



Request for Qualifications and Proposals (RFQ&P)

No. 395D

Marketing Consultant Services

Proposal Due Date

Thursday, October 29, 2020

At 12:00 PM

Procurement, Central Services and Risk Management

28000 Marguerite Parkway

Health Sciences – 3rd Floor

Mission Viejo, CA 92692

Table of Contents

NOTICE TO PROPOSERS.....	
RFQ&P No. 395D <u>Marketing Consultant Services</u> SCHEDULE	
1. DISTRICT OVERVIEW.....	
2. INSTRUCTIONS, INFORMATION AND GENERAL CONDITIONS	
PURPOSE OF RFQ&P.....	
DEFINITION OF TERMS	
PROPOSAL QUESTIONS	
PROPOSAL SUBMISSION.....	
RIGHT TO REJECT	
MODIFICATIONS TO PROPOSALS.....	
PROPRIETARY INFORMATION.....	
ORDINANCES, LAWS AND REGULATIONS	
WITHDRAWAL OF PROPOSALS	
IRREVOCABLE OFFER	
COST OF PREPARING PROPOSALS	
COMPLETION OF PROPOSALS.....	
EXAMINATION OF CONTRACT DOCUMENTS.....	
ERROR IN PROPOSAL	
INTERVIEWS.....	
AWARD WITHOUT DISCUSSION	
CONTRACT COMMENCEMENT/TERM	
INDEPENDENT CONTRACTOR STATUS.....	
SOCCCD MODIFICATIONS TO PROPOSALS	
NEGOTIATION	
AWARD OF CONTRACT	
FINAL CONTRACT	
NON-COLLUSION DECLARATION	
EQUAL OPPORTUNITY AFFIRMATIVE ACTION STATEMENT	
PROHIBITED INTEREST	

QUALITY OF WORK
QUALITY OF PERSONNEL ASSIGNED TO THE WORK.....
PROPOSER CONDUCT
ACCESSIBILITY OF INFORMATION TECHNOLOGY
3. EVALUATION OF PROPOSALS.....
4. SPECIAL REQUIREMENTS
5. SCOPE OF SERVICES
PROPOSAL FORM A – LETTER OF INTEREST AND APPROACH.....
PROPOSAL FORM B – PERSONNEL AND STAFFING RESOURCES
PROPOSAL FORM C - RELATED EXPERIENCE AND METHODOLOGY.....
PROPOSAL FORM D - FEE AND RATE PROPOSAL.....
PROPOSAL FORM E - GENERAL TERMS AND CONDITIONS
PROPOSAL FORM F - REFERENCES
PROPOSAL FORM G - ADDENDA ACKNOWLEDGEMENT
APPENDIX A – Non-Collusion Declaration
APPENDIX B - Equal Opportunity Affirmative Action Statement
APPENDIX C - Worker’s Compensation Certificate.....
APPENDIX D - Sample Agreement
APPENDIX E - Submission Checklist.....

Notice to Firms: Request for Qualification/Proposal (RFQ&P) No. 395D

District: SOUTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT
Project: RFQ&P 395D
Marketing Consultant Services
South Orange County Community College District
RFQ&P Deadline: Thursday, October 29, 2020
12:00 PM
**Email Address for
Receipt of Proposals:** purchasing-dept@socccd.edu

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, responses to the Request for Qualifications and Proposals for the above Project.

There will be a mandatory pre-proposal meeting conducted via Zoom on Wednesday, October 14, 2020 at 10:00 AM. All RFQ&P respondents shall confirm their attendance by email to: purchasing-dept@socccd.edu by Monday, October 12, 2020 at 5:00 PM. The subject line should read: "RFQ&P 395D Pre-Proposal Meeting Confirmation." Physical presence is not required. A call-in number will be provided prior to the meeting day to those who confirm attendance. Any proposer that does not attend the entire conference and/or does not arrive on-time may be deemed non-responsive.

A complete Request for Qualifications and Proposals may be viewed online at www.socccd.edu at the Bids link.

Any and all questions must be sent via email to purchasing-dept@socccd.edu. Firms shall reference RFQ&P 395D Marketing Consultant Services in the email subject line. The final day for questions shall be Friday, October 9, 2020, no later than 5:00 PM.

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

No proposer may withdraw any proposal for a period of one hundred and eighty (180) calendar days after the submission deadline.

Priya Jerome

Executive Director, Procurement, Central Services & Risk Management

PUBLISH: OC REGISTER September 28, 2020 & October 5, 2020

RFQ&P No. 395D Marketing Consultant Services

SCHEDULE

Date of Issue / Document Available	September 28, 2020
Advertisement Dates	September 28, 2020 October 5, 2020
Publication	OC Register
Requests for Information (RFI)	10/9/2020
Pre-Proposal Meeting	10/14/2020 10:00 AM Zoom conference call information will be sent to all firms that RSVP.
District Responds to RFI's	10/15/2020 End of Day
Due Date	Thursday, October 29, 2020 12:00 PM
Interview/Presentations (if needed)	Thursday, November 12, 2020 Zoom conference call information will be sent to shortlisted firms.
Contract Negotiations (if needed)	Monday, November 16, 2020 through Friday, November 20, 2020 All negotiations will take place via Zoom conference calls.
Anticipated Governing Board Approval	December 14, 2020

1. DISTRICT OVERVIEW

South Orange County Community District encompasses 382 square miles in South Orange County serving over 909,000 residents in 26 communities. We know that higher education is directly linked to quality of life and economic vitality. We have helped generations of families achieve their educational and career goals since 1967.

This multi-campus district is comprised of Saddleback College in the City of Mission Viejo (1967), Irvine Valley College in the city of Irvine (1985) and Advanced Technology Education Park (2007) in the city of Tustin.

The District is governed by a seven-member elected Board of Trustees and the District's chief executive officer is the Chancellor.

District Services provides centralized administrative services to our three campuses including: Chancellor and Trustee Services, Business Services, Technology and Learning Services, and Human Resources. These departments provide accounting, benefits, facilities planning, fiscal services, human resources, information technology, institutional research and planning, payroll, public affairs, procurement, contracting, risk management, and warehouse/mailroom services to our district.

The District continually assesses the effectiveness of its services through district-wide surveys, shared governance committees and task forces that are established to accomplish specific projects. Strategic planning is an essential tool for guiding our direction and assuring compliance with accreditation standards.

PROGRAM OVERVIEW

The South Orange County Community College District has a recurring and ongoing need for specialized marketing services in support of the two colleges' marketing, communications, creative services, and its Career Technical Education (CTE) programs. The goal for marketing services is to increase enrollment and to promote events, CTE, outreach, research, grant-funded programs, etc. through various marketing campaigns, social/multimedia, advertising, media buying, creative services, etc. The colleges have determined the need for a pool of qualified firms to assist in the determination of its short and long-term marketing strategies and implementing the plans moving forward.

2. INSTRUCTIONS, INFORMATION AND GENERAL CONDITIONS

PURPOSE OF RFQ&P

South Orange County Community College District (SOCCCD) is seeking to retain a pool of qualified firms to provide Marketing Consultant Services. The District plans to select firms with specific experience in working with Public Agencies preferably in California Community Colleges. The entirety of this RFQ&P sets forth the District's requirements in detail. All responses should be submitted in accordance with the terms and conditions contained in the foregoing document.

DEFINITION OF TERMS

- The designation of District refers to the South Orange County Community College District, a political subdivision of the State of California.
- The term "**Proposers**" refers to Firms that elect to submit proposals for Marketing Consultant Services.
- The terms "**Contract**" and "**Agreement**" shall be used interchangeably within this document.
- Throughout this document, the term "**District**" shall be used to designate the rights and responsibilities of the South Orange County Community College District.
- The term "**District-wide**" represents the District, Irvine Valley College (IVC), Saddleback Community College (SC), and the Advanced Technology Education Park (ATEP).
- The term "**Proposer**" shall be used to designate the rights and responsibilities of the successful firm responding to this RFQ&P.

PROPOSAL QUESTIONS

All questions regarding this RFQ&P should be sent, via e-mail to Priya Jerome at purchasing-dept@socccd.edu.

Questions will only be accepted until 10/13/2020 no later than 5:00 PM. The e-mail subject line should read: "Your company name/Questions regarding RFQ&P No. 395D." No direct responses will be sent to the company/firm asking the question. Questions will be answered in the form of an **Addendum** and sent to all potential respondents by end of day on 10/19/2020. All addendums to this RFQ&P will be posted on the District's web site.

PROPOSAL SUBMISSION

It shall be the responsibility of the Proposer to ensure that Proposals are received via email submission per the instructions below:

Proposals are to be submitted, via e-mail, to the Purchasing Department no later than **12:00 PM** on Thursday, October 29, 2020. Submit Proposal to: purchasing-dept@socccd.edu The Proposal must be emailed to the address above as an attachment in Word or PDF format and not exceed file size of 10MB. Proposals with documents exceeding 10MB in size should be saved to a smaller file size or split up and sent as separate emails. Subject line of e-mail containing submitted

proposal should include and read “name of your company/submittal for RFQ&P No. 395D (“Email 1 of XX” if more than one).”

Oral, telephone, facsimile (fax machine) proposals **will not** be accepted.

Proposals should be in 12-point type. Proposals submitted in response are to be labeled Form A, B, C etc. and be in the following order:

1. **Letter of Interest and Approach** - PROPOSAL FORM A
2. **Personnel and Staffing Resources** - PROPOSAL FORM B
3. **Related Experience and Methodology** PROPOSAL FORM C
4. **Fee and Rate Proposal** – PROPOSAL FORM D
5. **IT Accessibility and Compliance** – PROPOSAL FORM E
6. **General Terms and Conditions**– PROPOSAL FORM F
7. **References** –PROPOSAL FORM G
8. **Addenda Acknowledgement** – PROPOSAL FORM H
9. **Appendices**
 - A. Non-Collusion Declaration
 - B. Equal Opportunity Affirmative Action Statement (requires Corporate Seal)
 - C. Firm’s Certificate Regarding Worker’s Compensation (requires Corporate Seal)
 - D. Sample Agreement
 - E. Submission Checklist

RIGHT TO REJECT

This RFQ&P does not constitute a commitment by the District to award a contract. The District reserves the right to waive any irregularities and/or informalities and to reject any or all proposals and/or to cancel the Request for Qualifications & Proposals. The District expressly reserves the right to postpone the proposal opening date for its own convenience. The award shall be made on the proposal(s) that serve(s) the best interest of the District and will not be evaluated solely on a monetary basis; however, proposers are encouraged to submit their best prices in their proposals. Award will be based on proposer’s qualification and best fit as deemed by the District. No contract award shall exist until executed and approved by the District’s Governing Board.

MODIFICATIONS TO PROPOSALS

The proposal may be modified after its submission by written notice to the District of withdrawal and resubmission before the date and time specified for receipt of proposals. Modification will not be considered if offered in any other manner. No modifications will be allowed after the RFQ&P due date and time has passed.

PUBLIC RECORDS

All materials submitted in response to the RFQ&P are deemed property of the District upon submission to the District. Responses to the RFQ&P and other materials submitted in connection therewith shall be deemed “public records” except for those marked or noted by a Respondent as “trade secrets” (as that term is defined and used in Civil Code §3426.1), “confidential” or “proprietary”. Financial statements are not subject to disclosure under the Public Records Act. The foregoing notwithstanding, the District may reject for non-responsiveness a Response to the RFQ&P which indiscriminately notes that the Response or portions thereof are “Trade Secret”, “Confidential”, or “Proprietary” and exempt from disclosure as a public record. Notwithstanding the designation of materials submitted in response to the RFQ&P as “public records” such materials shall not be subject to disclosure under the Public Records Act until after the District has issued a recommendation for award of the Architectural Services Agreement. The District is not liable or responsible for the disclosure of RFQ&P Responses, or portions thereof, deemed to be public records, including those records exempt from disclosure if disclosure is required by law, by an order of a court of competent jurisdiction, or which occurs through inadvertence, mistake or negligence on the part of the District or its agents or representatives. If the District is required to defend or otherwise respond to any action or proceeding wherein request is made for the disclosure of the contents of any portion of an RFQ&P Response deemed exempt from disclosure hereunder, by submitting an RFQ&P Response, each Respondent agrees to defend, indemnify and hold harmless the District in any action or proceeding from and against any liability, including without limitation attorneys’ fees arising therefrom. The party submitting materials sought by any other party shall be solely responsible for the cost and defense in any action or proceeding seeking to compel disclosure of such materials; the District’s sole involvement in any such action shall be that of a disinterested stakeholder, retaining the requested materials until otherwise ordered by a court of competent jurisdiction.

ORDINANCES, LAWS AND REGULATIONS

The Proposer shall comply with all ordinances, laws, and regulations pertaining to the operation contemplated hereby, including, but not limited to, the California Workers' Compensation Act, the Federal Equal Employment Opportunities Act, and the Americans with Disabilities Act. The Proposer shall apply for, obtain, and maintain in force all permits and licenses required by the various agencies of Federal, State, and local government having jurisdiction over the Proposer operations. All operations and materials shall be in accordance with all applicable Federal, State, County and City laws, statutes and requirements.

WITHDRAWAL OF PROPOSALS

Any Proposer may withdraw their proposal by written request via e-mail to purchasing-dept@socccd.edu at any time **prior** to the deadline set for receipt of proposals. The subject line of the e-mail should include and read: “Your Company Name/Withdrawal of RFQ&P No. 395D.” No proposal may be withdrawn or modified after that deadline. Withdrawn proposals may be resubmitted up to the time designated for the receipt of proposals provided that they are then fully in conformance with the general terms and conditions of the RFQ&P.

IRREVOCABLE OFFER

Proposals shall be considered irrevocable offers for a period of one hundred and eighty (180) days from the date of receipt and may not be withdrawn during this period without consent of the District.

COST OF PREPARING PROPOSALS

Any and all costs associated with the preparation of responses to this RFQ&P, including site visits, oral presentations and any other costs shall be entirely the responsibility of the Proposer and shall not be reimbursable in any manner by the District.

COMPLETION OF PROPOSALS

Proposals shall be completed in all respects as required by the instructions herein. A proposal may be rejected if it is conditional or incomplete, or if it contains alterations of form or other irregularities of any kind. A proposal will be rejected if, in the opinion of the District, the information contained therein was intended to erroneously and fallaciously mislead the District in the evaluation of the proposal. Proposers are required to follow and adhere to the format as prescribed in this RFQ&P.

EXAMINATION OF CONTRACT DOCUMENTS

Proposers shall thoroughly examine the contents of this RFQ&P. The failure or omission of any Proposer to receive or examine any contract document, form, instrument, addendum, or other document shall in no way relieve the firm from obligations with respect to this RFQ&P or to the contract to be awarded. The submission of a proposal shall be taken as prima facie evidence of compliance with this section.

If any ambiguity, conflict, discrepancy, omission or other errors in the RFQ&P is discovered, then the Proposer shall notify the District of the error in writing and request modification or clarification of the document through the timelines and process identified in the Proposal Questions / Requests for Information (RFI) section of this RFQ&P. All requests for clarifications shall be sent to the attention of the Executive Director of Procurement, Central Services and Risk Management by email at purchasing-dept@socccd.edu.

ERROR IN PROPOSAL

Proposer shall be bound by the terms and conditions of the proposal. However, if material errors are found in a proposal, the District may notify the Proposer that the submitted proposal requires correction of the errors. The District reserves the right to request additional information and/or clarification to allow corrections of errors or omissions.

RESPONDENTS CONTINUING OBLIGATION

Each Respondent is under a continuing obligation, commencing upon submission of its RFQ/P Response, to immediately notify the District, in writing, if it learns that any of the following have occurred: (i) any statement made in any portion of its RFQ/P Response was false, misleading or omits material facts rendering any statement in its RFQ/P Response to be false or misleading; (ii) circumstances have occurred since the Respondent submitted its RFQ/P Response that, if they had occurred prior to the date that the Respondent submitted its RFQ/P Response, would have

required the disclosure of such circumstances; or (iii) the Respondent has undergone a change in ownership in which ownership of fifty percent (50%) of more of its stock, ownership equity or assets has changed.

NO DISTRICT WARRANTY

Respondents are solely responsible for confirmation of the suitability of any information provided by the District relating to the Project or this RFQ&P, including, estimates of costs, statements of needs or requirements, projections, and budgets. The District does not warrant the accuracy, sufficiency or completeness of such information.

INTERVIEWS

The District intends to interview firms and has scheduled interviews on Thursday, November 12, 2020 to be conducted via Zoom. Oral presentations will be evaluated and may be subjected to the selection criteria. The District requires the mandatory presence of the designated representatives identified in the proposals as being the ones who will be assigned to the District be present and prepared to respond to District inquiries. The decision to hold interviews and the scope or any limitations thereof shall be at the discretion of the District.

AWARD WITHOUT DISCUSSION

The District reserves the right to make an award without further discussion of the proposals received. Therefore, it is critical that all proposals submitted shall be in the most favorable terms possible, both economically and technically.

CONTRACT COMMENCEMENT/TERM

It is the intent of the District to commence the resulting contract/s as soon as possible. Performance period for this contract is anticipated to be from January 1, 2021 through December 31, 2025. Term shall not exceed five (5) years. After award, contract is subject to cancellation with 30-days written notice by either party. The timeline for completion of services shall be set forth in a duly issued Work Order pursuant to the agreement terms.

INDEPENDENT CONTRACTOR STATUS

It is expressly understood that the firm named in any contract entered into by the District is acting as an "independent contractor" and not as an agent or employee of the District.

DISTRICT MODIFICATIONS TO PROPOSALS

Any interpretation, modifications, correction, or change of this RFQ&P will be made by written Addendum and will be issued by the District and shall become part of the RFQ&P. Interpretations, corrections, or changes of this RFQ&P made in any other manner will not be binding, and Proposers shall not rely upon such interpretations, corrections, and changes. All Addenda issued to this RFQ&P will be posted to the District web site at www.socccd.edu on the bids link. Addenda will also be e-mailed to all that are known to have received a copy of the RFQ&P. **Since failure to acknowledge any Addendum(s) may be cause for rejection, Proposers must return the addendum-completed acknowledgment(s) prior to or with the proposal. See Proposal Form H.**

NEGOTIATION

District reserves the right to negotiate the final pricing and all other terms and conditions before award of contract.

AWARD OF CONTRACT

It is anticipated that a contract/s will be awarded by the Board of Trustees at a regularly scheduled meeting on December 14, 2020. The award will be made to the responsive and responsible firm/s judged to offer the most advantages and deemed the best fit for the District. At the time of the formal award, the apparent successful firm shall have agreed to contract terms representing the understandings between the parties as to terms and conditions which will govern the relationship of District and Proposer and the obligation of each party for performance of the Agreement.

FINAL CONTRACT

The following documents are considered part of the final Agreement, in order of precedence:

- A. The final Agreement between the District and the Proposer;
- B. This RFQ&P as originally released, with Appendices and any addenda released prior to proposal opening.
- C. The Proposer's proposal in total, including all addenda and attachments;

All of the above documents are intended to cooperate and be complementary; provided further, however, that in the event of a conflict between the final Agreement and the provisions set forth in the above referenced documents and/or any other attachments or exhibits thereto (referred to as "referenced documents" for the purposes of this section), the Agreement shall control, unless the provisions set forth in any of the above "referenced documents" to this Agreement provide the District with greater benefits or more expansive services in which case such provisions set forth in any "referenced documents" shall compliment the terms of the Agreement. The intention of the documents is to include all labor, materials, equipment and transportation necessary for the proper delivery of all services called for in any contract which may arise as a result of this RFQ&P.

NON-COLLUSION DECLARATION

Declarations are required to be completed by the Proposer declaring that the proposal is in all respects fair and without collusion or fraud. Please see Appendix A.

EQUAL OPPORTUNITY AFFIRMATIVE ACTION STATEMENT

Proposer must accept and sign the Equal Opportunity and Affirmative Action Statement set forth in Appendix B.

PROHIBITED INTEREST

No official of the District who is authorized in such capacity and on behalf of the District to take part in negotiations or to make, accept or approve this contract, shall have direct or indirect financial interest in the award or any part thereof. Proposer shall receive no compensation hereunder should bidder aid, abet or knowingly participate in violation of this article or breach

or violation of this article, the District shall have the right to terminate the contract either in part or in whole and any loss or damage sustained by the District in procuring the services on the open market which the Proposer agreed to perform, shall be borne and paid for by the Proposer.

QUALITY OF WORK

The Proposer shall be responsible for the performance of all work as specified herein and shall guarantee that work will meet or exceed the specifications as set forth herein. If it is determined by the District that such services and/or materials do not meet requirements of the District, the Proposer shall be required to correct the same at their own expense.

QUALITY OF PERSONNEL ASSIGNED TO THE WORK

The Proposer shall not employ on this account any unfit person or anyone not skilled in the work assigned to her/him and shall devote only its best qualified personnel to work under this contract. Should the District deem anyone employed under any contract which may arise as a result of this RFQ&P to be incompetent or unfit to perform their duties and so inform the Proposer, the Proposer shall immediately remove such person from this work and such individual shall not again, without prior written permission of the District, be assigned to work under this contract.

PROPOSER CONDUCT

During the RFQ&P window (from release of this RFQ&P to final award), proposer is not permitted to contact any District employees, members of the evaluation committee, members of the Board of Trustees or any consultant or professional retained by the District for the purpose of providing the District advice or professional services relating to the Project or the RFQ&P unless at the request of the District's designated contact person (Priya Jerome, Executive Director of Procurement, Central Services & Risk Management) or to fulfill pre-existing contractual obligations. No gratuities of any kind will be accepted, including meals, gifts, or trips. Violation of these conditions may constitute immediate disqualification.

ACCESSIBILITY OF INFORMATION TECHNOLOGY

The District is committed to an accessible environment for all Faculty, Staff, Students, and Community Members. To support this goal only products which are accessible to all Faculty, Staff, Students, and Community Members as defined under Sec 508 of the Rehabilitation Act (<http://www.section508.gov/section-508-standards-guide>) and WCAG 2.0 Level AA (<http://www.w3.org/TR/WCAG20/>) specifications will be purchased.

The vendor shall provide a product or service that meets the District's Accessibility and Usability requirements, and maintain documentation describing the conformance to specified standards on a public website. The vendor will assume financial responsibility for any accommodation expenses incurred due to a failure of the product/service to meet accessibility requirements.

With respect to accessibility requirements, the vendor shall:

1. Conform to section 508 of the Rehabilitation Act (<http://www.section508.gov/section-508-standards-guide>) and WCAG 2.0 Level AA (<http://www.w3.org/TR/WCAG20/>) specifications.

2. Provide documentation regarding the level of accessibility conformance in the form of a Voluntary Product Accessibility Template (VPAT) and documentation as to how the product meets WCAG 2.0, Level AA.
3. Comply with all applicable FCC regulations regarding advanced communications services, including support for multi-modal advanced communications services to facilitate communication between individuals using digital text, audio, and video (<http://www.fcc.gov/encyclopedia/advanced-communications-services-acs>).
4. Respond to any accessibility issues discovered or reported by users within one (1) business day and communicate in writing a timeframe specific to resolving the reported issue(s). Resolution of reported accessibility issue(s) should be addressed as the highest priority within the next immediate development cycle or otherwise mutually agreed upon timeline.
5. Include considerations for accessibility and universal design in product development, testing, and updates by ensuring to the greatest extent possible equivalent ease of use for individuals with disabilities as compared to non-disabled individuals.
6. Identify a designated accessibility representative to address issues or questions pertaining to the accessibility of the product or service.
7. Proposer(s) who are deemed by the District will be required to submit their proposed products and documentation to an independent third-party firm of the District's choosing for a review of the accessibility of your proposed products and services. The District reserves the right to direct the vendor regarding which sections of the proposed system will be evaluated. The Proposer and District will be invited to the debrief meeting and provided a copy of the final report. The costs for this evaluation will be fully covered by the Proposer.

3. EVALUATION OF PROPOSALS

The proposals shall be primarily evaluated based upon qualifications of the firm and personnel, innovativeness, demonstrated knowledge and experience with California community colleges, and estimated fees.

Selection Process

All proposals will be examined for merit and ranked by a screening committee according to quality and responsiveness. The top proposals will be placed on a short list of finalists and may be called for interviews. The interview process may include members from the District's leadership in addition to select members of the screening committee.

Team members giving the presentation shall consist of those who will actually direct, execute, and complete the project. The firm or firms selected as first choice will be notified and asked to negotiate final terms of the contract. Contracts will be forwarded to the Board of Trustees for approval and authorization to proceed.

Content and Order of RFQ&P Response

Firm's proposal should be concise and contain the proposal form and sections as identified below. RFQ&P responses submitted in formats other than those prescribed in this RFQ&P document may be rejected at the sole discretion of the District. All sections identified below must be included for the RFQ&P response to be considered complete and must be divided into tabbed sections.

Proposal Form	Section Title	Points
A	Letter of Interest and Approach	10
B	Personnel and Staffing Resources	15
C	Related Experience and Methodology	30
D	Fee and Rate Proposal	30
E	IT Accessibility Standards and	15
	Total	100
Interviews		Points
		100

4. SCOPE OF SERVICES

The District intends to award Contracts and subsequent Work Orders to a pool of qualified professional marketing consultants/creative agencies for specialized marketing services in support of the two colleges' marketing, communications, creative services, and the SC Career Technical Education (CTE) programs specific to the Regional Marketing Campaign.

SADDLEBACK COLLEGE AND IRVINE VALLEY COLLEGE - GENERAL MARKETING SERVICES

- I) Marketing campaign development and media buying and placement services shall minimally include the following:
 1. Geofencing and geotargeting efforts
 2. Mobile advertising
 3. Over-the-Top advertising
 4. Social Media
 5. Google AdWords
 6. Search retargeting
 7. Display advertising
 8. Email advertising
 9. Radio and TV advertising
- II) Creative services shall minimally include the following:
 1. Copy writing
 2. Graphic design
 3. Photography
 4. Multimedia production
- III) Analytics and reporting Services as needed by each of the colleges.
- IV) Additional marketing services as needed by each of the colleges.

List of Anticipated Projects for SC and IVC – General Marketing (for reference only, and is not limited to the projects listed below)

1. Marketing campaigns to promote enrollment for fall, spring, and summer
2. Marketing campaigns to promote career education programs
3. Marketing campaigns to promote special events
4. Marketing campaigns to promote specific academic and grant funded programs
5. Viewbooks, marketing collateral, and feature writing

SADDLEBACK COLLEGE - REGIONAL MARKETING CAMPAIGN SERVICES

Services for the SC Regional Marketing Campaign shall minimally include the following:

1. Advertising:
 - o Develop regional campaigns.
 - o Cultivate research-based messages and creative executions that are simple, consistent and credible.
 - o Focused on equity and reaching target audiences and programs.
2. Business, Labor and Industry Outreach:

- Develop an outreach strategy that will increase work-based learning opportunities i.e. apprenticeships, internships by connecting business and community colleges including collateral.
3. Creative Development:
 - Focus on short-term certificate, target audiences, specific program collateral, and noncredit marketing, employer marketing.
 - Overall messaging contributing to the credibility and quality of career education to equip Orange County's workforce.
 4. Collateral Materials
 - Focused on identified market groups.
 5. Research:
 - Baseline Awareness Survey
 - Equity Research
 - Student Media Preferences or related/similar information
 - Research on hard to convert programs
 6. Social Media Strategies
 7. Web Management and Updates to existing Regional Marketing Website (www.futurebuilt.org)
 8. Media Relations (for internal and external stakeholders):
 - Work with various stakeholders on multiple projects
 - Lead and manage focus groups
 9. Administrative Services:
 - Customer Relations Management
 - Phone Number
 - Web Visits for www.futurebuilt.org website
 - Tracking campaigns and digital campaigns
 - Reporting
 10. Additional marketing support as needed

List of anticipated projects for SC Regional Marketing (for reference only, and is not limited to the projects listed below)

1. Marketing campaigns to promote enrollment for fall, spring, and summer
2. Report for Community College Chancellors and Presidents
3. Overview report for the Regional Marketing Program
4. Marketing videos
5. Various printed and digital marketing collateral
6. Marketing campaigns for the Strong Workforce Program
7. Media buys

PROPOSAL FORM A
LETTER OF INTEREST AND APPROACH
(Two Page Limit Excluding Proposer Firm Information)

Letter of Interest and Approach

The RFQ&P response should be introduced with a Letter of Interest that presents a statement of interest, firm's approach, and philosophy for implementing these services, and a brief description of the consultant/firm including qualifications for providing the requested services.

1. Describe what is unique about the consultant/firm as it relates to this specific project.

Cover letter to District in addition to the Proposer's narrative must include all of the information noted below in a letter format.

The individual who is authorized to bind Consultancy Services for the Development of a District and Colleges' Marketing Consultant Services Proposal (hence, "Proposer") contractually must sign the cover letter, must indicate the signatory is so authorized, and must indicate the title or position of the signatory. **An unsigned cover letter shall cause the proposal to be rejected.** The cover letter must contain a statement from the Proposer that acknowledges that all documents submitted pursuant to this request for proposal process will become a matter of public record. The letter must contain the following:

- The Proposer's name, address, e-mail, telephone, and facsimile number.
- The Proposer's Federal Employer Identification Number and Corporate Identification Number, if applicable.
- The name, title or position, and telephone number of the individual signing the cover letter and statement signatory is authorized to bind the firm.
- The name, title or position, and telephone number of the primary contact and/or account administrator, if different from the individual signing the cover letter.
- Provide all the named people who will actually perform the work when the Program begins.
- A statement to the effect that the proposal is a firm and irrevocable offer, good for one hundred and eighty (180) days. **Please complete Proposal Form A through G and Appendices A through E as part of your RFQ&P response.**
- A statement expressing the Proposer's willingness to perform the services as described in this RFQ&P.
- A statement indicating that all forms, certificates and compliance requirements included in this RFQ&P are completed and duly submitted in the proposal response.
- A statement that there is no conflict of interest. Use Form E.
- A statement expressing the Proposer's availability of staff and other required resources for performing all services and providing all deliverables within the specified time frames as described in the RFQ&P.
- A statement attesting that the Proposer is not 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.

- Please indicate if the firm is a small, minority, women, and/or disabled veteran business enterprise by providing a copy of the current certification.

Proposer Firm Information

- Type of Firm:

Corporation: _____ Proprietorship: _____ Partnership: _____

Joint Venture: _____ Other (please describe): _____

- Business License Number: _____

- Number of years in business under firm name: _____

- Has the firm changed its name within the past 3 years?

YES NO

If yes, provide former name(s): _____

- Have there been any recent (within the last three years) changes in control/ownership of the firm?

YES NO

If yes, explain. _____

- Have officers or principals of the firm ever had their business license suspended or revoked for any reason?

YES NO

If yes, please explain. _____

- Does the firm have an acceptable history of working proactively to avoid litigation?

YES NO

If no, please provide specific information on termination for default, litigation settled or judgments entered within the last five (5) years. _____

- Within the past five (5) years, have one or more contract(s) to provide services to which the Respondent was a party to have been terminated for default of the Respondent officers or principals of the firm?

YES NO

If yes, please explain. _____

PROPOSAL FORM B
PERSONNEL AND STAFFING RESOURCES
(One Page Limit Per Resume)

Submit resumes for each team member including sub-consultants proposed to provide service to the District including specific qualifications and recent related experience providing similar services. **List the proposed staff's current and anticipated availability during the contract period.** Include the following data and any other relevant information for the District to evaluate:

1. Provide total number of professional staff currently employed by the firm.
2. Resumes should include the Project Executive or person(s) providing oversight of the project team, if applicable.
3. Identify person/s who will be principally responsible for working with the District. Indicate the role and responsibility of each person/s, and how many years of experience with a focus on community college district qualifications relative to the proposed role. If the Proposer is chosen as a finalist, the proposed individual/s must attend the interview and in-person presentation.
4. Indicate whether or not individual is currently a direct employee of the firm. If a direct employee, indicate how many years with the firm.
5. Provide brief biographies, education, training, professional certifications, and work experience history of individual/s that will be working directly with each of the colleges, highlighting the skills identified with their tasks.
6. Link each named person with the specific tasks, responsibilities, and deliverables.
7. If more than one person is named as a candidate for a specific role, include above information for all listed persons.

PROPOSAL FORM C
RELATED EXPERIENCE AND METHODOLOGY
(Five Page Limit)

1. Provide a summary of the Firm's experience in relation to the services contemplated in this RFQ&P.
2. Describe how the firm will provide services and fulfill the requirements and expectations of the District.
3. Provide a summary of your Firm's experience working with Community Colleges and the experience of the staff assigned to this project.
4. Based on the RFQ&P scope, clearly specify any work that would be considered additional services.
5. Name and state the number of public entity clients served within the past 5 years.
6. Do you provide weekly status reports? If so, describe the type of information the status report contains.
7. Identify any special services typically provided by the firm that are not listed in the Scope of Services. Ensure that pricing for these services are included in Proposal Form D.
8. List projects in chronological order in which team members were involved. Indicate whether project was completed by firm or by a team member when employed by another firm.
9. Submit a full list of links to similar marketing campaigns designed for California Community Colleges or higher education institutions within the last five (5) years.

**PROPOSAL FORM D
 FEE AND RATE PROPOSAL**

The proposed fee schedule shall include fully burdened hourly rates for each title/individual proposed for the work. It is the proposer’s responsibility to understand the complexity of the District as well as the complexity of the proposed work and to submit a not-to-exceed fee accordingly using the form below.

Fees shall be firm, fixed and on a Not to Exceed (NTE) hourly billable hourly rate. Such rates shall include all labor, materials, overhead and profit (OH&P), and other direct and indirect costs including incidental travel. Actual contract rates will be subject to negotiation prior to issuance of any agreement. For each service description listed below, identify the roles/high level titles of the individuals responsible for engaging and completing each such service. **Duplicate for each service as necessary.**

Service Description	Role/Team Member Title	Not Exceed Hourly Billable Rate
Geofencing and Geotargeting Efforts		\$
Mobile Advertising		\$
Over-the-Top Advertising		\$
Social Media		\$
Google AdWords		\$
Search Retargeting		\$
Display Advertising		\$
Email Advertising		\$
Radio and TV Advertising		\$
Geofencing and Geotargeting Efforts		\$
Mobile Advertising		\$
Copy Writing		\$
Graphic Design		\$
Photography		\$
Multimedia Production		\$
Analytics and Reporting Services		\$
Additional Services Not Identified Above – Describe Services and Duplicate as Necessary		\$

PROPOSAL FORM E IT ACCESSIBILITY AND COMPLIANCE

Firms shall demonstrate compliance with the following standard: WCAG 2.0 level AA for products and/or services as identified in this RFQ&P.

Firm shall provide detailed information to the below questions along with the necessary demonstrations as required about the accessibility of the proposed products and/or services as identified in this RFQ&P.

1. For services to develop web-related products, include a description of how each of the WCAG 2.0 level AA standard/requirement will be implemented.
2. For each area of noncompliance, describe any planned remediation roadmaps, including timelines and steps that will be taken to achieve full compliance, as well as interim workarounds to enable access by individuals with disabilities.
3. Provide your Firm's policy or commitment statement regarding electronic accessibility.
4. Who in your Firm is responsible for the electronic accessibility policy and compliance? Provide contact information.
5. Do you have an accessibility function or team responsible for technical development? Describe its role in your organization.
6. How does your company achieve compliance with IT accessibility standards?
7. Describe the testing protocols you use to assess the accessibility of your product/service.
8. Can you provide live or pre-recorded demonstrations of the accessibility of your product?
9. How do you assure that you keep your product current with changing legal requirements and accessibility best practices?
10. If needed and when requested, Firm shall provide evaluation products for additional District validation testing.

Demonstration and Tests (as determined by the District):

- Shortlisted Firms shall be required to provide demonstrations during the interview/evaluation process for product demonstration to support their statements about the accessibility of their products or services.
- At a minimum, the Firm should show how blind or low-vision users would access the product using a screen reader. The Firm also may be asked to include members of other disabled communities to demonstrate different types of accessibility compliance.

REVISED PROPOSAL FORM F GENERAL TERMS AND CONDITIONS

Offer Held Firm: The Proposer agrees that it will not withdraw its offer for a period of *one hundred and eighty (180)* calendar days from the opening date.

Right to Reject: The Proposer understands that the District reserves the right to reject any or all proposals and to waive any irregularities and/or informalities in the evaluation of proposals. The District intends to verbally negotiate with the Proposers to reach a final agreement.

Bidder Certification: The Proposer certifies that this bid is made without previous understanding, agreement or connection with any person, firm, or corporation making a bid on the same services, and is in all respects fair and "without collusion or fraud."

Execution of a Contract: If awarded a contract, the Proposer agrees to execute a contract in accordance with this Proposal and the District's Instructions for Submittal of Proposals, Information for Proposers, General Conditions, and Service Requirements immediately upon receipt of written notice of acceptance of the Proposal by the District.

Assumption of Contract: The Proposer agrees to assume operations under the contract after the Board approval of contract and within ten (10) calendar days following the District's notification to proceed.

Exceptions to Specifications: In submitting a proposal, the Proposer affirms acceptance of the complete Conditions Specifications and Requirements associated with the District's RFQ&P document, unless otherwise stipulated. Any variances or exceptions which the Proposer wishes to note with respect to any of the Conditions, Specifications, or any District Service Requirements are to be stated herein or in an attachment to the RFQ&P submittal which is to be titled "Exceptions."

Conflicts of Interest: All Proposers must disclose the name of any Board of Trustees member, officer, director, or agent who is an employee of the South Orange County Community College District, which includes any District employee. Further all Proposers must disclose the name of any District or District employee, or Board of Trustees member, who has, directly or indirectly, any financial interests in the Proposer's firm or any of its branches. Submit this information on an attachment to the proposal which is titled "Conflict of Interest" and include the person's name, interest or position, and percent of ownership, if applicable.

Financial Statement: Prior to the award of contract, the District reserves the right to request and the proposer shall provide the current financial statement of the Proposer that is reviewed or audited by a Certified Public Accountant.

Required Submittals: The Proposer's detailed responses to the District's specifications and evaluation criteria must accompany this Proposal.

District's Right to Award: The signer hereby acknowledges that the District reserves the right to make the award to the Proposer which the District judges to have submitted the proposal most favorable to the District, with the District being the sole judge thereof.

Legally Binding: It is further certified that the person whose signature appears below is legally empowered to bind the company in whose name the proposal is entered and declares under penalty of perjury under California law that the firm's proposal response to this RFQ&P is true and correct.

Litigation History: List all related litigation in the last five (5) years filed by either an owner, owner's consultant, or contractor, against the firm.

SUBMITTED BY:

Company Name: _____

Contact Person: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ Fax: _____

Email: _____

By: Signature (Manual)

By: Signature (Typed or Printed)

PROPOSAL FORM G
REFERENCES

Each Proposer must be able to present both current and past evidence of satisfactory experience in providing services requested. List all four-year higher education and community college districts that you or your firm has contracted with in the last five (5) years. Include the name of the institution or district, contact person, email address and phone number of individuals who can evaluate work that has been completed by the consultant(s)/firm/team member(s) in the past five (5) years. The District has prioritized collegiality and collaboration, and assessing how consultant(s) will function within that culture will be a critical evaluation component.

REFERENCES

Name of Entity: _____

Contact Person: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ Fax: _____

Email: _____

Dates of Services: From: _____ To: _____

Types of Services Provided: _____

APPENDIX A
Non-Collusion Declaration

NON-COLLUSION DECLARATION
TO BE EXECUTED BY PROPOSER AND SUBMITTED WITH PROPOSAL

State of California)
) ss.
County of _____)

_____, being first duly sworn, deposes and says that he or she is _____ of _____ the party making the foregoing proposal that the proposal is not made in the interest of, or on behalf of, any undisclosed person, Proposer, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any Proposer or anyone else to put in a sham proposal, or that anyone shall refrain from submitting a proposal; that the Proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the Proposer or any other Proposer, or to fix any overhead, profit, or cost element of the proposal price, or that of any other Proposer, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the proposal are true; and, further, that the Proposer has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, Proposer, company association, organization, or to any member or agent thereof to effectuate a collusive or sham proposal.

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Print Name

Signature

APPENDIX B
Equal Opportunity Affirmative Action Statement

SOUTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT
EQUAL OPPORTUNITY AFFIRMATIVE ACTION STATEMENT

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

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Non-Discrimination this _____ day of _____, 2018.

Name of individual, company or corporation

By: _____

Title: _____

Address: _____

City State Zip Code

(Corporate Seal)

APPENDIX C
Firm's Certificate Regarding Worker's Compensation

Labor Code Section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this State.
- (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

Name of individual, company or corporation

By: _____

(Corporate Seal)

Title: _____

Address: _____

City State Zip Code

(In accordance with Article 5 (commencing at Section 1860), Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under this contract.)

APPENDIX D
Sample Agreement
Marketing Consultant Services

The Respondent shall thoroughly review the below Agreement. As part of the proposal submission, indicate in a separate Tab of the RFQ&P Response the Respondent's acceptance of all terms and conditions set forth in the Agreement. If there is any term or condition of the Agreement, which a Respondent requests to be modified, the Respondent must: (i) specifically identify such term or condition; and (ii) set forth the specific text of the modification requested for each such term or condition. Notwithstanding any requested modification to any term or condition of the Agreement, no such modifications are binding on the District or enforceable against the District unless the District affirmatively and specifically accepts any such requested modification. Any Respondent whose RFQ&P Response does not identify requested modifications to terms or conditions of the Agreement will be deemed to have agreed to all terms and conditions set forth therein; if awarded the Agreement, such Respondent must execute the Agreement in the form and content attached hereto subject only to elements of such Respondent's RFQ&P Response accepted by the District.

Proposer agrees to the Agreement's terms and conditions with no exceptions.

YES NO

If no, pursuant to the above instructions, submit all exceptions in a separate tab.



SOUTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (“Agreement”) is between South Orange County Community College District **[[Campus Location]]** (“District”), a California community college district and political subdivision of the State of California, and **[[Name (Primary Second Party)]]** (“Consultant”). District and Consultant are also referred to collectively as the “Parties” and individually as “Party.”

WHEREAS, District is authorized by Section 53060 (see Appendix 14) of the California Government Code to contract with and employ any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal or administrative matters, if such persons are specially trained and experienced and competent to perform the special services required; and

WHEREAS, District is in need of such special services and advice; and

WHEREAS, on September 28, 2020, the District issued RFQ&P No. 395D Marketing Consultant Services (“RFQ&P”); and

WHEREAS, Consultant is specially trained and experienced and competent to perform the special services required by the District, and such services are needed on a limited basis;

NOW, THEREFORE, in consideration of these mutual promises, the Parties agree as follows:

1. **Statement of Service.** Consultant's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of Consultant's profession. Services to be provided by Consultant (“Work”):

The Consultant's services shall consist of those services performed by the Consultant and Consultant's employees as enumerated in this Agreement, along with all aspects of services as identified 395D Marketing Consultant Services, referenced herein and made a part hereof as Attachment A and Consultant's Proposal, referenced herein and made a part hereof as Attachment B. The Agreement, Attachment A and Attachment B shall collectively be defined as the “Services.” The Parties understand and agree that the Agreement along with the Fee and Rate Proposal (Attachment C) and Criteria and Billing for Extra Work (Exhibit A) shall be the prevailing and governing documents and that Attachments B and C are intended to cooperate and be complementary.

As set forth herein, the District may pursuant to this Agreement, from time to time, issue Work Orders to Consultant authorizing certain work, and the provisions of this Agreement shall apply to all such Work Orders. Consultant shall not perform and District shall not be liable for any work performed by Consultant unless written authorization from District is given to Consultant in the form of such Work Order(s) prior to the performance of such work.

The Consultant shall provide to the District on the terms set forth herein, and within the time stipulated in each individual Work Order, all the services articulated in the Consultant's scope of work (“Services”), which may be more particularly described in a Work Order issued pursuant to this Agreement. The Parties agree if there is a proposal or similar document that the terms of this Agreement shall be controlling over any of the terms contained within the Consultant's proposal or similar document.

2. **Term.** The term of this Agreement shall begin January 1, 2021 and shall end December 31, 2025 in accordance with the schedule. This Agreement will not exceed five (5) years total. The time for completing the Services set forth in a Work Order shall be established in each individual Work Order issued to the Consultant.
3. **Project Schedule.** The Consultant acknowledges that all time limits stated in this Agreement and associated Work Orders are of the utmost importance to District. The Consultant shall submit for the District's approval a 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 (such cause shall be approved by District in writing), be exceeded by the Consultant.

4. **Payment.**

- A. **Consultant Hourly Rate Schedule.** The hourly billable rates include fully burdened hourly rates for each individual consultant identified to perform work for any assigned project. The rates identified below is set at a not to exceed amount payable for the highest qualified, experienced and skilled consultant/s assigned to any of the services identified below.

Service Description	Team Member Title	Hourly Billable Rate
Geofencing and Geotargeting Efforts		\$
Mobile Advertising		\$
Over-the-Top Advertising		\$
Social Media		\$
Google AdWords		\$
Search Retargeting		\$
Display Advertising		\$
Email Advertising		\$
Radio and TV Advertising		\$
Geofencing and Geotargeting Efforts		\$
Mobile Advertising		\$
Copy Writing		\$
Graphic Design		\$
Photography		\$
Multimedia Production		\$
Analytics and Reporting Services		\$
Additional Services Not Identified Above – Describe Services and Duplicate as Necessary		\$

- B. **Compensation Only Upon Work Order Execution.** Consultant shall not be entitled to any compensation for any services unless and until a written Work Order has been issued by the District. Upon issuance of such a Work Order, Consultant agrees to perform basic Services provided by this Agreement and the Work Order, and District agrees to pay Consultant for such Services in accordance with the fee schedule set forth above and confirmed as a not to exceed price in the Work Order.

The District will not pay any reimbursable expenses of the Consultant and the total contract not to exceed amount shall include all costs for the services rendered.

District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing services for District, unless otherwise specifically stated in this Agreement.

The District may withhold, or on account of subsequently discovered evidence, nullify the whole or a part of any payment to such extent as may be necessary to protect the District from loss, including costs and attorneys' fees, on account of:

- 1) Defective or deficient work product not remedied;
- 2) Failure of the Consultant to make payments properly to its employees or sub-consultants; or
- 3) Failure of Consultant to perform its services in a timely manner so as to conform to Project schedule.

- C. District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing Work for the District, unless otherwise specifically stated in this Agreement.

D. **Reimbursement of Expenses.** The District recognizes that certain costs and expenses associated with the Work performed are reimbursable to the Consultant. Provided that the Consultant obtains the District's prior written approval, costs and expenses will be reimbursed to the Consultant in accordance with this Article. The District's prior written authorization is an express condition precedent to any reimbursement to the Consultant of such costs and expenses, and no claim for any additional compensation or reimbursement shall be valid absent such prior written approval by the District and calculated in accordance with the rates set forth. The Consultant's mileage and travel time shall not be considered as an allowable reimbursable expense. The descriptive categories of expenses that may be considered for reimbursement are as follows, and any other reimbursable expenses must be approved in writing by the District:

- 1) Approved reproduction of reports and/or other documents in excess of the copies required by this Agreement;
- 2) Fees advanced for securing approval of authorities in connection with the Work rendered pursuant to this Agreement;
- 3) Cost of UPS, Federal Express, and other deliverables; and
- 4) Cost of subconsultants hired by Consultant with prior written approval of District.

E. **Payment in Full.** This compensation shall be compensation in full for all services performed by the Consultant under the terms of this Agreement and assigned Work Order, except where additional compensation is agreed upon between the Consultant and District in writing as provided for as additional services.

F. **Method and Schedule of Payment.** District shall pay to Consultant the Contract Amount pursuant to invoice from Consultant in accordance with this Agreement.

Invoices. Upon satisfactory completion and acceptance of Work, Consultant shall submit to the District detailed billing information regarding the Work provided for the billing period, not more than once per month, and, if applicable, District-authorized expenses incurred during the billing period to AccountsPayable@socccd.edu or mail to South Orange County Community College District, 28000 Marguerite Parkway, Mission Viejo, CA 92692, Attn: Accounts Payable. **To ensure prompt and accurate payment, all invoices related to this Agreement shall reference the following Agreement Number: [[Contract Number]].**

All District-authorized expenses shall be documented with original receipts and shall be pre-approved in writing by District, unless such expenses are specifically authorized by this Agreement. Invoices shall include the invoice date, date(s) of service(s), District's purchase order number, and Consultant's taxpayer identification number. Invoices shall be paid on a "net 30-day basis" for Work satisfactorily rendered (as determined by the District) pursuant to this Agreement. If payment term differs, it must be noted in Article 3A. An invoice cannot be paid unless this Agreement has been signed by Consultant and has been properly executed by District.

5. **Materials and Expenses.** Consultant shall furnish, at their own expense, all labor, materials, equipment, supplies and other items necessary to complete the Work to be provided pursuant to this Agreement. District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing Work for District. Consultant's Work will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of their profession.

6. **Transportation.** Consultant hereby acknowledges and understands that it is their responsibility to arrange for transportation to provide all Work necessary and/or required by this Agreement and is solely responsible for all associated costs. The District is in no way responsible for, nor does District assume any liability for, any injury or loss, which may result from Consultant's transportation for which the Consultant shall indemnify the District in accordance with the Hold Harmless and Indemnification provision herein.

7. **Taxes.** Consultant acknowledges and agrees that it is their sole responsibility to report as income their compensation received from the District and to make the requisite tax filings and payments to the appropriate federal, state, and/or local taxation authorities. No part of Consultant's compensation shall be subject to

withholding by the District for the payment of social security, unemployment, disability insurance, or any other similar state or federal tax obligation.

8. **California State Tax Withholding for Nonresidents of California.** It is mutually understood that if Consultant is a nonresident of California, which may include California nonresidents, corporations, limited liability companies, non-profits, and partnerships that do not have a permanent place of business in the State of California, the District is obligated to abide by California Franchise Tax Board (FTB) withholding requirements. The District is required to withhold from all payments or distributions of California source income made to a nonresident when payments or distributions are greater than One Thousand Five Hundred Dollars (\$1,500) for the calendar year unless the District receives authorization for a waiver or a reduced withholding rate from FTB. As of January 1, 2008, the standard withholding amount for all payments to nonresident California Consultants is Seven Percent (7%). District will deduct the amount ordered by the State of California from the payment hereunder and will pay such amount directly to the Consultant's California State Income Tax Account, settlement of which must be made by Consultant directly with the State of California through Withholding Coordinator, Franchise Tax Board, P.O. Box 651, Sacramento, California, 95812-0651; telephone (916) 845-6262. Completion and submission of the appropriate form shall be the obligation of the nonresident Consultant and Consultant shall defend, indemnify and hold harmless the District against any loss, expense, or liability arising out of Consultant's acts or omissions with respect to this nonresident requirement. Consultant shall provide all necessary documentation and information to help District comply with all tax requirements related to California nonresidents.
9. **Standard of Care and Professional Conduct.** The Consultant shall perform all Work hereunder in a professional manner, using the degree of care and skill ordinarily exercised by, and consistent with, the current professional practices and standards of a professional practicing in California. The Consultant will furnish, at its expense, the Work that is set forth in this Agreement and represents that the Work is within the technical and professional areas of expertise of the Consultant or any subconsultant the Consultant has engaged or will engage to perform the Work. If the District desires, the District shall request in writing, the Consultant to provide Work in addition to, or different from, the Work described herein. The Consultant shall advise the District in writing of any Work that, in the Consultant's opinion, lie outside of the technical and professional expertise of the Consultant. The Work 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 or Consultant's employees, subconsultants, or volunteers who are determined by the District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Work described herein, a threat to the safety of persons or property, or any of Consultant's employees, subconsultants, or volunteers who fail or refuse to perform the Work in a manner acceptable to the District, shall be promptly removed by the Consultant and shall not be contracted to perform this or any future Work for the District.

9. **Audit and Inspection of Records.** At any time during the normal business hours and as often as District may deem necessary, Consultant shall make available to District for examination at District's place of business as specified herein, all data, records, investigation reports and all other materials respecting matters covered by this Agreement and Consultant will permit the District to audit, and to make audits of all invoices, materials, payroll, records of personnel and other data related to all matters covered by this Agreement.
10. **Time is of the Essence.** Time is of the essence with respect to all provisions of this Agreement.
11. **Termination.** Either Party may, at any time, with or without cause, terminate this Agreement by providing at least thirty (30) days written notice to the other Party prior to the requested termination date. In such case, District shall compensate Consultant only for Work satisfactorily rendered to the date of termination. If District terminates for cause, it shall be entitled to compensation from Consultant for all costs associated with addressing and rectifying Consultant's noncompliance with this Agreement. Written notice by District shall be sufficient to stop further performance of Work by Consultant. In such case, notice shall be deemed given when received by the Consultant or no later than three (3) days after the day of mailing, whichever is sooner.
12. **Hold Harmless & Indemnification.** To the fullest extent permitted by law, the Consultant and its subconsultants shall defend (with counsel of District's choosing), indemnify, and hold harmless the District, its Board of Trustees, officers, agents, employees, representatives, and volunteers (collectively "Indemnified Parties") from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, in law or equity, property damage, personal injury, damages or injuries/illnesses (including COVID-19) of any kind, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, negligence, recklessness or willful misconduct of Consultant, its officials, officers, agents, employees, representatives, subconsultant, or

volunteers, in connection with the performance of the Consultant's Work of this Agreement or obligations hereunder, including without limitation the payment of all consequential damages, expert witness fees, attorney's fees, and other related costs and expenses. In the event any article sold and delivered hereunder is covered by any patent, copyright, or application thereof, Consultant and its subconsultants shall defend, indemnify, and hold harmless South Orange County Community College District, its Board of Trustees, officers, agents, employees, representatives, and volunteers from any and all losses, costs or expenses resulting from claims, suits or judgments rendered for violation of rights under such patents, copyright, or application. Consultant shall reimburse the District, its Board of Trustees, officers, agents, employees, representatives, and/or volunteers for all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity provided herein. This hold harmless and indemnification includes, but is not limited to, compensatory damages, regulatory fines, penalties, and extra-contractual liability. In no event shall the District, its Board of Trustees, officers, agents, employees, representatives, and/or volunteers be liable for any loss of Consultant's and/or its subconsultants' business, revenues or profits, or special, consequential, incidental, indirect or punitive damages of any nature, even if the District its Board of Trustees, officers, agents, employees, representatives, and/or volunteers have been advised in advance of the possibility of such damages.

- A. Consultant and its subconsultants' obligation to indemnify the District, its Board of Trustees, officers, agents, employees, representatives, and/or volunteers shall not be restricted to insurance proceeds, if any, received by the District, its Board of Trustees, officers, agents, employees, representatives, and/or volunteers.
 - B. The Parties understand and agree that this shall be the sole indemnity, as defined by California Civil Code § 2772, governing this Agreement. Any other indemnity that may be attached to this Agreement as an Exhibit shall be void and unenforceable between the Parties.
 - C. Neither termination of this Agreement nor completion of the acts to be performed under this Agreement shall release Consultant and its subconsultants from its obligations to indemnify as to any claims or causes of action asserted so long as the event(s) upon which such claim or cause of action is predicated shall have occurred prior to the effective date of termination or completion.
13. **Insurance.** The Consultant and its subconsultants shall maintain in full force and effect throughout the term of this Agreement the following policies of insurance with no less than the limits set forth herein. District may adjust, Consultant's required minimum coverage limits set forth herein at the commencement of a renewal term by providing Consultant and subconsultant (if applicable) written notice.
- A. A.M. Best Financial Rating. Policies of insurance required herein shall be issued by insurers with an A.M. Best financial rating of A:VII or better.
 - B. Admitted Carrier(s). Policies of insurance shall be afforded by insurers who are admitted - licensed to transact business in the State of California.
 - C. Workers' Compensation and Employer's Liability. In accordance with the laws of the State of California, Consultant shall maintain Workers' Compensation insurance and Employer's Liability coverage with not less than One Million Dollars (\$1,000,000) for Each Accident, One Million Dollars (\$1,000,000) for Disease - Each Employee, and One Million Dollars (\$1,000,000) for Disease - Policy Limit.
 - D. Commercial General Liability. Insurance with limits of not less than [[Commercial General Liability Limit]] per occurrence and Two Million Dollars (\$2,000,000) general aggregate to cover losses including, but not limited to blanket contractual, broad form property damage, products & completed operations, personal injury, and wrongful death.
 - E. Automobile Liability. Insurance with combined single limits of not less than [[Automobile Liability Limit]] per occurrence and Two Million Dollars (\$2,000,000) general aggregate to cover losses involving "Any Auto".
 - F. Professional Liability aka Errors and Omissions. Consultant and its subconsultants shall each procure and maintain throughout the term of this Agreement, Professional Liability insurance with limits of not less than [[Professional Liability aka Errors and Omissions Limit]] per occurrence or claim and Two Million Dollars (\$2,000,000) general aggregate to cover against liability claims/lawsuits related to the professional Work as stated herein. If coverage is written on a claims made and reported form, such coverage shall contain an Extended Reporting Period (aka tail coverage) for a minimum of two (2) years following the termination date of this Agreement.

- G. **Additional Insured Endorsement.** Consultant and its subconsultants shall each issue District an endorsement naming District, its Board of Trustees, officers, agents, employees, representatives, invitees, and volunteers as Additional Insureds to Consultant's and Consultant's subconsultants Commercial General Liability and Automobile Liability insurance policies.
- H. **Primary and non-contributory endorsement.** Consultant and its subconsultants insurance coverage and limits shall be primary and any of the District's insurance coverage and limits shall be non-contributory.
- I. **Waiver of Subrogation Endorsements.** Consultant and its subconsultants shall each issue District an endorsement waiving all rights of subrogation against the District, its Board of Trustees, officers, agents, employees, representatives, invitees, and volunteers with respect to Consultant and subconsultant's commercial general liability, automobile liability, and workers' compensation policies.
- J. **No Cancellation or Material Modification.** Policies of insurance and accompanying endorsements required by this Agreement shall not be cancelled or materially modified, except upon thirty (30) days' advance written notice to District. Written notice of cancellation or material modification shall be from the insurer(s) issuing the policy(ies) of insurance to the District.
- K. **Certificate(s) of Insurance and Endorsement(s).** Certificate(s) and Endorsement(s) evidencing the required coverages and limits set forth herein shall be provided to District upon Consultant's execution of this Agreement. No work shall commence by Consultant or its subconsultants until the required certificate(s) of insurance and endorsement(s) have been furnished to the District.
14. **Public Retirement System Retirees.** Consultant must disclose to the District if Consultant has retired from the California State Teachers' Retirement System ("CalSTRS") or the California Public Employees' Retirement System ("CalPERS"). Pursuant to California Education Code Section 24214 and 24214.5, there are postretirement limitations on earnings if Consultant has retired from CalSTRS and hours worked limitations if Consultant has retired from CalPERS. If Consultant has retired from either CalSTRS or CalPERS, Consultant should be aware that the District is required to report all payments under this and any additional Agreements in any given year (July 1 – June 30).
15. **Independent Consultant.** Consultant, in the performance of this Agreement, shall be and act as an independent Consultant and not an employee of the District. Consultant and its subconsultants, understand and agree that they shall not be considered officers, agents, employees, or volunteers 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 Workers' Compensation. Consultant assumes the full responsibility of their actions and/or liabilities including those of their employees or agents as they relate to the Work to be provided under this Agreement. Consultant shall assume full responsibility for withholding and payment of all federal, state, local and applicable income taxes; workers' compensation; contributions, including but not limited to, unemployment insurance and social security with respect to Consultant and Consultant's employees. Consultant should be aware that the IRS regulations require District to report total income exceeding six hundred dollars (\$600) under this and any additional Agreements in any given year. The District will not withhold taxes, unemployment insurance or social security for Consultant or Consultant's employees or subconsultants. Consultant agrees to defend, indemnify and hold the District, its Board of Trustees, officers, agents, employees, representatives, and volunteers harmless from and against any and all liability arising from any failure or alleged failure of Consultant to withhold or pay any applicable tax, unemployment insurance or social security when due or any failure or alleged failure to comply with any applicable regulation applicable to Consultant's employees or subconsultants.
16. **Use of Subconsultants.** The obligations of the Consultant pursuant to this Agreement shall not be assigned by the Consultant without the express written approval of the District. Consultant must obtain District's prior written approval to use any subconsultants while performing any portion of this Agreement and such approval may be conditioned on approval of the subcontract between Consultant and subconsultant. Such approval must include approval of the proposed subconsultant and the terms of compensation. If written approval for Consultant's use of a subconsultant is provided by the District, Consultant warrants that said subconsultant shall have sufficient skill and experience to perform the Work assigned to them. Consultant further represents that its subconsultants have all licenses, permits, qualifications, and approvals of whatever nature that are legally required to perform the Work, and that such licenses and approvals shall be maintained throughout the term of this Agreement. District retains the right to obtain copies of subconsultant's insurance coverage at any time. Nothing in this Article

shall be interpreted as creating a contractual relationship between District and any approved subconsultant. Notwithstanding District's approval of any subconsultant's contract, Consultant shall remain solely responsible for any harm, damage, or claim arising from any subconsultant's acts or omissions as set forth in the Hold Harmless and Indemnification provision herein.

17. **Assignment.** The obligations of the Consultant pursuant to this Agreement shall not be assigned by the Consultant without the express written approval of the District.
18. **Employment with Public Agency.** If Consultant is an employee of another public agency, Consultant agrees that they will not receive salary or remuneration, other than vacation pay, for the actual time in which Work is actually being performed pursuant to this Agreement.
19. **Representations and Warranties.** Consultant on its own behalf and on behalf of all its employees, makes the following certifications, representations, and warranties for the benefit of the District. In addition, Consultant acknowledges and agrees that the District, in deciding to engage Consultant pursuant to this Agreement, is relying upon the truth and validity of the following certifications, representations and warranties and their effectiveness throughout the term of this Agreement and the course of Consultant's engagement hereunder:

Consultant and its employees are qualified in all respects to provide to the District all of the Work contemplated by this Agreement and, to the extent required by any applicable laws, Consultant and its employees have all licenses, permits, qualifications, and/or governmental approvals that are legally required to perform the Work as described herein. Such licenses, permits, qualifications, and/or governmental approvals shall be maintained throughout the term of this Agreement.

Consultant, in providing the Work and in otherwise carrying out its obligations to the District under this Agreement, shall, at all times, comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, including workers' compensation and equal protection and non-discrimination laws. Consultant shall be liable for all violations of such laws and regulations in connection with the Work as described herein.

20. **Equal Opportunity/Non-Discrimination.** Consultant shall not discriminate against any individual with respect to their compensation, terms, conditions, or privileges of employment; or discriminate in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect their status as a consultant because of such individual's race, color, religion, sex, national origin, age, disability, medical condition, marital status, veteran status, or any other category protected by law. Consultant shall ensure that all Work and benefits rendered to the District, its Board of Trustees, officers, agents, employees, representatives, students, consultants/contractors, and volunteers are provided free of any form of harassment and without regard to race, color, religion, sex, age, disability, medical condition, marital status, national origin, veteran status, or any other category protected by law. Consultant shall comply with Americans with Disabilities Act and the Rehabilitation Act of 1973, as amended.
21. **Compliance with Applicable Laws, Policies, Procedures, Rules & Regulations.** Compliance with Applicable Laws, Policies, Procedures, Rules & Regulations. Consultant shall comply with District's policies, procedures, rules, regulations and/or guidelines that include but are not limited to a smoke, alcohol, and controlled substances free campus, conflict of interest, workplace violence, code of conduct, harassment and discrimination prevention and drug-free environment.

Consultant agrees to comply with all federal, state and local laws, rules, regulations, and ordinances that are now and may in the future become applicable to Consultant, Consultant's business, equipment and personnel engaged in Work covered by this Agreement or accruing out of the performance of such Work. Additionally, Consultant shall strictly comply with all health and safety guidelines consistent with Cal/OSHA and CDC.

COVID-19 Related Responsibilities. Consultant shall respond to all potential COVID-19 exposure events immediately. If a possible COVID-19 infection or potential exposure event occurs involving Consultant and any of its employees performing Work on District property pursuant to the terms of this Agreement, Consultant shall immediately notify the District. While the confidentiality of all medical conditions must be maintained in accordance with applicable law, the District reserves the right to inform any District staff, employees, students, and/or visitors that an unnamed individual has been diagnosed with COVID-19 if any of the District's staff, employees, students, or visitors might have been exposed to the disease so such individual(s) may take measures to protect their own health.

22. **Certification Regarding the California Penal Code Section 290.** By executing this Agreement, Consultant agrees to comply with the rules and regulations of the Sex Offender Registration Act, California Penal Code Section 290.95. Consultant certifies and understands that every person required to register under Section 290 shall disclose their status as a registrant, upon application or acceptance of a position, to that person, group, or organization. Furthermore, no person who is required to register under Section 290 because of a conviction for a crime where the victim was a minor under sixteen (16) years of age shall be an employer, employee, or independent Consultant, or act as a volunteer with any person, group, or organization in a capacity in which the registrant would be working directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis or have supervision or disciplinary power over minor children. A violation of this section is a misdemeanor punishable by a fine not exceeding One Thousand Dollars (\$1,000), by imprisonment in a county jail not to exceed a period of six (6) months, or by both that fine and imprisonment.
23. **Profanity Prohibited.** Profanity of any kind, including, but not limited to, racial, ethnic, or sexual slurs or comments which could be considered harassment on any District property or any property while Consultant and/or subconsultant are performing Work described herein is prohibited.
24. **Mandatory Dress Code.** Appropriate attire is mandatory. Therefore, clothing with inappropriate language/suggestions/gestures graphics, indecent exposure, tank tops, cut-offs, and shorts are not allowed. Additionally, what is written or pictured on clothing must comply with the requirements of acceptable language as stated in the above Article.
25. **Trademark/Logo Use.** Consultant must obtain written approval from District's Public and Government Affairs, Public Information Office ("PIO") to use the District's name and/or logos in any advertisements, promotions, press releases or other media. In the event permission is granted, PIO will furnish Consultant with camera-ready artwork for such use. District, at its sole discretion, may limit or otherwise place conditions on Consultant's use of District's name, and/or logos in which case such limitations shall be incorporated into this Agreement. Consultant shall not revise, change, or otherwise alter any material related to District's name and/or logo without written consent from District.
26. **Originality of Work.**
- A. **Matters Produced Under this Agreement.** 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. District shall have all rights, titles and interests 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.
- B. **Consultant Use of Other Copyright/Trademark/Patent Materials.** Consultant is responsible for arranging and paying for all rights and copyrights necessary and for all costs arising from the use of any material covered by copyright, patent, trademark or franchise. Consultant agrees to defend, indemnify, and hold harmless the District from any claims or costs, including legal fees, which might arise from questionable use of any such material. The District reserves the right to require verification.
27. **Rights to Data.** Consultant grants to the District the right to publish, translate, reproduce, deliver, use and dispose of, and to authorize others to do so, all data, including reports, drawings, blueprints, and technical information resulting from the performance of Work under this Agreement.
28. **Confidentiality.** Subject to any state or federal laws requiring disclosure (e.g., the California Public Records Act), the Parties agree, during the term of this Agreement and for five (5) years after termination or expiration of Agreement, to hold each other's proprietary or confidential information in strict confidence, except for any information protected under confidentiality laws, which shall be held in such confidence in perpetuity. Parties agree not to provide each other's proprietary or confidential information in any form to any third party or to use each other's proprietary or confidential information for any purpose other than the implementation of, and as specified in this Agreement. Confidential information may include, but is not limited to, information related to the District's research, development, trade secrets, and business affairs. Each Party agrees to take all reasonable steps to ensure that proprietary or confidential information of either Party is not disclosed or distributed by its employees, agents, or consultants/contractors in violation of the provisions of this Agreement.

Consultant shall advise the District of any and all materials subject to any copyright restrictions or requirements,

which are used or recommended for use by Consultant to achieve the project goals. In the event Consultant shall fail to advise the District of such use under this Agreement, and as a result, the District should be found in violation of any copyright restrictions or requirements, Consultant agrees to indemnify, defend and hold harmless, District against any action or claim brought by the copyright holder.

Notwithstanding the above requirements, to the extent any records or documents associated with the Consultant's Work and/or the project are or become public records, they shall be subject to disclosure pursuant to the Public Records Act and applicable California law.

- 29. **Non-Waiver.** 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.
- 30. **Notices.** All notices or demands to be given under this Agreement by either Party to the other Party shall be in writing and given either by: (a) personal service or (b) by U.S. Mail, mailed either by certified or registered mail, return receipt requested, with postage prepaid. Service shall be considered given when received, if personally served, 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 Article. At the date of this Agreement:

DISTRICT: South Orange County Community College District
 Priya Jerome, Executive Director of Procurement,
 Central Services, and Risk Management
 28000 Marguerite Parkway
 Mission Viejo, CA 92692
 (949) 582-4850 / purchasing-dept@socccd.edu

CONSULTANT:

[[Name (Primary Second Party)]]
 [[Contact Name (Primary Second Party Contact)]], [[Contact Title (Primary Second Party
 Contact)]]
 [[Street Line 1 (Primary Second Party)]]
 [[City/Town (Primary Second Party)]], [[State/Province (Primary Second Party)]], [[Postal Code
 (Primary Second Party)]]
 [[Contact Phone Number (Primary Second Party Contact)]] / [[Contact E-mail (Primary Second
 Party Contact)]]

The table below contains details about the potential clauses which could appear in a contract. It is not displayed on the contract.

Selected CCF: Is legal notice contact information different from Second Party Contact Name (Contractor Name)?

Response Type	Default Clause	Fallback 1	Fallback 2	Fallback 3
Default or No Response Selected	Second Party Notices 2 (inserted above)			
No	Second Party Notices 2	N/A	N/A	N/A
Yes	Legal Notices 2	N/A	N/A	N/A

A Party may change their designated representative and/or address for the purposes of receiving notices and communications under this Agreement by notifying the other Party of the change in writing and in the manner described in this Article.

- 31. **Supersedes.** This Agreement constitutes the entire agreement and understanding between the parties to this Agreement and supersedes all prior and contemporaneous negotiations and understandings between the parties whether oral or written, expressed or implied.

32. **Governing Law.** The terms and conditions of this Agreement shall be governed by the laws of the State of California with jurisdiction/venue in Orange, California.
33. **Force Majeure.** The Consultant and District are excused from performance during the time and to the extent that they are prevented from obtaining, performing any act or rendering any services required under this Agreement by a Force Majeure Event. If a Force Majeure Event caused the failure or delay beyond the Parties' control and which by the Parties' exercise of due diligence could not reasonably have been avoided, an extension of contract times in an amount equal to the time loss due to such delay shall be the Consultant's sole and exclusive remedy for such delay. A "Force Majeure Event" shall mean events or circumstances occurring by acts of God, such as tornadoes, lightning, earthquakes, hurricanes, floods, or other natural disasters; epidemics; pandemics; quarantine restrictions; fire; strikes; lock-out; commandeering of materials, products, plants or facilities by the government; terrorist attacks; wars; riots; civil disturbances; or governmental acts, including sanction, embargo, and import or export regulation, or order; when satisfactory evidence thereof is presented to the other party, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the party not performing.
34. **Severability.** 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 will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
35. **Interpretation.** In interpreting this Agreement, it shall be deemed to have been prepared by the Parties jointly, and no ambiguity shall be resolved against District on the premise that it or its attorneys were responsible for drafting this Agreement or any provision hereof. The captions or heading set forth in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any Articles or other provisions of this Agreement. Any reference in this Agreement to an Article, unless specified otherwise, shall be a reference to an Article of this Agreement.
36. **Conflict of Interest.** Consultant hereby represents, warrants and covenants that (i) at the time of execution of this Agreement, Consultant has no interest and shall not acquire any interest in the future, whether direct or indirect, which would conflict in any manner or degree with the performance of Work under this Agreement; (ii) Consultant has no business or financial interests which are in conflict with Consultant's obligations to District under this Agreement; and (iii) Consultant shall not employ in the performance of Work under this Agreement any person or entity having any such interests.
37. **Certification Regarding Debarment, Suspension or Other Ineligibility (Applicable to all agreements funded in part or whole with federal funds).**
- A. By executing this contractual instrument, Consultant agrees to comply with applicable federal suspension and debarment regulations, including, but not limited to, regulations implementing Executive Order 12549 (29 C.F.R. Part 98) (see Appendix 15).
- B. By executing this contractual instrument, Consultant certifies to the best of its knowledge and belief that it and its principals:
- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - 2) Have not, within a three-year period preceding the execution of this contractual instrument, been convicted of, or had a civil judgment rendered against them, for: (a) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) or private transaction or contract; (b) Violation of Federal or State antitrust statutes; (c) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or (d) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects Consultant's present responsibility;
 - 3) Are not presently indicted for, or otherwise criminally or civilly charged by any government entity (Federal, State or Local), with commission of any of the offenses enumerated in b.2) above, of this certification;
 - 4) Have not, within a three-year period preceding the execution of this contractual instrument, had one or

more public transaction (Federal, State or Local) terminated for cause or default;

- 5) Shall not, except as otherwise provided under applicable federal regulations, knowingly enter into any lower tier covered transaction with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded by any federal department or agency from participation in such transaction; and
- 6) Include in all lower tier covered transactions, and all solicitations for covered transactions, provisions substantially similar to those set forth herein.

38. **Accessibility of Information and Communication Technology.** Consultant hereby warrants that the Work to be provided under this Agreement complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C §794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194. Products covered under this provision include, without limitation, the following: Software applications; operating systems; web-based intranet and internet information and applications; telecommunications products; video or multimedia products; self-contained closed products such as copiers; source codes and desktop and portable computers. Consultant agrees to respond promptly and resolve any complaints regarding accessibility of its products or Work that are brought to its attention. All websites developed and maintained must be accessible, built to the most current and highest Web Content Accessibility Guidelines (WCAG), and be delivered with documentation allowing the District to certify it as accessible and in compliance with California Government Code Sections 7405 and 11135. Consultant is responsible for all claims and expenses borne by the District, which arise out of the Work under this Agreement, found to be non-compliant with Federal and California laws. These costs include but are not limited to legal costs, court costs, and costs for remediation of Work produced. Consultant further agrees to indemnify and hold harmless the District from and against any claim arising out of Consultant's failure to comply with these requirements. Consultant acknowledges that failure to comply with these requirements shall constitute a breach and be grounds for termination of this Agreement or cancellation of the Work.
39. **Entire Agreement and Amendment.** The Agreement documents consist of this Agreement, any Exhibits thereto, any exhibits attached to or referenced herein, and all amendments and/or modifications issued in writing, duly approved or ratified by the District's Board of Trustees, and executed by the Parties shall be interpreted to the benefit of the District. Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (a) provisions set forth in this Agreement, including all properly executed Work Orders, and any exhibits thereto, (b) provisions set forth in any referenced attachments or exhibits to this Agreement attached or incorporated herein by reference. However, the Parties understand and agree that the service specified in the Agreement and any provisions set forth in any referenced attachments or exhibits to this Agreement is intended to cooperate and be complementary; provided further, however, that in the event of a conflict between the Agreement and the provisions set forth in any referenced attachments or exhibits, the Agreement shall control, unless the provisions set forth in any referenced attachments or exhibits to this Agreement provides the District with greater benefits or more expansive Work in which case the provisions set forth in any referenced attachments or exhibits to this Agreement shall complement the terms of this Agreement.
40. **Authority to Execute.** The individual(s) executing this Agreement on behalf of the Consultant is/are duly and fully authorized to execute this Agreement on behalf of Consultant and to bind the Consultant to each and every term, condition, and covenant of this Agreement.
41. **Approval by District's Board of Trustees.** Pursuant to Education Code Section 81655, this Agreement is not valid and does not constitute an enforceable obligation against District unless and until District's Board of Trustees has approved or ratified this Agreement as evidenced by a motion duly passed and adopted by the Board of Trustees.

IN WITNESS WHEREOF, this Agreement has been executed by and on behalf of the Parties, the day and year signed below.

CONSULTANT

DISTRICT

[[NAME (PRIMARY SECOND PARTY)]]

[[Name (Primary First Party)]]

Signature:

Signature:

Print Name:

Print Name:

Title:

Title:

Date:

Date:

<p>APPENDIX E Submission Checklist South Orange County Community College District Marketing Consultant Services</p>
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Item	Included in RFQ&P Response
Proposal Form A: Letter of Interest and Approach	
Proposal Form B: Personnel and Staffing Resources	
Proposal Form C: Related Experience and Methodology	
Proposal Form D: Fee and Rate Proposal	
Proposal Form E: IT Accessibility and Compliance	
Proposal Form F: General Terms and Conditions	
Proposal Form G: References	
Proposal Form H: Addenda Acknowledgement	
Appendix A: Non-Collusion Declaration	
Appendix B: Equal Opportunity Affirmative Action Statement	
Appendix C: Firm's Certificate Regarding Workers' Compensation	
Appendix D: Sample Agreement for Marketing Consultant Services	Only notate changed/exceptions to the Sample Agreement pursuant to the instructions highlighted and identified in Appendix D.
Appendix E: Submission Checklist	