



**SAN BERNARDINO COMMUNITY COLLEGE DISTRICT**

**REQUEST FOR QUALIFICATIONS and PROPOSALS (RFQP)**

**for**

**DEVELOPMENT OF DISTRICT AND CAMPUS STANDARDS,**  
**and TEMPORARY SWING SPACE PLANS**

**DISTRICT-WIDE**

**Procurement No.: CC03.3640.01**

**Proposals Due:**

**2:00 PM PST – September 16, 2019**

**SUBMIT TO:**

San Bernardino Community College District  
District Support Services/Facilities Planning & Construction  
Attn.: Farrah Farzaneh, Director, Facilities Planning & Construction  
114 S. Del Rosa Dr., San Bernardino, CA 92408

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## 1. OVERVIEW OF SERVICES SOUGHT BY THIS RFQP

The District is seeking well qualified **Architectural and Engineering Firms (“Applicants”)** to develop **District Standards, Campus Standards and Temporary Swing Space Plans District-Wide (“Services”)**, as further described in this RFQP and Attachments. The Contract that may be awarded following this Request for Qualifications and Proposals process will be based upon, without limitation, the District’s authority pursuant to: Government Code sections 4526 and 53060; Education Code sections 81644 and 81656; applicable District policies regarding professional service procurements; and other applicable law.

The District intends to award a Professional Services Agreement (“PSA”) as a result of this RFQP process. The Term “Agreement” and “Contract” as used herein shall refer to all the Contract Documents that make up the PSA. The term “Project” as used in this RFQP means all structures, buildings, site work, landscaping, irrigation, on-site work, off-site work, or other improvements to real property of every kind and nature provided for or reasonably inferable to provide a complete building(s) or system(s) for their intended purpose funded in whole and/or in part with Measure CC bond funds.

The District intends to evaluate and select that Applicant whose qualifications and proposal are determined to present the most experience, best qualifications, and be the most beneficial and provide the best value to the District based upon the terms and conditions as stated herein in this RFQP.

Following the conclusion of the District’s evaluation and scoring of the qualified Applicants’ Proposals, the selected firm will be identified for award of the PSA.

## 2. BACKGROUND INFORMATION

### 2.1 The District

The mission of the San Bernardino Community College District (“District”) is to transform lives through the education of our students for the benefit of our diverse communities. For nearly 100 years, San Bernardino Valley College and Crafton Hills College has provided award-winning, affordable higher education and career training to low and middle-income students from 21 cities and surrounding communities including, Big Bear Lake, Colton, Grand Terrace, Loma Linda, Redlands, Rialto, San Bernardino and Yucaipa. Today, the District serves about 21,000 students every year.

With its dedicated professors, ample extracurricular opportunities, supportive staff, and beautiful surroundings, Crafton Hills College (“CHC”) is a place where students thrive. Since its opening in 1972, more than 100,000 people of different ages, interests, and backgrounds have attended CHC, drawn to the outstanding educational opportunities available to students interested in earning two-year associate degrees, transferring to four-year colleges and universities to obtain bachelor’s degrees, career and technical education programs, and general education to increase job effectiveness or learn new skills.

CHC offers more than 50 majors in the liberal arts and sciences, vocations, and technical studies, and currently serves about 4,500 students. Students can receive multidisciplinary degrees, including Fine Arts, Health Sciences, Liberal Studies - Teacher Preparation, and Social Science. The Fire Science and Emergency Medical Services-Paramedics programs are some of the finest community college programs in the state, with CHC being the primary trainer for paramedics in San Bernardino and Riverside counties. CHC also has the distinction of being the top community college in the Inland Empire when it comes to degree/certificate completion rates and course retention/success rates.

Now in its 90th year, San Bernardino Valley College (“SBVC”) is a comprehensive community college offering a full range of degrees, transfer programs to four-year institutions, and certificates in a wide range of careers. As the original and largest of two colleges in the District, SBVC is a regional leader in career and technical education with programs in nursing, human services, computer information technology, welding, electrical and dozens more. Weekend, online, evening, short-term and distance learning classes are available along with classes in Big Bear.

SBVC's mission is to prepare students for transfer to four-year universities, to enter the workforce by earning applied degrees and certificates, to foster economic growth and global competitiveness through workforce development, and to improve the quality of life in the Inland Empire and beyond.

Centrally located near the 10 and 215 freeways, SBVC serves 12,000 students every semester.

## **2.2 Measure CC Bond Program**

On November 6, 2018, the voters approved Measure CC, which will generate \$470 million to upgrade the District’s facilities. The District hasn’t passed a local college bond measure in a decade; therefore, the District faces a backlog of college infrastructure projects. The proceeds of this bond will be used to update aging facilities for safe, 21st-century education, and to repair college facilities to train firefighters, health care providers, police, engineers, and technicians who fuel our local economy (“Bond Program”).

Additional information on the Bond Program may be obtained by visiting the District’s website at <http://www.sbccd.org/qualitycolleges>.

## **2.3 Program Manager**

The Measure CC Bond Program, sometimes also referred to as the “Building Program”, will be managed centrally by the Program Management Office (“PMO”). The PMO will oversee all construction activities and professional services in relation to the Bond Program on behalf of the District. The PMO contract was awarded to AECOM Technical Services, Inc. on or about June 1, 2019 (“AECOM” and/or “PMO”). The PMO reports directly to the District’s Director, Facilities Planning & Construction.

The District’s Director, Facilities Planning & Construction will be the District’s Authorized Representative for conducting the RFQP. The PMO firm will be the District’s Authorized Representative for administering and enforcing the contracts awarded, if any, by the District’s Board of Trustees pursuant to this RFQP.

When retained, College Management Teams (“CMT”’s) will manage construction activity and provide field level management at the colleges. The CMT will report and be accountable to the Program Manager and the District. The District will also have a direct hire District employee, a “Construction Manager Liaison” (“CML”). This individual will be fully dedicated to the Bond Program, paid by the bond and be part of the Bond Program organization. The individual in this position will function as a day to day representative for the District and corresponding Colleges with responsibilities to collaborate with the Colleges’ administration, PMO, CMT, and other consultants, and will report to the District’s Director, Facilities Planning & Construction. The CML’s role is not to direct the work, but to look out for the ongoing maintainability/functionality/operability of the Colleges during the planning, design, procurement, construction, commissioning and post-construction phases. The CML’s duties may include, but are not limited to solving problems, developing solutions that work for the Colleges, contributing to the design and constructability of the plans, providing input on construction schedules and budget, assisting with the

procurements of various consultants and contractors, communicating and coordinating with the Colleges administration, PMO, and the CMT, and reviewing necessary submittals to ensure compatibility with campus systems.

## 2.4 RFQP Tentative Procurement Schedule

The following Tentative Procurement Schedule is provided as a courtesy only. The District reserves the right to change any and/or all dates in its sole discretion. Any changes made to the schedule will be made via Addendum to this RFQP.

RFQP Issuance	August 30, 2019
Non- Mandatory Pre-Proposal Conference	September 9, 2019 at 12:00 to 1:00 pm District Board Room (114 S. Del Rosa Dr.)
Requests for Clarifications (“RFCs”) Due prior to:	September 10, 2019 at 12:00 Noon PST
Final Addendum Issued:	September 12, 2019
Proposals Due prior to:	September 16, 2019 at 2:00 PM PST
Notice of Intent to Award Issued to Selected Firm:	September 20, 2019
Board of Trustees Action	October 10, 2019

## 2.5 Project Description and Scope – District and Campus Standards

### 2.5.1 Project Description - District and Campus Standards:

As described above the District consists of two campuses, San Bernardino Valley College and Crafton Hills College, and the Measure CC Bond will be building a number of new buildings as well as renovating a number of existing buildings. In order to provide direction to those design teams that will be designing the aforementioned new construction and renovation projects, the District intends to commission an Architect and Engineering team to develop Campus Standards that can be distributed to those design teams. The standards are intended to be comprehensive of all building systems for all trades. There are some standards that currently exist that can provide some background information to the successful Proposer, but the existing standards are in need of a comprehensive and complete update.

### 2.5.2 Scope of Work Items - District and Campus Standards:

The Contracted Firm will be required to provide all of the following:

Provide Architectural and Engineering services for the District at both of its campuses (San Bernardino Valley College and Crafton Hills College) and District-wide as described herein.

Develop the District and Campus Standards as three distinct but related set of standards. First the “District Standards” which are those items that can be standardized across the Campuses and the District (such as lighting and plumbing fixtures) with the intention of maximizing those building systems that can become a District-wide standard in order to gain the benefit of simplifying attic stock, vendors and other services required for the long-term maintenance of the District’s campuses. Additionally, the successful Proposer will develop two sets of “Campus Standards” one-set of standards for the San Bernardino Valley College campus and one set of standards for the Crafton Hills College campus as they are very different campuses and it is important to maintain the architectural character of each of the campuses. The Campus Standards will also catalog any other building systems or trades that are unique to each campus and is not able to be incorporated into the District-wide Standards.

#### **2.5.2.1 Campus and District-wide Standards - Scope of Work Items:**

- a. **Campus Design Guidelines** – Separately for the San Bernardino Valley College campus and for the Crafton Hills College campus draft a description of the planned design approach for future architectural and landscape projects on each campus
- b. **Space Guidelines** – Develop diagrams and narratives for typical instructional, administrative, and support spaces
- c. **Materials and Systems Standards** – Develop performance criteria for typical building and site systems and materials

#### **2.5.2.2 Development of District and Campus Standards Process by Phase**

- a. **Initial Review and Preparation**
  - 1) Review current standards for relevance and other information provided by the District
  - 2) Meet with District facilities staff and PMO to discuss any current standards.
  - 3) Coordinate with other District consultants
  - 4) MEETINGS:
    - a. Two (2) coordination meetings with facilities staff
- b. **Research and Analyze**
  1. Research best practices and analyze options for room space standards for up to eight (8) typical room spaces including instructional spaces, office, and conference spaces, and building support spaces
  2. Research best practices and current sustainable cost-effective materials and systems
  3. Analyze concerns from District staff on current materials and systems and provide analysis and options to meet District needs
  4. Coordinate with District consultants
  5. MEETINGS:
    - a. Two (2) coordination meeting with facilities staff

**c. Collect and Recommend**

1. Develop and send out surveys to District and PMO staff for specific systems and materials to collect initial input before detailed work sessions with District and PMO staff
2. Develop initial “standards” recommendations based on survey results and documents
3. Hold follow-up meetings, take and distribute meeting notes, and obtain sign offs as they relate to those items that constitute the “standards”.
4. Coordinate with District consultants
5. MEETINGS:
  - a. Twelve to Fifteen (12 to 15) detail work sessions with appropriate staff focusing on material and systems standards (2-3 hours per session) in the following systems and material focus areas:
    1. Mechanical
    2. Plumbing
    3. Electrical
    4. Civil
    5. Landscaping
    6. Interior Building Finishes
    7. Exterior Building Finishes
    8. Moisture Protection and Roofing
    9. Avian Protection/Deterrents
    10. Technology and AV systems
    11. Hardware
    12. Security System (program will be provided by the District)
    13. Fire Alarm
    14. Acoustical
    15. Elevator
    16. Structural
    17. Wayfinding and signage
    18. Total Cost of Ownership (TCO)
    19. Furniture, Fixtures & Equipment (for standard academic and admin spaces)
  - b. Three (3) space standards work sessions with deans, faculty, and staff on instructional and office spaces (2-3 hours per session)
  - c. One (1) coordination meeting with facilities staff
  - d. Two (2) task force meetings with District leadership on Campus Design Guidelines (2 hours per session)

**2.5.2.3 District and Campus Standards Deliverables**

- a. Develop the District template with District facilities staff and/or PMO
- b. Standards to be created either an InDesign or Word format file that can be printed in a PDF format

- c. Include illustrative photos, diagrams, and charts to supplement narrative and communicate design and space guidelines
- d. Coordinate with consultants
- e. Provide one (1) facilities management review and revision for each of the three (3) standards (1) District, 2) San Bernardino Valley College and 3) Crafton Hills College) – Draft # 1 and Draft #2
- f. Collect District-consolidated comments and incorporate into document
- g. Develop final draft for review and comment by District staff and/or PMO
- h. Collect District-consolidated comments and incorporate
- i. Finalize District and Campus Standards, print, and deliver document
- j. MEETINGS:
  - a) One (1) coordination meeting with facilities staff (2 hours)
  - b) One (1) presentation to District leadership (1½ hours)

#### **2.5.2.4 Information Provided by the District**

For an efficient, expedited, and successful process, the District will provide the following:

- a. Systems and materials standards data previously developed for review
- b. List of Board approved proprietary materials and systems
- c. List of types of administrative, faculty, and staff offices to be developed
- d. Security program requirements.

### **2.6 Project Description and Scope -Temporary Swing Space and Temporary Parking Plans:**

#### **2.6.1 Project Description - Temporary Swing Space and Temporary Parking Plans:**

In addition to the Campus Standards the PMO will require assistance from the successful Proposer in planning swing space to house faculty and/or staff and/or students (“Users”) during the renovation of existing buildings until the subject renovation projects are completed and the respective Users are able to move back into the renovated buildings. The swing space will be some combination of moving Users into other campus buildings that have become available because the original Users of those buildings have moved into a newly constructed building, other available square footage on campus or temporary modulars. In addition, the successful Proposer will also provide an analysis and plan for temporary parking space as parking lots are removed/taken out of service either while a new parking structure is being constructed or as current parking sites are required for new building pads or construction staging areas. The successful Proposer will be required to closely coordinate with the PMO in the development of a swing space and temporary parking plans based on the overall Building Program schedule, District priorities and available funding.

#### **2.6.2 Scope of Work Items - - Temporary Swing Space and Temporary Parking Plans:**

The Contracted Firm will be required to provide all of the following: The consultants will assist the District and the District’s PMO to review the proposed facilities remodel and new construction projects as identified in each College’s 2017 Facilities Master Plan and to assist with preparing narratives and graphic plans identifying project sequencing, phasing, and any interim or temporary swing space housing that may be needed. The consultant shall work closely with the current Utility Mapping Study and Infrastructure Master Plan to coordinate phasing of temporary swing space. The consultants will



also provide an analysis of temporary swing parking as parking lots are removed and/or taken out of service either while a new parking structure is being constructed or as current parking sites are required for new building pads or construction staging areas.

Projects that will require temporary swing space studies include **but are not limited to:**

#### **Crafton Hills College Renovation Projects**

- Performing Arts Center
- Crafton Hall
- West Complex
- Student Support Building
- East Valley Public Safety Training Center

#### **San Bernardino Valley College Renovation Projects:**

- Instructional Student Services Building
- Administration and Campus Center
- Physical Science & Health and Life Sciences

#### **2.6.2.1 Temporary Swing Space Implementation Plan**

- a. Review 2017 Facilities Master Plan recommendations for both Colleges
- b. Review “Districtwide Facilities Master Plan Project List” dated May 11, 2017 and confirm scope and priorities
- c. Meet with District and PMO staff to assess any needed changes in the Master Plan recommendations
- d. Meet with consultants and District/PM staff to review and discuss proposed utility projects (and the upcoming utility master plan)
- e. Develop preferred sequencing of proposed projects for both temporary swing space and temporary parking
- f. MEETINGS:
  1. Three (3) meetings with District and PM staff
  2. One (1) meeting with consultants and

#### **2.6.2.2 Temporary Swing Space Study Process**

- a. In concert with the Temporary Swing Space Implementation Plan task above, meet with District and PMO staff to assess if interim swing space housing is needed, and if so, whether it is best addressed as added relocatable buildings and/or occurring within existing buildings
- b. Prepare basic programming as needed to assess the swing space needs and perform test fits
- c. Determine the preferred size and timing for any temporary swing space housing projects (coordinating with PMO’s master schedule)
- a. In concert with the Temporary Swing Space Implementation Plan task above, meet with

District and PMO staff to assess the temporary swing parking requirements and where on campus or off campus can it be located.

- b. Provide cost estimates for proposed temporary swing space and temporary parking projects
- c. MEETINGS:
  - 1. Three (4) meetings with District and Program Management staff
  - 2. One (1) meeting with consultants and District/ Program Management staff

### **2.6.2.3 Temporary /Swing Space Plan Deliverables**

The following (electronic) deliverables are required:

- a. Graphic site plans and floor plans as needed with accompanying written narratives
- b. Simple programming spreadsheets to capture the swing space needs
- c. Swing space test fit floor plan diagrams as needed
- d. Temporary parking plans
- e. “Snapshots” of campus site plans including new construction, laydown/staging and renovation, and temporary swing space indicated for each semester which projects are in process or are static or inactive or complete
- f. Detailed cost estimates for each swing space project
- g. Detailed cost estimates for temporary parking projects

### **2.6.3 District Responsibilities**

- a. Provide AutoCAD as-built drawings for any buildings that will need to be considered for temporary swing space housing or utility connections for new relocatable buildings
- b. Provide site survey, topographic, and utility information as needed
- c. Provide program spreadsheets that show current use of those buildings that will be impacted by future work
- d. Identification of District staff for focus area detailed work sessions
- e. Scheduling of all meetings, work sessions, and presentations

Deliverables as required above, will be prepared in accordance with the applicable codes, regulations and District standards.

Hourly Compensation under this Contract, if any, will be in accordance with Attachment 13 to the RFQP, Hourly Rates and Personnel Classifications identifying hourly rates for each specific position. The hourly rates shown on Attachment 13 Hourly Rates and Position Classifications are inclusive of all wages, expenses, overhead and profit (“fully burdened rate(s)”). The Proposal shall include the position description(s) and the fully burdened hourly compensation rate associated with the particular position and a detailed staffing plan.

## **3. CONTENT AND PREPARING YOUR PROPOSAL**

This section describes how you should package your Statement of Qualifications (“SOQ”) and Proposal for submittal (hereinafter collectively referred to as the “Proposal”). The Proposal shall comply with the requirements of the RFQP Documents and provide a straightforward, clear, complete and concise description of the Applicant’s ability and experience to perform and provide the Scope of Services sought.

### 3.1 Proposal

Each section in your Proposal should bear the same corresponding number and heading as they appear in **Section 3.1.1 through Section 3.1.3 below**.

Proposals shall be prepared on standard letter size (8 1/2" x 11") paper. Proposals shall be typed and shall not include any unnecessarily elaborate or promotional material. Lengthy narrative is discouraged. Print shall not be a font size of less than eleven (11).

Proposers are to submit: One (1) Original, Seven (7) Copies and One (1) electronic version on a permanently labeled flash drive or CD of the Proposal response.

#### 3.1.1 Cover Page (not scored):

Prepare a Cover Page for your Proposal that states:

“ \_\_\_\_\_ ”

[Insert your firm name on the line above]

PROPOSAL

FOR

DEVELOPMENT OF CAMPUS STANDARDS, DISTRICT-WIDE STANDARDS and TEMPORARY  
SWING SPACE PLANS

Procurement No.: CC03.3640

Date Submitted: \_\_\_\_\_, 2019

#### 3.1.2 Table of Contents (not scored):

Each Proposal must include, immediately following the Cover Page, a complete Table of Contents of all information, sections, and exhibits included in your Proposal, including page numbers.

#### 3.1.3 Cover Letter (not scored):

Following the Table of Contents, insert a Cover Letter addressed to the District as follows:

Farrah Farzaneh, Director, Facilities Planning & Construction

San Bernardino Community College District

114 S. Del Rosa Dr., San Bernardino, CA 92408

Request for Qualifications and Proposals

“Re: Request for Qualifications and Proposals – Development of Campus Standards,  
District-Wide Standards and Temporary Swing Space Plans

Procurement No.: CC03.3640”

The Cover Letter shall be limited to three (3) pages and contain the following:

- 3.1.3.1 Identification (name, address and telephone number) of the Applicant. The District will not accept Proposals from a Joint Venture or two (2) firms acting as General Partners. If two (2) firms have paired together as partners or co-venture, clearly indicate which firm will act as the “prime” and which will act as the “consultant and/or sub-consultant”. Any PSA awarded will be issued to only the “prime” firm;
- 3.1.3.2 Name, title, address, telephone number and email address of a contact person on behalf of the Applicant for the duration of the RFQP process;
- 3.1.3.3 Brief statement of why your Team should be chosen to be awarded a PSA; and
- 3.1.3.4 Signature of a person authorized to bind the Applicant to the terms of the Proposal, and to negotiate contract terms and make binding decisions in all matters relating to the RFQP and PSA.

#### **3.1.4 Attachments 1-11 to the RFQP – MUST BE SUBMITTED as part of the Proposal**

Under this Section, prepare a Table of Contents, identifying the documents you are submitting as part of the Proposal. Each Table of Contents section should have at least one (1) matching labeled divider and tab.

- Attachment 1 Qualification Questionnaire (Parts A and B)
- Attachment 2 Individual Resume Form
- Attachment 3 Applicant History and Project Experience
- Attachment 4 Sub-Consultant History and Project Experience
- Attachment 5 Acknowledgment of Addenda Form
- Attachment 6 Applicant’s Representations and Certifications Form
- Attachment 7 Conflict of Interest Certification Form
- Attachment 8 Authorization to Release Information Form

Attachment	9	Non-Collusion Declaration
Attachment	10	Non-Discrimination Declaration
Attachment	11	Confidentiality Agreement

Should you fail to complete, sign, and turn in as part of your Proposal Attachments 1-11 that are found at the end of this RFQP Document, your Proposal may be deemed “non-responsive” and rejected.

In addition, at the end of the Proposal, you should insert all explanations and other documents required to be submitted in response to the RFQP. List and identify each attachment in the Table of Contents.

### **3.1.5 Attachments 12-16 (and Appendix A, if applicable) to the RFQP – These are NOT TO BE SUBMITTED**

The following Attachments are provided and attached to the end of this RFQP for the Applicant’s information.

Attachments 13-16 are NOT TO BE SUBMITTED as part of your Proposal submission:

Attachment	12	Technical and Fee Proposal Guidelines
Attachment	13	Hourly Rates and Personnel Classifications
Attachment	14	RFQP Responsiveness Checklist
Attachment	15	Bid/Proposal Protest Procedure
Attachment	16	Professional Services Agreement (Sample)
Appendix A -		Reference Documents (if applicable)

## **3.2 Deadlines and Proposals Submission**

### **3.2.1 Time for Submitting your Proposal**

The deadline for submitting your Proposal is not later than **2:00 PM PST on September 16, 2019.**

In the sole and absolute discretion of the District, any Proposal submitted after the stated deadline may not be accepted, deemed non-responsive, and rejected without further consideration.

### **3.2.2 Manner of Submitting your Proposal**

The District will receive Proposals **only through hardcopy submission.**

**Applicant will submit:** one (1) original (marked original), seven (7) copies (in white, 3-ring binders that can be re-used if possible), and one (1) copy on a permanently marked digital device such as USB flash drive. The foregoing shall all be placed in a sealed envelope addressed to:

**Farrah Farzaneh, Director, Facilities Planning & Construction**  
**San Bernardino Community College District**

114 S. Del Rosa Dr., San Bernardino, CA 92408

**Request for Qualifications and Proposals – Development of Campus Standards,  
District-Wide Standards and Temporary Swing Space Plans**

**Procurement No.: CC03.3640**

**Proposals submitted in any other manner will not be considered.**

Applicant is solely responsible for timely submission of its Proposal and any failure of timely delivery shall not constitute an excuse for late receipt.

Please allow time to arrive before the submission deadline. A date/time stamped receipt will be placed on each Proposal when received. The date/time stamp is based on an atomic clock which is calibrated to Greenwich Mean Time. Proposals submitted via fax, telephone, e-mail, mail, and/or in any other non-authorized manner, will not be accepted.

**3.2.3 Requests for Clarifications of the RFQP and Deadline for RFCs**

All questions and requests for clarification concerning the RFQP process or RFQP Documents must be submitted by not later than 12:00 Noon PST on September 5, 2019.

**3.2.4 Manner of Sending in a Request for Clarification**

Requests for Clarifications, questions or additional information must be submitted and received by the District prior to the deadline set forth herein. Requests for Clarifications, questions or additional information received after that time will not be responded to. All requests for questions, clarifications, or additional information must be in writing and shall be delivered, a) by hand delivery, b) mail or c) email between the hours of 8:00 a.m. and 4:30 p.m. and before the applicable deadline to the following:

Attention: Bel Nickles  
San Bernardino Community College District

Email: [bnickles@eci-team.com](mailto:bnickles@eci-team.com)

**Request for Qualifications and Proposals – Development of Campus Standards,  
District-Wide Standards and Temporary Swing Space Plans**

**Procurement No.: CC03.3640**

**3.2.5 District Responding to Request(s) for Clarification(s)**

The District is not obligated to respond to any questions or requests for clarifications that the District judges, in the exercise of its sole and absolute discretion: (1) are received after the above-specified deadline; (2) are submitted in a manner other than as required by the RFQP Documents; (3) are

unintelligible; (4) seek information that is irrelevant to the subject matter of the RFQ; (5) seek information that is already contained in the RFQP; or (6) involve weaknesses, errors or omissions in a Proposal, whether observed or not observed by the District, it being the intent of the District that all such weaknesses, errors or omissions, whether observed or not observed, are the sole responsibility of the Applicant.

Should the District determine to respond to a Request for Clarification(s), the District will do so by way of a written Addendum sent electronically or by mail. ***No verbal RFC's will be responded to. No verbal Responses to RFC's shall be relied on by any Applicant/Proposer.***

#### **4. EVALUATION & SELECTION CRITERIA: DEVELOPMENT OF CAMPUS STANDARDS, DISTRICT-WIDE STANDARDS AND**

#### **5. TEMPORARY SWING SPACE PLANS RFQP**

##### **4.1 Evaluation**

An evaluation panel ("Evaluation Panel") consisting of representative(s) from the District, PMO, College staff, and/or outside consultants, will review, analyze, and evaluate all Proposals found to be responsive and submitted by Applicants who have not been deemed non-responsive and/or otherwise disqualified. The Evaluation Panel will evaluate the Proposals based on the evaluation criteria described in the Qualification Questionnaire, Attachment 1.

The District, after determining responsive Proposals received from Applicants, will score responsive Applicants firms' Proposals and select a firm for PSA award. Award notification will be emailed to all Applicants.

A breakdown of the scoring is as follows:

There are a total of 1500 available points. Please refer to Attachment 1, Part "A", Section 4.0 (500 available points), Attachment 1, Part "B", Section 7.0 (300 available points), Attachment 12 Part 2 (700 available points) and Part 3 (possible additional 100 available points) for a further breakdown and description on how these Categories will be evaluated and scored.

#### **5. OTHER TERMS, CONDITIONS, PROVISIONS, & REQUIREMENTS OF THE RFQP**

##### **5.1 The following matters are called specifically to the Applicant's attention:**

###### **5.1.1 Alterations**

Interlineations, alterations and erasures contained in a Proposal at the time it is received must be initialed by the signer(s) of the Proposal. If not, failure to do so may be grounds for determining a Proposal as "non-responsive", in the sole discretion of the District.

###### **5.1.2 Withdrawal and/or Re-Submission**

Proposals may be withdrawn at any time, and resubmitted, prior to the applicable deadline for submission thereof. If this occurs, only the resubmitted Proposal will be evaluated. Proposals may not be withdrawn after the applicable deadline for receipt thereof.

###### **5.1.3 Changes**

Subject to Applicant's right to withdraw and resubmit as stated in Section 5.1.2 above, once a Proposal is submitted it may not be thereafter amended by the Applicant beyond the Proposal Deadline, unless the District specifically permits same pursuant to its rights to clarify, verify and/or extend the RFQP process.

#### **5.1.4 Applicable Law**

All Proposals must be submitted, filed, made, and executed in accordance with Applicable Law, whether or not such applicable laws are expressly referred to in the RFQP Documents or not.

#### **5.1.5 Review of RFQP**

Each Applicant acknowledges and understands its affirmative obligation to carefully and thoroughly examine the RFQP Documents, including the Sample Professional Services Agreement ("PSA") (inclusive of all attachments/exhibits thereto) and other information furnished or made available by the District and to seek clarification of any portions thereof that: (1) constitute errors, omissions, conflicts, ambiguities, lack of coordination or noncompliance with Applicable Law; and/or (2) indicate difficulties or obstructions that might affect the Applicant's ability to perform the Scope of Services. Applicant by submitting a Proposal, agrees to the language of the sample contract provided, any requests to modify the PSA Agreement must be submitted as an RFC. Failure by an Applicant to fully inform itself of such matters and to seek clarification in the manner required by the RFQP Documents shall not relieve the Applicant from its responsibilities under any contract that may be awarded to such Applicant, nor shall it be a basis for any claim by the Applicant, that it was mistaken or misled in connection with the preparation of its Proposal.

The District further assumes no responsibility for errors or misrepresentations resulting from the use by Applicant of an incomplete set of RFQP Documents.

The contract to the Contracted Firm is standardized. Post selection changes and/or negotiations as to the terms, conditions and provisions thereof will not be permitted. Any selected firm (Awardee) refusing to sign the standardized PSA Contract will have its award rescinded.

#### **5.1.6 Applicant Expenses**

Any expenses incurred by an Applicant, prior to or during the RFQP process, in: (1) preparing its Proposal, (2) submitting its Proposal to the District, (3) negotiating with District on any matter related to this RFQP, or (4) engaging in any other activity related to the RFQP process; are the sole responsibility of the Applicant. The PMO and District shall not, under any circumstances (including, without limitation, a decision by the District to reject any or all Proposals or to withdraw or cancel the RFQP with or without re-procurement), be liable for any such expenses. In addition to the foregoing, by Applicant's submitting a Proposal in response to this RFQP, Applicant agrees to defend, indemnify, and hold harmless the District Indemnitees (as defined in the PSA), and each of them, from any and all losses, liabilities, claims, and damages asserted by third persons or entities engaged by or through Applicant or its Consultants, Sub-consultants, Contractors, and/or Subcontractors, of any contracting tier, in connection with responding to this RFQP or preparing for or participating in the RFQP process.



### **5.1.7 Page Counts**

Unless otherwise specifically stated in the RFQP Documents, in interpreting a requirement in the RFQP Documents that a document submitted be limited to a certain number of pages, the word “page” means one side of a sheet of paper.

### **5.1.8 Responsiveness**

Any Applicant who does not comply with the requirements of the RFQP Documents shall be subject to a finding of non-responsiveness and/or disqualification by the District, or reduction(s) in points by evaluators in their scoring of the Applicant’s Proposal, as ultimately determined by the District. The decision whether or not to find a Proposal non-responsive and/or to disqualify an Applicant is discretionary with the District, all such decisions are final, and nothing stated in the RFQP Documents shall be interpreted as obligating the District to disqualify and/or find non-responsive any Applicant who fails to comply with the requirements of the RFQP Documents, if some other provision of the RFQP permits the District to do so.

### **5.1.9 Conflicting Terms**

Summaries contained in the RFQP Documents that pertain and/or relate to matters expressly addressed in more detail elsewhere in the RFQP Documents are for the convenience of the Applicants and in all such instances, the more specific, detailed provisions shall govern. Notwithstanding the foregoing, in the event of a conflict between the terms of the RFQP Documents and any term or condition in the Sample PSA, the latter shall govern.

### **5.1.10 Pre-Submission Objections**

Any objection by an Applicant to the RFQP Documents must be submitted as an RFC before the deadline to submit RFC’s as identified in this document. Failure by an Applicant to so object shall constitute a final and conclusive waiver by the Applicant of its right to thereafter assert such objection. If an objection is agreed to, the District will issue an Addendum changing the RFQP documents. If the objection is not agreed to, the District will so state by Addendum and the RFQP documents will stand as issued. If the objecting Applicant thereafter submits a Proposal, it will be deemed to have waived any objection not made and indicate compliance with any modifications to the RFQP documents made by the District via Addendum. The submission of a Proposal by an objecting Applicant, where the District has not agreed to the objection and not changed the RFQP based thereon, shall be deemed non-responsive and rejected if the Applicant persists in asserting the objection.

Pre-Submission Objections must be submitted and received by the District prior to the deadline set forth herein in the same manner as an RFC. Pre-Submission Objections or additional information received after that time will not be responded to. All requests for Pre-Submission Objections must be in writing and shall be delivered as described above by the same deadline for RFC submissions.

The District is not obligated to respond to any Pre-Submission Objections that the District determines in the exercise of its sole and absolute discretion: (1) are received after the above-specified deadline; (2) are submitted in a manner other than as required by the RFQP Documents; (3) are unintelligible; (4) seek information that is irrelevant to the subject matter of the RFQP; (5) seek information that is already contained in the RFQP; or (6) involve weaknesses, errors or

omissions in a Proposal, whether observed or not observed by the District, it being the intent of the District that all such weaknesses, errors or omissions, whether observed or not observed, are the sole responsibility of the Applicant.

Should the District determine to respond to a Pre-Submission Objection(s), the District will do so by way of a written Addendum.

#### **5.1.11 Time Periods**

If an Applicant is asked in the RFQP Documents to respond to a question relative to a stated time period that has passed (such as, for example, “within the past 5 years”), it shall be deemed to mean the period of time that precedes the date that the Applicant first submits its Proposal to the District. If a question asks for information relative to a stated number of prior “full calendar (or fiscal) years,” it shall mean the stated number calendar years immediately preceding the calendar (or fiscal) year in which the Proposal is first submitted by the Applicant.

#### **5.1.12 Joint Offers**

The District intends to contract with a single firm and not with multiple firms doing business as a joint venture, General Partnership, and/or informal team. Accordingly, where two or more firms desire to join in preparing a single Proposal, they should do so on a Prime and Sub-Consultant basis, rather than as a joint venture, General Partnership, or informal team. The firm acting as the “Prime”, if awarded the Contract, will enter into the contract with the District and shall for purposes of this RFQP be considered the “Applicant.” This is for contracting purposes only and does not mean that the “Sub-Consultants” qualifications will not be evaluated as part of the RFQP process.

#### **5.1.13 Confirmation of Information**

The District reserves the right, to confirm the information contained within the resumes or other information submitted or communicated by any means by an Applicant.

#### **5.1.14 Discussions and Clarifications**

The District reserves the right, at any point in the RFQP process, but assumes no obligation, to conduct discussions with any Applicant for the purposes of, without limitation: (1) obtaining information essential for determining the acceptability of a Proposal, or (2) providing the Applicant an opportunity to revise or modify its Proposal (“Discussions”). If Discussions are held with any Applicant, they will be held separately with each Applicant; however, the questions asked in Discussions may be different for each Applicant. Additionally, the District may, but assumes no obligation to, communicate, verbally or in writing with an Applicant directly and without notice to, or participation by, other Applicants, and without providing similar opportunities for other Applicants, for purpose of obtaining clarification of certain aspects of a Proposal or of the Applicant’s capability to perform (such as, without limitation, the relevance of past performance information) and addressing minor irregularities, informalities, or apparent clerical mistakes in a Proposal and not for the purpose of changing the Applicant’s terms of its offer or other informational features of its Proposal.

#### **5.1.15 False or Misleading Information**

In addition to and without limitation upon any other requirements of the RFQP Documents, the District shall have the right to disqualify any Applicant and reject any Proposal by such Applicant should District determine that any information submitted by the Applicant is false, incorrect, a “half-truth”, or materially incomplete.

#### **5.1.16 Waiver of Irregularities**

The District reserves the right, but assumes no obligation, to waive deviations, irregularities, errors, or omissions in an Applicant’s conduct in connection with the RFQP process, in an Applicant’s Proposal, or in regard to any Applicant’s compliance or non-compliance with the requirements of the RFQP Documents.

#### **5.1.17 Unauthorized Communications**

Applicants shall not, before award of the PSA contract, communicate, either verbally or in writing, with any of the following persons (other than the person designated in the RFQP, or their designees) concerning the requirements of the RFQP Documents or concerning any aspect of the RFQP process: (1) any trustee, officer, employee, or representative of the PMO or District; or (2) any consultant, or employee of a consultant, providing the District or PMO with assistance, advice, or professional services relating to the matters covered by the RFQP Documents or who is involved in any aspect of the RFQP evaluation or scoring processes. Communication with or by an Applicant in violation of the foregoing may, as judged in District’s sole and absolute discretion be cause for disqualification of such Applicant.

#### **5.1.18. Interested Parties**

An Applicant or Prime Firm shall not be a Consultant, Sub-Consultant, Contractor and/or Subcontractor to another Applicant in more than one Proposal. A Consultant, Sub-Consultant, Contractor and/or Subcontractor may be included in more than one Proposal from different Applicants. District reserves the right to request Prime Firms to provide qualification documents on Consultants, Sub-Consultants, Contractors and/or Subcontractors after execution of Agreement. Firms who are advisors to the District or PMO in respect to this RFQP process are not allowed to submit or participate in submission of Proposals.

#### **5.1.19 Inability to Perform**

Any Applicant who, at any point in time during the RFQP process, is determined by the District, in the exercise of its sole and absolute discretion, to be unable to perform the services sought may be declared disqualified by the District and in such case will not be allowed to participate further in the RFQP process.

#### **5.1.20 Transfer**

Proposals are neither assignable nor transferable by Applicant and any such attempted assignment or transfer shall be deemed null and void at its inception.

#### **5.1.21 Ownership of the Proposals**

Proposals shall, upon submission, become property of the District and no portion of any Proposal will be returned by the District to the Applicant unless all of the following have occurred: (1) the portion is marked as "Proprietary and Confidential" in the manner required by the preceding paragraph, (2) the Applicant has requested in writing in its Proposal that such portion be returned in the event the Applicant does not receive award, and (3) within thirty (30) calendar days after award the Applicant requests, in writing, that such portion be returned.

#### **5.1.22 Public Records Act Requests**

In accordance with the Public Records Act (California Government Code §§ 6250 *et seq.*), Proposals and related documents submitted pursuant to this Request for Qualifications and Proposals will be subject to disclosure and review by the public once the Selected Firm is announced and upon a request made in compliance with the Public Records Act as required by law. Except as otherwise required by Applicable Law, the District will not disclose trade secrets or proprietary information submitted by an Applicant provided that the Applicant has specifically and conspicuously marked and identified such information as "Proprietary and Confidential Information" at each location in its Proposal where such information appears. Notwithstanding any such markings or identification of information by Applicant as "Proprietary and Confidential," the District reserves the right to independently determine whether any such information is subject to disclosure and to make such information available for review to the public to the extent required by Applicable Law.

#### **5.1.23 District Protest Procedure**

A copy of the District's Bid/Proposal Protest Procedure is found as Attachment 15 to the RFQP and incorporated herein by this reference.

#### **5.1.24 Final Determinations**

The District shall have the right to make all determinations and interpretations relating to the RFQP Documents or the RFQP process, including, without limitation, any Applicant's compliance with the RFQP Documents or its qualifications to participate in the RFQP process, and all such determinations shall be final and binding. Unless the District undertakes an action and debar an Applicant from applying for and/or proposing under this procurement, any other determination by the District during the RFQP process is not meant, and shall not be construed to be, a negative reflection on and/or a derogatory comment or action against, an Applicant's reputation, experience, and/or other qualifications and/or characteristics. This is a qualifications-based selection process and as designed, some Applicant's qualifications will exceed those of other Applicants.

#### **5.1.25 No Commitment**

Without limitation to any of the District's other rights under the RFQP Documents, Applicable Law, or the terms of the PSA, the District reserves the right, exercised at any time and in its sole and absolute discretion, to do any of the following: (1) reject any Proposal that fails to comply with the requirements of the RFQP Documents; (2) reject all Proposals; (3) make a determination that Applicant is disqualified from participating in the RFQP process due to its being found not as well qualified as other Applicants to perform the services contemplated by the RFQP; (4) cancel all or a part of the RFQP, with or without offering any Applicant the opportunity to participate in any future RFQP process for the same or similar services; or (5) make selection of any Applicant or to no

Applicant. Exercise by District of its rights under this Section shall not, under any circumstances, give rise to any liability or obligation on the part of the PMO or District nor shall it constitute grounds for any claim by an Applicant for recovery from PMO or District of any loss, damage, cost, or expense. Nothing stated in this RFQP and no action taken in response to this RFQP, save and except for mutual execution of a contract that is approved by the Board of Trustees, shall constitute, or be interpreted as, creating any legal obligation on the part of the PMO or District to enter into a contract with any Applicant.

#### 5.1.26 Other District Rights

The rights, powers, and discretion expressly conferred upon the District under the RFQP Documents are not intended to be exclusive but are cumulative and in addition to, and not a substitute for, every other right, power, or discretion existing or available to the District under the RFQP Documents or applicable laws.

#### 5.1.27 Performance Evaluations

The District and/or PMO may conduct Performance Evaluations of Contracted Firms on an annual basis for the term of the Contract, or when deemed necessary by the District.

## 6 FULL LIST OF DOCUMENTS COMPRISING THE RFQ AT TIME OF INITIAL ISSUANCE

The Request for Qualifications and Proposals (RFQP) is comprised of the following:

This RFQP document (which should be read as instructions for preparing and submitting your Proposal); Attachments 1 through 16 (and Appendix A if applicable) to the RFQP; all exhibits thereto; all other documents referenced and/or mentioned in the foregoing; all information contained in all of the foregoing; any Addenda issued in connection herewith; and Applicable Law. The following documents must be properly filled out, signed and returned with your Proposal.

RFQP Document (this document containing instructions on how to submit your Proposal)	
<b>Attachment 1</b>	Qualification Questionnaire (Parts A (Applicant) and B (Sub-Consultants))
<b>Attachment 2</b>	Individual Resume Form
<b>Attachment 3</b>	Applicant History and Project Experience Form
<b>Attachment 4</b>	Sub-Consultant History and Project Experience Form
<b>Attachment 5</b>	Acknowledgment of Addenda Form
<b>Attachment 6</b>	Applicant's Representations and Certifications Form
<b>Attachment 7</b>	Conflict of Interest Certification Form
<b>Attachment 8</b>	Authorization to Release Information Form
<b>Attachment 9</b>	Non-Collusion Declaration
<b>Attachment 10</b>	Non-Discrimination Declaration
<b>Attachment 11</b>	Confidentiality Agreement
<b>All of the above documents must be completed, signed and returned with your Proposal</b>	
<b>The following documents identified below are not to be returned with your Proposal.</b>	
<b>Attachment 12</b>	Technical and Fee Proposal Guidelines

<b>Attachment 13</b>	Hourly Rates and Personnel Classifications
<b>Attachment 14</b>	RFQP Responsiveness Check List
<b>Attachment 15</b>	Bid/Proposal Protest Policy
<b>Attachment 16</b>	Professional Services Agreement for Development of Campus Standards (Sample)
Exhibit A	Hourly Rates and Personnel Classifications (Place Holder)
Exhibit B	Confidentiality Agreement (Place Holder)
Exhibit C	District Approved Key Personnel and Sub-Consultants (Place Holder)
Exhibit D	Conditional Waivers (Sample)
Exhibit E	Unconditional Waivers (Sample)
Exhibit F	Payee Data Record (Sample)
Exhibit G	RFQP & Addenda (Place Holder)
Exhibit H	Proposal (Place Holder)
Exhibit I	District Standards (Place Holder) <b>NOT APPLICABLE</b>
Exhibit J	Campus Standards (Place Holder) <b>NOT APPLICABLE</b>
Exhibit K	Fee Payment Schedule (Place Holder)
<b>Appendix A</b>	Reference Documents

**End of RFQP Document:**

*Proceed to Attachments 1 through 16 (and Appendix A, if applicable) for further information and requirements for the RFQP.*

*All RFQP Documents may be found at:*

<http://www.sbccd.org/bids>



SAN BERNARDINO COMMUNITY COLLEGE DISTRICT

## **QUALIFICATION QUESTIONNAIRE**

**(“ATTACHMENT 1” to RFQ)**

### **Part A**

**PROFESSIONAL SERVICES AGREEMENT (“PSA”)**

**For**

**DEVELOPMENT OF DISTRICT AND CAMPUS STANDARDS,**

**and TEMPORARY SWING SPACE PLANS**

**DISTRICT-WIDE**

### **NOTICE:**

**THIS FORM MUST BE FILLED OUT AND SUBMITTED WITH AN  
APPLICANT’S PROPOSAL**

## **TABLE OF CONTENTS**

(SECTIONS WITHIN ATTACHMENT “1”)

### **Part A: APPLICANT or PRIME:**

SECTION 1 – QUESTIONNAIRE INSTRUCTIONS, OVERVIEW, SCORING;

SECTION 2 – APPLICANT INFORMATION;

SECTION 3 – APPLICANT REQUIREMENTS; and

SECTION 4 – APPLICANT QUALIFICATIONS and CERTIFICATION.

### **Part B: SUBCONSULTANT TEAM MEMBER**

SECTION 5 – SUB-CONSULTANT INFORMATION;

SECTION 6 – SUB-CONSULTANT REQUIREMENTS; and

SECTION 7 – SUB-CONSULTANT QUALIFICATIONS and CERTIFICATION.



## SECTION 1 – QUESTIONNAIRE INSTRUCTIONS, OVERVIEW, SCORING

### 1.0 Uniform Rating System

For this Procurement, the District has established the following Uniform Rating System for evaluating the qualifications of Architectural & Engineering Firms (“Applicants”) to develop Campus Standards District-Wide to determine which Applicant is qualified to submit a Proposal to receive a Professional Services Agreement for Development of Campus Standards and Temporary Space (“Project”).

#### 1.1 Overview and Structure

This Questionnaire, which is Attachment 1 to the RFQP, is divided into two parts: Part A and Part B. Part A is for the Applicant and Part B is for the Applicant’s Consultant’s and/or Sub-Consultants (collectively “Sub-Consultants”). The Questionnaire is comprised of Sections as described below:

**Part A: Applicant or Prime:** [\[This Document\]](#):

- 1.0 Section 1 Questionnaire Instructions, Overview, Scoring;
- 2.0 Section 2 Applicant Information;
- 3.0 Section 3 Applicant Requirements; and
- 4.0 Section 4 Applicant Personnel and Project Experience.

**Part B: Applicant Information** [\[Separate Document\]](#):

- 5.0 Section 5 Sub-Consultant Information;
- 6.0 Section 6 Sub-Consultant Requirements; and
- 7.0 Section 7 Sub-Consultant Personnel and Experience.

### 1.2 Instructions

**Section One (1.0)**, this section describes the Questionnaire’s structure, instructions and rating system. This section does not require a response and is not scored.

**Section Two (2.0)**, this section must be completed and returned with the Proposal package regarding the prospective Applicant. This section requests Applicant’s general information. This section is not scored. District may require firm to submit documents in this section to support information provided.

The District will not accept Proposals from a Joint Venture or two firms acting as General Partners. If two firms have paired together as partners or as a co and/or joint venture, the

Proposal must indicate which firm will act as the “prime” and which will act as the “consultant and/or sub-consultant”. The Professional Services Agreement (“PSA”) will be issued and executed by the prime firm only.

**Section Three (3.0)**, this section must be completed and returned with the Proposal package by the Applicant. Responses are to be provided as “Yes” or “No”. This section is not scored. An Applicant either “passes” or “fails” this based on the answers provided. Please ensure that an answer has been indicated for each question.

**Section Four (4.0)**, this section must be completed and returned with the Proposal package by the Applicant. This section includes the Applicant’s Project Staff Experience and Project Experience. This information is to be provided on the Attachments provided. This section is scored, and based on the evaluation, a Firm will be deemed qualified or not. There are 500 points available in this section. See Section 4.0 for a further breakdown of the 500 points available.

**Section Five (5.0)**, this section must be completed and returned with the Proposal package regarding EACH prospective Sub-Consultant. This section requests general information. This section is not scored. District may require firm to submit documents in this section to support information provided.

**Section Six (6.0)**, must be completed and returned with the Proposal for EACH proposed Sub-Consultant. This section is not scored. A Sub-Consultant either “passes” or “fails” this section based on the answers provided. Please ensure that an answer has been indicated for each question.

**Section Seven (7.0)**, must be completed and returned with the Proposal package by EACH proposed Sub-Consultant. This section includes the Sub-Consultants’ Project Staff Experience and Project Experience. This information is to be provided on the Attachments provided. This section is scored, and based on the evaluation, a Firm will be deemed qualified or not. There are 300 points available in this section. See Section 4.0 for a further breakdown of the 300 points available.

### 1.3 Scoring

Only Section Four (4.0) of Part “A” and Section Seven (7.0) of Part “B” are evaluated and scored based on the Applicant’s responses.

The numerical scoring will be used to rank Applicants and determine a Group of Qualified Applicants for purposes of further evaluating the Proposals received. The District reserves the right to increase or decrease the number of Applicants in this group, at any time, if it determines in its best interest to do so.

The District has determined that certain qualification criteria are to receive more importance than other criteria, as identified in Section 4.0 of Attachment 1, Part “A” and in Section 7.0 of Attachment 1, Part “B”. The total score received on both Sections 4.0 and 7.0 will be added together to arrive at a Total Score as indicated in the Table below. There are a total of 800 available points. Please refer to Section 4.0 in Part “A” and Section 7.0 in Part “B” for a further breakdown and description on how these Categories will be evaluated and scored:

### **Scoring Overview**

<b>Section #</b>	<b>Category</b>	<b>Points Available</b>	<b>Total Available Points</b>
<b>4.1</b>	Applicant Project Staff Experience	240	
<b>4.2</b>	Applicant Project Experience	150	
<b>4.3</b>	Proposed Overall Team Matrix	110	
			500
<b>7.1</b>	Sub-Consultant Project Staff Experience	210	
<b>7.2</b>	Sub-Consultant Project Experience	90	
			300
<b>4.0 + 7.0</b>			<b>800</b>

**PLEASE NOTE:** Any explanations required in response to questions in any Section shall be placed at the end of the submission and separated with a labeled divider page, including the related Section, Question or Item Number, unless otherwise instructed.

**SECTION 2 BEGINS ON THE NEXT PAGE**

**SECTION 2 – APPLICANT INFORMATION****2.0 Prime Applicant Firm**

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person \_\_\_\_\_

Phone \_\_\_\_\_

Fax \_\_\_\_\_

License Number(s) \_\_\_\_\_

Federal Tax ID \_\_\_\_\_

Firm Organized as:

- ☐ Corporation
- ☐ Limited Liability Company (LLC)
- ☐ Limited Partnership (LP)
- ☐ General Partnership (GP)
- ☐ Limited Liability Partnership (LLP)
- ☐ Sole Proprietorship

Insurance

Firm's Professional Liability (E&amp;O) Amounts:

Per Project: \_\_\_\_\_

Aggregate: \_\_\_\_\_

Financial: \_\_\_\_\_

Average Project Size, past three (3) years:

Dollar Amount \_\_\_\_\_

Square Footage \_\_\_\_\_

Firm's gross revenues for the past three (3) years:

2016 \_\_\_\_\_ 2017 \_\_\_\_\_ 2018 \_\_\_\_\_

Personnel

Current Number of persons firm employs? \_\_\_\_\_

How many Professionals does firm employ?

---

Has the Firm's name changed in the past five years?

☐ No      ☐ Yes

If yes, provide explanation.

---

Is the Firm a subsidiary, parent, holding company or affiliate of another firm?

☐ No      ☐ Yes

If yes, provide information about the other firms, if one firm owns fifty percent (50%) or more of another, or if an owner, partner, or officer of the Firm holds a similar position in another firm:

---

## 2.1 Corporation

If the Prime Applicant Firm is a CORPORATION, provide the following information:

Date Incorporated: \_\_\_\_\_

Under the Laws of what state: \_\_\_\_\_

Provide all the following information for each person who is either (a) an officer of the corporation (president, vice president, secretary, treasurer), or (b) the owner of at least ten percent (10%) of the corporation's stock:

Name	Position	Years with Corp.	% Ownership


Identify every firm that a person listed above has been associated with (as owner, general partner, limited partner, or officer) at any time during the last five (5) years. Please Note that “owner” and “partner” refer to ownership of ten percent (10%) or more of the business, or ten percent (10%) or more of its stock, if the business is a corporation:

Name	Other Firm Name	Dates of Participation

## 2.2 Partnership

If the Prime Applicant Firm is a PARTNERSHIP, provide the following information:

Date of Formation: \_\_\_\_\_

Under the Laws of what state: \_\_\_\_\_

Has there been a change in the Firm’s Ownership during the last three years?

☐ No      ☐ Yes      (if yes, attach provide explanation, separate page)

Provide all the following information for each partner who is owns at least ten percent (10%) or more of the firm:

Name	Position	Years with Firm	% Ownership


Identify every firm that a person listed above has been associated with (as owner, general partner, limited partner, or officer) at any time during the last five (5) years. Please Note that “owner” and “partner” refer to ownership of ten percent (10%) or more of the business, or ten percent (10%) or more of its stock, if the business is a corporation:

Name	Other Firm Name	Dates of Participation

### 2.3 Limited Liability Company

If the Prime Applicant Firm is a LIMITED LIABILITY COMPANY, provide the following information:

Date of Formation: \_\_\_\_\_

Under the Laws of what state: \_\_\_\_\_

Has there been a change in the Firm’s Ownership during the last three years?

☐ No ☐ Yes (if yes, attach provide explanation on separate page)

Provide all the following information for each partner who is owns at least ten percent (10%) or more of the firm:

Name	Position	Years with Company	% Ownership


Identify every firm that a person listed above has been associated with (as owner, general partner, limited partner, or officer) at any time during the last five (5) years. Please Note that “owner” and “partner” refer to ownership of ten percent (10%) or more of the business, or ten percent (10%) or more of its stock, if the business is a corporation:

Name	Other Firm Name	Dates of Participation

## 2.4 Sole Proprietorship

If the Prime Applicant Firm is a SOLE PROPRIETORSHIP, provide the following information:

Date of commencement of business \_\_\_\_\_

Company Owner's Social Security Number \_\_\_\_\_

Identify every firm that the business owner has been associated with (as owner, general partner, limited partner or officer) at any time during the last five (5) years.

“Owner” or “Partner” refer to ownership of ten percent (10%) or more of the business, or ten percent (10%) or more of its stock, if the business is a corporation.

Name	Company/Firm	Dates of Participation




**[GO ON TO NEXT PAGE FOR SECTION 3]**

### SECTION 3 – APPLICANT REQUIREMENTS

#### 3.0 Applicant's Essential Requirements

**The Applicant may be immediately disqualified if the answer to any of the following questions one (3.1) through four (3.4) is “No”.**

- 3.1 Is it true that no Officer or Director of the Applicant Firm has filed for bankruptcy or been forced into bankruptcy by creditors within the last ten (10) years?

☐ No ☐ Yes

- 3.2 Applicant has current workers' compensation insurance policy as required by the Labor Code and the State of California?

☐ No ☐ Yes

☐ Applicant is exempt from this requirement, because it has no employees

- 3.3 Do all of Applicant's professionals who may work on a District project possess current California professional license(s) for the services which they intend to provide?

☐ No ☐ Yes

- 3.4 The Applicant is covered by professional liability insurance policies (“errors and omissions”)?

☐ No ☐ Yes

- 3.5 Attach a **Certificate of Insurance** under a cover page labeled “Certificate of Insurance”. Certificate must indicate the per occurrence policy limit and the aggregate policy limit for work on the Services sought.

**The Applicant may be immediately disqualified if the answer to any of the following questions six (3.6) through nine (3.9) is “Yes”.**

- 3.6 Has your professional license been revoked at any time in the last five (5) years?

☐ No ☐ Yes

- 3.7 At any time during the last five (5) years, has the Applicant, or any of its owners, officers, and/or directors, been convicted of a crime involving the award of a contract of a government construction project, or the bidding, or performance of a government contract?

☐ No ☐ Yes

- 3.8 In the last five years, have any assets of the Applicant been frozen and/or attached by any governmental entity?

☐ No ☐ Yes

- 3.9 Has any professional license held by any professional who will provide services been revoked at any time in the last five (5) years?

☐ No ☐ Yes

**SECTION 4 BEGINS ON THE NEXT PAGE**

**SECTION 4 – APPLICANT PERSONNEL AND PROJECT EXPERIENCE****4.0 Experience Requirements**

The Applicant is to provide personnel resources, credentials and expertise to meet the District's needs for the Project and the Services sought. In this Section the Applicant provides information regarding the firm's general project experience and project staff experience for evaluation by the District and PMO for qualification.

**4.1 Project Staff Experience – 240 points available:**

Submit a completed Individual Resume Form (RFQ, Attachment 2) for each of the following positions below and be sure to copy the specific wording of the "Role in this Contract" positions below into the form--you must have a Resume Form for each of these Roles and have them labeled correctly to receive points:

An additional single page may also be included behind each form for each resume. The resume must present the individual's overall experience, education, licensing and other general information as well as the individual's higher education and consulting experience, primarily on Community College District projects, and any other public works projects.

#	Role in this Contract	Available Points
1.	Principal in Charge	0 to 40
2.	Project Manager	0 to 40
3.	Project Architect	0 to 40
4.	Sustainability Leader	0 to 40
5.	Q/A Q/C Leader	0 to 40
6.	Interior Designer/FF&E Lead	0 to 40

Each of the foregoing people submitted for positions 1 through 6 above will be evaluated and scored by the Evaluation Committee based on the strength of their personal experience as reflected in Attachment 2 – Individual Resume Form and awarded from 0 to 40 points.

**4.2 Applicant's Experience – 150 points available:**

Submit a completed Applicant History & Experience Form (RFQ, Attachment 3) and include with the Proposal submission.

List up to ten (10) projects/assignments that include the following components:

1. Experience with K-12 Schools and/or Higher Education facilities in California.
2. Experience with projects for Public Agencies in California.

Applicants may list projects/assignments that may not match the exact criteria listed, however, projects listed are to be representative of the Applicant's ability to perform Services.

Projects/assignments listed that do not match exact criteria requested, may receive fewer points by evaluators.

Each of the ten (10) projects/assignments submitted will be evaluated and scored by the Evaluation Committee based on the two factors listed above and reflected in Attachment 3 – Applicant Team History and Performance and awarded from 0 to 15 points for each of the ten (10) projects submitted. If less than ten (10) projects are submitted it reduces the number of available points to an Applicant. (Example: with ten (10) projects submitted, there are up to 150 points available (i.e., 10 projects x 15 points = 150). However, if only nine (9) projects are submitted, there would be only 135 points available (i.e., 9 projects x 15 points = 135 available points), etc.

**4.3 Proposed Team Matrix – 110 points available:**

Individual and Firm Names	Discipline


The Applicant is to provide a list of its proposed overall Team Members (which includes Applicants employees and proposed Sub-Consultants and their employees).

Every Team Member that is a Sub-Consultant listed below is to complete and submit documentation as per Qualification Questionnaire, Part B (RFQ, Attachment 1).

Do not include more than five (5) Sub-Consultants for the same discipline.

The overall Team proposed, as submitted on the above matrix, will be evaluated and scored by the Evaluation Committee based on the strength of the overall Team proposed in the matrix above, the information contained in the Individual Resume Forms – Attachment 2, and the information contained in the Qualification Questionnaire – Attachment, Part “B”. The Applicant will be awarded from 0 to 110 points based on the strength of the overall Team proposed.

**END OF SECTION FOUR**

**END OF PART A**



SAN BERNARDINO COMMUNITY COLLEGE DISTRICT

## **QUALIFICATION QUESTIONNAIRE**

**(“ATTACHMENT 1” to RFQ)**

### **Part B**

**PROFESSIONAL SERVICES AGREEMENT (“PSA”)**

**CONSULTANT’S and SUB-CONSULTANT’S**

**For**

**DEVELOPMENT OF CAMPUS STANDARDS, DISTRICT-WIDE STANDARDS  
AND TEMPORARY SWING SPACE PLANS**

**DISTRICT-WIDE**

#### **NOTICE:**

***THIS FORM MUST BE FILLED OUT AND SUBMITTED WITH AN  
APPLICANT’S PROPOSAL FOR EACH OF APPLICANT’S SUB-  
CONSULTANTS***

**SECTION 5 – TEAM MEMBER INFORMATION****5.0 Sub-Consultant****Sub-Consultant Discipline(s):**

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person \_\_\_\_\_

Phone \_\_\_\_\_

Fax \_\_\_\_\_

License Number(s) \_\_\_\_\_

Federal Tax ID \_\_\_\_\_

Firm Organized as:

- ☐ Corporation
- ☐ Limited Liability Company (LLC)
- ☐ Limited Partnership (LP)
- ☐ General Partnership (GP)
- ☐ Limited Liability Partnership (LLP)
- ☐ Sole Proprietorship

Insurance

## Firm's Professional Liability (E&amp;O) Amounts:

Per Project: \_\_\_\_\_

Aggregate: \_\_\_\_\_

Financial: \_\_\_\_\_

Average Project Size, past three (3) years:

Dollar Amount \_\_\_\_\_

Firm's gross revenues for the past three (3) years:

2016 \_\_\_\_\_ 2017 \_\_\_\_\_ 2018 \_\_\_\_\_



Firm Principal has been licensed AND practicing in California for: \_\_\_\_\_ years

Personnel

Current Number of persons firm employs? \_\_\_\_\_

How many licensed professionals for Discipline(s) does firm employ? \_\_\_\_\_

How many licensed professionals for each Discipline listed above does firm employ?

\_\_\_\_\_

Has the Firm's name changed in the past five years?

☐ No ☐ Yes

If yes, provide explanation.

\_\_\_\_\_

Is the Firm a subsidiary, parent, holding company or affiliate of another firm?

☐ No ☐ Yes

If yes, provide information about the other firms, if one firm owns fifty percent (50%) or more of another, or if an owner, partner, or officer of the Firm holds a similar position in another firm:

\_\_\_\_\_

**5.1 Corporation:** \_\_\_\_\_

If the Sub-Consultant is a CORPORATION, provide the following information:

Date Incorporated: \_\_\_\_\_

Under the Laws of what state: \_\_\_\_\_

Provide all the following information for each person who is either (a) an officer of the corporation (president, vice president, secretary, treasurer), or (b) the owner of at least ten percent (10%) of the corporation's stock:

<b>Name</b>	<b>Position</b>	<b>Years with Corp.</b>	<b>% Ownership</b>

Identify every firm that a person listed above has been associated with (as owner, general partner, limited partner, or officer) at any time during the last five (5) years. Please Note that "owner" and "partner" refer to ownership of ten percent (10%) or more of the business, or ten percent (10%) or more of its stock, if the business is a corporation:

<b>Name</b>	<b>Other Firm Name</b>	<b>Dates of Participation</b>

**5.2 Partnership:** \_\_\_\_\_

If the Sub-Consultant is a PARTNERSHIP, provide the following information:

Date of Formation: \_\_\_\_\_

Under the Laws of what state: \_\_\_\_\_

Has there been a change in the Firm's Ownership during the last three years?

☐ No ☐ Yes (if yes, attach provide explanation on separate page)

Provide all the following information for each partner who is owns at least ten percent (10%) or more of the firm:

Name	Position	Years with Firm	% Ownership

Identify every firm that a person listed above has been associated with (as owner, general partner, limited partner, or officer) at any time during the last five (5) years. Please Note that "owner" and "partner" refer to ownership of ten percent (10%) or more of the business, or ten percent (10%) or more of its stock, if the business is a corporation:

Name	Other Firm Name	Dates of Participation

**5.3 Limited Liability Company:** \_\_\_\_\_

If the Sub-Consultant is a LIMITED LIABILITY COMPANY, provide the following information:

Date of Formation: \_\_\_\_\_

Under the Laws of what state: \_\_\_\_\_

Has there been a change in the Firm's Ownership during the last three years?

☐ No      ☐ Yes (if yes, attach provide explanation on separate page)

Provide all the following information for each partner who is owns at least ten percent (10%) or more of the firm:

Name	Position	Years with Company	% Ownership

Identify every firm that a person listed above has been associated with (as owner, general partner, limited partner, or officer) at any time during the last five (5) years. Please Note that "owner" and "partner" refer to ownership of ten percent (10%) or more of the business, or ten percent (10%) or more of its stock, if the business is a corporation:

Name	Other Firm Name	Dates of Participation

**5.4 Sole Proprietorship:** \_\_\_\_\_

If the Sub-Consultant is a SOLE PROPRIETORSHIP, provide the following information:

Date of commencement of business \_\_\_\_\_

Company Owner's Social Security Number \_\_\_\_\_

Identify every firm that the business owner has been associated with (as owner, general partner, limited partner or officer) at any time during the last five (5) years.

“Owner” or “Partner” refer to ownership of ten percent (10%) or more of the business, or ten percent (10%) or more of its stock, if the business is a corporation.

Name	Company/Firm	Dates of Participation

**SECTION 6 – SUB-CONSULTANT REQUIREMENTS****6.0 Sub-Consultant Essential Requirements**

**The Sub-Consultant may be immediately disqualified if the answer to any of the following questions one (6.1) through three (6.3) is “No”.**

- 6.1 All Sub-Consultant’s personnel, who may work on a District project, possess current California professional license(s) for the Discipline/Services which the Firm intends to provide?

☐ No☐ Yes

- 6.2 Sub-Consultant has current workers’ compensation insurance policy as required by the Labor Code and the State of California?

☐ No☐ Yes

☐ Firm is exempt from this requirement, because it has no employees

- 6.3 Sub-Consultant is covered by professional liability insurance (“errors and omissions”)?

☐ No☐ Yes

- 6.4 Attach a Certificate of Insurance under a cover page labeled “Certificates of Insurance”. Certificate must indicate the per occurrence policy limit and the aggregate policy limit for work on design contracts.

**The Sub-Consultant may be immediately disqualified if the answer to any of the following questions six (6.5) through ten (6.9) is “Yes”.**

- 6.5 In the last five (5) years has your professional license been revoked?

☐ No☐ Yes

- 6.6 At any time during the last five (5) years, has the Sub-Consultant, or any of its owners, officers, and/or directors, been convicted of a crime involving the award of a contract of a government construction project, or the bidding, or performance of a government contract?
- ☐ No ☐ Yes
- 6.7 In the last five years, have any assets of the Sub-Consultant been frozen and/or attached by any governmental entity?
- ☐ No ☐ Yes
- 6.8 Has any professional license held by any of Sub-Consultant's personnel who will provide services for this District's projects been revoked at any time in the last five (5) years?
- ☐ No ☐ Yes
- 6.9 Sub-Consultant has less than two (2) years of performing consulting services on Public Works or Public Education construction projects in California?
- ☐ No ☐ Yes

**SECTION 7 – SUB-CONSULTANT PERSONNEL AND PROJECT EXPERIENCE****7.0 Experience Requirements– Proposed Sub-Consultants**

Each Sub-Consultant is to provide personnel resources, credentials and expertise to meet District needs for each project. In this Section the Sub-Consultant provides information regarding the firm’s general project experience and project staff experience for evaluation by the District and the PMO for evaluation.

**7.1 Project Staff Experience – 210 points available:**

Submit a completed Individual Resume Form (RFQ, Attachment 2) for each of the following positions set forth below. and be sure to copy the specific wording of the “Role in this Contract” positions below into the form--you must have a Resume Form for each of these Roles and have them labeled correctly to receive points:

An additional single page may also be included behind each form for each resume. The resume must present the individual’s overall experience, education, licensing and other general information as well as the individual’s higher education commissioning consulting experience.

#	Role in this Contract	Available Points
1.	Structural Engineer	0 to 21
2.	Civil Engineer	0 to 21
3.	Mechanical Engineer	0 to 21
4.	Plumbing Engineer	0 to 21
5.	Fire Protection Engineer	0 to 21
6.	Electrical Engineer	0 to 21
7.	IT/Comm Engineer	0 to 21
8.	Security Hardware Specialist	0 to 21
9.	Landscape Architect	0 to 21
10.	Signage and Wayfinding	0 to 21

Each of the foregoing people submitted for positions 1 through 10above will be evaluated and scored by the Evaluation Committee based on the strength of their personal experience as reflected in Attachment 2 – Individual Resume Form and awarded from 0 to 21 points.



**7.2 Sub-Consultant's Experience – 90 points available:**

Submit a completed Sub-Consultant History & Experience Form (RFQ, Attachment 4) and include with the Proposal submission

List up to ten (10) projects for all consultants combined that include the following components:

1. Experience with K-12 Schools and/or Higher Education facilities in California.
2. Experience with projects for Public Agencies in California.
3. Experience in doing building standards

Firms may list projects/assignments that may not match the exact criteria listed, however, projects/assignments listed are to be representative of the Firm's ability to perform Services.

Projects/assignments listed that do not match exact criteria requested, may receive fewer points by evaluators.

Each of the ten (10) projects submitted will be evaluated and scored by the Evaluation Committee based on the three factors listed above and reflected in Attachment 3 – Applicant Team History and Performance and awarded from 0 to 9 points for each of the ten (10) projects submitted. If less than ten (10) projects are submitted it reduces the number of available points to an Applicant. (Example: with ten (10) projects submitted, there are up to 90 points available (i.e., 10 projects x 9 points = 90). However, if only nine (9) projects are submitted, there would be only 81 points available (i.e., 9 projects x 9 points = 81 available points), etc. This is a total of up to ten (10) projects for all consultants combined (not (10) for each consultant) and the consultants must have a position listed in the Role in this Contract table. No points will be given for projects by any consultant outside the listed Roles in this Contract.

**CERTIFICATION**

NOTE: Authorized person(s) with authority to execute this Certification shall sign this Certification on behalf the Sub-Consultant that is proposed and seeking to be qualified by the DISTRICT.

***Provide this Certification for each Sub-Consultant, person or legal entity.***

I, the undersigned \_\_\_\_\_, certify and declare that I have read all the foregoing answers to this Qualification Questionnaire, Part B; that all responses are correct and complete of my own knowledge and belief. I further declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed name)

\_\_\_\_\_  
(Place of Execution)

\_\_\_\_\_  
(Date)

Name of the entity (or person), that is a constituent member of the Firm on whose behalf this Certificate is signed.

# Individual Resume Form

Professional Services Agreement-A/E Services

Measure CC Projects

Procurement:

One additional page may be attached to the back of this form

1. NAME	2. ROLE IN THIS CONTRACT	3. YEARS EXPERIENCE	
		a. TOTAL	b. WITH CURRENT FIRM
4. FIRM NAME AND LOCATION (City and State)			
5. EDUCATION (DEGREE AND SPECIALIZATION)		6. CURRENT PROFESSIONAL REGISTRATION (STATE AND DISCIPLINE)	
7. OTHER PROFESSIONAL QUALIFICATIONS (Publications, Organizations, Training, Awards, etc.)			

## 8. RELEVANT PROJECTS

a.	(1) TITLE AND LOCATION (City and State)	(2) YEAR COMPLETED	
		PROFESSIONAL SERVICES	CONSTRUCTION (If applicable)
	(3) BRIEF DESCRIPTION (Brief scope, size, cost, etc.) AND SPECIFIC ROLE	<input type="checkbox"/> Check if project performed with current firm	
b.	(1) TITLE AND LOCATION (City and State)	(2) YEAR COMPLETED	
		PROFESSIONAL SERVICES	CONSTRUCTION (If applicable)
	(3) BRIEF DESCRIPTION (Brief scope, size, cost, etc.) AND SPECIFIC ROLE	<input type="checkbox"/> Check if project performed with current firm	
c.	(1) TITLE AND LOCATION (City and State)	(2) YEAR COMPLETED	
		PROFESSIONAL SERVICES	CONSTRUCTION (If applicable)
	(3) BRIEF DESCRIPTION (Brief scope, size, cost, etc.) AND SPECIFIC ROLE	<input type="checkbox"/> Check if project performed with current firm	
d.	(1) TITLE AND LOCATION (City and State)	(2) YEAR COMPLETED	
		PROFESSIONAL SERVICES	CONSTRUCTION (If applicable)
	(3) BRIEF DESCRIPTION (Brief scope, size, cost, etc.) AND SPECIFIC ROLE	<input type="checkbox"/> Check if project performed with current firm	
e.	(1) TITLE AND LOCATION (City and State)	(2) YEAR COMPLETED	
		PROFESSIONAL SERVICES	CONSTRUCTION (If applicable)
	(3) BRIEF DESCRIPTION (Brief scope, size, cost, etc.) AND SPECIFIC ROLE	<input type="checkbox"/> Check if project performed with current firm	

## APPLICANT TEAM HISTORY AND PERFORMANCE

List all recent work (within the past then (10) years) on COMPLETE education or public agency building projects/programs that included the Applicant (and any Team Members)

[illegible]

Page 1 of 1

(Use additional pages if needed)

**List up to 10 projects – More than 10 projects will not be awarded additional points.**

**Sub-Consultant History and Project Experience Form**

(not scored)

Firm Name/Address \_\_\_\_\_

E-mail: \_\_\_\_\_ Website: \_\_\_\_\_

Sub-Consultant Specialty: \_\_\_\_\_

Contact Person Phone/Email: \_\_\_\_\_

	Question	Response	Explanation (If Required)
1.	Does at least one principal from the above Sub-consultant have a minimum of five (5) years' experience providing Architectural/Engineering services?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, provide name(s), years of experience, and discipline(s):
2.	Does the above Sub-consultant have a minimum of two (2) years' experience providing Architectural/Engineering services for public education facilities building projects/programs in California?	Yes <input type="checkbox"/> No <input type="checkbox"/>	N/A
3.	Does the above Sub-consultant have a current business and professional license within the state of California for these services?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, provide name(s) and license number(s), and attach a copy:
4.	Has your firm performed Architectural/Engineering services for any school district or public college in California within the past five (5) years?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, please list in Item 5 below.

**Use additional pages to explain if required.**

5. Indicate the project/program name, dollar value, contact person, and contact information of the last three (3) projects/programs in which your firm has performed Architectural/Engineering services.

Agency or Owner	Services Provided Value	Project Name	Describe Services Provided
	\$		
	\$		
	\$		
	\$		
	\$		
	\$		

Please attach any explanations, additional pages, copies of license a below:

**ACKNOWLEDGMENT OF ADDENDA**

The Applicant acknowledges the receipt and review of all Addenda issued, if any, for this Procurement by indicating below the Addendum No. and Date thereof, as well as signing this form and returning it with your Proposal:

**PROJECT NAME: Development of Campus Standards, District-Wide Standards  
and Temporary Swing Space Plans District-Wide**

**PROCUREMENT NUMBER: CC03.3640**

Addendum No.	Date Received

Applicant: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

**APPLICANT REPRESENTATIONS AND CERTIFICATION**

(Prime shall submit one form. Each Consultant-Subconsultant must submit their own form.)

*Without limitation on any other statements or representations made by the APPLICANT (or Team Member) as part of its participation in the RFQP for the Project, each Applicant who submits a Proposal in response to this RFQP is deemed to have made the following representations to the District:*

1. Applicant represents that its Application/Proposal fully complies with the requirements of the RFQP;
2. Applicant represents that all of the statements and representations made, or incorporated by reference, by Applicant in its Proposal, or in the attachments or exhibits submitted with its Proposal, are true, correct and materially complete;
3. Applicant represents that matters stated in the Proposal are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true;
4. Applicant represents that it attended the Mandatory Pre-Submittal Conference and/or Job Walk (if applicable);
5. Applicant represents that each person who signed a document that is included in the Applicant's Proposal was at the time of signing, and for the duration of Applicant's participation in the RFQP process provided for in these Instructions shall remain, authorized to so sign on behalf of and to bind the Applicant;
6. If the Applicant is a corporation, limited liability company, or limited partnership, Applicant represents that it is, and for the duration of Applicant's participation in the RFQP process provided for by these Instructions shall remain, registered with the Office of the Secretary of State for the State of California and authorized under Applicable Laws to business in the State of California with a legal status determined by said Office of the Secretary of State of "active and in good standing";
7. Applicant represents that it possesses at the time of submission of its Proposal, and shall possess for the duration of Applicant's participation in the RFQP process provided for by these Instructions, all licenses that it is required to hold under the provisions of these Instructions and/or that it is required to hold under applicable laws in order to perform the services and work contemplated by the RFQP;
8. Applicant represents that it is, and at all times during its participation in the qualification process shall be, in full compliance with the provisions of the Immigration Reform and Control Act of 1986 ("IRCA"), as well any similar provisions of applicable laws setting forth proscriptions or penalties relating to the employment or hiring of undocumented aliens;
9. Applicant, being familiar with California Government Code §§1090 *et. seq.* and §§ 87100 *et seq.*, represents that it does not know of any facts occurring in connection with the Applicant's preparation for, or participation in, the herein described RFQP process that constitute a violation thereof and has disclosed to District in "Attachment 7 - Conflict of Interest Certification" any possible interests, direct or indirect, which Applicant believes any official, officer, agent, or employee of the PMO, District or any of its Colleges, or any department thereof, has that might cause such official, officer, agent, or employee to be "financially interested" (as that term is defined the aforesaid statutes) in any decision made by District in connection with the RFQP process that is the subject of these Instructions;

10. For projects over \$1 Million, In accordance with Public Contract Code section 2204 (a), the Applicant certifies and represents that at the time its Proposal is submitted, the Applicant is not identified on a list created pursuant to subdivision (b) of Public Contract Code section 2203 as a person (as defined in Public Contract Code section 2202(e)) engaging in investment activities in Iran described in subdivision (a) of Public Contract Code section 2202.5, or as a person described in subdivision (b) of Public Contract Code section 2202.5, as applicable. Applicants are cautioned that making a false certification and representation may subject the Applicant to civil penalties, termination of existing contract, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code section 2205. Applicant agrees that submission of its Proposals shall constitute Applicant's certification and representation as aforesaid; and

**The undersigned Applicant/Proposer hereby certifies:**

1. The Applicant/Proposer knows of facts that would materially impair its financial ability to perform the Scope of Services.

☐ Yes ☐ No

2. The Applicant/Proposer lacks sufficient liquid assets to pay its debts as and when they fall due.

☐ Yes ☐ No

**APPLICANT/PROPOSERS ARE ADVISED THAT LEAVING A QUESTION UNANSWERED OR PROVIDING A "YES" ANSWER, TO ANY OF THE FOREGOING QUESTIONS CONSTITUTES GROUNDS FOR THE DISTRICT TO DISQUALIFY THE APPLICANT/PROPOSER.**

Date: \_\_\_\_\_

\_\_\_\_\_  
Name of Applicant/Proposer

\_\_\_\_\_  
Signature of Applicant/Proposer (if individual) or its  
Officer

\_\_\_\_\_  
Typed Name of Person Signing

\_\_\_\_\_  
Office or Title



**CONFLICT OF INTEREST CERTIFICATION**

The undersigned Applicant hereby certifies that:

1. No officer, director, agent, employee, or affiliate of the Applicant has, and none of the Consultants/Subconsultants that Applicant contemplates retaining to perform the services covered by the RFQP have, a financial interest in any consultant or contractor currently under agreement to perform work or services for the PMO, any of its consultants or subconsultants, the District or any of the District's colleges, excepting the following firms: \_\_\_\_\_
2. No officer, director, agent, employee, or affiliate of the Applicant has received or given, and none of the Consultants/Subconsultants that Applicant contemplates retaining to perform the services covered by the RFQP have received or given, either directly or indirectly through an intermediary, any gift or gratuity to any consultant or contractor currently under agreement to perform work or services for the PMO, any of its consultants or subconsultants, the District or any of the District's colleges, except for the following: \_\_\_\_\_
3. No officer, director, agent, employee, or affiliate of the Applicant has, and none of the Consultants/Subconsultants that Applicant contemplates retaining to perform the services covered by the RFQP have any affiliation or business relationship with any official, officer, agent, or employee of PMO, any of its consultants or subconsultants, the District or any of the District's colleges, or of any consultant or contractor retained by the District, who makes recommendations to the District with respect to the expenditure of money, except for the following affiliation or business relationship: \_\_\_\_\_
4. No officer, director, agent, employee, or affiliate of the Applicant has, and none of the Consultants/Subconsultants which Applicant contemplates retaining to perform the services covered by the RFQP have any affiliation or business relationship with any official, officer, agent, or employee of the PMO, any of its consultants or subconsultants, the District or any of the District's colleges, except for the following affiliation or business relationship: \_\_\_\_\_
5. No portion of the services covered by the Applicant's Proposal is anticipated to be performed by a person or entity that is already providing, or that Applicant has reason to believe may provide in the future, services, advice, or consultation to (1) the District or any of its colleges in connection with the District's Bond Program, (2) any consultant or contractor retained by the District in connection with the District's Bond Program, or (3) the PMO, any of its consultants or subconsultants, or (4) any sub-consultant or subcontractor of any consultant or contractor retained by District and/or the PMO, except for the following: \_\_\_\_\_
6. The Applicant does not know of any other circumstances, not described above, that create or could be reasonably interpreted as creating, a conflict of interest, except for the following: \_\_\_\_\_
7. The Applicant agrees to assume continuing duty to disclose to the District any circumstances that may arise in the future within the scope of the requests for disclosure of conflicts of interests stated above.

Applicant: \_\_\_\_\_

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_

**AUTHORIZATION TO RELEASE INFORMATION**

The undersigned Applicant, for itself and for its consultants, contractors, sub-consultants and/or subcontractors, hereby authorizes and consents to the District and PMO, acting on behalf of the District, in obtaining information from third parties, including, but not limited to any individual(s) or individual representative(s) of any firm(s), entity(ies) or organization(s) listed in the Application/Proposal, for the purpose of verifying the information provided by the Applicant or for any other purpose related to the evaluation of Applicant's qualifications and/or the qualifications of its consultants, contractors, sub-consultants and/or subcontractors. Applicant recognizes that to ensure the effectiveness of the RFQP process, such individuals must be able to speak frankly and openly. Accordingly, Applicant, for itself and for its consultants, contractors, sub-consultants and/or subcontractors, hereby fully and unconditionally provides authority to such third parties and hereby also releases and discharges such third parties, and the firms, entities and organizations they represent, from any claim or liability relating to information provided by it/him/her/them to the District and/or PMO in connection with the processing, investigation and evaluation by District and the PMO of the Applicant's Application/Proposal.

Applicant hereby certifies that all of its consultants, contractors, sub-consultants and/or subcontractors have read this Authorization to Release Information and Applicant's signature below represents its and its consultants, contractors, sub-consultants, and/or subcontractors, full agreement to the same.

---

Name of Applicant

---

Signature

---

Title

---

Date

**NON-COLLUSION DECLARATION**

THE UNDERSIGNED DECLARES:

I am the \_\_\_\_\_ of \_\_\_\_\_, the party or Applicant ("Applicant") submitting the Statement of Qualifications and Proposal (collectively, the "Proposal") that is being submitted with this Declaration.

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

Any person executing this Declaration on behalf of an Applicant that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the Applicant.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on \_\_\_\_\_ [date], at \_\_\_\_\_ [city], \_\_\_\_\_ [state]."

---

[Name of Applicant]

---

[Signature of Applicant (if individual) or its Officer]

---

[Typed Name of Person Signing]

---

[Office or Title]

**NON-DISCRIMINATION DECLARATION**

Applicant hereby certifies that in performing work or providing services for the District, there shall be no discrimination in its hiring or employment practices because of age, sex, race, color, ancestry, national origin, religious creed, physical handicap, medical condition, marital status, or sexual orientation, except as provided for in Section 12940 of the California Government Code. Applicant shall comply with applicable federal and California anti-discrimination laws, including but not limited to the California Fair Employment and Housing Act, beginning with Section 12900 of the California Government Code.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on \_\_\_\_\_ [date], at \_\_\_\_\_ [city], \_\_\_\_\_ [state]."

\_\_\_\_\_  
[Name of Applicant]

\_\_\_\_\_  
[Signature of Applicant (if individual) or its Officer]

\_\_\_\_\_  
[Typed Name of Person Signing]

\_\_\_\_\_  
[Office or Title]

**CONFIDENTIALITY AGREEMENT**

(Applicant shall submit one form. Each Consultant/Sub-Consultant Firm must submit an additional form.)

The undersigned, a duly authorized officer of \_\_\_\_\_;  
[Enter name on the line above of the Applicant/Consultant/Subconsultant Firm, as applicable]

has the duly delegated authority to execute and contractually bind the below-named signatory to this Confidentiality Agreement, and does hereby represent, warrant, and agree that: (1) any and all financial, statistical, personal, technical, or other data and information that is designated confidential by the PMO or District and made available to any of the foregoing, and the content of any or all verbal discussions or negotiations between with the PMO and/or District concerning the terms or other content of a SOQ, bid, proposal, or other offer, submitted to the PMO or District (collectively, "Confidential Information") shall be kept in strictest confidence and no disclosure of any part of the Confidential Information shall be made to anyone other than authorized employees, agents, representatives, contractors, subcontractors, consultants, or sub-consultants having a need to know the Confidential Information in order to assist the Applicant in preparing its SOQ, bid, proposal, or other offer; (2) Applicant and the other signatories hereto, shall take all necessary steps to ensure that the Confidential Information is not disclosed by any employees, agents, representatives, contractors, subcontractors, consultants, or sub-consultants having a need to know the Confidential Information employed or retained by the Applicant, including, without limitation, requiring each such employee, agent, representative, contractors, subcontractors, consultants, or sub-consultants to execute a written agreement, substantially similar in form to this Confidentiality Agreement, promising to protect the Confidential Information from disclosure; and (3) the signatories shall, if requested by PMO or District, return to PMO and/or the District the originals and all copies of the Confidential Information, as well as any notes, summaries or other writings reflecting the content of Confidential Information, within five (5) calendar days of request by PMO or District.

Date: \_\_\_\_\_

\_\_\_\_\_  
[Name of Applicant or Team Member Firm]

\_\_\_\_\_  
[Signature of Applicant (if individual) or its Officer]

\_\_\_\_\_  
[Typed Name of Person Signing]

\_\_\_\_\_  
[Office or Title]

## **Technical and Fee Proposal Guidelines & Evaluation Criteria**

### **Table of Contents**

<b>PART</b>	<b>DESCRIPTION</b>	<b>PAGE</b>
<b>1</b>	<b>TECHNICAL AND FEE PROPOSAL REQUIREMENTS</b>	<b>1</b>
<b>2</b>	<b>TECHNICAL AND FEE PROPOSAL EVALUATION CRITERIA AND SCORING</b>	<b>4</b>
<b>3</b>	<b>REFERENCE INTERVIEWS</b>	<b>5</b>

### **PART 1 – TECHNICAL AND FEE PROPOSAL REQUIREMENTS**

**In response to this Attachment 12 to the RFQP, you are to prepare a “*Technical and Fee Proposal*” as set forth herein below. You create a document responsive to this Attachment 12 utilizing this Attachment 12 as your template as part of your Proposal as described below. The document you create should be organized to respond to the categories and in the manner as set forth below.**

The Proposers are encouraged to refer to the following links in response to the RFQP:

- [Districtwide Facilities Master Plan Project List \(Board Approved 5/11/2017\)](#)
- [San Bernardino Community College District 2017-22 Districtwide Support Services Strategic Plan](#)
- [San Bernardino Valley College 2017 Comprehensive Master Plan](#)
- [San Bernardino Valley College 2017 Comprehensive Master Plan Appendix](#)
- [Crafton Hills College 2017 Comprehensive Master Plan](#)
- [Crafton Hills College 2017 Comprehensive Master Plan Appendix](#)
- [Board Policy 6610, Minority, Women, and Veteran Owned Enterprise Program.](#)

**[Go on to next page]**

**A. Request for Technical Proposals (Exhibit 1 to your Proposal)**

1. Provide a specific narrative approach that your team will take to completing the scope of services identified in this RFQP. The page limit for your Narrative response is 15 single sided pages in no less than 12-point font.
2. Provide your team's qualifications and experience with San Bernardino Community College District ("SBCCD" and/or "District"), if any. If none, state "None".
3. Provide proposed project manager/principal in charge and assignments for each discipline and highlight their qualifications and experience for SBCCD.
4. Provide an organizational chart and a staffing plan with personnel to demonstrate your team's capacity to deliver the Services requested in this RFQP and per your proposed Delivery Schedule (See Section C. below).
5. Please list your firm's experience with similar programs and/or projects, if any, including: program and/or project size; overall construction value; and completion dates.
6. Describe how your firm will adhere to the Delivery Schedule. How your firm will mitigate any budget and/or schedule overruns.
7. Submit a proposed QA/QC plan to ensure a complete and coordinated delivery of all RFQP requirements.

**[Go on to next page]**

**B. Request for Fee Proposal (Exhibit 2 to your Proposal):**

1. Provide a Fee Proposal in accordance with the terms, conditions, requirements, and process indicated in the RFQP and Professional Services Agreement.
2. A Lump Sum amount for Services as defined by the Professional Services Agreement and as described in Section 2.6 Scope of Services of the RFQP. Services are estimated to be required for **NINETY CALENDAR (90) DAYS** from NTP, assume this duration for development of your Fee Proposal (Exhibit 2 to your Proposal).
  - 2.1 Note: The Lump Sum amount must also include a detailed staffing breakdown identifying the hours required of each team member to complete the requested Services. This amount **MUST** be based exclusively on the “Hourly Rates and Personnel Classifications” (Attachment 13) to the RFQP. No deviations or additional fee inclusions will be accepted as part of these Lump Sum amounts.
  - 2.2 The format for this submittal shall comply with the following requirements: a worksheet in MS Excel format itemizing the various tasks, the personnel, the estimated hours, fully burdened hourly rates, subtotal amount of each service/task, subtotal amount of each service/task identified above, and the total fees proposed.
3. Provide a description of the pre-authorized reimbursable expenses allowed by the Professional Services Agreement (if any).
4. Provide a list of assumptions and exceptions, if any.

**C. Request for Delivery Schedule (Exhibit 3 to your Proposal)**

1. Provide a Delivery Schedule in accordance with the terms, conditions, requirements, and process indicated in the RFQP and Professional Services Agreement.
2. Provide a complete Delivery Schedule with clearly identified durations for each deliverable identified within the RFQP documents.

**[Go on to next page]**



**PART 2 – TECHNICAL AND FEE PROPOSAL EVALUATION CRITERIA AND SCORING**

The District will evaluate the Applicant's Technical and Fee Proposal by assessing the Applicant's responses to Part 1 A above and score the Applicant's Technical and Fee Proposal according to the following Evaluation Criteria:

	<b>Evaluation Criteria</b>	<b>Weight (% of First Phase)</b>	<b>Max. Points</b>
1.	Proposed Technical Approach	35%	245
2.	Proposed Fee Proposal	20%	140
3.	Proposed Delivery Schedule	35%	245
4.	Overall	10%	70

**Technical and Fee Proposal - Total Maximum Possible Points: 700**

**[Go on to next page]**

**PART 3 – REFERENCE INTERVIEWS**

- A. Any person or firm Applicant listed in Attachment 3 - “Applicant Team History and Performance (“Attachment 3”)” may be contacted by the District for the purpose of investigating and confirming information provided by the Applicant/Proposer in its Proposal. Such contacts, if they occur, do not constitute “Reference Interviews” that are subject to the requirements of this Part 3 – B. Such communications need not be conducted for every Applicant/Proposer, are not scored, and do not follow a prescribed set of questions.
- B. The conducting of Reference Interviews is optional at the sole discretion of the District.
- C. Reference Interviews, if conducted, will be by a District-assigned representative. No action is necessary by the Applicant/Proposer.
- D. Reference Interviews, if conducted, will be conducted by telephone. Applicant/Proposer will be notified by RFQP Addendum of the range of dates and times during the day within which References may be contacted.
- E. Applicants/Proposers are solely responsible to ensure that the individuals listed as contacts for References are available to respond to questions by the District. Failure to provide requested information about a contact, when such information is found by District to have been reasonably available to the Applicant/Proposer, constitutes a ground for disqualification.
- F. One attempt will be made by telephone to reach a contact. If a contact does not respond within two (2) business days after a telephonic attempt, the contact will be deemed unavailable. If insufficient contacts are available to complete the Reference Interviews, the Applicant/Proposer may be disqualified.
- G. The following shall apply to the conduct of Reference Interviews:
  - 1. The District may select any number of References from those listed by a Applicant/Proposer in Attachment 3. Selection may not necessarily be in the order that References have been listed by Applicant/Proposer.

2. The same number of References will be contacted for each Applicant/Proposer.
3. Identical questions from a standardized list of questions shall be asked of each Reference. Reference will be asked general questions relating to the quality of Applicant/Proposer's past performance. Individuals identified by Applicant/Proposer as a contact person for a Reference must be familiar with and capable of evaluating all general aspects of the Applicant/Proposer's performance, including overall quality, attention to detail, timeliness, creativity, major challenges, organizational capabilities and capacities, overall work product quality, key personnel assignments and performance. If the person interviewed states that he/she is unable to answer the interview question, then the Applicant/Proposer will be given zero points as its score for that question.
4. Total scores received for each Reference are averaged on a straight, non-weighted basis and will be added to the score Applicant/Proposer received for Technical and Fee Proposal.

**Reference Interviews (if conducted) -  
Total Maximum Possible Points: 100**

Date: \_\_\_\_\_

\_\_\_\_\_  
[Name of Applicant or Team Member Firm]

\_\_\_\_\_  
[Signature of Applicant (if individual) or its Officer]

\_\_\_\_\_  
[Typed Name of Person Signing]

\_\_\_\_\_  
[Office or Title]

**[End of Attachment 12]**

**Hourly Rates & Personnel Classification**

<b>Position</b>	<b>Hourly Rate<sup>1</sup></b>
Principal in Charge	
Project Manager	
Project Architect	
Sustainability Leader	
Q/A Q/C Leader	
Interior Designer/FF&E Lead	
Structural Engineer	
Civil Engineer	
Mechanical Engineer	
Plumbing Engineer	
Fire Protection Engineer	
Electrical Engineer	
IT/Comm Engineer	
Security Hardware Specialist	
Landscape Architect	
Signage and Wayfinding	

The District reserves the right to modify rates, add additional position classifications and make any other modifications as it deems necessary.

Date: \_\_\_\_\_

\_\_\_\_\_  
[Name of Applicant or Team Member Firm]

\_\_\_\_\_  
[Signature of Applicant (if individual) or its Officer]

\_\_\_\_\_  
[Typed Name of Person Signing]

\_\_\_\_\_  
[Office or Title]

<sup>1</sup> The hourly rates are “fully burdened”.

**PROPOSAL RESPONSIVENESS CHECK LIST**

<b>RFQ Section or Attachment #</b>	<b>NAME OF FORM OR DOCUMENT</b>	<b>REQUIRED NUMBER OF FORMS TO BE SUBMITTED</b>	<b>Is this in My Proposal?</b>
3.1.1	Cover Page	One (1) – Applicant needs to create	
3.1.2	Table of Contents	One (1) - Applicant needs to create	
3.1.3	Cover Letter	One (1) - Applicant needs to create	
Attachment 1; Part A	Qualification Questionnaire	Applicant completes and includes in its Proposal submission	
Attachment 1; Part B	Qualification Questionnaire	Each Consultant-Sub-Consultant must complete and include in Applicant's Proposal submission.	
Attachment 2	Individual Resume Form	One (1) Resume Form for each Individual requested in the Qualification Questionnaire	
Attachment 3	Applicant History and Project Experience Form	One (1) Complete form provided with up to ten (10) Projects	
Attachment 4	Sub-Consultant History and Project Experience Form	One (1) Completed document from each Sub-Consultant proposed	
Attachment 5	Acknowledgment of Addenda;	One (1) Completed document signed by Applicant	
Attachment 6	Applicant's Representations and Certifications;	One (1) Completed document signed by Applicant and from each Sub-Consultant Team Member	
Attachment 7	Conflict of Interest Certification;	One (1) Completed document signed by Applicant	
Attachment 8	Authorization to Release Information;	One (1) Completed document signed by Applicant	
Attachment 9	Non-Collusion Declaration	One (1) Completed document signed by Applicant	
Attachment 10	Non-Discrimination Declaration;	One (1) Completed document signed by Applicant	

Attachment 11	Confidentiality Agreement;	One (1) Completed document signed by Applicant; and  One (1) Completed document signed by each Sub-Consultant being proposed	
Attachment 12	Technical and Fee Guidelines	One (1) Completed document signature of acknowledgment	
Attachment 13	Hourly and Personnel Classifications	One (1) Completed document signed by Applicant	

The foregoing Check List is provided to Applicants as a courtesy by the District. It is not to be turned in as part of, or with your Proposal. Rather, once your Proposal is prepared, you may want to review your Proposal package against this Check List to make sure your Proposal contains all required components of a Responsive Proposal.

**WARNING: Applicant is responsible for including in its Proposal all information and content required by the RFQP Documents. This Check List does not contain all such content and/or information.**

**All original of the above documents, fully executed, signed, and/or notarized where required, must be submitted by the specified Proposal Submission deadline.**

## **District Bid/Proposal Protest Procedure**

Proposers may file a written protest of a contract award (“Protest”) with the District’s Business Manager, San Bernardino Community College District, 114 South Del Rosa Drive, San Bernardino, CA 92408.

- . In order for a Proposer’s Protest to be considered valid, the Protest must:
- a. Be filed in writing within 5 business days of a Notice of Prequalified firms and Notice of Intent to Award being posted and/or otherwise issued by the District as detailed herein;
  - b. Clearly identify in detail the specific issues related to the Protest;
  - c. Clearly identify in detail the specific District Staff/Board recommendation or action being protested;
  - d. Clearly identify and supply, in detail, the specific grounds of the Protest and the facts supporting the particular Protest;
  - e. Include all relevant and supporting documentation with the Protest at the time of filing; and
  - f. The party filing the Protest shall concurrently transmit a copy of the initial Protest document and any attached documentation to all other parties with a direct financial interest, which may be adversely affected by the outcome of the Protest. Such parties include all other Proposers who appear to have a reasonable prospect of receiving an award depending upon the outcome of the Protest.

The District will issue a decision on the Protest. If the District determines that a Protest is frivolous, the party originating the Protest may be determined to be irresponsible and that party may be determined to be ineligible for future Contract awards.

The procedure and time limits set forth in this section are mandatory and are the Proposer’s sole remedy in the event of a Protest. Failure to comply with these procedures shall constitute a waiver of any rights to further pursue the Protest, including filing a Government Code claim or legal proceeding. The time limits stated herein are not extended by the filing of any California Public Records Act Request or any Freedom of Information Act Request.

If the Protest does not comply with each and every one of the requirements set forth above, it will be rejected as invalid. A Protest regarding the recommended award of a contract solicited by the Request for Qualifications and Proposals must be filed in writing with the District within five (5) calendar days after the issuance of Notice of Intent to Award. If the Protest is valid, the District shall review the basis of the Protest along with all relevant information and documents and will provide the protesting party and others a written decision and may request others to respond, etc.



**SAN BERNARDINO COMMUNITY COLLEGE DISTRICT**

Contract No. [REDACTED]

**PROFESSIONAL SERVICES AGREEMENT**

**for**

**DEVELOPMENT OF CAMPUS STANDARDS, DISTRICT STANDARDS and**

**TEMPORARY SWING SPACE PLANS**

**DISTRICT-WIDE**

**by and between**

**[insert CONSULTANT'S NAME here]**

**(the "CONSULTANT")**

**and**

**SAN BERNARDINO COMMUNITY COLLEGE DISTRICT**

**(the "DISTRICT"/ "District")**



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### **List of Exhibits to the Professional Services Agreement for Development of Campus Standards and Temporary Space**

Exhibit A:	Hourly Rates and Personnel Classifications
Exhibit B:	Confidentiality Agreement
Exhibit C:	District Approved Key Personnel and Consultants-Sub-Consultants
Exhibit D:	Conditional Waivers
Exhibit E:	Unconditional Waivers
Exhibit F:	Payee Data Record
Exhibit G:	Request for Qualifications and Proposals & Addenda
Exhibit H:	Proposal
Exhibit I:	District Standards
Exhibit J:	Campus Standards and Temporary Space
Appendix A	Reference Documents

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This **Professional Services Agreement for Development of Campus Standards and Temporary Space** (“Services”) **District-Wide** (“Project”) between the **DISTRICT** and **CONSULTANT** (“Agreement”) is made and entered into as of **MONTH DAY, YEAR** between the **SAN BERNARDINO COMMUNITY COLLEGE DISTRICT** (“DISTRICT”), a community college district organized under the laws of the State of California, located at 114 South Del Rosa Drive, San Bernardino, CA 92408 and **CONSULTANT NAME** (“CONSULTANT”), a **STATE ORIGIN BUSINESS TYPE**, located at **ADDRESS, STATE, ZIP CODE** (hereinafter referred to a “Contract”/“Agreement”/“PSA”).

### RECITALS

A. DISTRICT is a community college district duly organized and validly existing under the laws of the State of California.

B. CONSULTANT is a **BUSINESS TYPE** duly organized under the laws of the State of **STATE ORIGIN**. Consultant represents it has the background, knowledge, licensing, experience and expertise necessary to provide services set forth in this Agreement. Consultant proposes to undertake the Contracted Services (“Services”) as herein assigned as described which may require the services of duly qualified and licensed professionals and in good standing with the state of California.

B. CONSULTANT is a firm qualified and willing to provide the services required by DISTRICT. CONSULTANT is an independent contractor and covenants with DISTRICT to provide services relating to the Services pursuant to all the terms and conditions hereinafter set forth.

C. DISTRICT and CONSULTANT desire to enter into this Agreement for Consultant to provide to the District Consultant Services, as further described herein below, to accomplish the District’s goals of building new facilities and improving existing buildings, facilities and campuses, and to provide sufficient space and technology to serve its students and the surrounding communities. Such Services shall be performed in accordance with all of the documents that form this Agreement, , and their Attachments and Exhibits.

D. Only the Executive Vice Chancellor (“EVC”) has authority to approve any Additional Services related to this Agreement. Any Additional Services, or services of any kind, not approved in writing by the EVC in advance of the performance of the services will not be compensated and are at CONSULTANT’S sole risk, cost and expense. The EVC may choose to designate the District’s Director, Facilities Planning and Construction, or the District’s Program Management Office as his/her designee for purposes of approving Additional Services, but it shall be in writing and sent to Consultant if that is the case. The DISTRICT will manage this Agreement through its EVC, the District’s Director, Facilities Planning and Construction, and the DISTRICT’s Program Management Office (“PMO”), and/or if applicable and so designated to do so in writing by the EVC, the Construction Management Team (“CMT”) assigned to the Project.

E. CONSULTANT does hereby agree that this Agreement is for a term of no less than **INSERT TERM OF AGREEMENT** from the date of execution of this Agreement. However, this Agreement and any incomplete services will remain in effect until all services are completed. The DISTRICT, at its option, may extend the Agreement by issuing an Amendment, in which case additional services can be authorized during the period of any such extension.

NOW, THEREFORE, in consideration of the recitals and mutual benefit to be derived by the parties, it is hereby agreed:

**ARTICLE 1 - CONSULTANT SERVICES AND RESPONSIBILITIES – BASIC SERVICES****1.0 GENERAL MATTERS****1.0.1 Basic Services**

Set forth below is a general description of the type of Basic Services that are required of CONSULTANT. A more detailed description of the required Basic Services is set forth in Article 17 below and incorporated herein in Article 1 by this reference.

Deliverables and services for the Project, include, without limiting the scope thereof:

(1) As set forth in ARTICLE 17;

(2) Deliverables, as described herein and/or incorporated herein, will be prepared in accordance with the applicable codes and regulations, District standards including, but not limited to, the District and/or College standards. All RFQP Documents and all Addenda are incorporated herein by this reference as if set forth at length hereat; and

(3) Such Basic Services shall also include all services and work which can be reasonably inferred to be required by this Agreement (and if not capable of being inferred from this Agreement, then as can be inferred by generally accepted architectural practice).

The Basic Services required of the CONSULTANT, its Consultants and Sub-Consultants by this Agreement are hereinafter referred to as "Services" and/or "Basic Services".

Additional Services, if any, are defined only in Article 2.

Hourly Compensation for each Amendment issued under this Contract, if any, will be in accordance with Attachment 13 to the RFQP "Hourly Rates and Personnel Classifications" identifying hourly rates for each specific position. The hourly rates shown on Attachment 13 are inclusive of all wages, expenses, overhead and profit ("fully burdened rate(s)").

**1.0.2 Engagement of CONSULTANT**

As part of its Services, CONSULTANT promises and agrees to furnish to the DISTRICT all labor, materials, tools, equipment, services, and incidental and work necessary to fully and adequately supply the professional services, and any related services, necessary for the full and adequate completion of the requested services pursuant to this Agreement and consistent with the provisions of this Agreement. All Services shall be subject to and performed in accordance with this Agreement; any exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations. All Services performed by CONSULTANT shall be subject to the sole and discretionary approval of the DISTRICT.

**1.0.3 Personnel**

CONSULTANT will appoint a Principal in Charge, who shall be subject to the District's acceptance and whose acceptance will not be unreasonably denied by DISTRICT. The Principal in Charge shall: (1) be available to DISTRICT on or off the site as required for the proper performance of all matters relating to the Scope of Services; (2) provide overall planning of the Services; (3) maintain oversight of the Services at all times; (4) have full authority to represent and act on behalf of CONSULTANT for all purposes under the Agreement; (5) supervise and direct the Services using his or her best skill and attention; (6) be responsible for the means, methods, techniques, sequences and procedures used for the Services; and (7) adequately coordinate all portions of the Services.

The Principal in Charge may act on behalf of DISTRICT only to the extent set forth in this Agreement, and in the Contract Documents. Any changes in assignment or replacement of the assigned Principal in Charge or other personnel listed in Exhibit “C” may be done only with the prior written consent of DISTRICT. The new Principal in Charge shall be of at least equal

competence as the prior Principal in Charge. CONSULTANT shall replace any person assigned to the Project as required by DISTRICT. To the event that the DISTRICT and CONSULTANT cannot agree as to the substitution of a new Principal in Charge, the District shall be entitled to terminate this Agreement for cause.

#### **1.0.4 Consultants**

In performing its Services under this Agreement, CONSULTANT has recommended and agrees to retain and use the professional consultants and sub-consultants (hereinafter referred to collectively as “consultants”) listed in the attached Exhibit C and CONSULTANT shall be responsible to the DISTRICT for their work. DISTRICT may request CONSULTANT to provide pre-qualification documents for other services, in addition to Consultants listed in Exhibit C. CONSULTANT shall provide DISTRICT with the details of CONSULTANT's arrangement with the consultants, including the amount and manner of their compensation, for DISTRICT's reasonable acceptance. DISTRICT shall be entitled to a copy of all agreements between the CONSULTANT and its consultants at DISTRICT'S request regarding the Services. Any changes in the consultants listed in Exhibit C may be done only with the prior written consent of DISTRICT. If a problem develops with any of CONSULTANT's sub-consultants, DISTRICT shall notify CONSULTANT and CONSULTANT shall take all steps as are necessary to resolve the problem to the satisfaction of DISTRICT. CONSULTANT shall be responsible for the work of its consultants, shall coordinate the work of its consultants, and shall review, approve and back-check all documents produced by its sub-consultants for the DISTRICT.

#### **1.0.5 Additional Consultants**

DISTRICT reserves the right to retain other consultants in connection with this Agreement. CONSULTANT shall coordinate with these parties as part of its Basic Services.

#### **1.0.6 Qualification and License**

All engineers, experts and other consultants, retained by CONSULTANT in performance of this Agreement shall be qualified to perform the services assigned to them, and shall be licensed in the state of California to practice in their respective professions where required by law and in good standing.

#### **1.0.7 Compliance with Standards**

All experts and other consultants hired by CONSULTANT shall be required to meet the same standards and requirements set forth in this Agreement. CONSULTANT's agreements with its experts and other consultants shall contain a provision making them subject to all provisions in this Agreement for the DISTRICT'S benefit.

#### **1.0.8 Assignments or Staff Changes**

There shall be no assignment or staff changes of CONSULTANT'S Key Personnel for Services as listed on Exhibit C. If CONSULTANT encounters a circumstance that may and/or will require a change of such Key Personnel, CONSULTANT shall promptly notify the DISTRICT in writing and obtain the DISTRICT'S written approval of any assignment, reassignment or replacement of such engineers, experts and consultants, or of other staff changes of Key Personnel working on the Services.

#### **1.0.9 Secretarial and Clerical Support**

Secretarial and clerical personnel shall be retained by CONSULTANT at CONSULTANT's sole expense. Such secretarial and clerical personnel shall be qualified to perform the services assigned to them and shall not be charged to the DISTRICT.

**1.0.10 Construction Management Team and/or PMO/Program Manager**

As used in this Agreement, “Construction Management Team” and/or “Program Manager” shall refer to a consultant(s) who may be engaged by the DISTRICT to perform professional services for the Project. The term “PMO/Program Manager” shall not encompass the functions to be performed by the Contractor(s) to be selected by the DISTRICT to construct the Project.

**1.0.11 Compliance with Regulations**

The CONSULTANT is responsible for ensuring that the Services shall comply with all laws, ordinances, codes, rules and regulations of all governmental authorities and public utilities bearing on the Services, and with all quasi-governmental, and other regulations bearing on the Services. To the extent any of the foregoing is inconsistent, CONSULTANT shall seek to identify and resolve the inconsistencies and advise DISTRICT in writing of its resolution of the inconsistency.

**1.0.12 Delivery Schedule**

CONSULTANT's Basic Services are to be provided in accordance with the Delivery Schedule developed for the Services and which may be amended from time to time by mutual agreement. The Delivery Schedule shall start from the date of executing the Agreement and indicate by (1) month and year of the estimated completion times, or (2) by the duration in which the Services must be completed in compliance with District needs when the CONSULTANT is to complete the Services required by the Agreement, inclusive of DISTRICT and State approvals (if applicable), as shown on the CONSULTANT'S Proposal “Exhibit 3 - Delivery Schedule”.

The Service Delivery Schedule included with the Agreement as Exhibit 3 to CONSULTANT'S Proposal shall be submitted by the CONSULTANT to the DISTRICT on monthly basis, specifying task milestones for the Services and approval process sufficient to allow monthly status checking. Service Delivery Schedule requirements may be further modified by any future Amendment.

**1.0.13 Contract Documents**

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Services. Terms shall have the following definitions:

“Contract Documents” consist of all of the documents to be developed by CONSULTANT, this Agreement and all of its Exhibits, and any future Amendments issued along with its Exhibits and/or Attachments. All Contract Documents shall be construed as a whole according to their common meaning.

**1.0.14 Relationship to DISTRICT**

CONSULTANT and DISTRICT accept the relationship of trust and confidence established between them by the terms of this Agreement, and CONSULTANT agrees to use its professional skill and judgment and to cooperate with the DISTRICT in its responsibility to provide the Services in accordance with the Contract Documents by the completion date established by DISTRICT.

**1.0.15 Responsibility of CONSULTANT**

CONSULTANT shall report immediately to DISTRICT any instruction which CONSULTANT believes is contrary to the Contract Documents or will adversely affect the Services. DISTRICT has no obligations to CONSULTANT to discourage, indemnify from, or defend against claims of Contractor(s) or any subcontractors based upon any of the foregoing except when it is the sole fault of the DISTRICT.

**1.0.16 Meetings**

CONSULTANT and CONSULTANT's sub-consultants shall attend such meetings with DISTRICT, and others as DISTRICT may require for completing Services. These include, but are not limited to, Project meetings (if applicable) and meetings with governmental, quasi-governmental and other authorities with jurisdiction over the Project related to the Services.

Services related meetings may be scheduled by DISTRICT. The CONSULTANT will prepare and distribute minutes to all attendees for the meetings conducted by CONSULTANT or as directed by DISTRICT.

#### **1.0.17 Scheduling**

CONSULTANT understands that the DISTRICT may choose to postpone or abandon any Services at the DISTRICT's discretion and that the DISTRICT may give notice to restart such Services at a later date subject to potential adjustment of fees or costs. CONSULTANT understands that a portion of funding may be State funds; the availability of which may not have been fully determined at the time of execution of this Agreement.

#### **1.0.18 Existing Improvements and Non-Permitted Structures**

CONSULTANT, its Consultants and Sub-Consultants shall: (1) carefully review all reports, studies, surveys, data and other documents concerning the conditions, both visible and concealed, at the Site and in Existing Improvements that are: (a) provided to Consultant by the District (including, but not limited to, the Reference Documents listed in this Agreement as Reference Documents List – Appendix A attached hereto; (b) recorded with the County of San Bernardino Office of the County Recorder; (c) on file with, and available for review (without necessity of a formal public records request) from, the County of San Bernardino departments responsible for planning, zoning and construction within the County of San Bernardino; and (2) exercising the standard of care set forth in this Agreement, identify and review any other reports, studies, surveys, data and other documents that are reasonably available from other sources concerning the conditions, both visible and concealed, at the Site and in Existing Improvements.

#### **1.0.19 Special District Requirements**

Whether a Project is a Bond Project, Multi-Funded Project or Non-Bond Project, CONSULTANT at all times in its performance of its obligations under this Agreement and any Amendments issued thereto will strictly adhere to the requirements of the Board of Trustees Resolutions that pertain to the Measure CC Bond Program or the District generally, each of which requirements shall, notwithstanding any provision thereof to the contrary, be deemed applicable to CONSULTANT's, its Consultant's and Sub-Consultants performance of this Agreement. The CONSULTANT shall post all payments to Consultants and Sub-consultants and report the same using any contract compliance system required by the DISTRICT or its designee, detailing all Consultant and Sub-Consultant contract awards and monthly payment information. This report is submitted monthly with payment application in a format required by DISTRICT.

#### **1.0.20 Project Related Resources.**

CONSULTANT acknowledges that it has reviewed the Project Related Resources that are available for review on District's Website, is familiar with their requirements and will comply with all portions, provisions, standards, processes, procedures, plans and protocols (including, without limitation, procedures for the use of District-approved software for electronic submissions) comprising the Project Related Resources that are reasonably interpreted to apply to consultants who provide services.

### **ARTICLE 2 - ADDITIONAL SERVICES**

#### **2.0 Prior Authorization Required**

DISTRICT may require CONSULTANT to perform additional services beyond the Basic Services described in Article 1 of this Agreement, or elsewhere in the Contract Documents. CONSULTANT shall not begin work on and shall not be paid for any Additional Services unless the DISTRICT'S EVC, or his/her designee has approved in writing a description of the

services and the cost thereof. As used herein, "Additional Services" mean any work which is determined by the DISTRICT to be necessary for the proper completion of the Services, but which the parties did not reasonably anticipate would be necessary for CONSULTANT to perform at the execution of this Agreement. DISTRICT shall pay CONSULTANT for any approved

Additional Services, pursuant to the compensation provisions herein, so along as such services are not made necessary through the fault of CONSULTANT. Any Additional Services not approved in writing and in advance of the performance thereof by the DISTRICT's EVC, or his/her a designee identified in writing to the CONSULTANT, shall not be paid for or reimbursed and shall be at the CONSULTANT's sole risk, cost and expense. The rates listed in Attachment 13 to the RFQP will apply to any authorized Additional Services.

### **2.1 Other Services**

CONSULTANT is not authorized to provide any other services not included in or not reasonably inferable from, this Agreement.

## **ARTICLE 3 - THE DISTRICT'S RESPONSIBILITIES**

### **3.1 District Construction Management Team**

As between the DISTRICT and the CONSULTANT, either the PMO or a Construction Management Team will be designated as the day to day representative of the DISTRICT regarding the Services. However, the PMO and Construction Management Team have no authority to amend or change this Agreement in any way. To the extent that the CONSULTANT attempts or does rely on anyone's written or verbal direction and/or authorization to perform any type of service and/or work not expressly set forth in this Agreement, CONSULTANT does so at its own risk and shall not receive any compensation from the District.

### **3.2 Construction Project Manager/Construction Manager Liaison**

The DISTRICT's Construction Project Manager/Construction Manager Liaison (the terms are synonymous) is a District employee who will be supported by the Construction Management Team located at the site during the course of this Agreement who will be delegated specific responsibilities. The Team composition and general areas of responsibility will include DISTRICT staff members as appropriate to the phases of the Services.

### **3.3 Review of Documents**

DISTRICT shall examine the documents submitted by CONSULTANT and shall render decisions pertaining thereto.

### **3.4 Legal, Accounting**

DISTRICT shall furnish its own legal, accounting and insurance counseling services, including auditing services, as DISTRICT may desire.

### **3.5 Notice of Defects**

If DISTRICT observes or otherwise becomes aware of any fault or defect in the performance of the Services, or nonconformance with the Contract Documents, DISTRICT shall give prompt written notice to CONSULTANT. However, DISTRICT's failure to give such notice shall not eliminate the obligations of CONSULTANT regarding the administration of the Services or other obligations under the Contract Documents.

### **3.6 Permits/Fees**

As between the CONSULTANT and the DISTRICT, the DISTRICT will pay for and bear responsibility for all necessary fees and permits.

**ARTICLE 4 – TIME****4.1 Avoiding Delays**

Time is of the essence in this Agreement.

**4.2 Delivery Schedule**

The Delivery Schedule shall not be exceeded by any party for its respective tasks. The Delivery Schedule may be adjusted as the Services proceed as required due to causes other than the negligence of CONSULTANT and beyond the reasonable control of CONSULTANT, including allowance for DISTRICT or governmental or other authorities or entities having jurisdiction over the Services. Subject to the foregoing limitations, CONSULTANT agrees to perform all Basic Services and Additional Services in order to meet the Delivery Schedule. The Delivery Schedule is included in this Agreement as the “Delivery Schedule” (Exhibit 3 to CONSULTANT’S Proposal).

**4.3 Notice of Delay**

CONSULTANT shall, immediately upon ascertainment, notify DISTRICT in writing of any delay in: (i) the preparation and/or production of any of CONSULTANT's documents hereunder; (ii) the performance by DISTRICT's consultants; (iii) CONSULTANT's services; or (iv) in connection with any matter attended to by CONSULTANT or with which CONSULTANT is familiar (whether or not as the result of an act or omission of another) which would affect or delay each Service Delivery Schedule. CONSULTANT shall consult and advise with DISTRICT in connection with any such delay and its effect on the Service Delivery Schedule and shall take such action on DISTRICT's behalf as DISTRICT may request in accordance with the terms and conditions of this Agreement.

**4.4 Specific Response Times**

CONSULTANT shall adhere to the response times set forth in the Agreement or related Documents, or other reasonable response times if established in writing by the DISTRICT, for CONSULTANT's performance of services. These specific response times shall be considered to be reasonable and CONSULTANT will not exceed them unless, at the time of the action which necessitates a response, it indicates that a longer response time is necessary and gives a written explanation of the reasons why an extended response time will be needed. Any extension of the response time must be approved by DISTRICT. Insufficiency of personnel shall not be an adequate excuse for delay by CONSULTANT or its consultants.

**4.5 Delays**

If the Work of CONSULTANT is delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing or other labor disputes, damage to the Project by reason of fire or other casualty or other causes beyond the reasonable control of CONSULTANT (including failure of DISTRICT or its consultants to respond in a timely manner) and not due to the willful or negligent act or omission, financial inability, or default of CONSULTANT, or events reasonably foreseeable to CONSULTANT, then upon the written request of CONSULTANT to DISTRICT the time for completion under the Delivery Schedule shall be appropriately extended by the number of working days of delay actually so caused. Provided, however, no such extension shall be made or allowed unless a written request therefore is made within ten (10) calendar days after the event or occurrence giving rise to the delay. In the case of a continuing cause of delay only one request shall be necessary, which request shall affirmatively state the delay is a continuing one and the reasons therefore. All delay requests or notices hereunder shall describe the nature of the delay and estimate the probable effect of such delay on the progress of the Services. The effect of any delay shall also be shown on the latest Delivery Schedule.



**ARTICLE 5 - CONSULTANT'S FEES****5.1 Basic Services**

DISTRICT shall pay CONSULTANT for all Services specifically requested in this Agreement, the sum of the amount set forth in the Agreement and strictly in accordance with the approved Consultant's Key Personnel ("Exhibit C"). Such sums are inclusive of all costs associated with each requested Services, including engineers and consultants, sub-consultants, overhead and profit, but excluding Reimbursable Expenses as set forth in Article 6 and/or such sums properly payable as Additional Services per the requirements of Article 2.

**5.2 Payment for Basic Services**

In compliance with Civil Code Section 3320, DISTRICT shall make monthly progress payments to CONSULTANT upon receipt of CONSULTANT's statement on account of compensation due for Basic Services and/or Additional Services and/or Reimbursable Expenses as agreed to in this Agreement, less all payments made to date against this Agreement. This Agreement shall set forth a Lump Sum amount ("Fee") for CONSULTANT's Basic Services. The amount of the progress payments shall be a fractional percentage of the Fee for that phase based on the estimated amount of Basic Services, and/or Additional Services and/or Reimbursable Expenses completed/incurred that are being invoiced, less all payments made to date for the particular phase, less 5% retention. The fractional percentage shall represent the services performed that month as the numerator and the total services required within the particular phase as the denominator.

**5.2.1 Payment Retention**

The District shall retain five percent (5%) of each progress payment as it falls due to ensure performance of all work covered by this Agreement. All undisputed retention amounts withheld from the CONSULTANT's progress payments will be paid to the CONSULTANT, in compliance with Civil Code Section 3320, less any with holds as permitted by law or this Agreement, as set forth in 7.2. below.

**5.2.2 Final Retention Payment**

Final retention payment to the CONSULTANT shall become due following a determination by the District that all Services have been successfully completed by the CONSULTANT.

**5.2.3 Termination**

If CONSULTANT's services are terminated by DISTRICT for convenience as set forth in Article 11, the maximum obligation of DISTRICT to CONSULTANT shall be as set forth in 5.2 before the date of termination, less any withholds permitted by this Agreement and/or applicable law.

**5.2.4 Payments to Consultants and Sub-Consultants**

CONSULTANT shall make all progress and final payments to CONSULTANT, its Consultants and/or Sub-Consultants in compliance with Civil Code Section 3321. DISTRICT has the right to require CONSULTANT, its Consultants and Sub-Consultants to support applications for such payments with Conditional Waivers and Unconditional Waivers per Exhibits D and E attached hereto. Failure at any time to request them shall not preclude DISTRICT for later requiring such for payment.

**5.3 Compensation for Additional Services****5.3.1 Principal in Charge**

For Additional Services of CONSULTANT, as described in Article 2 and including Additional Services of consultants, compensation shall be computed as follows: Principal in Charge time and time of other employees at the fixed hourly rate provided in Consultant's Proposal.

#### **5.4 Invoices**

DISTRICT shall pay for Additional Services and Reimbursable Expenses, as described in Article 8, monthly upon presentation and verification of CONSULTANT's statement of services rendered. The CONSULTANT must request a current template Invoice Form from the District, PMO or CMT, use of any other form may result in rejection. Payment shall be made within 30 days after (a) receipt of CONSULTANT's invoice or (b) date payment is due, whichever is later. CONSULTANT shall submit invoices for Additional Services and Reimbursable Expenses within sixty (60) days after rendering such services and incurring such expenses. The CONSULTANT's invoices for Reimbursable Expenses shall be at cost plus a mark-up for overhead and profit, if any is permitted in Article 6.

#### **5.5 Limitation**

The fee for Basic Services provides payment in full for all costs incurred by the CONSULTANT in the performance of this Agreement, unless reimbursement is specifically provided for elsewhere in this Agreement. Costs not to be reimbursed include, but are not limited to, correction of errors or omissions, local telephone calls, postage, and expressage. CONSULTANT shall not perform work which involves a change in any fee without prior written agreement from the DISTRICT as to the amount of adjustment to the fee. Work performed by the CONSULTANT without such written approval will be at the CONSULTANT's sole risk and cost. Adjustment of the CONSULTANT's Basic Services Fee requires amendment of the Agreement and shall be made only if DISTRICT materially increases or decreases the scope of work, or suspends, extends or terminates the CONSULTANT's services in which case fees will be adjusted as set forth in this Agreement. Acceptance of final payment under this Agreement by CONSULTANT shall be conclusive that DISTRICT has performed all its obligations under this Agreement and shall release DISTRICT from all claims except those previously asserted by CONSULTANT in writing and still unresolved.

#### **5.6 Errors and Omissions**

In addition to the standards and requirements set forth elsewhere in this Agreement, including but not limited to in Article 14 hereof, this Article 5.6 and Article 5.6.1 establishes standards and requirements that specifically govern the CONSULTANT'S and DISTRICT'S apportionment of the risks associated with errors and omissions and/or for other failure on the part of the CONSULTANT to perform services and/or work under this Agreement.

##### **5.6.1 Responsibility for Errors and Omissions**

.1 Errors: The CONSULTANT shall be solely responsible for and pay all of the DISTRICT's costs, expenses, fees and damages, of all kind, either due to or arising from errors by the CONSULTANT and/or one or more of the CONSULTANT's consultants and/or sub-consultants that violate the standard of care set forth in Article 14.

.2 Omissions: The CONSULTANT shall be responsible for and pay all of the DISTRICT's costs, expenses, fees and damages, of all kind, arising from the omissions of the CONSULTANT and/or one or more of the CONSULTANT's consultants and/or sub-consultants that are greater than what the DISTRICT would have paid had the work been performed correctly by the CONSULTANT.

### **ARTICLE 6 - REIMBURSABLE EXPENSES**

#### **6.1 General**

Reimbursable Expenses are in addition to the compensation for Basic and Additional Services and shall be actual expenditures made by CONSULTANT and CONSULTANT's employees and consultants in the furtherance of the Services provided by CONSULTANT and CONSULTANT's employees and consultants. All expenses incurred or which reasonably can be inferred from the conduct of Basic or Additional Services are included in the fees quoted therefore and no other expenses shall be reimbursed by DISTRICT except as described in the following subparagraphs to the extent they are actually and

reasonably incurred and approved in advance in writing by DISTRICT. Reimbursable Expenses are not to exceed the amount listed in CONSULTANT'S Proposal.

#### **6.1.1 Transportation Expenses**

Transportation when traveling in connection with the Services, provided that such travel is to a location outside the Greater San Bernardino area and has the specific prior written authorization of DISTRICT.

#### **6.1.2 Excess Reproduction Expense**

Expense of reproductions of reports and other documents furnished at the end of each phase of the Services requested by DISTRICT in excess of those furnished as a Basic Service.

#### **6.1.3 Additional Services Expenses**

Expense of data processing and photographic production techniques when used in connection with Additional Services and authorized in writing in advance.

#### **6.1.4 Overtime**

If authorized in writing in advance by DISTRICT, the expense of overtime work requiring higher than regular rates. CONSULTANT shall be responsible for all overtime work required to meet its Basic Service obligations within the Service Delivery Schedule in accordance with Article 4.2. Any general authorization of work shall not be an authorization of overtime work unless the inclusion of overtime Work is clearly identified and DISTRICT has received an estimate of the cost of the overtime work prior to the approval.

#### **6.1.5 Additional Insurance**

Expense of any additional insurance coverage or limits, including professional liability insurance, specifically requested by DISTRICT in writing in excess of that set forth in Article 11.

#### **6.1.6 Other**

Expense of special mailing, special delivery and similar other expenditures incurred at DISTRICT's request.

#### **6.1.7 Overhead**

DISTRICT shall reimburse only for actual out-of-pocket costs paid by CONSULTANT to third parties if approved in writing in advance by the DISTRICT's EVC and/or his/her designee, if one is identified by the EVC in writing, and approved in writing in advance of CONSULTANT incurring same, and not for indirect costs or overhead.

#### **6.1.8 Mark-up**

Reimbursable Expenses shall not be marked up by CONSULTANT, its Consultants and/or Sub-Consultants, but rather will be passed through to the District at actual out-of-pocket cost, supported by proof of payment of such costs.

### **ARTICLE 7 - CONSULTANT'S ACCOUNTING RECORDS**

#### **7.1 Maintenance of Records**

Records relating to Basic Services, Reimbursable Expenses, Additional Services and any other charges based upon hourly rates or expenses of CONSULTANT shall be kept in accordance with generally accepted accounting principles consistently applied and all records of CONSULTANT pertaining to the Services shall be available to DISTRICT and DISTRICT's authorized representative during normal business hours. DISTRICT shall be allowed to make copies of any of the

foregoing records at any time. CONSULTANT shall preserve all such records for a period of three years after final payment to CONSULTANT under this Agreement.

## **7.2 Payment without Prejudice**

DISTRICT's payments to CONSULTANT for Basic Services, Reimbursable Expenses, Additional Services or other payments based upon CONSULTANT's records shall be without prejudice to DISTRICT's right to an examination of CONSULTANT'S records relating to the Services.

## **7.3 Audits**

At any reasonable time within during the term of this Agreement and for four (4) years after final payment to CONSULTANT, and upon ten (10) days prior written notice to CONSULTANT, DISTRICT may cause an audit to be made of the records relating to the Services for any period covered by this Agreement. Except as provided in 7.4 below, the cost of such audit shall be paid by DISTRICT.

## **7.4 Cost of Audit**

If it shall be determined as a result of such audit that there has been an overcharge to DISTRICT when such overcharge is in excess of five percent (5%) of the amount paid by DISTRICT for Basic Services, Reimbursable Expenses, Additional Services and/or other charges based upon CONSULTANT's records for the period covered by the audit, CONSULTANT shall also pay to DISTRICT the cost of the audit, in addition to any refund of overcharges.

# **ARTICLE 8 - OWNERSHIP AND USE OF DOCUMENTS**

CONSULTANT shall retain copies of all Reports, Survey's or other documentation for information and reference in connection with services rendered by CONSULTANT hereunder. CONSULTANT shall not use the Reports, Survey's or other documentation produced for DISTRICT on any other project without DISTRICT's prior written consent. CONSULTANT shall defend and indemnify DISTRICT from any claim that such documents infringe the copyright or trade secrets of another. DISTRICT shall own all rights, title and interest in all Reports, Survey's or other documentation provided under this Agreement, including all rights under state and Federal copyright and intellectual property laws. DISTRICT may reproduce, distribute and make any use of such documents without further compensation to CONSULTANT, provided that DISTRICT shall hold CONSULTANT and its consultants harmless for DISTRICT's use of such documents for purposes not related to Project.

# **ARTICLE 9 - TERMINATION OF AGREEMENT**

## **9.1 Termination for Cause**

The DISTRICT may terminate CONSULTANT's services under this Agreement following seven (7) days written notice to CONSULTANT because of the failure of CONSULTANT to satisfactorily perform or provide prompt, efficient or thorough service or if CONSULTANT fails to complete its Services or otherwise comply with the terms of this Agreement. Upon receipt of a notice of termination, CONSULTANT shall forthwith discontinue the rendering of all services under this Agreement other than services necessary for an orderly windup of CONSULTANT's services.

## **9.2 Termination for Convenience**

The DISTRICT shall also have the right in its absolute discretion to terminate this Agreement for convenience and at its sole discretion and without cause following fifteen (15) days prior written notice from the DISTRICT to CONSULTANT. Upon receipt of a notice of termination, CONSULTANT shall forthwith discontinue the rendering of all services under this Agreement other than services necessary for the reasonable and orderly windup of CONSULTANT's, its Consultant's and Sub-Consultants' services. Any termination by the DISTRICT pursuant to Paragraph 9.1, which is found not to meet the requirements of Paragraph 9.1, shall be deemed a termination pursuant to this Paragraph 9.2. Following a termination for

convenience, and within sixty (60) Days after receipt of a complete and timely Application for Payment from CONSULTANT, an accounting shall be conducted. The amount due to CONSULTANT shall be: (1) the earned amount of any properly performed and properly authorized Basic Services and/or Additional Services, plus unpaid Reimbursable Expenses; (2) a reasonable cost for the reasonable and orderly windup of CONSULTANT's, its Consultant's and Sub-Consultants' services calculated by hours necessarily expended to do so at the hourly rates provided by CONSULTANT incurred for administering the closeout of its participation in the Services for a period of no longer than fifteen (15) Days; (3) less any amounts due and owing to the DISTRICT; (4) plus a markup of five percent (5%) on the net aggregate amount established by items (1), (2) and (3). DISTRICT shall also release retention as required by law calculated from the date of issuance the Notice of Termination, less any amounts due and owing to DISTRICT and/or which DISTRICT is required to withhold from the CONSULTANT under applicable law. CONSULTANT agrees to accept the compensation allowed herein as its sole and exclusive compensation in the event of a termination by District for convenience and waives any claim for loss related to DISTRICT's termination for convenience, including, but not limited to, loss of anticipated profits, loss of revenue, lost opportunity, or other consequential, direct, indirect, or incidental damages, of any kind. CONSULTANT shall include provisions in all of its contracts, subcontracts, purchase orders, and other contracts with its Consultants and Sub-Consultants permitting termination for convenience by CONSULTANT on terms that are consistent with, and that afford no greater rights of recovery against CONSULTANT for termination than are afforded to CONSULTANT under this provision.

Nothing set forth herein shall preclude the DISTRICT from its rights and/or remedies of offset, set off, back charge, and/or indemnity, against the CONSULTANT and/or its insurance carriers.

### **9.3 Suspension or Abandonment**

The DISTRICT has the absolute discretion to suspend or abandon all or any portion of the Services for any length of time and may do so upon seven (7) days written notice to CONSULTANT. Upon notice of suspension or abandonment, CONSULTANT shall discontinue any further action related to the Services. If the entire Services are abandoned, the Parties shall each be relieved of the remaining executory obligations of this Agreement, as it relates to the Services, but shall not be relieved of any obligations arising prior to said abandonment or of obligations related to any other services. Compensation to the CONSULTANT under 9.3 shall be identical to compensation to CONSULTANT under 9.2 above. Nothing set forth herein shall preclude the DISTRICT from its rights and/or remedies of offset, set off, back charge, and/or indemnity, against the CONSULTANT and/or its insurance carriers.

### **9.4 Insolvency**

In the event that CONSULTANT shall cease conducting business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or assets or shall avail itself of, or become subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or the protection of rights of creditors, then at the option of the DISTRICT this Agreement shall terminate and be of no further force and effect and any property or rights tangible or intangible, shall forthwith be returned to the DISTRICT.

### **9.5 Terms of Payment**

In the event the DISTRICT terminates without cause, abandons or suspends the Services, compensation shall be paid by the DISTRICT as set forth in 9.2 and 9.3 above. If the termination is for cause, the compensation due CONSULTANT upon termination shall be reduced by the amount of damages sustained by the DISTRICT due to such breach. Nothing set forth herein shall preclude the DISTRICT from its rights and/or remedies of offset, set off, back charge, and/or indemnity, against the CONSULTANT and/or its insurance carriers.

### **9.6 Documents**

Upon termination, abandonment or suspension, CONSULTANT shall deliver to the DISTRICT all productions of all finished and unfinished documents, studies, surveys, maps, photographs, reports sketches, computations and all other

documents and matters prepared by CONSULTANT to which the DISTRICT would have been entitled at the completion of CONSULTANT's services.

#### **9.7 No Release**

The termination, abandonment, or suspension of this Agreement shall not relieve or release CONSULTANT from any liability to DISTRICT for damages sustained by DISTRICT by virtue of any breach of this Agreement by CONSULTANT.

### **ARTICLE 10 - INDEMNITY**

#### **10.1 Indemnity**

To the furthest extent permitted under California law, CONSULTANT shall indemnify, hold harmless, and defend DISTRICT and each of its officers, Board of Trustees, employees, AECOM Technical Services, Inc., agents, and volunteers, from and against any and all liabilities, claims, damages, obligations, actions, lawsuits, losses, judgments, fines, penalties, forfeitures, costs, expenses and damages, (including reasonable attorneys' fees) (whether in contract, tort, or strict liability, including but not limited to personal injury, death, and property damage) incurred by DISTRICT, CONSULTANT, or any other person, and from any and all demands, and actions in law or equity (including attorney's fees and litigation expenses), arising from, related to, or alleged to have arisen directly or indirectly out of any negligent act or omission, recklessness, or willful acts or misconduct on the part of CONSULTANT, its officers, agents, employees, sub-consultants, or any other person or entity for whom CONSULTANT is responsible, in connection with the performance of the Agreement. CONSULTANT's obligations under the preceding sentence shall apply regardless of whether DISTRICT or any of its officers, officials, employees, or agents are passively negligent, but shall not apply to any loss, liability, fines, forfeitures, costs or damages caused by the sole and active negligence or by the willful misconduct of DISTRICT.

#### **10.2 Indemnity and Professional Liability**

Specifically regarding professional liability, CONSULTANT shall indemnify, hold harmless, and defend DISTRICT, its officers, Board of Trustees, employees, AECOM Technical Services, Inc., agents, and volunteers from and against any and all losses, liabilities, claims, damages, obligations, actions, lawsuits, judgments, fines, penalties, forfeitures, costs, expenses, and damages (whether in contract, tort, or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by DISTRICT, CONSULTANT, or any other person, and from any and all claims, demands, and actions in law or equity (including attorney's fees and litigation expenses) arising or alleged to have arisen out of or in connection with the professional negligence, errors and omissions of the CONSULTANT in the performance of the Agreement.

#### **10.3 Limitation**

Notwithstanding paragraphs 10.1 and 10.2, CONSULTANT'S indemnification of DISTRICT shall not include indemnification for claims which arise as the result of the sole and active negligence of DISTRICT and/or third parties over who the CONSULTANT has no control, or the sole and active negligence or willful misconduct of DISTRICT, its agents, servants or independent CONSULTANTS who are directly responsible to DISTRICT, or for defects in design furnished by such persons, other than CONSULTANT and its agents, consultants and sub-consultants, or unless such claims arise out of, pertain to, or relate to the sole and active negligence, recklessness or willful misconduct of the CONSULTANT. It is the intent of this Article 10 to provide the broadest enforceable indemnity obligation of CONSULTANT under California law. If any provision of this Article exceeds the restrictions of California law, that portion of this Article that exceeds the limits of the law shall be null and void and the remaining indemnity obligations shall remain fully enforceable.

### **ARTICLE 11 – INSURANCE REQUIREMENTS**

Before starting to perform under this Agreement and during the entire term of this Agreement, CONSULTANT shall, at its sole cost and expense, carry and maintain the following insurance. CONSULTANT agrees that CONSULTANT has a separate and independent obligation to procure insurance for the District. This requirement is in addition to and separate from CONSULTANT's agreement to defend, indemnify and hold harmless the District. As part of this Agreement, CONSULTANT agrees to procure the following insurance:

**11.1 Minimum Scope of Insurance:** Coverage shall be at least as broad as:

- .1 Insurance Services Office Form No. CG 0001 (Commercial General Liability);
- .2 Insurance Services Office Form No. CA 0001 (Ed. 1/87) (Automobile Liability, Code 1 “any auto”);
- .3 Workers’ Compensation as required by the Labor Code of the State of California, and Employers’ Liability Insurance;
- .4 Professional Liability (Errors and Omissions) insurance against loss due to error, omission or malpractice.

**11.2 Minimum Limits of Insurance:** CONSULTANT shall maintain limits no less than:

.1 Commercial General Liability: CONSULTANT shall obtain a commercial general liability (broad form) insurance policy which provides insurance on an occurrence basis for personal injury, death or property damage which may arise from any and all work performed by CONSULTANT for the District, including on District facilities and grounds, with policy limits of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate for personal injury, bodily injury and property damage including products and completed operations; and \$5,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.

.2 Automobile Liability: \$1,000,000 per accident for bodily injury and property damage under Business Automobile Liability Coverage Form Number CA 00 01 (any auto).

.3 Workers’ Compensation and Employers Liability: The CONSULTANT and all of their officers, employees, agents, volunteers, and sub-consultants agree to: (1) procure and maintain in full force and effect Workers’ Compensation and Employer’s Liability insurance covering its employees and agents while these persons are participating in the special event hereunder; and (2) The insurer for the CONSULTANT shall agree to waive all rights of subrogation against District, its Board of Trustees, officials, employees, agents and volunteers for losses under the terms of this insurance policy which arise from the operations of the CONSULTANT. The insurance policy shall be endorsed as follows; “This policy shall not be cancelled or allowed to lapse or be materially changed without prior thirty (30) day written notification to San Bernardino Community College District.” Workers’ Compensation limits as required by the Labor Code of the State of California and Employers’ Liability limits of not less than \$1,000,000 per accident.

.4 Professional Liability (Errors and Omissions): \$2,000,000 combined single limit per claim and \$4,000,000 aggregate.

**11.3 Claims-Made Forms:** If the above insurance is written on a claims-made form, it shall continue for three years following termination of this Agreement. Such insurance shall have a retroactive date of placement prior to or coinciding with the effective date of this Agreement.

**11.4 Deductibles and Self-Insured Retentions:** Any deductibles or self-insured retentions must be declared to and approved by the DISTRICT in writing.

**11.5 Other Insurance Provisions:** The policies are to contain, or be endorsed to contain the following provisions:

**11.5.1 General Liability and Automobile Liability Coverage:**

.1 DISTRICT, AECOM Technical Services, Inc., Program Manager, its officials, Board of Trustees, employees and volunteers are to be covered as Additional Insured under the Commercial General Liability and Automobile Liability as respects: liability arising out of activities performed by or on behalf of CONSULTANT; premises owned, leased or used by CONSULTANT. The coverage shall contain

no special limitations on the scope of the protection afforded to DISTRICT, its officials, employees or volunteers. CONSULTANT agrees that it has a separate and independent obligation to verify the District is named as an Additional Insured whenever CONSULTANT performs work for the District, AECOM Technical Services, Inc..

.2 CONSULTANT'S insurance coverage shall be primary insurance as respects DISTRICT, its officials, employees and volunteers. Any insurance or self-insurance maintained by DISTRICT, its officials, employees or volunteers shall be in excess of CONSULTANT'S insurance and shall not contribute with it.

.3 Failure to comply with reporting provisions of the policies shall not affect coverage provided to DISTRICT, its officials, employees or volunteers.

.4 Coverage shall state that CONSULTANT'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

.5 Certificate of Insurance: CONSULTANT shall obtain a certificate of insurance with the insurance company's endorsement of commercial general liability insurance setting forth the policy limits and that the District and its Board of Trustees, officers, employees, agents and volunteers AECOM Technical Services, Inc. are named as an additional insured under the policy and provide it to the District. (The failure to provide the certificate of insurance containing this information to the District shall not constitute a waiver of the requirement of the CONSULTANT to obtain the specific insurance specified above). The insurance policy shall contain provisions which include that CONSULTANT's insurance policy is primary coverage and shall apply both before the District insurance policy, and that the insurer shall not agree to request or call upon the District for any contribution in the settlement of any claim arising from the CONSULTANT's work for the District or use of District facilities or premises.

#### **11.5.2 All Coverages**

Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be canceled except after thirty (30) days prior written notice has been given to DISTRICT. In addition, CONSULTANT agrees that it shall not reduce its coverage or limits on any such policy except after thirty (30) days prior written notice has been given to DISTRICT and DISTRICT approves the reduction in coverage or limits in writing. CONSULTANT further agrees that it shall not increase any deductibles or self-insured retentions on any such policy except after thirty (30) days prior written notice has been given to DISTRICT and DISTRICT approves such increase in writing.

#### **11.5.3 Acceptability of Insurers:**

Insurance is to be placed with insurers with a Best's rating of no less than A: VII. This requirement may however, be waived in writing in individual cases for Errors and Omissions Coverages only, provided, however, that in no event will a carrier with a rating of A or lower and a Best's National Scale Rating Guide (NRS) Excellent (a XX) or lower be acceptable.

#### **11.6 Additional Requirements:**

.1 CONSULTANT shall submit proof of the required insurance coverage at the time of the execution of this Agreement. Evidence of such insurance shall be provided to the DISTRICT by delivering copies of the policies or certificates of insurance setting forth the required coverage.

.2 CONSULTANT shall ensure that all such coverages are in full force and effect during the time intervals hereafter stipulated. The Professional Liability and all other coverages (except for the Automobile Liability coverage) shall



remain in effect for at least three (3) full years after the date of final Completion of the Services and acceptance thereof by the DISTRICT. The Automobile policy shall remain in effect until at least the date on which CONSULTANT is paid in full under this Agreement. CONSULTANT shall not take any action or omit to take any action that would suspend or invalidate any of the required coverage during the time period they are required to be in effect.

.3 Waiver of Subrogation. CONSULTANT agrees that in the event of loss due to any perils for which it has agreed to provide Commercial General and Automobile Liability insurance, CONSULTANT shall look solely to its insurance carrier(s) for recovery and grants a waiver of any right to subrogation which any such insurer of CONSULTANT may acquire against the District by virtue of payments of any loss under this insurance.

.4 No act or omission of any insurance agent or broker shall relieve CONSULTANT of any of its obligations under this Agreement. In the event that CONSULTANT fails to acquire and maintain the insurance coverage as provided herein, the DISTRICT may procure the same and pay the premium therefore, in which case the cost shall be charged to CONSULTANT or deducted from payments due CONSULTANT hereunder, at the DISTRICT's sole discretion.

.5 In addition, the DISTRICT may, at its option, require CONSULTANT to provide Additional Services specific insurance, provided the premiums for such insurance are reimbursed by the DISTRICT and the DISTRICT approves, in advance, such additional insurance, the company issuing the same, the scope of the coverage thereof and the premiums therefore.

## **ARTICLE 12 – CHANGES**

### **12.1 DISTRICT May Direct**

DISTRICT may, at any time, direct changes in the scope of the Services required by this Agreement, or in services previously approved in earlier phases. All DISTRICT directed changes shall be in writing specifying the change required and approved by the EVC or his designee.

### **12.2 CONSULTANT's Responsibility**

Upon receipt of a written notice of a change, CONSULTANT shall estimate the hours and costs associated with the change. CONSULTANT shall prepare a written statement showing the impact of the change on the Service Delivery Schedule and on the functioning of the Services as a whole.

### **12.3 Compensation**

If approved, CONSULTANT shall be entitled to compensation pursuant to Article 5 as an Additional Service in an amount based on the hourly rates provided by CONSULTANT and based on actual hours reasonably incurred, properly authorized, documented and supported. However, CONSULTANT shall not be compensated for correction of deficiencies, errors, omissions, conflicts, and/or ambiguities in the documents prepared or reviewed by it, unless expressly provided to the contrary in this Agreement.

## **ARTICLE 13 – MANDATORY DISPUTE RESOLUTION PROCESS**

13.1 If any dispute arises between CONSULTANT and DISTRICT, CONSULTANT shall, unless DISTRICT instructs otherwise, continue performance of all obligations under this Agreement without cessation or delay pending resolution of the dispute, regardless of the size or nature of the dispute. Likewise, DISTRICT shall continue to make payments for undisputed amounts during such continued performance. CONSULTANT waives all rights to seek an injunction, temporary restraining order and any other relief which would stop or delay the progress of the Work. By placing substantially identical text, or by incorporating this Article 13 into the contracts and subcontracts with CONSULTANT's Consultants and Sub-Consultants, CONSULTANT shall bind each and all of its Consultants and Sub-Consultants to CONSULTANT as CONSULTANT and

DISTRICT are bound to one another under this Article 13. Failure of CONSULTANT to do so shall be deemed a breach of this Agreement by CONSULTANT and CONSULTANT shall be liable to DISTRICT for all losses caused thereby.

**13.2** The mandatory dispute resolution provisions of this Article 13 are adopted and implemented by the District pursuant to the authority afforded it under, without limitation Government Code sections 930.2, 930.4, 930.6, and Applicable Laws. This Article 13 applies equally to the DISTRICT as it does to the CONSULTANT, except as stated otherwise in this Agreement or prohibited by applicable law.

**13.3** The District and CONSULTANT agree that this Article 13, in its entirety, must be followed as a condition precedent to arbitration as set forth herein below. This Article 13 establishes the exclusive procedures for “Claims” between the CONSULTANT and the DISTRICT regarding this Agreement, except as may be expressly exempted elsewhere in this Agreement. Claims shall be resolved by the Parties in accordance with the provisions of this Article 13, in lieu of any and all rights under the law that either Party may have to have its rights adjudged by a trial court or jury. It is also the intent of this mandatory and exclusive resolution procedure to resolve a “Claim” as close as possible to the conclusion of the event(s) and/or circumstance(s) giving rise to the “Claim”. In this way, individual’s memories, and the information and documentation available to both Parties, will be as fresh as possible and permit the best informed resolution to occur.

**13.4** Both Parties acknowledge that their failure and/or refusal to follow this mandatory and exclusive process will irreparably prejudice the other Party and as such, should a Party to this Agreement fail or refuse to comply with this process, any “Claim” they may have shall be waived and forfeited. This process applies equally to the District as it does to the Consultant.

**13.5** For purposes of this Article 13, a “Claim” means a written demand or assertion by one or both of the parties: (1) seeking, as a matter of right, an interpretation of this Agreement; (2) a breach of this Agreement; (3) any request for more time; and/or (4) the payment of money and/or the recovery of damages. A Claim can contain more than one item (e.g., such as seeking two interpretations of the Agreement; or an interpretation and damage, or two or more claims for compensation each having a different basis/cause thereof, etc.) The fact that a Claim may contain two or more items does not give a Party the right to delay submitting a Claim beyond the ten (10) day time limit set forth below.

**13.6 The procedures set forth in this Article 13 shall not usurp District’s authority, and do not apply to:**

**13.6.1** the rights the District has as a public entity and the obligations the District has as a public entity to third persons;

**13.6.2** personal injury, wrongful death, or property damage, claims;

**13.6.3** District’s rights and remedies as set forth elsewhere in this Contract and/or under applicable law;

**13.6.4** matters covered by insurance; and

**13.6.5** the right of the District to specific performance or injunctive relief to compel performance.

**13.7 Notice of a Claim.** The Notice of a Claim shall be submitted as follows:

**13.7.1 To the District:**

Original Claim is sent to:

Jose Torres  
Executive Vice Chancellor  
San Bernardino Community College District  
114 South Del Rosa Drive  
San Bernardino, CA 92408

With a Copy to:

Cade McMullin, Program Director  
San Bernardino Community College District  
114 S. Del Rosa Drive  
San Bernardino, CA 92408

John P. Dacey, Esq.  
Bergman Dacey Goldsmith, PLC.  
10880 Wilshire Boulevard, Suite 900  
Los Angeles, California 90024

### 13.7.2 To CONSULTANT:

[INSERT NAME, ADDRESS AND CONTACT INFO]

**13.8 Required Information and Documentation.** A Claim submitted shall contain a detailed narrative of the Claim together with detailed estimates and/or calculations regarding costs and/or time, and all supporting information and documentation to prove the basis and entitlement to the relief sought by the Party submitting the Claim. Any information and/or documentation not submitted by the time of the Initial Mandatory Meeting and Negotiations is held shall not be permitted to be used in any subsequent step of this mandatory and exclusive dispute resolution process, including at Arbitration, as both parties acknowledge that one Party withholding such information and/or documentation will cause the other Party irreparable prejudice.

**13.9 Time Limit for Submitting a Claim.** The time period for each Party to submit a Claim is ten (10) days from when a Party realizes, or when a reasonable person should have realized, that it has a Claim, or when a Party fails or refuses to perform an obligation required by this Agreement, or when the Program Management Office denies a request for the payment of compensation, or when one Party breaches this Agreement. If a Party fails to submit a Claim within the required ten (10) day period, the Party waives and forfeits all rights and remedies to such Claim.

**13.10 Steps to Resolving a Claim.** The Parties shall use each of the following steps, in the order in which they appear below, to resolve each Claim. The resolution of any and all Claims is ultimately not binding on the District unless approved by the District's Board of Trustees and not binding on the CONSULTANT until approved by its Authorized Representative.

**13.10.1 Initial Mandatory Meeting and Negotiations.** Within twenty-one (21) calendar days of a Party submitting a Notice of Claim and Required Documentation and Information, the other Party shall, in writing, submit a Written Response to the Notice of Claim. The Written Response to the Notice of Claim shall contain:

**13.10.1.1** a detailed narrative responding to each point made in the Claim. The point by point response shall contain a statement as to whether the responding Party agrees or not with each point made by the Party submitting the Claim. If the responding Party does not agree with a point, then for each point of disagreement, the responding Party shall provide a detailed explanation as to why it disagrees supported by any detailed estimates and/or calculations regarding costs and/or time, and all supporting information and documentation to prove the basis of the responding Party's disagreement. To the extent the responding Party has a counter claim, the responding Party shall also set forth a detailed explanation of the counter claim together with any detailed estimates and/or calculations regarding costs and/or time, and all supporting information and documentation to prove the counter claim. In situations where no counter claim is made, the Party submitting a Claim shall then have fourteen (14) calendar days to submit a Reply. The Reply must follow the same format and respond point by point, together with all supporting documentation and information supporting the points made in the responding Party's Written Response to the Claim. Within seven (7) days following receipt of the Reply, the District shall issue a Notice of Initial Mandatory Meeting and Negotiations that will take place between the President of the CONSULTANT and the Director of the Program Management Office. The Initial Mandatory Meeting and Negotiations shall take place within fourteen (14) days of

the issuance of the Notice of Initial Mandatory Meeting and Negotiations and will not last more than two (2) six (6) hour sessions, unless the both the President of the Consultant and the Director of the Program Management Office agree in writing that more time is needed. Any information and/or documentation not submitted by the time the Initial Mandatory Meeting and Negotiations is held shall not be permitted to be used in any subsequent step of this mandatory and exclusive dispute resolution

process, including at Arbitration, as both parties acknowledge that one Party withholding such information and/or documentation will cause the other Party irreparable prejudice.

**13.10.1.2** if the Written Response to the Notice of a Claim also contains a counter claim by the Responding Party, and only if the counter claim would entitle the Responding Party to recover an amount of money beyond that which is sought by the Notice of Claim, then the Party filing a Notice of Claim shall not have fourteen (14) days to submit a Reply, but rather have twenty-one (21) days to submit a Reply. The Reply shall then address the points raised in the Written Response to its Notice of Claim and separately address the counter claim points asserted by the responding Party following the same narrative and supporting documentation and information requirements set forth above. The responding Party shall then have fourteen (14) days to submit a Sur Reply addressing only the counter claim points addressed by the Party filing the Notice of Claim. If these time frames apply, then within seven (7) days following receipt of the Sur Reply, the District shall issue a Notice of Initial Mandatory Meeting and Negotiations that will take place between the President of the CONSULTANT and the Director of the Program Management Office. The Initial Mandatory Meeting and Negotiations shall take place within fourteen (14) days of the issuance of the Notice of Initial Mandatory Meeting and Negotiations and will not last more than two (2) six (6) hour sessions, unless the both the President of the CONSULTANT and the Director of the Program Management Office agree in writing that more time is needed. Any information and/or documentation not submitted by the time the Initial Mandatory Meeting and Negotiations is held shall not be permitted to be used in any subsequent step of this mandatory and exclusive dispute resolution process, including at Arbitration, as both Parties acknowledge that one Party withholding such information and/or documentation will cause the other Party irreparable prejudice.

### **13.10.2 Resolution, Partial Resolution, or No Resolution.**

**13.10.2.1 No Resolution.** If the President of the CONSULTANT and the Director of Program Management Office reach no resolution, then within five (5) business days of the Initial Mandatory Meeting and Negotiations concluding, the Director of Program Management Office shall issue a written notice to the District's EVC, copy to the CONSULTANT's President, announcing the fact the no resolution was reached. Within five (5) business days of the receipt of the Director of Program Management Office notice of no resolution, either the President of the CONSULTANT, or the Director of the Program Management Office, depending on which Party submitted the Claim(s), must then file a Written Request for a Final Mandatory Meeting and Negotiations with either the District's EVC at the address set forth above or the President of the CONSULTANT. If this occurs, the Parties shall proceed to a Final Mandatory Meeting and Negotiations. Should the Party filing the Claim fail to file a Written Request for a Final Mandatory Meeting and Negotiations, the Party waives and forfeits all aspects of the Claim.

**13.10.2.2 Partial Resolution.** If the President of the CONSULTANT and the Director of Program Management Office reach only a partial resolution, and the Party submitting the Claim and/or counter claim wishes to continue pressing the unresolved portions of the Claim or counter claim, then within five (5) business days of the Initial Mandatory Meeting and Negotiations concluding, the Director of Program Management Office shall issue a written notice to the District's EVC, copy to the CONSULTANT's President, announcing the fact the a partial agreement has been reached, the details thereof, and a statement of all remaining unresolved items. All documents and information previously submitted shall be sent with the notice of partial resolution and statement of remaining unresolved items to the District's VP at the above address. Within five (5) business days of the receipt of the Director of Program Management Office notice of partial resolution and remaining items, either the President of the CONSULTANT, or the Director of the Program Management Office, depending on which Party submitted the Claim, must then file a Written Request for a Final Mandatory Meeting and Negotiations with either the District's EVC at the address set forth above or the President of the CONSULTANT. If this occurs, the Parties shall proceed to a Final Mandatory Meeting and Negotiations. Should the Party filing the Claim fail to file a Written Request for a Final Mandatory Meeting and Negotiations, the Party waives and forfeits all aspects of the Claim.

**13.10.2.3 Full Resolution.** If the President of the CONSULTANT and the Director of Program Management Office reach a complete resolution, then within five (5) business days of the Initial Mandatory Meeting and Negotiations concluding, the Director of Program Management Office shall issue a written notice to the District's EVC, copy to CONSULTANT's President, announcing the fact that a complete resolution was reached. Within fourteen (14) business days of the receipt of the Director of Program Management Office notice of a full resolution, the District's EVC will issue a final

determination announcing acceptance or rejection of the full resolution of the Claim and/or counter claim. If the District's EVC issues a final determination announcing complete acceptance of the full resolution of the Claim and/or counter claim, the EVC shall place the matter on the Board of Trustees agenda at the earliest available Board meeting with a recommendation for acceptance or ratification depending whether the approval of the resolution is within or beyond the EVC's delegated authority. If the Board approves or ratifies the resolution reached, a change order, amendment, or compromise will be issued to the Agreement. If the EVC does not approve the resolution in its entirety, then the EVC will issue a Statement of Compromise setting forth the extent of approval and/or disagreement which the EVC is willing to support. If the President of the CONSULTANT accepts the EVC's Statement of Compromise within five (5) business days of receipt of same, the EVC shall place the matter on the Board of Trustees agenda at the earliest available Board meeting with a recommendation for acceptance or ratification depending whether the approval of the resolution is within or beyond the EVC's delegated authority. If the Board approves or ratifies the proposed resolution reached, a change order, amendment, or compromise will be issued to the Agreement. If the President of the CONSULTANT does not accept the EVC's Statement of Compromise, the President of the CONSULTANT shall, within five (5) business days of receipt of same, issue a notice to the EVC of its rejection of the Statement of Compromise. If this occurs, the Parties shall proceed to a Final Mandatory Meeting and Negotiations. Should the Party filing the Claim fail to file a written request for a Final Mandatory Meeting and Negotiations, the Party waives and forfeits all aspects of the Claim.

**13.10.2.4 Final Mandatory Meeting and Negotiations.** If after reaching no resolution, partial resolution, a complete resolution that is not accepted by the EVC, or after reaching a complete resolution that is rejected in whole or in part by the EVC, and if a Party has timely demanded a Final Mandatory Meeting and Negotiations, then the Parties shall proceed as follows.

**13.10.2.5** Within seven (7) business days of any Party timely and properly requesting a Final Mandatory Meeting and Negotiations, the District shall issue a Notice of a Final Mandatory Meeting and Negotiations. The Final Mandatory Meeting and Negotiations will take place between the President of the CONSULTANT and the EVC. The Final Mandatory Meeting and Negotiations shall take place within fourteen (14) days of the issuance of the Notice of Final Mandatory Meeting and Negotiations and will not last more than one (1) six (6) hour session, unless the both the President of the CONSULTANT and the EVC agree in writing that more time is needed. Any information and/or documentation not submitted by the time the Initial Mandatory Meeting and Negotiations is held shall not be permitted to be used in any subsequent step of this mandatory and exclusive dispute resolution process, including at Arbitration, as both Parties acknowledge that one Party withholding such information and/or documentation will cause the other Party irreparable prejudice.

**13.10.2.6** Within fourteen (14) business days of the conclusion of the Final Mandatory Meeting and Negotiations, the District's EVC will issue a final determination announcing a Statement of Final Compromise of the Claim and/or counter claim. If the District's EVC issues a final determination announcing complete acceptance and full resolution of the Claim and/or counter claim as agreed between the Parties, the EVC shall place the matter on the Board of Trustees agenda at the earliest available Board meeting with a recommendation for acceptance or ratification depending whether the approval of the resolution is within or beyond the EVC's delegated authority. If the EVC does not approve of a complete resolution of the Claim and/or counter claim, then the EVC's Statement of Final Compromise of the Claim will set forth the extent of approval that the EVC is willing to support. If the President of the CONSULTANT accepts the EVC's Statement of Final Compromise of the Claim within five (5) business days of receipt of same, the EVC shall place the matter on the Board of Trustees agenda at the earliest available Board meeting with a recommendation for acceptance or ratification depending whether the approval of the resolution is within or beyond the EVC's delegated authority. If the Board approves or ratifies the proposed resolution reached, a change

order, amendment, or compromise will be issued to the Agreement. If the President of the CONSULTANT does not accept the EVC's Statement of Final Compromise of the Claim, the President of the

CONSULTANT shall, within five (5) business days of receipt of same, reject it. If this occurs, the Parties shall proceed to Mediation as set forth below. Should the Party filing the Claim fail to file a demand for Mediation, the Party waives and forfeits all aspects of the Claim.

**13.10.2.7 Initial and Final Mandatory Meetings and Negotiations – Attendees.** The District, the Program Management Office, and the CONSULTANT, can unilaterally determine who, in addition to the required Party's representatives, shall attend either or both of these proceedings. However, attorneys are not permitted to attend unless an attorney is also the President of the CONSULTANT, the Director of the Program Management Office, the EVC, or if both Parties agree in writing that attorneys may attend.

**13.11 Waiver and Forfeiture of Claim and Counter Claim.** Should the Party filing the Claim or a counterclaim in response to a Claim fail to file a Demand for Mediation as provided below, the Party waives and forfeits all aspects of the Claim and/or counter claim.

**13.12 Mediation.** If the above proceedings do not completely resolve a Claim or counter claim, and if the Party submitting a Claim or counter claim wishes to pursue a Claim or counter claim, then the Party submitting a Claim or counter claim must send a written Demand for Mediation to the other Party as required below, otherwise the Claim and/or counter claim is waived and forfeited. The Demand for Mediation must be made on the other Party within seven (7) business days of the Final Mandatory Meeting and Negotiations concluding.

**13.12.1 Demand for Mediation.** If a Party has timely and properly issued a Demand for Mediation, then the Parties shall proceed as follows.

**13.12.1.1 Terms and Conditions of Mediation.** Within five (5) business days of either the EVC rejecting a proposed resolution as announced by the Director of the Program Management Office, or the President of the CONSULTANT rejecting the EVC's Statement of Final Compromise of the Claim, either Party wishing to pursue a Claim or counter claim further shall issue a written Demand for Mediation to the other Party at the address set forth above. The Mediation must take place within forty-five (45) days of the issuance of the Demand for Mediation. Only those documents and information previously exchanged by the Parties at the time of the Initial Mandatory Meeting and Negotiations may be presented at Mediation, in addition to whatever legal arguments and legal authority are applicable thereto. The costs of the Mediation shall be shared equally by the Parties. A single Mediator will preside and must have substantial experience mediating, arbitrating and/or litigating, public works contracts for professional service providers. The Party demanding Mediation must set forth in its Demand for Mediation the names of six (6) such Mediators. The other Party shall within five (5) days of receipt of the written Demand for Mediation either select one (1), or provide the names of six (6) other such Mediators. If the other Party fails to select one of the six (6) Mediators, or fails to provide the names of six (6) other such Mediators within the five (5) days, then the Party demanding Mediation shall immediately identify the Mediator to be used from the six (6) Mediators originally identified. The Mediation shall not involve more than eight (8) hours, unless both Parties agree in writing otherwise

**13.12.1.2 Failure to Invoke Mediation.** If the proponent of the Claim fails to invoke the Mediation required by this Article within the time required, then the Claim, or remaining portion thereof, is forever waived and forfeited.

**13.12.1.3 Mediation – No Resolution, Partial Resolution, or Full Resolution.** If Mediation fails to resolve the Claim, the proponent of the Claim is then required to take action under Article 13.13 or the remainder of the Claim is forever waived and forfeited. If Mediation resolves the Claim, in whole or in part, a change order, amendment, and/or compromise will be prepared. If within the EVC's delegated authority, the EVC will sign the documentation and have the documentation processed. If the resolution exceeds the delegated authority of the EVC, the matter will be placed on the Board

of Trustees' earliest agenda for consideration and action. If the Board agrees to resolve the Claim as presented, the Board will approve same and the documentation will be processed. If, however, the Board agrees to resolve only part of the Claim presented, a change order, amendment, and/or compromise will be prepared and the documentation processed. If only part of the Claim presented to the Board is approved, the proponent of the Claim is then required to take action under Article 13.13 or the remainder of the Claim is forever waived and forfeited. If the Board does not agree at all, the proponent of the Claim is then required to take action under Article 13.13 or the remainder of the Claim is forever waived and forfeited.

**13.13 The Mandatory Dispute Resolution Process is a Condition Precedent to Arbitration.** The Mandatory Dispute Resolution Process set forth in Articles 13.1 through 13.12.1.3 must be complied with before Arbitration can be started.

**13.13.1** Within fourteen (14) business days of the Mediation concluding, and if the Mediation fails to resolve the Claim, and if a Party wishes not to forfeit a Claim, or part thereof, a Party must file a Demand for Arbitration. The process set forth in Article 13 above is a condition precedent to the filing of any Demand for Arbitration between District and the Consultant.

**13.13.2** A Demand for Arbitration is made by a Party issuing a written request for same to either: the American Arbitration Association; JAMS Dispute Resolution; or ADR; with a copy to the other Party and the Director of the Program Management Office. All supporting documents, information and data in support of the Claim shall accompany the written Demand for Arbitration with copies of all supporting documents, data and information simultaneously sent to the EVC and to the Director of the Program Management Office and the President of the CONSULTANT. In addition to any witness testimony, only the information, data and documents submitted at the Initial Mandatory Meeting and Negotiations may be used at the Arbitration. There is no discovery permitted unless: both Parties agree in writing; or, a Party can demonstrate good cause to the Arbitrator for some specific limited discovery. A Party who fails to provide information and/or documentation required by this Agreement as an obligation hereof, cannot fail to do so and then submit such latter prepared documentation, or the equivalent at the Arbitration, even if such documentation was submitted at the Initial Mandatory Meeting as the original failure to do so as required by the Agreement is deemed to have irreparably prejudiced the other Party and deprive it of options, rights and remedies. The hearing locale for any Arbitration shall be in San Bernardino County, California, unless otherwise agreed to by the Parties in writing. If both Parties agree in writing, they may elect to use an independent Arbitrator or an Arbitrator from another alternative dispute resolution provider.

**13.13.3** The Arbitration shall be held before a single Arbitrator who has arbitrated more than five (5) public works professional service agreement disputes and must be mutually agreed to by both Parties. If the Parties cannot agree on an Arbitrator, then the Arbitration company shall select an Arbitrator who has the qualifications listed herein. The Arbitration must be held and concluded within sixty (60) days of the written Demand for Arbitration, unless the Consultant and District agree otherwise in writing.

**13.13.4** The Arbitrator has no power to fashion a remedy that is "related to the Contract." Rather, each of the Arbitrator's decisions and award(s), interim and/or final, shall be in writing, shall set forth statements of fact and conclusions of law explaining how and why each item of the decision/award was reached, shall be supported by substantial evidence, shall be supported by applicable law, and shall otherwise comply with the requirements of Code of Civil Procedure Section 1296.

**13.13.5** The fees of the Arbitrator and the administrative costs of the Arbitration shall be shared equally between the Parties, and the Arbitrator has no power whatsoever to alter that sharing arrangement.

**13.13.6** Provided the Arbitrator has issued an award in compliance with the requirements of this Article, the Final Award is binding and all appellate rights are waived. Any judicial review of such an award is limited to the circumstances described herein for the Arbitrator's non-compliance with these requirements. A Court shall, subject to Code of Civil Procedure section 1286.4, and/or other applicable laws, vacate any award, in whole or in part, which the Court determines, after review, is not supported by substantial evidence, or the Award is based on an error of law.

**13.13.7** The Arbitrator's Final Award shall be reflected in an additive or deductive change order, amendment, and/or compromise.

**13.14** CONSULTANT agrees to participate in any and all other dispute resolution processes, claims, mediations, negotiations, administrative and/or civil actions in which the District is a party regarding a Project which CONSULTANT is involved in. To the extent the District is a participant therein because of the alleged conduct of the CONSULTANT, its Consultant(s) and/or Sub-Consultant(s), CONSULTANT shall participate therein at no further compensation from the District. To the extent the District is a participant therein, but not because of the alleged conduct of the CONSULTANT, then CONSULTANT will be entitled to receive compensation as an Additional Service at the agreed to hourly rates that are part of this Agreement to the extent of the involvement therein.

## **ARTICLE 14 - STANDARDS OF PERFORMANCE**

### **14.1 Standard of Care**

In addition to the requirements set forth in Article 5 regarding errors and /or omissions, CONSULTANT shall perform all services and work under this Agreement pursuant to the requirements stated in this Agreement and applicable laws, codes and regulations. The requirements stated in this Agreement establish the standard of care the parties agree that the CONSULTANT will perform to in providing services under this Agreement. If the Agreement is silent as to a particular standard or performance requirement, then the CONSULTANT will perform all services and work in a skillful and competent manner that is consistent with the standards generally recognized as being employed by professionals qualified to perform the services and work in the same discipline in the State of California. The CONSULTANT shall provide the Construction Documents and shall review the construction and installation of the Work to meet the requirements of the Construction Documents. Neither review nor approval of CONSULTANT's, its consultants', and/or sub-consultants work shall relieve CONSULTANT, its consultants, and/or its sub-consultants from first, their duty to adhere to the standards and requirements of this Agreement, or if silent herein, then, the applicable standards of professional care in the performance of their duties. CONSULTANT will be fully responsible to the DISTRICT for any damages to the DISTRICT and delays to the Project as specified in Article 10 of this Agreement. Without limiting the foregoing, CONSULTANT shall be fully responsible to the DISTRICT for any increased costs incurred by the DISTRICT as a result of any such negligent delays in the performance of Services. CONSULTANT represents and maintains that it is skilled in the professional calling necessary to perform the services and work required by this Agreement. CONSULTANT warrants that all of its employees, CONSULTANT'S, engineers, if applicable, experts and other consultants and sub-consultants shall have sufficient skill and experience to perform the services and work assigned to them. CONSULTANT represents that it, its employees, CONSULTANT'S, engineers, if applicable, experts and other consultants and sub-consultants have all required licenses, permits, qualifications and approvals of whatever nature that are legally required for them to have to perform the services and work assigned to or rendered by them, and that such licenses and approvals shall be maintained in good standing throughout the entire term of this Agreement.

### **14.2 Laws and Regulations**

**.1 Knowledge and Compliance.** CONSULTANT shall keep itself fully informed of and in compliance with all applicable local, state and federal laws, rules and regulations in any manner affecting the performance of the Services and shall give all notices required of CONSULTANT by law. Similarly, CONSULTANT's employees, CONSULTANT'S, experts, engineers and consultants shall keep themselves fully informed of all applicable laws and regulations affecting performance. CONSULTANT shall be liable for all violations of such laws and regulations in connection with its services. If CONSULTANT performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the DISTRICT, CONSULTANT shall be solely responsible for all costs arising there from. CONSULTANT shall defend, indemnify and hold the DISTRICT, its officials, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure to comply with such laws, rules or regulations.



**.2 Consultant Deliverables.** CONSULTANT shall cause all final deliverables provided to the District to conform to any applicable requirements of federal, state and local laws, rules and regulations, including without limitation, the California Education Code; Titles 19, 21 and 24 of the California Code of Regulations; and any requirements of the Division of State Architect, the State Department of Education, the California Department of General Services, local agencies such as Department of Health, Department of Public Works, Department of Transportation, Fire Department, and local utility companies, in effect as of the time the documents are prepared or revised. Any significant revisions made necessary by changes in such laws, rules and regulations after this time may be compensated as Additional Services. CONSULTANT shall cause the necessary copies of the Documents to be filed with any governmental bodies with approval jurisdiction over the Services, in accordance with the Services described in this Agreement.

### **14.3 Schedule of Services**

**.1 Timely Performance Standard.** CONSULTANT shall perform all services hereunder as expeditiously as is consistent with professional skill and care, as well as the orderly progress of the Work so as not to be the cause, in whole or in

part, of delays in the completion of the Project or in the achievement of any Project milestones, as provided herein. CONSULTANT agrees to coordinate with the DISTRICT'S staff, Project Managers, contractors and consultants in the performance of the services, and shall be available to the DISTRICT'S staff, Project Managers, contractors and consultants at all reasonable times. Time is, and shall remain, of the essence.

**.2 Performance Schedule.** CONSULTANT shall adhere to the schedule established by the DISTRICT. If the DISTRICT and CONSULTANT cannot mutually agree on a performance schedule, the DISTRICT shall have the authority to immediately terminate this Agreement. The schedule shall not be exceeded by CONSULTANT, without the DISTRICT'S prior written approval. If CONSULTANT'S Services are not completed due to circumstances within the control of the CONSULTANT within the time provided by the agreed upon performance schedule, or any milestones established therein, it is understood, acknowledged and agreed that the DISTRICT will suffer damage for which CONSULTANT will be responsible pursuant to the indemnification provision of this Agreement.

**.3 Excusable Delays.** Any delays in CONSULTANT'S work caused by the following shall be added to the time completion of any CONSULTANT'S obligations: (a) the actions of the DISTRICT or its employees; (b) the actions of those in direct contractual relationship with the DISTRICT; (c) the actions of any governmental agency having jurisdiction over the Project; (d) the actions of any parties not within the reasonable control of CONSULTANT; and (e) any act of God or other unforeseen occurrence not due to any fault or negligence on the part of CONSULTANT. Neither the DISTRICT nor CONSULTANT shall be liable for additional services, damages, liquidated or otherwise, to the other on account of such delays.

**.4 Request for Excusable Delay Credit.** CONSULTANT shall, within five (5) calendar days of the beginning of any excusable delay (unless the DISTRICT grants in writing a further period of time to file such notice before the date of final payment under the Agreement), notify the DISTRICT in writing of the causes of delay. The DISTRICT will ascertain the facts and the extent of the delay and grant an extension of time for completing the services when, in its sole judgment, the findings of fact justify such an extension. The DISTRICT'S findings of fact thereon shall be final and conclusive on the parties. Extensions of time shall apply only to that portion of the services affected by the delay and shall not apply to other portions of the services not so affected. CONSULTANT's sole remedy for extensions of time shall be an extension of the performance time at no cost to the DISTRICT. Should CONSULTANT make an application for an extension of time, CONSULTANT shall submit evidence that the insurance policies required by this Agreement remain in effect during the requested additional period of time.

## **ARTICLE 15 - NOTICES**

All notices or demands are not effective unless they are actually delivered or mailed, certified or registered mail, to the addresses given herein. A personally delivered notice is effective on delivery; a mailed notice is effective 48 hours after notice has been deposited in United States mailboxes postpaid and addressed as indicated herein. The addresses herein may be

changed only by written notice given by such party in the manner provided above. Any managerial or supervisory employee of CONSULTANT at the above address is authorized to accept delivery. The addresses for delivery of notices pursuant to this Agreement are shown on the signature page of this Agreement (last page).

Each Party shall promptly notify the other Party of any changes to its address, telephone number, or any other contact information.

## **ARTICLE 16 - MISCELLANEOUS PROVISIONS**

### **16.1 Successors, Assigns, and Contractual Relationships of CONSULTANT**

DISTRICT and CONSULTANT, respectively bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to covenants of this Agreement. Before CONSULTANT makes any change in the name or legal nature of CONSULTANT'S entity, CONSULTANT shall first notify the DISTRICT and cooperate with the DISTRICT in making

such changes as the DISTRICT may request in this Agreement. CONSULTANT shall not assign, transfer, convey, sublet or otherwise dispose of this Agreement or of its rights, title or interest in or to the same or any part thereof, without the DISTRICT'S prior written consent and CONSULTANT shall not assign, by power of attorney or otherwise, any of the monies to become due and payable under this Agreement, unless by and with the like consent signified in like manner. If CONSULTANT desires to subcontract any part of this Agreement, the DISTRICT must first consent in writing and CONSULTANT shall be fully responsible to the DISTRICT for acts and omissions of any subcontractor and of persons either directly or indirectly employed by any subcontractor, as it is for acts and omissions of persons directly employed by CONSULTANT. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and the DISTRICT, nor shall this Agreement be construed to be for the benefit of any subcontractor.

### **16.2 Exhibits and Attachments**

All Exhibits and Attachments referred to are incorporated by reference herein and are a part of this Agreement, except for Appendix A, the Reference Documents list, which is provided for information only.

### **16.3 Choice of Law and Forum**

This Agreement shall be construed and interpreted in accordance with the laws, except such laws as may be denominated choice of law rules, of California.

### **16.4 Survival**

Unless otherwise specifically provided, the covenants of this Agreement shall survive completion and acceptance of the Services by DISTRICT and shall continue until fulfilled.

### **16.5 Captions, Index**

The captions and the index of this Agreement shall have no effect on its interpretation.

### **16.6 Singular and Plural**

Where required by the context of this Agreement, the singular shall include the plural and vice-versa.

### **16.7 Severability**

The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render the other provisions unenforceable, invalid, or illegal.

**16.8 Work Days**

All reference to Work Days in this Agreement refers to calendar days excluding Saturdays, Sundays and District recognized holidays, unless expressly stated to be different.

**16.9 Registered Consultants**

CONSULTANT agrees that all Work under this Agreement shall be done by, or shall be reviewed and approved by professional engineers registered to practice as such by the State of California and qualified to do business in California.

**16.10 Nondiscrimination**

No discrimination shall be made by CONSULTANT in the employment of persons to Work under this Agreement because of race, color, national origin, sex, age, creed, religion, physical handicap, marital status, sexual orientation, or political affiliation of such person.

**16.11 Independent Contractor**

CONSULTANT is an independent contractor and is not a joint venturer, partner, agent or employee of DISTRICT.

**16.12 Use of Name**

CONSULTANT shall not use any name, trademark or service mark of DISTRICT without first having received DISTRICT's written consent to such use.

**16.13 Compliance with the Laws**

CONSULTANT agrees comply with all applicable laws and regulations.

**16.14 Amendment, Waiver**

None of the terms and conditions of this Agreement may be changed, waived or canceled orally or otherwise except in writing signed by the parties hereto, specifying such change, waiver or cancellation and approved by the District's EVC. A waiver of any breach of this Agreement shall not be deemed a waiver of any preceding or subsequent breach, whether similar or dissimilar. The failure of the DISTRICT in any one or more instances to insist upon strict performance of any of the terms of this Agreement or to exercise any option herein conferred shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or option on any future occasion.

**16.15 Entire Agreement**

This Agreement contains all the agreements of the parties and supersedes all other written or oral agreements and cannot be amended or modified except by a subsequent written agreement executed by the party against whom it is sought to be enforced.

**16.16 Attorney Fees**

The parties agree to bear their own costs and attorney's fees regarding any dispute pertaining to this Agreement.

**16.17 Consent to Consultants and Sub-Consultants**

The DISTRICT'S consent to any Consultant and/or Sub-Consultant of the CONSULTANT shall not in any way relieve CONSULTANT of any obligations under this Agreement, and no such consent shall be deemed to waive any provision of this Agreement.

**16.18 Consultant Employees**

CONSULTANT shall at all times enforce appropriate discipline and good order among its employees and shall not employ or work any unfit person or anyone not skilled in providing the services required under this Agreement. It shall be the responsibility of CONSULTANT to ensure compliance with this section. Any person in the employ of CONSULTANT whom the DISTRICT may deem incompetent, unfit, intemperate, troublesome or otherwise undesirable shall be excluded from providing services under this Agreement and shall not again provide services except with the DISTRICT'S written consent. CONSULTANT shall ensure that persons who perform services on District's property, including without limitation college campuses, have not been convicted of any felony, have not been convicted of any controlled substance offense, and have not been convicted of any sex offense, as those terms are defined by Education Code sections 87008-87010, inclusive.

#### **16.19 Back Charges; Set Offs; and Offsets**

DISTRICT shall have the right to back charge, deduct from, and/or setoff/offset any payment(s) then due or to that becomes due and payable to the CONSULTANT for any costs, expenses, fees, damages of the like that DISTRICT has had to pay or become obligated to pay, or incurred, as a result of the failure or refusal of the CONSULTANT and/or its Consultants and/or Sub-Consultants to perform as required under this Agreement. DISTRICT shall also have the right to deduct

(offset/setoff) the amount of any such back charge against any other monies it may owe CONSULTANT under any other contract or agreement that CONSULTANT has with the DISTRICT.

Also, if the DISTRICT owes money to the CONSULTANT under this Agreement, but the CONSULTANT owes money to the DISTRICT under some other agreement or contract, the DISTRICT may offset/setoff and/or back charge such monies and either receive and/or pay the net amount of such monies after any such offset/setoff/back charge.

### **ARTICLE 17 – FURTHER DESCRIPTION OF BASIC SERVICES**

#### **17.1 Project Schedule**

CONSULTANT's Basic Services are to be provided in accordance with each Project Schedule developed for the Project and which may be amended from time to time by mutual agreement regarding the following scopes of Basic Services:

*Ninety (90) calendar days for completion of Basic Services from Notice to Proceed (NTP)*

#### **17.2 Project Description and Scope – District and Campus Standards**

##### **17.2.1 Project Description - District and Campus Standards:**

As described above the District consists of two campuses, San Bernardino Valley College and Crafton Hills College, and the Measure CC Bond will be building a number of new buildings as well as renovating a number of existing buildings. In order to provide direction to those design teams that will be designing the aforementioned new construction and renovation projects, the District intends to commission an Architect and Engineering team to develop Campus Standards that can be distributed to those design teams. The standards are intended to be comprehensive of all building systems for all trades. There are some standards that currently exist that can provide some background information to the successful Proposer, but the existing standards are in need of a comprehensive and complete update.

##### **17.2.2 Scope of Work Items - District and Campus Standards:**

The Contracted Firm will be required to provide all of the following:

Provide Architectural and Engineering services for the District at both of its campuses (San Bernardino Valley College and Crafton Hills College) and District-wide as described herein.

Develop the District and Campus Standards as three distinct but related set of standards. First the "District Standards" which are those items that can be standardized across the Campuses and the District (such as lighting and plumbing fixtures) with the intention of maximizing those building systems that can become a District-wide standard in order to gain the benefit of simplifying attic stock, vendors and other services required for the long-term maintenance of the

District's campuses. Additionally, the successful Proposer will develop two sets of "Campus Standards" one-set of standards for the San Bernardino Valley College campus and one set of standards for the Crafton Hills College campus as they are very different campuses and it is important to maintain the architectural character of each of the campuses. The Campus Standards will also catalog any other building systems or trades that are unique to each campus and is not able to be incorporated into the District-wide Standards.

#### 17.2.2.1 **Campus and District-wide Standards - Scope of Work Items:**

- a. **Campus Design Guidelines** – Separately for the San Bernardino Valley College campus and for the Crafton Hills College campus draft a description of the planned design approach for future architectural and landscape projects on each campus
- b. **Space Guidelines** – Develop diagrams and narratives for typical instructional, administrative, and support spaces
- c. **Materials and Systems Standards** – Develop performance criteria for typical building and site systems and materials

#### 17.2.2.2 **Development of District and Campus Standards Process by Phase**

- a. **Initial Review and Preparation**
  - 1) Review current standards for relevance and other information provided by the District
  - 2) Meet with District facilities staff and PMO to discuss any current standards.
  - 3) Coordinate with other District consultants
  - 4) MEETINGS:
    - a. Two (2) coordination meetings with facilities staff
- b. **Research and Analyze**
  1. Research best practices and analyze options for room space standards for up to eight (8) typical room spaces including instructional spaces, office, and conference spaces, and building support spaces
  2. Research best practices and current sustainable cost-effective materials and systems
  3. Analyze concerns from District staff on current materials and systems and provide analysis and options to meet District needs
  4. Coordinate with District consultants
  5. MEETINGS:
    - a. Two (2) coordination meeting with facilities staff
- c. **Collect and Recommend**
  1. Develop and send out surveys District and PMO staff for specific systems and materials to collect initial input before detailed work sessions with District and PMO staff
  2. Develop initial "standards" recommendations based on survey results and documents
  3. Hold follow-up meetings take and distribute meeting notes, communication, and sign off as it relates to those items that constitute the "standards".
  4. Coordinate with District consultants
  5. MEETINGS:
    - a. Twelve to Fifteen (12 to 15) detail work sessions with appropriate staff focusing on material and systems standards (2-3 hours per session) in the following systems and material focus areas:
      1. Mechanical
      2. Plumbing

3. Electrical
  4. Civil
  5. Landscaping
  6. Interior Building Finishes
  7. Exterior Building Finishes
  8. Moisture Protection and Roofing
  9. Avian Protection/Deterrents
  10. Technology and AV systems
  11. Hardware
  12. Security System (program will be provided by the District)
  13. Fire Alarm
  14. Acoustical
  15. Elevator
  16. Structural
  17. Wayfinding and signage
  18. Total Cost of Ownership (TCO)
  19. Furniture, Fixtures & Equipment (for standard academic and admin spaces)
- b. Three (3) space standards work sessions with deans, faculty, and staff on instructional and office spaces (2-3 hours per session)
  - c. One (1) coordination meeting with facilities staff
  - d. Two (2) task force meetings with District leadership on Campus Design Guidelines (2 hours per session)

#### 17.2.2.3 District and Campus Standards Deliverable

- a. Develop the District template with District facilities staff and/or PMO
- b. Standards to be created either an InDesign or Word format file that can be printed in a PDF format
- c. Include illustrative photos, diagrams, and charts to supplement narrative and communicate design and space guidelines
- d. Coordinate with consultants
- e. Provide one (1) facilities management review and revision for each of the three (3) standards (1) District, 2) San Bernardino Valley College and 3) Crafton Hills College) – Draft # 1 and Draft #2
- f. Collect District-consolidated comments and incorporate into document
- g. Develop final draft for review and comment by District staff and/or PMO
- h. Collect District-consolidated comments and incorporate
- i. Finalize District and Campus Standards, print, and deliver document
- j. MEETINGS:
  - a) One (1) coordination meeting with facilities staff (2 hours)
  - b) One (1) presentation to District leadership (1½ hours)

#### 17.2.2.4 Information Provided by the District

For an efficient, expedited, and successful process, the District will provide the following:

- a. Systems and materials standards data previously developed for review
- b. List of Board approved proprietary materials and systems
- c. List of types of administrative, faculty, and staff offices to be developed
- d. Security program requirements.

### 17.3 Project Description and Scope -Temporary Swing Space and Temporary Parking Plans:

#### 17.3.1 Project Description - Temporary Swing Space and Temporary Parking Plans:

In addition to the Campus Standards the PMO will require assistance from the successful Proposer in planning swing space to house faculty and/or staff and/or students (“Users”) during the renovation of existing buildings until the subject renovation projects are completed and the respective Users are able to move back into the renovated buildings. The swing space will be some combination of moving Users into other campus buildings that have become available because the original Users of those buildings have moved into a newly constructed building, other available square footage on campus or temporary modulars. In addition, the successful Proposer will also provide an analysis and plan for temporary parking space as parking lots are removed/taken out of service either while a new parking structure is being constructed or as current parking sites are required for new building pads or construction staging areas. The successful Proposer will be required to closely coordinate with the PMO in the development of a swing space and temporary parking plans based on the overall Building Program schedule, District priorities and available funding.

### 17.3.2 Scope of Work Items - - Temporary Swing Space and Temporary Parking Plans:

The Contracted Firm will be required to provide all of the following: The consultants will assist the District and the District’s PMO to review the proposed facilities remodel and new construction projects as identified in each College’s 2017 Facilities Master Plan and to assist with preparing narratives and graphic plans identifying project sequencing, phasing, and any interim or temporary swing space housing that may be needed. The consultant shall work closely with the current Utility Mapping Study and Infrastructure Master Plan to coordinate phasing of temporary swing space. The consultants will also provide an analysis of temporary swing parking as parking lots are removed and/or taken out of service either while a new parking structure is being constructed or as current parking sites are required for new building pads or construction staging areas.

Projects that will require temporary swing space studies include **but are not limited to**:

#### **Crafton Hills College Renovation Projects**

- Performing Arts Center
- Crafton Hall
- West Complex
- Student Support Building
- East Valley Public Safety Training Center

#### **San Bernardino Valley College Renovation Projects:**

- Instructional Student Services Building
- Administration and Campus Center
- Physical Science & Health and Life Sciences

### 17.3.3 Temporary Swing Space Implementation Plan

- a. Review 2017 Facilities Master Plan recommendations for both Colleges
- b. Review “Districtwide Facilities Master Plan Project List” dated May 11, 2017 and confirm scope and priorities
- c. Meet with District and PMO staff to assess any needed changes in the Master Plan recommendations
- d. Meet with consultants and District/PM staff to review and discuss proposed utility projects (and the upcoming utility master plan)
- e. Develop preferred sequencing of proposed projects for both temporary swing space and temporary parking
- f. MEETINGS:
  1. Three (3) meetings with District and PM staff
  2. One (1) meeting with consultants and

### 17.3.4 Temporary Swing Space Study Process

- a. In concert with the Temporary Swing Space Implementation Plan task above, meet with District and PMO staff to assess if interim swing space housing is needed, and if so, whether it is best addressed as

- added relocatable buildings and/or occurring within existing buildings
- b. Prepare basic programming as needed to assess the swing space needs and perform test fits
- c. Determine the preferred size and timing for any temporary swing space housing projects (coordinating with PMO's master schedule)
- a. In concert with the Temporary Swing Space Implementation Plan task above, meet with District and PMO staff to assess the temporary swing parking requirements and where on campus or off campus can it be located.
- b. Provide cost estimates for proposed temporary swing space and temporary parking projects
- c. MEETINGS:
  1. Three (4) meetings with District and Program Management staff
  2. One (1) meeting with consultants and District/ Program Management staff

### 17.3.5 Temporary /Swing Space Plan Deliverables

The following (electronic) deliverables are required:

- a. Graphic site plans and floor plans as needed with accompanying written narratives
- b. Simple programming spreadsheets to capture the swing space needs
- c. Swing space test fit floor plan diagrams as needed
- d. Temporary parking plans
- e. "Snapshots" of campus site plans including new construction, laydown/staging and renovation, and temporary swing space indicated for each semester which projects are in process or are static or inactive or complete
- f. Detailed cost estimates for each swing space project
- g. Detailed cost estimates for temporary parking projects

### 17.3.6 District Responsibilities

- a. Provide AutoCAD as-built drawings for any buildings that will need to be considered for temporary swing space housing or utility connections for new relocatable buildings
- b. Provide site survey, topographic, and utility information as needed
- c. Provide program spreadsheets that show current use of those buildings that will be impacted by future work
- d. Identification of District staff for focus area detailed work sessions
- e. Scheduling of all meetings, work sessions, and presentations

Deliverables as required above, will be prepared in accordance with the applicable codes, regulations and District standards.

Hourly Compensation under this Contract, if any, will be in accordance with Attachment 13 to the RFQP, Hourly Rates and Personnel Classifications identifying hourly rates for each specific position. The hourly rates shown on Attachment 13 Hourly Rates and Position Classifications are inclusive of all wages, expenses, overhead and profit ("fully burdened rate(s)"). The Proposal shall include the position description(s) and the fully burdened hourly compensation rate associated with the particular position and a detailed staffing plan.

## 17.4 Relationship to DISTRICT

CONSULTANT and DISTRICT accept the relationship of trust and confidence established between them by the terms of this Agreement, and CONSULTANT agrees to use its professional skill and judgment and to cooperate with the DISTRICT and the Contractor(s) in their respective responsibility to construct the Project.

## 17.5 Meetings



CONSULTANT and CONSULTANT's consultants and/or sub-consultants shall attend all meetings as requested by the DISTRICT for all phases as set forth Article 17.1 above. These include, but are not limited to, Project meetings and meetings with governmental, quasi-governmental and other authorities with jurisdiction over the Project. Consultant may be required to attend meetings with owner's technical staff on technical issues and with educational groups on programmatic issues. The CONSULTANT will prepare and distribute minutes to all attendees for these meetings.

#### **17.6 Scheduling**

CONSULTANT understands and agrees that the DISTRICT may choose to postpone or abandon any phase of the Project at the DISTRICT's discretion, and that the DISTRICT may give notice to restart such phase at a later date subject to potential adjustment of fees or costs for architectural services. Any changes to Consultant's pricing, requested either by the Consultant or the District, that deviate from the previously agreed to amount must be supported with credible backup and support.

#### **17.7 NA**

#### **17.8 NA**

#### **17.9 NA**

#### **17.10 Sustainable Design Requirements**

**The following terms are applicable for all Design Services related to a LEED Project:**

The term "LEED™ Project" as used in this Agreement and/ or its exhibits shall mean a Project requiring a United States Green Building Council LEED™ rating as established (sometimes referred to as "baselined") by the policies of the District Board of Trustees, including upgrades required.

With respect to a Project identified by the District as a "Non-LEED™ Project", CONSULTANT shall prepare and present to the Board of Trustees such reports and presentation materials as may be necessary in order to establish the basis for the Project's non-eligibility for LEED™ certification. If the Board of Trustees rejects the reasons presented as grounds for non-eligibility, then CONSULTANT shall as part of Basic Services revise its reports and presentation materials for further presentation by CONSULTANT to the Board of Trustees (FMP&OC). CONSULTANT shall repeat this process as often as necessary until the Board of Trustees approves of the non-eligibility of the Project or until the Project is declared by District, in the exercise of its sole and absolute discretion, to be converted to a LEED™ Project. With respect to any Non-LEED™

Project, although CONSULTANT is not obligated to achieve a particular LEED™ certification or rating, CONSULTANT shall nevertheless endeavor, to the maximum extent possible without causing the Construction Costs to exceed the Construction Budget, to incorporate into its designs for such Project as many as possible of the elements of sustainable building construction set forth in the Sustainable Building Guidelines, giving priority to those specific sustainable construction design elements identified by District as having special importance.

With respect to all elements of sustainable building construction that CONSULTANT intends to incorporate into a LEED™ Project or Non-LEED™ Project, whether or not such element has been requested by District, CONSULTANT shall, before incorporating such element into its Design Documents, give the PMO notice of the anticipated impact thereof on Construction Costs and the CONSULTANT's Project Schedule and only proceed with incorporating such element if approved in writing by the DISTRICT. Any and all sustainable operations programs and innovation credits included in the LEED scorecard for the project require authorization in writing from the PMO.

#### **17.11 District-Furnished Materials.**

CONSULTANT shall become familiar with any agreements that may exist between District and suppliers of District-furnished materials or equipment and shall specify in the Campus Standards and Temporary Space prepared by and/or worked on by CONSULTANT, in accordance with the requirements of Applicable Laws (including, without limitation, California Public Contract Code § 3400), use of such materials or equipment by contractors or design-builders in performing work on District projects.

**17.12 NA**

**17.13 Campus Standards and Temporary Space Document Submissions.**

CONSULTANT shall make formal submittals of Campus Standards and Temporary Space documents prepared by CONSULTANT, its Consultants and/or Sub-Consultants to the PMO in accordance with the District's Design Document Submission Standards. All submissions by CONSULTANT of Campus Standards and Temporary Space documents for review shall be accompanied by a transmittal listing the issuance and revision dates of each document submitted, including, without limitation, a comprehensive narrative explaining all significant changes and additions made since the last formal submission of Campus Standards and Temporary Space documents to the PMO. Electronic files shall be submitted as identified by the DISTRICT.

**17.14 NA.**

**17.15 District Approval of Campus Standards and Temporary Space Documents.**

The PMO shall, acting on behalf of District, promptly approve or disapprove, with explanation of the reasons for disapproval, of all formal submittals of Campus Standards and Temporary Space documents that are required by the Design Document Submission Standards. The PMO's review is not for the purpose of discovering errors, omissions, conflicts, lack of coordination, ambiguities or violations of applicable laws in the Campus Standards and Temporary Space documents. CONSULTANT shall, notwithstanding any review or approval of Campus Standards and Temporary Space documents by the PMO, or others, remain solely responsible for the content, completeness, accuracy and sufficiency of all Design Campus Standards and Temporary Space documents prepared by CONSULTANT, its Consultants or its Sub-Consultants and, except for deviations approved by the PMO pursuant to this Agreement.

**17.16 Corrections to Campus Standards and Temporary Space Documents.**

Campus Standards and Temporary Space documents submitted by CONSULTANT shall either incorporate any corrections required by the PMO or District, or be accompanied by a written statement as to why such corrections were not incorporated. The District or the PMO may, in its sole and absolute discretion, reject CONSULTANT's explanation and require CONSULTANT to make the corrections to the Campus Standards and Temporary Space documents as requested by the District or the PMO. Services and related costs required to make corrections that are the result of information in the Campus Standards and Temporary Space documents constituting errors, omissions, conflicts, lack of coordination or violations of applicable laws shall under no circumstances constitute grounds for Additional Services compensation. All corrections shall be incorporated into the next Campus Standards and Temporary Space documents submission and highlighted by notation or clouding or if not incorporated then such submission shall be accompanied by a written statement to the PMO, not in the form of notes or clouding on the Campus Standards and Temporary Space documents, explaining why such corrections were not incorporated.

**17.17 Restrictive Specifications.**

CONSULTANT shall not, without the prior written approval of the District or the PMO, include or permit there to be included a Restrictive Specification in the Design Documents. A Restrictive Specification is any portion of the Design Documents that: (1) expressly or impliedly calls for the supply, furnishing or installation of any material, product, equipment, or other thing by a single producer of a particular brand, trade name, or manufacturer to the exclusion of other producers; (2) does not expressly permit the submission for consideration and possible approval by District in accordance with the requirements of California Public Contract Code §3400 of other "or equal" materials, products, equipment or things produced under or by another brand, trade name or manufacturer; or (3) fails to list a brand, trade name or manufacturer that is known to Consultant or its Sub-

consultants to be a brand, trade name or manufacturer that produces a material, product, equipment, or other thing in California that is equal to the material, product, equipment or other thing specified in the Design Documents.

**17.19 NA**

**17.20.10 Coordination with PMO and Others**

CONSULTANT shall cooperate with all of the DISTRICT's other consultants as required by this Agreement.

**17.24.17 Contract Beneficiaries**

CONSULTANT's contractual relations extend only to DISTRICT, and the services under this Agreement are intended to be performed for the benefit only of DISTRICT.

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first given above.

**DISTRICT:**

SAN BERNARDINO COMMUNITY COLLEGE DISTRICT

BY: \_\_\_\_\_ Date: \_\_\_\_\_

Jose Torres, Executive Vice Chancellor

**CONSULTANT:**

[INSERT FIRM NAME]

[INSERT ADDRESS]

[INSERT TELEPHONE #]

Attention: [INSERT NAME]

BY: \_\_\_\_\_ Date: \_\_\_\_\_

[INSERT NAME]

[INSERT TITLE]

[Hourly Rates and Personnel Classifications will be  
inserted here after Award]

[Confidentiality Agreement will be inserted here after  
Award]

[District Approved Key Personnel and Consultant/Sub-Consultant Documentation will be inserted here after Award]

Conditional Waiver and Release on Progress Payment

Conditional Waiver and Release on Final Payment

Forms Inserted Here



Unconditional Waiver and Release on Progress Payment

Unconditional Waiver and Release on Final Payment

Forms Inserted Here

**DISTRICT TO INSERT PAYEE DATA RECORD HERE**

[RFQP and Addenda will be inserted here after Award]

PLACEHOLDER

[Proposal will be inserted here after Award]

PLACEHOLDER

[District Standards/OPR's to be inserted here before posting]

NOT APPLICABLE

[Campus Standards/OPR Documents to be inserted here  
before posting RFQP]

NOT APPLICABLE

Fee Payment Schedule for Development of Campus Standards

PERCENTAGE OF TOTAL FEE PER PHASE		
Phase	Phase Amount	
<b>Standards</b>		
Initial Review and Preparation/Research and Analyze	5%	
Collect and Recommend	15%	
Standards Draft #1	20%	
Standards Draft #2	20%	
Standards Final	10%	70%
<b>Temporary Swing Space</b>		
Temporary Swing Space Implementation Plan	5%	
Temporary Swing Space Study Process	5%	
Draft Temporary Swing Space Deliverables	10%	
Final Temporary Swing Space Deliverables	10%	30%
		100%

Note: Above table shall be used as a guide for determining payment schedule for design services.

## Reference Documents

### **DISCLAIMER**

The following reports, documents, and other information are provided as “Information Available” for the Project and for reference only. The reports, documents, and other information are not, and shall not become, part of the Contract Documents for the Project. The District makes no representation or warranty as to the accuracy and/or completeness of the information contained in the reports, documents, and other information, and hereby specifically disclaims the accuracy and/or completeness of such reports, documents, and other information. The District has no independent information, independent knowledge, and no expertise, as to what the contents of the reports, documents, and other information mean, and/or how same may or may not affect construction of the anticipated Project. The District makes the disclosure of the existence of the reports, documents, and other information, and all of their contents to ensure that the reports, documents, and other information, and their contents are made known and available to the Consultant. The Consultant is solely responsible for determining any impact on the Project and the Consultant’s pricing and costs regarding the Project. This Disclaimer shall be read as if it is set forth on the face page of all the documents set forth below.

**[Reference Documents to be inserted here]**