, 4337 Lebec Road, Lebec, CA 93243.

SPECIAL NEEDS ACCOMMODATIONS

Assistive listening devices, agenda in Braille and/or alternate formats are available upon request. American Sign Language (ASL) interpreters, other auxiliary aids and services, or reasonable modifications to Board meeting policies and/or procedures, such as to assist members of the disability community who would like to request a disability-related accommodation in addressing the Board, are available if requested at least three business days prior to the Board meeting. Later requests will be accommodated to the extent feasible. Please contact the Superintendent's Office, El Tejon Unified School District at 661-248-6247 from 7:30 a.m. to 3:30 p.m., Monday through Friday (Government Code 54954.2)

HEARING OF INDIVIDUALS ON AGENDA ITEMS

Members of the public shall have an opportunity to address the Board of Trustees either before or during the Board's consideration of each item of business to be discussed at regular or special board meetings. Each member of the public wishing to speak must fill out a "Request to Address the Board Regarding Items on the Agenda" (blue card) prior to the start of the meeting. The presiding officer must first recognize each person who addresses the Board.

Notice of Teleconferencing: Government Code section 54953 permits the Board of Trustees to conduct its meeting from different locations via teleconference provided that at least a quorum of the Trustees participate from locations within District boundaries. This meeting shall be conducted using teleconferencing at the

following locations, which shall be accessible to the public: **4026 Yakima Way, Eagle Mountain, Utah.** Members of the public shall be afforded the opportunity to address the Board as permitted under Government Code section 54954.3 at each teleconference location. Voting at this meeting shall be by roll call.

CONVENING IN OPEN SESSION – Time _____

MOTION _____ SECOND _____ AYES _____ NAYES _____ ABSENT _____

FLAG SALUTE

PUBLIC PRESENTATIONS

Members of the public shall have an opportunity to address the Board of Trustees either before or during the Board’s consideration of each item of business to be discussed at regular or special board meetings. The time allotted shall be limited to 3 minutes. If a large number of people wish to speak on a specific item, with Board consent, the president may increase or decrease the time allowed (20 minutes) for public presentation, depending on the topic and the number of persons wishing to be heard. This time may be used to address any item on the agenda, or any matter of concern within the jurisdiction of the El Tejon Unified School District. Each person who addresses the Board must be first recognized by the presiding officer. Comments must be addressed to the Board as a whole and not to individual members or District employees. The Board and staff are not obligated to comment on, or respond to, addresses by the public.

Whenever a member of the public initiates specific complaints or charges against an employee, the Board President shall inform the complainant it is the policy of the Board to hear such complaints or charges in closed session unless otherwise requested by the employee pursuant to Government Code 54957. The Board President shall also encourage the complainant to file a complaint to an appeal using the appropriate District Complaint or appeal procedure.

REVISION/ADOPTION/ORDERING OF AGENDA

MOTION _____ SECOND _____ AYES _____ NAYES _____ ABSENT _____ STUDENT TRUSTEE _____

PUBLIC COMMENT

ITEMS FOR DISCUSSION AND ACTION

A. Approval of MOU between Imperial County Office of Education and El Tejon Unified School District for connectivity needs at Frazier Mountain High School.

MOTION _____ SECOND _____ AYES _____ NAYES _____ ABSENT _____ STUDENT TRUSTEE _____

B. Approval of MOU between Imperial County Office of Education and El Tejon Unified School District for connectivity needs at El Tejon School.

MOTION _____ SECOND _____ AYES _____ NAYES _____ ABSENT _____ STUDENT TRUSTEE _____

C. Approval of MOU between Imperial County Office of Education and El Tejon Unified School District for connectivity needs at Frazier Park School.

MOTION _____ SECOND _____ AYES _____ NAYES _____ ABSENT _____ STUDENT TRUSTEE _____

ADJOURNMENT

TIME:

MOTION _____ SECOND _____ AYES _____ NAYES _____ ABSENT _____ STUDENT TRUSTEE _____



Memorandum of Understanding

Between the Imperial County Office of Education and El Tejon Unified School District regarding the Implementation of the Broadband Infrastructure Improvement Grant Program

This Memorandum of Understanding establishes an Agreement (“Agreement”) between the Imperial County Office of Education (“ICOE”), and El Tejon Unified School District (“Agency”) to procure solutions, which meet the connectivity needs experienced as of December 16, 2014 by Agency at Frazier Mountain High. By virtue of Senate Bill SB852, the K-12 High Speed Network program (K12HSN) and its operator ICOE are required to utilize state funding to resolve poor connections to the Internet that result in an inability on the part of Agency to offer online computer adaptive testing to students. The Agency has been identified as a potential grant awardee and may receive benefits of the Broadband Infrastructure Improvement Grant (BIIG) as outlined in this Agreement.

1. Background.

Provision 6, item 6110-488 of Senate Bill SB 852 (signed into law by the Governor on June 20, 2014 – and available at this link: www.k12hsn.org/files/biig/sb852.pdf) re-appropriates one-time funding to support network connectivity infrastructure grants by the K12HSN in consultation with the Department of Education and the State Board of Education.

The one-time funding in the 2014-15 Budget Act is to enhance “last mile” connections for school sites to allow them to successfully administer the California Assessment of Student Performance and Progress (CAASPP) during the testing windows established for the spring of 2015.

In order for the Agency to obtain service from BIIG, the Agency must take responsibility for the monthly recurring costs to manage and maintain the improved connections as outlined in Section 5.

2. Effective Date and Term.

- a. The Effective Date of the Agreement shall be the date the last party to this Agreement signs the Agreement.
- b. The Term of the Agreement shall be from the Effective Date of this agreement, through June 30, 2016.

3. Definitions and Key Descriptors.

- a. “Parties” refers to the Corporation for Education Networking Initiatives in California (CENIC), the Imperial County Office of Education (ICOE) serving as the lead and fiscal agent for the K12 High Speed Network (K12HSN), and the El Tejon Unified School District (Agency).
- b. “Party” refers to either ICOE, or the Agency.
- c. “CENIC” refers to the Corporation for Education Networking Initiatives in California, the network operator for the California Research and Education

Network (CalREN), a robust regional network that serves all educational segments in California and interconnects them with other regional and international networks worldwide.

- d. “K12HSN” refers to the California K-12 High Speed Network program sponsored by the California Department of Education with the mission to enable educators, students and staff across the state to have access to a reliable high-speed network with the capacity to deliver online resources to support teaching and learning and promote academic achievement. ICOE is the Lead Education Agency for this grant.
- e. Broadband Infrastructure Improvement Grant (BIIG): The Broadband Infrastructure Improvement Grants are one-time monies that will fund projects critical for the implementation of the 2014-15 computer-based assessments in sites that demonstrate the greatest need or hardship as compared to other applicant districts, school sites, direct-funded charter schools.
- f. BIIG Grantees are districts with school sites that are deemed to be in the greatest need of connectivity solutions among California’s schools, and for which SB852 funds will be utilized to install connectivity solutions and other required equipment with the goal of successfully implementing computer adaptive testing defined in more detail in 3g.
- g. California Assessment of Student Performance and Progress (CAASPP): Signed into law on October 2, 2013, AB 484 (Bonilla) establishes California's new student assessment system, now known as the California Assessment of Student Performance and Progress (CAASPP). The CAASPP assessment system replaces the Standardized Testing and Reporting (STAR) Program. The primary purpose of the CAASPP assessment system is to assist teachers, administrators, and pupils and their parents by promoting high-quality teaching and learning through the use of a variety of assessment approaches and item types.
- h. “E-rate” refers to a federal program that provides discounts to assist most schools and libraries in the United States to obtain affordable telecommunications and Internet services. The Federal Communications Commission’s Schools and Libraries Universal Service program supports connectivity, the conduit or pipeline for communications using telecommunications services and/or the Internet. Discounts for support depend on the level of poverty and the urban/rural status of the population served and range from 20% to 90% of the costs of eligible services. Eligible schools, school districts and libraries may apply individually or as part of a consortium.
- i. “Letter of Agency” or LOA is a legal document whereby one school district gives authority for another agency to act on its behalf, in this agreement specifically to procure telecommunication services. As it pertains to the Statewide CENIC E-rate Consortium, a school district or county office of education signs a Letter of Agency to join the Consortium. By doing so, CENIC, who contracts on behalf of K-12 for circuits that create the statewide network, is able to seek E-rate discounts for them.

- j. **Service Provider:** Refers to the entity (e.g., private telecommunications company, cable operator, or other organization) that will deliver the enhanced connectivity to the eligible school site.
 - k. “Supersedure Agreement” is an agreement whereby Agency, CENIC, and the selected telecommunications provider agree to permit the substitution of Agency into the role of responsible party and payor, effective July 1, 2016, subsequent to CENIC’s ending its role as responsible party and payor, effective June 30, 2016.
4. **ICOE Responsibilities.** Imperial County Office of Education as the Lead Education Agency (LEA) and operator of the K-12 High Speed Network will have the following responsibilities:
- a. Apprise Agency of the monthly recurring costs (Section 5.i) that must be assumed effective July 1, 2016, to permit Agency to make an informed decision before choosing to become a BIIG grantee.
 - b. Work cooperatively with CENIC and, upon approval of California Department of Education, approve and enter agreements with telecommunications providers to secure connectivity solution(s) for Agency.
 - c. Reimburse CENIC for one-time installation and special construction costs as well as monthly service costs for BIIG grantees from the date that the broadband solution is viable and in operation through June 30, 2016.
 - d. Work with CENIC and consultants to provide the Agency with assistance on the transition of contractual obligations to include support in filing pertinent forms and contracts, training Agency staff and answering questions through the supersedure process.
 - e. Work with CENIC to fulfill the following obligations:
 - i. Negotiate contracts with service providers to secure connectivity solutions to benefit Agency.
 - ii. Upon Agency’s agreement to the terms contained herein, enter into agreements to procure said connectivity solutions for the Agency.
 - iii. Procure for the Agency a network connection for the awarded school site with the capacity of: 1000 Megabits per second (Mbps).
 - iv. Assist with network design and equipment installation for the grant awardees.
 - v. Oversee the installation of connectivity solutions, whether they are fiber based, other circuit options, or via microwave.
 - vi. Keep Agency apprised of progress and timelines.
 - vii. Pay installation costs, including special construction, as well as monthly service costs from the date that the solution is viable and passing traffic to June 30, 2016.
 - viii. Apply for E-rate discounts on contracted services for E-rate funding year 2015, which conclude June 30, 2016.

5. **AGENCY Responsibilities.** In order to receive services through this Agreement, Agency agrees to:
- a. Provide access to facilities as needed to design and implement connectivity solutions.
 - b. Conduct a review of on-going costs to ensure that once Agency assumes payment of them, Agency will have sufficient funding to continue the service for the duration of the contract with the telecommunications provider.
 - c. Provide point of contact information for the individual who will coordinate access to the site for inspection, installation of equipment and circuits, etc.
 - d. Provide available technical assistance and support for the installation (remote hands) of equipment necessary to establish the improved connection.
 - e. Secure any board approval required to receive services under the BIIG grant program by January 23, 2015.
 - f. Enter into a joint Supersedure Agreement with the service provider causing Agency to assume the role of responsible party / payor on July 1, 2016.
 - g. Using a template provided, report to ICOE at least two times per year for twenty-four (24) months on the impacts to instruction, assessments, student engagement, professional development, collaboration among staff and students, and business efficiencies that are impacted by the increased bandwidth available to the school site.
 - h. For period of services starting July 1, 2016, Agency will meet requirements and deadlines associated with application processes in order to secure funding from federal and state subsidy programs such as E-rate and CTF to assist with payment of monthly recurring cost to maintain the connection provided by the grant.
 - i. If required, provide an additional Letter of Agency in order for CENIC to be able to apply for E-rate discounts on behalf of the school site to be connected.
 - j. **Payment of Costs:**
 - i. The Agency will be responsible for any ongoing operational costs to manage and maintain the connection provided by the grant. This includes, but is not limited to, the Monthly Recurring Charges (MRC), associated taxes and surcharges, equipment replacement, and maintenance agreements or service/support contracts in order to connect to the nearest K12HSN network aggregation site. K12HSN may provide further support to help Agency have a better understanding of these potential costs.
 - ii. It is estimated that the monthly recurring charges, before any discounts will be: \$2,718.70. The estimated monthly recurring charges after applying federal and state discounts will be approximately: \$271.87.
 - iii. It is expected that the Agency will become the customer of record for the connectivity services, and, therefore, will be directly invoiced by the service provider beginning July 1, 2016.
6. **Project Timelines.** All Parties understand that the timeline for the completion of the activities for this project is aggressive. Timelines are subject to change by ICOE; ICOE will provide the Agency with a new timeline if necessary. The goal of SB852 is

for connectivity solutions to be implemented in the spring of 2015. Time is of the essence, and all Parties agree to use their best efforts to meet the expected installation timeframes.

7. Termination.

- a. In the event that any Party fails to perform on a material term of this Agreement, the other Parties have the right to terminate the Agreement upon thirty (30) days written notice with all other rights and remedies available to it at law and equity.
- b. In the event of termination, Parties agree to coordinate closely on any network changes in order to minimize service disruption to connected entities.

8. Indemnification.

- a. The Agency agrees to indemnify, defend, and hold harmless ICOE, its officers, agents and employees against any claim, liability, loss, injury or damage imposed on ICOE arising out of the Agency's performance on this Agreement, except for liability resulting from the negligent or willful misconduct of ICOE, its officers, agents and employees. If obligated to indemnify, defend, or hold harmless Agency under this Agreement, the Agency shall reimburse ICOE for all costs, attorney's fees, expenses and liabilities associated with any resulting legal action. The Agency shall seek ICOE approval of any settlement that could adversely affect the ICOE, its officers, agents or employees.
- b. ICOE agrees to indemnify, defend, and hold harmless the Agency, their officers, agents and employees against any claim, liability, loss, injury or damage imposed on the Agency arising out of ICOE's performance on this Agreement, except for liability resulting from the negligent or willful misconduct of the Agency, its officers, agents and employees. If obligated to indemnify, defend, or hold harmless ICOE under this Agreement, ICOE shall reimburse the Agency for all costs, attorney's fees, expenses and liabilities associated with any resulting legal action. ICOE shall seek the Agency's approval of any settlement that could adversely affect the Agency, its officers, agents or employees.

- 9. Arbitration.** ICOE and Agency agree that should any controversy or claim arise out of or relating to this Agreement they will first seek to resolve the matter informally for a reasonable period of time not to exceed forty-five (45) days. If the dispute remains, it shall be subject to mediation with a mediator agreed to by ICOE and Agency and paid for by ICOE and Agency, absent an agreement otherwise. If after mediation there is no resolution of the dispute, ICOE and Agency agree to resolve the dispute by binding arbitration administered by the American Arbitration Association ("AAA") in accordance with its Commercial Arbitration Rules, and judgment on an arbitrator's award may be entered in any court having jurisdiction thereof.

- a. ICOE and Agency shall select one arbitrator pursuant to the AAA's Commercial Arbitration Rules.

- b. The arbitrator shall present a written, well-reasoned decision that includes the arbitrator's findings of fact and conclusions of law. The decision of the arbitrator shall be binding and conclusive on ICOE and Agency.
 - c. The arbitrator shall have no authority to award punitive or other damages not measured by the prevailing Party's actual damages, except as may be required by statute. The arbitrator shall have no authority to award equitable relief. Any arbitration award initiated under this clause shall be limited to monetary damages and shall include no injunction or direction to either Party other than the direction to pay a monetary amount. As determined by the arbitrator, the arbitrator shall award the prevailing Party, if any, all of its costs and fees. The term "costs and fees" includes all reasonable pre-award arbitration expenses, including arbitrator fees, administrative fees, witness fees, attorney's fees and costs, court costs, travel expenses, and out-of-pocket expenses such as photocopy and telephone expenses. The decision of the arbitrator is not reviewable, except to determine whether the arbitrator complied with sections (b) and (c) of this paragraph.
10. **Governing Law and Venue.** The laws of the State of California shall govern this Agreement. Proper venue for any dispute regarding this Agreement shall lie in Imperial County, California.
11. **Entire Agreement.** This Agreement constitutes the final, complete and exclusive statement of the terms of agreement between the Parties pertaining to the subject matter of the Agreement. It supersedes all prior and contemporaneous understandings or agreements by the Parties. Neither Party has been induced to enter the Agreement by, nor is either Party relying on, any representation or warranty outside those expressly set forth in the Agreement.
12. **Interpretation.** This Agreement shall be interpreted to give effect to its fair meaning and shall be construed as though all Parties prepared it.
13. **Assignment.** Unless authorized in writing by all Parties, no Party shall assign or transfer any rights or obligations covered by this Agreement. Any unauthorized assignment or transfer shall constitute grounds for termination by the other Parties.
14. **Compliance with Laws.** The Parties shall, at their own cost and expense, comply with all local, state, and federal ordinances, regulations, and statutes now in force and which may hereafter be enacted that affect this Agreement.
15. **No Waiver of Default.** No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that instance or any other instance. Any waiver must be in writing and shall only apply to that instance.
16. **Successors and Assigns.** All representations, covenants, and warranties set forth by, on behalf of, or for the benefit of any Party herein shall be binding upon and inure to the benefit of such Party and its successors and assigns.

17. **Amendment.** This Agreement may only be altered, amended, or modified by written instrument executed by both ICOE and Agency. ICOE and Agency agree to waive any right to claim, contest, or assert that this Agreement was modified, canceled, superseded, or altered by oral agreement, course of conduct, waiver, or estoppel.
18. **Severability.** If any one or more of the provisions of this Agreement is held to be invalid, illegal, or unenforceable, then such provision or provisions shall be severed from the Agreement, and the remaining provisions of the Agreement shall continue in full force and effect and shall not be affected, impaired, or invalidated in any way.
19. **Execution of Counterparts.** If this Agreement is executed in counterparts, each counterpart shall be deemed an original, and all such counterparts or as many of them as ICOE and Agency preserve undestroyed shall together constitute one and the same Agreement.
20. **Authority.** ICOE and Agency warrant and represent that they have the authority to enter into this Agreement in the names, titles, and capacities stated herein and on behalf of the entities, persons, or firms named herein and that all legal requirements to enter into this Agreement have been fulfilled.
21. **Nondiscrimination.** During the performance of this Agreement, the Parties shall not discriminate against any employee, applicant, student or other person connected to this Agreement in a manner prohibited by the laws of the United States or the State of California (including, but not limited to, on the basis of religion, race, color, national origin, handicap, ancestry, sex, sexual orientation, marital status or age).
22. **Notice.** Any notice given under this Agreement shall be in writing to the Parties' representatives and shall be deemed delivered three (3) days after the deposit in the United States mail, certified or registered, postage prepaid, and addressed to the parties. Parties shall promptly update each other when representatives and contact information change.

The Parties' representatives shall be:

ICOE:

Luis Wong
Chief Technology Officer
1398 Sperber Road
El Centro, CA 92243
Phone: (760) 312-6512
Email: lwong@icoe.org

Agency:

Rodney Wallace
Administrator
4337 Lebec Road
Lebec, CA 93243-0876
Phone: (661) 248-6247
Email: rwallace@el-tejon.org

Communications regarding the administration of this Agreement shall be made to the Parties' representatives. Communications regarding technical matters underlying the Agreement can be made to either the Parties' representatives or the following persons:

ICOE:

Teri Sanders
Senior Director - Educational Technology
1398 Sperber Road
El Centro, CA 92243

Email: tsanders@icoe.org

Agency:

Rodney Wallace
Administrator
4337 Lebec Road
Lebec, CA 93243-0876

Email: rwallace@el-tejon.org

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date hereof.

For the Imperial County Office of Education

For El Tejon Unified School District

By: _____

By: _____

J. Todd Finnell, Ed.D
Imperial County Superintendent of Schools

[Remainder of page intentionally left blank]



Memorandum of Understanding

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- a. Apprise Agency of the monthly recurring costs (Section 5.i) that must be assumed effective July 1, 2016, to permit Agency to make an informed decision before choosing to become a BIIG grantee.
 - b. Work cooperatively with CENIC and, upon approval of California Department of Education, approve and enter agreements with telecommunications providers to secure connectivity solution(s) for Agency.
 - c. Reimburse CENIC for one-time installation and special construction costs as well as monthly service costs for BIIG grantees from the date that the broadband solution is viable and in operation through June 30, 2016.
 - d. Work with CENIC and consultants to provide the Agency with assistance on the transition of contractual obligations to include support in filing pertinent forms and contracts, training Agency staff and answering questions through the supersedure process.
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 - i. Negotiate contracts with service providers to secure connectivity solutions to benefit Agency.
 - ii. Upon Agency’s agreement to the terms contained herein, enter into agreements to procure said connectivity solutions for the Agency.
 - iii. Procure for the Agency a network connection for the awarded school site with the capacity of: 1000 Megabits per second (Mbps).
 - iv. Assist with network design and equipment installation for the grant awardees.
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 - vi. Keep Agency apprised of progress and timelines.
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5. **AGENCY Responsibilities.** In order to receive services through this Agreement, Agency agrees to:
- a. Provide access to facilities as needed to design and implement connectivity solutions.
 - b. Conduct a review of on-going costs to ensure that once Agency assumes payment of them, Agency will have sufficient funding to continue the service for the duration of the contract with the telecommunications provider.
 - c. Provide point of contact information for the individual who will coordinate access to the site for inspection, installation of equipment and circuits, etc.
 - d. Provide available technical assistance and support for the installation (remote hands) of equipment necessary to establish the improved connection.
 - e. Secure any board approval required to receive services under the BIIG grant program by January 23, 2015.
 - f. Enter into a joint Supersedure Agreement with the service provider causing Agency to assume the role of responsible party / payor on July 1, 2016.
 - g. Using a template provided, report to ICOE at least two times per year for twenty-four (24) months on the impacts to instruction, assessments, student engagement, professional development, collaboration among staff and students, and business efficiencies that are impacted by the increased bandwidth available to the school site.
 - h. For period of services starting July 1, 2016, Agency will meet requirements and deadlines associated with application processes in order to secure funding from federal and state subsidy programs such as E-rate and CTF to assist with payment of monthly recurring cost to maintain the connection provided by the grant.
 - i. If required, provide an additional Letter of Agency in order for CENIC to be able to apply for E-rate discounts on behalf of the school site to be connected.
 - j. **Payment of Costs:**
 - i. The Agency will be responsible for any ongoing operational costs to manage and maintain the connection provided by the grant. This includes, but is not limited to, the Monthly Recurring Charges (MRC), associated taxes and surcharges, equipment replacement, and maintenance agreements or service/support contracts in order to connect to the nearest K12HSN network aggregation site. K12HSN may provide further support to help Agency have a better understanding of these potential costs.
 - ii. It is estimated that the monthly recurring charges, before any discounts will be: \$2,718.70. The estimated monthly recurring charges after applying federal and state discounts will be approximately: \$271.87.
 - iii. It is expected that the Agency will become the customer of record for the connectivity services, and, therefore, will be directly invoiced by the service provider beginning July 1, 2016.
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for connectivity solutions to be implemented in the spring of 2015. Time is of the essence, and all Parties agree to use their best efforts to meet the expected installation timeframes.

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- b. In the event of termination, Parties agree to coordinate closely on any network changes in order to minimize service disruption to connected entities.

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- b. ICOE agrees to indemnify, defend, and hold harmless the Agency, their officers, agents and employees against any claim, liability, loss, injury or damage imposed on the Agency arising out of ICOE's performance on this Agreement, except for liability resulting from the negligent or willful misconduct of the Agency, its officers, agents and employees. If obligated to indemnify, defend, or hold harmless ICOE under this Agreement, ICOE shall reimburse the Agency for all costs, attorney's fees, expenses and liabilities associated with any resulting legal action. ICOE shall seek the Agency's approval of any settlement that could adversely affect the Agency, its officers, agents or employees.

- 9. Arbitration.** ICOE and Agency agree that should any controversy or claim arise out of or relating to this Agreement they will first seek to resolve the matter informally for a reasonable period of time not to exceed forty-five (45) days. If the dispute remains, it shall be subject to mediation with a mediator agreed to by ICOE and Agency and paid for by ICOE and Agency, absent an agreement otherwise. If after mediation there is no resolution of the dispute, ICOE and Agency agree to resolve the dispute by binding arbitration administered by the American Arbitration Association ("AAA") in accordance with its Commercial Arbitration Rules, and judgment on an arbitrator's award may be entered in any court having jurisdiction thereof.

- a. ICOE and Agency shall select one arbitrator pursuant to the AAA's Commercial Arbitration Rules.

- b. The arbitrator shall present a written, well-reasoned decision that includes the arbitrator's findings of fact and conclusions of law. The decision of the arbitrator shall be binding and conclusive on ICOE and Agency.
- c. The arbitrator shall have no authority to award punitive or other damages not measured by the prevailing Party's actual damages, except as may be required by statute. The arbitrator shall have no authority to award equitable relief. Any arbitration award initiated under this clause shall be limited to monetary damages and shall include no injunction or direction to either Party other than the direction to pay a monetary amount. As determined by the arbitrator, the arbitrator shall award the prevailing Party, if any, all of its costs and fees. The term "costs and fees" includes all reasonable pre-award arbitration expenses, including arbitrator fees, administrative fees, witness fees, attorney's fees and costs, court costs, travel expenses, and out-of-pocket expenses such as photocopy and telephone expenses. The decision of the arbitrator is not reviewable, except to determine whether the arbitrator complied with sections (b) and (c) of this paragraph.

10. **Governing Law and Venue.** The laws of the State of California shall govern this Agreement. Proper venue for any dispute regarding this Agreement shall lie in Imperial County, California.
11. **Entire Agreement.** This Agreement constitutes the final, complete and exclusive statement of the terms of agreement between the Parties pertaining to the subject matter of the Agreement. It supersedes all prior and contemporaneous understandings or agreements by the Parties. Neither Party has been induced to enter the Agreement by, nor is either Party relying on, any representation or warranty outside those expressly set forth in the Agreement.
12. **Interpretation.** This Agreement shall be interpreted to give effect to its fair meaning and shall be construed as though all Parties prepared it.
13. **Assignment.** Unless authorized in writing by all Parties, no Party shall assign or transfer any rights or obligations covered by this Agreement. Any unauthorized assignment or transfer shall constitute grounds for termination by the other Parties.
14. **Compliance with Laws.** The Parties shall, at their own cost and expense, comply with all local, state, and federal ordinances, regulations, and statutes now in force and which may hereafter be enacted that affect this Agreement.
15. **No Waiver of Default.** No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that instance or any other instance. Any waiver must be in writing and shall only apply to that instance.
16. **Successors and Assigns.** All representations, covenants, and warranties set forth by, on behalf of, or for the benefit of any Party herein shall be binding upon and inure to the benefit of such Party and its successors and assigns.

17. **Amendment.** This Agreement may only be altered, amended, or modified by written instrument executed by both ICOE and Agency. ICOE and Agency agree to waive any right to claim, contest, or assert that this Agreement was modified, canceled, superseded, or altered by oral agreement, course of conduct, waiver, or estoppel.
18. **Severability.** If any one or more of the provisions of this Agreement is held to be invalid, illegal, or unenforceable, then such provision or provisions shall be severed from the Agreement, and the remaining provisions of the Agreement shall continue in full force and effect and shall not be affected, impaired, or invalidated in any way.
19. **Execution of Counterparts.** If this Agreement is executed in counterparts, each counterpart shall be deemed an original, and all such counterparts or as many of them as ICOE and Agency preserve undestroyed shall together constitute one and the same Agreement.
20. **Authority.** ICOE and Agency warrant and represent that they have the authority to enter into this Agreement in the names, titles, and capacities stated herein and on behalf of the entities, persons, or firms named herein and that all legal requirements to enter into this Agreement have been fulfilled.
21. **Nondiscrimination.** During the performance of this Agreement, the Parties shall not discriminate against any employee, applicant, student or other person connected to this Agreement in a manner prohibited by the laws of the United States or the State of California (including, but not limited to, on the basis of religion, race, color, national origin, handicap, ancestry, sex, sexual orientation, marital status or age).
22. **Notice.** Any notice given under this Agreement shall be in writing to the Parties' representatives and shall be deemed delivered three (3) days after the deposit in the United States mail, certified or registered, postage prepaid, and addressed to the parties. Parties shall promptly update each other when representatives and contact information change.

The Parties' representatives shall be:

ICOE:

Luis Wong
Chief Technology Officer
1398 Sperber Road
El Centro, CA 92243
Phone: (760) 312-6512
Email: lwong@icoe.org

Agency:

Rodney Wallace
Administrator
4337 Lebec Road
Lebec, CA 93243-0876
Phone: (661) 248-6247
Email: rwallace@el-tejon.org

Communications regarding the administration of this Agreement shall be made to the Parties' representatives. Communications regarding technical matters underlying the Agreement can be made to either the Parties' representatives or the following persons:

ICOE:

Teri Sanders
Senior Director - Educational Technology
1398 Sperber Road
El Centro, CA 92243

Email: tsanders@icoe.org

Agency:

Rodney Wallace
Administrator
4337 Lebec Road
Lebec, CA 93243-0876

Email: rwallace@el-tejon.org

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date hereof.

For the Imperial County Office of Education

For El Tejon Unified School District

By: _____

By: _____

J. Todd Finnell, Ed.D
Imperial County Superintendent of Schools

[Remainder of page intentionally left blank]



Memorandum of Understanding

Between the Imperial County Office of Education and El Tejon Unified School District regarding the Implementation of the Broadband Infrastructure Improvement Grant Program

This Memorandum of Understanding establishes an Agreement (“Agreement”) between the Imperial County Office of Education (“ICOE”), and El Tejon Unified School District (“Agency”) to procure solutions, which meet the connectivity needs experienced as of December 16, 2014 by Agency at Frazier Park Elementary. By virtue of Senate Bill SB852, the K-12 High Speed Network program (K12HSN) and its operator ICOE are required to utilize state funding to resolve poor connections to the Internet that result in an inability on the part of Agency to offer online computer adaptive testing to students. The Agency has been identified as a potential grant awardee and may receive benefits of the Broadband Infrastructure Improvement Grant (BIIG) as outlined in this Agreement.

1. Background.

Provision 6, item 6110-488 of Senate Bill SB 852 (signed into law by the Governor on June 20, 2014 – and available at this link: www.k12hsn.org/files/biig/sb852.pdf) re-appropriates one-time funding to support network connectivity infrastructure grants by the K12HSN in consultation with the Department of Education and the State Board of Education.

The one-time funding in the 2014-15 Budget Act is to enhance “last mile” connections for school sites to allow them to successfully administer the California Assessment of Student Performance and Progress (CAASPP) during the testing windows established for the spring of 2015.

In order for the Agency to obtain service from BIIG, the Agency must take responsibility for the monthly recurring costs to manage and maintain the improved connections as outlined in Section 5.

2. Effective Date and Term.

- a. The Effective Date of the Agreement shall be the date the last party to this Agreement signs the Agreement.
- b. The Term of the Agreement shall be from the Effective Date of this agreement, through June 30, 2016.

3. Definitions and Key Descriptors.

- a. “Parties” refers to the Corporation for Education Networking Initiatives in California (CENIC), the Imperial County Office of Education (ICOE) serving as the lead and fiscal agent for the K12 High Speed Network (K12HSN), and the El Tejon Unified School District (Agency).
- b. “Party” refers to either ICOE, or the Agency.
- c. “CENIC” refers to the Corporation for Education Networking Initiatives in California, the network operator for the California Research and Education

Network (CalREN), a robust regional network that serves all educational segments in California and interconnects them with other regional and international networks worldwide.

- d. “K12HSN” refers to the California K-12 High Speed Network program sponsored by the California Department of Education with the mission to enable educators, students and staff across the state to have access to a reliable high-speed network with the capacity to deliver online resources to support teaching and learning and promote academic achievement. ICOE is the Lead Education Agency for this grant.
- e. Broadband Infrastructure Improvement Grant (BIIG): The Broadband Infrastructure Improvement Grants are one-time monies that will fund projects critical for the implementation of the 2014-15 computer-based assessments in sites that demonstrate the greatest need or hardship as compared to other applicant districts, school sites, direct-funded charter schools.
- f. BIIG Grantees are districts with school sites that are deemed to be in the greatest need of connectivity solutions among California’s schools, and for which SB852 funds will be utilized to install connectivity solutions and other required equipment with the goal of successfully implementing computer adaptive testing defined in more detail in 3g.
- g. California Assessment of Student Performance and Progress (CAASPP): Signed into law on October 2, 2013, AB 484 (Bonilla) establishes California's new student assessment system, now known as the California Assessment of Student Performance and Progress (CAASPP). The CAASPP assessment system replaces the Standardized Testing and Reporting (STAR) Program. The primary purpose of the CAASPP assessment system is to assist teachers, administrators, and pupils and their parents by promoting high-quality teaching and learning through the use of a variety of assessment approaches and item types.
- h. “E-rate” refers to a federal program that provides discounts to assist most schools and libraries in the United States to obtain affordable telecommunications and Internet services. The Federal Communications Commission’s Schools and Libraries Universal Service program supports connectivity, the conduit or pipeline for communications using telecommunications services and/or the Internet. Discounts for support depend on the level of poverty and the urban/rural status of the population served and range from 20% to 90% of the costs of eligible services. Eligible schools, school districts and libraries may apply individually or as part of a consortium.
- i. “Letter of Agency” or LOA is a legal document whereby one school district gives authority for another agency to act on its behalf, in this agreement specifically to procure telecommunication services. As it pertains to the Statewide CENIC E-rate Consortium, a school district or county office of education signs a Letter of Agency to join the Consortium. By doing so, CENIC, who contracts on behalf of K-12 for circuits that create the statewide network, is able to seek E-rate discounts for them.

- j. **Service Provider:** Refers to the entity (e.g., private telecommunications company, cable operator, or other organization) that will deliver the enhanced connectivity to the eligible school site.
 - k. “Supersedure Agreement” is an agreement whereby Agency, CENIC, and the selected telecommunications provider agree to permit the substitution of Agency into the role of responsible party and payor, effective July 1, 2016, subsequent to CENIC’s ending its role as responsible party and payor, effective June 30, 2016.
4. **ICOE Responsibilities.** Imperial County Office of Education as the Lead Education Agency (LEA) and operator of the K-12 High Speed Network will have the following responsibilities:
- a. Apprise Agency of the monthly recurring costs (Section 5.i) that must be assumed effective July 1, 2016, to permit Agency to make an informed decision before choosing to become a BIIG grantee.
 - b. Work cooperatively with CENIC and, upon approval of California Department of Education, approve and enter agreements with telecommunications providers to secure connectivity solution(s) for Agency.
 - c. Reimburse CENIC for one-time installation and special construction costs as well as monthly service costs for BIIG grantees from the date that the broadband solution is viable and in operation through June 30, 2016.
 - d. Work with CENIC and consultants to provide the Agency with assistance on the transition of contractual obligations to include support in filing pertinent forms and contracts, training Agency staff and answering questions through the supersedure process.
 - e. Work with CENIC to fulfill the following obligations:
 - i. Negotiate contracts with service providers to secure connectivity solutions to benefit Agency.
 - ii. Upon Agency’s agreement to the terms contained herein, enter into agreements to procure said connectivity solutions for the Agency.
 - iii. Procure for the Agency a network connection for the awarded school site with the capacity of: 1000 Megabits per second (Mbps).
 - iv. Assist with network design and equipment installation for the grant awardees.
 - v. Oversee the installation of connectivity solutions, whether they are fiber based, other circuit options, or via microwave.
 - vi. Keep Agency apprised of progress and timelines.
 - vii. Pay installation costs, including special construction, as well as monthly service costs from the date that the solution is viable and passing traffic to June 30, 2016.
 - viii. Apply for E-rate discounts on contracted services for E-rate funding year 2015, which conclude June 30, 2016.

5. **AGENCY Responsibilities.** In order to receive services through this Agreement, Agency agrees to:
- a. Provide access to facilities as needed to design and implement connectivity solutions.
 - b. Conduct a review of on-going costs to ensure that once Agency assumes payment of them, Agency will have sufficient funding to continue the service for the duration of the contract with the telecommunications provider.
 - c. Provide point of contact information for the individual who will coordinate access to the site for inspection, installation of equipment and circuits, etc.
 - d. Provide available technical assistance and support for the installation (remote hands) of equipment necessary to establish the improved connection.
 - e. Secure any board approval required to receive services under the BIIG grant program by January 23, 2015.
 - f. Enter into a joint Supersedure Agreement with the service provider causing Agency to assume the role of responsible party / payor on July 1, 2016.
 - g. Using a template provided, report to ICOE at least two times per year for twenty-four (24) months on the impacts to instruction, assessments, student engagement, professional development, collaboration among staff and students, and business efficiencies that are impacted by the increased bandwidth available to the school site.
 - h. For period of services starting July 1, 2016, Agency will meet requirements and deadlines associated with application processes in order to secure funding from federal and state subsidy programs such as E-rate and CTF to assist with payment of monthly recurring cost to maintain the connection provided by the grant.
 - i. If required, provide an additional Letter of Agency in order for CENIC to be able to apply for E-rate discounts on behalf of the school site to be connected.
 - j. **Payment of Costs:**
 - i. The Agency will be responsible for any ongoing operational costs to manage and maintain the connection provided by the grant. This includes, but is not limited to, the Monthly Recurring Charges (MRC), associated taxes and surcharges, equipment replacement, and maintenance agreements or service/support contracts in order to connect to the nearest K12HSN network aggregation site. K12HSN may provide further support to help Agency have a better understanding of these potential costs.
 - ii. It is estimated that the monthly recurring charges, before any discounts will be: \$2,718.70. The estimated monthly recurring charges after applying federal and state discounts will be approximately: \$271.87.
 - iii. It is expected that the Agency will become the customer of record for the connectivity services, and, therefore, will be directly invoiced by the service provider beginning July 1, 2016.
6. **Project Timelines.** All Parties understand that the timeline for the completion of the activities for this project is aggressive. Timelines are subject to change by ICOE; ICOE will provide the Agency with a new timeline if necessary. The goal of SB852 is

for connectivity solutions to be implemented in the spring of 2015. Time is of the essence, and all Parties agree to use their best efforts to meet the expected installation timeframes.

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IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date hereof.

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For El Tejon Unified School District

By: _____

By: _____

J. Todd Finnell, Ed.D
Imperial County Superintendent of Schools

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