

# **SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT**



## **REQUEST FOR QUALIFICATIONS NO. 185 FOR COMMISSIONING SERVICES**

### **QUALIFICATIONS DEADLINE DATE**

**April 21, 2016 by 3:00 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: Jennifer Wilhelm

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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 **Thursday, April 21, 2016 by 3:00 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 Commissioning Services (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 Commissioning 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: COMMISSIONING 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.

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.

**ANTICIPATED TIMELINE\*:**

Request for Qualifications Issued.....	March 31, 2016
Deadline for Submittal of Questions .....	April 12, 2016
Responses to the Questions Submitted.....	April 15, 2016
<b>Due Date for Submittal of Proposals.....</b>	<b>April 21, 2016 by 3:00 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 Jennifer Wilhelm, Business Outreach Coordinator, Facilities Management Department at [jennifer.wilhelm@sbcusd.k12.ca.us](mailto:jennifer.wilhelm@sbcusd.k12.ca.us).

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 Facilities website at [www.sbcusdfacilities.com](http://www.sbcusdfacilities.com). All parties interested in responding to the RFQ are advised to check the websites for any updates.

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

Firms must submit one (1) original, two (2) hard copies and a digital copy (on a compact disc “CD” or thumb drive) of the qualifications. All qualifications should address the following items in the order listed below. The qualification shall demonstrate the qualifications, competence and capacity of the firm:

1. **Cover Letter/Letter of Interest** - Include a cover letter, addressed to Jennifer Wilhelm, Business Outreach Coordinator, stating the eligibility of the firm 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 qualifications if clearly and conspicuously identified and referenced questionnaire.** The following shall be stated:
  - a. **Description of Firm** – Include a description of qualifications for providing the requested services. Include information regarding the size of the firm, 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 Commissioning 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, the firm’s 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 Commissioning 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.
  
- d. **Experience and References** – Description of past performance 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 have been provided for the San Bernardino City Unified School District previously. State the name, 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 providing Commissioning 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.



## PREPARATION AND SUBMITTAL OF THE QUALIFICATIONS

### **Qualifications Submittal and Deadline**

One original, two hard copies and a digital copy of the qualifications must be submitted under sealed cover by no later **than 3:00 p.m. on April 21, 2016**. Mark your company name, qualification title and RFQ deadline on the outside of the sealed qualification envelope or box.

Qualifications shall be delivered to the attention of:

Jennifer Wilhelm, Business Outreach Coordinator  
Facilities Management Department  
San Bernardino City Unified School District  
956 W. 9<sup>th</sup> Street  
San Bernardino, CA 92411  
[jennifer.wilhelm@sbcusd.k12.ca.us](mailto:jennifer.wilhelm@sbcusd.k12.ca.us)

**It is the sole responsibility of the respondent submitting the qualification to ensure that their qualification is actually received in the Facilities Management 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.

### **Modifications to Master Service Agreement**

A sample master service agreement (MSA) is included in this RFQ. Any questions regarding the terms of the sample MSA, should be brought up during the time period for questions, information, or clarifications. Any modifications or deviations to the sample MSA shall be noted in your proposal. Please note that modifications or deviations will not be allowed after the Evaluation and Award.

### **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 Facilities 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 Agreement. 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/Insurance**

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 qualification 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 qualification. 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 qualification. 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 be assigned work once a Master Services Agreement has been fully executed by both parties and all appropriate documentation has been received and approved by the District. The District shall not be responsible for work done, even in good faith, prior to approval of the agreement and issuance of an Assignment of Project (AOP) 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.

## **EXHIBIT A SCOPE OF SERVICES**

The District is seeking a Commissioning Agent to provide complete Building Commissioning Services and to provide training sessions to District staff per District's request.

1. Commissioning Requirements

Commissioning requirements and standards should be based on CHPS 2006 & 2009 criteria. The Commissioning agent must satisfy the statements of qualifications of, and perform in accordance with, the Building Commissioning Associations' (BCA) 1999 version of the Essential Attributes of Building Commissioning; which is included in the Part 1 of the EDR Commissioning Guidelines. The commissioning agent must have experience in commissioning similar projects in accordance with this standard.

2. Systems to be Commissioned

Energy-related systems and equipment items, including HVAC equipment, building management system, lighting management systems, occupancy sensors, thermostats, controls, domestic hot water and heating systems.

The commissioning agent shall work closely and in cooperation with District management team and shall be readily accessible for review and coordination of needs and requests.

3. Commissioning Agent Responsibilities

The Commissioning Agent, as a minimum, shall undertake the following responsibilities:

- A. Prepare Commissioning plan; plan to include:
  - a. Owner's Design Intent / Basis of Design; where applicable
  - b. Pre-functional Equipment Checklist
  - c. Review Owner's Design Intent/Basis of Design; where required
  - d. Provide Pre-functional Equipment Checklist and Functional Performance Testing List, etc.
- B. Review Project Contract Documents with regard to Commissioning related issues.
- C. Develop and author Commissioning Specification Section
  - a. The Commissioning agent shall work with the District and the District's A/E consultants to develop and provide a project Commissioning Specification, which takes into account District design standards and District energy management policies. The Commissioning agent shall provide this specification to the District and/or to the District A/E consultants for incorporation into the Project contract documents.
- D. Assist in the coordination, scheduling, review and finalization of relevant contractor submittals.
- E. Review, observe, monitor and document work, equipment and associated issues relevant to the commissioning process in all phases of coordination, installation and initiation.
- F. All Building Commissioning Services shall be performed in accordance with the following:
  - a. Pre-Construction Phase; where required: In conjunction with the Contractor, District and Architect, organize and lead commissioning team. Review the construction plans and specifications with respect to their completeness in all areas relating to the Commissioning process.

- b. Construction Phase: Execute the Commissioning process through organization of all meetings, tests, demonstrations, training events, and performance verifications described in the contract documents and approved Commissioning process. The Commissioning Agent shall review and cooperate with all Partnering and Quality Assurance/ Quality Control plans and activities of the project.
- c. Training: Schedule and Coordinate HVAC training session, the HVAC system orientation and inspection, the electrical system orientation and inspection and the M & O training sessions.
- d. Warranty Phase: Develop and distribute occupancy survey to End Users regarding the functioning and operation of the commissioned systems. Coordinate with the Owner Representative at Warranty Review and Walk Through.

Final Documentation: Ensure that M&O manuals and all other as-built records have been updated to include all modifications made during the construction phase. Conduct a selective review of contractor submittals of commissioned equipment. Prepare the Systems Manual. Repeat functional performance tests to accommodate seasonal tests and/or correct any performance deficiencies. Revise and resubmit the Commissioning Report. Prepare the final Commissioning Report. Develop a re-commissioning management manual; where required. Assemble the final documents, which will include the Commissioning Report, the Systems Manual, and all as-built records. Recommend acceptance of the commissioned systems to the District.

## **EXHIBIT B QUALIFICATIONS**

### Minimum Qualifications:

1. Responding Respondents must have the following prior experience;

- Acted as the principal Commissioning Agent for at least three completed projects for a school district or a public education system in California.
- A minimum of three full years Commissioning Agent work is required.
- Previous experience developing Commissioning Plans.

2. Desired Statements of Qualifications:

It is the owner's desire for the person(s) designated as the site Commissioning Agent (CxA) to satisfy as many of the following requirements as possible:

- Extensive experience in the operation and troubleshooting of HVAC systems and energy management control systems
- Extensive field experience
- Knowledgeable in building maintenance and operation and M&O training
- Knowledgeable in national building & fire codes as well as water-based fire extinguishing systems, detection systems and alarms systems
- Knowledgeable in test and balance of both air and water systems
- Experienced in energy-efficient equipment design and control strategy optimization
- Training sessions shall be designed to accommodate Facilities and Maintenance and Operations personnel.
- Demonstrated experience with total building commissioning approach including building envelope, data and communication systems and other specialty systems.
- Direct experience in monitoring and analyzing system operation using energy management control system trending and stand-alone data logging equipment.
- Excellent verbal and writing communication skills. Highly organized and able to work with both management and trade contractors.
- Experienced in writing commissioning specifications.
- A bachelor's degree in mechanical or electrical engineering is strongly preferred, and P.E. license is desired. However, other technical training, past commissioning, and field experience will be considered as a substitute.

**ATTACHMENT 1**



***MASTER SERVICE AGREEMENT***

***BETWEEN***

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

***AND***

***[ENTER FIRM NAME]***

***FOR***

***[ENTER NAME OF SERVICES]***



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### ***Signature Page***

### ***List of Exhibits Incorporated into Agreement***

<b><i>Exhibit A:</i></b>	<b><i>Scope of Services</i></b>
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**SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT**  
**777 North "F" Street**  
**San Bernardino, California 92410**

**MASTER SERVICE AGREEMENT**  
**FOR**  
**[ENTER NAME OF SERVICES]**  
**DEPARTMENT OF FACILITIES MANAGEMENT**

This MASTER AGREEMENT (hereinafter referred to as "Agreement") is made and entered into this \_\_\_ day of Month, 20\_\_\_, 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 **[ENTER FIRM NAME]** (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 1**  
**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 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.

**2.2 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.

**2.3 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**

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 of 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: Maria Rafael, Contract Analyst  
Telephone: (909) 388-6100  
Fax: (909) 885-9991

**To CONSULTANT:**

[Enter Name of Consultant Principal]  
[Enter Street Address of Consultant]  
[Enter City, State, Zip of Consultant]  
  
Telephone:  
Fax:  
Email:

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*

***DEBRA LOVE***  
\_\_\_\_\_

*Name*

***Director, Purchasing Department***  
\_\_\_\_\_

*Title*

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

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

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

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

\_\_\_\_\_  
*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 qualification and qualification 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:

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(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:

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- (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 Commissioning Services performed for other school districts in accordance parameters described above.
- (13) Describe how respondent has successfully provided Commissioning 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:

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(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 \_\_\_\_\_, 2015, at

\_\_\_\_\_, State of \_\_\_\_\_.  
City, County

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

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

**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.)

# ATTACHMENT 6

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 <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Nonprofit <input type="checkbox"/> Other:	Gross Revenue \$/yr  # of Employees:	<input type="checkbox"/> A. General Engineering <input type="checkbox"/> B. General Building <input type="checkbox"/> C. Specialty	<input type="checkbox"/> Small Business Enterprise (SBE) <input type="checkbox"/> Disabled Veteran-owned Business Enterprise (DVBE) <input type="checkbox"/> Minority-owned Business Enterprise (MBE) <input type="checkbox"/> Woman-owned Business Enterprise (WBE) <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"/>	
<input type="checkbox"/> Engineering	<input type="checkbox"/> HVAC	<input type="checkbox"/> Safety and Security	<input type="checkbox"/>	
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:				