

# **SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT**



**REQUEST FOR QUALIFICATIONS NO. 136  
FOR  
ASBESTOS, LEAD AND HAZARDOUS MATERIALS  
CONSULTING SERVICES**

**QUALIFICATIONS DEADLINE DATE**

June 10, 2013 at 4:00 p.m.

**SUBMIT TO**

SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT  
Facilities Management/Maintenance & Operations Department  
956 W. 9<sup>th</sup> Street  
San Bernardino, California 92411  
Phone: (909) 388-6100  
Attention: Tiffany Battle

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## **PURPOSE OF THE RFQ:**

NOTICE IS HEREBY GIVEN that the San Bernardino City Unified School District (SBCUSD) Facilities Management Department acting by and through its Governing Board, hereinafter referred to as the DISTRICT, is soliciting and issuing this Request for Qualifications (RFQ) and will receive up to, but no later than Monday, June 10, 2013 by 4:00 p.m., qualifications from interested parties. The purpose of this RFQ is to select a group of qualified consultants to be on the District's pre-approved list for Asbestos, Lead, and Hazardous Materials Consulting Services. The District intends to enter into master service agreements (MSA) with the pre-approved firms for assigned projects.

The intent of this RFQ is to identify consultants who have considerable expertise and experience delivering Asbestos, Lead, and Hazardous Materials Consulting Services to School Districts. All qualified parties including local parties are encouraged to submit qualifications. Qualifications must be submitted in a sealed envelope, addressed as indicated on the front page, with the name and address of the respondent in the upper, left corner, under which should be clearly printed: **REQUEST FOR QUALIFICATIONS: ASBESTOS, LEAD, AND HAZARDOUS MATERIALS CONSULTING SERVICES.**

Following receipt of qualifications received, review and ranking of them, the District intends to establish a list of pre-approved consultants. Then, every time the District identifies a need for the required services, the District will request specific information, qualifications and fee proposals from the pre-approved consultants for one or more specific project(s). Depending on the number of projects, one or more respondents will be selected and the District shall enter into a professional services agreement for the specific project(s). A sample of anticipated professional services agreement (for information purposes only) is attached to this RFQ.

The initial term of the pre-approval shall be three (3) years from the Board of Education approval and certification with the possibility of, up to two additional successive one-year extensions, at the sole discretion of the District, not to exceed a cumulative total of five years.

## **GENERAL BACKGROUND ON THE DISTRICT:**

**The San Bernardino City Unified School District is currently the eighth largest school district in California with approximately 66 schools in operation and a student enrollment of approximately 52,365. Currently the district has 44 elementary, 10 middle/prep high, 8 high schools, 3 specialty schools and 1 adult school. The District is in the final phases of a \$900 Million plus Facilities Capital Improvement Program (FCIP). FCIP is a multi-faceted program designed to add capacity to the District and modernize and improve existing District facilities while keeping the District School Board, the community and potential vendors informed about improvements and construction taking place on District's schools and administrative buildings.**

For additional information regarding the District, please visit the San Bernardino City Unified School District Internet web site at [www.sbcusd.k12.ca.us](http://www.sbcusd.k12.ca.us) or by calling (909) 381-1100.

## **ANTICIPATEDTIMELINE\*:**

Request for Qualifications Issued.....	Thursday, May 23, 2013
Deadline for Submittal of Questions and Request for Clarifications.....	Thursday, May 30, 2013 by 12:00pm
Responses to the Questions Submitted.....	Monday, June 3, 2013 by 4:00pm
<b>Due Date for Submittal of Qualifications.....</b>	<b>Monday, June 10, 2013 by 4:00 pm</b>

\*Dates are subject to change.

## **QUESTIONS AND CLARIFICATION OF THE RFQ**

Questions, request for explanation or clarifications in regard to this RFQ shall be made in written form and submitted via email to Tiffany Battle, Interim Business Outreach Coordinator, Facilities Management/Maintenance and Operations Department at [tiffany.battle@sbcusd.k12.ca.us](mailto:tiffany.battle@sbcusd.k12.ca.us); by no later than 12:00 p.m., Thursday, May 30, 2013.

The District will advise all parties known to have received a copy of the RFQ of responses to the requests for explanation or clarifications by email and via posting on the District website at [www.sbcusdfacilities.com](http://www.sbcusdfacilities.com). All parties interested in responding to the RFQ are advised to check the District websites for any updates.

## **CONTENTS OF THE REQUEST FOR QUALIFICATIONS**

Respondents must submit one (1) unbound original, three (3) bound hard copies and a compact disc "CD" containing electronic files of the submitted qualifications. All qualifications should address the following items in the order listed below. The qualifications are to demonstrate the qualifications, competence and capacity of the respondent:

1. **Cover Letter/Letter of Interest** - Include a cover letter stating the eligibility of the respondent to respond to this RFQ, a brief description of the respondent and statement of interest.
2. **Table of Contents** – The Table of Contents shall reflect the order stated herein and shall include section titles and page numbers.
3. **Respondent's Data "Attachment 2"** – Each respondent must completely answer the questions in Attachment 2 of the RFQ. Note: **Questions may be answered in other sections of the proposal if clearly and conspicuously identified on the questionnaire.** The following shall be stated:
  - A. **Description of Company** – Include a description of qualifications for providing the requested services. Include information regarding the size of the company, location of the office from which the required services would be performed, nature of work performed, and years in this particular business. The respondent shall provide an affirmative statement that it is independent of the District as defined by generally accepted standards.
  - b. **Personnel and Staffing Resources** – Submit resume(s) or profiles for each key staff who will be proposed to provide the requested services, including their

qualifications and recent related experience providing similar services. Each resume shall include but not be limited to the following information; (a) Education; (b) Years of relevant experience; (c) Professional registrations, certifications and affiliations (d) Project-specific experience with focus on public projects and emphasis on K-12 projects providing Asbestos, Lead, and Hazardous Materials Consulting Services, including dates and durations of each project listed and where employed. Include an affirmative statement that the company and all assigned key professional staff are currently licensed to perform the services and hold all proper business or other required licenses.

**c. Capacity & Methodology** – Describe how the respondent will provide services and fulfill the requirements and expectations of the District and this RFQ. Use this section to address the ability of the respondent to undertake and accomplish the required scope of services while meeting any deadlines, record of meeting schedules and deadlines of other clients; advantages over other parties in the same industry; strength and stability as a business concern; and supportive client references. Describe the respondent's ability to provide Asbestos, Lead, and Hazardous Materials Consulting Services exclusively and in a timely manner for the District and the respondent's commitment to providing personnel assigned to District's Projects. Information should be furnished for both the respondent and any sub consultants included in the RFQ. Each firm must meet the following minimum qualifications (firms may not use sub consultant experience to meet the minimum requirements):

- Firm must provide State of California, Division of Occupational Safety and Health, Certified Asbestos Consultant(s) (CAC) and/or Certified Site Surveillance Technician(s) (CSST). (Copies of the certifications must be included.)
- Firm must provide State of California, Department of Health Services Lead Certified Inspector(s)/Assessor(s), Project Designer(s), Supervisor(s), or Project Monitor(s). (Copies of applicable certifications must be included.)
- Firm must have a Certified Industrial Hygienist available as needed. (Copy of the certification must be included.)
- Firm must have completed at least 3 asbestos and/or lead-containing, and/or hazardous material projects performed for California school districts within the last 3 years similar in nature to the scope of services attached herein.

**d. Experience and References** – Description of past performances of similar service and related experience. Each respondent is required to submit a list of its most relevant consulting services provided in the last five (5) years that are of the approximate size of services described in the Scope of Services, including all school district clients. The list shall include (1) the size of the project, (2) scope of the work, (3) date services were performed, (4) number of hours of service for the project, (5) client's name and address, (6) client contact name and phone number.

If applicable, specify any consulting services that may have been provided for the San Bernardino City Unified School District previously. State the scope and size of each project, and the beginning and ending dates of services.

**e. Customer Service Commitment** – Describe the respondent's philosophy and approach for providing outstanding customer service.

- f. **Local Business Participation** – Describe the respondents plan for inclusion of local businesses in the services to be provided for the District. The District is interested in assisting local businesses and as such would like to see how its consultants and vendors plan to utilize local entities of any type who could benefit from association with the work contracted. The District requires that at least ten (10) percent of all contracts for professional services be set aside by the selected entity(ies) for local businesses. A locally owned business, for purposes of satisfying the locality requirements of this provision, is one which holds a valid business license issued by the County or the City and where the owner maintains an office in the City of San Bernardino or City of Highland.
- g. **Litigation** – Furnish and provide specific information on any termination for cause, litigations settled or judgments entered within the last five (5) years, and civil judgments or criminal convictions for false claims within the last five (5) years involving the respondent. Identify if the respondent or any employee of the respondent is a party to an existing dispute with an owner, owner’s consultants or contractors, related to any project for which the respondent provided Asbestos, Lead, and Hazardous Materials Consulting Services. If so, please describe the nature of the dispute and its anticipated outcome.
- Identify if the respondent has ever filed a petition for bankruptcy. If so, please provide the date the petition was filed and identify the jurisdiction in which it was filed.
- h. **Additional Information** - Respondents are encouraged to provide additional information or description of resources the respondent feels is pertinent to the RFQ. Respondents are cautioned, however, that this does not constitute an invitation to submit large amounts of extraneous material; appendices should be relevant and brief.
4. **Fee Schedule and Reimbursable Expenses “Attachment 3”** – Respondents shall state their proposed fees and a table of reimbursable expenses.
- a. **Fee Schedule:** Identify all personnel that may be, directly and indirectly, assigned to the project as well as proposed hourly rates. These should be quoted as fully-burdened (e.g., direct labor + overhead + profit) hourly rates offered on a lump sum and time-and- materials not to exceed basis.
- b. **Reimbursable Expenses:** The maximum charge for all reimbursable costs shall be an amount not-to-exceed ten (10) percent of the Contract Amount unless otherwise approved by the District. Reproduction for District use shall be transmitted by selected respondents to District’s reproduction vendor. Qualifications must list basis for all other reimbursable costs including any markups. Please note that the District does not reimburse the cost of postage, faxes, deliveries, telephone and communication, mileage and/or travel expenses to and from District offices and/or project sites.
5. **Equal Employment Opportunity (EEO) Certification “Attachment 4”** – Each respondent must certify that compliance with the federal EEO requirements is met.
6. **Worker’s Compensation Insurance Certification “Attachment 5”** - Complete and sign the Worker’s Compensation Insurance Certification form. Respondents shall describe the outcome of design and construction-related claims, if any, filed

against the respondent's general liability or professional liability or automobile liability insurance carriers during the most recent five (5) years. Proof of Insurance for General Liability, Professional Liability, Public Liability and Auto Liability or a statement of liability shall be required from the successful respondent according to the terms of this RFQ.

7. **Business Outreach Program "Attachment 6"**– Respondents are requested to submit the District's Business Outreach Program (LBOP) registration form. The District is using this form to monitor the participation of professional service providers in the Facilities Capital Improvement Program. Copies of the LBOP registration form is attached hereto as Attachment 6.

## **PREPARATION AND SUBMITTAL OF THE QUALIFICATIONS**

### **Qualifications Submittal and Deadline**

One unbound original, three bound hard copies and a CD copy of the qualifications must be submitted under sealed cover by **no later than 4:00 p.m. on, Monday June 10, 2013**. Mark your company name, RFQ title and RFQ deadline on the outside of the sealed envelope.

Qualifications shall be delivered to the attention of:

Tiffany Battle, Interim Business Outreach Coordinator  
Facilities Management/Maintenance and Operations Department  
San Bernardino City Unified School District  
956 W. 9<sup>th</sup> Street  
San Bernardino, CA 92411  
[tiffany.battle@sbcusd.k12.ca.us](mailto:tiffany.battle@sbcusd.k12.ca.us)

**It is the sole responsibility of the respondent submitting the proposal to ensure that it is actually received in the Facilities Management/Maintenance and Operations Department office prior to the deadline time and due date.** Late submissions will not be considered. Fax, email or telegraphic qualifications will not be accepted.

### **Qualifications Completeness**

Qualifications shall be completed in all respects as required by the instructions herein. An RFQ may be rejected if it is conditional or incomplete, or if it contains alterations of form or other irregularities of any kind. An RFQ will be rejected if, in the opinion of the District, the information contained therein was intended to mislead the District in the evaluation of the RFQ.

### **District Not Responsible For Preparation Costs**

All costs incurred in the preparation, submission and/or presentation of respondents responding to the RFQ including, but not limited to, the respondent's travel expenses to attend any pre-conferences, oral presentations, long distance charges, and negotiation sessions, shall be the sole responsibility of the respondent and will not be reimbursed by District.

District shall not pay for any costs incurred for the RFQ or contract preparation as a result of termination of this RFQ or termination of the contract resulting from this RFQ.

### **Right to Use Ideas**

All qualifications and other materials submitted become the property of the District. District reserves the right to use any ideas presented in any response to the RFQ. Selection or rejection of the RFQ shall not affect this right.

### **Modification or Withdrawal of RFQ**

A respondent may modify or withdraw an RFQ after submission by written request of withdrawal and re-submission, provided that the RFQ withdrawal or modification is prior to the due date deadline specified.

### **Amendments**

Respondents are advised that the District reserves the right to amend this RFQ at any time. Amendments will be done formally by providing written amendments to all potential respondents known to have received a copy of the RFQ and/or by publishing the amendment on the District website: [www.sbcusdfacilities.com](http://www.sbcusdfacilities.com);

### **Equal Opportunity**

The respondent shall certify that it is an Equal Opportunity Employer and has made a good faith effort to improve minority employment and agrees to meet federal and state guidelines. Legal residents of the United States of America shall be used in providing all services under this RFQ.

Respondent shall not discriminate nor permit discrimination against any person because of race, color, religion, age, national origin, ancestry, creed, handicap, sexual orientation, union membership, in the performance of the work including but not limited to, preparation, manufacturing, fabrication, installation, erection and delivery of all supplies and equipment. In the event of receipt of such evidence of such discrimination by the respondent or its agents, employees or representatives, District shall have the right to rescind and terminate the Contract.

The successful respondent agrees to include the paragraph above with appropriate adjustments in all subcontracts, which are entered into for work to be performed pursuant to the Contract.

Complete the Equal Opportunity Certification form, attached herein as Attachment No. 4, and return with the RFQ.

### **Waiver or Breach Thereof**

No term or provision of this RFQ shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by an individual authorized to so waive or consent. Any consent by either party to, or waiver of, a breach by the other, whether express or implied, shall not constitute a consent to, waiver of, or excuse for, any other breach or subsequent breach, except as may be expressly provided in the waiver or consent.

### **Covenant against Gratuities**

The respondent warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the respondent or any agent or representative of the respondent, to any officer or employee of the District with a view toward securing the resultant contract or securing favorable treatment with respect to any determinations concerning the award of the RFQ. For breach or violation of this provision, the District shall have the right to terminate any negotiation or the resultant contract, either in whole or in part, and any loss or damage sustained by the District in procuring on the open market any items which respondent agreed to supply shall be borne and paid for by the respondent. The rights and remedies of the District provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law.



### **Indemnification**

The respondent, at its own expense and without exception, shall indemnify, defend and pay all damages, costs, expenses, including attorney fees, and otherwise hold harmless the District, its employees and representatives, from any liability of any nature or kind in regard to the delivery of these services. Further, the successful respondent (s) will be required to provide to the District evidence and the amount of Errors and Omissions Insurance i.e. Professional Liability Insurance currently in effect. Limits for Errors and Omissions Insurance are \$1,000,000 for each occurrence and \$2,000,000 aggregate and the District will be named as additional insured.

### **Conflict of Interest**

The respondent is in agreement that it presently has no interest and will not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the services hereunder. The respondent further agrees that no person having any such known interest or conveyed an interest shall be employed, directly or indirectly, in the delivery of services under this RFQ.

### **Independent Contractor**

The respondent represents itself as an independent contractor offering such services to the general public and shall not represent him/herself or his/her employees to be an employee of the District. Therefore, the respondent shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, and other expenses.

### **Precedence of Documents**

The contract between the District and the successful respondent (s) shall consist of (1) this Request for Qualifications (RFQ) and any amendments thereto, (2) the proposal submitted by the respondent to the District in response to the RFQ, and (3) the respondent agreement included herein to be executed with the successful respondent(s). In the event of a conflict in language between the documents referenced above, the provisions and requirements set forth in the Master Service Agreement shall govern. However, the District reserves the right to clarify any contractual relationship in writing with the concurrence of the respondent, and such written clarification shall govern in case of conflict with applicable requirements stated in the RFQ or the respondent's proposal. In all other matters not affected by the written clarification, if any, the RFQ shall govern.

### **Compliance with Laws**

In connection with the furnishing of services or performance of work under this RFQ, the respondent agrees to comply with the Fair Labor Standards Act, Equal Opportunity Employment Act, and all other applicable Federal and State laws, regulations and executive orders to the extent that the same may be applicable.

## EVALUATION AND AWARD

### Qualifications Evaluation:

A District Evaluation Committee will determine which, if any, qualifications are in the District's overall best interest to accept. During the evaluation process, the District may request additional information, clarifications, explanations and answers from any proposing respondent. The District may request any or all proposing respondents to participate in a presentation and/or interviews in regards to their proposal. The invited respondents must be able to be available for the presentation and/or interviews within two days of the request, unless another date has been agreed upon.

The District reserves the right to conduct negotiations with any number of respondents, as determined by the District, for entering into contract agreements.

### Evaluation Criteria:

The evaluation of qualifications will include but not be limited to the following criteria:

1. **RFQ Packet** – Completeness and clarity of RFQ content.
2. **Qualifications** – Company size, years in business, licenses and certifications, etc.
3. **Personnel and Staffing Resources** – Professional qualifications and specialized experience of the proposed staff including the quality of the respondent's professional personnel to be assigned to District projects and the quality of the respondent's management support personnel to be available for technical consultation and/or assistance; a percentage of the total score will be given to consulting respondents that identify their plan for recruiting and utilizing local businesses within the boundaries of the City of San Bernardino and the City of Highland.
4. **Capacity & Methodology** – Current capacity and likelihood of the respondent to successfully meet the needs of the District and fulfill the requirements of each Agreement issued within the timelines given.
5. **Experience & References** – Experience and expertise of the respondent in providing similar services to other public entities of comparable size and scope, especially a school district.
6. **Local Businesses Participation and Customer Service** – The respondent's involvement and willingness to integrate and assist local businesses of any type who could benefit from association with the work contracted.
7. **Fee Schedule** – Rates for different classifications to be utilized in any assignment.

## **GENERAL TERMS AND CONDITIONS**

### **Local Businesses Participation**

The District is vitally interested in promoting the growth of small and local businesses within the boundaries of the District and the cities of San Bernardino and Highland by means of increasing the participation of these businesses in the District's purchase of goods and services. The District requires that at least ten (10) percent of all contracts for these services be set aside by the selected respondent(s) for local businesses. A locally owned business, for purposes of satisfying the locality requirements of this provision, is one which holds a valid business license issued by the City and where the owner maintains an office. The respondent will be required to certify on the invoices the names of local businesses utilized in any and all District assigned work.

### **District Obligation**

Receipt of qualifications and responses to this RFQ does not obligate the District in any way. The District reserves the right to accept or reject any or all qualifications, to waive any irregularities or informalities in the respondent's submission or in the RFQ process.

### **Award of Contract**

This RFQ implies no obligation to award contracts to any respondent. If it is in the best interest of the District, the District retains the sole and absolute right to select the respondent that best meets the District requirements. The award is subject to acceptance by the Governing Board of the San Bernardino City Unified School District.

### **Approval to Start Work**

The successful respondent(s) may perform work once a Master Services Agreement has been fully executed and approved by both parties and all appropriate documentation has been received and approved by the District, and a purchase order has been issued. The District shall not be responsible for work done, even in good faith, prior to approval of the agreement and purchase order issuance by the District.

### **Ownership of Documents**

All qualifications and materials submitted in response to this RFQ shall become the property of the District and shall be considered a part of Public Records, unless exempted by law. In addition, all designs, drawings, specifications, notes and other work developed in the performance of any services resulting from this RFQ shall be the sole property of District and may be used by District for any purposes without additional compensation to the selected respondents. Selected respondents agree not to assert any rights or to establish any claim under the design patent or copyright laws.

### **Joint Ventures**

Where two or more respondents desire to submit a single response to this RFQ, they should do so on a prime-subcontractor basis rather than as a joint venture or informal team. The District intends to contract with a single respondent and not with multiple respondents doing business as a joint venture.

### **Assignment**

If a contract is issued to the successful respondent(s), the contract shall not be assignable in whole or in part without written consent of the District. It is the policy of the District to withhold consent from proposed assignments, or subcontracts when such transfer of responsibility would operate to decrease the District's likelihood of receiving performance on the contract. The

District does not normally object to the granting of assignments for financial purposes, provided that the original respondent retains all of its responsibilities and obligations under the contract. In the event of any assignment hereunder to which the District has consented, each such assignment shall contain a provision that further assignments shall not be made to any third or subsequent party without any additional written consent of the District.

#### **Respondent's Power and Authority**

The respondent warrants that it has full power and authority to grant the rights herein granted and will hold the District hereunder harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, respondent declares that it will not enter into any arrangement with any third party, which might abridge any rights of the District under this contract.

#### **Disputes**

If a dispute arises among the parties hereto, the parties agree first to try in good faith to settle the dispute among them via agreement and thereafter by mediation administered by the American Arbitration Association under its Commercial Mediation Rules before resorting to litigation. All parties shall share the costs of any mediation proceedings equally.

#### **Fingerprinting**

Per the provisions of the Education Code Section 45125.1, the District has a zero tolerance for all respondents having any contacts with students without any clearance from the State Department of Justice. All assigned personnel to active and occupied school sites shall comply with the fingerprinting clearance law prior to providing services at the school sites.

# **SCOPE OF WORK FOR ASBESTOS, LEAD, AND HAZARDOUS MATERIALS CONSULTING SERVICES**

## **1. Asbestos-Related Consulting Services**

Provide State of California, Division of Occupational Safety and Health, Certified Asbestos Consultant(s) (CAC) or Certified Site Surveillance Technician(s) (CSST), for asbestos-related services.

Review sites and scope of work and/or specification and plans for proposed construction activities to determine the type of work that will occur on the project. Meet with District Project Manager and where applicable, other consultants, to perform on-site inspections of the locations involved in the project to determine where asbestos containing materials may be present, or are in close proximity to the work and could be impacted, as a result of the project. Inspections shall include accessing inaccessible spaces and the collection of bulk samples of suspect materials not identified as positive or negative for asbestos content. Sampling to be conducted in accordance with EPA/AHERA established sampling protocols and asbestos analysis shall be performed by an NVLAP Accredited Laboratory.

### **Lead-Related Consulting Services**

Provide staff with State of California, Department of Health Services Lead Certification to perform lead-related services.

Review sites and scope of work and/or specification and plans for proposed construction activities to determine the type of work that will occur on the project. Meet with District Project Manager and where applicable, other consultants, to perform on-site inspections of the locations involved in the project to determine where lead-based paint may be present, or are in close proximity to the work and could be impacted, as a result of the project. Lead-based paint testing will be performed using a portable X-ray fluorescence (XRF) analyzer. Paint chip and/or dust samples may be collected for confirmation.

### **Hazardous Materials Consulting Services**

Perform a visual evaluation of potential hazardous chemicals and/or ballasts to determine the need for additional mitigation efforts required for safe demolition. The Consultant is to visit the project site and determine what materials require sampling. The Consultant is to take bulk samples of all materials that are suspected to be hazardous including all unmarked containers containing unknown substances. The following items may require sampling:

- Paint and window caulking
- PCB Ballasts
- Mercury thermostats and light switches
- Cooling units, air conditioners and water fountains
- Other suspect items

## **2. Assessment Reports and Abatement Plan**

Prepare an Assessment Report for each project and in the case of projects involving site acquisition, subsections by each property parcel including a description of the site conditions, details of the site inspection/investigations, site drawings indicated sampling locations, site photographs and laboratory results with a summary of all identified asbestos, lead or hazardous materials. Prepare recommendations and an abatement plan with an estimate of costs for abatement of the materials that will impact the project/parcels. The abatement plan shall include an Abatement Scope of Work and Abatement Technical Specifications to be included in the Project Bid Documents. Review and approve the contractor's abatement and disposal plan for compliance with the plan. Review and monitor the certifications and medical clearances for all personnel proposed or assigned to the job.

## **3. Construction Phase**

During the course of construction, monitor abatement work to ensure compliance with the contract requirements and completion of the work by the abatement contractor. During construction, perform the following tasks:

- Attend all necessary construction meetings during the course of abatement work
- Review abatement contractor submittals
- Provide on-site inspections with daily reports and photos of abatement work
- Maintain on-site records and perform monitoring during all abatement work
- Monitor abatement contractor's compliance with the plans, specifications and any regulations including but not limited to certification of abatement workers, ensuring proper containments, and confirmation of the removal of all asbestos, lead and hazardous materials.
- Assist the District with problem resolutions associated with abatement work
- Keep District informed of abatement contractor's performance

## **4. Close-out Phase**

Verify the Uniform Hazardous Waste Manifest, when required, has been submitted and reviewed by OEHS for completeness a minimum of 48-hours prior to the date the waste is to be removed from the site. Consultant shall provide waste specific information for inclusion on the manifest. No hazardous waste may be transported away from a District site without a manifest. Submit all original paper work required to be maintained by the contract documents, this agreement, and by law to the District.

Upon completion of the abatement work, prepare a Closeout Abatement Report that documents all the activities performed, including copies of all sampling forms with results, daily reports, progress photos, correspondence and any regulatory compliance forms.



ATTACHMENT 1

***SAMPLE COPY ONLY  
FOR INFORMATIONAL PURPOSES ONLY***

***MASTER SERVICE AGREEMENT***

***BETWEEN***

***SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT***

***AND***

***NAME OF CONSULTANT***

***FOR***

***TYPE OF SERVICE SERVICES***

**SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT**  
**777 North "F" Street**  
**San Bernardino, California 92410**

**MASTER SERVICE AGREEMENT FOR**  
**[type of services] SERVICES**  
**DEPARTMENT OF FACILITIES MANAGEMENT**

This MASTER AGREEMENT (hereinafter referred to as "Agreement") is made and entered into this **XXXX** day of **[Month]**, 2013, by and between the **San Bernardino City Unified School District** (hereinafter referred to as "DISTRICT"), located at 777 North "F" Street, San Bernardino, California 92410, and **[NAME OF CONSULTANT]** (hereinafter referred to as "CONSULTANT"), located at **[ADDRESS], California ZIP CODE**, (hereinafter referred to collectively as the "Parties" and each individually as "Party").

**RECITALS**

**WHEREAS**, the DISTRICT is authorized by Section 4525 et seq. and 53060 of the California Government Code to contract with and employ any person or persons for the furnishing of special services and advice in financial, economic, accounting, engineering, architectural, environmental services, legal or administrative matters, if such person or persons is specially trained and experienced and competent to perform the special services required.

**WHEREAS**, the CONSULTANT itself is, or those hired by the CONSULTANT are, specially trained, experienced and competent to render the special services required by the DISTRICT, and such services are needed on a limited basis.

**WHEREAS**, the DISTRICT desires to engage the CONSULTANT to perform certain professional services in connection with the assigned project to the CONSULTANT by the DISTRICT ("Project") and the CONSULTANT represents that the CONSULTANT is fully qualified and willing to perform the services hereunder.

**NOW THEREFORE**, for and in consideration of the covenants and conditions hereinafter set forth, the Parties do mutually agree to all terms and conditions herein.

**ARTICLE I**  
**TERM OF AGREEMENT**

**1.1 PERIOD OF AGREEMENT**

This Agreement shall be for a period beginning **[beginning date]**, and continuing through **[ending date]**. When both parties agree, this Agreement may, by written amendment, exercise an option for renewal not to exceed one-year intervals, at the expiration of each subsequent year of enforcement, up to a five-year period.



**ARTICLE 2**  
**CONSULTANT'S SERVICES**

**2.1 ASBESTOS, LEAD, AND HAZARDOUS MATERIALS CONSULTING SERVICES**

[BRIEF DESCRIPTION OF THE SCOPE OF WORK]

Said services such as preconstruction phase coordination, constructability review and related services for new construction and modernization projects are related to the DISTRICT's Facilities Capital Improvement Program and include the acquisition of new school or other sites and projects at new or existing educational, administrative and other sites whether owned, leased or controlled by the DISTRICT.

**2.2 MASTER AGREEMENT, SCOPE OF WORK, AND ASSIGNMENT OF PROJECTS**

This Agreement constitutes the Master Agreement between the DISTRICT and the CONSULTANT and sets forth the basic terms and conditions of the relationship. The **Scope of Work – Exhibit "A"** herein incorporated in this Agreement describes the project objectives and defines in general terms the tasks to be completed. The CONSULTANT shall perform the services stipulated in Exhibit A in accordance with the plans, specifications and terms of the Agreement. Similarly, the Agreement shall, from time to time, and at the sole discretion of the DISTRICT, be supplemented by the DISTRICT with individual **Assignment of Projects ("AOP") – Exhibit "B"** herein incorporated and made a part thereof of this Agreement. The aforesaid AOP shall particularize and more fully describe each individual task. The AOP shall include the CONSULTANT's proposal for said services, the specific scope of work, timeline for the specific project and all costs to the DISTRICT for the services thereunder. The CONSULTANT and those services performed by the CONSULTANT under this Agreement shall, in all cases in which the CONSULTANT is assigned a task or Project under an AOP, continue to be governed by all the terms of this Master Agreement and the specific responsibilities and individual tasks set forth and described in the AOP. Such AOP and all inclusions as described herein shall not be changed or altered in any manner without the prior written approval of the DISTRICT, and if the CONSULTANT performs any tasks or services not set forth in the AOP and which have not been authorized in advance by the District, in writing, the DISTRICT shall not be obligated to pay the CONSULTANT for such unauthorized tasks or services.

**2.3 CONSULTANT'S BASIC SERVICES**

The CONSULTANT'S Basic Services ("Basic Services") will vary from one AOP to another and will be specifically defined therein for each individual Project as set forth under Paragraph 2.2 herein above. The CONSULTANT shall furnish all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply all Basic Services as defined in the AOP. All Basic Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, State and federal laws, rules and regulations.

**2.4 CONSULTANT'S ADDITIONAL SERVICES**

Additional Services ("Additional Services") under this Agreement shall include those services performed by the CONSULTANT as a result of unusual circumstances. The Parties did not reasonably anticipate such services as would be necessary at the execution of this Agreement, which arise through no fault or neglect on the part of the CONSULTANT, and which cause the CONSULTANT to incur additional expenses as a result of such Additional Services. The DISTRICT may, at any time during the term of this Agreement, request that the CONSULTANT perform Additional Services, and the CONSULTANT shall not perform Additional Services without the prior mutual agreement by the Parties in the form of a

written amendment to the AOP, specifically authorizing and instructing the CONSULTANT to perform such Additional Services. The DISTRICT shall not pay the CONSULTANT for Additional Services performed by the CONSULTANT without prior written amendment as set forth in this Paragraph 2.4. Fees for Additional Services shall be negotiated between both parties.

### **ARTICLE 3 CONSULTANT'S FEE AND DISTRICT'S PAYMENT THEREOF**

#### **3.1 CALCULATION OF PROJECT FEE FOR BASIC SERVICES FOR QA/QC SERVICES**

The DISTRICT shall compensate the CONSULTANT for Basic Services as specifically determined in each AOP, in accordance with the schedule of fully burdened hourly rates as set forth in **Exhibit "C"-Schedule of Fees** (the hourly rate of all CONSULTANT personnel/positions to be used in any given project). The total fee for each project shall not exceed the established range of the estimated Construction Budget or per sheet rate, as set forth in **Exhibit "D" – Proposed Fee Structures**. Compensation for Basic Services for each AOP shall be subject to a total Not-to-Exceed (NTE) aggregate amount specified in AOP therein, which can be increased only by written amendment signed by the Parties.

#### **3.2 BIENNIAL PRICE ADJUSTMENTS**

The hourly personnel rate as shown in **Exhibit C** shall continue to be effective throughout the term of this Agreement and shall *not* be increased hereunder no sooner than **[ENDING DATE]**. Thereafter, rates shall not be increased more often than once every two years and shall be negotiated with the DISTRICT based on the Consumer Price Index (CPI) for the area, prior to any price increases by the CONSULTANT. CONSULTANT must advise the DISTRICT in writing of any proposed new rates at least three (3) months in advance of the proposed effective date of any rate adjustment.

#### **3.3 REIMBURSABLE EXPENSES**

The DISTRICT shall compensate the CONSULTANT, at cost and at no markup, for Reimbursable Expenses ("Reimbursable Expenses"), provided that the DISTRICT has authorized such Reimbursable Expenses in advance and as described below in writing.

- a) fees advanced for securing approval of public agencies having jurisdiction over any Project hereunder; and
- b) all reasonable expenditures made by the CONSULTANT or its employees for any Project covered by the AOP, including but not limited to long distance telephone calls, telex, express mail or delivery, photocopies of bid documents, and document reproduction.

Reimbursements shall not be made for services that are directly related to the Basic Services of the CONSULTANT as set forth herein.

#### **3.4 INVOICING AND PAYMENT**

The CONSULTANT shall submit to the DISTRICT, by the fifth (5<sup>th</sup>) working day of the month, a detailed invoice for the preceding month in the format provided as **Exhibit "E," Invoice**

**Format**, hereunder. Upon the DISTRICT's receipt and approval of such invoice, the DISTRICT shall issue payment to the CONSULTANT within sixty (60) calendar days. If the DISTRICT disputes any portion of such invoice, the DISTRICT shall promptly notify the CONSULTANT and shall pay the undisputed balance until such time as when the disputed invoices has been resolved, then payment shall be made accordingly. The DISTRICT shall not pay any fees for services contemplated hereunder but not performed.

## **ARTICLE 4 RESPONSIBILITIES OF THE CONSULTANT**

### **4.1 CONSULTANT'S ADDITIONAL RESPONSIBILITIES**

In addition to the Basic Services and Additional Services set forth under Article 2 above, the CONSULTANT shall have the responsibilities set forth in this Article 4.

### **4.2 CONSULTANT AS AN INDEPENDENT CONTRACTOR**

**4.2.1 Responsible for All Employees.** The DISTRICT retains the CONSULTANT as an independent contractor and CONSULTANT is not an employee of the DISTRICT. Any additional personnel performing services herein on behalf of the CONSULTANT shall be under the CONSULTANT's exclusive direction and control. The CONSULTANT shall pay all wages, salaries and other amounts due such personnel in connection with their performance of services herein and as required by law, and shall be responsible for all reports and obligations respecting such employees, including but not limited to social security taxes, income tax withholding, unemployment insurance and workers' compensation insurance. The CONSULTANT shall, if applicable, abide by the DISTRICT's Labor Compliance Program ("LCP").

**4.2.2 Independent Calling, District Control of Results.** The CONSULTANT shall perform the services herein to achieve the results required hereunder in the CONSULTANT's own independent way, in the pursuit of the CONSULTANT's independent calling. The CONSULTANT shall, however, be under the direct control of the DISTRICT as to the results to be accomplished, but not as to the means or manner by which such results are to be accomplished.

### **4.3 PROJECT STAFFING**

The CONSULTANT shall provide adequate staff and resources to facilitate all of CONSULTANT's services herein.

### **4.4 SUBCONTRACTORS/SUBCONSULTANTS**

CONSULTANT agrees to bind each and every subconsultant to the terms of this Agreement as far as such terms are applicable to subconsultants work. If CONSULTANT shall subcontract any part of this Agreement, CONSULTANT shall be fully responsible to the DISTRICT for any and all acts or omissions of CONSULTANT's subconsultants and of persons either directly or indirectly employed by CONSULTANT. Nothing contained in the Agreement shall create any contractual relations between any of the CONSULTANT's subconsultants and the DISTRICT.

#### **4.5 MEETINGS**

The CONSULTANT shall attend all meetings as reasonably deemed necessary by the DISTRICT and that may be required by other governmental agencies in connection with the work and services herein.

#### **4.6 STANDARD OF CARE**

The CONSULTANT shall perform all services herein in a skillful, competent and timely manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. The CONSULTANT represents that CONSULTANT is skilled in the professional calling necessary to perform the services. CONSULTANT warrants that all of CONSULTANT's employees and subconsultants shall have sufficient skill and experience to perform the services assigned to them and that the CONSULTANT, its employees and subcontractors or subconsultants have all legally required licenses, permits, qualifications and approvals necessary for the services hereunder and that all such licenses and approvals shall be maintained throughout the term of this Agreement. Any of the CONSULTANT's employees who are determined by DISTRICT to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any of CONSULTANT's employees who fail or refuse to perform the services in a manner acceptable to DISTRICT, shall be promptly removed from the Project by the CONSULTANT and all not be reemployed to perform any of the services or to work on the Project.

#### **4.7 SAFETY**

The CONSULTANT shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out the services herein, the CONSULTANT shall at all times be in compliance with all applicable local, State and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of CONSULTANT's employees and subcontractors, the DISTRICT's personnel, students, and the public, appropriate to the nature of the services herein and the conditions under which such services are to be performed. Safety precautions shall include but not be limited to, adequate life protection and life saving equipment and procedures, safety apparel as necessary or as required by law, adequate facilities for proper inspection and maintenance of all safety apparatus and measures, and instructions to all of CONSULTANT's employees and subcontractors regarding all safety and accident prevention aspects of performance of the work herein

#### **4.8 LAWS AND REGULATIONS**

The CONSULTANT shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the services herein, including but not limited to, all California Code of Regulations Title 24 and Cal/OSHA requirements. The CONSULTANT shall be liable for all violations of such laws and regulations in connection with the services herein.

#### **4.9 PREVAILING WAGES**

Wage rates for the work herein shall be in accordance with the general, holiday and overtime prevailing wage rates in the locality in which the work is to be performed for each craft, classification or type of work needed to execute the Agreement as determined by the Director of the Department of Industrial Relations. Copies of schedules of rates so determined by the Director of the Department of Industrial Relations will, upon request, be made available by the DISTRICT and are also available from the Director of the Department of Industrial Relations. The following are hereby referenced and made a part of this Agreement, and CONSULTANT shall comply with all of the provisions contained therein:

- i) Chapter 1 of Part 7 of Division 2 of the Labor Code (Section 1720 et seq.); and
- ii) California Code of Regulations, Title 8, Chapter 8, Subchapters 3 & 4 (Section 16000 et seq.).

#### **4.10 EQUAL OPPORTUNITY EMPLOYMENT**

The CONSULTANT represents that the CONSULTANT is an equal opportunity employer and that CONSULTANT shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex or age. Such nondiscrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. The CONSULTANT shall also comply with all applicable DISTRICT policies relating to equal opportunity employment or other related programs or guidelines currently in effect or hereinafter enacted by the DISTRICT.

#### **4.11 MAINTENANCE OF RECORDS**

**4.11.1 Construction Records.** The CONSULTANT shall maintain complete and accurate records with respect to all work performed by the CONSULTANT hereunder. Such records shall be made available by the CONSULTANT at all reasonable times during any period during which services are provided hereunder and for four (4) years from the date of the filing of the Notice of Completion for any AOP under this Agreement.

**4.11.2 Accounting Records.** The CONSULTANT shall maintain complete, accurate and clearly identifiable records with respect to all costs and expenses incurred by the CONSULTANT under this Agreement. Such records shall be made available by the CONSULTANT at all reasonable times during the term of this Agreement and for four (4) years from the date of final payment under this Agreement.

#### **4.12 REPORTS TO STATE AGENCIES**

The CONSULTANT shall provide copies of all reports required to be submitted to applicable regulatory State agencies to the DISTRICT, whether or not such reports are required by such agencies to be submitted to the DISTRICT.

### **ARTICLE 5 RESPONSIBILITIES OF THE DISTRICT**

The DISTRICT shall notify the CONSULTANT of all administrative procedures required for any Project hereunder and shall name a representative authorized to act on the DISTRICT's

behalf. The DISTRICT shall promptly render decisions pertaining thereto to avoid unreasonable delay of the progress of any Project hereunder.

**ARTICLE 6**  
**DISTRICT APPROVAL OF CONSULTANT'S WORK**

All work prepared by the CONSULTANT in connection with the services herein shall be subject to the approval of the DISTRICT and any and all applicable regulatory State agencies, and shall be the property of the DISTRICT.

**ARTICLE 7**  
**REPLACEMENT OF KEY PERSONNEL**

**7.1 REPLACEMENT BY CONSULTANT**

The CONSULTANT shall not, during the term of the Agreement, change any of the CONSULTANT's key personnel as identified by the CONSULTANT in CONSULTANT's proposal for the work herein except with the written consent of the DISTRICT, unless the key personnel, whether an individual or individuals, prove to be unsatisfactory to the CONSULTANT and cease to be in the CONSULTANT's employ.

**7.2 REPLACEMENT DUE TO DISTRICT REQUEST**

If DISTRICT reasonably requests CONSULTANT to change any key personnel, the CONSULTANT shall replace such key personnel within five (5) working days after CONSULTANT's receipt of the written request from the DISTRICT.

**ARTICLE 8**  
**OWNERSHIP OF MATERIALS AND CONFIDENTIALITY**

**8.1 OWNERSHIP OF WORK PRODUCTS**

All materials and data required to be made or kept pursuant to federal, State or local laws, rules or regulations, prepared or collected by the CONSULTANT pursuant to this Agreement, shall be the sole property of the DISTRICT, except that CONSULTANT shall have the right to retain copies of all such documents and data. The DISTRICT shall not be limited in its use of such materials and data, provided that the DISTRICT shall indemnify and hold harmless the CONSULTANT for any such use not within the purposes intended by this Agreement, including the release of this material to third parties for a use not intended by this Agreement.

**8.2 TRANSFER OF WORK PRODUCTS**

The CONSULTANT shall provide all such materials and data described in Paragraph 8.1 above, to the DISTRICT, or such other agency or entity as directed by the DISTRICT, or as required by law, rule or regulation, immediately upon completion of the term of this Agreement, or in the event of a termination article, pursuant to Section 11, and as directed by the DISTRICT. Should the DISTRICT desire to obtain possession of any such materials or data during the term of this Agreement, the DISTRICT shall make its request to the CONSULTANT in writing, and the

CONSULTANT shall provide such requested materials or data to the DISTRICT within forty-eight (48) hours of the CONSULTANT's receipt of such DISTRICT request.

**ARTICLE 9  
INSURANCE REQUIREMENTS**

All of the CONSULTANT's insurance requirements under this Agreement are set forth in **Exhibit "F," Insurance Requirements**, which is hereby incorporated into this Agreement and made a part thereof. Without in any way affecting the indemnity herein provided and in addition thereto, CONSULTANT shall provide all insurance dictated and checked in Exhibit E.

**ARTICLE 10  
INDEMNIFICATION**

The CONSULTANT hereby agrees to indemnify, defend and hold harmless the DISTRICT and its departments, agents, officers and employees from any and all losses or claims or sums that the DISTRICT or any of its departments, agents, officers or employees may be obligated to pay by reason of any liability of any kind imposed upon them, including but not limited to, damages to property or injury or death of persons, arising out of the performance of the services herein rendered by the CONSULTANT or caused by any error, omission or act of the CONSULTANT or of any person employed by the CONSULTANT or of any others for whose acts the CONSULTANT is legally liable. Said sums shall, in the event of legal action, include court costs, expenses of litigation and reasonable attorney's fees. Such claims and causes include, but are not limited, negligence and professional errors or omissions. The CONSULTANT, at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings arising under this Section, that may be brought or instituted against the DISTRICT, its officers, agents or employees, on any such claim or liability, and shall pay or satisfy any judgment that may be rendered against the DISTRICT, its officers, agents or employees in any action, suit or other proceedings as a result thereof.

**ARTICLE 11  
SUSPENSION OR TERMINATION OF AGREEMENT**

**11.1 SUSPENSION BY DISTRICT WITHOUT CAUSE, RECESSION OF SUSPENSION**

The DISTRICT expressly reserves the right, at the DISTRICT's sole discretion, to suspend all or any part of the services under this Agreement or any AOP hereunder or any portion thereof without cost to the DISTRICT. If the DISTRICT suspends services for a period of ninety (90) consecutive calendar days or more and, in addition, if such suspension is not caused by the CONSULTANT or the acts or omissions of the CONSULTANT, then if services are resumed, the CONSULTANT's compensation shall be subject to adjustment to provide for actual direct costs and expenses incurred by the CONSULTANT as a direct result of the suspension and resumption by the DISTRICT of the services.

### ***11.2 NO SUSPENSION BY CONSULTANT WITHOUT DISTRICT CONSENT***

The CONSULTANT shall not suspend the CONSULTANT's services herein or any part thereof or any AOP hereunder or any portions thereof without the DISTRICT's prior express written consent.

### ***11.3 TERMINATION BY DISTRICT WITHOUT CAUSE***

The DISTRICT may, by written notice to the CONSULTANT, terminate the whole or any part of this Agreement or any AOP hereunder or any portion thereof at any time and without cause by giving written notice to the CONSULTANT of such termination, and specifying the effective date thereof, at least seven (7) calendar days before the effective date of such termination. Upon termination, the CONSULTANT shall be compensated by the DISTRICT only for those services that have been adequately rendered to the DISTRICT (as determined by the DISTRICT) up to the effective date of termination, and the CONSULTANT shall not be entitled to further compensation.

### ***11.4 NO TERMINATION BY CONSULTANT EXCEPT FOR CAUSE***

The CONSULTANT shall not terminate this Agreement or any part thereof or any AOP hereunder or any portion thereof except for cause.

### ***11.5 SUSPENSION OR TERMINATION BY DISTRICT FOR CAUSE***

Noncompliance or breach by the CONSULTANT of any of the terms of this Agreement or with any or the terms of any AOP hereunder may be cause for suspension and/or termination by the DISTRICT of the Agreement or any or all of the AOPs hereunder. The DISTRICT shall provide written notice to the CONSULTANT of such noncompliance or breach. The CONSULTANT shall have five (5) business days from receipt of such notice to cure the noncompliance or breach, or the DISTRICT has the right to immediately terminate the Agreement or any or all of the AOPs hereunder, as applicable, without prejudice to any other right or remedy of the DISTRICT, including all remedies herein. In the event of such termination by the DISTRICT for cause, the CONSULTANT shall be compensated for services performed under this Agreement or under any applicable AOP hereunder to the date of termination and for such other documented and verifiable reasonable costs and expenses incurred by the CONSULTANT under the Agreement to the date of termination, including any duly approved Additional Services. The DISTRICT may offset any and all losses, damages, expenses and costs, including reasonable attorneys' fees and costs suffered or incurred by the DISTRICT as a result of CONSULTANT's noncompliance or breach.

### ***11.6 DISTRICT'S RIGHT TO CURE***

In addition to the DISTRICT's termination rights for cause set forth hereinabove, the DISTRICT shall have i) the right to cure the CONSULTANT's default hereunder at the CONSULTANT's cost, in which case all amounts expended by the DISTRICT in connection with such cure shall accrue interest from the date incurred until repaid to the DISTRICT by the CONSULTANT at the rate of ten percent (10 %) per annum; and ii) all other rights and remedies available to the DISTRICT at law and in equity, including, without limitation, an action for damages.



## **11.7 SIMILAR OR IDENTICAL SERVICES**

In the event that this Agreement or any AOP hereunder is terminated in whole or in part as provided herein, the DISTRICT may procure, upon such terms and in such manner as the DISTRICT may determine appropriate, services similar or identical to those terminated to complete any unfinished services or new services as needed by the DISTRICT.

## **ARTICLE 12 DISPUTE RESOLUTION**

In the event of a dispute between the Parties as to the CONSULTANT's performance of services herein or the interpretation of this Agreement, or the DISTRICT's payment or nonpayment for such services, the Parties shall attempt to resolve the dispute. Pending resolution of the dispute, the CONSULTANT agrees to continue CONSULTANT's services diligently to completion. If the dispute is not resolved, the CONSULTANT agrees that CONSULTANT will neither rescind the Agreement nor stop the progress of its services, but the CONSULTANT's sole remedy shall be to submit such controversy to determination by a court having competent jurisdiction of the dispute after the CONSULTANT's services herein have been completed and not before.

## **ARTICLE 13 ATTORNEYS' FEES**

If any action, either legal, administrative or otherwise, is brought by either Party against the other Party hereunder, each Party shall pay its own attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action.

## **ARTICLE 14 SEVERABILITY**

If any section, subsection, sentence, clause or phrase of this Agreement, or the application thereof to any of the Parties, is for any reason held invalid or unenforceable, the validity of the remainder of the Agreement shall not be affected thereby and may be enforced by the Parties hereto.

## **ARTICLE 15 AMENDMENTS**

This Agreement may not be amended except in writing and signed by the Parties hereto.

## **ARTICLE 16 SUCCESSORS AND ASSIGNS**

### **16.1 BINDING ON SUCCESSORS AND ASSIGNS**

This Agreement shall be binding on the successors and assigns of the Parties.

**16.2 NO ASSIGNMENT BY CONSULTANT WITHOUT DISTRICT CONSENT**

The CONSULTANT shall not in any manner, directly or indirectly, by operation of law or otherwise, assign, transfer or encumber this Agreement or any portion hereof or any interest herein, in whole or in part, without the prior written consent of the DISTRICT, and if such consent is not given by the DISTRICT, any action by the CONSULTANT under this Paragraph 16.2 shall be deemed automatically void.

**ARTICLE 17  
INTERPRETATION**

In interpreting this Agreement, it shall be deemed that it was prepared jointly by the Parties with full access to legal counsel of their own. No ambiguity shall be resolved against any Party on the premise that the Party or the Party's attorneys were solely responsible for drafting this Agreement or any provision thereof.

**ARTICLE 18  
GOVERNING LAW**

This Agreement shall be interpreted, governed and construed and the CONSULTANT's services herein shall be performed in compliance with the laws of the State of California and applicable government regulations, building codes and ordinances in effect on the date of this Agreement.

**ARTICLE 19  
DISTRICT AND PUBLIC POLICIES**

**19.1 CONSULTANT'S RECEIPT OF DISTRICT POLICIES AND FINGERPRINTING CERTIFICATION**

By signing this Agreement, the CONSULTANT acknowledges receipt and acceptance of the following DISTRICT policies:

- i) Smoking and Use of Tobacco at District Facilities Policy (No. 3520a-b);
- ii) Affirmative Action Program for Equal Employment Opportunity Policy (No. 4136);
- iii) Nondiscriminatory Harassment Policy (No. 4136.1a-c); and
- iv) Drug-Free Workplace Policy (NO. 4205).

The CONSULTANT further agrees to complete and return to the DISTRICT, prior to beginning any work herein, **the Fingerprint and Criminal Background Check Certification (Exhibit "G")**.

**19.2 CONDUCT AS EXPECTED OF DISTRICT EMPLOYEES**

The CONSULTANT shall abide by the same terms and conditions of conduct as is expected of DISTRICT employees in each of the policies under Paragraph 19.1 hereinabove, but without the implication of employment. The CONSULTANT's failure to abide by said policies may result in immediate termination of this Agreement and, in addition, may result in other personal legal avenues of remedy on the part of the individuals involved. While it is acknowledged by the

Parties that these policies specifically address employees of the DISTRICT, the Parties agree and understand that the CONSULTANT is not an employee of the DISTRICT.

### **19.3 PUBLIC POLICIES**

The CONSULTANT shall abide by the following Public Policies:

- i) Titles VI and VII of the Civil Rights Act of 1964;
- ii) Title IX of the Education Amendments of 1972;
- iii) Section 504 of the Rehabilitation Act of 1973;
- iv) The Age Discrimination Act of 1975;
- v) The Fair Employment and Housing Act; and
- vi) The Americans with Disabilities Act of 1990.

### **ARTICLE 20 TITLES FOR CONVENIENCE**

The Table of Contents and headings of Articles, Paragraphs and Subparagraphs in this Agreement are for convenience only and shall not modify the rights and obligations created by the Agreement.

### **ARTICLE 21 NOTICES**

#### **21.1 ALL NOTICES IN WRITING, DEEMED SERVED**

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the third business day after the deposit thereof in the United States mail, postage prepaid, registered or certified, and addressed as hereinafter provided.

#### **21.2 DISTRICT'S AND CONSULTANT'S CONTACT NAMES AND ADDRESSES**

Official communications regarding this Agreement shall be addressed as follows:

##### **To DISTRICT:**

Facilities Management Department  
San Bernardino City Unified School District  
956 W. 9<sup>th</sup> Street  
San Bernardino, California 92411  
Attn: Peace Aneke, Contract Analyst  
Telephone: (909) 388-6100  
Fax: (909) 885-9991

##### **To CONSULTANT:**

[Name]  
[Full Address]  
  
Telephone: (xxx) xxx-xxxx  
Fax: (xxx) xxx-xxxx

All other official correspondences to the DISTRICT shall be addressed as follows:

Mr. Samer Alzubaidi, Facilities Administrator  
Facilities Management Department  
San Bernardino City Unified School District

The same address as shown above  
The same phone and fax numbers as shown above

**ARTICLE 22**  
**ENTIRE AGREEMENT AND COUNTERPARTS**

**22.1 ENTIRE AGREEMENT**

This Agreement, including any exhibits contained herein and hereby incorporated into this Agreement by reference, contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements, whether oral or in writing.

**22.2 COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one agreement.

*IN WITNESS WHEREOF*, this Agreement has been duly executed by the Parties on the day and year first set forth hereinabove.

**SAN BERNARDINO CITY UNIFIED  
SCHOOL DISTRICT**

**CONSULTANT**

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Signature*

DEBRA LOVE

\_\_\_\_\_  
*Name*

\_\_\_\_\_  
*Name*

Director, Purchasing Department

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*

ATTACHMENT 2

**RESPONDENT QUESTIONNAIRE**

The respondent shall furnish all the following information accurately and completely for the Respondent and each of the proposed staff. Failure to comply with this requirement may cause rejection of the respondent’s qualifications. Additional sheets may be attached if necessary. “You” or “your” as used herein refers to the respondent and/or any of its owners, officers, directors, shareholders, parties or principals.

If the same information is provided elsewhere in your proposal and proposal materials, then please clearly identify such in the following questions.

Please be advised that the District may request verbal or written clarifications, additional information, an interview or presentation at any time regarding this questionnaire.

**SECTION A – GENERAL INFORMATION**

(1) Respondent name, address and contact information:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(2) Telephone: \_\_\_\_\_ Facsimile: \_\_\_\_\_

Email and Internet Addresses: \_\_\_\_\_

(3) Type of respondent: (check one)  
Individual                  Partnership                  Corporation                  State:

(4) Names and titles of all principals/officers of the respondent:

Name	Title	Phone Number
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(5) Please list any applicable certifications and licenses and their associated numbers:

\_\_\_\_\_

(6) Have you or any of your principals ever conducted similar services under a different name or certification or different license number? \_\_\_\_\_

a. If yes, give respondent name, address and certification or license number.

(i) Name \_\_\_\_\_

(ii) Address \_\_\_\_\_

(iii) License No. (if any) \_\_\_\_\_

(7) How many years has respondent been in business under its present business name? \_\_\_\_\_.

(8) How many years of experience does respondent have providing similar services? \_\_\_\_\_.

(9) For how many public agencies has respondent provided similar services? \_\_\_\_\_

(10) Please list the public agencies, including any school districts that respondent has provided similar services for:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(11) Please attach a short history of the respondent including whether it is local, national, or international as well as approximate number of employees. Also provide the number of offices and locations.

(12) Identify Asbestos, Lead, and Hazardous Materials Consulting Services performed for other school districts in accordance parameters described above.

(13) Describe how respondent has successfully provided Asbestos, Lead, and Hazardous Materials Consulting Services such as those described herein.

(14) Describe the unique or innovative programming approaches utilized on previous projects.

**SECTION B – LEGAL**

(15) Have you or any of your principals been in litigation or arbitration of any kind on a question or questions relating to similar services involving a school or community college district during the prior five (5) years? \_\_\_\_\_.

(a) If yes, provide the name of the public agency and briefly detail the dispute:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(16) Have you ever had a service agreement terminated for convenience or cause in the prior five (5) years? \_\_\_\_\_.

(a) If yes, provide details including the name of the other party:

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(17) Is respondent, owners, and/or any principal or manager involved in or is respondent aware of any pending litigation regarding professional misconduct, bad faith, discrimination, or sexual harassment? \_\_\_\_\_.

(a) If yes, provide details:

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(18) Is respondent, owners, and/or any principals or manager involved in or aware of any pending disciplinary action and/or investigation conducted by any local, state or federal agency? \_\_\_\_\_.

(a) If yes, provide details:

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(19) Does respondent maintain errors and omissions coverage? \_\_\_\_\_.

If so, please provide a current copy of the declaration page showing the maximum liability or policy value.

(20) Will respondent comply with all District, local, State and Federal legal requirements, regulations and laws? \_\_\_\_\_.

### **SECTION C – ADDITIONAL INFORMATION**

(21) Please provide any other information that may assist the District in ascertaining your qualifications, capability and customer service under any resultant agreement.

### **SECTION D - REFERENCES**

(22) Have you ever had any direct or indirect business, financial or other connection with any official, employee or consultant of the District? Identify any conflict of interest in (a):

(a) Please elaborate and discuss any potential, apparent or actual conflict of interest:

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I certify and declare under penalty of perjury under the laws of the State of California that the foregoing **Respondent Questionnaire pages one (1) through four (4)** is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2013, at  
\_\_\_\_\_, State of \_\_\_\_\_.  
City, County

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Print Name



ATTACHMENT 3

**FEE SCHEDULE AND REIMBURSABLES EXPENSES**

The respondents are required to provide their proposed fees in the format shown below.

The proposed fees shall be used as only one of several criteria for selection of pre-approved firms. The actual professional fees will be negotiated with the successful consultants when, and if, a project is assigned to a consultant on the pre-approved list.

**A. Hourly Rates:**

Labor Classification	Hourly Rate
Principal In Charge	
Principal Professional	
Senior Manager	
Project Manager	
Senior Staff Environmental Scientist	
Staff Environmental Scientist	
Clerical/Word Processor	
Drafting	
CAD Operator/Drafting Manager	

1. The hourly rates shall include the fully burdened hourly rates of all proposed personnel, including benefits, overhead and profit.
2. The District reserves the right to limit the amount of the award and will not guarantee assignment of any tasks to any single consulting firm.
3. The method of compensation for each individual project shall be determined by the District, at its sole option, based on hourly rates, a negotiated fixed fee, or a combination thereof.
4. The proposed rates by the Respondent(s) are the maximum rate to be charged on any project per the terms of the Master Service Agreement. Rates for any assignment of project may be lower but shall not exceed the rates as shown above.

**B. Environmental Testing/Inspection**

Service	Unit Cost


**REIMBURSABLE EXPENSES**

Consultants shall list the reimbursable expenses, if any, on a unit cost basis.

Reimbursable Expenses	Unit cost (\$)

**Reimbursements:**

The maximum charge for all reimbursable costs shall be an amount not-to-exceed ten (10) percent of the Contract Amount. Reproduction for District use shall be transmitted by selected respondents to District's reproduction vendor. Qualifications must list basis for all other reimbursable costs including any markups. Please note that the District does not reimburse the cost of postage, faxes, deliveries, telephone and communication, mileage and/or travel expenses to and from District offices and/or project sites. The only reimbursements paid to consultants shall be for the actual cost of incidental materials and services authorized prior by the District plus a mark-up, if any.

ATTACHMENT 4

**EQUAL OPPORTUNITY CERTIFICATION**

To: San Bernardino City Unified School District  
956 W. 9<sup>th</sup> Street  
San Bernardino, CA 92411

Respondent: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone (\_\_\_\_\_) \_\_\_\_\_ FAX (\_\_\_\_\_) \_\_\_\_\_

Number of Employees \_\_\_\_\_

**This respondent is:**

Independently Owned and Operated

An Affiliate of \_\_\_\_\_ Parent Company \_\_\_\_\_

A Subsidiary of \_\_\_\_\_ Address \_\_\_\_\_

A Division of \_\_\_\_\_

\*\*\*\*\*

This is to certify that we are an Equal Opportunity Employer and have made a good faith effort to improve minority employment.

\*\*\*\*\*

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

ATTACHMENT 5

**RESPONDENT 'S CERTIFICATE  
REGARDING WORKMEN'S COMPENSATION**

Labor Code Section 3700:

"Every employer except the state and all political subdivisions or institutions thereof, 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 Workmen's Compensation or to undertake self-insurance in accordance with the provision of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Principal

\_\_\_\_\_  
Title

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

Building Schools  
Building Education  
Building Opportunities



BUSINESS OUTREACH PROGRAM				
Company Information			Contact Information	
Company Name			Name	Title/Position
Address			Cell phone - -	
City			Office phone - -	
State	Zip		Fax - -	
Web Address			E-mail	
Ownership Type (check type)	Firm Size	License(s)	Business Certification (check all that apply)	
<input type="checkbox"/> Sole Proprietor	Gross Revenue \$/yr	<input type="checkbox"/> A. General Engineering	<input type="checkbox"/> Small Business Enterprise (SBE)	
<input type="checkbox"/> Corporation	# of Employees:	<input type="checkbox"/> B. General Building	<input type="checkbox"/> Disabled Veteran-owned Business Enterprise (DVBE)	
<input type="checkbox"/> Partnership		<input type="checkbox"/> C. Specialty	<input type="checkbox"/> Minority-owned Business Enterprise (MBE)	
<input type="checkbox"/> Nonprofit			<input type="checkbox"/> Woman-owned Business Enterprise (WBE)	
<input type="checkbox"/> Other:			<input type="checkbox"/> Other:	
Services, Business Goods (check all that apply)				
<input type="checkbox"/> Architecture	<input type="checkbox"/> Environmental	<input type="checkbox"/> Inspection	<input type="checkbox"/> Special Construction	
<input type="checkbox"/> Communications/ IT	<input type="checkbox"/> Equipment	<input type="checkbox"/> Legal	<input type="checkbox"/> Specialties	
<input type="checkbox"/> Concrete	<input type="checkbox"/> Exterior Improvements (including landscape/irrigation)	<input type="checkbox"/> Masonry	<input type="checkbox"/> Surveying	
<input type="checkbox"/> Conveying systems	<input type="checkbox"/> Financial	<input type="checkbox"/> Metals	<input type="checkbox"/> Thermal and Moisture	
<input type="checkbox"/> Demo/Remediation	<input type="checkbox"/> Finishes	<input type="checkbox"/> Moving/Storage	<input type="checkbox"/> Utilities	
<input type="checkbox"/> Doors and Windows	<input type="checkbox"/> Fire Suppression	<input type="checkbox"/> Plumbing	<input type="checkbox"/> Woods and Plastics	
<input type="checkbox"/> Earthwork	<input type="checkbox"/> Furnishings	<input type="checkbox"/> Portable Facilities	<input type="checkbox"/> Other:	
<input type="checkbox"/> Electrical	<input type="checkbox"/> General Contracting	<input type="checkbox"/> Real Estate, Appraisal, Property Management		
<input type="checkbox"/> Engineering	<input type="checkbox"/> HVAC	<input type="checkbox"/> Safety and Security		
Local Business Outreach Profile (if applicable)				
<b>1. Local Business Identification</b>				
<input type="checkbox"/> Located in City of San Bernardino or Highland			<input type="checkbox"/> Located in San Bernardino County	
<b>2. How do you prefer to receive notices for SBCUSD opportunities?</b>				
<input type="checkbox"/> Telephone <input type="checkbox"/> Fax <input type="checkbox"/> E-mail				
<b>3. How do you normally receive notices for SBCUSD opportunities?</b> <input type="checkbox"/> District Website <input type="checkbox"/> Chamber <input type="checkbox"/> Trade Assoc. <input type="checkbox"/> Plan Room <input type="checkbox"/> Newspaper <input type="checkbox"/> Mail <input type="checkbox"/> Other:				