

**REQUEST FOR QUALIFICATIONS (RFQ)/
REQUEST FOR PROPOSAL (RFP) #2021-298**

PROFESSIONAL CONSULTING SERVICES

For

Facility Master Planning

Bristol and 17th Street Property at Santa Ana College



Responses must be received no later than

April 28, 2021 at 2:00 PM

Submit Response To: FacilitiesRFP@rsccd.edu
Attention: Carri M. Matsumoto
Assistant Vice Chancellor

Questions or Clarifications: All questions must be submitted in writing,
via email to: FacilitiesRFP@rsccd.edu

1. REQUEST FOR QUALIFICATIONS

1.1. Purpose

By way of this Request for Qualifications/Request for Proposals (“RFQ/RFP”), the Rancho Santiago Community College District (“District”) is requesting Statements of Qualifications and Proposals (“Responses”) to provide Professional Consulting Services (“Services”) for facility master planning for an unimproved site located at the intersection of Bristol Street and 17th Street in the City of Santa Ana, adjacent to Santa Ana College.

Project Objectives:

1. Determine programming options that support the students and align with the College’s Educational Master Plan.
2. Identify development options the City would support.
3. Present development scenarios and strategies to assist with budgetary planning.
4. Assist in preparation of a follow-on RFQ/RFP for implementation of the facility’s site master planning, if necessary.

The purpose of this RFQ/RFP is to obtain information that will allow the District to select a qualified Firm (“Consultant” or “Firm”) to provide Services for this Project on behalf of the District. The District has an immediate need to define, determine and quantify a master plan for the project in order to outline an implementation plan for moving forward.

Firms are required to submit a response according to **Section 1.5 “Response Format”**.

1.2. RFQ/RFP Schedule

Event / Occurrence	Deadline
District Issues RFQ/RFP	March 8, 2021
Deadline for Consultants to submit questions regarding this RFQ/RFP	March 29, 2021 by 2:00pm
Deadline for Consultants to submit Responses	April 28, 2021 by 2:00pm
District to interview Consultant(s) (subject to change)	May 6, 2021
District to finalize recommendation for District Board of Trustees	May 25, 2021
District Board of Trustees approves successful Consultant	July 12, 2021 Board Meeting (subject to change)

The District has set the above RFQ/RFP Schedule that all Consultants must adhere to. The District reserves the right to modify this RFQ/RFP Schedule as needed and will issue an addendum if it modifies the Schedule.

1.3. Qualified Consultant

All Consultants submitting a Response to this RFQ/RFP and seeking to provide services for the Project should be extremely familiar with all applicable regulations, including the procedures for state-funded projects, industry guidelines especially as they apply to California 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 knowledge and experience with Division of State Architect (DSA) and experience with Community College and School Districts.

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/RFP. Responses must be submitted no later than the date indicated in the RFQ/RFP schedule included in Section 1.2. As the District is working remotely due to the Covid-19 pandemic, only electronic submittals are accepted. Responses must be emailed to FacilitiesRFP@rscdd.edu and must be received no later than date and time indicated in the RFQ/RFP schedule, 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, tabbed, organized in the same order as the RFQ/RFP, and include all sections and information (as required) in Part 3, Statement of Qualifications Response Format. Each Consultant shall submit **one (1)** electronic submittal, 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 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/RFP. 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/RFP. Carefully read each section to determine which forms the Sub-consultants need to submit.

1.6 Questions

Consultants must carefully read the entire RFQ/RFP prior to submitting questions as most questions will be answered in this RFQ/RFP. If, however, you should have questions regarding this RFQ/RFP, please email FacilitiesRFP@rscdd.edu. All questions must be submitted in writing, referencing RFQ/RFP #2021-298 in the title. The question deadline for this RFQ/RFP 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 to all Consultants via addendum. Addenda, if issued, to this RFQ/RFP will not be distributed by the District to any Respondent. Respondents are required and responsible to check the District's Purchasing website to access any addenda to this RFQ/RFP.

2. PROJECT DESCRIPTION

Exhibit I provides a detailed project description, scope of work and project schedule for facility master planning for an unimproved site located at the intersection of Bristol Street and 17th Street in the City of Santa Ana, adjacent to Santa Ana College.

3. SCOPE OF SERVICES

3.1. SCOPE OF SERVICES

Provide professional consulting services to the District for the Project(s). The Consultant shall, without limitation to the District's right to require other services not listed herein, carry out the responsibilities defined in the scope of services set forth in a typical District professional services agreement. Such services shall be performed consistent with the standard of care for professionals performing similar scopes of services. The Consultant shall, as a minimum, undertake the responsibilities reasonably necessary and customarily provided by Professional Firms conducting business in the Southern California area to ensure that all of the District's goals, standards, policies, and procedures are adhered to over the course of the Project. Each Consultant must be prepared and equipped to provide turn-key Services in an expeditious and timely manner and on relatively short notice so as to enable the District to meet critical, and at times unpredictable, time deadlines and schedules.

3.2. Compliance with Applicable Laws

Consultant's Response must set forth Consultant's understanding of all applicable laws, guidelines, and requirements, including the Education Code, Division of the State Architect (DSA), California Community Colleges Chancellors Office (CCCCO) and local ordinances and/or other applicable guidelines applicable to the Services to be undertaken, as well as Consultant's ability and methodology to comply with the same. Consultant's Response must confirm that the proposed Services will meet all the aforementioned requirements as set by the applicable codes, regulations, and guidelines.

3.3. 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.

3.4 Deadlines

Each Consultant must be prepared to provide turnkey services for such 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 documents, forms, reports, 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.

4. STATEMENT OF QUALIFICATIONS/PROPOSAL RESPONSE FORMAT

4.1. Firm Information

Provide a cover letter and introduction, including the company name, headquarters, and local office (if different from headquarters) 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 – Information Questionnaire Form**.

4.2 Firm Approach and Methodology

Describe the Consultant's philosophy with regard to approach 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.

4.3 Firm Experience

Provide a summary of Consultant's relevant expertise and experience in professional consulting services, especially as it relates to community college facilities. Consultant must demonstrate a minimum of five (5) years of relevant experience and professional success. Experience and success may include sub-consultants and key members' experience while with other firms.

Using **Exhibit C – Firm Project Experience Form**, provide a **minimum of three (3)** completed projects, with a minimum of **one project in the State of California**. Provide detailed descriptions of the projects (particularly community college projects) that the consultant has worked on **within the last eight (8) years**, which demonstrates relevant experience for projects of various size, type, and difficulty. Each project description should include the date(s), the scope of work or similar services that was performed, the name, title, address, and telephone number of a contact person who can be contacted for verification of information provided by Consultant. Do not provide **Exhibit C** for Sub-Consultants.

Furthermore, provide a list of all Rancho Santiago Community College District contracts held within the last five (5) years including, with respect to each project, the project name, property address, 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.

4.4 Key Personnel/Team Members

Please identify your Firm's available team members, key personnel and staff members and their specific expertise and experience in professional 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. Provide the names and detailed resumes of key personnel 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.

4.5 Sub-Consultants

Identify any Sub-Consultants, if any that are likely to be used by your Firm in carrying out Services for the District. For each sub-consultant Firm, please list names, California license or registration numbers if applicable, 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** and **Exhibit B – Information Questionnaire Form** for Sub-Consultants. Provide team member resumes for each team member.

4.6 Billing Rates

Provide billing rates for all personnel and categories of employees 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. The District is looking for hourly rates for consultants and any Sub-Consultants **as well as a proposed fixed fee/lump sum**. Please use **Exhibit D – Billing Rate Form** and **Exhibit D2 Proposed Fee Form** - also provide for Sub-Consultants, if any.

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.

4.7 Contract

Consultants shall review the District **Professional Service Agreement, Exhibit L**, and provide any comments or objections to the Agreement in its Response. 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.**

4.8 Certification

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

4.9 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 F – Statement of Non-Conflict of Interest** and submit it with the Response. Do not provide this form for Sub-Consultants.

Note: During the qualification and selection process (i.e. from the date this RFQ/RFP and/or future RFQ/RFPs are released to the conclusion of the selection process), if it is determined that any individual(s) who works for or represents any interested firm communicates with, contacts and/or solicits Board Members of the District in any fashion, said firm shall be disqualified from the RFQ and/or RFQ/RFP selection process, and may be removed from any established prequalified list, as well as the removal from the "interested vendors list".

4.10 Local Hire and Local Business Questionnaire

Consultants shall certify by completing Exhibit H – Questionnaire Form for Local Hire and Local Business for Firm and any sub-consultants. 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/RFP process and any future RFP process.

5. 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. The following minimum insurance is required in order for your firm to qualify for participation in any project with the Rancho Santiago Community College District:

1. Comprehensive general and auto liability insurance with limits of not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate, bodily injury, and property damage liability per occurrence, including:
 - Owned, non-owned and hired vehicles
 - Blanket contractual
 - Broad form property damage
 - Products/completed operations; and
 - Personal injury
2. Professional liability insurance, including contractual liability, with limits of \$2,000,000 per claim.
3. Workers' Compensation Insurance shall be maintained, in accordance with provisions of the California Labor Code, adequate to protect any person, firm, or corporation employed directly or indirectly in connection with the work of the Consultant from claims under Workers' Compensation Acts which may arise for operations, whether such operations be by any person, firm, or corporation, employed directly or indirectly by the Consultant upon or in connection with the work.

Prior to commencing any project, 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).

6. 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.

6.1. Selection Criteria

Although not necessarily exhaustive of the criteria to be utilized, the District intends to use the following evaluation criteria in selecting the Consultant for the Project:

- Responsiveness to the RFQ/RFP: breadth and depth of response, completed Firm Information Form
- Firm Information: complete information regarding firm location, ownership, etc. Completed Firm Information Questionnaire (legal history, insurance coverage, safety record, disputes, termination, bankruptcy)
- Firm Project Experience: completed the form and demonstrates adequate and relevant experience, community college and/or school district experience, experience with Division of the State Architect (DSA), proven experience in meeting schedules and deadlines, adequately addresses items noted on form
- Project Team and Sub-Consultants: has provided all team member resumes with appropriate information, project experience noted, licenses noted, qualifications noted
- Current Workload & Availability: has adequate resources to support project, firm's support staff, project team and/or sub-consultants
- Firm Approach & Methodology: outlines a proposed methodology to be utilized in design of project as it relates to involvement of faculty, staff, management, and other interested parties; evidence of ability to prioritize project and begin job in a timely fashion, able to address appropriately and differentiate aesthetics and functionality objectives of projects, has experience with site evaluations for projects
- Specific Team Member Project Experience: evaluate team member experience, relevancy for project and scope, totality of team members including sub-consultants identified to work on project
- Fee: has provided a proposed fee, provided billing rates for team members and sub-consultants, has competitive rates in comparison to others, completed the Billing Rate Form
- Budgets/Cost Estimates: proven experience in accuracy of firm's cost estimates
- Firm located in District or Orange County (for locally funded projects), filled out the local hire/business form
- Veteran owned firms and/or DVBE firm
- Completed Certification Form
- Completed Statement of Non-Conflict of Interest Form
- Provided Confidential Financial Information (if requested)
- Provided comments on Draft Agreement (if applicable)
- Client Reference Checks: satisfaction of prior/current clients, professional reputation of the firm, past experience working with District

6.2. Evaluation of Responses

Responses will be evaluated by a screening 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 that it receives, the District may select a Consultant. 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.

6.3. 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/RFP.

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/RFP, (iii) reissue this RFQ, (iv) send out additional RFQs, (v) reject any and/or all RFQs, (vi) prior to submission deadline for RFQs, 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 RFQs, (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.

7. DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION GOALS

The Rancho Santiago Community College District supports a participation goal of at least 3 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/default.htm> 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 provided services as a result of an RFP process. Please review **Exhibit G – 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):

2016

2017

2018

2019

2020

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 |

Years of Service

Community College

Personnel

Total # of Personnel: _____

Total # of Consultants: _____

In house expertise.

	Name of Proposed Consultant	Level of Education/ Degree Obtained	Years of Experience	
			Similar Work	Community College Work
1	_____	_____	_____	_____
2	_____	_____	_____	_____
3	_____	_____	_____	_____

Sub-Consultants

	Name of Proposed Sub-Consultant	Area of Service and License #	Years of Experience	
			Similar Work	Community College Work
1	_____	_____	_____	_____
2	_____	_____	_____	_____
3	_____	_____	_____	_____

Exhibit B – Firm Information Questionnaire

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.

9. Has your firm ever worked with the District in the past 8 years? ___ Yes ___ No

If yes, provide detail on a separate sheet; state the project name, 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?

10. Has any of your subconsultants ever worked with the District in the past 8 years?

(N/A for subconsultants completing this form)

___ Yes ___ No

If yes, provide detail on a separate sheet; state the project name, 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?

THE UNDERSIGNED DECLARES UNDER PENALTY OF PERJURY THAT ALL OF THE INFORMATION SUBMITTED WITH THIS RFQ/RFP 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

<p>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></p>	
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? \$
Did your firm provide cost estimates? (Y / N)	Contractors on the project:
Milestone Project Schedule:	Was the project completed on schedule? (Y / N) If “no”, explain below, including the reasons.
Project Summary/Narrative: (Please provide details of Project, comments and/or clarifications)	

Exhibit D2 – Proposed Fee Form

Firm Name: _____

Consultant shall propose an all-inclusive fixed fee/lump sum fee for each of the following tasks:

Task	Description	Fixed Fee/Lump Sum
1	Data Gathering, Surveys and Strategic Planning	
2	Developing Master Planning Options and Models	
3	Facilitating and Presenting Meetings	
4	Preliminary and Final Recommendations	
TOTAL		

Consultants may recreate this form in another program and may include subsections as part of each task.

Exhibit E – 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 SOQ in response to this request and that I am authorized to commit the Firm to the SOQ 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.



Exhibit F – 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 G – 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.

Set forth below is a list of the anticipated participation of DVBEs which _____ (the “Consultant”) intends to use as part of its Agreement for Services, School Facilities Improvement Program (the “Program”). Although it is not specifically required, you are encouraged to include DVBE participation.

Prior to, and as a condition precedent for, final payment under the Agreement for the Program, the Consultant shall provide appropriate documentation to the District identifying the amount paid to DVBEs in conjunction with the Agreement, so that the District can assess its success in meeting the 3 percent goal.

The Consultant anticipates: (a) that _____ percent of the total dollar amount awarded to the Consultant shall be paid to DVBEs and (b) using the following DVBE Sub-Consultants:

Names of Sub-consultants:

Exhibit H – 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 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/RFP 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 I – Project Details – Professional Consulting Services (“Services”) for facility master planning for an unimproved site located at the intersection of Bristol Street and 17th Street in the City of Santa Ana, adjacent to Santa Ana College.

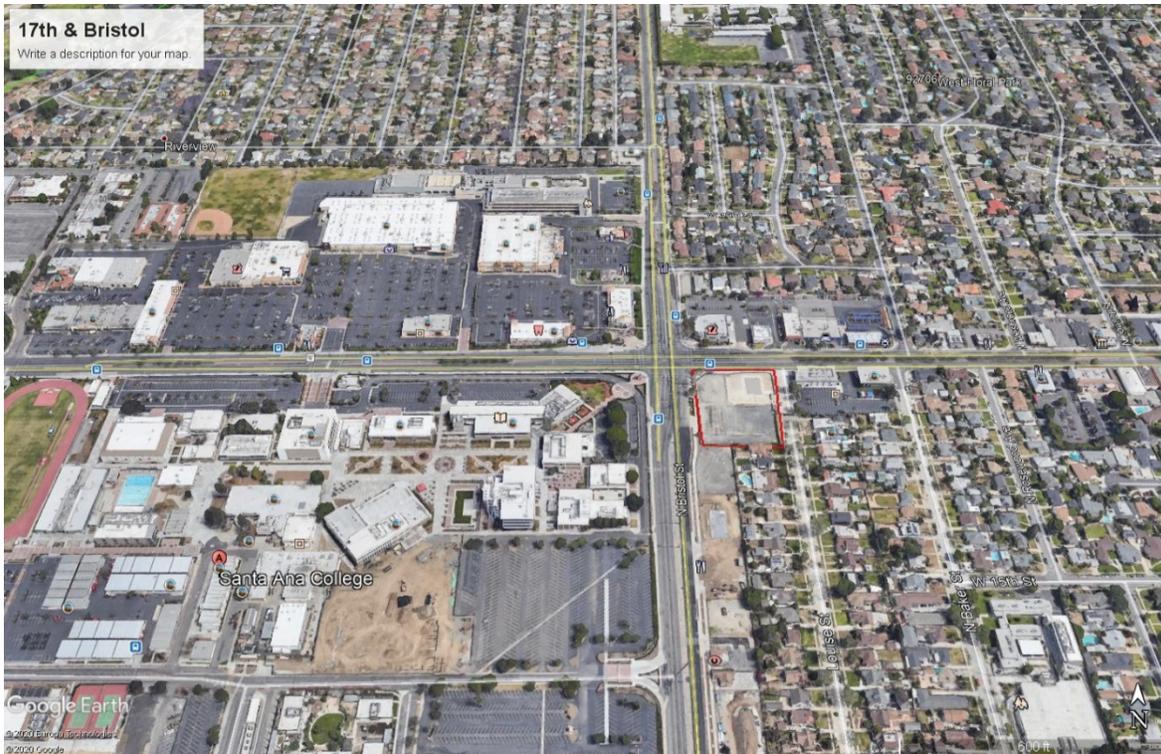
Project Objectives:

1. Determine programming options that support the students and align with the College’s Educational Master Plan.
2. Identify development options the City would support.
3. Present development scenarios and strategies to assist with budgetary planning.
4. Assist in preparation of a follow-on RFQ/RFP for implementation of the facility’s site master planning, if necessary.

The site (four contiguous parcels) is owned outright by Santa Ana College. It is located in Santa Ana’s SP1 Specific Plan area and the parcel’s General Plan designation is General Commercial. The College has previously sought to develop this location as temporary surface parking. The District no longer intends to develop the lots as surface parking and now desires assistance in master planning the site for future development.

Attention should be given in the following areas:

- Providing for student safety as well as the education of people in a technology infused world that continues to evolve.
- Determination of space needs for both academic and co-curricular activities.
- Evaluation of current site conditions.
- Accounting for demographic shifts and population growth.
- Optimizing resources from grants, foundations, or other non-tax sources.



Scope of Work:

The District envisions the Study will minimally include the tasks identified below:

Data Gathering, Surveys and Master Planning:

- Review existing RSCCD Comprehensive Master Plan, 2013-2023 (see dropbox link below)
- Conduct a Strategic Asset Value (“SAV”) analysis and creating a list of prioritized objectives of the College in developing the site; such objectives will inform further work, analysis, and final recommendations in the Study.
- Review and assess existing relevant planning documentation from RSCCD, Santa Ana College and the City of Santa Ana.
- Review layout, maps and drawings and schematics, including those for buildings in planning, design, or construction phases.
- Perform various surveys to include students, employee, and community constituencies.
- Utilize, apply, and evaluate national planning standards where applicable.
- Develop, administer, and analyze a web-based Student Survey.
- Benchmark comparable campus edge development at peer institutions.
- Conduct focus groups with students and various stakeholder groups.

Developing Master Planning Options and Models:

- Develop a comprehensive site master plan including operating parameters, as well as conceptual capital budgets and development schedules to assist the District / College in ascertaining financial commitments, operational responsibilities and both short- and long-term impacts to developing and operating the site.
- Identify, develop, and evaluate costs and benefits of a broad array of facility options. At a minimum, discuss the following:
 - Sale / conveyance of property to City or other entity.
 - Development of property as educational facility, student housing, commercial property, or another mixed-use scenario.
 - Other options as applicable.
- Test run scenarios that include capital costs and ongoing operational and maintenance costs.
- Provide a per square foot estimate of proposed facilities. Estimates may be developed using JCAF 32.
- Prepare a recommended implementation schedule based on input from the District / College.

Facilitating and Presenting at Meetings:

- Conduct an SAV analysis and a kickoff session with District and College Project Workgroup (which does not yet exist but will be formed as part of the RFQ selection process).
- Participate in meetings with staff, the District and College Project Workgroup, the City of Santa Ana, and other constituent groups as needed.
- Participate and make any necessary presentations to committees and at Board of Trustee meetings if needed.
- The selected firm is expected to conduct a minimum of twelve (12) regularly-scheduled progress meetings with the District Facilities Department and the Project Workgroup at mutually agreed-upon intervals and times.
- The selected firm will be required to operate within the current State of California and County of Orange health guidelines pertaining to Covid-19. At the present time, all meetings are virtual.
- All meetings will be conducted in English and there is no requirement for bilingual communication.

Preliminary and Final Recommendations:

- The selected firm will present preliminary SAV findings and preliminary market research and will discuss concepts in a meeting with the District Facilities, the Workgroup, and other District/Campus committees.

- Present a detailed project concept and development scenarios. Work with District Facilities Department, the Project Workgroup and other District/Campus committees, as well as the City of Santa Ana as appropriate.
- Discuss the feasibility of the development, any transactional structures that may be considered viable for the District to pursue further, and/or other development options and present these preliminary findings and recommendations.
- Retain feedback from the various District constituent groups in order to finalize recommendations.
- Finalize the Strategic Planning and Development Report, recommendations and compile all necessary documents to share with the District and college to document the process undertaken as part of the assessment.

Perform all other services in accordance with Agreement.

Please use the link below to download the following reference documents:

- RSCCD Comprehensive Master Plan, 2013-2023
- RSCCD Strategic Plan, 2019-2022
- SAC Facility Master Plan
- SAC Educational Master Plan
- City of Santa Ana Full City Zoning Map
- City of Santa Ana General Plan – Land Use
- City of Santa Ana Transit Zoning Code
- City of Santa Ana Bristol Street Corridor Specific Plan

<https://www.dropbox.com/sh/ga70qc0lth9vf2c/AAAtEC9fmmGNQYWXsIfzdsBGa?dl=0>

Project Schedule (Subject to Change):

Contract Approval by Board of Trustees (anticipated)	On or about July 12, 2021
Work Period ((minimum of twenty-four (24) regularly scheduled progress meetings with DO Facilities and Workgroup included).	52 weeks
Firm and District review of draft final report (1 week)	June, 2022
Presentation of study results to District / College	July, 2022
Presentation of final study results to Board of Trustees	August, 2022

Exhibit J – Professional Services Agreement

Refer to the following pages.

CONSULTANT SERVICES AGREEMENT

This AGREEMENT is made and entered into this XX day of XX in the year XXX (“EFFECTIVE DATE”), between the RANCHO SANTIAGO COMMUNITY COLLEGE DISTRICT, hereinafter referred to as (“DISTRICT”), and XXXXX, hereinafter referred to as “CONSULTANT”. The DISTRICT and the CONSULTANT are sometimes referred to herein as a “PARTY” and collectively as the “PARTIES”. This AGREEMENT is made with reference to the following facts:

WHEREAS, DISTRICT requires specialized services and/or advice in connection with certain consulting, financial, economic, accounting, estimate and/or administrative matters where such services and advice are not available to the DISTRICT without cost either internally or from other public agencies;

WHEREAS, CONSULTANT is specially experienced and competent to provide to the DISTRICT certain specialized services and/or advice in the foregoing areas; and

WHEREAS, to the extent required by 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, DISTRICT desires to obtain specialized services and/or advice for **FACILITY MASTER PLANNING FOR BRISTOL AND 17th STREET PROPERTY AT SANTA ANA COLLEGE**, hereinafter referred to as the “PROJECT”, located within the DISTRICT; and

WHEREAS, CONSULTANT has indicated its willingness and commitment to provide its specialized services and/or advice 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 AND RESPONSIBILITIES

1. Services. CONSULTANT shall provide to the DISTRICT on the terms set forth herein as well as those articulated in **EXHIBIT “A”** which is attached hereto and incorporated herein (“Services”). 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 term of this AGREEMENT shall begin **XXX** and shall end **<<end date>>**, in accordance with the schedule as stated in **EXHIBIT “A”**. The PARTIES 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. CONSULTANT’s 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 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 workers' compensation and equal protection and non-discrimination laws.

4. Services, Generally. CONSULTANT will perform its Services hereunder in a professional manner, using the degree of care and skill ordinarily exercised by, and consistent with, the current professional practices and standards of a professional practicing in California. The CONSULTANT will furnish, at its expense, those Services that are set forth in this AGREEMENT and **EXHIBIT "A"** and represents that the Services set forth in said EXHIBIT are within the technical and professional areas of expertise of the CONSULTANT or any sub-consultant the CONSULTANT has engaged or will engage to perform the Services. The DISTRICT shall request in writing if the DISTRICT desires the CONSULTANT to provide Services in addition to, or different from, the Services described in **EXHIBIT "A"**. The CONSULTANT shall advise the DISTRICT in writing of any Services that, in the CONSULTANT's opinion, lie outside of the technical and professional expertise of the CONSULTANT.

5. The CONSULTANT shall not be responsible for acts and/or omissions of any other party or parties involved in the design of the PROJECT or the failure of any contractor or subcontractor to construct any aspect of the PROJECT in accordance with the contract documents. The CONSULTANT is not authorized to modify, waive, eliminate, or add any requirement to the PROJECT's specifications or other contract documents, nor to approve or accept any portion of the construction work, unless specifically authorized in writing by the DISTRICT or its authorized representative. The CONSULTANT shall not have the right to reject work or the right to stop work, except for such periods as may be required to conduct sampling, testing or inspection of work covered by this AGREEMENT.

6. The CONSULTANT shall coordinate and perform all services set forth in the AGREEMENT through the DISTRICT's authorized representative.

7. CONSULTANT agrees that it shall perform the services herein in a competent, cost effective, prompt, and professional manner as required by the specific requirements set forth herein. In the performance of such services, CONSULTANT is required to adhere to the express requirements stated herein and only if such specific requirements are not identified herein, then CONSULTANT shall perform such services in accord with the standards in the industry for like professionals performing such services in the immediate geographical area in which the services required herein are to be performed.

8. 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. To the extent applicable, the CONSULTANT and all subcontractors shall furnish certified payroll records as required pursuant Labor Code section 1776 directly to the Labor Commissioner in accordance with Labor Code section 1771.4 on at least on a monthly basis (or more frequently if required by the DISTRICT or the Labor Commissioner) and in a format prescribed by the Labor Commissioner. Monitoring and enforcement of the prevailing wage laws and

related requirements will be performed by the Labor Commissioner/ Department of Labor Standards Enforcement (DLSE).

ARTICLE II – 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 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 II 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.

NOTE TO EDITOR: FIRST PARAGRAPH IS FOR AN HOURLY FEE; SECOND PARAGRAPH IS FOR A FIXED FEE.

4. **Invoices.** 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 worked and rate charged, and describe the Service 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.

OR

The CONSULTANT shall invoice all fees and/or costs monthly for the Basic Services that are provided in accordance with this AGREEMENT from the time the CONSULTANT begins work on the PROJECT. The CONSULTANT shall submit one (1) invoice monthly to the DISTRICT detailing all the fees associated with the applicable progress to completion percentage, reimbursable expenses (if any), and Additional Services (if any) incurred for the monthly billing period. Invoices requesting reimbursement for 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 the invoiced item(s), if applicable. Invoices requesting payment for Additional Services must reflect the negotiated compensation previously approved by the DISTRICT and include a copy of the DISTRICT's written authorization notice approving the Additional Services and the additional compensation approved by the DISTRICT. No payments will be made by the DISTRICT to the CONSULTANT for monthly invoices requesting reimbursable expenses or Additional Services absent the prior written authorization of the DISTRICT. The DISTRICT's prior written authorization is an express condition precedent to any payment by the DISTRICT for Additional Services or reimbursable expenses and no claim by the CONSULTANT for additional compensation related to Additional Services or reimbursable expenses shall be valid absent such prior written approval by the DISTRICT.

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; 3) failure of CONSULTANT to perform its Services in a timely manner causing delay or disruption to the PROJECT schedule; or 4) any amounts equal to the District's costs caused by the CONSULTANT's errors or omissions, willful or reckless misconduct, or other breach of this AGREEMENT.

ARTICLE III – 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 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 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 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 IV – 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 V – REPORTS AND/OR OTHER DOCUMENTS

1. The 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 of this ARTICLE shall be deemed a material breach of this AGREEMENT.

ARTICLE VI – ACCOUNTING RECORDS OF THE CONSULTANT

1. Records of the CONSULTANT's direct personnel and reimbursable expenses pertaining to any extra services provided by the CONSULTANT, which are in addition to those services already required by this AGREEMENT, 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.

ARTICLE VII – INDEMNITY AND INSURANCE

1. Indemnity. To the fullest extent permitted by law, CONSULTANT agrees to indemnify, defend, 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 consultants who are directly employed by the DISTRICT; and

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 VII, 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 VII, 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 VII, 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 VII, 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 VII, 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 VIII – 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 may 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 scope to complete the Services articulated in **EXHIBIT "A"** where the requests for additional scope 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; and

d. Providing any other services not otherwise included in this AGREEMENT or not customarily furnished in accordance with the generally accepted practice in the CONSULTANT's industry.

ARTICLE IX – MISCELLANEOUS

1. Key Personnel.

a. CONSULTANT shall not change any of the key personnel listed in **Exhibit "A"** without prior written notice to, and written approval by, District, unless said personnel cease to be employed by CONSULTANT. In either case, District shall be allowed to interview and approve replacement personnel.

b. CONSULTANT has been selected to perform the work herein because of the skills and expertise of key individuals. Services under this AGREEMENT shall be performed only by competent personnel under this supervision of and/or in the employment of the CONSULTANT. CONSULTANT shall conform to DISTRICT's reasonable requests regarding assignment of personnel. All personnel, including those assigned at DISTRICT's request, shall be supervised by CONSULTANT.

c. CONSULTANT shall not change any of the key personnel without prior written approval by the DISTRICT, unless said personnel cease to be employed by CONSULTANT. In either case, DISTRICT shall be allowed to interview and approve replacement personnel. CONSULTANT agrees that reassignment of any of the listed personnel during the AGREEMENT period shall only be with other professional personnel who have equivalent experience and shall require prior consultation and written approval by the DISTRICT. 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.

d. 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.

e. If any designated lead or key person fails to perform to the satisfaction of the DISTRICT, then upon written notice the CONSULTANT shall immediately remove that person from the PROJECT and provide a temporary replacement. CONSULTANT shall within fifteen (15) workdays, provide a permanent replacement person acceptable to the DISTRICT. DISTRICT may condition its approval of replacement personnel upon a reasonable transition period wherein new personnel will learn the Program and Projects and get "up to speed" at CONSULTANT's cost.

2. Classification. To the extent it is determined under applicable law that CONSULTANT fails to meet the statutory prerequisites for classification as a professional expert operating under a personal services agreement, CONSULTANT resigns any and all rights and privileges derived from this

AGREEMENT and any resulting relationship, which resignation is deemed accepted under such circumstances by the DISTRICT.

3. 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.

4. 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 Workers' 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.

5. 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.

6. 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.

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

8. 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 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.

9. Time. Time is of the essence with respect to all provisions of this AGREEMENT.
10. 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.
11. 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.
12. 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.
13. It is mutually understood and agreed that this AGREEMENT shall be binding upon the DISTRICT and its successors and upon the CONSULTANT, its partners, successors, executors, and administrators. Neither this AGREEMENT, nor any monies due or to become due thereunder, may be assigned by the CONSULTANT without the written consent and approval of the DISTRICT.
14. 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.
15. 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
16. 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.
17. Gift Ban: Effective April 25, 2016, the Board of Trustees adopted Board Policy 3821 Gift Ban Policy. The Consultant shall adhere to Board Policy 3821 as there are strict prohibitions outlined in the policy. For further reference and information please read BP 3821 located on the RSCCD website at <http://www.rsccd.edu/Trustees/Pages/BP-3821.aspx>.
18. 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 as there are strict prohibitions outlined regarding the use of drones. For further reference and information please read AR 3580 located on the RSCCD website at <http://www.rsccd.edu/Trustees/Pages/AR-3581.aspx>.

19. 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:

<Firm Name>
Attn: <Name>
<Title>
<Address>
<Address>
Telephone: <Number>

20. Tobacco Prohibited: Any tobacco use (smoking, chewing, etc.) by anyone, is prohibited at all times on any DISTRICT property.

21. 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.

22. Appropriate dress is mandatory. Therefore, tank tops, cut-offs and shorts are not allowed. Additionally, what is written or pictured on clothing must comply with the requirements of acceptable language as stated above in Paragraph 16.

23. Education Code Section 45125.1: During the entire term of this AGREEMENT, CONSULTANT, unless specifically exempted in writing by the DISTRICT, shall fully comply with the provisions of Education Code section 45125.1 ("Fingerprinting Requirements"), when the DISTRICT determines, in its sole discretion, that the CONSULTANT may have contact with Rancho Santiago Community College students or other K-12 pupils in the performance of services under this AGREEMENT. If the CONSULTANT is required to meet the Fingerprinting Requirements, the CONSULTANT must certify in writing to the DISTRICT that neither the employer nor its employees, who must be fingerprinted, have been convicted of a violent or serious felony as defined in Education Code section 45122.1. Unless specifically exempted in writing by the DISTRICT, the CONSULTANT must complete and submit to the DISTRICT a Fingerprint Certification form, in the DISTRICT'S required format, prior to CONSULTANT or any of the CONSULTANT'S employees performing work on the Project or coming into contact with DISTRICT students or other K-12 pupils. CONSULTANT further acknowledges that other fingerprinting requirements may apply, as set forth in Education Code Section 45125 et seq., and will comply with any such requirements as determined by the DISTRICT.

24. Parking. CONSULTANT shall be responsible for purchasing applicable parking passes from Safety & Security Offices when the need arises to visit any of the campuses.

25. Images: If applicable, 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 express written consent from the DISTRICT.

26. 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 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, the ability to conduct business meetings via online or the internet, wearing required face mask protection and maintain social distancing guidelines if attendance on site is necessary to conduct essential business related to services described herein.

4. Electronic and Digital Signatures. 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.

Signatures on the following page

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

CONSULTANT:

**DISTRICT:
RANCHO SANTIAGO COMMUNITY
COLLEGE DISTRICT**

By: _____

By: _____

Print Name: _____

Adam M. O'Connor, Interim Vice Chancellor
Business Operations and Fiscal Services

Its: _____

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, District Construction and Support
Services

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

EXHIBIT “A”

1. **Compensation for Services:**

NOTE TO EDITOR: PLEASE REVIEW AND SELECT ONE OF THE FOLLOWING FEE TYPES: 1) HOURLY, NOT-TO-EXCEED; OR 2) FIXED FEE. PLEASE DELETE SECTION BELOW THAT IS NOT APPLICABLE.

Hourly, Not-to-Exceed Fee

A. 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 and expenses incurred during the billing period, in accordance with ARTICLE II, Paragraph 4 of this AGREEMENT. The billing rates indicated in EXHIBIT “B” 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 fee without prior written authorization of the DISTRICT.

1. Included in the not-to-exceed fee is an estimated reimbursable expense allowance in the amount of <<AMOUNT IN WORDS>> AND <<NO OR AMOUNT OF CENTS>>/100 DOLLARS (\$<<amount in numbers>>). Allowable reimbursable expenses are set forth in ARTICLE II, Paragraph 3 of this AGREEMENT. Reimbursable expenses 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

1. There are no reimbursable expenses for this AGREEMENT.

Fixed Fee plus Reimbursable Allowance

A. The total Not-to-Exceed fee is <AMOUNT IN WORDS> DOLLARS (\$<AMOUNT IN NUMBERS>). Included in this not-to-exceed fee is the following:

1. Compensation for Basic Services: The DISTRICT shall compensate the CONSULTANT for performing the Basic Services as described in Article I and in accordance with Article II a fixed fee of <AMOUNT IN WORDS> DOLLARS (\$<AMOUNT IN NUMBERS>).

2. Allowance: Included in the aforementioned fee is an allowance of <AMOUNT IN WORDS> DOLLARS (\$<AMOUNT IN NUMBERS>) for additional services and/or reimbursable expenses subject to the DISTRICT’s approval in accordance with Article II.

CONSULTANT’s hourly rates for additional services and sub-consultants, if applicable, are included in EXHIBIT “B”.

2. **Fee Schedule:**

<Include a fee schedule of the project (for fixed fee).>

3. **Project Description**

Rancho Santiago Community College District is seeking a qualified Firm to provide it with a Student Housing Feasibility Study to facility master planning for an unimproved site located at the intersection of Bristol Street and 17th Street in the City of Santa Ana, adjacent to Santa Ana College.

Project Objectives:

1. Determine programming options that support the students and align with the College's Educational Master Plan.
2. Identify development options the City would support.
3. Present development scenarios and strategies to assist with budgetary planning.
4. Assist in preparation of a follow-on RFQ/RFP for implementation of the facility's site master planning, if necessary.

The site (four contiguous parcels) is owned outright by Santa Ana College. It is located in Santa Ana's SP1 Specific Plan area and the parcel's General Plan designation is General Commercial. The College has previously sought to develop this location as temporary surface parking. The District no longer intends to develop the lots as surface parking and now desires assistance in master planning the site for future development.

Attention should be given in the following areas:

- Providing for student safety as well as the education of people in a technology infused world that continues to evolve.
- Determination of space needs for both academic and co-curricular activities.
- Evaluation of current site conditions.
- Accounting for demographic shifts and population growth.
- Optimizing resources from grants, foundations, or other non-tax sources.

Scope of Services:

Data Gathering, Surveys and Master Planning:

- Review existing RSCCD Comprehensive Master Plan, 2013-2023 (see link)
<http://rsccd.edu/Departments/Research/Pages/District-Planning.aspx>
- Conduct a Strategic Asset Value ("SAV") analysis and creating a list of prioritized objectives of the College in developing the site; such objectives will inform further work, analysis, and final recommendations in the Study.
- Review and assess existing relevant planning documentation from RSCCD, Santa Ana College and the City of Santa Ana.
- Review layout, maps and drawings and schematics, including those for buildings in planning, design, or construction phases.
- Perform various surveys to include students, employee, and community constituencies.
- Utilize, apply, and evaluate national planning standards where applicable.

- Develop, administer, and analyze a web-based Student Survey.
- Benchmark comparable campus edge development at peer institutions.
- Conduct focus groups with students and various stakeholder groups.

Developing Master Planning Options and Models:

- Develop a comprehensive site master plan including operating parameters, as well as conceptual capital budgets and development schedules to assist the District / College in ascertaining financial commitments, operational responsibilities and both short- and long-term impacts to developing and operating the site.
- Identify, develop, and evaluate costs and benefits of a broad array of facility options. At a minimum, discuss the following:
 - o Sale / conveyance of property to City or other entity.
 - o Development of property as educational facility, student housing, commercial property, or another mixed-use scenario.
 - o Other options as applicable.
- Test run scenarios that include capital costs and ongoing operational and maintenance costs.
- Provide a per square foot estimate of proposed facilities. Estimates may be developed using JCAF 32.
- Prepare a recommended implementation schedule based on input from the District / College.

Facilitating and Presenting at Meetings:

- Conduct an SAV analysis and a kickoff session with District and College Project Workgroup (which does not yet exist but will be formed as part of the RFQ selection process).
- Participate in meetings with staff, the District and College Project Workgroup, the City of Santa Ana, and other constituent groups as needed.
- Participate and make any necessary presentations to committees and at Board of Trustee meetings if needed.
- The Firm is expected to conduct a minimum of twelve (12) regularly- scheduled progress meetings with the District Facilities Department and the Project Workgroup at mutually agreed-upon intervals and times.
- The selected firm will be required to operate within the current State of California and County of Orange health guidelines pertaining to Covid-19. At the present time, all meetings are virtual.
- All meetings will be conducted in English and there is no requirement for bilingual communication.

Preliminary and Final Recommendations:

- The Firm will present preliminary SAV findings and preliminary market research and will discuss concepts in a meeting with the District Facilities, the Workgroup, and other District/Campus committees.

- Present a detailed project concept and development scenarios. Work with District Facilities Department, the Project Workgroup and other District/Campus committees, as well as the City of Santa Ana as appropriate.
- Discuss the feasibility of the development, any transactional structures that may be considered viable for the District to pursue further, and/or other development options and present these preliminary findings and recommendations.
- Retain feedback from the various District constituent groups in order to finalize recommendations.
- Finalize the Strategic Planning and Development Report, recommendations and compile all necessary documents to share with the District and college to document the process undertaken as part of the assessment.

4. **Schedule of Work:**

The below schedule is subject to change.

Contract Approval by Board of Trustees (anticipated)	On or about July 12, 2021
Work Period (minimum of twenty-four (24) regularly scheduled progress meetings with DO Facilities and Workgroup included).	52 weeks
Firm and District review of draft final report (1 week)	June 2022
Presentation of study results to District / College	July 2022
Presentation of final study results to Board of Trustees	August 2022

EXHIBIT “B” – HOURLY RATES

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 Rate:

Any changes to personnel shall be in accordance per **Article IX, section 1** of this Agreement.

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.

EXHIBIT “C” – 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. Although it is not specifically required, you are encouraged to include DVBE enterprises as part of the SERVICES.

The undersigned, on behalf of _____ (“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:

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

EXHIBIT “D” – LOCAL HIRE AND LOCAL BUSINESS INFORMATION

Project Name: _____ (“Project”) (Delete this line if Project Name is in the footer)

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) Yes No
- 2. Firm is a Women Business Enterprise (WBE) Yes No
- 3. Firm is a Disabled Veteran Business Enterprise (DVBE) Yes 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 <i>(First and Last Name)</i>	Zip Code <i>(for Local Residents Only)</i>	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).*

In submitting this form, the Consultant certifies that it has independently verified that all Local Hires and Local Businesses noted in this agreement meet the definitions for Local Hires and Local Businesses as set forth in Board Policy 6610 and Administrative Regulation 6610. The District may request Consultant to provide additional information or documents to support the numbers listed above. Consultant agrees to provide all additional information or documents requested by the District. Failure to provide any requested information may result in the District delaying Final Payment to the Consultant and Consultant agrees that it shall have no claim for additional costs or days resulting from or in any way related to providing the information in this form.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Name: _____

Signature: _____

Title: _____

Date: _____