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FCC Mail Room

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of the	)	File No. SLD -
	)	
Appeal (to correct Record)	)	
of the Decision of the	)	
	)	
Universal Service Administrator by	)	
	)	
	)	
Pleasants County School District	)	
	)	
	)	
	)	CC Docket No. 96 - 45
Federal-State Joint Board on	)	
Universal Service	)	
Changes to the Board of Directors of	)	
The National Exchange Carrier	)	
Association, Inc.	)	CC Docket No. 97 - 21

Appeal<sup>1</sup> to Correct the Record

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<sup>1</sup> It has been brought to Pleasants attention by the State of West Virginia (WVDE) that the WAN the USAC funded may be erroneously viewed as duplicate Internet access service by the SLD and or the FCC. The purpose of Pleasants WAN is to take Internet access services delivered by the State of West Virginia to Pleasants' hub and distribute that Internet access service to Pleasants school buildings. There is no intent to have duplicate Internet access service. Indeed, the USAC funding covers the WAN to deliver Internet access, but Pleasants does not purchase Internet access from the WAN provider. There is a single provider of Internet access service and that is the state of West Virginia. The USAC funded the WAN, not Internet access service.

Appeal  
and  
Request for Expedited Relief  
  
Pleasants County School District

August 7, 2008

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12th Street, S.W. Suite TW-A325  
Washington, D.C. 20554

This is an appeal from a decision by the Schools and Libraries Division of the USAC.

(1) **Funding Commitment Decision Letter (FCDL) Exhibit A**

Form 471 Application Number:	635103
Funding Year 2008:	07/01/2008-06/30/2009
Billed Entity Number for district:	126739
Date of FC DL:	June 9, 2008
Date of Appeal to Correct Record:	August 7, 2008

(2) **SLD Contact Information**

Currie Sutton  
Pleasants County School District  
Ste 260 27600 Chagrin Blvd.  
Cleveland OH 44122-4449  
Tel. (216) 682-0169  
Fax. (216) 514-3337

(2) **FRN 1756688**

(4) **Pleasants' Reason for the Appeal and Correction of the Record**

FCC rules clearly state that that funds will be available for \*\*\* eligible categories of service: telecommunications services, Internet access\*\*\*.

<b>First Priority for Funding (Priority 1 Services)</b>	
<b>Telecommunications Services</b>	These are services that are used to communicate information electronically between sites. The services must be provided by a telecommunications carrier - i.e., an organization recognized by the FCC as providing telecommunications services on a common carrier basis. Examples of telecommunications services include basic telephone service and digital transmission services such as
<b>Internet Access</b>	"Basic conduit access" to the Internet including e-mail is eligible for discount and can be provided by a telecommunications carrier or any commercial organization.

**Both Telecommunications Services and Internet access are Priority 1 Services.**

The USAC website states:

“[a]pplicants should ensure that they indicate the proper Category of Service for products and services specified in each Block 5 funding request of the *Services Ordered and Certification Form* (Form 471).

The Eligible Services List provides information about the proper categorization of services - Telecommunications Services, Internet Access, \*\*\*USAC carefully reviews the services for which funding is requested to determine whether Priority 2 services (Internal Connections and Basic Maintenance) are included in Priority 1 requests (Telecommunications Services and Internet Access). If applicants make errors in specifying the proper category of service, USAC may adjust the category.

For example, if a Funding Request Number (FRN) contains both Priority 1 and Priority 2 components, the applicant will be given the opportunity to “split” the FRN by creating a new FRN containing only the Priority 2 components while leaving the Priority 1 components in the original FRN. In this way, the original FRN can be funded – since it is now 100% Priority 1 components – and the new Priority 2 FRN can wait to be funded until the Priority 2 funding threshold is determined.

If an FRN is split during PIA review, the new FRN will appear in the Funding Commitment Report (Report) of the Funding Commitment Decision Letter. Applicants and service providers should review the Funding Commitment

Decision Explanation for original FRNs carefully. The Funding Commitment Decision Explanation will inform you whether or not the FRN has been split and provide the new FRN.”

The USAC website instruction is careful to distinguish between Priority 1 and Priority 2 Services. However, there is no distinction between Telecommunications Services and Internet access. BOTH are Priority 1 services. There is no distinction to be made.

At issue here is a WAN that connects the Pleasants hub with its other school buildings.

Pleasants identified the WAN as used for Internet Access. The State of West Virginia

delivers Internet Access to Pleasants hub, but the burden is on Pleasants to get the

Internet access from its hub to its other buildings. This is a legitimate purpose for a WAN

The USAC defines a WAN as:

“\*\*\*a voice, data, or video network that provides connections from one or more computers or networks within an eligible school \*\*\*to one or more computers or networks that are *external* to such eligible school \*\*\*. \*\*\*

\*\*\*WAN capability can be obtained as a Telecommunications Service under the Schools and Libraries Program. Additionally, WAN service can be eligible for discount as Internet Access, \*\*\*

Applicants can obtain support for the services of WANs by leasing these services under the Program rules that apply to Telecommunications Services and Internet Access\*\*\*.

\*\*\*Telecommunications Services can only be provided by an eligible telecommunications carrier. See Eligible Services Framework for further information.

FCC rules provide that the actual wires that carry data across public rights-of-way and the components located outside a school or library facility are WAN components and are evaluated for eligibility under Telecommunications Services and Internet Access. \*\*\*

The USAC’s website provides an illustration that schools may follow. It states that

“**Example A.** Assume that the computers of a school district \*\*\*system are connected and share information among the various sites and use the network for \*\*\*Internet Access. The connections between the buildings are leased from an



Pleasants intent and purpose for the WAN at all times was to use the WAN to transport the Internet access received from the State of Virginia, delivered to Pleasants hub and then deliver that Internet access to its school buildings. **There was never and intent, actual or implied, to purchase duplicate Internet access services.**

**Conclusion:**

Pleasants is Requesting the Following Action by the USAC:

- (a) Immediately Order funding for the Priority I Internet access services not be changed or rescinded.
- (b) If it is necessary to correct the Record in terms of a "category adjustment", then Pleasants request that said adjustment be made and the record corrected., but that the funding remains as granted.

Respectfully submitted,



Nathaniel Hawthorne, Attorney, Consultant, Ltd.  
By Nathaniel Hawthorne

District of Columbia Bar No. : 237693

27600 Chagrin Blvd., Ste. 265

Cleveland, OH 44122

tel.: 216/514.4798

e-mail: nhawthorne@telecomlawyer.com

Cc: Pleasants County School District



**Universal Service Administrative Company**  
Schools & Libraries Division

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**Administrator's Decision on Appeal – Funding Year 2008-2009**

June 09, 2008

Nathaniel Hawthorne  
Nathaniel Hawthorne, Attorney, Consultant, Ltd.  
27600 Chagrin Blvd.  
Suite 265  
Cleveland, OH 44122

Re: Applicant Name: PLEASANTS COUNTY SCHOOL DIST  
Billed Entity Number: 126738  
Form 471 Application Number: 635103  
Funding Request Number(s): 1756688  
Your Correspondence Dated: May 20, 2008

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision regarding your appeal for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1756688  
Decision on Appeal: **Dismissed**  
Explanation:

- You are appealing an FCC Form 471 rescinding of funding, for which a decision letter has not yet been issued. Your appeal is premature and is being dismissed. If you still wish to appeal after receiving your decision letter, you may do so within 60 days from the receipt of the letter. Procedures for filing an appeal are explained on the USAC website at [www.usac.org/sl](http://www.usac.org/sl).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you



Schools and Libraries Division

**FUNDING COMMITMENT DECISION LETTER**  
(Funding Year 2008: 07/01/2008 - 06/30/2009)

May 1, 2008

CURRIE A. SUTTON  
PLEASANTS COUNTY SCHOOL DIST  
STE 260-27600 CHAGRIN BLVD  
CLEVELAND, OH 44122-4449

Re: Form 471 Application Number: 635103  
Billed Entity Number (BEN): 126738  
Billed Entity FCC RN: 0013625140  
Applicant's Form Identifier: PLEASANTSYR11#2

Thank you for your Funding Year 2008 application for Universal Service Support and for any assistance you provided throughout our review. The current status of the funding request(s) in the Form 471 application cited above and featured in the Funding Commitment Report(s) (Report) at the end of this letter is as follows.

- The amount, \$18,975.00 is "Approved."

Please refer to the Report following this letter for specific funding request decisions and explanations. The Universal Service Administrative Company (USAC) is also sending this information to your service provider(s) so preparations can begin for implementing your approved discount(s) after you file FCC Form 486. Receipt of Service Confirmation Form. A guide that provides a definition for each line of the Report is available in the Reference Area of our website.

**NEXT STEPS:**

- Work with your service provider to determine if you will receive discounted bills or if you will request reimbursement from USAC after paying your bills in full
- Review technology planning approval requirements
- Review CIPA requirements
- File Form 486
- Invoice USAC using the Form 474 (service provider) or Form 472 (Billed Entity applicant) - as products and services are being delivered and billed

**TO APPEAL THIS DECISION:**

You have the option of filing an appeal with the SLD or directly with the Federal Communications Commission (FCC).

If you wish to appeal a decision in this letter to USAC, your appeal must be received by USAC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and (if available) email address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the letter and the decision you are appealing:
  - Appellant name,
  - Applicant name and service provider name, if different from appellant,
  - Applicant BEN and Service Provider Identification Number (SPIN),
  - Form 471 Application Number 635103 as assigned by USAC,
  - "Funding Commitment Decision Letter for Funding Year 2008," AND
  - The exact text or the decision that you are appealing.

3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
4. If you are the applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are the service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email your appeal to [appeals@si.universalservice.org](mailto:appeals@si.universalservice.org). USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to USAC by fax, fax your appeal to (973) 599-6542.

To submit your appeal to USAC on paper, send your appeal to:

Letter of Appeal  
Schools and Libraries Division - Correspondence Unit  
100 S. Jefferson Road  
P.O. Box 902  
Whippany, NJ 07981

If you wish to appeal a decision in this letter to the FCC, you should refer to CC Docket No. 02-5 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted in the Reference Area of our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

#### NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division  
Universal Service Administrative Company

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FUNDING COMMITMENT REPORT  
Billed Entity Name: PLEASANTS COUNTY SCHOOL DIST  
BEN: 126738  
Funding Year: 2008

Comment on RAL corrections: The applicant did not submit any RAL corrections.

Form 471 Application Number: 635103  
Funding Request Number: 1756688  
Funding Status: Funded  
Category of Service: Internet Access  
Form 470 Application Number: 652000000638689  
SPIN: 143030633  
Service Provider Name: Cebridge Telecom WV, LLC  
Contract Number: C  
Billing Account Number: N/A  
Multiple Billing Account Numbers: N  
Service Start Date: 07/01/2008  
Service End Date: N/A  
Contract Award Date: 02/06/2008  
Contract Expiration Date: 06/30/2013  
Shared Worksheet Number: 1021851  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-discount Amount for Eligible Recurring Charges: \$21,000.00  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$6,500.00  
Pre-discount Amount: \$27,500.00  
Discount Percentage Approved by the USAC: 69%  
Funding Commitment Decision: \$18,975.00 - FRN approved as submitted

FCDL Date: 05/01/2008  
Wave Number: 001  
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2009

Exhibit B

[SLD Home](#)
[Site Map](#)
[Search Site](#)
[Contact SLD](#)

**Reference Area - Schools and Libraries Division**

Reference  
**SPIN and BEAR Contact Search Results**

Note to Applicants: Please check the address information to ensure you are contacting the correct Service Provider.  
 The absence of a "Y" in the Eligible Telecomm Provider column may simply indicate that the company has not yet been researched by the SLD to determine if it is eligible to provide telecommunications services. Applicants are reminded that they should confirm this and all other information with their Service Provider.

Page 1 of 1  
 Results 1 - 1 of 1

SPIN	Service Provider Name	Contact Name	Contact Address	Contact Phone	Eligible Telecomm Provider	SPAC Filed
143030633	Cebridge Telecom WV, LLC	Michael J Zarrilli	12444 Powerscourt Drive Suite 140, St Louis, MO 63131	314965- 2020	Y	2006 2007 2008

Questions about the SLD Program? Call our Client Service Bureau at (888) 203-8100.

For web site questions or comments please use the Get Help! form.

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Exhibit C

**Pleasants County School District  
Request for Proposal – Internet Access Services**

RFP release date: December 27, 2007

RFP responses due: January 25, 2008

**INSTRUCTIONS:**

E-rate instructions: This RFP will be issued at the same time the FCC Form 470 is filed; this RFP will remain posted for no less than 28 days.

Funding will be subject to E-Rate eligibility and Board Approval. Any Contract entered into by the District will be contingent upon E-rate funding.

**BID EVALUATION PROCESS:**

The following factors will be used in evaluating bid response s; price is weighted higher than any other single factor:

Factor	Weight
Price	30%
Prior experience	25%
Personnel qualifications	20%
Management capability	15%
Environmental objectives	10%
<b>Total</b>	<b>100%</b>

Responses are due at 1:00 p.m. to Ms. Currie A. Sutton, Contact for Pleasants County School District, Ste. 260-27600 Chagrin Blvd., Cleveland, OH 44122. **All responses are due on Friday, January 25, 2008.**

Please provide one (1) copy of your company's response for district evaluation.

If there are any questions for this bid, please direct those to: [curries@ameritech.net](mailto:curries@ameritech.net)

**GENERAL INFORMATION:**

Pleasants County School District reserves the right to reject any and all proposals or any portion of said proposals to waive technicalities, and to make any and all purchases to the best interest and advantage of the School District.

The award of a contract is contingent upon the award of funding from the Schools and Libraries Division (SLD) for E-Rate Year 10. Installation of E-Rate Eligible equipment must be completed over a 36-month period beginning July 1, 2008 and ending June 30, 2011, unless Schools and Libraries Division funding occurs after the start of the funding year. Two additional contract Years may be considered.

**Please include SERVICE PROVIDER INFORMATION NUMBER (SPIN) for e-rate purposes and breakout pricing BY SCHOOL, no later than January 25, 2008 at 1:00 p.m.**

**CONTRACT TERM:**

Inception of this project is contingent on the award of E-Rate funding. Work will begin after July 1, 2008 and ending June 30, 2011, unless Schools and Libraries Division funding occurs after the start of the funding year. Work will be coordinated with on-going renovation and construction projects if any. Two additional contract Years may be considered.

**SCOPE OF WORK:**

**Pleasants County School District** is soliciting bids for Internet Access service limited to basic conduit services via Wide Area Network facilities for district buildings listed below that qualify for a USAC Discount.

The District intends to obtain Internet Access services from this initiative for at least 3 years. Vendors must submit both 3-year and 5-year proposals. Pricing must delineate development "one-time" costs as well as recurring monthly costs.

Each response must address the vendor's understanding and capabilities to provide Internet Access services via Wide Area Network facilities. Examples of vendor's successful implementation of this application are required to demonstrate capability. Examples must address bandwidth, security, reliability, and integration implications of this application.

Bandwidth demands are expected to increase substantially over time as users increase. Describe if your solution is scalable in terms of speed and price to insure delivery of the best value IA Services to the District. A minimum speed of 10 Meg is acceptable for pricing purposes. In addition, 50 Meg and 100 Meg are requested for pricing.

Proposals must include the costs for connecting each of the buildings in the District to the network core.

Proposals should include a pricing structure that reflects a recommended solution at price points for 10 Mbps, 50 Mbps, and 100 Mbps traffic in order to anticipate network growth.

Proposals should provide information for an upgrade path during the contract period, such as 50Mbps to 100 Mbps and supply detail of the costs of such an upgrade.

The proposed lease is to include any and all subsequent charges, including but not limited to, tariffs from utility companies for use of poles, licenses and permits to perform work, and other expenses, which may be incurred.

All costs must be provided in an itemized format outlining bandwidth provided. A pricing matrix provided below must be completed as indicated.

Bidders will be responsible for accurately providing all costs.

Layer 3 Switching Services are required to provide routing and limiting protocol transmission between school districts where needed. SLD regulations require that the telecommunications provider must own this hardware.

Qualified Technical Support staff must be assigned to support this project. However, basic maintenance must be included in the total cost for the IA.

The Network proposed should facilitate and support reliable and cost effective connection to the Internet, and be able to handle any routing or equipment issues that are required to connect to the Internet.

The proposal must include integration and compatibility with current installed base of e-rate eligible equipment already in place at each school district location

In order to assess the vendor's ability to provide Internet Access services necessary to meet District needs, the response to this RFP must address the "development process". Describe in detail how your Internet Access solution actually provides the services described. This description should include, but not be limited to:

1. Site survey components and findings
2. Transport alternatives considered and explanation of solution(s) selected
3. Anticipated time requirements to obtain permits, certifications, etc.
4. Anticipated time to install services solution.
5. Use of subcontractors for cable and electronics installation, etc.
6. A project management and implementation plan that includes a timeline outlining the completion of the network for each building.
7. A network design showing available bandwidth between locations.

Any permits and inspections required for the proper installation of the specified project shall be furnished and coordinated by the bidder/contractor at your sole expense.

All network cutover work must be performed after normal school hours or on weekends to avoid disruption to students and staff. All work areas and materials must be secured and a safe environment maintained for students and staff.

The completed installation must be inspected and approved in accordance with all state and local codes and requirements.

All Contractors shall carry Worker's Compensation Insurance, in addition to Public Liability Insurance. Verification of this insurance must accompany the vendor's proposal.

The contractor shall remove from the premises any resultant debris and return the surrounding areas to previous condition.

### **INSTALLATION REQUIREMENTS**

The successful bidder must be able to integrate and support all components between district locations and provide a single handoff to the District at each location. The successful proposal will be for a solution networked to specific locations within each school and contained in a wall mounted, secure, box.

The District and successful vendor must mutually agree on the implementation schedule. Failure to meet the timelines agreed upon may result in a penalty equal to 0.10% per day reduction in the total contract value for each day the provider fails to deliver the procured services from the date said same service became due.

Please provide a copy of all necessary contracts in your bid response. Also provide diagrams of the proposed network.

Proposals and contracts must fully comply with the guidelines of the E-rate program.

### **BASIC MAINTENANCE**

The successful proposal shall also include maintenance costs as part of the service cost. Support personnel must be available on-site within 16 hours of reported network malfunction. Faster response time is desirable.

Wide area network shall be repaired within (24) twenty-four hours of the problem being reported. Failure to have the network repaired and communications re-established after 24 hours will result in the loss of 5% of the monthly fee for each 24-hour period the wide area network is down.

### **TRAINING**

SLD regulations state that "training is eligible if it is basic, limited instruction in the use of eligible equipment from the service provider when the school or library is receiving support for the installation of such equipment." Such training is required as part of the vendor's response.

**BUILDING LOCATIONS:**

Building locations for this request are at the following addresses:

<b>Building</b>
Pleasants County Board of Education 202 Fairfield Dr. St Marys, WV 26170
Belmont Elementary State Route 1 Belmont, WV 26134
Pleasants County Middle School State Route 2 Belmont, WV 26134
St. Marys Elementary School 317 Washington Street St. Marys, WV 26170
St. Marys High School 1002 2nd Street St. Mary's, WV 26170
PRT Vo Tech Center PO Box 29 St. Marys, WV 26170
Pleasants County Maintenance Building 1009 Maple Street St. Marys, WV 26170
Pleasants County Transportation Building State Route 2 Belmont, WV 26134

**COMPANY RESPONSIBILITY:**

The selected company will be required to assume total responsibility for all services offered in this proposal. The selected company will be considered the prime company and the sole point of contact with regard to all contractual matters. The selected company shall submit periodic progress reports. The selected company must agree to participate in all stages of the e-rate process.

Please include **SERVICE PROVIDER INFORMATION NUMBER (SPIN)** for e-rate purposes and pricing in the matrices provided, no later than January 25, 2008 at 1:00 p.m.

**E-RATE ELIGIBLE PRICING MATRIX:**

<b>District Named Options</b>	<b>Description of Options (Service and Lease Terms)</b>	<b>One Time Cost Non-Recurring Charges</b>	<b>Monthly Charge Recurring Charges</b>
A	Internet Access 10MB 3 YEAR TERM	\$	\$
B	Internet Access 10MB Additional (4) YEAR TERM	\$	\$
C	Internet Access 10MB Additional (5) YEAR TERM	\$	\$
UPG 50	Upgrade path to 50MB		
D	Internet Access 50MB 3 YEAR TERM	\$	\$
E	Internet Access 50MB Additional (4) YEAR TERM	\$	\$
F	Internet Access 50MB Additional (5) YEAR TERM	\$	\$
UPG 100	Upgrade path to 100MB		
G	Internet Access 100MB 3 YEAR TERM	\$	\$
H	Internet Access 100MB Additional (4) YEAR TERM	\$	\$
I	Internet Access 100MB Additional (5) YEAR TERM	\$	\$
ADD-1	Additional Vendor Solution (please provide additional sheets as necessary)	\$	\$
ADD-2	Additional Vendor Solution (please provide additional sheets as necessary)	\$	\$

**ADDITIONAL PRICING COMPONENTS:**

- Please provide additional information if proposing a alternative solution for Internet Access Services via a Wide Area Network facility.
- If price points can be offered for quantity levels, please include.

**COMPANY QUALIFICATIONS:**

The Vendor should submit a company profile; a statement of qualifications; vendor relationships; staff certifications; and key systems engineers and/or sub contractors that will be providing the services in Pleasants County School District.

**COMPANY REFERENCES:**

The Company must have a minimum of three (3) references of jobs completed within the past two years. These references must be comparable school districts:

1. Job Description
2. Job Location
3. Contact name and telephone numbers
4. Date Completed

Please attach additional sheets as necessary.