



SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT

REQUEST FOR QUALIFICATIONS FOR TECHNOLOGY CONSULTING SERVICES SAMOHI

Santa Monica-Malibu Unified School District (“District”) requests Statements of Qualifications from qualified technology system designers to assist the district with the selection of systems for the Discovery Building currently under construction at Samohi.

Interested firms should submit one original unbound and three bound copies along with one electronic (CD or thumb drive, not e-mail) copy of their response to this RFQ as described herein, to:

Sheere Bishop-Griego, Director of Procurement and Contract Management - Consultant
Facilities Improvement Projects
Santa Monica-Malibu Unified School District
2828 4th Street
Santa Monica, CA 90405

Responses are due by 3:00 PM on March 12, 2020 and must be clearly marked “Response to RFQ for Technology Consulting Services, Samohi Project” for the Santa Monica - Malibu Unified School District.

The District encourages minority and woman-owned businesses to propose. No respondent will be unlawfully discriminated against such as on the basis of race, color, gender, age, ancestry, religion, marital status, national origin, medical condition, physical disability, or sexual orientation.

I. GENERAL

a. Project Description

The Santa Monica-Malibu Unified School District is currently constructing the new “Discovery Building” at Samohi. When complete, the 260,000 SF Discovery Building will include 38 classrooms, two levels of parking, a rooftop classroom, a new dining center, pool support facilities and other amenities. The District desires to hire a consultant to advise on the selection of technology systems that will be installed in the new building. Technology systems may include intrusion alarm, cameras, access controls, PA/Clock, bells, fire alarm, telephone, building management systems (BMS) or other systems as recommended by the Consultant and selected by the District.

b. Restrictions on Lobbying and Contacts

Beginning with the date of issuance of this RFQ and concluding on the date of execution of the agreement for Technology Consulting Services for the proposed project, no person or entity submitting a response to this RFQ, nor any person, officer, employee, consultant, agent, or representative of the same shall through any means contact any employee of the District, any Board of Education member, any consultant for the District (including any project architect or any member of the program management team), or any member of any District-appointed committee to engage in any discussion regarding (1) this RFQ, (2) the selection process or (3) award of this contract. **Any such contact shall be grounds for the immediate disqualification of the submitting entity without consideration of its proposal.**

c. Conflicts of Interest

As part of this proposal, the proposing entity must affirmatively state that there is no known conflict of interest or must disclose any potential conflict of interest involving any District employee, consultant, or member of the Board of Education. Subsequent discovery of an undisclosed actual conflict of interest shall be adequate grounds for the District to terminate the agreement for cause. By submitting a proposal, the submitting entity consents to termination for cause in the event that an undisclosed actual conflict of interest is discovered. **Failure to include this statement will be grounds for immediate disqualification of the submitting entity without consideration of its proposal.**

II. SCOPE OF SERVICES

The Consultant shall guide and advise the District through the process of selecting technological systems to be installed in the Discovery Building that is currently under construction at Samohi. The District desires to install technology that is current and will serve the District well for many years into the future. The Consultant will consider the availability and cost of proposed systems against the schedule and budget of the ongoing project.

The District is planning to administer this contract on a T&M basis. The Consultant should be qualified to provide recommendations in all of the following areas:

1. Telecom systems
 - a. Cable Infrastructure consulting and design including station cabling and fiber optic backbone that will support various types of current and future hardware systems.
 - b. Wi-Fi Design, interior and exterior
 - c. Pathways for all technology systems

- d. Emergency responder Distributed Antenna radio systems (DAS)
 - e. Campus emergency phone locations (Locations can offer additional design considerations including Wi-Fi and video surveillance)
2. Audio Visual
 - a. General classroom, labs and common areas.
 - b. Projection and LED display design integrated with other controlled systems (lights, mecho shades etc)
 - c. Interactive way finding systems
 - d. Auditorium customized AV design.
 3. Integrated IP based Clock/Bell and PA systems.
 4. Security Systems
 - a. Integrated systems for seamless function and control including electronic door and gate access controls; perimeter and area cameras; and intrusion alarms.
 - b. Emergency Mass Notification systems
 5. Fire Alarm design
 - a. Design compatibility between Simplex and Autocall systems.
 - b. Transition plan from Simplex to Autocall.
 6. MDF/IDF design
 - a. Evaluation of current rack and switch capabilities and recommendations to support proposed system upgrades.
 7. Network Systems: As recommendations may affect the District's network, data storage, servers, wireless and phone related systems, the consultant shall coordinate closely with the District as follows:
 - a. Consultant to attend meetings to gather information and specifics on technology needs from end user parties such as school sites, principals, FIP project managers, etc.
 - b. Consult with Information Services to explain needs and determine feasibility of requests and work out details, requirements and modifications based on IT feedback.
 - c. Serve as an advisor/recommender with final decisions on designs, hardware software purchases to be confirmed by the District's Information Services Department.
 - d. Consultant will facilitate meetings and documentation between Information Services, FIP, vendors and other consultants.
 - e. Consultant will ensure that Information Services is consulted and informed on all software, design, hardware that directly impacts District Technology and Networking before any agreements or purchases are made to prevent incompatible or unsupported purchases.

III. PROPOSAL

Proposals are limited to 10 single-sided pages using a minimum 11 point font, excluding resumes (which should be included in an appendix) but including the cover letter and hourly rates. The proposal preparation and its associated costs are the sole responsibility of the proposing firm and will not be reimbursed by the District. This RFQ is not a formal request for bids or an offer by the District to contract with any party responding to this RFQ. The District reserves the right to reject any and all responses or to award a technological systems services agreement to more than one firm if it is deemed to be, at the sole discretion of the District, in the best interest of the District. The District also reserves the right to amend this RFQ and to waive any minor irregularities in the responses. All materials submitted to the District in response to this RFQ shall be property of the District and may be public records pursuant to the Public Records Act.

a. Cover Letter (1 page):

Provide a cover letter including identification of the project principal (authorized to represent the firm regarding all matters related to the proposal and who will be available, knowledgeable, and regularly attentive to the District), brief introduction of proposed team, and an acknowledgement of any addenda, if issued. Respondent's letter must also contain the following statement.

"We have read the District's Request for Statements of Qualifications (RFQ) for Technology Consulting Services and fully understand its intent. We certify that we have adequate personnel, equipment, and capabilities to provide the District's requested services that we have indicated we can provide. We understand that our ability to meet the criteria outlined in the RFQ shall be judged solely by the District. In addition, we certify that we have thoroughly examined the RFQ requirements and we acknowledge and accept all terms and conditions in this RFQ."

A person authorized to bind the firm to all commitments made in the proposal, and authorized to ultimately sign the agreement, shall sign the cover letter which should be no longer than two single-sided pages.

The conflict of interest statement that affirmatively states that there is no known conflict of interest or a disclosure of any potential conflict of interest involving any District employee, consultant, or member of the Board of Education MUST be included in the cover letter.

b. Project Team

Provide a detailed description of the proposed project team composed of skilled and duly licensed professionals and technical support to prepare the specifications and reports. Indicate recent experience for the firm and for each team member on similar California K-14 projects, including each individual's specific role on each project. Include a list of similar projects managed by the proposing firm, identifying size, scope, reference contact information, and project team members for all similar California K-14 projects completed in the past ten years. List any proposed sub-consultants and describe their roles. Include an organizational chart for the team. Prior to beginning work on this project, **ALL proposed team members will be required to be fingerprinted and background checked per District standard methods.**

c. Project Approach and Firm Capabilities

Provide a statement demonstrating your firm's ability to accomplish the Services in a comprehensive and thorough manner. Describe your firm's approach to quality control/assurance procedures. Identify established methods and approaches utilized by your firm to successfully meet completion deadlines, and provide examples demonstrating effective use of stated methods and approaches.

Minimum Qualifications: The proposing firm shall clearly indicate through the content of its statement of qualifications that it is capable of providing the requested services and adequate personnel to the satisfaction of the District and shall demonstrate satisfactory experience in successfully completing similar projects during the past ten years for California K-14 schools.

Provide a list of at least three projects (regardless of inclusion in the project examples provided on the thumb drive/CD). For each project listed, clearly explain the scope and state the following in a table per project:

1. Owner name and location
2. Project name
3. Beginning and end dates of project
4. Description of services provided
5. Significant project elements/challenges
6. Owner contact information including email address
7. Individuals providing services for the project and roles on the project
8. Subconsultants utilized for the project

To maintain continuity, personnel assigned to this project shall remain assigned to this project for its duration, regardless of interruptions that may occur. If changes must be made due to unavoidable circumstances, the selected firm shall submit the name and resume of the replacement to the District for approval. Should personnel be absent for a brief duration due to illness, vacation, etc., the selected firm shall provide and schedule qualified replacement personnel for approval by the District.

d. Schedule of Hourly Rates (1 page):

Provide a current fee schedule of labor rates, other direct costs, and any percentage mark-up planned for subconsultant and subcontractor prices, and all other categories of costs, expenses, fees, or charges that you anticipate may be required to complete the Services.

If billing rates are anticipated to increase during the project duration, the escalated costs must be clearly indicated and included in the cost proposal. **Hourly rates should include all costs associated with the proposed work, including but not limited to salary, travel, mileage, car allowances, cell phones, insurance, home office expenses, overhead, profit, computers, tablets, office supplies, and all other related costs of doing business.** Only people and positions listed in the final accepted cost proposal will be allowed to work on this project unless authorized by the District in writing in advance.

e. Resumes (2 pages maximum per resume):

Include resumes of the proposed project team members, including any subconsultants. Individual resumes should not exceed two pages each. The appendix containing resumes will not count toward the page limit.

IV. EVALUATION PROCESS AND SELECTION CRITERIA

a. Anticipated Schedule

- RFQ Issued: March 4, 2020
- SOQ's Due: March 12, 2020 by 3:00 PM
- Planned Board Award: April 1, 2020
- Planned Commencement of Consultant Services: April 15, 2020

b. Selection Process

Selection will be based primarily on:

1. The proposed team's experience and performance history on similar projects
2. Overall proposal responsiveness and quality
3. Hourly Rates
4. References
5. Any other relevant factors indicated in the proposals

THE DISTRICT THANKS YOU FOR YOUR INTEREST IN PROVIDING TECHNOLOGY CONSULTING SERVICES FOR THIS PROJECT AND INVITES YOUR RESPONSE TO THIS REQUEST FOR QUALIFICATIONS AND RATES.

APPENDIX A

DRAFT PROFESSIONAL SERVICES AGREEMENT

Please review the draft agreement attached. By submitting a proposal, the submitting firm confirms that it has no exceptions or changes to the agreement provided.

**SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
INDEPENDENT CONSULTANT AGREEMENT FOR PROFESSIONAL SERVICES
SERVICES (NON-CONSTRUCTION RELATED)**

THIS AGREEMENT (“Agreement”) is entered into by and between **Santa Monica-Malibu Unified School District** (“District”) and _____ (“Consultant”) and is dated _____, 20__ for reference purposes only. District and Consultant may be referred to herein individually as a “Party” or collectively as the “Parties.”

- Services.** The District is authorized by Government Code § 53060 to contract with and employ any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal or administrative matters, if those persons are specially trained and experienced and competent to perform the special services required. The Consultant shall furnish to the District the following services (“Services” or “Work”):

[DESCRIBE SERVICES OR ATTACH SCOPE OF WORK AND DESIGNATE AS EXHIBIT “A”]

The Consultant warrants that it is specially trained, licensed, experienced and competent to perform the Services required by the District.

- Price & Payment.** The Consultant shall furnish the Services to the District for a total price of _____ Dollars (\$) _____ (“Agreement Price”) **[OR INDICATE AN HOURLY RATE WITH A NOT-TO-EXCEED AMOUNT IN EXHIBIT “A”]**. Payment for the Services shall be made in accordance with the Terms and Conditions attached hereto.

- Agreement Time.** The Services shall be completed by _____, 20___. **[STATE COMPLETION DATE]** **[OR]** The Services shall be completed within _____ **[STATE # OF COMPLETION DAYS]** (_____) **[NUMBER OF DAYS]** consecutive calendar days from the date specified in the District’s Notice to Proceed. (“Agreement Time”)

- Insurance:** Consultant shall have and maintain insurance in force during the term of this Agreement with minimum limits identified below. Consultant shall provide to the District certificate(s) of insurance and endorsements satisfactory to the District. The policy(ies) shall not be amended or modified and the coverage amounts shall not be reduced without thirty (30) days written notice to the District prior to modification. Except for worker’s compensation insurance, the District shall be named as an additional insured on all policies. Consultant’s policy(ies) shall be primary; any insurance carried by the District shall only be secondary and supplemental. Consultant shall not allow any subcontractor, employee, or agent to commence Work on this Agreement or any subcontract until the insurance required of Consultant, subcontractor, or agent has been obtained.

Commercial General Liability	\$1,000,000 per occurrence; \$2,000,000 aggregate
Automobile Liability, Any Auto, combined single limit	\$1,000,000 per occurrence; \$2,000,000 aggregate
Workers Compensation	Statutory limits pursuant to State law
Employers’ Liability	\$1,000,000
Professional Liability (E&O), as appropriate (claims-made)	\$1,000,000

[DISTRICT MAY ADJUST THESE LIMITS OR COVERAGES, IN WRITING, AT THE DISTRICT’S SOLE DISCRETION BASED ON SIZE AND SCOPE OF CONTRACT]

5. **Terms & Conditions.** The Consultant has read and agrees to comply with the Terms & Conditions. **INITIAL HERE:** _____.
6. **Submittal of Documents.** The Consultant shall not commence the Services under this Agreement until the Consultant has submitted the following document of insurance required as indicated below:

<input checked="" type="checkbox"/> Signed Agreement	<input checked="" type="checkbox"/> Workers' Compensation Certificate
<input checked="" type="checkbox"/> Insurance Certificates & Endorsements	<input checked="" type="checkbox"/> W-9 Form
<input checked="" type="checkbox"/> Fingerprinting/Criminal Background Investigation Certification	

7. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or sent by overnight delivery service, addressed as follows:

District:

Santa Monica-Malibu Unified School District
 1651 16th Street
 Santa Monica, CA 90404
 ATTN: _____

Consultant:

 _____, CA 9____
 ATTN: _____

Any notice personally given shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service.

ACCEPTED AND AGREED on the date indicated below. By signing this Agreement, Consultant certifies, under penalty of perjury, that all the information provided in this Agreement is true, complete, and correct:

Dated: _____, 20____

Dated: _____, 20____

Santa Monica-Malibu Unified School District

_____ **Consultant**

By: _____

By: _____

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: _____

Information regarding Consultant:

Type of Business Entity:

- ____ Individual
- ____ Sole Proprietorship
- ____ Partnership
- ____ Limited Partnership
- ____ Corporation
- ____ Limited Liability Company
- ____ Other: _____

 Employer Identification and/or Social Security Number
NOTE: United States Code, title 26, sections 6041 and 6109 require non-corporate recipients of \$600 or more to furnish their taxpayer identification number to the payer. The United States Code also provides that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these rules, the District requires your federal tax identification number or Social Security number, whichever is applicable.

**TERMS & CONDITIONS OF INDEPENDENT CONTRACTOR AGREEMENT
FOR PROFESSIONAL SERVICES**

1. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing the Work.
2. **Materials.** Consultant shall furnish, at his/her own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement.
3. **Independent Consultant.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant understands and agrees that he/she and all of his/her employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees.
4. **Standard of Care.**
 - 4.1. Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts. Consultant's Services will be performed with due care and in accordance with applicable law, code, rule, regulation, and/or ordinance.
 - 4.2. Consultant hereby represents that it possesses the necessary professional capabilities, qualifications, licenses, skilled personnel, experience, expertise, and financial resources, and it has available and will provide the necessary equipment, materials, tools, and facilities to perform the Services in an efficient, professional, and timely manner in accordance with the terms and conditions of the Agreement.
 - 4.3. Consultant shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the Services, and Consultant understands that the District relies upon such professional quality, accuracy, completeness, and coordination by Consultant in performing the Services.
 - 4.4. Consultant shall ensure that any individual performing work under the Agreement requiring a California license shall possess the appropriate license required by the State of California. All personnel shall have sufficient skill and experience to perform the work assigned to them.
5. **Originality of Services.** Consultant agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Consultant and shall not be copied in whole or in part from any other source, except that submitted to Consultant by District as a basis for such services.
6. **Copyright/Trademark/Patent.** Consultant understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. Consultant consents to use of Consultant's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.
7. **Termination.**
 - 7.1. **Without Cause by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three days after the day of mailing, whichever is sooner.
 - 7.2. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

- 7.2.1. material violation of this Agreement by the Consultant; or
- 7.2.2. any act by Consultant exposing the District to liability to others for personal injury or property damage; or
- 7.2.3. Consultant is adjudged a bankrupt or makes a general assignment for the benefit of creditors or a receiver is appointed on account of Consultant's insolvency.

Written notice by District shall contain the reasons for such intention to terminate and, unless within three (3) calendar days after that notice the condition or violation shall cease or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required Services from another Consultant. If the expense, fees, and/or costs to the District exceeds the cost of providing the Services pursuant to this Agreement, the Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

7.3. Upon termination, Consultant shall provide the District with all documents and work product prepared, produced, maintained or collected by Consultant pursuant to this Agreement, whether or not such documents or work product are final or draft documents or work product.

8. Indemnification. To the furthest extent permitted by California law, Consultant shall defend, indemnify, and hold free and harmless the District, its agents, representatives, officers, consultants, employees, trustees, and volunteers ("the indemnified parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, including without limitation the payment of all consequential damages ("Claim"), arising out of, pertaining to or relating to, in whole or in part, the negligence, recklessness, errors, omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants, or agents directly or indirectly arising out of, connected with, or resulting from the performance of the Services or from any

activity, work, or thing done, permitted, or suffered by the Consultant in conjunction with this Agreement, unless the claims are caused wholly by the sole negligence or willful misconduct of the indemnified parties. The District shall have the right to accept or reject any legal representation that Consultant proposes to defend the indemnified parties.

9. Assignment. The obligations of the Consultant pursuant to this Agreement shall not be assigned by the Consultant.

10. Compliance with Laws. Consultant shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Consultant observes that any of the Services required by this Agreement is at variance with any such laws, ordinance, rules or regulations, Consultant shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Consultant's receipt of a written termination notice from the District. If Consultant performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Consultant shall bear all costs arising therefrom.

11. Permits/Licenses. Consultant and all Consultant's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this agreement.

12. Safety and Security. Consultant is responsible for maintaining safety in the performance of this Agreement. Consultant shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.

13. Employment with Public Agency. Consultant, if an employee of another public agency, agrees that Consultant will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.

14. Labor Code: Consultant and Subconsultant

Registration and Compliance. Consultant acknowledges that, for purposes of Labor Code section 1725.5, all or some of the Work may be a public work to which Labor Code section 1771 applies and, if so, those services are subject to compliance monitoring and enforcement by the Department of Industrial Relations. Consultant shall comply with Labor Code section 1725.5, including without limitation the registration requirements for itself and its subconsultants. Consultant represents that all of its subconsultants are registered pursuant to Labor Code section 1725.5. Consultant shall furnish its CPRs, as applicable, to the Labor Commissioner of California and comply with any applicable enforcement by the Department of Industrial Relations.

15. Anti-Discrimination. It is the policy of the District that in connection with all work performed under Agreements there be no discrimination against any employee engaged in the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status and therefore the Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, the Consultant agrees to require like compliance by all its subcontractor(s).

16. Fingerprinting of Employees. The Consultant shall comply with the provisions of Education Code section 45125.1 regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees. The Consultant shall not permit any employee to have any contact with District pupils until such time as the Consultant has verified in writing to the governing board of the District that the employee has not been convicted of a felony, as defined in Education Code section 45122.1. The Consultant's responsibility shall extend to all employees, subcontractors, agents, and employees or agents of subcontractors regardless of whether those individuals are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Consultant.

Verification of compliance with this section shall be provided in writing to the District prior to each individual's commencement of employment or performing any portion of the Services and prior to permitting contact with any student.

17. Audit. Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.

18. District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors. The District may evaluate the Consultant in any manner which is permissible under the law. The District's evaluation may include, without limitation:

18.1. Requesting that District employee(s) evaluate the Consultant and the Consultant's employees and subcontractors and each of their performance.

18.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).

19. Limitation of District Liability. Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.

20. Disputes: In the event of a dispute between the parties as to performance of Work, Agreement

interpretation, or payment, the Parties shall attempt to resolve the dispute by negotiation and/or mediation, if agreed to by the Parties. Pending resolution of the dispute, Consultant shall neither rescind the Agreement nor stop Work.

21. Confidentiality. The Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.

22. Integration/Entire Agreement of Parties. This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.

23. California Law. This Agreement shall be governed by and the rights, duties and

obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the California county in which the District's administration offices are located.

24. Waiver. The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

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

26. Incorporation of Recitals and Exhibits. The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

DRAFT

**WORKERS' COMPENSATION CERTIFICATION &
FINGERPRINTING/CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION**

Labor Code Section 3700 in relevant part provides that every employer except the State shall secure the payment of compensation in one or more of the following ways:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- 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 its employees.

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

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any Work under this Agreement.)

One of the three boxes below **must** be checked, with the corresponding certification provided, and this form attached to the Independent Consultant Agreement for Professional Services ("Agreement"):

[TO BE COMPLETED BY AUTHORIZED DISTRICT EMPLOYEE ONLY.] Consultant's employees will have only limited contact, if any, with District pupils and the District will take appropriate steps to protect the safety of any pupils that may come in contact with Consultant's employees so that the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 shall not apply to Consultant for the services under this Agreement. As an authorized District official, I am familiar with the facts herein certified, and am authorized to execute this certificate on behalf of the District. (Ed. Code, § 45125.1 (c).)

Date: _____

District Representative's Name and Title: _____

Signature: _____

The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to Consultant's services under this Agreement and Consultant certifies its compliance with these provisions as follows: *"Contractor certifies that the Contractor has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all Contractor's employees, subcontractors, agents, and subcontractors' employees or agents ("Employees") regardless of whether those Employees are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Contractor, who may have contact with District pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of those Employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of all Employees who may come in contact with District pupils during the course and scope of the Agreement is attached hereto."*

Megan's Law (Sex Offenders). I have verified and will continue to verify that the employees of Consultant that will be on the Project site and the employees of the Subcontractor(s) that will be on the Project site are **not** listed on California's "Megan's Law" Website (<http://www.meganslaw.ca.gov/>).

[MUST BE COMPLETED BY CONTRACTOR'S AUTHORIZED REPRESENTATIVE.] I am a representative of the Consultant entering into this Agreement with the District and I am familiar with the

facts herein certified, and am authorized and qualified to execute here for both certificate(s) on behalf of Consultant.

Date: _____
Name of Consultant or Company: _____
Signature: _____
Print Name and Title: _____

DRAFT

EXHIBIT A

1. Scope of Services

Consultant shall perform the following Services:

2. Hourly Personnel Rates & Schedule of Fees and Charges

DRAFT