

**REQUEST FOR QUALIFICATIONS (RFQ)
#2526-393**

**MATERIALS TESTING AND SPECIAL
INSPECTIONS CONSULTING SERVICES**



**Responses must be received no later than
August 28, 2025 by 2:00pm**

Submit Response To: FacilitiesRFP@RSCCD.edu

**Questions or
Clarifications:**

All questions must be submitted in writing,
via email to: FacilitiesRFP@RSCCD.edu

1. REQUEST FOR QUALIFICATIONS

1.1. Purpose

The purpose of this Request for Qualifications ("RFQ") is to obtain information that will allow the Rancho Santiago Community College District ("District") to prequalify a limited number of firms to provide Materials Testing and Special Inspections Consulting Services. It is the District's intent that the RFQ process will enable the District to streamline the process by which Consultants are selected to perform work for the District and comply with regulatory and legislative requirements.

The District has an established list of prequalified/short-listed Materials Testing and Special Inspections Consulting firms. Current pre-qualified firms and new firms are required to submit a complete response according to Section 1.5 "Response Format." Previously prequalified Consultants are not guaranteed to be deemed qualified for the new prequalified list.

1.2. RFQ Schedule

The District has set the following RFQ schedule that all Consultants must adhere to. The District reserves the right to modify this RFQ schedule as needed and will issue an addendum if the schedule changes.

Event / Occurrence	Deadline
District Issues RFQ	July 23, 2025
Deadline for Consultants to submit questions regarding this RFQ	August 13, 2025 by 2:00pm
Deadline for Consultants to submit Responses	August 28, 2025 by 2:00pm/
District to interview Consultant(s) (Estimated) If applicable	TBD

1.3. Qualified Consultant

All Consultants submitting a Statement of Qualifications ("Response") and seeking to become a prequalified consultant for the District should be extremely familiar with all applicable regulations and industry guidelines especially as they apply to community college projects, and be capable of providing work product that will enable the District to strictly comply with said requirements. Consultants must demonstrate a minimum of eight (8) years of relevant experience and professional success with similar services for education projects. All licensed professionals in charge of the work must be directly employed by the Consultant and not employed as a Sub-Consultant. Pre-qualified consultants are in no way guaranteed to receive any work from the District.

1.4. Submission

If your Firm is interested in performing Services for the District, please submit to the District a Response in accordance with this RFQ. Responses must be emailed to FacilitiesRFP@RSCCD.edu and must be submitted no later than the date indicated in the RFQ schedule included in Section 1.2. Delivery of Responses is the sole responsibility of the Consultant. All Responses must be signed (electronic signatures accepted) and become the property of the District.

1.5 Response Format

Each Consultant is required to submit a Response they deem appropriate to the following request. Submittals should be brief and concise, but provide sufficient clarity to meet the criteria in the evaluation process. Each Response must be organized in order and include all sections and information as stated in Part 3, Statement of Qualification. Each Consultant shall submit **one (1)** electronic submittal, no larger than 25MB, in PDF format with bookmarks, of the Response. The District will evaluate the Responses based on the responsiveness to District requirements listed.

NOTE for Exhibits: All District Exhibits should be tabbed, labeled, and included as part of the appendix. It is at the Firm's discretion to determine how to reference, in the body of the Response, the location of the Exhibits in the appendix. All Exhibits may be recreated in another program as long as the formatting and information requested mirrors the PDF forms attached to this RFQ. The intent of the PDF forms is to keep all the requested information in a uniform format.

NOTE for Firms teaming with Sub-Consultants: Each responding Firm shall select their proposed sub-consultants based on their own criteria. However, RSCCD reserves the right to approve and request additional information or substitutions for sub-consultants proposed for any projects that may be awarded. Sub-Consultants do not need to complete all the Exhibits in this RFQ. Carefully read each section to determine which forms the Sub-consultants need to submit.

1.6 Questions

Consultants must carefully read the entire RFQ prior to submitting questions as most questions will be answered in this RFQ. If you should have questions regarding this RFQ, please submit in writing via email to FacilitiesRFP@RSCCD.edu, referencing RFQ #2526-393 in the subject line. The question deadline for this RFQ is included in Section 1.2. After this deadline, the District will not answer, address, and/or review any questions interested Consultants might submit. Responses to all questions received prior to the deadline will be provided via addendum – addenda, if issued for this RFQ, will not be distributed via email. Respondents are required and responsible to check the District's "Bid Opportunities" webpage to access any addenda. All addenda must be acknowledged in the Response.

1.7 Request for Proposals

Prequalified Consultants are in no way guaranteed to receive any work from the District. However, it is the District's intent to look to the pool of prequalified Consultants when choosing a Consultant to perform Materials Testing and Special Inspections services. The District, on an "as-needed" basis, will issue Request for Proposals ("RFP") to one or more prequalified Consultants to obtain a proposal for a particular site/project.

2. SCOPE OF SERVICES

The District is seeking to prequalify Firms to provide future materials testing and special inspection services. Future projects may include, but are not limited to; new construction, modernizations, site upgrades, infrastructure upgrades, College facility modification requests, and/or maintenance projects.

2.1. General Scope

Consultants must comply with the following general requirements:

- 1) Consultant shall perform all special inspections and testing services in conformance with the project's DSA approved Construction Documents, applicable codes and code references. Consultant shall meet all applicable

requirements set forth in DSA's Construction Oversight Process Procedure ("PR 13-01") and any subsequent revisions or updates thereto issued or required by DSA. Any references to DSA requirements for the project shall be deemed to include and incorporate any revisions or updates thereto.

- 2) All Laboratories of Record ("LOR") utilized by the Consultant or hired as a sub-consultant must have approval by the DSA Laboratory Evaluation and Acceptance ("LEA") Program and demonstrate that it meets the requirements for supervision of special inspections, quality control, and records retention that would enable the laboratory's engineering manager to file a combined verified report.
- 3) Consultant shall meet with the Project Inspector, and others as requested, as required throughout the duration of the project to verify, acknowledge and coordinate the special inspection and testing program required by the DSA approved Construction Documents for the project.
- 4) Consultant shall work under the technical direction and supervision of the Project Inspector or the Architect/Engineer as applicable. Consultant shall respond to the Project Inspector's scheduling and coordination for materials testing and special inspections and sampling testing services.
- 5) Consultant shall prepare and submit daily special inspection reports and Interim Verified Reports to DSA in a timely manner such that construction is not delayed, and provide a copy of such report to the Project Inspector for each of the applicable sections of the Project Inspection Cards (Form DSA 152), that are required for the completion of the PROJECT, when such sections require special inspections and/or testing prior to the Project Inspector's approval and sign off.
- 6) Consultant shall submit a signed Final Verified Report to DSA, and provide a copy of such report to the Project Inspector, the Architect/Engineer, the Structural Engineer, and the DISTRICT
- 7) Consultant shall prepare for issuance to the Construction Contractor, as required, written Notices of Non-Compliance using appropriate forms. The forms shall be completed and provided to the Project Inspector, District and Construction Manager.
- 8) Consultant shall provide all the required "tools of the trade." (Note: some projects (depending on the size) have access to office space on-site with utilities, office furniture, telephone services, and access to copying equipment as may be required on an intermittent basis.)
- 9) Consultant shall be prepared to attend project progress meetings and other specially called meetings as determined by the Project Inspector, Construction Manager and/or District.
- 10) Consultant shall follow all safety rules, regulations, and plans of the project.
- 11) Consultant shall assist with project DSA certification and ensure diligence in distributing documents through the DSAbbox electronic document collaboration tool.
- 12) Consultant shall provide to DSA the required test report forms, special inspection reports, and verification reports in a timely manner including, but not limited to, the Form DSA 291: Laboratory of Record Verified Report and Form DSA 292: Special Inspector Employed Directly by the District Verified Report.

In general, the services may include the following, as required by the individual project's form DSA-103 (List of Required Structural Tests and Special Inspections), and/or as requested by the District:

1) Special Inspections

- a. Earth work/soils inspection
- b. Asphaltic concrete plan inspection
- c. Asphaltic concrete placement inspection
- d. Concrete batch plant inspection
- e. Concrete placement inspection and sampling
- f. Structural masonry inspection
- g. Structural steel shop fabrication inspection
- h. Structural steel assembly inspection
- i. Structural steel ultrasonic testing
- j. Fireproofing material application inspection
- k. Roofing Inspection

2) Material Testing and Sampling

- a. Soil, Aggregate and Asphalt
 - 1) Maximum Dry Density
 - 2) Expansion Index
 - 3) R-Value
 - 4) Sand Equivalent
 - 5) Sieve Analysis
 - 6) Hveem Stability
 - 7) Asphalt Extraction
 - 8) Hardness and Abrasion
 - 9) Sampling
- b. Concrete
 - 1) Cylinder Compression Strength
 - 2) Anchor Pull-Out
 - 3) Core Extraction
 - 4) Slump
 - 5) Air Testing
 - 6) Concrete Cylinder Sampling/Fabrication
- c. Reinforcing Steel
 - 1) Tensile Strength
 - 2) Bend Test
 - 3) Sample and tag Specimens
- d. Masonry
 - 1) Grouted Prism
 - 2) Mortar Compression
 - 3) Grout Compression
 - 4) Anchor Pull-Out
- e. Masonry Block Conformance Testing
 - 1) Block Compression
 - 2) Block Measurement

- 3) Block Moisture/Absorption
- 4) Shrinkage
- 5) Effloresce
- f. Structural Steel
 - 1) Bolt and Washer Hardness
 - 2) Fireproofing Density
 - 3) Bolt Bend/Tensile

2.2 Compliance with Applicable Laws

Consultant's Response must set forth Consultant's understanding of all applicable laws, guidelines, and requirements, including Cal/OSHA Title 8, the Environmental Protection Agency ("EPA"), the Education Code, Division of the State Architect (DSA), California Community Colleges Chancellors Office (CCCCO) and local ordinances and/or other applicable guidelines. Consultant's Response must confirm that the proposed Services will meet all the aforementioned requirements.

2.3 Working Conditions

Each Consultant shall be capable of working indoors and outdoors, as required, in all weather and site conditions including, but not limited to, rain, dirt, mud, and ice. The Consultant's activities may require kneeling, bending, climbing ladders, stepping over trenches, etc.

2.4 Deadlines

Each Consultant must be prepared to provide services for such Materials Testing and Special Inspections consulting services as the District may hereafter require. Each Consultant must be prepared and equipped to provide such services in an expeditious and timely manner and on relatively short notice to enable the District to meet critical, and at times unpredictable, time deadlines and schedules.

The District shall not be responsible in any manner for the costs associated with the preparation or submission of Consultant's Response. The Response, including all drawings, plans, photos, and narrative materials, shall become the property of the District. The District shall have the right to copy, reproduce, publicize and/or dispose of each Response in any way that the District may choose.

3. STATEMENT OF QUALIFICATIONS/PROPOSAL RESPONSE FORMAT

3.1. Firm Information

Provide a cover letter and introduction, including the company name, address, telephone number, and e-mail address of the person or persons authorized to represent the institution regarding all matters related to the Response. As part of the narrative, provide a brief synopsis of the firm's corporate structure and history. In a narrative discussion, describe any litigation or threatened litigation against your firm or its owners that may affect your performance or completion of this proposed program. A person authorized to bind the firm to all commitments made in the Response shall sign this letter. In addition to the cover letter, complete **Exhibit A – Firm Information Form** and **Exhibit B – Firm Information Questionnaire**.

3.2 Firm Approach and Methodology

Describe the Consultant's philosophy with regard to approach and experience related to Services outlined in the RFQ, and experience in working with a Community College District. Identify key elements to providing quality service and project delivery that would lead to a successful project completion.

3.3 Firm Experience

Provide a summary of Consultant's relevant expertise and experience in Materials Testing and Special Inspections consulting services, especially as it relates to community college facilities. Consultant must demonstrate a minimum of eight (8) years of relevant experience and professional success.

Using **Exhibit C – Firm Project Experience Form**, provide a **minimum of five (5)** completed materials testing/special inspections projects. Provide detailed descriptions of the projects (particularly community college projects **other** than Rancho Santiago Community College District). This client list may be contacted for reference and past performance of the Consultant will be evaluated. Do not provide **Exhibit C** for Sub-Consultants and do not include projects that were completed by Sub-Consultants.

Furthermore, using **Exhibit D – District Experience** provide a list of all Rancho Santiago Community College District contracts held within the last eight (8) years including, with respect to each project, the project name, site name, contract amount, and Consultant's contact person at the District on said project.

Past performance of the Consultant will be evaluated and Clients listed may be contacted for a reference.

3.4 Key Personnel/Team Members

Please identify your Firm's available team members, key personnel and staff members and their specific expertise and experience in Materials Testing and Special Inspections consulting services, especially as it relates to Community College campus projects. Include an organizational chart for the proposed staff and indicate who will be the District's main contact person for your Firm. Each team member proposed should at least have a minimum of 5 years of experience. Provide the names and detailed resumes of leadership who will be the designated team available, knowledgeable, regularly attentive and working directly with the District. In addition, list all professional registration certification and/or license designations and numbers that are currently active in the State of California. Do not list any inactive registration and/or license designations.

3.5 Sub-Consultants

Identify any Sub-Consultants, if any that are likely to be used by your Firm in carrying out Services for the District. You can list multiple firms if needed per category (i.e. lab services, specialized services, etc.) For each sub-consultant Firm, please list names, California license or registration numbers, contact person(s), business addresses, phone numbers, fax numbers, e-mail addresses, date established, and time associated with Firm. Please complete **Exhibit A – Firm Information Form** for Sub-Consultants.

3.6 Billing Rates

Provide hourly billing rates for all personnel and categories of employees, testing fee schedule, as well as any overhead or other special charges. If applicable, Consultant's Response should provide estimates for certain standardized components of the Services.

Provide Consultant's typical fee schedule as applicable, as well as any Sub-consultant fees or services that may be needed. Please use **Exhibit E - Billing Rate Form** for Consultant's personnel and Sub-Consultant's personnel (if applicable). Additionally, provide your firm's schedule of services for both lab services and field services, with unit rates.

Consultant hourly rates shall be **all-inclusive** and include/account for all direct labor costs, fringe benefits, travel, insurance, overhead, profit, and all other expenses the Consultant will incur in providing Services. All other services not included herein shall be negotiable as required.

3.7 Contract

Consultants shall review a typical District agreement in **Exhibit J – Consultant Services Agreement**, and provide any comments or objections to the Agreement in its Response – **Exhibit J**. Consultants will be required to substantially accept the form of Agreement, including the indemnification provisions therein. **PLEASE NOTE: The District will not consider any substantive changes to the form of Agreement.**

3.8 Certification

Consultants shall certify that they have received the RFQ, read the instructions and submitted a Statement of Qualifications with the proper authorizations. Consultant shall complete **Exhibit F – Certification, Request for Qualification** and submit it with the Response. Do not provide this form for Sub-Consultants.

3.9 Non-Conflict of Interest

Consultants shall certify that they shall perform Services as an independent contractor and not as an officer, agent or employee of the District. Consultant shall complete **Exhibit G – Statement of Non-Conflict of Interest**, and submit it with the Response. Do not provide this form for Sub-Consultants.

3.10 Local Hire and Local Business Questionnaire

Consultants shall certify by completing **Exhibit I – Questionnaire Form for Local Hire and Local Business**. The Rancho Santiago Community College District is interested in furthering opportunities for Local Hires and Local Businesses. The District collects this data as part of the RFQ process and any future RFP process.

3.11 Inappropriate and Unsolicited Communication

The District strives to ensure a fair and competitive process for any and all consultants who desire to participate in the RFQ/RFP selection. After this RFQ/RFP has been issued (from the date this RFQ and/or future RFQ/RFPs are released to the conclusion of the selection process), any Consultant, the proposing firm, and/or member of Consultant Team that undertakes to discuss any matter, contacts or solicits individuals related to this RFQ with any District employee, members of the evaluation committee, members of the Board of Trustees or any consultant or professional retained by the District other than the identified Contact, FacilitiesRFP@rsccd.edu, said firm/consultant may be presumed to have gained an unfair competitive advantage by inserting unsolicited communications to effect influence. The firm/consultant shall be disqualified and may be removed from any established prequalified list, including, the removal from the District's "interested vendors list" at the discretion of the District. All communications regarding this RFQ, and any future RFP and any matter related thereto shall be in accordance with this RFQ.

4. INSURANCE REQUIREMENTS

4.1 Insurance Requirements

The Firm awarded a contract will be required to maintain, in full force and effect and at their own expense, insurance policies with companies certified with the California Insurance Commission. For detailed insurance requirements, refer to **Exhibit J - Typical Agreement** (specifically Article VIII).

Prior to commencing any contract, the selected firm must provide the District with certificates of insurance that includes the following: the Rancho Santiago Community College District and its Board, Officers and employees, shall be named as additional insured parties on General Liability and Automobile policies. Endorsements **must** be submitted with the certificate(s).

5. SELECTION CRITERIA AND EVALUATION PROCESS

All Responses will be evaluated as per the selection criteria and evaluation process described below. All Consultants shall be advised and understand the policies applicable to contract award if selected.

5.1. Selection Criteria

Although not necessarily exhaustive of the criteria to be utilized, the District intends to use the following evaluation criteria in selecting short listed prequalified Consultants:

- **Responsiveness to the RFQ:** breadth and depth of response and completion of all RFQ requirements.
- **Firm Information:** complete information regarding firm location, ownership, legal history, insurance coverage, safety record, disputes, termination, bankruptcy etc.
- **Firm Experience:** demonstrates adequate and relevant experience, community college and/or school district experience, experience with Division of the State Architect (DSA), and proven experience in meeting schedules and deadlines.
- **Firm Team and Sub-Consultants:** has provided team member resumes for leadership with appropriate information, project experience noted, licenses noted, qualifications noted.
- **Current Workload & Availability:** has adequate resources to support District's needs, firm's support staff, project team and/or sub-consultants.
- **Firm Approach & Methodology:** outlines a proposed methodology to be utilized in Materials Testing and Special Inspections services as it relates to involvement of faculty, staff, management and other interested parties; evidence of ability to prioritize tasks and begin job in a timely fashion, able to address appropriately and differentiate District priorities, has experience with Services required.
- **Specific Team Member Project Experience:** evaluate team member experience, relevancy for Services, totality of team members including sub-consultants identified to work on Services.
- **Fee:** has provided a proposed structure and billing rates for team members and sub-consultants, has competitive rates in comparison to others.
- Firm located within District vicinity or Orange County or demonstrated ability to serve Orange County
- **Completed Required Forms:**
 - Firm Information Form
 - Firm Information Questionnaire

- Billing Rate Form
- Veteran owned firms and/or DVBE firm
- Certification Form
- Statement of Non-Conflict of Interest Form
- Provided Confidential Financial Information (if requested)
- Local Hire Local Business Form
- Provided comments on Draft Agreement (if applicable)
- Client Reference Checks: satisfaction of prior/current clients, professional reputation of the firm, past performance of firm, past experience working with District.

5.2. Evaluation of Responses

Responses will be evaluated by a panel of individuals selected by the District. At the District's discretion, to further assist in evaluation, some, one, or all of the responding firms may be requested to participate in an oral interview. The interview will be used as another opportunity to clarify any issues within a given Response and explore the approaches that may be used to satisfy all District requirements. The District reserves the right to request that some or all of the responding firms consent to being interviewed by selected District personnel and/or representatives and/or submit additional written information.

Based on its evaluation of the Responses received; the District will select one or more pre-qualified short-listed Consultants. The District reserves the right to request that some or all of the respondents submit additional written information and/or that they consent to be interviewed by selected District personnel and/or representatives.

5.3. Policies Applicable to Contract Awards

All work to be performed under any awarded contract must conform to all applicable laws and guidelines and all requirements of the District, local jurisdictions as applicable, all other governmental agencies with jurisdiction, and conform to the requirements set forth by this RFQ.

This Request and any potential future RFQs or RFPs do not commit the District to award a contractual agreement with any vendor or to pay any costs incurred in the preparation of Responses or participation in an interview.

The District reserves the right at its sole discretion to: (i) waive or correct any defect or informality in any response, (ii) withdraw this RFQ, (iii) reissue this RFQ, (iv) send out additional RFQs/RFPs, (v) reject any and/or all RFQs/RFPs, (vi) prior to submission deadline for this RFQ, modify all or any portion of the selection procedures including deadlines for accepting responses, Services to be provided under the RFQ, or the requirements for content or format of the RFQ, (vii) waive irregularities, (viii) procure any services specified in this RFQ by any other means, (ix) determine that no projects will be pursued and/or (x) terminate or change the contracting process articulated in this RFQ because of unforeseen circumstances.

Acceptance by the District of any Responses submitted pursuant to this RFQ shall not constitute any implied intent to enter into an agreement for services.

Responses, including all graphic and narrative materials, shall become the property of the District upon the District's receipt of the Response. The District shall have the right to copy, reproduce, publicize and/or dispose of each Response in any way that the District may choose.

The District reserves the right to negotiate the terms and conditions of any agreement for services that may hereafter be let by the District.

6. DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION GOALS

The Rancho Santiago Community College District supports a participation goal of at least three percent (3%) of the overall dollar amount expended each year to Disabled Veterans Business Enterprises (DVBE). If Consultant is selected to provide services to the District, Consultant will be required to sign and return a Certification form (copy included with these RFQ/P documents) certifying that they will provide the District with information regarding the use of any DVBE contractors or consultants on the project.

Information about DVBE resources can be found on the Executive Branch's website at <http://www.dgs.ca.gov> or by calling the Office of Small Business and DVBE Certification at 916-375-4940. **Please note that DVBE documentation is included in this RFQ but is not required to be submitted in the Response.** The DVBE documentation will be required if the Consultant is Pre-Qualified and then chosen to provide services as a result of a future RFP process. Please review **Exhibit H – Statement of Intent to Meet DVBE Participation Goal**.

Exhibit A – Firm Information Form

Background

Firm Name

Address

Yr Est.

Phone

FAX

E-Mail

Principals/Officers to Contact:

Primary Contact

Title

Phone

E-Mail

Secondary Contact

Title

Phone

E-Mail

Is the firm authorized to do business in CA?

☐ Yes

☐ No

If Yes, on what basis?

☐ CA Corp

☐ CA Business License

☐ Other: _____

Any former address or parent company?

☐ Yes

☐ No

If Yes, please specify: _____

Type of Firm:

☐ Sole Owner

☐ Partnership

☐ Corporation

☐ Joint Venture

☐ Other: _____

DVBE Participant?

☐ Yes

☐ No

Veteran Owned Business?

☐ Yes

☐ No

Experience

Professional Service Fees (indicate index number corresponding to fees received in each noted year):

☐ 2020

☐ 2021

☐ 2022

☐ 2023

☐ 2024

Index numbers for Professional Services Fees:

- | | |
|------------------------|----------------------|
| 1. Less than \$50,000 | 5. \$500,000-\$1M |
| 2. \$50,000-\$100,000 | 6. \$1M-\$2M |
| 3. \$100,000-\$250,000 | 7. \$2M-\$5M |
| 4. \$250,000-\$500,000 | 8. Greater than \$5M |

Total Number of Years of Service

☐

Community College

Personnel

Total # of Personnel:

List in-house expertise/services other than the primary discipline*.

	Name of Proposed Consultant	License/Discipline/ Education Degree	Years of Experience	
			Total Work Experience	Community College Work
1	_____	_____	_____	_____
2	_____	_____	_____	_____
3	_____	_____	_____	_____

*Use additional sheets if necessary

Exhibit B – Firm Information Questionnaire

Firm Name _____

ANSWER THE FOLLOWING QUESTIONS

1. Is the company or its owners connected with other companies as a subsidiary, parent, affiliate, or holding company? ☐ Yes ☐ No
If yes, explain on a separate, signed sheet.
2. Does the company have an ongoing relationship or affiliation with a contractor or equipment manufacturer? ☐ Yes ☐ No
If yes, explain on a separate, signed sheet.
3. Has the company (or any owner) ever defaulted on a contract forcing a surety to suffer a loss? ☐ Yes ☐ No
4. In the past five (5) years, has the company had any project with disputed amounts more than \$50,000 or a project which was terminated by the owner, owner's representative or other contracting party and which required completion by another party? ☐ Yes ☐ No
If yes, explain on a separate, signed sheet. State the project name, location, owner/contact person, telephone number, contract value, disputed amount, date and reason for termination/dispute.
5. Has the company, an affiliate company, or any owner ever declared bankruptcy or been in receivership? ☐ Yes ☐ No
If yes, explain on a separate, signed sheet.
6. Has the company ever had arbitration on contracts in the past five (5) years? ☐ Yes ☐ No
If yes, explain on a separate, signed sheet. State the project name, location, owner/contact person, telephone number, contract value, disputed amount, a brief description and final resolution.
7. Does the company have any outstanding liens or stop notices for labor and/or materials filed against any contracts which have been done or are being done by the company? ☐ Yes ☐ No
If yes, explain on a separate, signed sheet. State the project name, location, owner/contact person, telephone number, amount of dispute, and brief description of the situation.
8. Has your firm, or an individual from your firm providing services for a project, ever been terminated for convenience or cause from a project, by either school district, College, CCD, public agency or client? ☐ Yes ☐ No
If yes, explain on a separate, signed sheet. State the project name, location, owner/contact person, telephone number, and brief description of the situation.

THE UNDERSIGNED DECLARES UNDER PENALTY OF PERJURY THAT ALL OF THE INFORMATION SUBMITTED WITH THIS RFQ IS TRUE AND CORRECT. FAILURE TO PROVIDE BACK UP TO A "YES" ANSWER AND/OR FAILURE TO SIGN THIS DOCUMENT MAY RESULT IN A RESPONSE DISQUALIFICATION.

Signature:	_____	Title:	_____
Print Name:	_____	Date:	_____
	_____		_____

Exhibit C – Firm Project Experience Form

Minimum of three (3) relevant projects completed within the last eight (8) years, and one of the three projects must have been for a community college district. <u>Use multiple sheets, as necessary.</u>	
Firm name:	
Project Name:	
Client Name:	
Location (City/State):	
Client Contact Name:	
Client Contact Title:	
Client Contact Telephone No:	Client Contact Email:
Type of Project: (Feasibility, Planning, Design, Development, Financing (P3, etc.), Other)	
What was the Professional Service Contract Amount?	\$
Original Total Budget for the Project? \$	Actual project cost at end of project? \$
	Contractors on the project:
Project Summary/Narrative: (Please provide details of Project, comments and/or clarifications)	

Exhibit D – District Experience

Firm Name _____

Has your firm ever worked with the District in the past 8 years? ____ Yes ____ No

If yes, provide a brief listing on a separate sheet; state the project name, the site, the service that was provided, and the scope of the project work. Who was your company's main day-to-day representative on the project and who was the District's main day to day point of contact for the District?

Exhibit E – Billing Rate Form

Firm Name: _____

Billing Rates*

Do rates include travel charges? ☐ Yes

Note: all rates shall include travel and mileage. These will not be acceptable reimbursable items.

Job Title	Name of Personnel	Hourly Rate

Effective Dates of Rates _____

Signature _____

NOTE: All licensed professionals in responsible charge of the work MUST be directly employed by the responding Consultant and NOT employed as a Sub-Consultant. Consultant's proposed rates should include and account for all direct labor costs, fringe benefits, insurance, overhead, profit, travel, and all other expenses the Consultant will incur in providing Services. All other Services not included herein shall be negotiated as required.

Exhibit F – Certification, Requests for Qualifications

I certify that I have read and received a complete set of documents including the instructions for submitting a Response to the attached Request for Qualifications. I further certify that I am submitting one (1) electronic Response containing a complete, single-document PDF version of the Firm's Response to this request and that I am authorized to commit the Firm to the Response submitted.

I consent to Rancho Santiago Community College District contacting references included in this Statement of Qualifications, including but not limited to other school districts listed herein for the purposes of obtaining information about the survey experience.

FAILURE TO SIGN THIS DOCUMENT MAY RESULT IN A STATEMENT OF QUALIFICATIONS DISQUALIFICATION

SIGNATURE

TYPED OR PRINTED NAME

TITLE

COMPANY

ADDRESS

CITY, STATE, ZIP

TELEPHONE

FAX

DATE

If you are a corporation, please
provide your corporate seal here*.
** due to electronic submittal, a scan is
acceptable*



Exhibit G – Statement of Non-Conflict of Interest

The undersigned, on behalf of the consulting Firm set forth below (the "Consultant"), does hereby certify and warrant that if selected, the Consultant, while performing the consulting services required by the Request for Qualifications, shall do so as an independent contractor and not as an officer, agent or employee of the Rancho Santiago Community College District ("the District").

(1) No officer or agent of the Consultant has been an employee, officer or agent of the District within the past two (2) years;

(2) The Consultant has not been a source of income to pay any employee or officer of the District within the past twelve (12) months;

(3) No officer, employee or agent of the District has exercised any executive, supervisory or other similar functions in connection with the Consultant Agreement or shall become directly or indirectly interested in the Consultant Agreement;

(4) The Consultant shall receive no compensation and shall repay the District for any compensation received by the Consultant under the Consultant Agreement should the Consultant aid, abet or knowingly participate in violation of this statement; and

(5) During the selection process (from the date the RFQ is issued and ending on the date of the award of the contract), if it is determined that any individual(s) who work(s) and/or represent(s) the Consultant for business purposes communicates, contacts and/or solicits District's Governing Board ("Board"), selection committee members, any members of Citizens' Oversight Committee, or with any employee of the District except for clarification and questions as described herein in Section 1.6 in any fashion, such Consultant shall be disqualified from the RFQ selection process and from participating in any future RFQs and/or RFPs. This may also result in the removal of the Vendor, Firm, Contractor and/or Consultant from any established Pre-qualified list, as well as the removal from the "interested vendors" list.

SIGNATURE

PRINTED NAME

TITLE

DATE

IF CONSULTANT IS UNABLE TO VERIFY THAT NO CONSULTANT EMPLOYEES ARE ALSO EMPLOYEES, OFFICERS OR AGENTS OF THE DISTRICT, PLEASE READ SECTION BELOW AND PROVIDE ADDITIONAL INFORMATION ON A SEPARATE SHEET.

(1) Consultants are required to disclose any Consultant's employee, officer or agent who is also an employee of the District. Please provide this information on a separate sheet.

(2) For all "dual employees" disclosed by a Consultant, the Consultant must provide specific details of the general/routine roles and responsibilities of the "dual employee" for the Consultant and the specific duties and responsibilities of the "dual employee" relating to the RFP and services required by the RFP.

(3) For Consultant who discloses that an employee, officer or agent of the Consultant is also a District employee, the District reserves the right to reject any Proposal based on the roles and responsibilities of the "dual employee" violating BP 7004 or Government Code §1126(a).

Exhibit H – Statement of Intent to Meet DVBE Participation Goals

The Rancho Santiago Community College District has a participation goal for disabled veteran business enterprises ("DVBE") of 3 percent, per year.

Each Consultant must complete this form in order to comply with the District's policy for participation of DVBE's. Although it is not specifically required, the Consultant is encouraged to include participation by DVBE enterprises for the Project. The undersigned Consultant certifies the following (please check the one that applies):

- ☐ Contractor is not a certified Disabled Veteran Business Enterprise
- ☐ Contractor will include a certified Disabled Veteran Business Enterprise as part of its services to the District.
- ☐ Contractor will not include a Certified Disabled Veteran Business Enterprise as part of its services to the District. If this box is checked, please explain why:
Explanation: _____

Upon completion of the Project, and if requested by the District, the Contractor agrees it will report to the District in writing the total dollar amount of DVBE participation in the contract awarded to Contractor, and in any change orders for the Project, along with all supporting documentation.

Company: _____

Name: _____

Title: _____

Date: _____

Exhibit I – Questionnaire Form for Local Hire and Local Business

The Rancho Santiago Community College District is interested in furthering opportunities for Local Hires and Local Businesses and the Board of Trustees has established a goal of 50% participation of “Local Hires” and 25% participation of “Local Businesses” for various capital construction projects. It is the intent of the District to not only meet these goals, but to exceed them. As used in this Exhibit, “Local Hire” and “Local Business” is defined as follows:

“Local Hire” means an individual who is “domiciled”, as defined in Elections Code section 349(b), in the following zip codes at least seven days prior to commencing work on the Project: 92602, 92606, 92610, 92612, 92614, 92618, 92620, 92626, 92627, 92660, 92675, 92676, 92679, 92688, 92701, 92703, 92704, 92705, 92706, 92707, 92708, 92780, 92782, 92802, 92805, 92806, 92807, 92808, 92840, 92843, 92861, 92862, 92865, 92866, 92867, 92868, 92869, 92883, or 92887. Local Hire shall also mean a “veteran” as defined in Military and Veterans Code section 980, who possesses a current and valid DD Form 214 card, and will provide work on the Project. Local Hire shall also mean any current or former student that the District determines is or was enrolled as a student at one of the District’s colleges, and will provide work on the Project.

“Local Business” means a business serving as a vendor as defined in Business and Professions Code section 7026 or a business supplying construction-related materials that has its principal headquarters or permanently staffed regional office and that has held a business license within the zip codes listed above for Local Hire for a minimum of three months prior to the date the entity submits a bid, contract, or proposal for the Project. A Local Business vendor must also be properly registered with the Department of Industrial Relations in accordance with Labor Code section 1725.5. Local Business shall also mean any business supplying services or supplies for the Project that has its principal headquarters or permanently staffed regional office and that has held a business license within the zip codes listed above for Local Hire for a minimum of three months prior to the date the entity signs a contract or proposal for the Project. Local Business shall also mean any state or nationally certified minority-owned, women-owned, or disabled veteran business that has performed work for the District or other public agency within the zip codes listed above for Local Hire during the past four years. Certification for a minority-owned, women-owned, or disabled veteran business must be provided to the District. Local Business shall also mean a business that participates in an internship program that is currently approved or recognized by the District. The entity may also apply to obtain District approval of its internship program. The internship program must be approved by the District and must be completed by the end of the Project or by the next semester immediately after completion of the Project. Local Business shall also mean any entity that uses apprentices from a District approved apprenticeship program.

The Consultant agrees it will use Local Hires and Local Businesses to the extent possible or if the opportunity arises at any time. The District may request information or documents to confirm participation by a Local Hire or Business and Consultant agrees to comply with any reasonable requests.

Please complete questions below, including additional sheet for each Subconsultant (if applicable):

Company: _____

- | | | |
|--|------------------------------|-----------------------------|
| 1. Firm is a Minority Business Enterprise (MBE) | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. Firm is a Women Business Enterprise (WBE) | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 3. Firm is a Disabled Veteran Business Enterprise (DVBE) | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If “yes” for items 1-3 above, provide a copy of certification.

4. Firm is a Veteran Owned Business ☐ Yes ☐ No

If "yes" to 4, provide DD214 Form/Card

5. This business participates in or provides opportunities for internship programs:

☐ Yes ☐ No

If "yes", state type of internship program(s) offered: _____

6. List ALL Team Members who are considered a Local Hire. Check the applicable box(es), if any, pertaining to each individual.

	Team Member (First and Last Name)	Zip Code (for Local Residents Only)	Local Resident*	RSCCD Student**	Veteran	Intern
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						

**** A RSCCD student is an individual who is or was enrolled in one or more classes at any of these campuses (Santa Ana College, Centennial Education Center, Digital Media Center, Orange County Sheriff's Regional Training Academy, Santiago Canyon College or Orange Education Center).**

If selected, the Consultant agrees it will use Local Hires and Local Businesses to the extent possible or if the opportunity arises at any time the Consultant is providing services pursuant to this RFQ and the final contract entered into with the District. The District may request information or documents to confirm participation by a Local Hire or Business and Consultant agrees to comply with any reasonable requests.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Exhibit J – Typical Agreement

See attached pages

**SPECIAL INSPECTION AND MATERIAL TESTING
CONSULTANT SERVICES AGREEMENT**

This AGREEMENT is made and entered into as of <<Date>> day of <<Month>> in the year <<Year>>, between the RANCHO SANTIAGO COMMUNITY COLLEGE DISTRICT, (“DISTRICT”), and <<NAME OF CONSULTANT>>, (“CONSULTANT”). The DISTRICT and the CONSULTANT are sometimes referred to herein as a “PARTY” and collectively as the “PARTIES”. This AGREEMENT is entered into with reference to the following facts:

WHEREAS, to the extent of the law, CONSULTANT is and shall be registered with the Department of Industrial Relations in accordance with Labor Code section 1725.5 while performing or providing any Services under this AGREEMENT;

WHEREAS, the DISTRICT requires SPECIAL INSPECTION AND MATERIAL TESTING SERVICES for the <<NAME OF PROJECT>> (hereinafter referred to as the “PROJECT”);

WHEREAS, CONSULTANT shall at all times be qualified and approved by the Division of the State Architect (“DSA”) and shall at all times maintain proper qualifications, to perform the duties of and act as a testing laboratory and/or special inspector on community college building construction projects and to perform the services required by this AGREEMENT; and

WHEREAS, CONSULTANT has indicated its willingness and commitment to provide its specialized testing and inspection services to the DISTRICT on the terms hereinafter set forth in this AGREEMENT.

NOW, THEREFORE, the PARTIES hereto agree as follows:

ARTICLE I – SCOPE OF SERVICES

1. Services. CONSULTANT shall provide to the DISTRICT on the terms set forth herein all the special inspection and/or testing services necessary to complete the PROJECT as required by the DSA approved Construction Documents and this AGREEMENT. The CONSULTANT’s basic services shall include those services set forth in this Article as well as those services articulated in **EXHIBIT “A”**. The PARTIES agree if there is a proposal or similar document attached or incorporated into **EXHIBIT “A”**, that the terms of this AGREEMENT shall be controlling over any of the terms contained within the CONSULTANT’s proposal or similar document.

2. Contract Term. The effective period of this agreement is from XXX and shall terminate when DSA Certification and project close-out has been achieved (“Term” or “Contract Term”), unless terminated or otherwise canceled. The parties also agree should all services be completed by CONSULTANT and accepted in writing, by DISTRICT prior to the end date stated within this Paragraph, the AGREEMENT shall automatically terminate.

3. All Laboratories of Record utilized by the CONSULTANT or hired as a sub-consultant must have approval by the DSA Laboratory Evaluation and Acceptance (LEA) Program and demonstrate that it meets the requirements for supervision of special inspections, quality control, and records retention that would enable the laboratory’s engineering manager to file a combined verified report.

4. The CONSULTANT shall perform all special inspections and testing services in conformance with the PROJECT’s DSA approved Construction Documents, applicable codes and code

references. The CONSULTANT shall meet all applicable requirements set forth in DSA's Construction Oversight Process Procedure (PR 13-01) and any subsequent revisions or updates thereto issued or required by DSA. Any references to DSA requirements for the PROJECT shall be deemed to include and incorporate any revisions or updates thereto.

5. The CONSULTANT shall obtain a copy of the Construction Documents that were approved by DSA for the completion of the PROJECT including, but not limited to, the DSA approved Statement of Structural Tests and Special Inspections (Form DSA-103), from the Design Professional in General Responsible Charge of the PROJECT (the "Architect/Engineer") prior to the commencement of construction on the PROJECT and shall maintain a copy of the approved DSA-103 Form in the CONSULTANT's Project File for the duration of the PROJECT. The CONSULTANT shall thoroughly review and evaluate the approved DSA-103 for the PROJECT and be familiar with the required testing and special inspections program required by the DSA approved Construction Documents.

6. The CONSULTANT shall meet with the Project Inspector, the Architect/Engineer, Structural Engineer and the DISTRICT as needed throughout the completion of the PROJECT to verify, acknowledge and coordinate the special inspection and testing program required by the DSA approved Construction Documents for the PROJECT and this AGREEMENT.

7. The CONSULTANT shall prepare and submit Interim Verified Reports to DSA in a timely manner such that construction is not delayed, and provide a copy of such report to the Project Inspector for each of the applicable sections of the Project Inspection Cards (Form DSA 152), that are required for the completion of the PROJECT, when such sections require special inspections and/or testing prior to the Project Inspector's approval and sign off. The applicable sections of the Project Inspection Cards are as follows:

- a. Initial Site Work and Foundation Prep;
- b. Vertical and Horizontal Framing;
- c. Appurtenances;
- d. Non-Building Site Structures;
- e. Finish Site Work; or
- f. Other Work.

8. The CONSULTANT shall submit a signed Final Verified Report to DSA, and provide a copy of such report to the Project Inspector, the Architect/Engineer, the Structural Engineer, and the DISTRICT upon any of the following events:

- a. Within fourteen (14) days of the completion of the CONSULTANT's special inspection and/or testing work;
- b. When work on the PROJECT is suspended for a period of more than one (1) month;
- c. When the services of the CONSULTANT are terminated for any reason prior to the completion of the PROJECT; and/or
- d. In the event DSA requests a Verified Report.

9. If CONSULTANT's work involves the in-plant inspection of relocatable buildings that are being manufactured for placement on the PROJECT site, CONSULTANT shall obtain the Project Inspection Cards from DSA that are needed for the in-plant inspection of such relocatable building(s). The CONSULTANT shall complete the Project Inspection Cards during the in-plant completion of the relocatable building(s) as required by Title 24, the DSA 152 Manual, PR 13-01 and this AGREEMENT. The CONSULTANT must provide the original Project Inspection Cards that are used for the in-plant inspection of the PROJECT's relocatable buildings to the Project Inspector at the time such relocatable buildings are delivered to the PROJECT site.

10. The CONSULTANT shall work under the technical direction and supervision of the Project Inspector or the Architect/Engineer as applicable.

11. The CONSULTANT shall keep the Project Inspector, the Architect/Engineer, the Structural Engineer, and the DISTRICT informed of all special inspections, testing, and/or PROJECT related activities being performed by the CONSULTANT in order to ensure that all testing and special inspections required for the completion of the PROJECT are performed timely and satisfactorily.

12. The CONSULTANT shall keep the Project Inspector, Architect/Engineer, Structural Engineer, and the DISTRICT thoroughly informed as to the progress of the work by submitting detailed daily reports, in writing, to the Project Inspector which outline the work inspected and/or tested. The CONSULTANT shall submit the detailed daily reports to the Project Inspector on the same day the inspections, testing and/or PROJECT related activities are performed and shall provide the Architect/Engineer, Structural Engineer, and the DISTRICT with a copy of such reports. The CONSULTANT shall also submit daily special inspection reports in a timely manner to the Project Inspector so as not to delay the PROJECT. However, in no event shall the CONSULTANT submit a special inspection report to the Project Inspector later than fourteen (14) days from the date the special inspections are performed. The CONSULTANT shall provide a copy of each daily special inspection report to the Architect/Engineer, Structural Engineer, and the DISTRICT on the day the original report is submitted to the Project Inspector.

13. In the event the CONSULTANT identifies construction and/or material deviations from the DSA approved Construction Documents in connection with the work being completed on the PROJECT, the CONSULTANT shall immediately issue a written report of such deviations to DSA. The CONSULTANT shall provide a copy of each report to the Project Inspector, Architect/Engineer, Structural Engineer, and the DISTRICT on the day the original report is submitted to DSA.

14. Certifications, Representations and Warranties. CONSULTANT makes the following certifications, representations, and warranties for the benefit of the DISTRICT and CONSULTANT acknowledges and agrees that the DISTRICT, in deciding to engage CONSULTANT pursuant to this AGREEMENT, is relying upon the truth and validity of the following certifications, representations and warranties and their effectiveness throughout the term of this AGREEMENT and the course of CONSULTANT's engagement hereunder:

a. Consultant Qualifications. CONSULTANT is qualified in all respects to provide to the DISTRICT all of the services contemplated by this AGREEMENT and, to the extent required by any applicable laws, CONSULTANT has all such licenses and/or governmental approvals as would be required to carry out and perform, for the benefit of the DISTRICT, such services as are called for hereunder.

b. CONSULTANT, in providing the services and in otherwise carrying out its obligations to the DISTRICT under this AGREEMENT, shall, at all times, comply with all

applicable federal, state, and local laws, rules, regulations, and ordinances, including worker's compensation and equal protection and non-discrimination laws.

15. Labor Code Public Works Compliance

- a. DIR Contractor Registration. This PROJECT is a public works project as defined in Labor Code section 1720. To the extent applicable, the CONSULTANT and all subcontractors performing the work for the PROJECT must comply with the Labor Code sections 1725.5 and 1771.1 and must be properly and currently registered with the California Department of Industrial Relations ("DIR") and qualified to perform public works pursuant to Labor Code section 1725.5 throughout the duration of this AGREEMENT. Failure to comply with these requirements shall be deemed a material breach of this AGREEMENT and grounds for termination for cause.
- b. Prevailing Wage Rates; Certified Payroll Records. If DIR contractor registration requirements apply to any portion of the Services, all of the personnel of the Consultant and any Sub-Consultant completing Services subject to DIR contractor registration shall be paid not less than the prevailing wage rate established for the Services completed. Monitoring and enforcement of the prevailing wage laws and related requirements will be performed by the Division of Labor Standards Enforcement ("DLSE"). If any of the Services require the Consultant to pay its personnel prevailing wage rates, the Consultant shall be subject to all penalties and assessments established by law for violation of prevailing wage rate obligations.
- c. Certified Payroll Records. If prevailing wage rate requirements apply to any portion of the Services the Consultant and Sub-Consultants shall furnish certified payroll records as required pursuant Labor Code §1776 directly to the Labor Commissioner in accordance with Labor Code §1771.4 on at least on a monthly basis (or more frequently if required by the District or the Labor Commissioner) on such forms and in such format as prescribed by the Labor Commissioner.

ARTICLE II – TERMINATION: SUSPENSION

1. Termination for Default. Either the DISTRICT or CONSULTANT may terminate this Agreement upon seven (7) days advance written notice to the other if there is a default by the other party in its performance of a material obligation hereunder and such default in performance is not caused by the party initiating the termination. Such termination shall be deemed effective the seventh (7th) day following the date of the written termination notice, unless during such seven (7) day period, the party receiving the written termination notice shall commence to cure its default(s) and diligently thereafter prosecute such cure to completion. In addition to the DISTRICT's right to terminate this Agreement pursuant to the foregoing, the DISTRICT may terminate this Agreement upon written notice to CONSULTANT if: (i) CONSULTANT becomes bankrupt or insolvent, which shall include without limitation, a general assignment for the benefit of creditors or the filing by CONSULTANT or a third party of a petition to reorganize debts or for protection under any bankruptcy or similar law or if a trustee or receiver is appointed for CONSULTANT or any of CONSULTANT's property on account of CONSULTANT's insolvency; or (ii) if CONSULTANT disregards applicable laws, codes, ordinances, rules or regulations. If DISTRICT exercises the right of termination hereunder, the Contract Price due the CONSULTANT, if any, shall be based upon Basic Services, authorized Additional Services, and allowable expenses incurred or provided prior the effective date of the DISTRICT's termination of this

Agreement, reduced by the DISTRICT's prior payments of the Contract Price and losses, damages, or other costs sustained by the DISTRICT arising out of the termination of this Agreement or the cause(s) for termination of this Agreement. Payment of the amount due the CONSULTANT, if any, shall be made by DISTRICT only after completion of the Post-Construction Phase of the Project. CONSULTANT shall remain responsible and liable to DISTRICT for all losses, damages, or other costs sustained by DISTRICT arising out of termination pursuant to the foregoing or otherwise arising out of CONSULTANT's default hereunder, to the extent that such losses, damages or other costs exceed any amount due CONSULTANT hereunder for Basic Services, authorized Additional Services, and Expenses.

2. DISTRICT's Termination for Convenience. The DISTRICT may, at any time, upon seven (7) days advance written notice to CONSULTANT terminate this Agreement or the Work of the Project for the DISTRICT's convenience and without fault, neglect, or default on the part of CONSULTANT. In such event, the Agreement shall be deemed terminated seven (7) days after the date of the DISTRICT's written notice to CONSULTANT or such other time as the DISTRICT and CONSULTANT may mutually agreed upon. In such event, the DISTRICT shall make payment of the Contract Price to CONSULTANT for services provided through the date of termination plus actual costs incurred by CONSULTANT directly attributable to such termination.

3. CONSULTANT Obligations upon Termination. Upon the DISTRICT's exercise of the right of termination under Article III, Paragraph 1 or 2 of this Agreement, the CONSULTANT shall take action as directed by the DISTRICT relative to its on-going administration of geotechnical construction services of the Project. If requested by the DISTRICT, the CONSULTANT shall within ten (10) days of such request, assemble and deliver to the DISTRICT all Geotechnical Documents, work product, instruments of service, and other items of a tangible nature (whether in the form of documents, drawings, samples or electronic files) prepared by or on behalf of the CONSULTANT under this Agreement. The CONSULTANT shall deliver the originals of all Geotechnical Documents, work product, instruments of service, and other items of a tangible nature requested by the DISTRICT pursuant to the preceding sentence; provided, however, that the CONSULTANT may, at its sole cost and expense, make reproductions of the originals delivered to the DISTRICT.

4. DISTRICT's Right to Suspend. The DISTRICT may, in its discretion, suspend all or any part of the construction of the Project or the CONSULTANT's services under this Agreement; provided, however, that if the DISTRICT shall suspend construction of the Project or CONSULTANT's services under this Agreement for a period of sixty (60) consecutive days or more and such suspension is not caused by the CONSULTANT's default or the acts or omissions of CONSULTANT or its CONSULTANTS, upon lifting of such suspension, the Contract Price may be adjusted to reflect actual costs and expenses incurred by CONSULTANT, if any, as a direct result of the suspension and resumption of the Project construction or CONSULTANT's services under this Agreement.

5. CONSULTANT Suspension of Services. If the DISTRICT shall fail to make payment of an undisputed invoice when due CONSULTANT hereunder, CONSULTANT may, upon seven (7) days advance written notice to the DISTRICT, suspend further performance of services relating to the Project hereunder until such undisputed payment is received. In such event, CONSULTANT shall have no liability for any delays or additional costs of construction of the Project due to, or arising out of, such suspension.

ARTICLE III – DISPUTES

1. Continuation of CONSULTANT Services. Except in the event of the DISTRICT's failure to make payment of an undisputed invoice due CONSULTANT for the Project, notwithstanding any disputes between DISTRICT and CONSULTANT hereunder or in connection with the Project,

CONSULTANT and DISTRICT shall each continue to perform their respective obligations hereunder; including the obligation of the CONSULTANT to continue to provide and perform services hereunder pending a subsequent resolution of such disputes.

2. Mandatory Mediation. All claims, disputes and other matters in controversy between the CONSULTANT and the DISTRICT arising out of or pertaining to this Agreement, excepting therefrom claims for indemnity, shall be submitted for resolution by non-binding mediation conducted under the auspices of the JAMS or other mutually agreeable dispute resolution service and their respective governing Construction Mediation Rules in effect at the time that a Demand For Mediation is filed. The commencement and completion of mediation proceedings pursuant to the foregoing is a condition precedent to either the DISTRICT or the CONSULTANT commencing arbitration proceedings pursuant to Paragraph 3 below.

3. Arbitration. All claims, disputes or other matters in controversy between CONSULTANT and DISTRICT arising out of or pertaining to this Agreement which are not fully resolved through the mandatory mediation set forth in Paragraph 2 above shall be settled and resolved by binding arbitration before one (1) retired judge conducted under the auspices of the JAMS or other mutually agreeable dispute resolution service. Any arbitration hereunder shall be conducted in the JAMS' Regional Office or other ADR service's office closest to the Site. The award rendered by the Arbitrator(s) shall be final and binding upon the DISTRICT and the CONSULTANT and shall be supported by law and substantial evidence pursuant to California Code of Civil Procedure §1296. Any written arbitration award that does not include findings of fact and conclusions of law in conformity with California Code of Civil Procedure §1296 shall be invalid and unenforceable. The DISTRICT and CONSULTANT hereby expressly agree that the Court shall, subject to California Code of Civil Procedure §§1286.4 and 1296, vacate the award if, after review of the award, the Court determines either that the award is not supported by substantial evidence or that it is based on an error of law. In connection with any arbitration proceeding commenced hereunder, the discovery rights and procedures provided for in California Code of Civil Procedure §1283.05 shall be applicable, and the same shall be deemed incorporated herein by this reference. Furthermore, if any claim or dispute is asserted by the Project Architect, Construction Manager if any, the Contractor and/or the DISTRICT relating to the Project and arising in whole or in part out of this Agreement, the services provided by or through the CONSULTANT hereunder or the Instruments of Service prepared by or through the CONSULTANT, CONSULTANT and DISTRICT agree that any arbitration proceedings initiated between CONSULTANT and DISTRICT hereunder shall, without the need for an order of the Court, be consolidated with any arbitration proceedings initiated in connection with such other claim or dispute by and between the aforementioned parties, regardless of the dispute resolution service selected.

4. Compliance with Government Code §900 et seq. The foregoing provisions relating to dispute resolution procedures notwithstanding, neither this Agreement nor such provisions shall be deemed to waive, limit or modify any requirements under Government Code §900 et seq. relating to the CONSULTANT's submission of claims to the DISTRICT as a express condition precedent and prerequisite to filing a Demand for Arbitration, which shall be deemed a "claim" for money or damages under Government Code §900 et seq. The CONSULTANT's strict compliance with all applicable provisions of Government Code §900 et seq. in connection with any claim, dispute or other disagreement arising hereunder shall be an express condition precedent to the CONSULTANT's initiation of the binding arbitration procedures under Article IV, Paragraph 3, above.

5. Limitation on Arbitrator's Authority. Notwithstanding any other provision of this Article, the Superior Court for the State of California for the County of Orange, shall have sole and exclusive

jurisdiction, and an arbitrator shall have no authority, to hear and/or determine: (i) a challenge to the institution or maintenance of a proceeding in arbitration of a claim on the grounds that the claim is barred by the applicable statute of limitations, (ii) the claim is barred by a provision of the California Tort Claims Act, (iii) claimant has failed to satisfy any and all conditions precedent to arbitration, (iv) the right to compel arbitration has been waived by the petitioner, (v) grounds exist for the revocation of the arbitration agreement, and/or (vi) there is the prospect that a ruling in arbitration would conflict with a ruling in a pending proceeding regarding the Project on a common issue of law or fact.

6. THE PARTIES UNDERSTAND AND AGREE THAT ARTICLE III OF THIS AGREEMENT SHALL GOVERN ALL TERMINATION RIGHTS AND PROCEDURES BETWEEN THE PARTIES. ANY TERMINATION PROVISION THAT IS ATTACHED TO THIS AGREEMENT AS AN EXHIBIT SHALL BE VOID AND UNENFORCEABLE BETWEEN THE PARTIES.

ARTICLE IV – REPORTS AND/OR OTHER DOCUMENTS

1. The Project Inspection Cards, reports, and/or other documents that are prepared, reproduced, maintained, and/or managed by the CONSULTANT or CONSULTANT's consultants in accordance with this AGREEMENT, shall be and remain the property of the DISTRICT (hereinafter the "PROPERTY"). The DISTRICT may provide the CONSULTANT with a written request for the return of its PROPERTY at any time. Upon CONSULTANT's receipt of the DISTRICT's written request, CONSULTANT shall return the requested PROPERTY to the DISTRICT within seven (7) calendar days. Failure to comply with the requirements in this ARTICLE shall be deemed a material breach of this AGREEMENT.

ARTICLE V – ACCOUNTING RECORDS OF THE CONSULTANT

1. Records of the CONSULTANT's direct personnel hours and other expenses pertaining to the PROJECT and any records of accounts between the DISTRICT and CONSULTANT shall be kept on a generally recognized accounting basis and shall be available to the DISTRICT or DISTRICT's authorized representative at mutually convenient times for a period from the date of this AGREEMENT through two (2) years after completion of the PROJECT.

ARTICLE VI – COMPENSATION TO THE CONSULTANT

1. **Basic Services:** CONSULTANT agrees to perform Services set forth in this AGREEMENT, and DISTRICT agrees to pay CONSULTANT for such Services in accordance with **EXHIBIT "A"**. Payment under this ARTICLE includes the cost of the Services necessary for the PROJECT including the furnishing of all materials, apparatus, labor, and any required insurance for exploration procedures, sampling, field and laboratory testing, preparing and submitting logs and reports and any other Services as set forth in **EXHIBIT "A"**.

2. **Additional Services:** Compensation for Additional Services shall be dependent upon CONSULTANT's compliance with the provisions outlined in ARTICLE VI below and shall be calculated in accordance with the rates set forth in **EXHIBIT "A"**.

3. **Reimbursable CONSULTANT Costs/Expenses:** DISTRICT recognizes that certain costs and expenses associated with the Services performed are reimbursable to the CONSULTANT. Provided that the CONSULTANT obtains the DISTRICT's prior written approval, costs and expenses will be reimbursed to the CONSULTANT in accordance with this ARTICLE. The DISTRICT's prior written authorization is an express condition precedent to any reimbursement to the CONSULTANT of such

costs and expenses, and no claim for any additional compensation or reimbursement shall be valid absent such prior written approval by the DISTRICT and calculated in accordance with the rates set forth in **EXHIBIT "A"**. The CONSULTANT's mileage and travel time shall not be considered as an allowable reimbursable expense. The descriptive categories of expenses that may be considered for reimbursement are as follows, and any other reimbursable expenses must be approved in writing by the DISTRICT:

- a. Approved reproduction of reports and/or other documents in excess of the copies required by this AGREEMENT;
- b. Fees advanced for securing approval of authorities in connection with the Services rendered pursuant to this AGREEMENT;
- c. Cost of sub-consultants hired by CONSULTANT with prior approval of DISTRICT.
- d. Other DISTRICT requested items as requested in writing.

4. Invoices. The CONSULTANT shall submit one (1) invoice monthly to the DISTRICT for the fees incurred during the billing period and reimbursable expenses (if any). Invoices for fees must reflect the date of the Service, identify the individual performing the Service, state the hours and days/date worked and hourly rate charged, and describe all activities performed. Invoices requesting reimbursement for reimbursable expenses incurred during the billing period must clearly list items for which reimbursement is being requested and be accompanied by proper documentation (e.g. receipts, invoices) including a copy of the DISTRICT's authorization notice for invoiced items. Invoices requesting payment for overtime must reflect straight time and overtime hours being charged, and must include a copy of the DISTRICT's written authorization to incur additional overtime expense. No payments will be made by the DISTRICT to the CONSULTANT for monthly invoices requesting reimbursables or overtime absent the prior written authorization of the DISTRICT. The DISTRICT shall make payment to the CONSULTANT of the approved invoiced amount within forty-five (45) days of the DISTRICT's receipt of the invoice.

5. District's Right to Withhold. The DISTRICT may withhold, or on account of subsequently discovered evidence, nullify the whole or a part of any payment to such extent as may be necessary to protect the DISTRICT from loss, including costs and attorneys' fees, on account of: 1) defective or deficient work product not remedied; 2) failure of the CONSULTANT to make payments properly to its employees or sub-consultants; or 3) failure of CONSULTANT to perform its Services in a timely manner so as to conform to PROJECT schedule.

ARTICLE VII – ADDITIONAL CONSULTANT SERVICES

1. CONSULTANT shall notify the DISTRICT in writing of the need for additional services required due to circumstances beyond the CONSULTANT's control. CONSULTANT shall obtain written authorization from the DISTRICT before rendering any additional services. The DISTRICT may also require CONSULTANT to perform additional services which are, in the DISTRICT's discretion, necessary. Compensation for all additional services shall be negotiated and approved in writing by the DISTRICT before CONSULTANT performs such additional services. CONSULTANT shall not be entitled to any compensation for performing additional services that are not previously approved by the DISTRICT in writing. Additional services shall include:

a. Making material revisions in reports or other documents when such revisions are required by the enactment or revision of laws, rules or regulations subsequent to the preparation and completion of such documents.

b. Preparing reports and other documentation and supporting data, and providing other services in connection with project modifications required by causes beyond the control of the CONSULTANT which are not the result of the direct or indirect negligence, errors or omissions on the part of CONSULTANT.

c. If the DISTRICT requests additional shifts to complete the services articulated in Article I and EXHIBIT "A" where the requests for additional shifts does not arise from the direct or indirect negligence, errors or omissions on the part of CONSULTANT. The CONSULTANT's compensation is expressly conditioned on the lack of fault of the CONSULTANT.

d. Providing any other services as requested in writing by the DISTRICT.

ARTICLE VIII – INDEMNITY AND INSURANCE

1. To the fullest extent permitted by law, CONSULTANT agrees to indemnify, and hold DISTRICT entirely harmless from all liability arising out of:

a. Workers Compensation and Employers Liability: Any and all claims under Workers' Compensation acts and other employee benefit acts with respect to CONSULTANT's employees or CONSULTANT's subcontractor's employees arising out of CONSULTANT's work under this AGREEMENT; and

b. General Liability: Liability for damages for 1) death or bodily injury to person; 2) injury to, loss or theft of property; 3) any failure or alleged failure to comply with any provision of law; or 4) any other loss, damage or expense arising under either 1), 2), or 3) above, sustained by the CONSULTANT or the DISTRICT, or any person, firm or corporation employed by the CONSULTANT or the DISTRICT upon or in connection with the PROJECT, except for liability resulting from the sole or active negligence, or willful misconduct of the DISTRICT, its officers, employees, agents or independent Architects who are directly employed by the DISTRICT;

c. Professional Liability: Any loss, injury to or death of persons or damage to property caused by any act, neglect, default or omission of the CONSULTANT, or any person, firm or corporation employed by the CONSULTANT, either directly or by independent contract, including all damages due to loss or theft, sustained by any person, firm or corporation including the DISTRICT, arising out of, or in any way connected with the services performed by CONSULTANT in accordance with this AGREEMENT, including injury or damage either on or off DISTRICT property; but not for any loss, injury, death or damages caused by the sole or active negligence, or willful misconduct of the DISTRICT.

2. The CONSULTANT, at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings, arising out of Article VIII, Sections 1(a) and (b) above, 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. With regard to the

CONSULTANT's obligation to indemnify for acts of professional negligence as set forth in Article VIII, Section 1(c) above, such obligation does not include the obligation to provide defense counsel or to pay for the defense of actions or proceedings brought against the DISTRICT, but rather to reimburse the DISTRICT for attorney's fees and costs incurred by the DISTRICT in defending such actions or proceedings.

3. If the services provided pursuant to this AGREEMENT will be performed by a licensed architect, landscape architect, engineer, or land surveyor, the following indemnity requirements in this Article VII, Section 3 shall apply. To the fullest extent permitted by California law and in accordance with California Civil Code section 2782.8, CONSULTANT shall indemnify, protect, and hold free and harmless the District, its agents, representatives, officers, consultants, employees, trustees and members ("Indemnified Parties") from any and all actions, assessments, counts, citations, claims, costs, damages, demands, judgments, liabilities (legal, administrative or otherwise), losses, notices, expenses, fines, penalties, proceedings, responsibilities, violations, attorney's and consultants' fees and causes of action to property or persons, including personal injury and/or death ("Claim(s)"), to the extent that the Claim(s) arises out of, pertains to, or relates to the negligent errors or omissions (active or passive, ordinary or gross), recklessness (ordinary or gross), or willful misconduct of CONSULTANT, its directors, officials, officers, employees, contractors, subcontractors, consultants, subconsultants or agents arising out of, connected with, or resulting from the performance of the Services, the Project, or this Agreement. This indemnity excludes CONSULTANT's liability as to the active or sole negligence or willful misconduct of the District.

a. Workers' Compensation and Employers Liability: Any and all claims under Workers' Compensation acts and other employee benefit acts with respect to CONSULTANT's employees or CONSULTANT's subcontractor's employees arising out of CONSULTANT's work under this AGREEMENT; and

b. General Liability: If arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the CONSULTANT, the CONSULTANT shall indemnify and hold the DISTRICT harmless from any liability for damages for (1) death or bodily injury to person; (2) injury to, loss or theft of property; (3) any failure or alleged failure to comply with any provision of law, or (4) any other loss, damage or expense arising under either (1), (2), or (3) above, sustained by the CONSULTANT or the DISTRICT, or any person, firm or corporation employed by the CONSULTANT or the DISTRICT upon or in connection with the PROJECT, except for liability resulting from the sole or active negligence, or willful misconduct of the DISTRICT, its officers, employees, agents or independent consultants who are directly employed by the DISTRICT. The CONSULTANT, at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings that may be brought or instituted against the DISTRICT (other than professional negligence covered by section c below), its officers, agents or employees that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, and shall pay or satisfy any judgment that may be rendered against the DISTRICT, its officers, agents or employees in any action, suit or other proceedings as a result thereof; and

c. Professional Liability: If arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the CONSULTANT, the CONSULTANT shall indemnify and hold the DISTRICT harmless from any loss, injury to, death of persons or damage to property caused by any act, neglect, default or omission of the CONSULTANT, or any person, firm or corporation employed by the CONSULTANT, either directly or by independent contract, including all damages due to loss or theft, sustained by any person, firm or corporation including the DISTRICT, arising out of, or in any way connected with the PROJECT, including injury or

damage either on or off DISTRICT property; but not for any loss, injury, death or damages caused by sole or active negligence, or willful misconduct of the DISTRICT. With regard to the CONSULTANT's obligation to indemnify for acts of professional negligence, such obligation does not include the obligation to provide defense counsel or to pay for the defense of actions or proceedings brought against the DISTRICT, but rather to reimburse the DISTRICT for attorney's fees and costs incurred by the DISTRICT in defending such actions or proceedings brought against the DISTRICT that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT.

4. THE PARTIES UNDERSTAND AND AGREE THAT ARTICLE VIII, SECTIONS 1-2 (OR SECTION 3 AS APPLICABLE) OF THIS AGREEMENT SHALL BE THE SOLE DEFENSE, INDEMNITY AND HOLD HARMLESS AGREEMENTS BETWEEN THE PARTIES, PROVIDED SAME IS IN COMPLIANCE WITH CALIFORNIA CIVIL CODE §§2772 THROUGH 2784.5, AS APPLICABLE. SHOULD ARTICLE VI, SECTIONS 1-2 (OR SECTION 3 AS APPLICABLE) OF THIS AGREEMENT BE IN CONFLICT WITH ANY OF THE AFORESAID STATUTES, ARTICLE VII, SECTIONS 1-2 (OR SECTION 3 AS APPLICABLE) OF THIS AGREEMENT SHALL BE READ TO INCLUDE AND BE CONSISTENT THEREWITH. ANY OTHER DEFENSE, INDEMNITY AND/OR HOLD HARMLESS PROVISIONS THAT ARE ATTACHED TO THIS AGREEMENT AS AN EXHIBIT SHALL BE VOID AND UNENFORCEABLE BETWEEN THE PARTIES.

5. ANY ATTEMPT TO LIMIT THE CONSULTANT'S LIABILITY TO THE DISTRICT IN AN ATTACHED EXHIBIT SHALL BE VOID AND UNENFORCEABLE BETWEEN THE DISTRICT AND THE CONSULTANT.

6. CONSULTANT shall purchase and maintain policies of insurance with an insurer or insurers, qualified to do business in the State of California and acceptable to DISTRICT which will protect CONSULTANT and DISTRICT from claims which may arise out of or result from CONSULTANT's actions or inactions relating to the AGREEMENT, whether such actions or inactions be by themselves or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The aforementioned insurance shall include coverage for:

a. The CONSULTANT shall carry Workers' Compensation and Employers Liability Insurance in accordance with the laws of the State of California. However, such amount shall not be less than ONE MILLION DOLLARS (\$1,000,000).

b. Commercial general liability insurance with limits of not less than ONE MILLION DOLLARS (\$1,000,000) per occurrence and TWO MILLION DOLLARS (\$2,000,000) aggregate and automobile liability insurance with limits of not less than ONE MILLION DOLLARS (\$1,000,000) for bodily injury and property damage liability, per occurrence, including coverage for the following:

1. Owned, non-owned and hired vehicles;
2. Blanket contractual;
3. Broad form property damage;
4. Products/completed operations; and
5. Personal injury.

c. Professional liability insurance, including contractual liability, with limits of TWO MILLION DOLLARS (\$2,000,000), per claim. Such insurance shall be maintained during the term of this AGREEMENT and renewed for a period of at least

five (5) years thereafter and/or at rates consistent with the time of execution of this AGREEMENT adjusted for inflation. In the event that CONSULTANT subcontracts any portion of CONSULTANT's duties, CONSULTANT shall require any such subcontractor to purchase and maintain insurance coverage as provided in this subparagraph. Failure to maintain professional liability insurance is a material breach of this AGREEMENT and grounds for immediate termination.

d. Article VIII, Section 6(b) above shall name the DISTRICT and its officers, agents and employees as additional insureds; and shall state that, with respect to the operations of CONSULTANT hereunder, such policy is primary and any insurance carried by the DISTRICT is excess and non-contributory with such primary insurance; shall state that not less than thirty (30) days' written notice shall be given to the DISTRICT prior to cancellation; and, shall waive all rights of subrogation. CONSULTANT shall notify the DISTRICT in the event of material change in, or failure to renew, each policy. Prior to commencing work, CONSULTANT shall deliver to the DISTRICT certificates of insurance as evidence of compliance with the requirements herein. In the event CONSULTANT fails to secure or maintain any policy of insurance required hereby, the DISTRICT may, at its sole discretion, secure such policy of insurance in the name of and for the account of CONSULTANT, and in such event CONSULTANT shall reimburse the DISTRICT upon demand for the cost thereof.

ARTICLE IX – MISCELLANEOUS

1. Independent Contractor. CONSULTANT, in the performance of this AGREEMENT, shall be and act as an independent contractor. CONSULTANT understands and agrees that CONSULTANT and all of CONSULTANT's employees shall not be considered officers, employees or agents of the DISTRICT, and are not entitled to benefits of any kind or nature normally provided employees of the DISTRICT and/or to which DISTRICT's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. CONSULTANT assumes the full responsibility for the acts and/or omissions of CONSULTANT's employees or agents as they relate to the services to be provided under this AGREEMENT. CONSULTANT shall assume full responsibility for payment of any applicable prevailing wages and all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes for the respective CONSULTANT's employees.

2. No Third Party Beneficiaries. Nothing contained in this AGREEMENT shall create a contractual relationship with or a cause of action in favor of any third party against either the DISTRICT or CONSULTANT.

3. Binding Agreement; No Assignment. The DISTRICT and CONSULTANT, respectively, bind themselves, their partners, officers, successors, assigns and legal representatives to the other PARTY to this AGREEMENT with respect to the terms of this AGREEMENT. CONSULTANT shall not assign this AGREEMENT.

4. Governing Law. This AGREEMENT shall be governed by the laws of the State of California.

5. Entire Agreement. Each of the PARTIES have had the opportunity to, and have to the extent each deemed appropriate, obtained legal counsel concerning the content and meaning of this AGREEMENT. Each of the PARTIES agrees and represents that no promise, inducement or agreement not herein expressed has been made to effectuate this AGREEMENT. This AGREEMENT represents the

entire AGREEMENT between the DISTRICT and CONSULTANT and supersedes all prior negotiations, representations or agreements, either written or oral. This AGREEMENT may be amended or modified only by an agreement in writing signed by both the DISTRICT and the CONSULTANT.

THIS AGREEMENT SHALL NOT INCLUDE OR INCORPORATE THE TERMS OF ANY PROPOSAL, GENERAL CONDITIONS, CONDITIONS, MASTER AGREEMENT OR ANY OTHER BOILERPLATE TERMS OR FORM DOCUMENTS PREPARED BY THE CONSULTANT. THE ATTACHMENT OF ANY SUCH DOCUMENT TO THIS AGREEMENT AS **EXHIBIT "A"** SHALL NOT BE INTERPRETED OR CONSTRUED TO INCORPORATE SUCH TERMS INTO THIS AGREEMENT UNLESS THE DISTRICT APPROVES OF SUCH INCORPORATION IN A SEPARATE WRITING SIGNED BY THE DISTRICT. ANY REFERENCE TO SUCH BOILERPLATE TERMS AND CONDITIONS IN THE PROPOSAL OR QUOTE SUBMITTED BY THE CONSULTANT SHALL BE NULL AND VOID AND HAVE NO EFFECT UPON THIS AGREEMENT. PROPOSALS, QUOTES, STATEMENT OF QUALIFICATIONS, AND OTHER SIMILAR DOCUMENTS PREPARED BY THE CONSULTANT MAY BE INCORPORATED INTO THIS AGREEMENT AS **EXHIBIT "A"** BUT SUCH INCORPORATION SHALL BE STRICTLY LIMITED TO THOSE PARTS DESCRIBING THE CONSULTANT'S SCOPE OF WORK, RATE AND PRICE SCHEDULE AND QUALIFICATIONS.

6. Time. Time is of the essence with respect to all provisions of this AGREEMENT.
7. Attorney's fees and Costs. If either PARTY becomes involved in litigation arising out of this AGREEMENT or the performance thereof, each PARTY shall bear its own litigation costs and expenses, including reasonable attorney's fees.
8. All exhibits referenced herein and attached hereto shall be deemed incorporated into and made a part of this AGREEMENT by each reference as though fully set forth in each instance in the text hereof with the exception of those documents or provisions that are subject to the exclusions specifically set forth in this AGREEMENT.
9. Uncertainties/Ambiguities. This AGREEMENT shall be liberally construed to effectuate the intention of the PARTIES with respect to the transaction described herein. In determining the meaning of, or resolving any ambiguity with respect to any word, phrase or provision of this AGREEMENT, neither this AGREEMENT nor any uncertainty or ambiguity herein will be construed or resolved against either PARTY (including the PARTY primarily responsible for drafting and preparation of this AGREEMENT), under any rule of construction or otherwise, it being expressly understood and agreed that the PARTIES have participated equally or have had equal opportunity to participate in the drafting hereof.
10. Counterparts. This AGREEMENT may be executed in any number of counterparts, each of which shall be deemed an original, and the counterparts shall constitute one and the same instrument, all of which shall be sufficient evidence of this AGREEMENT.
11. Confidentiality. The CONSULTANT shall not disclose or permit the disclosure of any confidential information, except to its agents, employees and other consultants who need such confidential information in order to properly perform their duties relative to this AGREEMENT.
12. Severability. If any portion of this AGREEMENT is held as a matter of law to be unenforceable, the remainder of this AGREEMENT shall be enforceable without such provisions.

13. District Board Policies. All personnel of the Consultant and Sub-Consultants, if any, are required to comply with all applicable District Board Policies and Administrative Regulations in effect when on District property. Without limiting the generality of the foregoing, the Consultant and all personnel shall comply with the following:

- a. Gift Ban. Effective April 25, 2016, revised November 13, 2017 and January 13, 2020 and April 12, 2021, the Board of Trustees adopted Gift Ban Policy ([BP 3821](#)). The Consultant shall adhere to Board Policy 3821 as there are strict prohibitions outlined in the policy. The complete policy can be found on the District's website.
- b. Use of Drones. Effective August 13, 2018, the Board of Trustees adopted Administrative Regulation 3580 Use of Unmanned Aircraft Systems. The Consultant shall adhere to Administrative Regulation 3580 (AR 3580) as there are strict prohibitions outlined regarding the use of drones. The complete policy can be found on the District's website.
- c. Tobacco Prohibited. Use of tobacco or tobacco products in any form (smoking, chewing, etc.) is prohibited at all times on any District property.
- d. Profanity Prohibited. Profanity on any District property is prohibited, including, but not limited to, racial, ethnic, or sexual slurs or comments which could be considered harassment.
- e. Appropriate Dress. Appropriate dress is mandatory; tank tops, cut-offs and shorts are not allowed. Additionally, what is written or pictured on clothing must not violate the District's profanity prohibition.

14. Consultant Personnel.

- a. Key Personnel. Consultant shall not change any of the key personnel listed in Exhibit A unless said personnel cease to be employed by Consultant. In such event, the Consultant shall give the District advance written notice of any change of key personnel. The Consultant's proposed replacement of any key personnel shall be subject to District acceptance of the proposed replacement personnel. The District may request an interview of the proposed replacement personnel. The Consultant has been selected to complete the Services based on the skills and expertise of the Consultant's key personnel. Services under this Agreement shall be performed only by the key personnel or personnel of the Consultant under the direct supervision and control of key personnel. Consultant shall conform to District's reasonable requests regarding assignment of personnel.
- b. Replacement Personnel. The District shall have the right to request replacement of key personnel or any other personnel assigned by the Consultant to complete Services. If the District requests the Consultant replace any key personnel, the Consultant shall immediately replace such key personnel with interim replacement personnel. Within five (5) days after the District's request for the Consultant to replace any key personnel, the Consultant shall submit proposed replacement personnel for the District's review and acceptance. District accepted replacement personnel shall be assigned by the Consultant to complete Services within five (5) days after the District's written notice to the Consultant of the District's acceptance of the proposed replacement personnel. Consultant agrees that reassignment of any of personnel to complete Services shall only be with other professional personnel who have equivalent experience and shall be subject

to prior District written approval. Any costs associated with reassignment of personnel shall be borne exclusively by Consultant and Consultant shall not charge the District for the cost of training or “bringing up to speed” replacement personnel.

- c. Sub-Consultant Personnel. If the District approves the completion of any Services by a Sub-Consultant, the Consultant shall be responsible for: (i) all Services completed by a Sub-Consultant; (ii) verifying that only skilled, knowledgeable and experienced personnel are assigned by Sub-Consultants to complete Services; and (iii) the conduct of the Sub-Consultant’s personnel.

15. Conflict of Interest. CONSULTANT represent that the CONSULTANT have no existing interest and will not acquire any interest, direct or indirect, which could conflict in any manner or degree with the performance of the Services and that no person having any such interest shall be employed by CONSULTANT. In the event a conflict arises during the performance of this Agreement, said person shall be immediately removed from the Project and replaced with personnel acceptable to the District.

16. Notices: All notices or demands to be given under this AGREEMENT by either PARTY to the other shall be in writing and given either by: (a) personal service; or (b) by U.S. Mail, mailed either by registered, overnight, or certified mail, return receipt requested, with postage prepaid. Service shall be considered given when received if personally served or if mailed on the fifth day after deposit in any U.S. Post Office. The address to which notices or demands may be given by either PARTY may be changed by written notice given in accordance with the notice provisions of this Paragraph. At the date of this AGREEMENT, the addresses of the PARTIES are as follows:

To the DISTRICT:

Rancho Santiago Community College District
Attn: Carri Matsumoto, Assistant Vice Chancellor
Facility Planning, District Construction & Support Services
2323 North Broadway, Suite 112
Santa Ana, CA 92703
Telephone: (714) 480-7510

To the CONSULTANT:

<<Name of Contractor>>
Attn: <<Name>>
<<Title>>
<<Address>>
<<City, State, Zip>>
Telephone:

17. Parking. Consultant shall be responsible for purchasing applicable parking passes from Safety & Security Offices when the need arises to visit any of the campuses. Parking in District parking lots is subject to parking charges in effect for the general public and compliance with all parking rules and regulations. Parking charges in District parking lots are not Reimbursable Expenses.

18. Images District Name. The Consultant is prohibited from capturing on any visual medium images of any property, logo, student, or employee of the District, or any image that represents the District without prior written consent of the District which may be granted, conditioned or denied in the sole discretion of the District. The Consultant shall not use the District name, any name of a District College, Education Center or other District facility or District logo in any materials of any kind, nature or description, exception in connection with completing Services under this Agreement.

19. This AGREEMENT is not a valid or enforceable obligation against the DISTRICT until approved or ratified by motion of the Governing Board of the DISTRICT duly passed and adopted.

ARTICLE X – ENTIRE AGREEMENT

1. All of the AGREEMENT between the PARTIES is included herein, and no warranties expressed or implied, representations, promises, or statements have been made by either PARTY unless endorsed hereon in writing, and no charges or waiver of any provision hereof shall be valid unless made in writing and executed in the same manner as the AGREEMENT.

2. Neither amendments to nor modifications of this AGREEMENT shall be effective unless signed by officials of the CONSULTANT and the DISTRICT having authority equal to or greater than that of the officials signing this AGREEMENT. The DISTRICT and the CONSULTANT hereby agree to the full performance of the covenants contained herein.

3. Covid 19. Consultant, any employees of consultant, and/or sub-consultants, visitors or guests of such consultant that enter upon District property, shall at all times comply with all federal, state, and local directives, ordinances, laws, health orders and regulations and District guidelines including, but not limited to, OSHA and Cal-OSHA concerning COVID-19. This may require scheduling site visits by appointment only, proof of vaccination status, proof of an FDA approved/authorized COVID-19 test, the ability to conduct business meetings via online or the internet, wearing required face mask protection and maintaining social distancing guidelines if attendance on site is necessary to conduct essential business related to services described herein.

4. This AGREEMENT may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement. Any such counterpart containing an electronic, digital or facsimile signature shall be deemed an original. Execution of this agreement, signifies the parties mutual consent to conduct transactions electronically. Pursuant to the California Uniform Electronic Transactions act ("UETA") (Cal. Civic Code § 1633.1 et seq.) and California Government Code §16.5, the District reserves the right to conduct business electronically, unless otherwise communicated by the District to stop such electronic transactions, including without limitation to the use of electronic or digital signatures.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

The PARTIES, through their authorized representatives, have executed this AGREEMENT as of the day and year first written above.

CONSULTANT:

<<NAME OF CONSULTANT>>

DISTRICT:

RANCHO SANTIAGO COMMUNITY
COLLEGE DISTRICT

By: _____

By: _____

Print Name: _____

Print Name: Iris I. Ingram

Title: _____

Title: Vice Chancellor Business Services

Date: _____

Date: _____

Address: _____

Phone: _____

Tax ID: _____

E-mail: _____

COPIES TO:

GENERATING OFFICE

Rancho Santiago Community College District
2323 N. Broadway, Suite 112
Santa Ana, CA 92706
Carri Matsumoto, Assistant Vice Chancellor
Facility Planning, Construction and District Support Services

PURCHASING DEPARTMENT

Rancho Santiago Community College District
2323 N. Broadway, Suite 109
Santa Ana, CA 92706
Linda Melendez, Director of Purchasing Services

EXHIBIT "A"

1. Compensation for Basic Services:

The DISTRICT shall compensate the CONSULTANT for the performance of all Services required under this AGREEMENT an hourly amount not-to-exceed <<AMOUNT IN WORDS>> AND <<NO OR AMOUNT OF CENTS>>/100 DOLLARS (\$<<amount in numbers>>). Payments will be based on monthly invoices, payable in arrears, which will set forth the hours actually worked, tests completed and expenses incurred during the billing period. The billing rates indicated herein will be multiplied by the actual hours for each position to arrive at the total fee for each month. The CONSULTANT shall not exceed the not-to-exceed fee without prior written authorization of the DISTRICT.

- a. Allowance: Included in the above fee is an allowance to perform any additional services by the District in a total not-to-exceed fee of <<AMOUNT IN WORDS>> AND <<NO OR AMOUNT OF CENTS>>/100 DOLLARS (\$<<amount in numbers>>). Prior written approve by the District is required for the use of allowance for unforeseen conditions and additional testing. Rates and fees are subject to written District approval, prior to commencement of additional services as describes in Article VII. Reimbursable expense shall be paid to the CONSULTANT at one and five hundredths (1.05) times the expenses incurred by the CONSULTANT, the CONSULTANT's employees and consultants.

or

- a. There are no reimbursable expenses for this AGREEMENT.

2. Hourly Rates and Fee Schedule:

The rates set forth in this EXHIBIT "B" shall be valid and not increased during the life of this AGREEMENT.

Position:	Name of Personnel:	Hourly Rates:
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$

Any changes to personnel shall be in accordance per **Article IX, section 16 and 17** of this Agreement.

ADD DETAIL ABOUT MINIMUM HOURS, WHEN OVERTIME, WHEN DOUBLE TIME ETC. Any overtime, weekend, or holiday work must be pre-approved and authorized by the District in advance prior to commencement of such work and must be provided in writing.

3. **Proposed Project**

<Project description.>

4. **Schedule of Work:**

<All projects should have a schedule of work included.>

5. **Deliverables:**

<Add additional deliverable requirements, if necessary.>

6. **Form DSA-103 Statement of Structural Tests & Special Inspections:**

<Insert the DSA-103 T&I sheet and any other scope of work.>

7. **Sub-Consultants**

Approved SUB-CONSULTANTS shall not be changed without the prior written consent of the DISTRICT. CONSULTANT shall promptly obtain written DISTRICT approval of any replacement or new SUB-CONSULTANT working on this project. Nothing in this Agreement shall create any contractual relation between the DISTRICT and any SUB-CONSULTANT employed by the CONSULTANT under the terms of this agreement.

<Include Name, address, contact information, and the service of the Sub-Consultant, if applicable.>

EXHIBIT “B” – STATEMENT OF INTENT TO MEET DVBE PARTICIPATION GOALS

Firm Name: _____

The Rancho Santiago Community College District has a participation goal for disabled veteran business enterprises (“DVBE”) of 3 percent per year. Although it is not specifically required, you are encouraged to include DVBE a enterprises as part of the Services under this AGREEMENT. Consultant certifies the following:

- ☐ Consultant **is** a certified Disabled Veteran Business Enterprise
- ☐ Consultant is **not** a certified Disabled Veteran Business Enterprise
- ☐ Consultant will include a certified Disabled Veteran Business Enterprise as part of its Services to the District.
- ☐ Consultant will not include a Certified Disabled Business Enterprise as part of its Services to the District. If this box is checked, please explain why:

EXHIBIT “C” – CSWPA

Refer to the following attached pages.