

**REQUEST FOR QUALIFICATIONS AND PROPOSALS (RFQ/P #20/21-001)  
PROGRAM MANAGEMENT SERVICES**

**NOTICE IS HEREBY GIVEN** that the La Mesa-Spring Valley School District ("District") is requesting qualified persons, firms, partnerships, corporations, associations, or professional organizations to provide comprehensive program management for the District's in connection with the District's Measure V Bond Program ("Program"), and both Program projects and potentially projects utilizing other funding sources including, but not limited to, grants ("Projects").

Program Management services may include Program preparation services to position the Program and Projects, such as assisting the District with Division of the State Architect ("DSA") closeout of existing but uncertified projects. While the District is seeking an entity qualified to perform any or all of these roles, firms submitting a Statement of Qualifications ("SOQ") and Proposals (together, "Submittal") for a portion of the work, such as DSA closeout of uncertified existing projects, may be considered. Each Submittal provided in response to the Request for Qualifications and Proposals ("RFQ/P") must conform and be responsive to the requirements set forth herein.

Respondents to the RFQ/P should mail or deliver five (5) bound copies, one (1) unbound copy, and one (1) digital copy of their Submittal to:

**VALERIE RANUM, DIRECTOR OF BUSINESS SERVICES  
LA MESA SPRING VALLEY SCHOOL DISTRICT  
4750 Date Avenue  
La Mesa, CA 91942**

**ALL RESPONSES ARE DUE BY 2:00 P.M., ON THURSDAY, APRIL 29, 2021.** Any Submittal received after that date and time will not be accepted and will be returned unopened.

Each Submittal must conform and be responsive to the requirements set forth in the RFQ/P.

The District reserves the right to waive any informalities or irregularities in received submittals. Further, the District reserves the right to reject any and all submittals and to negotiate contract terms with one or more respondent firms for one or more of the work items. The District retains the sole discretion to determine issues of compliance and to determine whether a respondent is responsive, responsible, and qualified.

A complete copy of the RFQ/P is available on the District's website at: <https://www.lmsvschools.org/purchasing-services/>.

If you have any questions regarding the RFQ/P please email [valerie.ranum@lmsvschools.org](mailto:valerie.ranum@lmsvschools.org) before 4:00 p.m. on Thursday, April 15, 2021. Responses will be provided by an Addendum to this RFQ/P before 4:00 p.m. on Thursday, April 22, 2021.

***PROVIDING A SUBMITTAL DOES NOT DISQUALIFY A FIRM FROM LATER SUBMITTING OR PROPOSING TO PROVIDE CONSTRUCTION MANAGEMENT SERVICES FOR BOND PROGRAM PROJECTS. HOWEVER, ANY FIRM WITH WHOM THE DISTRICT ULTIMATELY CONTRACTS FOR PROGRAM MANAGEMENT SERVICES SHALL NOT BE ELIGIBLE TO PROVIDE CONSTRUCTION MANAGEMENT SERVICES IN CONNECTION WITH MEASURE V BOND PROGRAM PROJECTS, AND SHALL BE REQUIRED TO COMPLY WITH THE DISTRICT'S CAMPAIGN/CANDIDATE CONTRIBUTION DISCLOSURE REQUIREMENTS.***

**REQUEST FOR QUALIFICATIONS AND PROPOSALS (RFQ/P #20/21-001)  
MEASURE V PROGRAM MANAGEMENT SERVICES**

**I. BACKGROUND AND PROJECT DESCRIPTION**

La Mesa-Spring Valley School District (“District”) serves more than 11,000 students K-8 students within 21 schools. The District is the 4<sup>th</sup> largest elementary school district in San Diego County. Focusing on the “whole child,” the District’s mission is to nurture the character and heart of children as well as to educate.

The District is seeking Statements of Qualifications (“SOQs”) and Proposals (together, “Submittals”) from experienced entities to provide Program Management (“PM”) services for the District’s Measure V Bond Program, which authorizes the sale of up to \$136 Million of local funding.

The District has completed a Facilities Master Plan (“FMP”), which was adopted by the Board in June 2020 and is available online at:

<https://drive.google.com/file/d/1mQSc1UexZ4eMNGuAoLpWXIU58I7uQxRK/view>

All or part of the implementation of capital projects included in the FMP are included within PM portion of the work, as well as any other Projects within the scope of Measure V. Part of the services requested may include assistance with program management by working with the DSA to close out existing, uncertified projects located at a site or sites where a Program Project is contemplated. More detail regarding the parameters of the Program Manager services is provided below.

It is vital that the selected firm has the ability to work cooperatively and effectively with the District’s Board of Education (“Board”), the Superintendent, District staff, any school site planning committees, and the community. The District places great emphasis on transparency, facilitation, and communication with all of its stakeholders. The firm retained by the District will be part of the District team and will be expected to operate in a team environment.

Any contract resulting from this RFQ/P will be made according to the form of professional services agreements attached to this RFQ/P as **Attachment “A,”** which sets forth the anticipated PM Scope of Services in greater detail.

***ANY FIRM THAT ULTIMATELY CONTRACTS WITH THE DISTRICT FOR THE PROVISION OF PROGRAM MANAGEMENT SERVICES SHALL NOT BE ELIGIBLE TO PROVIDE CONSTRUCTION MANAGEMENT SERVICES FOR PROJECTS INCLUDED WITHIN THE MEASURE V BOND PROGRAM.***

**II. SCOPE OF SERVICES**

Any firm selected based on this RFQ/P process must be capable of providing full bond program management services, including Program and/or Project preparation services such as assistance with the closeout and certification of existing projects which do not have DSA certification, and potentially including management services related to projects funded through sources other than Measure V including, but not limited to, grants. In general, the selected firm(s) will work cooperatively with the District, Board, staff and consultants, project manager(s), architect(s) of record, project inspector(s), contractor(s), citizens’ bond

oversight committee, other District committees, and the community to facilitate the timely completion of the Program Project(s).

## **A. PROGRAM MANAGEMENT**

Although the full scope of work shall be negotiated in the Professional Services Agreement, attached to this RFQ/P as **Attachment "A"**, the Program Manager will be expected to be capable of fulfilling, at a minimum, the following:

### **1. Program Oversight**

- a. Report to and work under the direction of the District's Bond Program Director, with approval of District's Assistant Superintendent of Business Services, or designee.
- b. In consultation with the District and District's consulting team, develop, plan, coordinate, organize, and manage the Program, including the identification and administration of all tasks related to the planning, development, design, scheduling, sequencing, and completion of all Projects to ensure all public funds are maximized and all Projects are completed within the allocated scope, budget, and schedule.
- c. Develop a master schedule to manage all Program or Project-related activities.
- d. In consultation with the District and District's consulting team develop a master budget that allows for Project and Program budgets and accounting.
- e. Assist with development of District Standards. Develop a policy and procedure manual for implementation throughout the Program.
- f. Develop and implement procedures to seek out cost efficiencies and eliminate duplication in efforts and costs.
- g. Assist with procurement of Architect, Engineer, Commissioning Agent, Inspector, Construction Manager, and other consultants, if needed. Assist the District in the monitoring of and coordination with Architect/Engineer and Construction Manager and other consultant contracts. Participate in planning workshops. Attend meetings with site committees. Provide training to District staff, Board, and others.
- h. Assist with establishing a contractor outreach program to maximize the pool of qualified contractors and subcontractors for District Projects to facilitate multiple delivery methods. Assist with the prequalification process. Work with the District to encourage

successful contractors to bid on Projects; identify/confirm problem contractors, and position the District to avoid using problem contractors on future Projects.

- i. Advise the District regarding project delivery systems and bid timing and packaging strategies. Make recommendations to the District regarding ongoing updates or modifications to any adopted bond implementation plan, or bond-funded Projects, to account for changes in sequencing, delays, or cost issues.
- j. Evaluate, and make recommendations, on ways to best allocate and utilize District resources (staff, equipment and funding) as it relates to the Program.
- k. Coordinate with Program Director to minimize disruption of educational activities, and obtain Program Director's approval prior to communication with individual sites.
- l. Validate estimates provided by the Architect at each site and then apply the findings to each of the school campus estimates, including providing current and projected cost estimates and escalation rates.
- m. Prepare preliminary soft cost and escalation budget summary and validate budgets.
- n. Conduct Project prioritization, sequencing and value engineering processes and develop scope reduction worksheets for District review.
- o. Tour each of the school campuses to determine restrictions and potential site limitations for interim housing.
- p. Develop phasing and scheduling plan for each of the school campuses, and develop an interim housing plan for each of the school campuses based on the phasing schedule.
- q. Establish and finalize escalation and soft cost budgets incorporating anticipated escalation and soft cost factors.
- r. Develop a cash-flow analysis and balance with the bond draw-down schedule.
- s. Assist in administration of a financial management system compatible with the District's primary accounting system which would facilitate accounting of Program funds, auditing of expenditures, Program and Project estimates and budgets, contract

payments, a cash management system, and periodic financial reporting.

- t. Utilize and maintain an overall cost and schedule reporting system, using District approved systems and software. Assist the District in refining overall Project budgets within the Program budget, including expected construction costs, consultant costs, fees, permits, etc. Assist the District in preparing budgeting and reporting systems to reflect actual expenditures and to reallocate available funds as necessary. Assist the District in maintaining all necessary records for the annual bond audit.
- u. Use standard accounting methods to tabulate, compile and check correctness of all expenditures associated with the Program based on information provided by the District. Assist District with development of clear approval and billing procedures acceptable to the District.
- v. Assist the District with the development and implementation of a process that provides cost control and timely, accurate measurement and reporting of expenditures. Prepare periodic summaries of Project expenditures for District review. Maintain current status of all obligations, commitments, and expenses against the Project under the Program. Maintain current status of revenue available for the Project from the Program.
- w. Recommend software for use in coordinating and maintaining schedules that document the sequence and time frame for the Project and/or bid packages in the Project.
- x. Anticipate the impact on the Program of regulatory compliance, including but not limited to local, state and federal permits and environmental compliance. Coordinate with environmental and other District consultant(s) in developing a list of regulatory compliance activities and agencies. Develop a critical path schedule of regulatory compliance activities. Advise the District on an ongoing basis regarding communication with state and other agencies. Assist, as requested, with compliance with environmental and other regulatory requirements, as well as with applications for state funding. Assist the District in identifying lines of authority, organization, and communication to effectively manage the Project under the Program.
- y. Submit necessary reports to federal, state, and local authorities, including DSA verified reports. Ensure that all other Project participants submit necessary documentation.

- z. Assist the District with the development and implementation of an outreach program, with specific strategies to attract and increase participation of local, small, emerging and Disabled Veterans Business Enterprise (“DVBE”) firms.

## **2. Program Reporting**

- a. In consultation with the District, and with prior approval of the Program Director, coordinate internal and external communication, including, but not limited to, participating in public hearings, planning and conducting media events, assist with press releases and publishing newsletters and contributing to the District website.
- b. Report to the District on the status of the Program and of Projects on a regular basis throughout the course of the Program. Prepare and present status reports to the District, the independent citizens’ bond oversight committee, and Board, as applicable.
- c. Participate in the development of a strong, cooperative relationship with the Citizens’ Bond Oversight Committee(s) and provide regular reporting for all bond-funded Projects.
- d. Coordinate with the Program Director to create, prepare and present status reports to the District, Citizens’ Bond Oversight Committee(s), and Board as applicable.

## **3. Program Support**

- a. Assist in the preparation and administration of requests for proposals, requests for qualifications, front-end documents, general conditions related to the bidding process, other construction contract documents such as Facilities and Site leases or Design-Build Agreement, and the implementation of a prequalification process as elected by the District.
- b. Assist with the organization of all records, correspondence, contracts, research analyses and other documents related to design, bidding, and construction. Such documents are subject to annual external performance and financial audits, as well as review by a Citizens’ Bond Oversight Committee. Coordinate ongoing preparation for financial and performance audits. Assist with the selection of a web-based construction document management system.
- c. Develop a management information system (“MIS”), including, but not limited to, assembly of a database to include as-builts, operations and maintenance manuals, training manuals, product

info and construction photo documentation. Establish procedures to organize existing files with the goal of incorporating them into the MIS system in an electronic form.

- d. Monitor and coordinate Program Project completion, including, but not limited to: monitoring, coordinating with, and assisting Architects, Construction Managers, Project Inspector(s), and the District regarding completion of work, including without limitation DSA Certification of Compliance and any other forms or paperwork required for project closeout; issuance of the Certificate of Final Completion for each Project; coordinating with Construction Managers to review and monitor final Project documents such as As-Built Drawings, manuals, and other closeout documents to ensure all required documents are provided to District; and implementation of warranty inspection(s) and warranty work procedures that all Construction Managers and Contractors are to follow.

## **B. PROGRAM AND PROJECT PREPARATION SERVICES**

Again, although the full scope of work shall be negotiated in the Professional Services Agreement, the Program Manager will also be expected to be capable of providing services to assist with Program and Project preparation and organization, including but not limited to:

### **1. DSA Closeout of Existing, Uncertified Projects**

- a. In order to assist the District with Program management, provide services to close out existing projects/works of improvement that are not currently certified with the DSA. This DSA closeout relates to existing projects which are not Program Projects, but which must be closed out before Program Projects may move forward. This is separate from DSA closeout of Program Projects that are not yet constructed.
- b. Review DSA website of uncertified projects to identify those requiring closeout services.
- c. Review and analyze DSA documentation and requirements for closing out various projects.
- d. Identify an efficient strategy for timely DSA closeout and certification of such projects, including without limitation obtaining DSA Certification of Compliance and any other forms or paperwork required for project closeout, in order to avoid impacting Program Projects.

- e. Coordinate and communicate with the DSA, District, and any other agencies, entities, firms, or individuals to successfully and timely perform DSA closeout services for existing, uncertified projects.

### **III. CAMPAIGN AND CANDIDATE CONTRIBUTION DISCLOSURE REQUIREMENTS**

All interested firms should take notice that the District has agreed to adopt a disclosure policy regarding any and all contributions in excess of \$1,000 (One Thousand Dollars) in favor of a District bond measure or candidate campaign, or to a District foundation supporting such a campaign, by persons who obtain bond funded contracts. This RFQ/P is not a contract, and the District makes no representation that participation in this RFQ/P process will lead to an award of contract or any consideration whatsoever. The award of a contract, if at all, is at the sole discretion of the District.

**Any person, firm, company or other entity awarded a contract funded through the District's Measure V Bond Program shall be subject to the District's disclosure policy and shall be required to fully comply with all disclosure requirements.**

### **IV. LIMITATIONS**

The award of a contract, if at all, is at the sole discretion of the District. The District reserves the right to contract with any entity responding to this RFQ/P. The District makes no representation that participation in the RFQ/P process will lead to an award of contract or any consideration whatsoever. The District shall in no event be responsible for the cost of preparing a response to this RFQ/P. The awarding of contract(s), if at all, is at the sole discretion of the District.

The SOQs, Proposals, and any other supporting materials submitted to the District in response to this RFQ/P, will not be returned and will become the property of the District unless portions of the material are designated as proprietary at the time of submittal and are specifically requested to be returned. Vague designations and/or blanket statements regarding entire pages or documents are insufficient and will not bind the District to protect the designated matter from disclosure. Pursuant to *Michaelis, Montanari, & Johnson v. Superior Court* (2006) 38 Cal.4th 1065, SOQs and Proposals shall be held confidential by the District and shall not be subject to disclosure under the California Public Records Act until after either: (1) the District and the successful respondent have completed negotiations and entered into an agreement, or (2) the District has rejected all Proposals. Furthermore, the District will have no liability to the respondent or other party as a result of any public disclosure of any SOQ or Proposal.

### **V. FULL OPPORTUNITY**

The District hereby affirmatively ensures that Disadvantaged Business Enterprises ("DBE"), Small Local Business Enterprises ("SLBE"), Small Emerging Local Business Enterprises ("SELBE"), and Disabled Veterans Business Enterprises ("DVBE") shall be afforded full opportunity to submit SOQs and Proposals in response to this RFQ/P and no respondent will be discriminated against on the basis of race, color, gender, sexual orientation, political affiliation, age, ancestry, religion, marital status, national origin, medical condition or disability in any consideration leading to the award of the contract. No qualified disabled person shall, on the basis of disability, be excluded from participating in, be denied the benefits of, or otherwise be subjected to discrimination in any consideration leading to the award of contract.



## **VI. RESTRICTIONS ON LOBBYING AND CONTACTS**

From the period beginning on the date of the issuance of this RFQ/P and ending on the date of the award of the contract, no person, or entity submitting in response to this RFQ/P, nor any officer, employee, representative, agent, or consultant representing such a person or entity shall contact through any means or engage in any discussion regarding this RFQ/P, the evaluation/selection process, or the award of the contract with any member of the District, the Board, selection members, or any member of the Citizens' Bond Oversight Committee. Any such contact shall be grounds for the disqualification of the proposer.

## **VII. FORMAT REQUIREMENTS**

Firms responding to this RFQ/P must comply with the following format requirements. Material must be in 8-1/2 x 11 inch format. Submittals shall include divider tabs labeled with boldface headers below; e.g. the first tab would be entitled "Cover Letter", the second tab would be entitled "Business Information", etc. Submittals shall not exceed sixteen (16) single-sided pages, or eight (8) double-sided pages. The page limit excludes permitted appendices.

Provide five (5) bound copies, one (1) unbound copy of the Submittal, and one (1) digital copy.

- The unbound copy shall be marked "Copy for Reproduction", and shall be formatted as follows:
  - No divider sheets or tabs.
  - Pages with proprietary information removed.
  - A cover sheet listing the firm's name, the total number of pages, and identifying those pages that were removed due to proprietary information.

## **VIII. CONTENT REQUIREMENTS**

### **TAB 1. COVER LETTER** (maximum of 2 pages)

- Provide a letter of introduction signed by an authorized officer of the company. If the company is a joint venture, duplicate the signature block and have a principal or officer also sign on behalf of each party to the joint venture.
- Clearly identify the individual(s) who are authorized to speak for the firm during the evaluation process.
- Respondent **must** include one (1) of the follow statements:

*"[INSERT FIRM NAME] received a copy of the District's form of Agreement for Program Management Services ("Agreement") attached as Attachment A to the RFQ/P. [INSERT FIRM NAME] has reviewed the indemnity provisions and professional liability insurance provisions contained in the Agreement. If given the opportunity to contract with the District, [INSERT FIRM NAME] has no objections to the use of the Agreement."*

OR

*"[INSERT FIRM NAME] received a copy of the District's form of Agreement for Program Management Services ("Agreement") attached as Attachment A to the RFQ/P. [INSERT FIRM NAME] has reviewed the indemnity provisions and professional liability insurance provisions contained in the Agreement. If given the opportunity to contract with the District, [INSERT FIRM NAME] has objections to the use of the Agreement, listed as follows or as contained in the appendix to this Submittal."*

- A copy of District's form of Agreement is attached to this RFQ/P as **Attachment A**. To the extent respondent has **any** objections to the form agreement, respondent **must** state the objection, and **must** provide a reasonable description of its requested change in response to the objection. **Unidentified objections, or vaguely described objections will not be entertained by the District during any contract negotiation.** Objections may be attached as an Appendix to respondent's response and shall not count toward the page limit.
- Respondent shall certify that no official or employee of the District, nor any business entity in which an official of the District has an interest, has been employed or retained to solicit or assist in the procuring of the resulting contract(s), nor that any such person will be employed in the performance of any/all contract(s) without immediate divulgence of this fact to the District.
- Respondent shall certify that no official or employee of the firm has ever been convicted of an ethics violation.
- Respondent shall sign and add the following language: *"By virtue of this submission, [INSERT FIRM NAME] declares that all information provided is true and correct."*

## **TAB 2. BUSINESS INFORMATION**

- Company name, address, telephone, fax number (if any), and website.
- Name and email of main contact.
- Federal Tax I.D. Number.
- License or Registration Number.
- Type of organization (i.e. corporation, partnership, etc.). If a joint venture, describe the division of responsibilities between participating companies, offices (location) that would be the primary participants, and percentage interest of each firm.
- A brief description and history of the firm, including number of years the firm has been in business and date firm was established under its given name.
- Location of office where the bulk of services solicited will be performed.
- State of California certification for your firm of Small Business or Disabled Veteran Business Enterprise status, if any.
- Executed Non-Collusion Declaration. (See **Attachment B**.)

- Provide Iran Contracting Act Certification. (See **Attachment C.**)

**TAB 3. RELEVANT QUALIFICATIONS AND EXPERIENCE**

- Firms submitting in response to this RFQ/P must be qualified to provide the program management services Respondent seeks to provide. Each Respondent must be capable of providing all necessary professional and technical services and resources to complete the responsibilities typically contracted for. Respondents must demonstrate experience in working within California K-12 school district systems.
- Identify each K-12 school program management engagement performed by your firm for a California public school in the past five (5) years, or currently underway, including:
  1. Name of program and school district;
  2. Identify whether the program was located in Southern California;
  3. Nature of the project(s): modernization/renovation, new construction, repair;
  4. Contact person and telephone number at district;
  5. Firm person in charge of program;
  6. Dollar value of program.
- Identify each K-12 project for which your firm provided program management services, in the past five (5) years, including:
  1. Name of project and school;
  2. Nature of the project: modernization/renovation, new construction, repair;
  3. Whether the scope of the project included:
    - a. Security and safety improvements
    - b. Technology infrastructure improvements and/or additions
    - c. Upgrades to existing site utilities
    - d. Site and drainage improvements, slope stabilization
    - e. Traffic, parking and drop-off improvements
    - f. Landscaping improvements and/or repairs
    - g. Upgrades to existing MEP and/or lights
    - h. Seismic and/or other structural upgrades
    - i. Specialty buildings, e.g. STEM, STEAM, Performing Arts
    - j. Roof repairs
    - k. Hazardous materials abatement
    - l. Interim Housing

4. Contact person and telephone number at school/district;
  5. Firm person in charge of project and/or program;
  6. Dollar value of program.
- Identify at least five (5) projects for which your firm provided DSA closeout services not as part of the construction closeout phase of that project; meaning: the project was existing and completed, but had not been DSA certified, and your firm provided services to obtain DSA certification of this existing, completed project in order to fully close it out with the DSA. Include:
    1. Name of project and school district;
    2. Length of time project was uncertified before your firm provided DSA closeout services to obtain certification;
    3. Length of time required to obtain DSA closeout and certification;
    4. Whether your firm was involved with the construction of the project;
    5. Contact person and telephone number at school/district;
    6. Firm person in charge of providing the DSA closeout and certification services.
  - Demonstrate your firm's flexibility in adapting to the changing needs and priorities of a K-12 district.
  - Firms shall have at least five (5) years of experience working with California Division of State Architect (DSA). List the number of years of experience your firm has in working with the DSA.
  - Describe the firm's technical capabilities for and experience with Program scheduling, budgeting, cost estimating review and reconciliation, document control, and public information websites. Provide recent examples for each category.
  - Describe the firm's quality control systems, including ability to monitor consultants, if any.
  - Describe your firm's experience with meeting aggressive schedules.
  - Describe your firm's experience working with bond programs involving projects on partially occupied sites.
  - Describe your firm's approach to design phase management.

- Describe your firm's approach to and management of CMs.
- Describe your firm's approach to cost control and management of changes .
- Identify the delivery method most frequently employed by your firm.
- Describe your firm's experience with alternate delivery methods such as Lease-Leaseback, Design-Build, and Multiple-Prime.

**TAB 4. PROJECT TEAM SUMMARY**

The selected firm, if any, shall employ, at its expense, professionals properly licensed and skilled in the execution of the functions required for program management as described herein. All services are to be performed under the direction and control of an architect, registered engineer, and/or contractor, each of whom is required to be licensed by the State of California.

- Identify key team members, including sub-consultants, and state their qualifications relevant to programming services and the scope of this project.
- Each Submittal must include evidence that the program management services company is legally permitted and properly licensed for the scope of work and to conduct business in the State of California.
- The District expects that the team shall remain intact through the duration of the project(s). If a team member must leave, the District reserves the right to approve that team member's replacement.
- Additional detail regarding proposed key team members may be provided as an appendix to your Submittal.

**TAB 5. LITIGATION HISTORY**

Provide a comprehensive seven (7)-year summary of the firm's claims, litigation, arbitration, mediation, and negotiated/settled history with previous clients ("Claims"). *This includes current/ongoing Claims.* For each Claim, state the issues in the Claim, the status of the Claim, names of parties, and outcome. A Submittal failing to provide the requested information on past and present Claims, including lawsuits, and responses which rely on blanket assertions of attorney-client privilege and fail to provide the information requested, will be considered non-responsive, disqualified from the selection process, and will not be evaluated.

**TAB 6. SCHEDULE OF RATES AND FEE PROPOSAL**

In a sealed envelope accompanying your SOQ and labeled as "[FIRM NAME] Fee Proposal for RFQ/P # 20/21-001," provide:

- A fee schedule for the types of services offered, with billing rates by position (proposed), staffing plan (proposed), and reimbursable schedule (proposed). Be thorough and specific, as this will form the basis of any contract for services that may be presented by the District. If referencing general condition costs, include typical staffing expectations, professional

fee schedules, and a discussion of the total expected costs that the District could expect for specific projects. For example:

1. Fees for Program planning, oversight, reporting, and support.
  2. Fees for DSA closeout services, if needed.
- A general fee proposal for Years 1 (FY 2020-2021), 2 (FY 2021-2022), and 3 (FY 2022-2023) of the Bond Program. The fee proposal should enable future consideration by and negotiation with the District. The fee proposal shall include hourly billing rates by position (proposed), staffing plan (proposed), and reimbursable schedule (proposed). Proposal shall provide a Schedule of Rates (“SOR”) by position, by company entity, for each position proposed by Respondent. The SOR should identify proposed reimbursables by category.

A form of the Agreement has been distributed with this RFQ/P as **Attachment A**. The final form of the Agreement will incorporate the final scope of work and final fee, which shall be negotiated with the successful proposer. **As noted above, any proposed changes to the form of Agreement must be identified in respondent’s Submittal; undisclosed change requests will not be entertained.**

#### **TAB 7. RESOURCES PROPOSED METHODOLOGIES AND CAPABILITIES**

- Provide a statement demonstrating your firm’s or team’s ability to accomplish the scope of services in a comprehensive and thorough manner in order to meet the District’s goal of moving projects into construction within the earliest possible timeframe, in compliance with all regulations. Specifically, describe the firm’s technical capabilities for scheduling, budgeting, cost estimating, and document control. Provide recent examples of reports for each. Report samples may be provided via an appendix.
- Provide a statement of your work plan with your firm’s current and projected workload, which should include available staff.
- Describe the firm’s experience with state and other agencies involved in the planning, design, and construction process for K-12 projects. Describe the firm’s quality control systems, including ability to monitor subconsultants, if any. Extensive experience with the Office of Public School Construction (“OPSC”), California Department of Education (“CDE”), DSA, Uniform Building Code (“UBC”), and Title 24 of the California Code of Regulations is mandatory. The Program Manager must have had prior experience with California Public Contract Code requirements applicable to competitively bid public contracts.
- Describe your approach to closing out existing, completed, but not-certified projects with the DSA. Provide examples of strategies used, and how your firm was able to resolve impediments to the DSA closeout of existing, but uncertified projects.

#### **TAB 8. REFERENCES**

- Provide a list of at least 3 references for similar program management work done in the last seven (7) years; K-12 projects are preferred.

1. Name of owner
  2. Contact name
  3. Contact's job title
  4. Phone number
  5. Email address
  6. Program name and location
  7. Beginning and end dates of Program
- Provide a list of 3 references for DSA closeout of existing, but uncertified, projects, where services were provided in order to enable future projects to commence. References should be for work done in the last 7 years for public school projects in California.
    1. Name of owner
    2. Contact name
    3. Contact's job title
    4. Phone number
    5. Email address
    6. Project name and location
    7. Beginning and end dates of DSA closeout work
    8. Final cost of DSA closeout services for the existing but uncertified project(s).

**TAB 9. APPENDICES (if used)**

- Firm brochure/history/background, reprints, etc.
- Key team member resumes
- Sample reports
- Objections to District's form of agreement, reasonably described *and* including proposed change(s).

**IX. SELECTION PROCESS AND CRITERIA**

The District retains the sole discretion to determine whether a submittal is responsive, responsible and qualified and to waive any informalities or irregularities in the received

Submittals. Further, the District reserves the right to reject any and all submittals and to negotiate contract terms with one or more responding firms for one or more of the work items. The District's review committee will utilize several evaluation criteria but will be primarily focused on the responding firm's information provided in response to the required Submittal information.

A selection committee will evaluate all submissions. Based upon the information presented in the submissions, the District's selection committee may request the most highly qualified firms to participate in an interview process.

If a firm is requested to come for an interview, the key proposed staff will be expected to attend the interview. The interview will be an opportunity for the District's selection committee to review the firm's proposal and other matters the committee deems relevant to its evaluation. **Any comments or objections to the District's form of Agreement attached to this RFQ/P as Appendix "A" may be the subject of inquiry at the interview.**

The criteria for evaluating submissions may include, without limitation, the following:

- Experience and performance history of the firm with similar services;
- Experience and results of proposed personnel;
- References from clients contacted by the District;
- Technical capabilities and track record of use;
- Value of services under proposed fees;
- Overall responsiveness of the Submittal;
- Interview performance; and
- Other research or investigations, if any, performed by District.

#### **X. DISTRICT INVESTIGATIONS**

The District may perform investigations of responding parties that extend beyond contacting the references identified in the Submittal. The District may request a respondent to submit additional information pertinent to the review process. The District also reserves the right to investigate and rely upon information from other available sources in addition to any documents or information submitted.

#### **XI. FINAL DETERMINATION AND AWARD**

The District reserves the right to contract with any entity responding to this RFQ/P for all or any portion of the work described herein and/or in an Agreement offered to the entity, to reject any Submittal as non-responsive, and/or not to contract with any program management services company for the services described herein. The District makes no representation that participation in the RFQ/P process will lead to an award of contract or any consideration whatsoever. The District reserves the right to contract with any firm not participating in this process. The District shall in no event be responsible for the cost of preparing any Submittal in response to this RFQ/P, including any supporting materials.



The awarding of a contract(s) is at the sole discretion of the District. The District may, at its option, determine to award contract(s) only for portions of the scope of work identified herein. In such case, the successful firm(s) will be given the option not to agree to enter into the Agreement and the District will retain the right to negotiate with any other proposing firm selected as a finalist. If no finalist is willing to enter into a contract for the reduced scope of work, the District will retain the right to enter into negotiations with any other firm responding to this RFQ/P.

**XII. RFQ/P RESPONSE SCHEDULE SUMMARY**

The District reserves the right to change the dates on the schedule without prior notice.

<b>DATE</b>	<b>EVENT</b>	<b>TIME DEADLINE</b>
March 30, 2021	Release and advertisement of RFQ/P.	
April 15, 2021	Deadline for submission of written questions to District concerning RFQ/P.	4:00 p.m.
April 22, 2021	Date by which District will post responses to written questions via an RFQ/P Addendum.	4:00 p.m.
<b>April 29, 2021</b>	<b>Deadline for all submissions in response to RFQ/P.</b>	<b>2:00 p.m.</b>
Week of May 10, 2021	Interviews, if and as requested by selection committee.	As scheduled
May 17, 2021	Anticipated notification to selected firm and commencement of negotiations.	
June 15, 2021	Anticipated date of award of contract, if any.	

**WE THANK YOU FOR YOUR INTEREST IN OUR PROGRAM AND PROJECTS!**

**ATTACHMENT A**  
**FORM OF AGREEMENT**

[REMAINDER OF PAGE INTENTIONALLY BLANK; ATTACHMENT FOLLOWS]

**ATTACHMENT B**

**NON-COLLUSION DECLARATION**  
**(Public Contract Code Section 7106)**

The undersigned declares:

I am the \_\_\_\_\_ of \_\_\_\_\_, the party making the foregoing  
[Title] [Name of Firm]  
bid/proposal.

The bid/proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid/proposal is genuine and not collusive or sham. The bidder/proposer has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder/proposer has not directly or indirectly colluded, conspired, connived, or agreed with any bidder/proposer or anyone else to put in a sham bid/proposal, or to refrain from bidding/proposing. The bidder/proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid/proposal price of the bidder/proposal or any other bidder/proposer, or to fix any overhead, profit, or cost element of the bid/proposal price, or of that of any other bidder/proposer. All statements contained in the bid/proposal are true. The bidder/proposer has not, directly or indirectly, submitted his or her bid/proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid/proposal, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder/proposer that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder/proposer.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on \_\_\_\_\_,  
[Date]

at \_\_\_\_\_, \_\_\_\_\_.  
[City] [State]

Date: \_\_\_\_\_  
Name of Proposer: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Print Signor's Name: \_\_\_\_\_  
Title: \_\_\_\_\_

END OF DOCUMENT

**ATTACHMENT C**

**IRAN CONTRACTING ACT CERTIFICATION**  
**(Public Contract Code sections 2200-2208)**

Prior to bidding on or submitting a proposal for a contract for goods or services of \$1,000,000 or more, the bidder/proposer must submit this certification pursuant to Public Contract Code section 2204.

The bidder/proposer must complete **ONLY ONE** of the following two options. To complete OPTION 1, check the corresponding box **and** complete the certification below. To complete OPTION 2, check the corresponding box, complete the certification below, and attach documentation demonstrating the exemption approval.

- OPTION 1.** Bidder/Proposer is not on the current list of persons engaged in investment activities in Iran created by the California Department of General Services (“DGS”) pursuant to Public Contract Code section 2203(b), and we are not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS.
  
- OPTION 2.** Bidder/Proposer has received a written exemption from the certification requirement pursuant to Public Contract Code sections 2203(c) and (d). *A copy of the written documentation demonstrating the exemption approval is included with our bid/proposal.*

**CERTIFICATION:**

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY, that I am duly authorized to legally bind the bidder/proposer to the OPTION selected above. This certification is made under the laws of the State of California.

<i>Vendor Name/Financial Institution (Printed)</i>	<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	<i>Date Executed</i>

END OF DOCUMENT

**AGREEMENT FOR PROGRAM MANAGEMENT SERVICES**

**LA MESA SPRING VALLEY SCHOOL DISTRICT**

**WITH**

\_\_\_\_\_

**FOR**

**MEASURE V BOND PROGRAM AND RELATED SERVICES**

\_\_\_\_\_, 2021

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## AGREEMENT FOR PROGRAM MANAGEMENT SERVICES

This Agreement for Program Management Services ("Agreement") is made as of \_\_\_\_\_, 2021, between the La Mesa Spring Valley School District, a California public school district ("District"), and \_\_\_\_\_ ("Program Manager") (both collectively "Parties"), for the administration of the District's Measure V Bond Program ("Program"), including oversight and coordination of the projects comprising the Program, and assigned projects funded through sources other than Measure V ("Projects"), and including DSA closeout services related to legacy projects. ***The Parties agree that the Program Manager shall not be eligible to undertake construction management administration of projects that comprise the Program.***

The Program may have multiple components. Any one of the components or combination thereof may be changed, including terminated, in the same manner as the Projects or the Program, as indicated herein, without changing in any way the remaining component(s). The provisions of this Agreement shall apply to each component without regard to the status of the remaining component(s). Program Manager shall invoice for each component separately and District shall compensate Program Manager for each component separately on a proportionate basis based on the level and scope of work completed for each component.

For and in consideration of the mutual covenants herein contained, the Parties hereto agree as follows:

### Article 1. Definitions

- 1.1. In addition to the definitions above, the following definitions for words or phrases shall apply when used in this Agreement, including all Exhibits:
  - 1.1.1. **Agreement:** The Agreement consists exclusively of this document and all identified exhibits attached and incorporated by reference.
  - 1.1.2. **Architect:** The architect(s) that the District designates as being the architect(s) for all or a portion of the Project, including all consultants to the Architect(s).
  - 1.1.3. **As-Built Drawings ("As-Builts"):** Any document prepared and submitted by District Contractor that details on a Conforming Set, the actual construction performed during the Project, including changes necessitated by Construction Change Documents and change orders, and detailed by the District's construction Contractor on a Conforming Set.
  - 1.1.4. **Board:** The District's Board of Trustees.
  - 1.1.5. **Conforming Set:** The plans, drawings, and specifications at the end of the Bidding Phase that incorporate all addenda, if any, issued during the Bidding Phase.
  - 1.1.6. **Construction Budget:** The total amount indicated by the District for each Project plus all other costs, including design, construction, administration, financing, and all other costs for that Project.



- 1.1.7. **Construction Change Documents (“CCD”)**: The documentation of changes to the DSA-approved construction documents.
- 1.1.8. **Construction Cost Budget**: The total cost to District of all elements of each Project designed or specified by the Architect, as adjusted at the end of each design phase in accordance with the Architect’s Agreement with the District. The Construction Cost Budget does not include the compensation of the Program Manager, the Project design professional(s), subconsultants, the cost of the land, rights-of-way, or financing which are the responsibility of the District.
- 1.1.9. **Construction Documents**: The written and graphic documents prepared for communicating the Project(s) design for construction and administration of the construction contract(s). The Construction Documents include, but are not limited to, the drawings, specifications, contracting requirements, procurement requirements, modifications and addenda, and resource drawing.
- 1.1.10. **Construction Manager**: Any construction manager hired to perform construction or project management services under the supervision of the Program Manager, including all consultant(s) to the Construction Manager.
- 1.1.11. **Consultant(s)**: Any and all consultant(s), sub-consultant(s), subcontractor(s), or agent(s) to the Program Manager.
- 1.1.12. **Contractor**: One or more licensed contractors under contract with the District for construction of all or a portion of each Project.
- 1.1.13. **Design Team**: The Architect(s) that the District designates as being the architect(s) for all or a portion of the Program, including all consultants to the Architect(s), plus all engineer(s) or other designer(s), who have a responsibility to the District to design all or a portion of the Program either directly or as a subconsultant or subcontractor.
- 1.1.14. **District Representative**: The individual identified herein that is authorized to act on the District’s behalf with respect to the Program. The initial District Representative shall be the Deputy Superintendent. District may change the District’s Representative by notice as set forth herein.
- 1.1.15. **DSA**: The Division of the State Architect in the California Department of General Services.
- 1.1.16. **Extra Services**: District-authorized Services outside of the scope in **Exhibit “A”** or District-authorized reimbursables not included in the Program Manager’s Fee.
- 1.1.17. **Fee**: The Program Manager’s Fee is defined in Section 6.1, payable as set forth in **Exhibit “D.”**

- 1.1.18. **Project Inspector:** The agent of the DSA retained by the District in accordance with title 24 of the California Code of Regulations to monitor and inspect at the project site whose primary responsibility will be to insure that the project is constructed in compliance with current codes; DSA-approved plans and specifications relating to fire life safety, structure, and accessibility; and quality controls required of a public works facility. The IOR will report to both the DSA and the Architect.
- 1.1.19. **Program Budget:** The total amount available for all costs related to the Program including, but not limited to, Program design, Program administration, Program financing, the services pursuant to this Agreement, and the construction of the Program. The Program Budget is the sum of all the Construction Budgets for each Project and all other Program expenses. The Program Budget is derived from the funds designated by the District for the Program, and the Program Manager shall ensure that no additional funds are necessary for the Program. The Board may, at its sole discretion, determine to expand the Program Budget based on receipt of additional funding.
- 1.1.20. **Service(s):** All labor, materials, supervision, services, tasks, and work that the Program Manager is required to perform and that are required by, or reasonably inferred from, the Agreement, and that are necessary for the design and completion of each Project and the management and coordination of the Program.

**Article 2. Scope, Responsibilities, and Services of Program Manager**

2.1. **Scope:** Program Manager shall provide the Services described herein and under **Exhibit "A"** for the Program. The District may utilize a lease-leaseback structure or other delivery methods for any or all Projects.

2.1.1. Program Manager's Services shall include, but not be limited to:

2.1.1.1. In consultation with the District and District's consulting team, develop a master budget that allows for Project and Program budgets and accounting. This includes, but is not limited to, providing the District with budget recommendations, based on documented estimates, for the Projects. The Board shall make the final decisions as to all budgets.

2.1.1.2. Providing the District with recommendations for all pre-design and preconstruction testing and analysis necessary, in Program Manager's opinion, to ensure that the Program is completed within the Program Budget.

2.2. **Review of General Obligation Bond Program Report and Facilities Needs Assessments/Facilities Master Plan:** Program Manager shall review the Facilities Master Plan for the District and other written materials made available by the District to Program Manager to fully understand the nature, extent and intent of the Program and the Projects.

- 2.3. **Review of Measure V:** Program Manager shall review Measure V, including the Bond Project List, and other written materials made available by the District to Program Manager which relate to Measure V in order to fully understand the extent of funding available and Projects listed, to implement the General Obligation Bond Program for the District, the anticipated schedule for issuance of Bonds under the Measure relative to the anticipated design, bidding and construction of projects.
- 2.4. **Coordination:** In the performance of Program Manager's services under this Agreement, Program Manager agrees that it will maintain such coordination with District personnel and/or its designated representatives as may be requested and desirable. Program Manager shall report to the District's Bond Program Director. Program Manager's coordination shall include, without limitation, coordination with all members of the District's Design Teams, Construction Managers, and District's consultants, if any. Program Manager's coordination shall include, without limitation, coordination with State labor compliance, if any. If the Program Manager employs Consultant(s), the Program Manager shall ensure that its contract(s) with its Consultant(s) include language notifying the Consultant(s) of State labor compliance, if any.
- 2.5. **Program Manager's Services:** Program Manager shall act as the District's agent to render the services and furnish the work as described in **Exhibit "A,"** which will commence upon the receipt of a Notice to Proceed signed by the District Representative. Program Manager's services will be completed in accordance with the schedule attached as **Exhibit "C."**
- 2.6. Should the Board decide to expand the scope of the Program and/or supplement the Program Budget based upon availability of additional funds, Program Manager agrees to perform the additional scope of work under the fee and cost terms of this Agreement.
- 2.7. **Conflicts of Interest Prohibited:** The Program Manager shall not be permitted to submit proposals or otherwise seek contracts for the following services to be procured by the District in connection with any Project: Design Professional, Project Construction Management, Project Inspector or Test/Inspection Services. If the Program Manager assists with identifying or selecting potential Design Professionals, Project Construction Managers, Project Inspectors or Test/Inspection services in connection with a Project, the Program Manager shall affirmatively and unequivocally represent and warrant to the District that neither the Program Manager nor any person who holds any equity interest in Program Manager's organization is a former or current holder of any equity interest in the firm identified and that neither the Program Manager nor any holder of any equity interest in the Program Manager's organization has any financial interest in the firm identified. The District reserves the sole discretion to waive this subsection's requirement on a case-by-case basis.

### **Article 3. Program Manager Staff**

- 3.1. The Program Manager has been selected to perform the work herein because of the skills and expertise of key individuals.
- 3.2. The Program Manager agrees that the following key people in Program Manager's firm shall be associated with the Program in the following capacities:

Principal In Charge/: \_\_\_\_\_

Senior Program Manager: \_\_\_\_\_

Project Administrator: \_\_\_\_\_

Project Administrator: \_\_\_\_\_

Program Specialist: \_\_\_\_\_

- 3.3. Program Manager's staffing may be evaluated on an annual basis and adjusted by mutual agreement of the District and Program Manager. Program Manager shall not change any of the key personnel listed above without prior written approval by District, unless said personnel cease to be employed by Program Manager. Regardless of the reason for the change in key personnel, District shall be allowed to interview and approve replacement personnel.
- 3.4. If any designated lead or key person fails to perform to the satisfaction of the District, then upon written notice by the District, the Program Manager shall immediately remove that person from the Program and provide a temporary replacement. Within seven (7) days of such removal, Program Manager shall provide a permanent replacement person acceptable to the District. All lead or key personnel for any Consultant must also be designated by the Consultant and are subject to all conditions previously stated in this Agreement.
- 3.5. Program Manager represents that the Program Manager has no existing interest and will not acquire any interest, direct or indirect, which could conflict in any manner or degree with the performance of services required under this Agreement and that no person having any such interest shall be employed by Program Manager.

**Article 4. Schedule of Work**

- 4.1. The Program Manager shall commence work under this Agreement upon receipt of a Notice to Proceed and shall prosecute the work diligently as described in **Exhibit "A"** in accordance with the schedule attached as **Exhibit "C."** Time is of the essence and failure of Program Manager to perform work on time as specified in this Agreement is a material breach of this Agreement.

**Article 5. Program Budget; Construction Cost Budgets**

- 5.1. The Program Manager shall have responsibility to, in coordination with the District's Bond Program Director, develop, review, and reconcile the Program Budget on the basis of each Project Construction Cost Budget with the Project Construction Manager, the Architect and the District throughout the design process and construction. In coordination with the District's Bond Program Director, Program Manager shall develop and present for Board Approval the Program Budget and each component thereof. Program Manager shall revise these until the Board accepts a final Program Budget and all the components thereof.

- 5.2. Program Manager shall specify all pre-design and pre-construction investigations and analyses necessary to prevent cost overruns, differing site conditions claims, other construction claims, design omissions, and budget overruns. Such investigations and analysis shall be presented to and coordinated with the District's Bond Program Director.
- 5.3. Program Manager shall work cooperatively with the Project Design Team during the Schematic Design Phase, Design Development Phase, and Construction Documents Phase, as described in **Exhibit "A,"** so that the construction cost of the work designed by the Project Design Team will not exceed the Construction Cost Budget, as may be adjusted subsequently with the District's written approval. The Program Manager shall notify the District immediately if it believes the construction cost of a Project will exceed the Construction Cost Budget for that Project.
- 5.4. Evaluations of the District's Program Budget, and preliminary and detailed cost estimates prepared by the Program Manager, represent the Program Manager's best judgment as a professional familiar with the construction industry in the geographic area of the District.
- 5.5. If the Bidding Phase has not commenced within ninety (90) days after DSA approval, the Construction Cost Budget shall be adjusted, in consultation with the District's Bond Program Director, to reflect changes in the general level of prices in the construction industry between the date of submission of the Construction Documents to the District and the date on which proposals are sought.
- 5.6. Program Manager specifically acknowledges that the District is relying on Program Manager to monitor, review, verify, and revise the Program Budget at multiple instances throughout the Program.

**Article 6. Fee and Method of Payment**

- 6.1. District shall pay Program Manager for all Services contracted for under this Agreement, an amount equal to the following ("Fee"):
 

An amount equal to \_\_\_\_\_ Dollars (\$\_\_\_\_\_) based on the Fee Schedule set forth in **Exhibit "D."**
- 6.2. District shall pay Program Manager the Fee pursuant to the provisions herein and in **Exhibit "D."**
- 6.3. Program Manager shall bill its work under this Agreement in accordance with **Exhibit "D."**
- 6.4. No increase in Fee will be due the extent caused by Program Manager's error or omission.
- 6.5. The Fee set forth in this Agreement shall be full compensation for all of Service Provider's Services incurred in the performance hereof as indicated in **Exhibit "D."**

- 6.6. Regardless of the structure of Fee, the Fee may be adjusted downward if the Scope of Services of this Agreement is reduced by the District in accordance with this Agreement.

#### **Article 7. Payment for Extra Services**

- 7.1. Any charges for Extra Services shall be paid by the District as described in **Exhibit "B"** at the rates set forth in **"Exhibit D"** only upon certification that the claimed Extra Services were authorized in writing in advance by the District and that the Extra Services have been satisfactorily completed.
- 7.2. A written proposal describing the proposed scope of services and listing the personnel, labor duration, rates, and cost shall be submitted by the Program Manager to the District for written approval before proceeding with any Extra Services.

#### **Article 8. Ownership of Data**

- 8.1. All of the work product of Program Manager, prepared or generated, in connection with this Agreement is the property of the District.
- 8.2. Upon request by the District, the Program Manager shall make available to the District all work product completed or in progress at the time of such a request.
- 8.3. After completion of each project or, if the District exercises the right to terminate this Agreement pursuant to the terms hereof, after termination of this Agreement, Program Manager shall assemble and deliver to District all of the work product of the Program Manager generated, prepared, reviewed or compiled in connection with this Agreement and the Services and authorized Extra Services hereunder. This includes, without limitation, a complete set of Program and Project(s) records, including without limitation all documents generated by Program Manager, copies of all documents exchanged with or copied to or from all other Program and Project(s) participants, and all closeout documents. Said Program and Project(s) records shall be indexed and appropriately organized for easy use by District personnel.
- 8.4. All Program and Project(s) records are property of the District, whether or not those records are in the Program Manager's possession. District retains all right to copyrights, designs, and other intellectual property embodied in the plans, record drawings, specifications, estimates, and other documents that Program Manager or its Consultants prepare or cause to be prepared pursuant to this Agreement.

#### **Article 9. Termination of Contract**

- 9.1. If Program Manager fails to perform Program Manager's duties to the satisfaction of the District, or if Program Manager fails to fulfill in a timely and professional manner Program Manager's material obligations under this Agreement, or if Program Manager shall violate any of the material terms or provisions of this Agreement, the District shall have the right to terminate this Agreement effective immediately upon the District giving written notice thereof to the Program Manager. In the event of a termination pursuant to this subdivision, Program Manager may invoice District for all work satisfactorily

performed until the notice of termination, but District shall have the right to withhold payment and deduct any amounts equal to the District's costs because of Program Manager's actions, errors, or omissions. In the event a termination pursuant to this paragraph is later determined not to be for cause, such termination shall convert to a termination for convenience.

- 9.2. District shall have the right in its sole discretion to terminate the Agreement for its own convenience. In the event of a termination for convenience, the Program Manager, upon written notice from the District of such termination, shall immediately cease work on the Program. Program Manager may submit a final invoice to the District for the fee associated with the services satisfactorily provided and approved by District since the last paid invoice and up to the notice of termination. This shall be the only amount owing to Program Manager if there is a termination for convenience. The District shall pay all undisputed invoice(s) for work performed until the notice of termination.
- 9.3. Except as indicated in this Article, termination shall have no effect upon any of the rights and obligations of the Parties arising out of any transaction occurring prior to the effective date of such termination.
- 9.4. If, at any time in the progress of the Project, the Board determines that the Agreement should be terminated, Program Manager, upon written notice from the District of such termination, shall immediately cease Services. The District shall pay Program Manager only the fee associated with the Services satisfactorily provided since the last invoice that has been paid and up to the notice of termination.

## **Article 10. Indemnity**

- 10.1. To the furthest extent permitted by California law, Program Manager shall indemnify and hold free and harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("the Indemnified Parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity ("Claim") that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Program Manager, its officers, employees, subcontractors, consultants, or agents, including without limitation the payment of all consequential damages. Program Manager shall also, to the furthest extent permitted by California law, defend the Indemnified Parties at Program Manager's own expense, including attorneys' fees and costs, from any and all Claim(s) and allegations relating thereto.
- 10.2. Program Manager shall pay and satisfy any judgment, award, or decree that may be rendered against the Indemnified Parties in any Claim. Program Manager's obligation pursuant to Article 10.1 includes reimbursing the District for the cost of any settlement paid by the Indemnified Parties and for any and all fees and costs, including but not limited to legal fees and costs, expert witness fees, and consultant fees, incurred by the Indemnified Parties in the defense of any Claim(s) and to enforce the indemnity herein. Program Manager's obligation to indemnify shall not be restricted to insurance proceeds. District shall also have the right to accept or reject any legal representation

that Program Manager proposes to defend the Indemnified Parties. The District's acceptance shall not be unreasonably withheld.

- 10.3. District may withhold any and all costs that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Program Manager from amounts owing to Program Manager.

#### **Article 11. Conduct on Project Sites and Fingerprinting**

- 11.1. Unacceptable and/or loud language will not be tolerated. "Cat calls" or other derogatory language toward students or public will not be allowed.
- 11.2. Drugs, alcohol, and smoking on District property are strictly prohibited. No drugs, alcohol and/or smoking are allowed at any time in any building and/or grounds on District's property. No students, staff, visitors or contractors are to use drugs on District's property.
- 11.3. Unless the District has determined pursuant to Education Code section 45125.2 that on the basis of the scope of work in this Agreement that Program Manager and its subcontractors and employees will have only limited contact with pupils, the Program Manager shall comply with the provisions of Education Code section 45125.01 regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees. The Program Manager shall not permit any employee to have any contact with District pupils until such time as the Program Manager has verified in writing to the governing Board that the employee has not been convicted of a felony, as defined in Education Code section 45122.1. The Program Manager's responsibility shall extend to all employees, agents, and employees or agents of its subcontracts regardless of whether those individuals are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Program Manager. Verification of compliance with this section and the Criminal Background Investigation Certification (**Exhibit "E"**) shall be provided in writing to the District prior to each individual's commencement of employment or participation on the Program and prior to permitting contact with any student.

#### **Article 12. Responsibilities of the District**

- 12.1. The District shall examine the documents submitted by the Program Manager and shall render decisions so as to avoid unreasonable delay in the process of the Program Manager's services.
- 12.2. The District shall provide to the Program Manager as complete information as is available to District regarding the District's requirements for the Project.
- 12.3. The District shall retain design professional(s) whose services, duties and responsibilities shall be described in written agreement(s) between the District and design professional(s).
- 12.4. The District shall, in a timely manner, and with Program Manager's assistance, secure, submit and pay for necessary approvals, easements, assessments, permits and charges required for the construction, use, or occupancy of permanent structures or for permanent changes in existing facilities, subject to



Program Manager's and/or the design professional(s) duties to recommend or provide same.

- 12.5. The District, its representatives, and consultants shall communicate with the Contractor(s) either directly or through the Program Manager or Construction Manager.
- 12.6. During the Construction Phase of the Project, the District may require that the Contractors submit all notices and communication relating to the Project directly to the Program Manager or Construction Manager.

### **Article 13. Liability of District**

- 13.1. Other than as provided in this Agreement, District's obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement or for the services performed in connection with this Agreement.
- 13.2. Any and all costs incurred by District, or for which District may become liable, to the extent caused by intentional or negligent acts or omissions of Program Manager in its performance hereunder, shall be paid to District by Program Manager as provided for herein and/or under California law.
- 13.3. District shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Program Manager, or by its employees, even though such equipment be furnished or loaned to Program Manager by District.
- 13.4. The Program Manager hereby waives any and all claim(s) for recovery from the District under this Agreement, which loss or damage is covered by valid and collectible insurance policies. Program Manager agrees to have its required insurance policies endorsed to prevent the invalidation of insurance coverage by reason of this waiver. This waiver shall extend to claims paid, or expenses incurred, by Program Manager's insurance company on behalf of the District.

### **Article 14. Insurance**

- 14.1. Program Manager shall procure prior to commencement of the work of this Agreement and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Program Manager, their agents, representatives, employees and sub-consultant(s).
- 14.2. **Minimum Scope and limits of Insurance:** Coverage shall be at least as broad as the following scopes and limits:

14.2.1. **Commercial General Liability.** Five million dollars (\$5,000,000) per occurrence for bodily injury, personal injury, property damage, death, advertising injury, and medical

payments arising from the performance of any portion of the Services. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Project/location or the general aggregate limit shall be twice the required occurrence limit.

- 14.2.2. **Commercial Automobile Liability, Any Auto.** One million dollars (\$1,000,000) per occurrence.
  - 14.2.3. **Workers' Compensation.** Statutory limits required by the State of California.
  - 14.2.4. **Employer's Liability.** One million dollars (\$1,000,000) per accident for bodily injury or disease.
  - 14.2.5. **Professional Liability.** This insurance shall cover the Program Manager and its sub-consultant(s), if any, for two million dollars (\$2,000,000) aggregate limit subject to no claim deductible, coverage to continue through completion of construction plus two years thereafter. The policy must contain terms or endorsements extending coverage that requires the insurer to defend and indemnify for acts which happen before the effective date of the policy provided the claim is first made during the policy period.
- 14.3. The District reserves the right to modify the limits and coverages described herein, with appropriate credits or charges to be negotiated for such changes.
- 14.4. **Deductibles and Self-Insured Retention:** Any deductibles or self-insured retention exceeding Twenty-Five Thousand Dollars (\$25,000) must be declared to and approved by the District. At the option of the District, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the District, its officers, officials, employees and volunteers; or the Program Manager shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- 14.5. **Other Insurance Provisions:** The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:
- 14.5.1. All policies except for the worker's compensation, employer's liability and professional liability insurance policy shall be written on an occurrence form.
  - 14.5.2. The District, its representatives, consultants, trustees, officers, officials, employees, agents, and volunteers ("Additional Insureds") are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Program Manager; instruments of service and completed operations of the Program Manager; premises owned, occupied or used by the Program Manager; or automobiles owned, leased, hired or borrowed by the Program Manager. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds.

- 14.5.3. All endorsements shall waive any right to subrogation against any of the Additional Insureds.
  - 14.5.4. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Additional Insureds.
  - 14.5.5. The Program Manager's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
  - 14.5.6. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, not renewed, or material change in coverage except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District.
  - 14.5.7. Program Manager's insurance coverage shall be primary and non-contributory insurance as respects the Additional Insureds with respect to any claims related to, arising out of, or connected with the Project. Any insurance or self-insurance maintained by the Additional Insureds shall be in excess of the Program Manager's insurance and shall not contribute with it.
- 14.6. **Acceptability of Insurers:** Insurance is to be placed with insurers admitted in California with a current A.M. Best's rating of no less than A:VII.
- 14.7. **Verification of Coverage:** Program Manager shall furnish the District with:
- 14.7.1. Certificates of insurance showing maintenance of the required insurance coverage;
  - 14.7.2. Original endorsements affecting coverage. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the District before work commences.

## **Article 15. Nondiscrimination**

Program Manager agrees that no discrimination shall be made in the employment of persons under this Agreement because of the fact or perception of that person's race, color, national origin, ancestry, religion, age, physical or mental disability, sex, sexual orientation or perceived sexual orientation, gender identity, domestic partner status, marital status, disability or AIDS/HIV status of such person. Program Manager shall comply with any and all applicable regulations and laws governing nondiscrimination in employment.

## **Article 16. Covenant Against Contingent Fees**

Program Manager warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Program Manager, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Program Manager, any fee,

commission, percentage, brokerage fee, gift, or any other consideration contingent on or resulting from the award or making of this Agreement. For breach or violation of this warranty, the District shall have the right to annul this Agreement without liability, or in its discretion, to deduct from the contract price or consideration or otherwise recover the full amount of such fee, commission, percentage fee, gift, or contingency.

#### **Article 17. Entire Agreement/Modification**

This Agreement, including the Exhibits hereto, supersedes all previous contracts and constitutes the entire understanding of the Parties hereto. Program Manager shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both Parties. Program Manager specifically acknowledges that in entering this Agreement, Program Manager relies solely upon the provisions contained in this Agreement and no others.

#### **Article 18. Non-Assignment Of Agreement**

In as much as this Agreement is intended to secure the specialized services of the Program Manager, Program Manager may not assign, transfer, delegate or sublet any interest therein without the prior written consent of District and any such assignment, transfer, delegation or sublease without the District's prior written consent shall be considered null and void.

#### **Article 19. Law, Venue**

- 19.1. This Agreement has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California.
- 19.2. San Diego County shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

#### **Article 20. Alternative Dispute Resolution**

- 20.1. Notwithstanding any disputes, claims or other disagreements between Program Manager and the District, Program Manager shall continue to provide and perform services hereunder pending a subsequent resolution of such disputes.
- 20.2. All claims, disputes or controversies arising out of, or in relation to the interpretation, application or enforcement of this Agreement may be decided through mediation as the first method of resolution. Notice of the demand for mediation of a dispute shall be filed in writing with the other party to the Agreement. The demand for mediation shall be made within a reasonable time after written notice of the dispute has been provided to the other party, but in no case longer than ninety (90) days after initial written notice.
- 20.3. If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Consultant shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Consultant's right to bring a civil action against the District. For purposes of those provisions, the running of the time within which a claim must be presented to

the District shall be tolled from the time the Consultant submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process.

#### **Article 21. Tolling of Claims**

Program Manager agrees to toll all statutes of limitations for District's assertion of claims against Program Manager that arise out of, pertain to, or relate to Contractors' or subcontractors' claims against District involving Program Manager's work, until the Contractors' or subcontractors' claims are finally resolved.

#### **Article 22. Severability**

If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

#### **Article 23. Employment Status**

- 23.1. Program Manager shall, during the entire term of Agreement, be construed to be an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow District to exercise discretion or control over the professional manner in which the Program Manager performs the Services which are the subject matter of this Agreement; provided always, however, that the Services to be provided by Program Manager shall be provided in a manner consistent with all applicable standards and regulations governing such Services.
- 23.2. Program Manager understands and agrees that the Program Manager's personnel are not and will not be eligible for: membership in or any benefits from any District group plan for hospital, surgical or medical insurance; membership in any District retirement program; paid vacation, paid sick leave or other leave, with or without pay; or any other benefits which accrue to a District employee.
- 23.3. Should District, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Department, or both, determine that Program Manager is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Program Manager which can be applied against this liability). District shall then forward those amounts to the relevant taxing authority.
- 23.4. Should a relevant taxing authority determine a liability for past services performed by Program Manager for District, upon notification of such fact by District, Program Manager shall promptly remit such amount due or arrange with District to have the amount due withheld from future payments to Program Manager under this Agreement (again, offsetting any amounts already paid by Program Manager which can be applied as a credit against such liability).

- 23.5. A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Program Manager shall not be considered an employee of District. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Program Manager is an employee for any other purpose, then Program Manager agrees to a reduction in District's liability resulting from this Agreement pursuant to principles similar to those stated in the foregoing paragraphs so that the total expenses of District under this Agreement shall not be greater than they would have been had the court, arbitrator, or administrative authority determined that Program Manager was not an employee.
- 23.6. Nothing in this Agreement shall operate to confer rights or benefits on persons or entities not a party to this Agreement.

#### **Article 24. Warranty of Program Manager**

- 24.1. Program Manager warrants that the Program Manager is properly licensed and/or certified under the laws and regulations of the State of California to provide all the services that it has herein agreed to perform. Program Manager further warrants that all the work performed under this Agreement by the Program Manager shall comply with all applicable laws, rules, regulations and codes of the United States and the State of California. The Program Manager also warrants that it shall comply with all applicable ordinances, regulations, and resolutions of the District and San Diego County.
- 24.2. Program Manager certifies that it is aware of the provisions of the Labor Code of the State of California, that require every employer to be insured against liability for workers compensation or to undertake self-insurance in accordance with the provisions of that code, and it certifies that, if applicable, it will comply with those provisions before commencing the performance of the work of this Agreement.
- 24.3. Program Manager certifies that it is aware of the provisions of California Labor Code that require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). To the extent that work is performed as part of an applicable "public works" or "maintenance" project, where the total compensation is \$1,000 or more, the Program Manager agrees to fully comply with and to require its sub-consultant(s) to fully comply with all applicable prevailing wage requirements of the California Labor Code. To the extent that the work performed under this contract is subject to labor compliance and enforcement by the DIR, Program Manager specifically acknowledges and understands that it shall perform the Services while complying with all applicable provisions of Division 2, Part 7, Chapter 1 of the Labor Code and Title 8 of the California Code of Regulations.

#### **Article 25. Cost Disclosure - Documents And Written Reports**

Program Manager shall be responsible for compliance with California Government Code section 7550, if the total cost of the Agreement is over five thousand dollars (\$5,000).

**Article 26. Communications and Notices**

Notices and communications between the Parties to this Agreement may be sent to the following addresses by registered or certified mail with postage prepaid, return receipt requested; by overnight delivery service; or by personal delivery:

**District:**

**Program Manager:**

La Mesa Spring Valley School District  
4750 Date Avenue  
La Mesa, CA 91942  
ATTN: Assistant Superintendent of  
Business Services  
FAX: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
ATTN: \_\_\_\_\_  
FAX: \_\_\_\_\_

*With a Copy to:*

Dannis Woliver Kelley  
2342 Shattuck Ave., Suite 535  
Berkeley, CA 94704  
ATTN: Lauren M. Charneski, Esq.

If notice is given by registered or certified mail with postage prepaid, return receipt requested, it shall be considered delivered on the day the notice is signed for. If notice is given by overnight delivery service, it shall be considered delivered on the date stated in the proof of delivery.

The Program Manager and the District, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

**Article 27. Disabled Veteran Business Enterprise Participation**

Pursuant to section 17076.11 of the Education Code, the District has a participation goal for disabled veteran business enterprises ("DVBE") of at least three percent (3%), per year, of funds expended each year by the District on projects that use funds allocated by the State Allocation Board pursuant to the Leroy F. Greene School Facilities Act (the "Act"). This Project may use funds allocated under the Act. Therefore, Program Manager, before it executes the Agreement, shall provide to the District certification of compliance with the procedures for implementation of DVBE contracting goals, appropriate documentation identifying the amount(s) intended to be paid to DVBEs in conjunction with the contract, and/or documentation demonstrating Program Manager's good faith efforts to meet these goals.

**Article 28. Other Provisions**

28.1. The Program Manager shall be responsible for the cost of construction change orders caused directly by the Program Manager's willful misconduct or negligent acts, errors or omissions. Without limiting Program Manager's liability for indirect or consequential cost impacts, the direct costs for which the Program Manager shall be liable shall equal its proportionate share of the difference between the cost of the change order and the reasonable cost of the work had such work been a part of the originally prepared construction documents.

- 28.2. Neither the District's review of, approval of, nor payment for any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, and Program Manager shall remain liable to the District in accordance with this Agreement for all damages to the District caused by Program Manager's failure to perform any of the Services furnished under this Agreement to the standard of care of the Program Manager for its Services, which shall be, at a minimum, the standard of care of Program Managers performing similar work for California public school districts at or around the same time and in or around the same geographic area of the District.
- 28.3. Each party warrants that it has had the opportunity to consult counsel and understands the terms of this Agreement and the consequences of executing it. In addition, each party acknowledges that the drafting of this Agreement was the product of negotiation, that no party is the author of this Agreement, and that this Agreement shall not be construed against any party as the drafter of the Agreement.
- 28.4. The individual executing this Agreement on behalf of the Program Manager warrants and represents that she/he is authorized to execute this Agreement and bind the Program Manager to all terms hereof.
- 28.5. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. A facsimile or electronic signature shall be deemed to be the equivalent of the actual original signature. All counterparts so executed shall constitute one Agreement binding all the Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date(s) indicated below.

**LA MESA SPRING VALLEY SCHOOL DISTRICT** \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_



**EXHIBIT "A"**

**RESPONSIBILITIES AND SERVICES OF PROGRAM MANAGER**

1.	BASIC SERVICES	A-1
2.	GENERAL PROGRAM SERVICES	A-5
3.	PLANNING AND ADMINISTRATION	A-6
4.	PRECONSTRUCTION PHASE	A-7
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**EXHIBIT "A"**

**RESPONSIBILITIES AND SERVICES OF PROGRAM MANAGER**

Program Manager shall provide professional services necessary for completing the following:

**1. BASIC SERVICES**

- 1.1. Provide work which shall comply with professional standards and applicable requirements of federal, state, and local law.
- 1.2. Monitor and advise the District as to all material developments in the Program, reporting to and generally coordinating with the District's Bond Program Director. Maintain reporting systems for scope, sequencing, scheduling, budgets and communication for the Program using software selected by District.
- 1.3. Be the focal point of all communication to and from construction Contractor(s).
- 1.4. In consultation with the District's Bond Program Director, develop and implement methods to budget and track all expenditures on each Project. Program Manager shall generate monthly reports to the District reflecting this information.
- 1.5. Prepare methods to track and report on schedule status for each Project and for the overall Program. In consultation with the District's Bond Program Director, Program Manager shall develop master schedules and milestone schedules for each Project, and shall report on same each month to the District.
- 1.6. In coordination with the District's Bond Program Director, the Program Manager will be required to attend and provide updates at each Board meeting. The Program Manager shall work cooperatively with District to anticipate and maintain a schedule of upcoming Board information and action items and shall prepare reports, background materials, and preliminary materials in District-specified format.
- 1.7. Program Manager shall work cooperatively with the Design Team, other District consultant(s), and the District to:
  - 1.7.1. Define and schedule the Projects in the Program.
  - 1.7.2. Provide Services that will result in the development of an overall Program strategy with regard to phases, construction schedules, timing, budget, prequalification, Construction Manager procurement, Contractor procurement, Project Inspector procurement, construction materials, building systems, and equipment.
- 1.8. In coordination with the District's Bond Program Director, organize an initial planning workshop to create baseline parameters for the Project(s), to define overall building requirements, Project(s) strategy, conceptual budget and

schedule. Pursuant to understandings reached at these meetings, Program Manager will develop an implementation plan that identifies the various phases of the Project(s), coordination among phases, and budget and time constraints for each phase of the Project(s) for District's review and approval. The plan will include a detailed strategy, Program Budget and Program schedule as well as identification of critical events and milestone activities.

- 1.9. Perform constructability reviews, determine construction feasibility, availability of materials and labor, time requirements for installation and construction, and factors related to cost, including costs of alternative designs of materials, preliminary budgets, and possible economies. Make recommendations to District regarding these issues, costs, and cost savings.
- 1.10. Interface with Construction Manager(s), all general and/or trade Contractors, and all subcontractors during construction to ensure that the District is provided with an acceptable Program and the best value for taxpayer dollars. Coordinate with the District's Bond Program Director regarding this work.
- 1.11. Advise the District as to the regulatory agencies that have jurisdiction over any portion or all of the Program, and as to coordination with and implementation of the requirements of the regulatory agencies, including without limitation DSA.
- 1.12. Contract for or employ, at Program Manager's expense, subconsultant(s) to the extent deemed necessary for Program Manager's services. Nothing in the foregoing shall create any contractual relationship between the District and any subconsultant(s) employed by the Program Manager under terms of this Agreement.
- 1.13. Cooperate with other professionals employed by the District for the design, coordination or management of other work related to the Program and the Project(s), including District Board, District staff and consultants, Construction Manager(s), citizens' oversight committee, other District committees, and the community to facilitate the timely completion of the Program and the Project(s) within Board-approved budgets and to District design standards.
- 1.14. Chair, conduct and take minutes of periodic meetings between District and its design professional(s), the Site Committee or Bond Committee meetings, and construction meetings during the course of the Program. Program Manager shall invite the District and/or its representative and the Project Inspector(s) to participate in these meetings. Program Manager shall keep meeting minutes to document comments generated in these meetings.
- 1.15. Develop for District approval a Program time schedule at the start of Program development that does the following:
  - 1.15.1. Provides sufficient time for prequalification, and if necessary the resolution of any appeals, bidding, and, if necessary, rebidding some, or all, of the individual bid packages;
  - 1.15.2. Coordinates and integrates the design professional(s)' design efforts with bidding schedules;

- 1.15.3. Includes realistic activity sequences and durations, allocation of labor and materials and delivery of products requiring long lead-time procurement; and
- 1.15.4. Takes into account the District's occupancy requirements (showing portions of the Program having occupancy priority and with ongoing operational occupancy requirements.)
- 1.16. Be responsible for the professional quality and technical accuracy of all cost estimates, constructability reviews, studies, reports, projections, opinions of the probable cost of construction, and other services furnished by Program Manager under this Agreement as well as coordination with all Master Plans, studies, reports and other information provided by District to Program Manager. Program Manager shall, without additional compensation, correct or revise any errors or omissions in materials it generates.
- 1.17. Maintain a log of all meetings, site visits or discussions held in conjunction with the work of the various Project(s) in the Program, with documentation of major discussion points, observations, decisions, questions or comments. These shall be furnished to the District and/or its representative for inclusion in the overall Program documentation.
- 1.18. At the request of the District, develop a Management Information System ("MIS") to assist in establishing communications between the District, Program Manager, Construction Manager(s), design professional(s), Contractor(s), Project Inspector(s) and other parties on the various Project(s) in the Program. In developing the MIS, the Program Manager shall interview the District's key personnel and others in order to determine the type of information to be managed and reported, the reporting format, the desired frequency for distribution of the various reports, the degree of accessibility by potential users, and the security protocol for the system.
- 1.19. Coordinate transmittal of documents to regulatory agencies for review and advise the District of potential problems in completion of such reviews.
- 1.20. Preparation of a bidders list for each package for approval by the District.
- 1.21. **Oversight of Prequalification Process.** The Program Manager will assist the District, the Design Team and, as applicable, the Construction Manager for a Project in pre-qualifying bidders and completing the prequalification process for award of a Construction Contract for a Project if prequalification is permitted or required by the District. The Program Manager's services hereunder may include, without limitation, the following to be coordinated through the District's Bond Program Director:
  - 1.21.1. Assistance with administration of the prequalification process;
  - 1.21.2. Assistance in development of documents necessary or appropriate for bidding the Construction Contract for a Project, including preparation and distribution of prequalification questionnaires;
  - 1.21.3. Development of bidders' interest in a Project;

- 1.21.4. Assistance in conducting job walks and bidders' conferences and the maintenance and preparation of minutes of job walks or bidder's conferences;
  - 1.21.5. Assistance in responding to bidders' inquiries and the development of bid addenda as necessary or appropriate;
  - 1.21.6. Review of bid proposals for responsiveness to bid requirements, evaluation of bidder responsibility, and analysis of completed questionnaires;
  - 1.21.7. Interviewing possible bidders, references, bonding agents and financial institutions;
  - 1.21.8. Preparing recommendations for the District for pre-qualification of prospective bidders;
  - 1.21.9. Tabulations and evaluation of bid results along with a recommendation for award of the Construction Contract for a Project;
  - 1.21.10. Assisting with resolution of any appeals;
  - 1.21.11. For Lease Leaseback projects, coordinate Request for Qualifications/Proposals ("RFP") process and assist in negotiation of agreements, including, Preliminary Services Agreement, Site Lease, and Facilities Lease with guaranteed maximum price; and
  - 1.21.12. Preparation of agenda items for Board approval.
- 1.22. **Communications to Board:** The Program Manager may be required to attend each Board meeting, and to provide updates at each meeting. Communications to the Board will be coordinated through the District's Bond Program Director.
- 1.23. Attempt to generate interest among qualified bidders for Projects within the Program, including but not limited to telephonic and correspondence campaigns and preparing and placing notices and advertisements to solicit bids for the Project(s).
- 1.24. Provide documentation, pictures, and other information and assistance to the District for the District's use on a website for public access to show Program and Project(s) status.
- 1.25. Comply with any storm water management program that is approved by the District and applicable to the Program, at no additional cost to the District.
- 1.26. Ensure that all Project Contractor(s), sub-contractor(s), Architects and Construction Managers, and Program Managers, Architects and Construction Managers' subconsultant(s) comply with any District-approved storm water management program that is applicable to the Program and Project(s), at no additional cost to the District.

- 1.27. Provide direction and planning, coordinated through the District's Bond Program Director, to ensure Program and Project(s) adherence to applicable environmental requirements such as those emanating from the Environmental Protection Agency ("EPA"), Cal/EPA, the California Environmental Quality Act ("CEQA"), Air Quality Management District and State of California and Regional Water Quality Control Board laws, regulations and rules. The Program Manager shall comply with, and ensure that all Consultants, all Construction Managers, all Contractors and their subcontractors and design professionals and their subconsultants comply with, any storm water pollution prevention plans, other storm water management program and other environmental impact mitigation requirements that are approved by the District and applicable to the Program and Project(s), at no additional cost to the District.
- 1.28. Program Manager shall maintain accurate Program cost accounting records maintained with generally accepted accounting principles ("GAAP") on authorized work performed under unit costs, actual costs for labor and material, or other basis for maintaining required accounting records. Program Manager shall provide accounting records to the District on a monthly basis, or as reasonably requested by District. Program Manager shall afford the District access to these records and preserve these records for a period of three (3) years after final payment, at no cost to the District.
- 1.29. Program Manager is **NOT** responsible for:
  - 1.29.1. Ground contamination or hazardous material analysis.
  - 1.29.2. Any asbestos testing, design or abatement; however, it shall coordinate and integrate its work with any such information provided by District.
  - 1.29.3. Compliance with CEQA, except that Program Manager agrees to coordinate its work with that of any CEQA consultants retained by the District, and the work of Contractor(s) and the Design Team to provide current information for use in CEQA compliance documents.
  - 1.29.4. Historical significance report.
  - 1.29.5. Soils investigation.
  - 1.29.6. Geotechnical hazard report.
  - 1.29.7. Topographic survey, including utility locating services.
  - 1.29.8. Other items specifically designated as the District's responsibilities under this Agreement.
  - 1.29.9. As-built documentation from previous construction projects.

## **2. GENERAL PROGRAM SERVICES**

- 2.1. **General:** Coordinate and communicate with the District's Bond Program Director in providing Services. Monitor and advise the District as to all material developments in the Program. Program Manager shall develop and implement with District approval reporting methods for schedules, cost and budget status, and projections for each Project in the District's Program. The Program Manager should be the focal point of all communication to and from the Construction Manager(s) for each Project and shall be copied on all communications between the District and its design professionals. Program Manager shall assist District in the monitoring of and coordination with Architect/Engineer, other design professionals, Construction Manager(s), and other consultants.
- 2.2. **Scheduling:** In coordination with the District's Bond Program Director, prepare methods to track and report on schedule status for each Project and for the overall Program. Program Manager shall develop master schedules and milestone schedules for each Project, and shall report on same each month to the District.
- 2.3. **Cost Controls:** Coordinate with the District's Bond Program Director in preparing and implementing methods to budget and track all expenditures on each Project. Program Manager shall generate monthly reports to the District reflecting this information.

### **3. PLANNING AND ADMINISTRATION**

- 3.1. Cost Control. Program Manager shall develop, with District approval, and monitor an effective system of construction cost control for the Program. Program Manager shall identify variances between actual and budgeted or estimated costs and advise District and design professional(s) whenever a Program cost exceeds budgets or estimates. Program Manager shall manage the construction bids and contracts in accordance with the Program Budget.
- 3.2. Coordinate with the District's Bond Program Director to develop and implement District-approved implementation procedures, forms, and reporting requirements for the Project(s) that involve all members of the Project(s) teams, including District, design professional(s), Construction Manager(s), and construction Contractor(s).
- 3.3. Develop and implement a management control system to support such functions as planning, organizing, scheduling, budgeting, reporting progress and identifying and documenting problems and solutions for the Program and the various Projects within the Program. The system will allow for monthly progress reports to the District regarding the schedule for the Program and the various Projects within the Program.
- 3.4. At the request of District, provide value engineering at the Schematic Design and/or 100% Design Development Phase. This evaluation will consist of a review of the proposed materials, equipment, systems and other items depicted in the Design Documents and shall be coordinated with the District's design guidelines and design professional(s). The Program Manager will prepare a value engineering report documenting the results of the evaluation and make recommendations to the District with respect to alternatives,

deletions, or amendments of such proposed items that pertain to the anticipated construction costs, useful life, maintenance and operational costs and efficiencies. The Program Manager shall provide to the District value engineering recommendations and cost/benefit analysis of those recommendations.

- 3.5. Where appropriate, the Program Manager shall provide: (i) assistance with administration of RFQ/P for selection of developer for lease-leaseback projects, or design-builder entity with design-build projects; (ii) assistance in negotiation of lease-leaseback and design-build contract documents; (iii) preparation of agenda items for Board approval.
- 3.6. Assist with procurement of District consultants, including, but not limited to, Architect, Engineer, Commissioning Agent, Inspector, Construction Manager, CEQA consultant, and other consultants, if needed. Assistance with procurement will include, but not be limited to, assisting with development of RFQ and/or RFP documents, participating in interviews at District's request, and assisting District with negotiation of agreements if needed.
- 3.7. Assist the District in the monitoring of and coordination with Architect/Engineer and other design professionals. Participate in design planning workshops and attend meetings as necessary.

#### **4. PRECONSTRUCTION PHASE**

- 4.1. Provide overall coordination of the Program and the Project(s), reporting to the District's Bond Program Director; serve as the focal point of communication, transmitting information to the District and Design Team on general aspects of the Program and the Project(s), including planning, scheduling, cost management, progress reporting, design review, dispute resolution, and documentation.
- 4.2. Work with the Design Team and District to develop the final sizes, choice of materials, services and utilities and other detailed design and performance criteria of the Program for District approval.
- 4.3. Perform or subcontract for constructability reviews of each Project at the Design Development Phase and at 90% of the Construction Documents Phase. The Program Manager shall review the design documents for clarity, consistency, constructability and coordination. The results of the review shall be provided in writing and as notations on the documents to the District. The Program Manager shall also make recommendations to the District with respect to constructability, construction cost sequence of construction, and construction duration. The Program Manager's actions in reviewing the design of the Project(s) and design documents and in making recommendations as provided herein are advisory only to the District. The design professional(s) are not third party beneficiaries of the Program Manager's work described in this paragraph.
- 4.4. Develop master bid/award schedule(s) including construction milestones for the various Projects within the Program through the completion of construction, as directed by District, in coordination with design professional(s), and advise and consult with Construction Manager(s) and District.



- 4.5. Establish schedules for any Consultant, and for any soils, hazardous materials testing, or other testing, and review costs, estimates, and invoices of each.
- 4.6. Coordinate with the District's Bond Program Director to organize an initial planning workshop to create baseline parameters for the Program, to define overall building requirements, Program strategy, conceptual budget and schedule. Pursuant to understandings reached at these meetings, Program Manager will develop an implementation plan, subject to District review and approval, that identifies the various phases of the Program, coordination among phases, and budget and time constraints for each phase of the Program. The plan will include a detailed strategy, master budget and master schedule as well as identification of critical events and milestone activities.
- 4.7. Provide updated cost estimates for the Program at the Schematic Design, Design Development, and Construction Documents Phase as directed by District; coordinate with design professional(s) and reconcile cost estimates with design professional(s)' estimates.
- 4.8. Advise District regarding "green building" technology and lifecycle costing, when applicable.
- 4.9. Oversee Construction Manager(s) coordination of all changes required by any utility company needed to complete the various Project(s) within the Program.
- 4.10. In consultation with District, review and tailor the District's front end documents for the Program. Coordinate with Construction Manager(s) for the various Project(s) within the Program to recommend the number of days required for the construction phase (and any sub-phases, such as hazardous material abatement) and recommend the amount of liquidated damages for each Project.

## **5. PRE-BIDDING PHASE**

- 5.1. In coordination with the District's Bond Program Director and District consultants, conduct a telephonic and correspondence campaign to attempt to increase interest among qualified bidders or proposers.
- 5.2. Assist the District in preparing and placing notices and advertisements to solicit bids or proposals for the Project(s).
- 5.3. In consultation with the District and according to District-approved policies, procedures, and standards, implement procedures, forms, and reporting requirements for the Program. Establish, accordingly, a communications procedure for the Program that allows for decision making at appropriate levels of responsibility and accountability.
- 5.4. Work with the design professional(s) to modify or add to standard, special, or general conditions for contract documents that might be needed for unique Project or contract conditions, for the District's approval, and/or assist in the development of documents necessary for the bidding phase.

- 5.5. Make recommendations for development and implementation of procedures to comply with applicable bidding or RFP requirements for each Project as applicable and for expediting completion of the bidding process for each Project. The scope of the foregoing includes without limitation, recommendations of Program Manager with respect to: (a) pre-qualification of potential contractors; (b) combination of two or more of the Projects for design, bidding and/or construction purposes; and (c) alternative construction delivery approaches for each of the Projects, including consideration of a design-bid-build and/or lease-leaseback project delivery method for each Project.

## **6. BIDDING PHASE**

- 6.1. Oversight of Bidding or Competitive Selection Process. The Program Manager will assist the District, the Design Team and, as applicable, the Construction Manager for a Project in completing the bidding process for award of a Construction Contract for a Project. The Program Manager's services hereunder may include, without limitation: (i) recommendations for pre-qualification of prospective bidders; (ii) assistance in development of documents necessary or appropriate for bidding the Construction Contract for a Project; (iii) development of bidders' interest in a Project; (iv) assistance in responding to bidders' inquiries and the development of bid addenda as necessary or appropriate; (v) assistance in conducting job walks and bidders' conferences and the maintenance and preparation of minutes of job walks or bidder's conferences; (vi) review of bid proposals for responsiveness to bid requirements and evaluation of bidder responsibility; (vii) tabulations and evaluation of bid results along with a recommendation for award of the Construction Contract for a Project; and (viii) preparation of agenda items for Board approval.

## **7. CONSTRUCTION PHASE**

- 7.1. Continually monitor whether construction contract requirements for the Program as a whole are being fulfilled and recommend courses of action to the District when Contractor(s) fails to fulfill contractual requirements.
- 7.2. Coordinate and monitor Construction Managers' performance in developing, implementing, and coordinating with assistance from the District, the design professional(s), and the Project Inspector, procedures for the submittal, review, verification and processing of applications by Contractor(s) for progress and final payments for all construction contracts.
- 7.3. Maintain a change order log for the Program compiling information from the change order logs maintained by the Construction Managers and implement procedures to expedite processing of change orders.
- 7.4. In coordination with District's Bond Program Director, implement procedures for issue identification and resolution of actual or potential claims of construction contractor(s) and take actions to mitigate all claims against the District and attempt to eliminate and/or settle all claims.
- 7.5. Assist District in selecting and retaining special consultants and testing laboratories and coordinate their services.

- 7.6. To guard District against defects in the work of the construction contractor(s), Program Manager shall establish and implement a quality control program for Construction Managers to monitor the quality and workmanship of construction for conformity with:
  - 7.6.1. Accepted industry standards;
  - 7.6.2. Applicable laws, rules, regulations, or ordinances; and
  - 7.6.3. The design documents and Contract Documents.
- 7.7. Where the work of a construction Contractor does not conform as set forth above, Program Manager shall, with the input of design professional(s), obtain and compile reports from a Project's Construction Manager that:
  - 7.7.1. Notify the District of any non-conforming work observed by the Program Manager;
  - 7.7.2. Reject the non-conforming work; and
  - 7.7.3. Take any and all action(s) necessary to compel the construction Contractor(s) to correct the work.
- 7.8. Obtain from the Construction Manager, compile, evaluate, track, and maintain Program-wide reports based on each Construction Manager's logs of requests for information ("RFI") from construction Contractor(s) and responses, shop drawings, samples, and other submittals, based, in part, on information obtained from the design professional(s). Advise District as to status and criticality of RFIs.
- 7.9. Establish and implement procedures, in collaboration with the District, Construction Manager(s), and design professional(s), for expediting the processing and approval of shop drawings, product data, samples, and other submittals for each contract. Maintain Program-wide records of submittal and shop drawing logs based on reports by Project Construction Manager(s).

## **8. PROJECT COMPLETION**

- 8.1. The Program Manager shall conduct, with the Architect(s), Construction Manager(s), and District, final inspections of the Projects or designated portions thereof. The Construction Manager shall notify the Program Manager and the Program Manager shall notify District of final completion.
- 8.2. The Program Manager shall consult with the Architect(s), Project Inspector, Construction Manager(s), and the District, and the District shall determine when the Projects and the Contractors' work are finally completed. The Program Manager shall assist the District and the Construction Manager with the issuance of a Certificate of Final Completion for each Project, and along with the Construction Managers, shall provide to the District a written recommendation regarding payment to the Contractors.

## **9. FINAL DOCUMENTS**

The Program Manager shall coordinate with Construction Manager(s) to review and monitor all As-Built Drawings, maintenance and operations manuals, and other closeout documents for each Project to be sure all required documents meeting contract requirements are provided, and shall secure and transmit to the District those documents and all required guarantees, keys, manuals, record drawings, and daily logs. The Program Manager shall also forward all documents and plans to the District upon completion of the Program and ensure all such plans and documents are well organized for any appropriate audit or review of the Program.

**10. WARRANTY**

The Program Manager shall implement a District-approved Warranty Inspection and Warranty Work procedure that all Construction Managers and Contractors are to follow. The procedure shall include a twelve (12) month call back period and a final warranty inspection eleven (11) months after a Project's completion to inspect the Project and identify any outstanding warranty work.

[END OF EXHIBIT]

## EXHIBIT "B"

### CRITERIA AND BILLING FOR EXTRA SERVICES

The following Extra Services to this Agreement shall be performed by Program Manager if needed and requested by District as indicated in the Agreement:

1. Providing services required because of significant documented changes in the Program initiated by the District, including but not limited to size, quality, complexity or the District's schedule.
2. Providing consultation concerning replacement of work damaged by fire or other cause during construction and furnishing services required in connection with replacement of such work.
3. Providing services made necessary by the default of Contractor(s), or by major defects or deficiencies in the work of a Contractor, or by failure of performance of the District's consultants.
4. Seeking variances or changes to agency guidelines on behalf of the District when so directed by the District
5. Preparing to serve or serving as a witness in connection with any public hearing, dispute resolution proceeding or legal proceeding, other than that necessitated by the negligent acts, errors or omissions of Program Manager or where the Program Manager is a party thereto, except for a Contractor's hearing necessitated by a bid protest or by a Contractor's prequalification appeal, or by a Contractor's request to substitute a subcontractor, or by handling of any stop payment notices.

The rates identified in the Fee Schedule attached to **Exhibit "D"** include overhead, administrative cost and profit and shall be utilized in arriving at the fee for Extra Services.

[END OF EXHIBIT]

**EXHIBIT "C"**

**SCHEDULE OF WORK**

[To be provided by Program Manager]

**EXHIBIT "D"**

**FEE SCHEDULE**

**Compensation**

1. The Program Manager's Fee set forth in this Agreement shall be full compensation for all of Program Manager's Services incurred in its performance, including, without limitation, all costs for personnel, travel, offices, per diem expenses, printing, providing, or shipping of deliverables in the quantities set forth in **Exhibit "A."**
2. The amount of compensation shall be the amount set forth in the Agreement, including all billed expenses. No compensation will be paid or due without advance written approval of the District.

**Method of Payment**

1. Program Manager shall submit monthly invoices on a form and in the format approved by the District.
  - 1.1. Program Manager acknowledges that the District requires Program Manager's invoices to include detailed explanations of the Services performed. Program Manager shall bill in quarter-hour increments. For example, a six hour charge for "RFIs and CORs" is unacceptable and will not be payable. A more detailed explanation, with specificity, is required. The following description, in addition to complying with all other terms of this Agreement, would be payable:

Review RFI 23; review plans and specifications for response to same; prepare responses to same and forward to contractor, district, construction manager, and project inspector.	.75 hours
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2. Program Manager shall submit these invoices in duplicate to the District via the District's authorized representative.
3. Program Manager shall submit to District on a monthly basis documentation showing proof that payments were made to Program Manager's Consultants, sub-consultants, and/or subcontractors.
4. Upon receipt and approval of Program Manager's invoices, the District agrees to make payments on all undisputed amounts within sixty (60) days of receipt of the invoice.
5. If Program Manager fails to timely and completely perform its obligations under this Agreement, the District may withhold or deduct the amounts that would be due therefore from amounts otherwise due Program Manager hereunder with the amounts withheld or deducted being released after Program Manager has fully cured such failure of performance, less costs, damages or losses sustained by the District resulting therefrom.

**Hourly Rates**

- 1. The following rates, which include overhead, administrative cost and profit, shall be utilized in arriving at the fee for monthly invoices and Extra Services and shall not be changed for the term of the Agreement. Program Manager shall bill in quarter-hour increments.

<b>Job Title</b>	<b>Hourly Rate</b>
Principal In Charge:	
Project Director:	
Project Service Provider(s):	
Project Service Provider(s):	
Other	
Other	
Other	
Other	

- 2. The mark-up on any approved item of Extra Services performed by sub-consultant(s) or subcontractor(s) shall not exceed five percent (5%).

[END OF EXHIBIT]



**Exhibit E**

**CRIMINAL BACKGROUND INVESTIGATION/FINGERPRINTING CERTIFICATION**

PROJECT/CONTRACT NO.: \_\_\_\_\_ between the La Mesa Spring Valley School District ("District") and \_\_\_\_\_ ("Consultant") for the \_\_\_\_\_ Bond Program ("Contract" or "Program").

At least one of the boxes below must be checked (check all that apply), with the corresponding certification provided.

The undersigned does hereby certify to the Board of Trustees of the District as follows:

- The Consultant is a sole proprietor and intends to comply with the fingerprinting requirements of Education Code section 45125.1(k) with respect to all Consultant's employees who may have contact with District pupils in the course of providing services pursuant to the Agreement, and hereby agrees to the District's preparation and submission of fingerprints such that the California Department of Justice may determine that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. No work shall commence until such determination by DOJ has been made.

As an authorized District official, I am familiar with the facts herein certified, and am authorized to execute this certificate on behalf of the District and undertake to prepare and submit Consultant's fingerprints as if he or she was an employee of the District.

Date: \_\_\_\_\_

District Representative's Name and Title: \_\_\_\_\_

District Representative's Signature: \_\_\_\_\_

- The Consultant, who is not a sole proprietor, has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Consultant's employees and all of its subconsultants' employees who may have contact with District pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of Consultant's employees and of all of its subconsultants' employees who may come in contact with District pupils during the course and scope of the Agreement is attached hereto; and/or
- Pursuant to Education Code section 45125.2, Consultant has installed or will install, prior to commencement of Work, a physical barrier at the Work Site, that will limit contact between Consultant's employees and District pupils at all times; and/or
- Pursuant to Education Code section 45125.2, Consultant certifies that all employees will be under the continual supervision of, and monitored by, an employee of the Consultant who the California Department of Justice has ascertained, or as described below, will ascertain, has not been convicted of a violent or serious felony. The name and title of the employee who will be supervising Consultant's and its subconsultants' employees is:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**NOTE:** If the Consultant is a sole proprietor, and elects the above option, Consultant must have the above-named employee's fingerprints prepared and submitted by the District, in accordance with Education Code section 45125.1(k). No work shall commence until such determination by DOJ has been made.

As an authorized District official, I am familiar with the facts herein certified, and am authorized to execute this certificate on behalf of the District and undertake to prepare and submit Consultant's fingerprints as if he or she was an employee of the District.

Date: \_\_\_\_\_

District Representative's Name and Title: \_\_\_\_\_

District Representative's Signature: \_\_\_\_\_

- The Work on the Agreement is either (i) at an unoccupied school site and no employee and/or subconsultant or supplier of any tier of the Consultant shall come in contact with the District pupils or (ii) Consultant's employees or any subconsultant or supplier of any tier of the Consultant will have only limited contact, if any, with District pupils and the District will take appropriate steps to protect the safety of any pupils that may come in contact with Consultant's employees, subconsultants or suppliers so that the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 shall not apply to Consultant under the Agreement.

As an authorized District official, I am familiar with the facts herein certified, and am authorized to execute this certificate on behalf of the District.

Date: \_\_\_\_\_

District Representative's Name and Title: \_\_\_\_\_

District Representative's Signature: \_\_\_\_\_

Consultant's responsibility for background clearance extends to all of its employees, subconsultants, and employees of subconsultants coming into contact with District pupils regardless of whether they are designated as employees or acting as independent contractors of the Consultant.

I am a representative of Consultant entering into this Agreement with District and I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Consultant.

Date: \_\_\_\_\_

Name of Consultant: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name and Title: \_\_\_\_\_

[END OF EXHIBIT]