REQUEST FOR QUALIFICATIONS (RFQ&P) FOR CONSTRUCTION MANAGEMENT SERVICES AND
THE SADDLEBACK COLLEGE SCIENCES BUILDING PROJECT

South Orange County Community College District (SOCCCD) is inviting submittals from qualified firms, partnerships, corporations, associations, or professional organizations to provide CONSTRUCTION MANAGEMENT SERVICES for various projects. Selection will result in a pool of CONSTRUCTION MANAGEMENT SERVICE providers expected to provide comprehensive professional services to SOCCCD on an as needed basis over the next five years.

In addition to the above, SOCCCD is requesting a project specific proposal for CONSTRUCTION MANAGEMENT SERVICES for the following project.

1. Saddleback College Sciences Building

If you would like to submit a response to this Request for Qualifications and Proposals, please send seven (7) hard copies and one (1) electronic copy of requested materials to:

South Orange County Community College District
Facilities Planning & Purchasing
Health Sciences Building
28000 Marguerite Parkway
Mission Viejo, CA 92692
Attn: Mary Opel

Questions regarding this RFQ&P may be directed to Mary Opel, Construction Manager at Facilities Planning & Purchasing, at (949) 348-6021 or via email at mopel@socccd.edu.

The District may modify this RFQ&P prior to the deadline for submittals by issuance of an electronic addendum on the district bid website. Firms/Individuals (Firm) may confirm an interest in providing a submittal by emailing mopel@socccd.edu. Acknowledging Firms will receive response email with addenda information if any is provided.

All responses must be received by mail, recognized carrier or hand delivered by 11:00 AM November 8, 2013
Late submittals will not be considered
INTRODUCTION

The South Orange County Community College District (SOCCCD) has construction projects planned for their campus locations at Saddleback College, Irvine Valley College and ATEP. Saddleback College is located in Mission Viejo and serves the educational needs of students in the Dana Point, El Toro, Laguna Beach, Laguna Hills, Laguna Niguel, Mission Viejo, San Clemente, San Juan Capistrano and Santa Margarita areas. Irvine Valley College is located in Irvine and serves students in the Irvine, Tustin, Lake Forest and Laguna Beach areas. ATEP is a developing campus located in Tustin and serves the educational needs of students district-wide.

SOCCCD is seeking to establish a pool of qualified providers of CONSTRUCTION MANAGEMENT (CM) SERVICES for new construction, renovation, and scheduled maintenance project services for Saddleback College, Irvine Valley College and the ATEP campuses for a five (5) year period.

SOCCCD is also seeking proposals for CONSTRUCTION MANAGEMENT SERVICES for one project currently in Construction Document design phase. This project is the Sciences Building at Saddleback College.

GENERAL INFORMATION

Overview

SOCCCD is seeking qualified providers of CONSTRUCTION MANAGEMENT SERVICES for various projects. Selected Firms will be determined qualified for a pool from which the District may draw services for the next five (5) years.

Selection for the CONSTRUCTION MANAGEMENT SERVICES pool will be performed by an evaluation committee. If the District determines it to be in their best interest, interviews may be arranged as part of the selection process or later when project specific proposals are requested.

Attached is a copy of the District’s Standard CONSTRUCTION MANAGEMENT SERVICES Agreement (Exhibit B). Specific project needs may include only a portion of the services identified therein. The exact scope of services required by the District will be set forth in a project specific Agreement between the District and the CM Firm and will depend on the specific project needs. Proposing Firms are expected to identify in their submittal those items, if any, in the Agreement for which they would like to request modification. If none, proposing Firms are expected to state no modifications are anticipated.

Following identification of Firms qualified and selected for the pool, the District will request project specific proposals on an as needed basis from the CONSTRUCTION MANAGEMENT SERVICES pool. A contract will be awarded to the Firm(s) which in the judgment of the District best accomplishes the desired results, and shall include, but not be limited to, a consideration of the professional service fee. Notice to Proceed on project work is typically provided immediately upon receipt from the Consultant of required contracts and documentation. The District reserves the right to request proposals from outside of the pool of services at any time.
SOCCCD is also seeking CONSTRUCTION MANAGEMENT SERVICES proposal for the Sciences Building at Saddleback College in Mission Viejo. This project has received DSA approval and is anticipated to start construction December 2013. District requirements are described in this RFQ&P and project specific requirements are included in the attached exhibits D & E. The proposal for this project is to be included with the submission of the RFQ&P proposals as noted in this RFQ&P under section Instructions for submitting qualification and proposals.

Only Firms accepted into the 5 year pool will have their proposals considered for the Sciences Building project.

SUBMITTAL INFORMATION AND SCHEDULE

All submittals shall be in the form and formatted as specified in this RFQ&P. Submittals which do not include all of the elements as specified, or which deviate from the proposed format and content as specified, may be deemed “non-responsive” by the evaluation committee and eliminated from further consideration.

Time is of the essence. Submitting Firms will be expected to adhere to the required dates and times.

The District may modify the RFQ&P prior to the deadline for submittals by issuance of an electronic addendum on the district bid website. Firms may confirm an interest in providing a submittal by emailing mopel@socccd.edu. Acknowledging Firms will receive addenda, if any are developed, by email as well via the website.

Submittal questions must be in writing and be directed to Mary Opel, Construction Manager via email at mopel@socccd.edu with the subject line indicating “Question(s) for CONSTRUCTION MANAGEMENT SERVICES RFQ&P”. If questions are submitted after the deadline, they will not be answered and Firms must provide a submittal using the information in the RFQ&P and any addenda provided.

During the review of the submittals, SOCCCD will not report apparent errors or request submittal clarification. Submittals will be interpreted as presented. Firms are responsible to proof documents to avoid errors.

Request for Qualification & Proposals Submittal Schedule

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
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<tbody>
<tr>
<td>RFQ&amp;P - 1st Advertisement</td>
<td>October 11, 2013</td>
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<tr>
<td>RFQ&amp;P - 2nd Advertisement</td>
<td>October 18, 2013</td>
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<tr>
<td>Deadline email confirmation of interest</td>
<td>October 25, 2013</td>
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<td>Deadline for written questions</td>
<td>November 1, 2013</td>
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<tr>
<td>Last addendum</td>
<td>November 5, 2013, 11:00 AM</td>
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<tr>
<td><strong>Deadline for RFQ&amp;P Submittal</strong></td>
<td><strong>November 8, 2013, 11:00 AM</strong></td>
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The delivery package must be clearly marked with the RFQ&P title, Firm’s name and address, contact name, email and phone number.

Submittals may be withdrawn at any time before the deadline by written request of person signing the Certification.

Late submittals will be returned to the Firm without evaluation and Firm will not qualify for the CONSTRUCTION MANAGEMENT SERVICES Pool. It is the Firm’s responsibility to ensure submittals are received on or before the deadline and at the identified location. A postmark will not be accepted as meeting the delivery requirement. Third party carriers are routed through the warehouse and may experience delay from carriers stated delivery timeframe. Hand delivery should include time allowances for limited parking, the possibility of elevator failure (third floor delivery) or other potential obstacles to reaching the delivery location in a timely manner.

LIST OF FUTURE DISTRICT PROJECTS

Listed below are some of the potential projects that may require CONSTRUCTION MANAGEMENT SERVICES work over the course of the next five years. SOCCCD uses a variety of delivery methods including: Design/Bid/Build, Design-Build, and Lease/Leaseback. Projects other than those listed may be included from the Facilities Master Plans for each of the colleges or from college renovation, modernization or scheduled maintenance projects. Building Envelope Consultant Services may commence in advance of the anticipated construction start date depending on Project Specific needs.

SADDLEBACK COLLEGE CAMPUS

SITE IMPROVEMENTS

This combination of site improvements includes storm drains, parking lots and a quad renovation. The overall construction costs are anticipated at $8,350,000 with an anticipated construction start date of late 2015.

IRVINE VALLEY COLLEGE CAMPUS

BARRANCA ENTRANCE

This project will connect the southern portion of the parameter road to the City’s surface street and will cross city property, an easement held by a public utility and district property. The construction costs are estimated at $1,750,000 with an estimated construction start date of mid-2014.
A 400 RENOVATION

This Design/Build project will demolish an existing 12,000 SF single story structure and replace it with an approximately 24,000 SF two story classroom and offices building. The construction costs are $6,300,000 with a construction start date of February 2014.

A 200 RENOVATION

This renovation of this approximately 16,000 SF single story structure carries an anticipated construction cost of $3,500,000 with an anticipated construction start date of late 2015.

FINE ARTS BUILDING

This new construction of 57,000 SF carries an anticipated construction cost of $25,500,000. Start date contingent upon State funding match.

ATEP CAMPUS

BUILDING ONE - SADDLEBACK BUILDING

The construction cost is anticipated at $14,850,000 with project start date TBD.

BUILDING ONE - IRVINE VALLEY COLLEGE BUILDING

The construction cost is anticipated at $14,850,000 with project start date TBD.

CONSTRUCTION MANAGEMENT SERVICES SCOPE OF WORK

A contract will be executed between SOCCCD and the CONSTRUCTION MANAGEMENT Consultant.

It is expected that the Construction Manager will manage a project from pre-construction (bid) phase to project closeout. There may be times that services will be required during the design phase. Services may be dependent upon delivery method of the project.

The Construction Manager will support the District by performing the activities described in the attached proposed agreement. In general, the construction management firm, at a minimum, may be expected to undertake any of the following for projects:

Design Phase

Work with the architects/engineers to conform and refine designs to correlate designs to the budget and master plan. Perform constructability reviews at appropriate stages of design. Review and

- Report to the District on status of design and regulatory approval versus the schedule for each portion of Project. Attend meetings to coordinate design efforts. Assist in identifying and obtaining all necessary approvals.

Pre-Construction and Bidding Phase

- Develop master schedules and construction schedules for each portion of Project. Develop budgets for each portion of Project based on overall project budgets.

- Conduct pre-bid conferences. Schedule and conduct preconstruction meetings. Assist with prequalification and evaluating response. Conduct bidding and report to District on results. Assist and advise regarding bid protests. Coordinate contracting with selected contractors, including evaluating bonds and insurance.

Construction Phase

- Construction coordination, including time schedules, change orders and problem solving. Enforce performance, scheduling and notice requirements. Monitor schedule and cost information for each prime contractor on each portion of Project. Document the progress and costs of each portion of Project. Report and advise proactively on potential schedule and budget variances and impacts. Recommend potential solutions to schedule and cost problems.

- Work cooperatively with District, architects, other District consultants and contractors to ensure that Project is delivered on time and within budget. Attend weekly job site meetings and prepare and circulate minutes. Evaluate and process payment applications and verify progress. Evaluate and process change order requests.

- Evaluate and track requests for information ("RFIs") and responses. Advise District as to status and criticality of RFI’s. Work with District team to develop lists of incomplete or unsatisfactory work ("punchlists")

- Coordinate submittal of and confirm transmission of necessary reports. Ensure that all of the Project participants submit necessary closeout documentation.

Post-Construction Phase

- Ensure completion of Punchlist work. Coordinate contractor closeout requirements, including guarantees, keys, manuals, as-built drawings, record drawings, daily logs, and verified reports. Set up programs to obtain and monitor warranty work. Advise District staff of systems operations and training to
be provided by contractor. Advise on closeout of project inkling all coast and finalization of all change orders.

REGULATORY REQUIREMENTS

Regulatory Requirements

Experience with the Division of State Architect (DSA), the Uniform/International Building Code (IBC/UBC), Title 24 of the California Code of Regulations and coordination with the District and their consultants will be required.

Firms must pay prevailing wages to those labor classifications requiring the payment of prevailing wages. Questions concerning predetermined wage rates should be directed to www.dir.ca.gov/DLSR/RWD or to the following:

Department of Industrial Relations
Division of Labor Statistics and Research
Prevailing Wages Unit
PO Box 420603
San Francisco, CA 94142
Phone: (415) 703-4474

Firms must hold all necessary registrations/business licenses to perform business in the state, county and city.

INSTRUCTIONS FOR SUBMITTING QUALIFICATIONS AND PROPOSALS

Firms shall submit seven hard copies and one electronic copy. Hard copies shall be formatted on standard 8 ½ x 11 white paper with each page clearly numbered on the bottom. Each section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 shall be tabbed. The original copy shall be marked “Original” and must be wet signed by person authorized to bind the Firm. Additional copies may be photocopies.

Provide information in this order:

1. **Cover Letter** - A maximum one-page, **Introductory Letter** must be submitted including the date, legal name of the respondent, address, telephone and fax numbers, and the name, title, and signature of the person(s) authorized to submit on behalf of the Firm. (one page maximum)

2. **Table of Contents** - A **Table of Contents** of the material contained in the submittal should follow the Cover Letter.

3. **Executive Summary** - The **Executive Summary** should contain an outline of your approach along with a brief summary of your qualifications. (One page maximum). Firm should have an office in Los Angeles, Riverside, San Diego or Orange County.
a. **NOTE: Exhibit F – ‘The qualification matrix’ should be completed and placed in this section behind the executive summary. This form will be used as part of the qualification review process.**

4. **Experience** - Provide any professional registration, certifications and affiliations for the Firm. Describe experience including the scope of relevant projects, description, completion date, and construction costs for relevant projects in the last five years. Provide contact names and phone numbers for each listed project.

Evidence that the Firm is legally certified to conduct business in the State of California for the services offered.

Experience with college and university educational facilities and other institutional services and California Building Code Standards.

List the range of project sizes completed (from very small to very large project) based on construction dollar values.

The Firm must have an acceptable history of working proactively to avoid litigation. Provide specific information on termination for default, litigation settled or judgments entered within the last five (5) years.

If the Firm utilizes resources from more than one office, indicate office locations and how work would be coordinated. (One page for summary and up to five additional to highlight project specific information if appropriate)

5. **Personnel** – This section of the Proposal should establish the ability of the Proposer to satisfactorily perform the required services as demonstrated by its representation of staff availability for future projects and the ability to manage backlog of current services. Information shall further specifically include:

- Work plan with the current work load and next six-month backlog and plan for addressing this work
- Number of qualified staff
- Identification of any services noted in the Agreement(s) not provided in-house
- All personnel assigned to District projects, employees, sub-consultants or subcontractors must:
  - Possess the minimum qualification to perform the services provided
  - Have knowledge and understanding of codes, major services and activities required to perform services provided
  - Have a minimum of three years of directly related experience as noted in submittal attachments
  - Have not entered into a subcontract with any Firms who are ineligible to perform work on a public works project pursuant to Labor Code 17777.1 or 17777.7.
• Include resumes of proposed personnel who would likely be assigned to projects. Provide name and professional qualifications of proposed personnel. Specifically define the role of each person and outline his or her individual experience. Identify any certifications or licenses held. (No more than one page/person)

• Firms must provide a statement that all proposed participants will meet or exceed the minimum qualifications specified herein.

6. **Services** – Provide list of services available from Firm including a brief description of philosophy and process for providing Construction Management services. (Two page maximum)

7. **Additional Data** - Provide additional information about the Firm as it may relate to this RFQ&P. Include unique projects, etc., ongoing professional education of staff and total number of permanent employees. **DVBE** participation level, if any.

8. **Professional Fees and Sample Fee Proposal** - Fees will be based on fully-loaded hourly billing rates for each classification.

   When providing costs, each line item shall include costs for all required overhead expenses including insurance. Travel cost from the Firm’s place of business including time, overhead and related expenditures shall be incorporated into the unit prices for each line item and are not to be identified as separate costs. Firms are expected to perform services at the rate amount in the fee proposal regardless of the possibility that staff is drawn from a variety of office locations.

   Schedule of Fees provided in this submittal will be used as the basis for negotiations throughout the five year duration for the CONSTRUCTION MANAGEMENT SERVICES pool. Any increases must be approved in writing by the District prior to the performance of service.

   Please note that such rate will only be considered for an adjustment on an annual basis (based on the date of mutual execution of the Contract) and upon written request by Firm. Such adjustment will be based on the percentage increase, decrease, set forth in the Consumer Price Index (CPI) for Orange County.

   The final all inclusive rate shall be negotiated after the selection process. Project Specific Agreements will be based on a lump sum basis. The total fees paid to any selected CONSTRUCTION MANAGEMENT CONSULTANT FIRM will be these fees as authorized by the individual Project Specific Agreement.

   No separate payment will be made for any other costs of performance or out of pocket expenses, including, without limitation, mileage or time required for dispatching personnel to the site of work, subsistence, lodging, fuel charge, vehicle use, transmitting reports, administrative charges, or other similar activities necessary for performance of the services except as follows:

   a. Personnel that are required to perform services at a destination that is more than 50 miles from Saddleback College, Irvine Valley College and ATEP shall first obtain written approval and will be reimbursed at the rate for mileage (for such mileage over 50 miles) set forth by the
United States Internal Revenue Services and for per diem travel as set forth by the US General Services Administration. Rates will be negotiated and finalized at execution of the Project Specific Agreement.

b. Clerical labor to compile reports and transmit.

Proposers shall specifically include hourly rates and monthly fees for full time services in their proposals for the following:

- Field Consultant Staff Rate
- Clerical staff
- Overtime and Weekend Rates for the above.
- Proposer may choose to provide an itemized fee schedule for extra or additional services that are not within Scope of Services.

Identify any constraints or assumptions that affect fee. Services that are not specifically included in RFQ exhibits may be added in the blank areas provided as supplementary information. Be thorough and specific as this will form the basis of any contract negotiations for services.

9. **Client References** – This section of the Proposal permits Firms to demonstrate their ability and competence to satisfactorily perform the required services by using similar services recently completed for other clients. Information should be furnished for both the Firm and any sub consultants included in the Proposal and shall include:
   a. Project name, location and description
   b. Client contact name
   c. Telephone number
   d. Email address

10. **Agreement Review** - Review and comment on any proposed modifications to the attached draft Agreement(s). Recommend additional work scope if appropriate to allow for improved outcome for the District.

11. **Proposal for SADDLEBACK COLLEGE SCIENCES BUILDING CONSTRUCTION MANAGEMENT CONSULTANT SERVICES** – Provide a ‘Not to Exceed’ Proposal for Sciences Building Construction Management Consultant Services at Saddleback College. See attached Exhibit E.

12. **Certification** - Complete, provide authorized signature, and date the CERTIFICATION - REQUEST FOR QUALIFICATION & PROPOSALS enclosed with this RFQ&P

Responses to the RFQ&P should be complete and be prepared to provide an insightful, straightforward, and concise overview of the capabilities of your company. Deviation from the defined content, order and format prescribed in this RFQ&P may result a non-responsive evaluation. Submittals received after the due date and time will not be considered or reviewed. The emphasis of your submittal should be on completeness and clarity of content.
The District reserves the right to waive any immaterial deviation in a submittal. The decisions to provide a waiver shall in no way modify or compromise the overall purpose of the submittal, nor excuse the Firm from full compliance with all requirements if awarded an Agreement.

The sample standard agreement (Exhibit B) is not to be included with the Firm’s submittal.

BASIS OF AWARD

The selection of the CONSTRUCTION MANAGEMENT CONSULTANT SERVICES will be a two-stage process.

1. The first stage will be based on analysis principally focusing on specific experience and qualifications.

2. The second stage will be for short-listed Construction Management Consultants invited for an interview to present their full understanding of and responsiveness to this RFQ&P and their specific experience and approach to the specific project.

At the conclusion of the second stage, Construction Management Consultants will be selected on the basis of criteria regarding qualifications, experience, demonstrated competence as well as what is in the best interests of the District as determined by the committee including consideration of fair and reasonable pricing. The successful Firm must demonstrate:

- Qualifications, experience and time commitment of key personnel assigned to provide the services. The Firm’s experience and knowledge in providing Building Envelope Consultant Services

- Reasonable and competitive fees as shown in the fee schedule

MISCELLANEOUS

1. General information about SOCCCD may be found at [http://www.socccd.edu](http://www.socccd.edu). Recent projects are listed at the “Bids” tab. The Master Plan is found at [http://www.socccd.edu/about/about_planning.html](http://www.socccd.edu/about/about_planning.html)

2. All submittals shall remain active and valid for ninety days following closing date for receipt. If selected for the Construction Management Consultant Services Pool, the submittal information may be incorporated into the contract documents and amended with written approval between the parties, as necessary. The District reserves the right to negotiate the scope and cost of any submittal.

3. Selection may be made solely on the basis of the submittal review or the selection committee may deem it necessary to interview applicants as part of the selection process.

4. The proceedings of the selection committee are confidential. Members are not to be contacted by the proposers. All communication between proposers and the District shall be through the contact information provided above for submitting RFQ&P materials.

5. All materials submitted in response to this RFQ&P shall become the property of SOCCCD and shall be considered a part of Public Record. The District reserves the option to retain all submittals, whether selected or rejected.
South Orange County Community College District
310D - RFQ&P Construction Management Services Pool
October 11, 2013

6. Only written changes to the RFQ&P will be valid. Verbal representations will not be binding on either party.

7. SOCCCD reserves the right to reject any or all responses to this RFQ&P. Any and all costs incurred in preparing and submitting a response to this RFQ&P is the sole responsibility of the proposer. This request does not constitute an offer of employment or a contract for services.

QUESTIONS FROM POTENTIAL RESPONDENTS

Questions regarding this project should be directed in writing to:

Questions regarding this RFQ&P may be directed to Mary Opel, Construction Manager at SOCCCD Facilities Planning & Purchasing, at (949) 348-6021 or via email at mopel@socccd.edu.

The District may modify the RFQ&P prior to the deadline for submittals by issuance of an electronic addendum on the district bid website. Firms/Individuals (Firm) may confirm an interest in providing a submittal by emailing mopel@socccd.edu. Acknowledging Firms will receive response email with addenda information if any is provided.

Specific Inclusions

1. Exhibit A: Certification – Request for Qualifications
2. Exhibit B: Sample Agreement for Building Envelope Consultant Services.
3. Exhibit C: Sample fee schedule for extra work
4. Exhibit D: Sample Invoice for monthly billings
5. Exhibit E: Saddleback College Sciences Building Project Proposal Form
6. Exhibit F: Construction Management Consultant – Qualification Matrix
CERTIFICATION - REQUEST FOR QUALIFICATIONS

The undersigned hereby proposes and agrees to furnish any and all required labor, equipment, material, transportation, insurance, and incidentals necessary to provide quality services pertaining to this solicitation in accordance with the terms and conditions of the RFQ&P; declares that the only persons or parties interested in this submittal as principals are those named herein; that this submittal is made without collusion with any other person, firm or corporation; that the undersigned will contract with SOCCCD to provide these services to the District in the manner prescribed herein.

I certify that I have read the attached Request for Qualifications – Construction Management Services and the instructions for submitting an RFQ&P. I further certify that I am authorized to bind the Firm noted in this submittal contractually, know that I must provide five copies of the Firm’s submittal in response to this request and that I am authorized to commit the Firm to the submittal.

I acknowledge the following addenda(s) _________________________

__________________________________________  ______________________________________
Signature                                           Typed or Printed Name

__________________________________________  ______________________________________
Title                                               phone

__________________________________________  ______________________________________
Address                                             email
SAMPLE ‘PROJECT SPECIFIC’ AGREEMENT: CONSTRUCTION MANAGEMENT SERVICES FOR PROJECT (TBD) AT SOCCCD CAMPUS (TBD)

This AGREEMENT is made and entered into this XXth day of (Month) in the year 201X between South Orange County Community College District, 28000 Marguerite Parkway, Mission Viejo, California 92692, hereinafter referred to as "DISTRICT", and (Name of Building Envelope Consultant Firm) xxxx Street, xxx, California, xxx, hereinafter referred to as "CONSULTANT";

WHEREAS, DISTRICT desires to obtain Construction Management Consultant services for the (Name of Project), hereinafter referred to as "PROJECT (TBD)" located at “CAMPUS (TBD)” in the DISTRICT; and

WHEREAS, CONSULTANT is fully licensed as required by the State of California, experienced and competent to provide CONSULTANT services in conformity with the laws of the State of California;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I - CONSULTANT’S SERVICES AND RESPONSIBILITIES

1. **Basic Services.** The CONSULTANT’s services shall consist of those services performed by the CONSULTANT and CONSULTANT’s employees as enumerated in this AGREEMENT.

2. **Standard of Care.** The CONSULTANT’s services shall be performed in a manner which is consistent with professional skill and care and the orderly progress of the work. The CONSULTANT represents that he/she will follow the standards of his/her profession in performing all services under this AGREEMENT the terms hereof and applicable law, code, rule or regulations. CONSULTANT shall without additional compensation, correct or revise any errors or omissions in its studies, reports, and other services.

3. **Key Individual Assignment.** The CONSULTANT has been selected to perform the work herein because of the skills and expertise of key individuals. The CONSULTANT shall designate xxx as a Project Manager, xxx, and as Principal in Charge. So long as their performance continues to be acceptable to the DISTRICT, these named individuals shall remain in charge of the Project. Additionally, the CONSULTANT must furnish the name of all other key people in CONSULTANT’s firm that will be associated with the Project.

4. **Replacement of Key Individual.** If the designated project manager or any other designated lead or key person fails to perform to the satisfaction of the DISTRICT, then upon written notice the CONSULTANT will have 10 working days to remove that person from the Project and replace that person with one acceptable to the DISTRICT. A project manager and all lead or key personnel for any SUBCONSULTANT must also be designated by the CONSULTANT and are subject to all conditions previously stated in this paragraph.
7. **Relationship of CONSULTANT to Other Project Participants.** CONSULTANT’s services hereunder shall be provided in conjunction with contracts between the DISTRICT and: (a) the Architect; (b) the Contractor; (c) the Inspector; (d) Test/Inspection Service Providers; and (e) others providing services in connection with bidding and/or construction of the Project. The Architect is responsible for the adequacy and sufficiency of the Project design and the contents of Design Documents for the Project. The Architect shall perform its duties in accordance with its contract(s) with the DISTRICT. Except as expressly set forth herein, neither this Agreement, nor CONSULTANT’s rendition of services hereunder shall be deemed CONSULTANT’s assumption of responsibility for the adequacy or sufficiency of the Project design or the Design Documents for the Project, which are and remain that of the Architect. CONSULTANT shall coordinate all work with DISTRICT consultants as necessary to complete contract requirements.

8. **Acceptance of Project Schedule.** The CONSULTANT shall accept the DISTRICT’s project schedule for the performance of the CONSULTANT’s services. The schedule may be adjusted as the PROJECT proceeds by mutual written agreement of the parties and shall include allowances for time required for the DISTRICT’s review and for approval by authorities having jurisdiction over the PROJECT. The time limits established by this schedule shall not, except for reasonable cause, be exceeded by the CONSULTANT.

The services covered by this AGREEMENT shall be completed within (TBD) months of the date of this AGREEMENT except for the post construction phase work.

**ARTICLE II - SCOPE OF CONSULTANT’S SERVICES**

**Pre-Construction Phase**

1. **Project Bidding and Construction Strategy.** The CM shall, in conjunction with the DISTRICT, review the Design Documents. The objective of the review is to confirm constructability for the development of an overall strategy for bidding and constructing the Project. The CM shall conduct such interviews and participate in meetings and conferences with the Architect, DISTRICT staff, and others as necessary to develop a bidding and construction strategy consistent with the objectives for the Project. Upon completion of these services and prior to commencing any other Basic Services under this Agreement, the CM shall submit its written bidding/construction strategy to the DISTRICT for review and acceptance, which shall include any phasing necessary and identify Project staging strategies. The CM shall modify its written Project bidding/construction strategy as necessary to obtain mutual acceptance of the strategy by the DISCTRICT and CM.

2. **Review of Design Documents.** The CM, including the CM’s Project Manager and Field Superintendent for Project construction, shall review the Design Documents completed by the Architect to attain a complete understanding of the design and scope of the Project.
   a. **Value Engineering:** The CM’s review of the Design Documents shall include value engineering analysis. If, upon completing its review of the Design Documents, the CM believes that in the Design Documents construction processes/procedures, specified materials/equipment or other aspects of the Design Documents can be
modified to reduce Construction Costs and/or the time for achieving Final
Completion of the Project and/or to extend life-cycle and/or to reduce
maintenance/operations costs, without diminution in the quality of
materials/equipment/workmanship, scope or intended purposes of the Project,
the CM shall identify the same and recommend modifications to the Design
Documents in writing to the DISTRICT for review. The DISTRICT shall have the sole
and exclusive discretion to incorporate some, all or none of the CM’s
recommendations relative to modifications(s) to the Design Documents, the CM
shall review the Design Documents as modified by the Architect for confirmation
that the District accepted modifications to the Design Documents are
incorporated into the Design Documents issued by the DISTRICT for bidding by the
Contractor

b. Constructability Review. The CM shall review the Design Documents to ascertain
whether the Project, as depicted in the Design Documents are accurate and
complete and that the contractor can construct the Project as depicted in the
Design Documents. The scope of the CM’s constructability reviews shall include,
without limitation, (a) confirmation that requirements noted in the drawings and
specifications are consistent and in conformity with DISTRICT requirements for the
Project and (b) that the work product of the Architect and its design consultants
have been coordinated and are consistent. CM’s constructability review and
recommendations(s) shall be provided in a written report to the DISTRICT

Limitation on the CM’s Constructability Review. In conducting a constructability
review of the Design Documents, the CM shall not be responsible for providing
nor will the CM have control over the Project design, design requirements, design
criteria, or the substance or contents of the Design Documents. By performing
constructability reviews and making recommendations described herein, the CM
shall not be acting in a manner so as to assume responsibility or liability, in whole
or in part, for any aspect of the Project design, design requirements, design
criteria, or the substance or contents of the Design Documents. The CM’s
constructability reviews and recommendations as provided herein are to be
advisory only to the DISTRICT and the Architect.

3. Master Construction Schedule. The CM shall develop and submit to the DISTRICT for review and
acceptance a Master Construction Schedule which shall reflect all of the work necessary to
complete Project construction. The Master Construction Schedule shall be prepared with the
most recent edition of commercially available software designed specifically for the scheduling of
construction projects and which utilizes the critical path method of scheduling. The CM’s use of
scheduling software other than Microsoft Project Professional 2010, Microsoft Project
Professional 2013, Primavera SureTrak or Primavera Project Planner P6 will require written
approval of the DISTRICT which may be granted, withheld or conditioned in the sole discretion of
the DISTRICT. The Master Construction Schedule shall indicate the start/finish dates for the
principal activities necessary to complete Project construction. The CM shall sequence, schedule
and coordinate the Master Construction Schedule in a logical, reasonable and orderly manner so
that project construction is completed within the Construction Budget and within the time
established by the DISTRICT. If the DISTRICT’s requirements for the Project include phasing elements of Project construction, the DISTRICT’s phasing requirements shall be set forth in the Master Construction Schedule. The CM acknowledges that the Master Construction Schedule prepared by the CM will be relied upon during the review of the Contractor’s schedule submittal to arrive at the Master Construction Schedule.

4. Construction Budget: CM Estimate of Construction Costs: The CM shall review the DISTRICT’s Construction Budget for the Project and Construction Cost Estimates prepared by others for the Project as depicted in Design Documents as of the date of this Agreement. Based upon such reviews, the CM shall prepare the Construction Cost Estimates for the Project depicted in such Design Documents. The Construction Cost Estimate shall be based upon the then current market conditions and shall include a construction cost contingency equal to ten percent (10%) of the Construction Cost Estimates. If the Construction Cost Estimates exceed the Construction Budget by ten percent (10%) or greater, the CM shall make written recommendations to the DISTRICT to reduce the Construction Cost Estimates to conform to the Construction Budget. If the Construction Cost Estimates are less than the Construction Budget by ten percent (10%) or more, the CM shall make written recommendations to the DISTRICT for items to incorporate into the Project to conform the Construction Cost Estimates to the Construction Budget.

CM’s Best Judgment. Evaluations of the DISTRICT’s Project Budget, preliminary estimates of Construction Costs and detailed estimates of construction costs prepared by the CM represent the CM’s best judgment as a person or entity familiar with the construction industry. It is recognized, however, that neither the CM nor the DISTRICT has control over the cost of labor, materials or equipment, over Contractor’s methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the CM cannot and does not warrant or represent that bids or negotiated prices will not vary from the Project budget proposed, established or approved by the DISTRICT, or from any cost estimate or evaluation prepared by the CM.

5. Review and Assembly of Project Bid Documents. The CM shall review and provide written recommendations and modifications to the DISTRICT’s standard forms of bid and contract documents for the Project. The CM shall assist the DISTRICT in assembly of bid and contract documents for the Project.

6. The Authority to Bid. The CM shall review all approvals obtained by or on behalf of the DISTRICT relating to authority of the DISTRICT to engage in bidding construction of the Project. If there are limitations to the DISTRICT’s authority to bid the Project, the CM shall advise the DISTRICT in writing of the same and assist the DISTRICT in removing such limitations.

7. Bidding of Project:

a. Advertisements. The CM shall assist the DISTRICT in development and placement of advertisements for competitively bidding the Project in a newspaper of general circulation in Orange County. The CM shall also make written recommendations to the DISTRICT for placement of notices and issuance of other communications for the purpose of publicizing the availability of the Project for bidding by contractors. The CM shall assist the DISTRICT in placing such notices and issuing communications for such purposes.
b. Contractor Pre-Qualification. The DISTRICT has a policy of pre-qualifying contractors for all contracts over One Million Dollars ($1,000,000). The CM shall assist the DISTRICT in: (a) development of pre-qualification criteria and the pre-qualification application; (b) development and placement of an advertisement in a newspaper of general circulation in Orange County of the availability of pre-qualification applications; (c) development and implementation of a program to inform potential contractors subject to pre-qualification of the pre-qualification process and to encourage potential contractors to engage in the pre-qualification process; and (d) review and evaluation of responses to the pre-qualification application. CM shall provide District with written recommendations for selection of contractors deemed qualified to submit bids for the Project.

c. Dissemination of Project Bid Documents to Contractors. The CM shall establish a system for dissemination of Project bid documents to contractors and for maintaining records of the identities/addresses/telephone-fax numbers/email addresses of the contractors who have obtained Project bid documents. The CM shall, by all appropriate means of communication, advise contractors of the availability of the Project for bidding by contractors. The CM shall endeavor to maximize the participation of qualified contractors whose principal place of business is situated in the Orange County area. The CM shall maintain records of contacts made and communications transmitted to/received from contractors. All such records shall be available for review and/or reproduction by the DISTRICT.

d. Pre-Bid Conference(s). The CM shall conduct pre-bid conferences, including the job walk(s), if one is required or scheduled in the Project bid documents. The pre-bid conference shall include without limitation: (a) description of the Project; (b) description of the process for bidding and award of contract; and (c) material requirements of the contract relating to bonds, insurance and similar administrative matters. The job walk shall provide contractors with an overview of the Site and an understanding of the physical limitations and constraints affecting the Project. As necessary or appropriate, the CM shall conduct separate, detailed pre-bid conferences with contractors. The CM shall record and transcribe minutes of the pre-bid conferences and job walk(s).

e. Opening/Reading of Bid Proposals. The CM shall assist the DISTRICT in the public opening and reading of bid proposals. Upon completing the public opening and reading of bid proposals, the CM shall summarize the results of bidding for the District in the format required by the District.

f. Review of Bid Proposals: Recommendations for Award of Contract. The CM shall review submitted bid proposals to determine: (a) whether the bid proposal is responsive to material bidding requirements; (b) whether the contractor submitting the bid proposal is a responsible bidder; and (c) the lowest price proposed for the Project. The CM shall make written recommendations to the DISTRICT regarding: (a) rejection of a bid proposal for non-responsiveness to material bidding requirements; (b) rejection of a bid proposal based upon the
“non-responsibility” of the contractor; (c) rejection of a bid proposal for any other reason; (d) rejection of all bid proposals; and (e) award of the Contract and to the extent that the bidding for the Contract included Alternate Bid Items, written recommendations for the Alternate Bid Items, if any, to be included in the scope of the Contract. The CM is not authorized to award the Contract. Award of the Contract shall only be by action of the DISTRICT’s Board of Trustees.

**Construction Phase**

1. Administration and Coordination of the Contract and Construction. CM will provide administrative, management, and related services necessary to administer the Project and to coordinate the work of the Contractor during the Construction Phase of the Project including but not limited to: (a) receive, review for compliance with Project bid documents and forward to the DISTRICT and the Architect, the Contractor’s Certificates of Insurance and Bonds; (b) advise and recommend to the DISTRICT whether to issue the Notice to Proceed directing commencement of work on the Project; (c) schedule, coordinate and conduct pre-construction and construction meetings; (d) record, maintain and distribute minutes of pre-construction and construction meetings; (e) in consultation with the Architect, develop and implement procedures for the receipt and processing of Submittals; (f) in consultation with the DISTRICT and the Architect, develop and implement procedures for the handling and disposition of the Contractor’s requests for information or clarifications; (g) establish and implement procedures for the transmittal and receipt of communications, drawings and other information between CM, Architect and the Contractor relating to Project construction; (h) assist the DISTRICT in the identification, selection and retention of Test/Inspection Service Providers and the Inspector; (i) coordinate activities of the Contractor Inspector and Test/Inspection Service Providers; and (j) allocate Site staging and storage areas.

2. Monitoring of Construction Costs. CM will monitor on-going Construction Costs and advise the DISTRICT of the financial condition of the Project by: (a) development of Project financial reports to the DISTRICT, including those reflecting variations between actual Construction Costs and the Construction Budget and estimated costs of unperformed Project activities; (b) maintaining records reflecting the actual costs for activities completed or in progress, including records relating to work performed on a unit costs basis and additional work performed by the Contractor; (c) monitoring and advising the DISTRICT of costs pertaining to potential, pending and completed changes to the work of the Contractor; and (d) advising and making written recommendations to the DISTRICT for adjustments to the Construction Budget relative to actual or anticipated Construction Costs. The CM shall prepare and submit cost reports to the DISTRICT on a monthly basis. The extent of detail and the nature of the format of such reports, the information compiled by the CM and reports generated by the CM shall specifically indicate the original amount of the Contract, the extent of adjustment to the Contract by DISTRICT approved Change Orders and the extent of potential further adjustment of the Contract as of the date of the CM’s report based...
upon potential changes known at the time of the CM’s preparation of the cost report. The format for such reports must be pre-approved in writing by the DISTRICT.

3. Applications for Progress Payments. CM will participate in the review of progress payments to the Contractor and in consultation with the DISTRICT and the Architect, make written recommendations for the disbursement of progress payments to the Contractor as follows: (a) CM will assist in the development of procedures for submittal, review, processing, and disbursement of progress payments to Contractor, along with associated forms and reporting systems; (b) based upon CM’s observations and evaluations of each application for progress payment, CM will review and certify to the DISTRICT the amount due on each such application for progress payment and CM’s written certifications constitute a representation to the DISTRICT that, based on CM’s observations and evaluations at the Site, the data in the application for progress payment accurately reflects that the work has progressed to the point indicated in the application for progress payment and the quality of the work is in accordance with the Contract for the Project; and (c) CM’s representations relative to each application for progress payment are subject to an evaluation of the work for conformity with the requirements of the Contract for the Substantial Completion of the Project, results of subsequent tests, inspections and other procedures, minor deviations correctable prior to completion and any specific qualifications expressed by CM. CM’s acceptance of an application for progress payment pursuant to the preceding shall be a representation that the Contractor is entitled to payment in the amount so certified. The CM’s review of each application for progress payment shall be undertaken and completed within one week of receipt by CM so that the DISTRICT can meet its obligations to make progress payment due the Contractor within the time permitted by applicable law without incurring interest liability or other penalties/liabilities.

4. Substantial Completion; Punchlist. In consultation with the Architect and the DISTRICT, the CM will assist in ascertaining the achievement of Substantial Completion of the Project. If upon inspection of the work of the Contractor, the CM determines that Substantial Completion has not been achieved, the CM will assist the Architect in noting the conditions of the work and the measures necessary for the Contractor to achieve Substantial Completion of Project construction. Upon the Contractor achieving Substantial Completion, the CM will participate with the DISTRICT and the Architect to inspect the work completed by the Contractor to note punchlist items to be completed by the Contractor as a condition to achieving Final Completion of the Project.

5. Project Progress:

a. Master Construction Schedule. During the Pre-Construction Phase, CM will, in consultation with the DISTRICT, develop an overall comprehensive Master Construction Schedule for construction of the Project showing the activities of the Contractor necessary for completion of Project construction. CM shall monitor the Master Construction Schedule on a monthly basis so that the DISTRICT is kept fully informed at all times of the status and progress of overall Project construction and status of the Contractor’s construction progress. Where the actual rate of Project construction progress is behind that indicated by the Master
Construction Schedule, CM shall advise and make written recommendation to the DISTRICT for remedial action.

b. Coordination of Construction Activities. CM shall coordinate the activities of the Contractor with those of the CM, the Architect, Inspector, Test/Inspection Service Providers and the DISTRICT in conformity with the Master Construction Schedule, including the coordination and sequencing of Contractor’s construction activities so that Site space is appropriately allocated and the Master Construction Schedule is maintained. A material obligation of the CM under this Agreement is the coordination of the activities of the Contractor in a manner so that Project construction is completed in accordance with the Master Construction Schedule and within the Construction Budget.

c. Progress Reports. CM will maintain records of the progress of Project construction, including written progress reports and photographs reflecting the status of Project construction and percentage completion. All changes will be documented on an “As-Built” set of documents which will record all RFIs, architectural supplement information, substitutions and change orders. The Contractor’s field changes (location, material, undocumented changes, etc.) will be incorporated monthly during the pay application review and reviewed monthly with the DISTRICT. CM will maintain daily reports during Project construction showing weather conditions, the Contractor and their Subcontractors by count, visitors at the Site, work accomplished, problems encountered and other matters materially affecting the Project, completion of the Project or Construction Costs in a format approved by the DISTRICT. CM will provide a monthly progress report including a narrative on the construction progress identifying any critical items and proposed solutions, an on-going chronology of milestone events, a graph with one axis for expenditure and the other for time showing actual in comparison to anticipated, an on-going and updated change order log, a pay request summary including percent complete and a bulleted 30 day look ahead list of upcoming activities. All documents shall be in a format approved by the DISTRICT.

d. Substantial Completion and Final Completion. Upon request of the Contractor, CM will in conjunction with the DISTRICT, Inspector, and the Architect determine that Substantial Completion and Final Completion have been achieved for the Project. Upon determining that Substantial Completion/Final Completion of the Project has been achieved, the CM shall issue Certificates of Substantial Completion and Final Completion, as applicable.

6. Site Observations

a. CM On-Site. At all times during which there are construction activities, CM shall have its management team as identified in Article I Section 1.3 agreed by the DISTRICT, or other authorized representative at the Site to observe Site construction activities and to coordinate the activities of the Contractor. CM shall maintain at the Site the Contract, Drawings, Specifications, approved Change Orders, Submittals, applicable laws, codes, rules, regulations and ordinances and other written or electronic materials relating to the Project.
b. CM and Contractor. With respect to the Contractor’s work, the CM shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work of the Contractor since these are solely the Contractor’s responsibility under the Contract. The CM shall not be responsible for a Contractor’s failure to carry out the work in accordance with the respective Contract. The CM shall not have control over or charge of acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons performing portions of the work not directly employed by the CM.

c. Construction Quality. The CM will guard the DISTRICT against defects and deficiencies in construction and workmanship on the basis of its Site observations, and CM will be responsible to report observations of any of the above mentioned activities to the DISTRICT. CM will establish and implement a quality control program to monitor the workmanship of the Contractor for conformity with: (a) accepted industry standards; (b) applicable laws, codes, rules, regulations, or ordinances; (c) and the requirements of the Contract.

d. Rejection of Work. Whenever in the ordinary course of discharging its services hereunder, CM shall discover or observe patent conditions of defective or deficient construction or workmanship which has or may have an adverse impact upon building life-safety systems or operations, structural elements or integrity or the safety of persons or property, CM shall take prompt action appropriate under the circumstances, including stopping the work and thereupon notifying the DISTRICT in writing. In other circumstances, where defective or deficient work is observed by CM, the DISTRICT shall be notified in writing by the CM of such conditions and if directed by the DISTRICT, the CM shall stop or reject such work. CM’s responsibilities hereunder shall be limited to defective or deficient work of an apparent and patent nature.

e. Site Safety.

i. District Safety Program. Prior to any Contractor’s performance of work at the Site, the CM shall review the DISTRICT’s safety program, and meet and confer with the DISTRICT’s Directors of Safety and Health to review the DISTRICT’s safety program and to address measures to be implemented by the CM to coordinate the safety of the Contractor with the DISTRICT’s safety program.

ii. Contractor Safety Program. CM shall review the safety program of the Contractor for conformity with the DISTRICT’s safety program, requirements of the Contract and applicable law. CM shall monitor the Contractor’s compliance with both the District and the Contractor’s safety programs and advise the DISTRICT of measures, if any, necessary or appropriate to obtain the Contractor’s compliance. The CM is responsible for verifying that the Contractor has established a safety program, that the safety program established by the Contractor is in compliance with applicable law, and that the Contractor has implemented its safety program.
iii. Safety Violations; Safety Conditions. The CM shall promptly notify the DISTRICT in writing of all CM observed instances of a Contractor’s failure to comply with applicable safety requirements. In the event of a safety violation or other unsafe conditions on or about the Project Site which have an immediate potential or actual adverse effect on life or property, the CM is authorized, without prior notice or prior directive of the DISTRICT, to take all actions deemed necessary and appropriate by the CM under the existing circumstances to prevent such actual or potential adverse effect.

iv. Site General Conditions. At all times during construction activities at the Site, the CM shall provide or cause to be provided the items of personal property and services identified in Exhibit “B” (General Conditions Items/Services) attached to this Agreement. The items and services identified in Exhibit “B” are services included in the CMs’ compensation for Basic Services set forth in Article 7.

7. Changes and Claims.

   a. Coordination of Changes. CM will coordinate and disseminate correspondence, drawings and other written materials by and between the Contractor, the District, Inspector, Test/Inspection Service Providers and the Architect relating to changes to the Contract. CM will coordinate the Contractor’s performance of changes authorized by the DISTRICT. CM will maintain a log or other written records in a format previously approved by the DISTRICT to monitor the disposition of changes and Change Orders to keep the DISTRICT advised of the status of the same and the actual or potential impact of any particular change or Change Order or the cumulative effects thereof on Construction Costs or time for completion of Project construction.

   b. Processing of Changes and Change Orders. CM will assist the DISTRICT and the Architect in evaluation of requests by Contractor for issuance of Change Orders, assist in negotiations with Contractor relative to Change Orders proposals and the adjustment of Contract price or Contract time. CM will make written recommendations to the DISTRICT and the Architect for handling and disposition of the Contractor’s proposals relative to Change Orders. If a change to the Contract is approved or authorized by the DISTRICT, CM will assist the DISTRICT and the Architect in the preparation of a Change Order reflecting such approved or authorized change to the Contract. The CM is not authorized, without the prior written consent and approval of the DISTRICT, to effectuate or authorize any change to the Contract. The CM shall be liable to the DISTRICT for all direct and consequential costs, losses or damages resulting from the CM’s direction or authorization to effectuate a change to the Contract without the prior consent and approval of the DISTRICT.
c. Claims Handling. CM will assist the Architect in the review, evaluation and processing of claims asserted by Contractor. CM will make written recommendations to the DISTRICT as to merit, handling, and disposition of Contractor’s claims.

Post-Construction Phase

1. Review and Transmittal of Contractor Close-Out Documents. The CM shall receive from the Contractor the close-out documents and items to be submitted by the Contractor under the terms of its Contract upon completion of its obligations under the Contract. The CM shall review the Contractor’s close-out documents and items to determine conformity with requirements of the Contract. If the CM determines that the Contractor’s close-out documents and items are not in conformity with requirements of the Contract, the CM shall make written recommendations to the DISTRICT for measures to secure compliance with the requirements of the Contract. The CM shall deliver to the DISTRICT all of the Contractor’s close-out documents and items, except for the Contractor’s as-built drawings which the CM shall transmit to the Architect for preparation of the Record Drawings.

2. CM Project Records. Within thirty (30) days of the date of issuance of a certificate of Final Completion for the Contract, the CM shall assemble and deliver to the DISTRICT all of the Project records maintained during the Construction Phase by the CM relating to the Project. Notwithstanding any provision of this Agreement to the contrary or any provision of law to the contrary, all documents, work product, whether of a tangible or intangible nature, whether in draft or final form and whether recorded in writing or any other medium, including without limitation, electronic files relating to the Project or this Agreement, are the sole and exclusive property of the DISTRICT.

3. Contractor’s Post-Construction Obligations. If the Contractor is obligated under the terms of its Contract to provide work, labor, materials or services after completion of Project construction, the CM shall monitor Contractor’s post-construction activities for conformity with requirements of the Contract. The CM shall make written recommendations, as necessary, for securing Contractor’s compliance with post-construction obligations.

4. Project Reports. The CM shall monitor the filing of DSA reports and other actions required by applicable law, code rule, regulation or ordinance to be undertaken by the Architect, Inspector, Test/Inspection Service Provider, or Contractor upon completion of Project construction. If the Architect, Inspector, Test/Inspection Service Provider, or the Contractor has not filed reports or taken other actions required upon completion of Project construction, the CM shall make written recommendations to the DISTRICT for measures to secure compliance by the Architect, Inspector, Test/Inspection Service Provider, or the Contractor with regard to such requirements. The CM will assist the DISTRICT in completion and submission of reports and other actions required to be undertaken by the DISTRICT upon completion of Project construction pursuant to applicable law, code, rule, regulation, or ordinance or otherwise required to allow the DISTRICT to use/occupy the Project for the purposes intended.
ARTICLE III - ADDITIONAL CONSULTANT’S SERVICES

1. The CONSULTANT shall be given additional compensation for the services described in Article III.

2. CONSULTANT shall notify the DISTRICT in writing of the need for additional services required due to circumstances beyond the CONSULTANT’s control. CONSULTANT shall obtain written authorization from the DISTRICT before rendering such services. Compensation for such services shall be compensated based on attached standard hourly rates. Such services shall include:
   a. Material Project Scope Changes. Services required or necessary as a result of significant changes in the Project scope or other requirements of the Project, including Project size, quality, or complexity or material changes to the Master Construction Schedule.
   b. Termination/Default of Architect or Contractor. Services required or necessary as a result of the default or termination of the Architect or the Contractor, failure of Performance of the Contractor, or major defects or deficiencies in the work of the Contractor.
   c. Damage or Destruction to Project. Except to the extent caused by the CM, services and consultation associated or necessitated by damage or destruction to the Project prior to completion by an act of God, fire or other casualty
   d. Future Systems. Services related to future systems, facilities or equipment not included within the scope of the Project.
   e. Investigation of Existing Conditions. Services to investigate existing conditions or facilities or to provide measured drawings thereof.
   f. Furniture, Furnishings, Equipment Not in Project Scope. Service in connection with the DISTRICT’s selection, procurement or installation of furniture, furnishings or equipment not included within the scope of this Project.

3. Compensation for Additional Services. If the duration of CM services is extended, due to the DISTRICT’s need for Additional Services, the CM shall be entitled to additional compensation as set forth in Exhibit A. Escalation may be applied to services performed beyond the duration of the original Contract at a rate negotiated between the DISTRICT and CM. The CM shall provide a written request for such escalation with analysis of anticipated resource expenditure to the DISTRICT in a format pre-approved by the DISTRICT.

ARTICLE IV: TERM OF SERVICES
1. **Time is of the Essence.** Time is of the essence in the performance of each Party’s obligations under this Agreement, including without limitation CONSULTANT’s performance of the service required hereunder and DISTRICT’s payment of all sums due to CONSULTANT.

2. **Term.** Services under this Agreement shall be diligently performed by the CONSULTANT for XXXX months. This term shall be extended at no cost to the DISTRICT as result of delays caused directly by CONSULTANT actions. Should services be necessary after the expiration of XXXX months of service, they can be provided as Additional Services in accordance with the Billing Rates as provided in Exhibit “A” (TBD for each specific project). Extensions to the duration of the CONSULTANT services shall be addressed as outlined in Article III.

3. **Suspension Notice.** DISTRICT may suspend this Agreement at any time without penalty by written notice to CONSULTANT of such suspension. (refer to Article VII)

**ARTICLE IV – INDEMNITY AND INSURANCE**

1. **CONSULTANT Indemnity of District.** CONSULTANT shall indemnify, defend and hold harmless the Indemnified Parties from all claims, demands, liabilities, actions and causes of action arising out of this Agreement, including without limitation, claims for bodily injury, death, physical property damage (other than to the work of the Project itself and property damage covered by a Builders Risk Insurance obtained by the Contractor) and demands, losses, liabilities or other claims arising out of CONSULTANT’s services hereunder or the negligent, willful acts or omissions. The Indemnified Parties are: the DISTRICT, the DISTRICT’s Board of Trustees and each individual member thereof and the employees, officers, agents and representatives of the DISTRICT. The CONSULTANT’s obligations hereunder shall survive termination of this Agreement and the completion of obligations hereunder, until barred by the applicable statute of limitations.

2. **Hold Harmless.** To the fullest extent permitted by law, CONSULTANT agrees to indemnify and hold DISTRICT, and its board of Trustees, officers, employees and agents, entirely harmless from all liability arising out of:

   a. **Workers Comp Claims.** Any and all claims under workers' compensation acts and other employee benefit acts with respect to CONSULTANT's employees or his/her subcontractor's employees arising out of CONSULTANT's work under this AGREEMENT including a waiver of subrogation; and

   b. **Consultant Negligence.** Any and all claims for damages costs and/or charges caused by CONSULTANT's negligent acts, errors and/or omissions, recklessness or willful misconduct in the performance of his/her obligations as stated in this AGREEMENT, or the negligent acts, errors and/or omissions, recklessness or willful misconduct of CONSULTANT's consultants, employees or agents in the performance of their obligations under this AGREEMENT. The coverages of such indemnification shall include, without limitation attorneys' fees and court costs incurred by DISTRICT with regard thereto. Said indemnity is
intended to apply during the period of this AGREEMENT of CONSULTANT’s performance and shall survive the expiration or termination of this AGREEMENT until such time as any matter covered by such indemnity is barred by the applicable statute of limitations.

c. **Reimbursement for Defense.** Regarding the defense of any claim embraced by CONSULTANT’s indemnity, each indemnitee shall control its own defense and at the time of claim resolution CONSULTANT will reimburse the indemnitees for all costs reasonable and appropriately incurred in this regard to the extent of any fault by or attributable to CONSULTANT’s negligence and to the extent covered by CONSULTANT’s liability insurance.

2. **CONSULTANT shall purchase and maintain insurance** with an insurer or insurers, qualified to do business in the State of California and acceptable to DISTRICT policies of insurance, which will protect CONSULTANT and DISTRICT from claims which may arise out of or result from CONSULTANT’s actions or inactions relating to the AGREEMENT, whether such actions or inactions be by themselves or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The aforementioned insurance shall include coverage for:

a. **Workers’ Compensation and Employers Liability Insurance.** CONSULTANT shall purchase and maintain Workers’ Compensation Insurance covering claims under workers’ or workmen’s compensation, disability benefit and other similar employee benefit acts under which CONSULTANT may be liable. CONSULTANT shall purchase and maintain Employer’s Liability Insurance covering bodily injury (including death) by accident or disease to any employee which arises out of the employee’s employment by CONSULTANT. The Employer’s Liability Insurance required of CONSULTANT hereunder may be obtained by CONSULTANT as a separate policy of insurance or as an additional coverage under the Worker’s Compensation Insurance required to be obtained and maintained by CONSULTANT hereunder.

b. **Comprehensive general and auto liability.** CONSULTANT shall purchase and maintain Commercial General Liability and Property Insurance as will protect CONSULTANT from the types of claims set forth below which may arise out of or result from CONSULTANT’s services under this Agreement and for which CONSULTANT may be legally responsible: (i) claims for damages because of bodily injury, sickness or disease or death of any person other than CONSULTANT’s employees; (ii) claims for damages insured by usual personal injury liability coverage which are sustained (a) by a person as a result of an offense directly or indirectly related to employment of such person by CONSULTANT, or (b) by another person; (iii) claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; (iv) claims for damages because of bodily injury, death of a person or property damages arising out of ownership, maintenance of use of a motor vehicle; (v) contractual liability insurance
applicable to CONSULTANT’s obligations under this Agreement; and (vi) for completed operations.

Consultant shall purchase and maintain comprehensive general and auto liability insurance with limits of not less than 1,000,000 combined single limit, bodily injury and property damage liability per occurrence, including:

1. owned non-owned and hired vehicles;
2. blanket contractual;
3. broad form property damage;
4. products/completed operations; and
5. personal injury.

c. **Professional liability insurance**, including contractual liability, with limits of 1,000,000. Such insurance shall be maintained during the term of this AGREEMENT and renewed for a period of at least 5 years thereafter if available to the professional and/or at rates consistent with the time of execution of this AGREEMENT adjusted for inflation. In the event that CONSULTANT subcontracts or assigns any portion of his/her duties, he/she shall require any such subcontractor to purchase and maintain insurance coverage as provided in this subparagraph.

d. **Additional Insured**. Each policy of insurance required in (b) above shall name DISTRICT, District Board of Trustees, District officers, District agents, District employees, and District Contractors as additional insureds and shall state that, with respect to the operations of CONSULTANT hereunder, such policy is primary and any insurance carried by DISTRICT is excess and non-contributory with such primary insurance. Each policy of insurance stated in (a) and (b) above shall state that not less than thirty (30) days' written notice shall be given to DISTRICT prior to cancellation; and, shall waive all rights of subrogation. CONSULTANT shall notify DISTRICT in the event of material change in, or failure to renew, each policy.

3. **State Authorized Insurers**. All policies of insurance required hereunder shall be issued by insurer(s) authorized to issue insurance by the State of California and to the reasonable satisfaction of the DISTRICT. Coverages under each policy of insurance, whether by endorsement or otherwise, shall provide that such policy will not be materially modified, canceled or allowed to expire without at least thirty (30) days advance written notice to the District.

4. **Prior to commencing work**, CONSULTANT shall deliver to DISTRICT certificates of insurance as evidence of compliance with the requirements herein. In the event CONSULTANT fails to secure or maintain any policy of insurance required hereby excepting professional liability, DISTRICT may, at its sole discretion, secure such policy of insurance in the name of and for the account of
CONSULTANT, and in such event CONSULTANT shall reimburse DISTRICT upon demand for the cost thereof.

4. **DISTRICT Indemnity of CONSULTANT.** The DISTRICT shall indemnify, defend and hold harmless CONSULTANT from all claims arising out of this Agreement, including without limitation, claims for bodily injury (including death) and physical property damage (other than to the work of the Project itself and property damage covered by a Builders Risk Insurance) which arise out of the negligent or willful acts, work of the omissions. The DISTRICT shall cause the Contractor to indemnify CONSULTANT to the same extent as the DISTRICT is indemnified and to have the CONSULTANT named as an additional insured on all policies associated with the Project.

5. **Coverage Amounts**

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<thead>
<tr>
<th>Insurance Policy</th>
<th>Minimum coverage Amount</th>
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<tbody>
<tr>
<td>Workers Compensation</td>
<td>In accordance with applicable law</td>
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<tr>
<td>Employers Liability</td>
<td>One Million dollars ($1,000,000)</td>
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<tr>
<td>Professional Liability</td>
<td>One Million ($1,000,000) per occurrence and One Million dollars ($1,000,000) project specific in the aggregate</td>
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**ARTICLE V - COMPENSATION TO THE CONSULTANT**

The DISTRICT shall compensate the CONSULTANT as follows:

1. **Contract Price for Basic Services.** The Contract Price for the CONSULTANT’s performance of the Basic Services under this Agreement shall consist of the following lump sum prices:

   (a) Pre-Construction & Design Phase $ XX,XXX
   (b) Construction Phase and Post-Construction Phase (Close Out) $ XX,XXX
   (c) Job Site Overhead Costs $ XX,XXX

   **TOTAL:** $ XX,XXX
1. **Price Inclusions.** The Contract Price is inclusive of personnel expenses (inclusive of all benefits and burdens), fees and personnel expenses of any sub-consultant or subcontractor to the CONSULTANT, travel for personnel to and from the Site, travel within the Counties of Los Angeles, Orange, Riverside, San Diego, San Bernardino and Ventura, insurance and all other overhead/administrative expenses or costs associated with performance of the Basic Services, except for Allowable Reimbursable Expenses described in this Agreement. At no time shall meals be considered a reimbursable expense.

2. **CONSULTANT Monthly Billing Statements.** CONSULTANT shall submit monthly billing invoices to the DISTRICT for payment of the Contract Price for Basic Services, authorized Additional Services, and previously approved and allowable Reimbursable Expenses performed or incurred in the immediately prior month in a format previously approved by the DISTRICT. Previously approved and allowable Reimbursable Expenses shall be itemized and evidence shall be provided of the cost or value of any Allowable Reimbursable Expense costs for which payment is requested by CONSULTANT. Basic Services are to be invoiced in X equal monthly amounts of $XXX for Pre-Construction and Bid Phase and X equal monthly amounts of $XXX for Construction Phase and Post-Construction Phase (Close-out) and Jobsite Overhead Costs.

3. **DISTRICT Payment of Contract Price.** Within thirty (30) days of the date of the District’s receipt of CONSULTANT’s billing invoices, DISTRICT will make payment to CONSULTANT of undisputed amounts of the Contract Price due for Basic Services, authorized Additional Services, and Allowable Reimbursable Expenses. No deductions shall be made or withheld from payments due CONSULTANT hereunder if CONSULTANT shall fail to timely and completely perform material obligations to be performed on its part under this Agreement, with the amounts withheld or deducted being released after CONSULTANT has fully cured it failure of performance, less costs, damages or losses sustained by the DISTRICT as a result of such failure of performance of a material obligation hereunder.

4. **Withholding Payment.** The DISTRICT may, however, withhold or deduct from amounts otherwise due CONSULTANT hereunder if CONSULTANT shall fail to timely and completely perform material obligations to be performed on its part under this Agreement, with the amounts withheld or deducted being released after CONSULTANT has fully cured it failure of performance, less costs, damages or losses sustained by the DISTRICT as a result of such failure of performance of a material obligation hereunder.

5. **Payment in Full.** This compensation shall be compensation in full for all services performed by the CONSULTANT under the terms of this AGREEMENT, except where additional compensation is agreed upon between the CONSULTANT and DISTRICT in writing as provided for as additional services.

6. **Monthly Payments.** Payments for CONSULTANT services shall be made monthly and, where applicable, shall be 95% of the services performed within each phase of service, on the basis set forth in paragraph 1. 100% payment will be made upon DISTRICT acceptance of each phase.

7. **Late payments.** Invoices shall be on a form and in the format approved by the DISTRICT. Payments are due and payable upon receipt of the CONSULTANT’s invoice. Amounts unpaid thirty (30) days
after the invoice date shall bear interest at the legal rate prevailing at the time, at the site of the PROJECT.

8. **Schedule Delay.** To the extent that the time initially established for the completion of CONSULTANT's services is exceeded or extended through no fault of the CONSULTANT, compensation for any services rendered during the additional period of time may be computed as follows: at standard hourly rates. See Exhibit (attached with Sample Agreement) or as a fixed fee.

9. **Reimbursable Expenses** incurred by the CONSULTANT and CONSULTANT's employees and consultants in the interest of the PROJECT shall have prior DISTRICT written approval before incurred and records of such expenses shall be provided to DISTRICT for the DISTRICT's review. The District shall not be liable to CONSULTANT for any costs or expenses paid or incurred by CONSULTANT in performing services for DISTRICT, except reimbursable expenses that have been pre-approved in writing. Expenses may be invoiced during the monthly pay request at cost plus 10% markup.

   a. Reimbursable expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the CONSULTANT and CONSULTANT's employees and consultants in the interest of the Project.

   b. Reimbursable expenses shall be expense of transportation in connection with the Project; expenses in connection with authorized out-of-town travel; long-distance communications; and fees paid for securing approval of authorities having jurisdiction over the Project. CONSULTANT's normal travel expense (including to and from the project) and meals are excluded.

   c. Expense of reproductions, except those needed for the use of the CONSULTANT and his or her consultants or identified specifically as a deliverable, postage and handling of Drawings, Specifications and other documents are reimbursable upon DISTRICT's prior written approval.

   d. If authorized in advance in writing by the DISTRICT, expense of overtime work requiring higher than regular rates will be reimbursed.

   e. Expense of renderings, models and mock-ups requested by the DISTRICT if not part of CONSULTANT's Basic Services will be reimbursed.

   f. For reimbursable expenses, compensation shall be computed at a multiple of one point one (1.1) times the expenses incurred by the CONSULTANT, the CONSULTANT's employees and consultants in the interest of the Project.

      Cost + 10%

   g. For additional services of consultants, compensation shall be computed at a multiple of one point one (1.1) times the amounts billed to the CONSULTANT for such services.

      Cost + 10%
ARTICLE VI – CONSULTANTS DOCUMENTS

1. **District Ownership of Documents.** The documents prepared by the CONSULTANT for this PROJECT shall be and remain the property of the DISTRICT pursuant to Education Code Section 17316. Such documents supplied as herein required shall be the property of the DISTRICT whether or not the work for which they were made is executed. CONSULTANT grants to the DISTRICT the right to copy, use, modify, and reuse any and all copyrights and designs embodied in the documents prepared or caused to be prepared by the CONSULTANT pursuant to this AGREEMENT.

2. **Documentation.** The CONSULTANT shall make a written record of all meetings, conferences, discussions and decisions made between or among the DISTRICT, CONSULTANT and Contractor during all phases of the PROJECT and concerning any material condition in the requirements, scope, performance and/or sequence of the work. The CONSULTANT shall provide a draft copy of such record to the DISTRICT for review and comment, make adjustments and provide a final copy to the DISTRICT and a copy to the Contractor upon request.

3. **Electronic Copy of Documents.** The CONSULTANT shall perform the work under this agreement and shall deliver electronic copy of all reports and documentation via CD or DVD in PDF format upon completion of each of the three phases, design, construction, and post construction. If work is terminated prior to completion, a copy of the work completed to date shall be provided to the DISTRICT.

4. **Copyright/Trademark/Patent.** CONSULTANT understands and agrees that all matters produced under this AGREEMENT shall become the property of DISTRICT and cannot be used without DISTRICT’s express written permission, except CONSULTANT shall distribute copies of his reports to DSA and other parties as required by California Administrative Code, Title 24. DISTRICT shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the DISTRICT. CONSULTANT consents to use of CONSULTANT’s name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

ARTICLE VII – TERMINATION

1. **Termination for Convenience.** DISTRICT may, at any time, with or without reason, terminate this AGREEMENT and compensate CONSULTANT only for services satisfactorily rendered to the date of termination. 30 day written notice by DISTRICT shall be sufficient to stop performance of services by CONSULTANT. Notice shall be considered applicable as of the date established on the termination notice and deemed given when received by the CONSULTANT or no later than three days after the day of mailing, whichever is sooner.
2. **Termination for Cause.** DISTRICT may terminate this AGREEMENT upon giving of written notice of intention to terminate for cause. Cause shall include: (a) material violation of this AGREEMENT by the CONSULTANT; or (b) any act by CONSULTANT exposing the DISTRICT to liability to others for personal injury or property damage; or (c) CONSULTANT is adjudged a bankrupt, CONSULTANT makes a general assignment for the benefit of creditors or a receiver is appointed on account of CONSULTANT's insolvency. Written notice by DISTRICT shall contain the reasons for such intention to terminate and unless within ten (10) days after service of such notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this AGREEMENT shall upon the expiration of the ten (10) days cease and terminate. In the event of such termination, the DISTRICT may secure the required services from another contractor. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to DISTRICT. Written notice by DISTRICT shall be deemed given when received by the other party or no later than three days after the day of mailing, whichever is sooner.

3. **Termination by Either Party.** This AGREEMENT may be terminated without cause by the DISTRICT upon not less than 7 days written notice to the CONSULTANT. This AGREEMENT may be terminated by either party upon not less than 7 days written notice should the other party fail substantially to perform in accordance with the terms of this AGREEMENT through no fault of the party initiating the termination.

2. **Suspension of Project.** The District may suspend this Agreement at any time without penalty by written notice to CONSULTANT of such suspension. The Suspension Notice shall set forth the reason for the suspension, the anticipated term of the suspension and shall be provided to the CONSULTANT not less than fifteen days prior to the suspension date. If the PROJECT is suspended by the DISTRICT for more than ninety consecutive days, the CONSULTANT shall be compensated for services satisfactorily performed prior to such suspension. When the PROJECT is resumed, the CONSULTANT's compensation shall be equitably adjusted to provide for expenses incurred in the interruption and resumption of the CONSULTANT's services.

3. **Abandonment of Project.** If the DISTRICT abandons the PROJECT for more than ninety consecutive days, the CONSULTANT shall be compensated for services satisfactorily performed prior to the abandonment and CONSULTANT may terminate this AGREEMENT by giving not less than 7 days written notice to the DISTRICT.

4. **Non Payment.** The DISTRICT's failure to make payments to the CONSULTANT in accordance with this AGREEMENT shall be considered substantial nonperformance and cause for termination by the CONSULTANT.

   a. In the event the DISTRICT fails to make timely payment, the CONSULTANT may, upon 7 days written notice to the DISTRICT, suspend performance of services under this AGREEMENT. Unless payment in full is received by the CONSULTANT within 7 days of the date of the notice, the suspension shall take effect without further notice. In the event of
a suspension of services, the CONSULTANT shall have no liability to the DISTRICT for delay or damage caused the DISTRICT because of such suspension of services.

6. **Consultant Compensation.** The CONSULTANT shall be compensated for services satisfactorily performed prior to a termination which is not the fault of the CONSULTANT. The DISTRICT shall pay the CONSULTANT only the fee associated with the services provided, since the last billing and up to the notice of termination.

7. **Liability for District Damages.** In the event of termination due to the fault of CONSULTANT, CONSULTANT shall receive compensation due for services satisfactorily rendered prior to the date of termination. The CONSULTANT is liable for all damages suffered by the DISTRICT due to CONSULTANT’s failure to perform as provided in the AGREEMENT.

**ARTICLE VIII – DISPUTES, MEDIATION AND ARBITRATION**

1. **Work to Continue.** In the event of a dispute between the parties as to performance of the work, the interpretation of this Agreement, or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute. Pending resolution of the dispute, CONSULTANT agrees to continue to diligently perform and provide services hereunder until completion of the work. If the dispute is not resolved, CONSULTANT agrees it will neither rescind this Agreement nor stop the progress of the work. The DISTRICT and CONSULTANT agreed that, in the event that a dispute comes to litigation, each party will bear its own legal expenses.

2. **Mediation Requirements.** All claims, disputes or controversies arising out of or relating to the Project or to this agreement or the breach thereof shall be first attempted to be resolved through mediation.

3. **Agreement Governance.** Unless otherwise provided, this Agreement shall be governed by the law of the state and county where the Project is located.

**ARTICLE IX - DISTRICT’S RESPONSIBILITIES**

1. **District Provided Information.** The DISTRICT shall provide to the CONSULTANT full information regarding requirements for the PROJECT, including information regarding the DISTRICT’s objectives, schedule, constraints and criteria.

2. **District Representative.** The DISTRICT shall appoint a representative authorized to act on the DISTRICT’s behalf with respect to the PROJECT. The DISTRICT or its authorized representative shall render decisions in a timely manner pertaining to documents submitted by the CONSULTANT.

3. **District Notification.** The DISTRICT shall give prompt written notice to the CONSULTANT if the DISTRICT becomes aware of any fault or defect in the PROJECT or nonconformance with the construction contract. However, the DISTRICT’s failure or omission to do so shall not relieve the CONSULTANT of his/her responsibilities hereunder and the DISTRICT shall have no duty to observe, inspect or investigate the PROJECT.
ARTICLE X - MISCELLANEOUS

1. **Affirmative Action.** CONSULTANT agrees that CONSULTANT will not engage in unlawful discrimination in employment of persons because of race, ethnicity, religion, nationality, disability, gender, marital status or age of such persons.

2. **Compliance with Applicable Laws.** The services completed herein must meet the approval of the DISTRICT and shall be subject to the DISTRICT’s general right of inspection to secure the satisfactory completion thereof. CONSULTANT agrees to comply with all federal, state and local laws, rules, regulations and ordinances that are now or may in the future become applicable to CONSULTANT, CONSULTANT’s business, equipment and personnel engaged in services covered by this AGREEMENT or accruing out of the performance of such services.

3. **CONSULTANT Accounting Records.** Pursuant to and in accordance with the provisions of Government Code Section 8546.7 or any amendments thereto, all books, records, and files of the DISTRICT and the CONSULTANT, including, but not limited to the costs of administration of this Agreement, shall be subject to examination and audit of the State Auditor at the request of the DISTRICT or as part of any audit of the DISTRICT for a period of three (3) years after final payment is made under this agreement. During this time, CONSULTANT shall maintain accounting records and make them available upon request of the DISTRICT for reproduction or inspection.

4. **Cumulative Rights; Non Waiver.** Duties and obligations imposed by this Agreement and rights and obligations hereunder are in addition to and not in lieu of any imposed by or available at law or inequity. The failure of DISTRICT or CONSULTANT to seek redress for violation of, or to insist upon, the strict performance of any term or condition of this AGREEMENT shall not be deemed a waiver by that party of such term or condition, or prevent a subsequent similar act from again constituting a violation of such term or condition.

5. **Definitions**
   a. **Contract.** A Contract for Construction awarded by the DISTRICT to a Contractor for the construction of a portion of the Project.
   
   b. **Contractor.** A Contractor to the DISTRICT under a Contract awarded by the DISTRICT for construction of the Project.
   
   c. **Design Documents.** The Drawings, Specifications, calculations and other work product and Instruments of Service prepared by or on behalf of the Architect for the Project. Design Documents include surveys, soil reports and other documents prepared for the Project by a licensed Architect or registered Engineer, whether under contract to the Architect or DISTRICT.
d. **Architect.** The Architect is (XXX XXX). References to the Architect include (XXX XXX) and its consultants retained to prepare or provide any portion of the Design Documents.

e. **Submittals.** Shop Drawings, Product Data or Samples prepared or provided by a Contractor or a Subcontractor to a Contractor or suppliers illustrating some portion of work of the Project.

f. **Site.** The physical area for construction and activities relating to construction of the Project.

g. **Construction Contract Documents.** The Contract Documents issued by or on behalf of the DISTRICT under a Contract for construction of the Project. Construction Contract Documents include all modifications issued by or on behalf of the DISTRICT. Unless otherwise expressly stated, references to the Construction Contract Documents are referenced to all of the Contract Documents issued for the Contract awarded for Project construction.

h. **Substantial Completion.** Substantial Completion is when the Work of a Contract has been completed and installed and the Work can be used or occupied for its intended purposes, subject only to minor corrections, repairs or modifications.

i. **Final Completion.** Final Completion is when all of the Work of a Contract has been completed and installed (including items noted for correction, repair or modification upon Substantial Completion) and the Contractor has completed all other obligations to be performed on its part under the Contract.

6. **Employment with Public Agency.** CONSULTANT, if an employee of another public agency, agrees that CONSULTANT will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this AGREEMENT. Additionally, No member, officer or employee of the DISTRICT during tenure or for one year thereafter, shall have any interest direct or indirect, in this Agreement or the proceeds thereof.

7. **Full Force of Remaining Contract.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof will nevertheless continue in full force and effect and shall not be affected, impaired or invalidated in any way.

8. **Governing Law.** This AGREEMENT shall be governed by the laws of the State of California. The duties and obligations of the parties created hereunder are performable in Orange County and such county shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.
9. **Independent Contractor.** CONSULTANT, in the performance of this AGREEMENT, shall be and act as an independent contractor. CONSULTANT understands and agrees that he/she and all of his/her employees shall not be considered officers, employees or agents of the DISTRICT, and are not entitled to benefits of any kind or nature normally provided employees of the DISTRICT and/or to which DISTRICT’s employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker’s Compensation. CONSULTANT assumes the full responsibility for the acts and/or omissions of his or her employees or agents as they relate to the services to be provided under this AGREEMENT. CONSULTANT shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes for the respective CONSULTANT’s employees.

10. **Marginal Headings; Captions.** The titles of the various Paragraphs of the Agreement and the Articles of these Conditions are for convenience of reference only and are not intended to and in no way shall enlarge or diminish the rights or obligations of CONSULTANT and DISTRICT hereunder.

11. **Non-Assignment.** The obligations of the CONSULTANT pursuant to this AGREEMENT shall not be assigned by the CONSULTANT. Nothing contained in this AGREEMENT shall create a contractual relationship with or a cause of action in favor of any third party against either the DISTRICT or CONSULTANT. The sale or transfer of a majority membership interest in CONSULTANT firm or the admission of new member to the CONSULTANT firm which causes there to be a change in majority ownership and / or control of CONSULTANT firm shall be deemed and assignment for purposes of this Agreement. Nothing contained in this Agreement is intended to make any person or entity who is not a signatory to the Agreement a third party beneficiary of any right created by the Agreement or by operation of law.

12. **Permits/Licenses.** CONSULTANT and all CONSULTANT’s employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this AGREEMENT.

13. **Notifications.** All notices or demands to be given under this AGREEMENT by either party to the other shall be in writing and given either by: (a) personal service or (b) by U.S. Mail, mailed either by registered or certified mail, return receipt requested, with postage prepaid. Service shall be considered given when received if personally served requiring signature acknowledging receipt, or if mailed, on the third day after deposit in any U.S. Post Office. The address to which notices or demands may be given by either party may be changed by written notice given in accordance with the notice provisions of this section.

14. **Communications** between the parties shall be sent to the following addresses:

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>CONSULTANT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Manager</td>
<td></td>
</tr>
<tr>
<td>South Orange County</td>
<td></td>
</tr>
</tbody>
</table>
15. **Entire Agreement / Amendment.** This AGREEMENT and any exhibits attached hereto represent the entire AGREEMENT between the DISTRICT and CONSULTANT and supersede all prior negotiations, representations or agreements, either written or oral with respect to the services contemplated. This AGREEMENT may be amended or modified only by an agreement in writing signed by both the DISTRICT and the CONSULTANT.

16. **Binding Agreement.** The DISTRICT and CONSULTANT, respectively, bind themselves, their partners, officers, successors, assigns and legal representatives to the other party to this AGREEMENT with respect to the terms of this AGREEMENT.

17. This AGREEMENT entered into as of the day and year first written above.

DISTRICT  CONSULTANT

SOUTH ORANGE COUNTY  (Signature)
COMMUNITY COLLEGE DISTRICT  (Printed name)

Dr. Debra L. Fitzsimons  (Title)
Vice Chancellor, Business Services

(Date)  (Date)

(Taxpayer number)
SAMPLE: CRITERIA AND BILLING FOR EXTRA WORK

The following rates which include overhead, administrative cost and profit shall be utilized in arriving at the fee for extra services. The hourly rates reflected below shall be effective as of the date of execution of this Contract and shall be revised each twelve (12) months; thereafter based upon changes in the Consumer Price Index for the previous twelve month period, using the CPI for the geographical area of the CONSULTANT.

<table>
<thead>
<tr>
<th>CONSULTANT Services</th>
<th>Fee Per Hour</th>
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<tbody>
<tr>
<td>Project Executive/Director</td>
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<tr>
<td>Project/Construction Manager</td>
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<tr>
<td>Project Superintendent</td>
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<td>Asst. Project/Construction Manager</td>
<td>$XXX</td>
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<tr>
<td>Project Engineer</td>
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<td>Pre-Construction Director</td>
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<tr>
<td>Senior Estimator</td>
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<tr>
<td>Scheduler</td>
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<tr>
<td>Clerical</td>
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</table>
RFQ&P - Exhibit D

SAMPLE: TEMPLATE FOR MONTHLY INVOICE

Invoices for services shall be provided once per month and within 60 calendar days of performance of the services.

Invoice

Project Manager: 
Date: TBD

South Orange County Community College District
28000 Marguerite Parkway
Mission Viejo, CA 92692-3635

SOCCCD Project Number: TBD
Consultant Invoice number: TBD
Purchase Order: TBD

Project: Saddleback College Sciences Building
RE: Construction Management Services
Consultant TBD
Consultant Address
City / State / Zip code
Phone Number

Professional Services from Month/ 01/Year - Month/31/Year

<table>
<thead>
<tr>
<th>Billing</th>
<th>Percent of Fee</th>
<th>Fee</th>
<th>% Comp</th>
<th>Earned</th>
<th>Previous Billing</th>
<th>Current Billing</th>
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<tr>
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<tr>
<td>Job Site Overhead Costs</td>
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Amendment 01

REVISED CONTRACT AMOUNT

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<th>% Comp</th>
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Reimbursable Expenses

List reimbursable items

Total Reimbursable rate at 1.1 times

TBD 1.1 TBD
REQUEST FOR PROPOSAL: SCIENCES BUILDING, CONSTRUCTION MANAGEMENT SERVICES AT SADDLEBACK COLLEGE

South Orange County Community College District (SOCCCD) is requesting ‘Not to Exceed’ proposals to provide Construction Management Services for the Sciences Building project at Saddleback College located at 28000 Marguerite Parkway, Mission Viejo, CA 92692.

The Sciences Building is a new 81,000 sq/ft. three story building on the Saddleback College Campus. The project was designed by Dougherty + Dougherty Architects LLP and will be constructed by C.W. Driver using a Lease-Leaseback delivery method. The project will be brace frame, with metal studs and exterior plaster. The project status is in the 100% Construction Document with approval by DSA. Construction is expected to extend from December 2013 – December 2015.

The Sciences Building has a requirement to meet LEED gold standards. Refer to the RFQ and Sample Agreement for additional District requirements for all Construction Management Services agreements, including quantities of meetings, and deliverables.

CONSTRUCTION MANAGEMENT CONSULTANT SERVICES SCOPE OF WORK

Construction Management Consultant services are delineated as follows:

Construction Phase

1. The Consultant shall provide the following:
   - Administration and Coordination of the contract and construction
   - Monitor construction costs
   - Oversee contractor progress payment application process
   - Monitor construction schedule
   - Coordinate construction activities with District and their consultants
   - Issue project status reports
   - Oversee and monitor punchlist, substantial completion and final completion processes.
   - On-site daily site observation
   - Monitor construction quality
   - Ensure compliance with District Safety Program.
   - Coordinate and process changes and claims

Post Construction Phase

1. The Consultant shall provide the following:
South Orange County Community College District  
310D - RFQ&P Construction Management Services Pool  
October 11, 2013

- Review and transmittal of contractor close-out documents  
- Submission of CM project records  
- Oversight and monitoring of contractor’s post-construction obligation  
- Issuance of project close-out reports

Refer to the attached agreement for additional scope information.

The ‘Not to Exceed’ proposal amount is to include all costs for the Building Envelope Consultant scope of work. The actual contracted amount may be negotiated for a reduced scope of work.

**Proposed Amount for Construction Management Services for the Saddleback College Sciences Building**

“Not To Exceed Amount” ($____________________)

In Words ________________________________________________________________

Provide proposed breakdown

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Construction Phase and Post-Construction Phase</td>
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<tr>
<td>Job Site Overhead Costs</td>
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<tr>
<td>Reimbursable Allowance:</td>
<td>$ X,XXX (TBD)</td>
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<tr>
<td>Total:</td>
<td>$ XXX,XXX (TBD)</td>
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</tbody>
</table>

Construction Management Firm Name  
Signature and Date
### Construction Management Consultant RFP - Qualification Matrix

**Firm**

**Location (City / State)**

**NOTE:** Firm to validate quantities listed on this sheet with supporting documentation in appropriate proposal tab sections. The completed matrix is to be inserted behind the Executive Summary in Tab 3.

<table>
<thead>
<tr>
<th>TAB</th>
<th>Description</th>
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<tbody>
<tr>
<td>1</td>
<td>Cover Letter - Professional / Format / Signed.</td>
</tr>
<tr>
<td>2</td>
<td>Table of Contents - Correct &amp; Professional</td>
</tr>
<tr>
<td>3</td>
<td>Executive Summary - professional - coherent - relevant - concise</td>
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</table>

**NOTE:** Include a copy of this Matrix with highlighted cells filled in

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<td>Years in business (min 3)</td>
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<td></td>
<td>Location - proximity to campuses</td>
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<table>
<thead>
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<th>Community College</th>
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<tr>
<td>06-15 Million Construction Value</td>
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</tr>
<tr>
<td>16-30 Million construction Value</td>
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<td>31 - 100+ million Construction Value</td>
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<tr>
<th></th>
<th># Contract terminations in last 5 years</th>
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<td># Mediation / Litigation in last 5 years</td>
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<tr>
<th>5</th>
<th>Personnel</th>
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<td># of in-house PMs &gt; 5 years experience</td>
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<th>6</th>
<th>Services - Philosophy re BEC services</th>
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<td>Quality Control - Process, etc.</td>
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<th>Additional Data re. Company</th>
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<td>Other</td>
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<tr>
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<td>Hourly rate</td>
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<tr>
<td>Project Executive/Director</td>
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<td>Project/Construction Manager</td>
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<td>Project Superintendent</td>
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<td>Asst. Project/Construction Manager</td>
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<tr>
<td>Project Engineer</td>
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<tr>
<td>Pre-Construction Director</td>
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<tr>
<td>Senior Estimator</td>
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<td>Scheduler</td>
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<td>Clerical Support</td>
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<tr>
<th>9</th>
<th>References &amp; Recommendations</th>
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<tbody>
<tr>
<td></td>
<td># of References with phone #s</td>
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<tr>
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<td># of Written Recommendations from past clients</td>
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<tr>
<th>10</th>
<th>Agreement Review</th>
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<tbody>
<tr>
<td></td>
<td># of Proposed Changes to scope (to improve project success)</td>
</tr>
<tr>
<td></td>
<td># of Exceptions to Agreement Conditions - (proposed eliminations)</td>
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<tr>
<td></td>
<td># of Serious Exceptions to Agreement - (required eliminations)</td>
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<th>11</th>
<th>SC Sciences Building NTE Proposal Amount</th>
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<th>Certification signed w correct # of addenda noted</th>
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**This column to be filled in by SOCCCD**

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<th>Firm Input</th>
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**Sub Total**

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<th>Review Comments</th>
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**Total**