

**REQUEST FOR QUALIFICATIONS AND PROPOSALS – LABOR COMPLIANCE SERVICES: SOUTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT**

South Orange County Community College District (DISTRICT) is inviting submittals from qualified firms, partnerships, corporations, associations, or professional organizations to provide Labor Compliance Services for the DISTRICT. The proposal evaluation will result in an Agreement expected to provide comprehensive professional services to DISTRICT beginning February 1, 2018

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 Department  
Health Sciences Building  
28000 Marguerite Parkway  
Mission Viejo, CA 92692  
Attn: Brandye K. D’Lena**

Questions regarding this RFQ&P may be directed to Brandye K. D’Lena at 949-582-4678 or via email at [bdlena@socccd.edu](mailto:bdlena@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 at [www.socccd.edu](http://www.socccd.edu).

**All responses must be received by mail, recognized carrier or hand delivered by**

**December 5, 2018, 2:00 P.M.**

**Late submittals will not be considered**

**NOTICE CALLING FOR BIDS**

**District:** SOUTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT  
**Project:** NO. 369D: RFQ & P for Labor Compliance Services  
**Bid Deadline:** 2:00 P.M., December 05, 2018  
**Mailing Address &  
Place of Bid Receipt:** South Orange County Community College District  
Health Sciences Building, 3<sup>rd</sup> Floor, Room HS-357  
Facilities Planning Department  
28000 Marguerite Parkway  
Mission Viejo, CA 92692  
Attn: Brandye K. D'Lena

NOTICE IS HEREBY GIVEN that the South Orange County Community College District, of Orange County, California, acting by and through its Governing Board, hereinafter referred to as "DISTRICT," will receive up to, but not later than, the above-stated time, sealed submittals by qualified firms for consideration for Labor Compliance Services for a five (5) year period.

A complete Request for Qualifications & Proposals may be viewed at the Office of the Executive Director of Facilities Planning Department at the above address, telephone (949) 582-4678 or previewed on-line at [www.socccd.edu](http://www.socccd.edu) at the Bids link.

The Labor Compliance Services Firm shall possess the appropriate credentials and/or business license at the time a proposal is submitted.

The DISTRICT reserves the right to reject any or all submittals or to waive any irregularities or informalities in any proposals.

No bidder may withdraw any bid for a period of ninety (90) calendar days after the date set for bid opening.

Brandye K. D'Lena  
Executive Director, Facilities Planning

PUBLISH: THE ORANGE COUNTY REGISTER  
November 20, 2018  
&  
November 27, 2018

## INTRODUCTION

The DISTRICT seeks to procure Labor Compliance Services for a period of five years beginning February 1, 2019 through January 31, 2024. The proposal evaluation timeframe is expected to be less than one month. The selected team will work with the Facilities departments at District services, Saddleback College and Irvine Valley College, take an active leadership role in the entire process, meet regulatory requirements, and prepare all final documents.

The District is requesting qualification statements and proposals from consultants with a proven track record. At a minimum, proposers are expected to have five years' experience performing labor compliance services for K-12 and community college districts with a preference for experience with community college districts.

It is the intent of this Request for Qualifications and Proposals (RFQ&P) to establish the specifications, terms and conditions governing the evaluation process.

## GENERAL INFORMATION

### Overview

The District consists of two colleges and a developing campus: Saddleback College, Irvine Valley College and the Advanced Technology and Education Park (ATEP).

Saddleback College, located in Mission Viejo, celebrating its 50th anniversary this year. Saddleback College is approximately 175 acres and serves over 26,000 students each year.

Irvine Valley College, located in Irvine, was founded in 1979 as Saddleback College North Campus and established as Irvine Valley College July 1, 1985. Irvine Valley College is approximately 100 acres and serves over 15,000 students each year.

ATEP, the Advanced Technology Education Park, opened its doors to students in 2007 with a new permanent building completed March of 2018.

The DISTRICT is seeking qualified providers of Labor Compliance Services for various projects. The selected Firm will perform Labor Compliance services for the DISTRICT for the next five (5) years.

Selection for the Labor Compliance services 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 on the date noted in this RFQ&P. The DISTRICT will notify Firms of the specific time for their interviews after receipt and review of proposals if interviews occur.

Labor Compliance services will include both the document review and occasional site observation to verify reported performance and other required items by the Department of Industrial Relations.

Project specific agreements will be written for comprehensive services for each project separately as determined to be in the best interest of the DISTRICT and in alignment with the terms defined during negotiations stemming from this RFQ&P.

It is the DISTRICT'S general intent to award agreements for Labor Compliance services during the pre-construction phase of a project in order that the Labor Compliance consultant be present during the preconstruction activities past close out to completion of all labor compliance requirements. A summary of the Scope of Work identified in the Sample Contract includes the following activities:

- Assist with obtaining PWC100 project number,
- Inform the contractors of the project labor compliance requirements,
- Perform work throughout the construction project evaluating and reporting monthly on completeness and compliance of each contractor and subcontractor's submittal in relationship to releasing pay requests,
  - Provided summary of any non-compliance,
  - Define necessary resolutions,
  - Track progress, and
  - Notify DISTRICT of all, including identifying when issue is resolved and all payments may be released,
- Respond to all associated public records requests including procurement clarifications,
- Prepare all associated DIR filings and reports including annual report, and
- Provide the DISTRICT with monthly status reports

Attached is a copy of the DISTRICT'S standard Labor Compliance Consultant Services Agreement (Attachment B). The exact scope of services required by the DISTRICT will be set forth in a project specific Agreement between the DISTRICT and the Labor Compliance Firm and will depend on the specific project needs including any changes to labor compliance regulations. Proposing Firms are expected to identify in their submittal those items, if any, in the Agreement for which they would like to request modification and are expected to provide recommendations for contract improvement, if appropriate. If none, proposing Firms are expected to state no modifications are anticipated and no improvements are recommended.

The evaluation and selection will be based on which Firm is determine to be most technically qualified and in the judgment of the DISTRICT best accomplishes the desired results, and shall include, but not be limited to, a consideration of the professional services fee. Each proposing Firm will be required to provide a proposal for the following sample project:

**Sample Project.** The DISTRICT requests a proposal for the Calatrava Building project. This 82,000 gross square feet, new building project equals construction costs of \$39,500,000, is anticipated to start construction February 2, 2019 and have a 24-month duration. This is a design-build delivery method.

Following selection of the Labor Compliance Firm, the DISTRICT will negotiate the terms of the contract and these agreed upon terms will be used from that point forward for each project specific proposal which

will arise on an as needed. Notice to Proceed on project work is typically provided immediately upon receipt from the Firm of required contracts and documentation.

## SUBMITTAL INFORMATION AND SUBMITTAL 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.

Submittal questions must be in writing and be directed to Brandye K. D’Lena via email at [bdlena@socccd.edu](mailto:bdlena@socccd.edu) with the subject line indicating “Question(s) for Labor Compliance 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.

### Request for Qualification & Proposals Submittal Schedule

RFQ & P - 1 <sup>st</sup> Advertisement	November 20, 2018
RFQ & P - 2 <sup>nd</sup> Advertisement	November 27, 2018
Pre Proposal Conference	November 28, 2018
Deadline for written questions	November 29, 2018
Last addendum	November 30, 2018
<b>Deadline for RFQ&amp;P Submittal</b>	December 5, 2018
Interviews (optional)	December 14, 2018
Contract Negotiation	December 17, 2018
Board Meeting - Approval	January 21, 2019
Contract Execution	February 1, 2019

During the proposal review, DISTRICT will not report apparent errors or request clarification. Proposals (submittals) will be interpreted as presented. Firms are responsible to proof documents to avoid errors.

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 consideration.** 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.

## 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 – 12 listed below, shall be tabbed. The original copy shall be marked “Original” and must be wet signed by person authorized to bind the firm.

“Qualifying firms must not be on the federal list of current companies or individuals that have been declared ineligible to receive Federal contracts due to a violation of Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended 29 U.S.C. Section 793; and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. Section 4212”.

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.**

Statement of Qualifications and Proposals should minimally include the following information:

1. **Cover Letter.** A maximum one-page, dated **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 the proposal on behalf of the firm.
2. **Table of Contents.** A **Table of Contents** of the material contained in the proposal should follow the Cover Letter. Include tabs for each section identified herein.
3. **Executive Summary.** The **Executive Summary** should contain an outline of your general plan and a brief summary of approach and qualifications to engage in a professional relationship with the District. (two page maximum)
  - a. **Note:** Exhibit E, the Qualification Matrix, shall 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 your experience with Labor Compliance Services and more particularly community college projects. Include the scope of work performed and describe the associated projects within the last five years. Specify which Projects were performed by the personnel recommended for this Work. Provide contact names and phone numbers for each listed project.

Briefly describe any interface with the Department of Industrial Relations and any other associated regulatory agencies.

**Financial Standing** - A current annual report or audited profit and loss statement may be requested from the successful firm. The amounts and carriers of both general and professional liability insurance is required as part of this submittal.

Evidence that the Firm is legally certified to conduct business in the State of California for the services offered and experience with community college and university educational facilities and other institutional services.

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 firm to satisfactorily perform the required services as demonstrated by its representation of staff availability. Information shall further specifically include:
  - a. Number of qualified staff
  - b. Identification of any services noted in the Agreement(s) not provided in-house
  - c. Identification of proposed sub consultants
  - d. All personnel assigned to District projects, employees, sub-consultants or subcontractors must:
    - i. Possess the minimum qualification to perform the services provided
    - ii. Have knowledge and understanding of terms and conditions, major services and activities required to perform services provided
    - iii. Have a minimum of five years of directly related experience
    - iv. 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
  - e. Include resumes of proposed personnel, including any proposed sub-consultants 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 per person).
  - f. Firms must provide a statement that all proposed participants will meet or exceed the minimum qualifications specified herein
6. **Services.** The Scope of Work provided describes the expected effort of the consultant; however, the consultant may recommend refinements, suggestions or brief restatements of the scope of work in this section. Define which services will be provided in-house and those for which you will hire consultants. Define the number of years you have worked with each consultant proposed as part of potential project teams. (Two page maximum) Provide a sample copy of the monthly status reports you would recommend for DISTRICT use.
7. **Additional Data.** Provide additional information about the firm as it may relate to this RFQ & P. Indicate ongoing professional education of staff and total number of permanent employees.

DVBE, Small business, small disadvantaged business, minority-owned firms, and small women-owned business participation level. Consortia of small businesses, minority-owned firms, and women's business enterprises are encouraged, and subcontracts with small businesses, minority-owned firms, and women's business enterprises are also encouraged. (Include as an appendix if desired). Internships? Other?

- 8. Professional Fees and Sample Fee Proposal.** Provide with your proposal one copy of a fixed fee in relationship to the sample project. A Fixed Fee proposal will be based on fully-loaded hourly billing rates for each classification.

When providing costs, proposal 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 contract negotiations. The final all-inclusive hourly rates shall be negotiated after the evaluation process. Any increases must be approved in writing by the District prior to the performance of service. Agreements will be based on a lump sum basis with back up demonstrating hourly rates and proposed hours 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.

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 District locations, subsistence, lodging, fuel charge, vehicle use, transmitting reports, administrative charges, or other similar activities necessary for performance of the services except for personnel that are required to perform services at a destination that is more than 50 miles from Saddleback College. If this circumstance occurs, firm 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.

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

- These titles may require revision at negotiation depending on the Firm's titles for services however, these titles shall be referenced for a like comparison between proposals.
- Principal
- Lead – Project Manager/Evaluator
- Associates
- Person performing field visits if other than Lead

- 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
- Include fee schedules for consultants if used

Identify any constraints or assumptions that affect the proposed fee. Services that are not specifically included in RFQ & P exhibits may be provided as supplementary information.

**NOTE: Attachment G – Labor Compliance Services for Sample Project, Calatrava Building Project – Proposal Form is to be included at the end of this section. Fill in all categories for which your firm may be providing services.**

**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

This section may also include letters of recommendation or testimonials

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

Responses to the RFQ & P should be complete and be prepared to provide an insightful, straightforward, and **concise** overview of the capabilities of the Firm. 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 (Attachment B) is not to be included with the Firm's submittal.

## BASIS OF AWARD

The evaluation of the Labor Compliance Services will be a three-stage process.

1. The first stage will be based on analysis principally focusing on technical expertise.
2. The optional second stage may include, at the option of the evaluation committee, short-listed Name of Services invited for an interview to present their full understanding of, and responsiveness to, this RFQ&P and their specific experience and approach.
3. The third and final stage is successful contract negotiations.

At the conclusion of the second stage, a Firm for Labor Compliance Services will be selected on the basis of criteria regarding qualifications, experience, demonstrated competence as well as the best interests of the District as determined by the committee, including consideration of fair and reasonable pricing.

Prior to presenting a recommendation to the Board of Trustees, District staff will engage in contract negotiations with selected firm. If negotiations with the first team selected are unsuccessful, negotiations will commence with the second team and so on until an agreement has been successfully negotiated or DISTRICT rejects all proposals.

**Note: By virtue of submission, the proposing firm declares that all information provided in the Statement of Qualifications is true and correct.**

## MISCELLANEOUS

1. General information about DISTRICT may be found at <http://www.socccd.edu>. Recent projects are listed at the “Bids” tab.
2. All submittals shall remain active and valid for ninety days following closing date for receipt. The District reserves the right to negotiate the scope and cost of any submittal.
3. Evaluation may be made solely on the basis of the submittal review or the evaluation committee may deem it necessary to interview applicants as part of the evaluation process.
4. The proceedings of the evaluation 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, except financial information, submitted in response to this RFQ&P shall become the property of DISTRICT and shall be considered a part of Public Record. The District reserves the option to retain or dispose of all submittals whether selected or rejected.
6. Only written changes to the RFQ&P will be valid. Verbal representations will not be binding on either party. Proposers are responsible to monitor the district bid page for addenda information.
7. DISTRICT 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.

The District may modify the RFQ & P prior to the deadline for submittals by issuance of an electronic addendum on the District bid website. All addenda will be posted on the bid website and it is the proposers responsibility to ensure they have obtained and reviewed all addenda.

### QUESTIONS FROM POTENTIAL RESPONDENTS

Questions regarding this RFQ & P may be directed to Brandye K. D’Lena, Executive Director of Facilities Planning at (949) 582-4678 or via email at [bdlena@socccd.edu](mailto:bdlena@socccd.edu).

### Specific Inclusions

1. **Attachment A: Certification – Request for Qualifications**
2. **Attachment B: Sample Agreement for Labor Compliance Consultant Services.**
3. **Attachment C: Sample fee schedule for extra work**
4. **Attachment D: Sample Invoice for monthly billings**
5. **Attachment E: Labor Compliance Consultant Services – Qualification Matrix**
6. **Attachment F: Labor Compliance Services for Sample Project, Calatrava Building Project – Proposal Form**

***Proposals shall be received up to but not later than 2:00 p.m., on the date listed in the schedule.***

**RFQ&P - Attachment A**

**CERTIFICATION – REQUEST FOR QUALIFICATIONS & PROPOSALS**

**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 DISTRICT to provide these services to the District in the manner prescribed herein.

I certify that I have read the attached Request for Qualifications – Labor Compliance 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 seven hard copies and one electronic copy 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**

**Provide Seal here, if Corporation**

SAMPLE AGREEMENT



SOUTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT

LABOR COMPLIANCE SERVICES AGREEMENT

Name Project  
at Name College

Company

This AGREEMENT is made and entered into this xx day of Month in the year 20xx between **South Orange County Community College District**, 28000 Marguerite Parkway, Mission Viejo, California 92692, hereinafter referred to as "DISTRICT", and Company Name, Address, Phone number, hereinafter referred to as "CONSULTANT", DISTRICT and CONSULTANT are also referred to collectively as the "Parties" and individually as "Party."

WHEREAS, CONSULTANT represents that it has the necessary personnel, professional qualifications, expertise, and financial capability to assist the district with meeting the labor compliance requirements described herein; and

NOW, THEREFORE, the Parties hereto agree as follows:

ARTICLE 1 CONSULTANT'S SERVICES AND RESPONSIBILITIES

- 1.1. **Services.** The CONSULTANT'S services shall consist of those services performed by the CONSULTANT and CONSULTANT'S employees as enumerated in this AGREEMENT.
- 1.2. **Standard of Care.** CONSULTANT shall provide the Services and authorized Additional Services using its best professional skill and judgment, acting with due care and in accordance with professional standards of care, the terms of this Agreement, and all applicable laws, codes, rules, regulations or ordinances. CONSULTANT'S services shall be provided and completed promptly and in such a manner as to avoid hindrance, interruption, or delay to the orderly progress and timely completion of Project. CONSULTANT shall without additional compensation, correct or revise any errors or omissions in its studies, reports, and other services.
- 1.3. **Key Individual Assignment.** The CONSULTANT has been selected to perform the work herein because of the skills and expertise of key individuals. CONSULTANT assignment for this PROJECT is for one Project Manager and one Project Engineer. The CONSULTANT shall designate Name, as Project Executive and Name as Project Manager. 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.

- 1.4. **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 after review of resume' and/or interview. A project manager and all lead or key personnel must also be designated by the CONSULTANT and are subject to all conditions previously stated in this paragraph.
- 1.5. **Relationship of CONSULTANT to Other Project Participants.** CONSULTANT'S services hereunder may be provided in conjunction with contracts between the DISTRICT and others providing services in connection with bidding and/or construction of the PROJECT. The CONSULTANT is responsible for the adequacy and sufficiency of the PROJECT and the contents of the PROJECT. The CONSULTANT shall perform its duties in accordance with its contract(s) with the DISTRICT. CONSULTANT shall coordinate all work with DISTRICT consultants as necessary to complete contract requirements.
- 1.6. **Project Schedule.** The CONSULTANT acknowledges that all time limits stated in this Agreement are of the utmost importance to DISTRICT. The CONSULTANT shall accept DISTRICT'S 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.

## ARTICLE 2 SCOPE OF CONSULTANT'S SERVICES

- 2.1. **Project Scope.** The CONSULTANT and the DISTRICT have discussed the needs and the requirements of the PROJECT and arrive at a mutual written understanding of such needs and requirements as identified in this contract. Information below will form the basis for the PROJECT Scope of Services.
- 2.2. **Services.** The consultant shall provide Labor Compliance Consultant Services to the DISTRICT as follows:
  - a. Assist DISTRICT with opening project with the Department of Industrial Labor including obtaining PWC100 numbers.
  - b. Update the DISTRICT regarding new labor compliance laws and codes as they become applicable.
    1. Notify active contractors if there is a change to their requirements and assist with their transition.
  - c. Respond to Public Records requests acts related to payroll issues on an as needed basis including procurement clarifications.

- d. Confer with the construction contractor to establish the procedures for the labor compliance process throughout the project.
  - e. Review and verify payroll information and other labor code requirements.
  - f. Work with the contractor to resolve any non-compliance issues.
  - g. Prepare any required DIR non-compliance filings and reports including annual report.
  - h. Provide monthly status reports including PWC 100 numbers and advise as to payment release.
- 2.3. **Coordination Efforts.** The CONSULTANT will describe any coordination issues with DISTRICT and the Contractor.
- 2.4. **Subconsultants.** The CONSULTANT is responsible for the management of their sub-consultants in order to meet the terms of all phases of this agreement. Nothing in the foregoing shall create any contractual relationship between DISTRICT and any sub-consultants employed by CONSULTANT under the terms of this Agreement. CONSULTANT is as responsible for the performance of its sub-consultants as it would be if it had rendered these services itself.
- 2.5. **Regulatory Compliance.** The CONSULTANT shall comply with all applicable federal, state and local laws, statutes, ordinances, codes, rules and regulations currently existing and as amended, enacted, issued or adopted in the future and which are applicable to the PROJECT.

### ARTICLE 3 ADDITIONAL CONSULTANT'S SERVICES

- 3.1. **Additional Services.** Additional services are not included in the Services set forth previously. If the DISTRICT requests in writing any of the Additional Services, CONSULTANT shall be compensated for the same in accordance with the provisions of the Agreement relating to Additional Services and the amounts indicated in Attachment A. The DISTRICT must approve an amendment to this Agreement, fully executed, prior to CONSULTANT performing any Additional Services. The CONSULTANT shall request payment for Additional Services in a separate line item on the same invoice submitted for Services in a format pre-approved by the DISTRICT.
- 3.2. **Notification and Authorization.** 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. **Regulatory Revisions.** Making material revisions in Services when such revisions are required by the enactment or revision of laws, rules or regulations subsequent to the preparation of such documents.
  - b. **Scope Change after Phase Approvals.** Providing Services required because of significant changes made in the PROJECT including, but not limited to, size, quality, complexity.

### ARTICLE 4 TERMS OF SERVICE

- 4.1. **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.
- 4.2. **Term.** Services under this Agreement shall be diligently performed by the CONSULTANT for approximately xx months with a completion date of Month, Date, Year. This term shall be extended at no cost to the DISTRICT as result of delays caused directly by CONSULTANT actions.
- 4.3. **Extension.** This term shall be extended at no cost to the District as result of delays caused directly by CONSULTANT actions. The term may be extended die to the construction delay other than those delays caused by CONSULTANT'S actions.
- 4.4. **Billing Rate.** Should services be necessary after the expiration of contract duration, they can be provided in accordance with the Billing Rates as provided in ATTACHMENT A.
- 4.5. **Suspension Notice.** DISTRICT may suspend this Agreement at any time without penalty by written notice to CONSULTANT of such suspension.

## ARTICLE 5 INDEMNITY AND INSURANCE

- 5.1. To the fullest extent permitted by law, CONSULTANT agrees to indemnify and hold the DISTRICT harmless from all liability arising out of:
  - a. Workers' Compensation and Employer's Liability. Any and all claims under Workers' Compensation acts and other employee benefit acts with respect to CONSULTANT'S employees or CONSULTANT'S subcontractor's employees arising out of CONSULTANT'S work under this AGREEMENT; and
  - b. General Liability. To the extent arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the CONSULTANT, the CONSULTANT shall indemnify, defend and hold the DISTRICT harmless from any liability for damages for (1) death or bodily injury to person; (2) injury to, loss or theft of property; (3) any failure or alleged failure to comply with any provision of law; or (4) any other loss, damage or expense arising under either (1), (2), or (3) above, sustained by the CONSULTANT or the DISTRICT, or any person, firm or corporation employed by the CONSULTANT or the DISTRICT upon or in connection with the PROJECT, except for liability resulting from the sole or active negligence, or willful misconduct of the DISTRICT, its officers, employees, agents, or independent CONSULTANTS who are directly employed by the DISTRICT. The CONSULTANT, at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings (other than professional negligence covered by Section c below) that may be brought or instituted against the DISTRICT, its officers, agents, or employees, to the extent such claims, actions, suits, or other proceedings arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, and shall pay or satisfy any judgment that may be rendered against the DISTRICT, its officers, agents, or employees, in any action, suit or other proceedings as a

result thereof. Any costs to defend under this Section b shall not exceed the CONSULTANT'S proportionate percentage of fault; and

- c. Professional Liability. To the extent arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the CONSULTANT, the CONSULTANT shall indemnify and hold the DISTRICT harmless from any loss, injury to, death of persons, or damage to property caused by any act, neglect, default, or omission of the CONSULTANT, or any person, firm, or corporation employed by the CONSULTANT, either directly or by independent contract, including all damages due to loss or theft, sustained by any person, firm, or corporation, including the DISTRICT, arising out of, or in any way connected with, the PROJECT, including injury or damage either on or off DISTRICT property; but not for any loss, injury, death, or damages caused by sole or active negligence, or willful misconduct of the DISTRICT. With regard to the CONSULTANT'S obligation to indemnify for acts of professional negligence, such obligation does not include the obligation to provide defense counsel or to pay for the defense of actions or proceedings brought against the DISTRICT, but rather to reimburse the DISTRICT for attorneys' fees and costs incurred by the DISTRICT in defending such actions or proceedings brought against the DISTRICT, and such fees and costs shall not exceed the CONSULTANT'S proportionate percentage of fault.
  - d. The PARTIES understand and agree that this Article, Section 1, of this AGREEMENT shall be the sole indemnity, as defined by California Civil Code § 2772, between the DISTRICT and the CONSULTANT related to the PROJECT. Any other indemnity that is attached to this AGREEMENT as part of any EXHIBIT shall be void and unenforceable between the PARTIES.
  - e. Any attempt to limit the CONSULTANT'S liability to the DISTRICT in any of the exhibits or attachments to this AGREEMENT shall be void and unenforceable between the PARTIES.
- 5.2. CONSULTANT shall purchase and maintain policies of insurance with an insurer or insurers qualified to do business in the State of California and acceptable to DISTRICT, 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 sub-consultant, 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. The CONSULTANT shall carry Workers' Compensation and Employers Liability Insurance in accordance with the laws of the State of California. However, such amount shall not be less than ONE MILLION DOLLARS (\$1,000,000).
  - b. Commercial general and auto liability insurance, with limits of not less than TWO MILLION DOLLARS (\$2,000,000.00) 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 TWO MILLION DOLLARS (\$2,000,000.00) per claim. Such insurance shall be maintained during the term of this AGREEMENT and renewed for a period of at least five (5) years thereafter and/or at rates consistent with the time of execution of this AGREEMENT adjusted for inflation. In the event that CONSULTANT subcontracts any portion of CONSULTANT'S duties, CONSULTANT shall require any such subcontractor to purchase and maintain insurance coverage as provided in this Section. Failure to maintain professional liability insurance is a material breach of this AGREEMENT and grounds for immediate termination.
- d. Valuable Document Insurance. The CONSULTANT shall carry adequate insurance on all drawings and specifications as may be required to protect the DISTRICT in the amount of its full equity in those drawings and specifications, and shall file with the DISTRICT a certificate of that insurance. The cost of that insurance shall be paid by the CONSULTANT, and the DISTRICT shall be named as an additional insured
- e. Each policy of insurance required under this Article, Section 2(b), above, shall name the DISTRICT and its officers, agents, and employees as additional insureds; 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; 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. Prior to commencing work, the CONSULTANT shall deliver to DISTRICT certificates of insurance as evidence of compliance with the requirements herein. In the event the CONSULTANT fails to secure or maintain any policy of insurance required hereby, the 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.
- f. Insurers shall be licensed by the State of California to transact insurance and shall hold a current A.M. Best's rating of no less than A: VII or equivalent carrier otherwise acceptable to the District.
- g. In the event that the CONSULTANT subcontracts any portion of the CONSULTANT'S duties, the CONSULTANT shall require any such subcontractor to purchase and maintain insurance coverage for the types of insurance referenced in Article 5, Sections 2(a), (b), (c) and (d), in amounts which are appropriate with respect to that subcontractor's part of work which shall in no event be less than \$500,000 per occurrence. The CONSULTANT

shall not subcontract any portion of the CONSULTANT'S duties under this AGREEMENT without the DISTRICT'S prior written approval. Specification processing consultants are the only subcontractors exempt from maintaining professional liability insurance.

- h. All insurance coverage amounts specified hereinabove shall cover only risks relating to, or arising out of, the PROJECT governed by this particular AGREEMENT. The insurance and required amounts of insurance specified above shall not be reduced or encumbered on account of any other projects of the CONSULTANT.

## ARTICLE 6 COMPENSATION TO THE CONSULTANT

- 6.1. **Contract Price for Services**. The Contract Price for the CONSULTANT'S performance of the services under this agreement is not to exceed amount of \$xxxx.
- 6.2. **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 Services, except for Allowable Reimbursable Expenses described in this Agreement. At no time shall meals be considered a reimbursable expense. The items and services identified in ATTACHMENT B are included in the CONSULTANT'S compensation for Services as set forth in Article 2.
- 6.3. **CONSULTANT Monthly Billing Statements**. CONSULTANT shall submit monthly billing invoices to the DISTRICT for payment of the Contract Price for 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.
- 6.4. **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 provided for as additional services.
- 6.5. **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 Original 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 Services will be reimbursed.
  - f. For reimbursable expenses, compensation shall be computed at a multiple of 1.05 times the expenses incurred by the CONSULTANT, the CONSULTANT'S employees and CONSULTANTS in the interest of the PROJECT.
  - g. For additional services of CONSULTANTS, compensation shall be computed at a multiple of 1.05 times the amounts billed to the CONSULTANT for such services.
- 6.6. **Non Waiver of Rights.** Neither the DISTRICT'S review, approval of, nor payment for, any of the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, and CONSULTANT shall remain liable to the DISTRICT in accordance with applicable law for all damages to the DISTRICT caused by CONSULTANT'S failure to perform any of the services furnished under this Agreement.
- 6.7. **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 Services, authorized Additional Services, and Allowable Reimbursable Expenses. No deductions shall be made or withheld from payments due CONSULTANT hereunder on account of any penalty, assessment, liquidated damages or other amounts withheld by the DISTRICT from payment to the CONSULTANT or any Contractor.
- 6.8. **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 its 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.
- 6.9. **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.

- 6.10. **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 ATTACHMENT B) or as a fixed fee.

## ARTICLE 7 CONSULTANT'S WORK PRODUCT

- 7.1. **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. CONSULTANT grants to DISTRICT the right to reuse all or part of the fore mentioned documents at its sole discretion. If documents are reused for any reason, then the DISTRICT agrees that CONSULTANT shall not be responsible for any reuse of the documents. The DISTRICT is not bound by this AGREEMENT to employ the services of CONSULTANT in the event such documents are reused. 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.
- 7.2. **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 associated material conditions in the work. The CONSULTANT shall provide a monthly 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.
- 7.3. **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 8 TERMINATION

- 8.1. **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. Thirty (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.

- 8.2. **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.
- 8.3. **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.
- 8.4. **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.
- 8.5. **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.
- 8.6. **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.
  - b. 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.

- c. 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.
- 8.7. **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.
- 8.8. **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 9 DISPUTES, MEDIATION AND ARBITRATION

- 9.1. **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.
- 9.2. **Arbitration.** If mediation is unsuccessful, claims, disputes or controversies arising out of or relating to this AGREEMENT will be decided by arbitration in accordance with the American Arbitration Association then prevailing unless the parties mutually agree otherwise.
  - a. No arbitration arising out of or relating to this Agreement shall include, by consolidation, joinder or in any other manner, any additional person not a party to this Agreement except by written consent containing a specific reference to this Agreement and signed by the CONTRACTOR, DISTRICT and any other person sought to be joined. Consent to arbitration involving an additional person or persons shall not constitute consent to arbitration of any dispute not described therein or with any person not named therein.
  - b. This agreement to arbitrate shall be specifically enforceable under applicable law in any court having jurisdiction thereof.
  - c. Notice of demand for arbitration shall be filed in writing with the other party to this AGREEMENT in accordance with the rules of the American Arbitration Association. The demand shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based upon such claim, dispute or other matter in questions would be barred by the applicable statutes of limitation.
  - d. In any judicial proceeding to enforce this agreement to arbitrate, the only issues to be determined shall be those set forth in 9 U.S.C. Section 4 Federal Arbitration act and such issues shall be determined by the court without a jury. All other issues, such as, but not limited to, arbitrability, prerequisites to arbitration, compliance with contractual time limitations, applicability of indemnity clauses, clauses limiting damages and statutes of limitation shall be for the arbitrators whose decision thereon shall be final and binding. There shall be no interlocutory appeal of an order compelling arbitration.

- e. The award rendered by the arbitrators shall be final and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.
  - f. Unless otherwise provided, this Agreement shall be governed by the law of the state and county where the Project is located.
- 9.3. **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.

## ARTICLE 10 DISTRICT'S RESPONSIBILITIES

- 10.1. **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.
- 10.2. **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. CONSULTANT shall consult with authorized employees, agents, and representatives of DISTRICT relative to the Project. However, CONSULTANT shall accept directives only from DISTRICT'S designated representative and not from other DISTRICT employees or consultants. The DISTRICT shall notify CONSULTANT in writing if, at its sole option, it makes a change in the DISTRICT representative. Unless modified by written notice by the DISTRICT to the CONSULTANT, the DISTRICT Representative is:
- Name, Title**
- 10.3. **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 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.
- 10.4. **Reliable Information.** The CONSULTANT may rely on the information provided by DISTRICT but only to the extent such reliance is consistent with CONSULTANT'S obligations under this agreement.

## ARTICLE 11 MISCELLANEOUS

- 11.1. **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.

- 11.2. **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.
- 11.3. **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.
- 11.4. **Review, Approval or Acceptance.** Review, approval or acceptance of CONSULTANT'S work whether by DISTRICT or others, shall not relieve CONSULTANT from responsibility for errors and omissions in CONSULTANT'S work.
- 11.5. **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.
- 11.6. **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.
- 11.7. **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.
- 11.8. **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.

- 11.9. **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.
- 11.10. **Non-Assignment.** 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. 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.
- 11.11. **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.
- 11.12. **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.
- 11.13. **Communications** between the parties shall be sent to the following addresses:

DISTRICT	CONSULTANT
Manager's Name	Contact Name
Title	Title
South Orange County	Company Name
Community College DISTRICT	Street Address
28000 Marguerite Parkway	City, State, Zip
Mission Viejo, CA 92692	email
email	

Copy to:  
Priya Jerome  
Executive Director, Procurement,

Risk Management and Central Services  
28000 Marguerite Parkway  
Mission Viejo, CA 92692  
[pjerome@socccd.edu](mailto:pjerome@socccd.edu)

- 11.14. **Severability.** If any provision of this Agreement is deemed illegal, invalid unenforceable or void by any court of competent jurisdiction, such provision shall be deemed stricken and deleted herefrom, but all remaining provisions will remain and continue in full force and effect.
- 11.15. **Entire Agreement / Amendment.** This AGREEMENT and any Attachments 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.
- 11.16. **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.

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

CONSULTANT

DISTRICT

Company Name

South Orange County Community College District

\_\_\_\_\_  
Name

\_\_\_\_\_  
Ann-Marie Gabel

Title

Vice Chancellor, Business Services

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

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

\_\_\_\_\_  
(Taxpayer number)

Attachment A Proposal

Attachment B Criteria and Billing for Extra Work

**RFQ&P - Attachment C**

**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 by 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.

<u>CONSULTANT Services</u>	<u>Fee Per Hour</u>	<u>Overtime Rate</u>
Principal	\$XXX	\$XXX
Lead	\$XXX	\$XXX
Associate	\$XXX	\$XXX
Clerical	\$ XXX	\$XXX

Provide Itemized fee schedule for extra or additional services that are not within Scope of Services below if appropriate:

Include fee schedules for sub-consultants if used

**RFQ&P - Attachment 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  
 South Orange County Community College District  
 28000 Marguerite Parkway  
 Mission Viejo, CA 92692-3635

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

Project: Name, College  
 Labor Compliance Services

**Consultant TBD**

Consultant Address

City / State / Zip code

Phone Number

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

Billing	Percent of Fee	Fee	% Comp	Earned	Previous Billing	Current Billing	Balance Remaining
		XX.00		0.00	0.00	0.00	XX.00
		XX.00					
<b>TOTAL CONTRACT AMOUNT</b>		0.00		0.00	0.00	<b>0.00</b>	XX.00
<i>Amendment 01</i>							
<b>REVISED CONTRACT AMOUNT</b>		0.00	0.00	0.00	0.00	<b>0.00</b>	XX.00

**Reimbursable Expenses**

*List reimbursable items*

**Total Reimbursable rate at 1.1 times** TBD      **1.1**      TBD

**TOTAL THIS INVOICE** \_\_\_\_\_

**RFQ&P - Attachment E**

**LABOR COMPLIANCE SERVICES – QUALIFICATION MATRIX**

RFQ & P for Labor Compliance Services - Qualification Matrix						
Firm				Proposing firm to complete <b>highlighted cells only</b>	This column to be filled in by SOCCCD	
Location (City / State)					Firm Input	SOCCCD Review
NOTE: Firm to validate quantities listed on this sheet with supporting documentation in appropriate proposal tab sections. <b>The completed matrix is to be inserted behind the Executive Summary in Tab 3.</b>						
TAB	Description					
1	Cover Letter - Professional / Format / Signed.					
2	Table of Contents - Correct & Professional					
3	Executive Summary - professional - coherent - relevant - concise - 2 page max					
	<b>NOTE: Include a copy of this Matrix with highlighted cells filled in</b>					
4	<b>Experience</b>					
	Years in business (Min. 5)					
	Professional registration, certifications, affiliations					
	Evidence firm certified to do business in California					
	Firm utilization of single or multiple offices					
	Experience with Department of Industrial Relations					
	Evidence of Insurance					
	Number of Projects in past 5 years	Other	K-12	Community College		
	01-05 Million Construction Value					
	06-15 Million Construction Value					
	16-30 Million construction Value					
	31 - 100+ million Construction Value					
	# Contract terminations in last 5 years					
	# Mediation / Litigation in last 5 years					
5	<b>Personnel</b>					
	# of in-house staff with > 5 years experience					
	Services not provided in house					
	Resume review					
	Statement all personnel meet minimum qualifications listed in this RFQ & P					
6	<b>Services</b>					
	Scope of Work assessment					
	Monthly Status Report assessment					
7	<b>Additional Data</b>					
	Voluntary info about firm as relates to RFQ & P					
	Ongoing professional education, DVBE, misc.					
8	<b>Professional Fees</b>	Hourly rate	Overtime Rate	Weekend Rate		
	Principal					
	Lead-Project Manager					
	Associates					
	Person performing site visits					
	Clerical staff					
	Sample Project fee					
9	<b>Client References</b>					
	# of References with phone #s					
	# of Written Recommendations from past clients (min. 3 - Maximum 10)					
10	<b>Agreement Review</b>					
	# of Proposed Changes to scope (to improve project success)					
	# of Exceptions to Agreement Conditions - (proposed eliminations)					
	# of Serious Exceptions to Agreement - (required eliminations)					
12	<b>Certification signed W/ correct # of addenda noted</b>					
				<b>Total</b>		

